■ NIGERIA

Costly "debt relief" and trade agreements

The "debt relief" granted to Nigeria by the Paris Club took a heavy toll on the country's finances: in order to have USD 18 billion in debt cancelled, it was obliged to pay out over USD 12 billion in the space of just seven months, a whopping sum in a country where 70% of the population lives under the USD 1 a day poverty line. In the meantime, negotiations to establish free trade agreements between the EU and the ACP countries are emerging as yet another threat to the capacity of impoverished nations like Nigeria to fund social development.

Social Watch Nigeria[1]

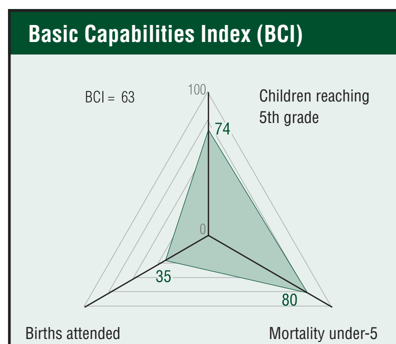
In the third quarter of 2005, Nigeria was granted debt relief by the Paris Club of creditor nations, to which the country owed over 70% of its total external debt of USD 36 billion. However, the terms of repayment of the uncancelled part of the debt were so onerous that one wonders if the entire exercise could actually free any funds for social development in order to reduce poverty. The deal entailed payment of a princely USD 12.4 billion in two instalments in order for the country to have USD 18 billion in debt cancelled.

Moreover, a major part of this debt had long been disputed by Nigeria. Eminent Nigerian accountant David Dafinone has argued that several elements that constitute a valid debt were absent in Nigeria's debt overhang. He listed the elements as follows:

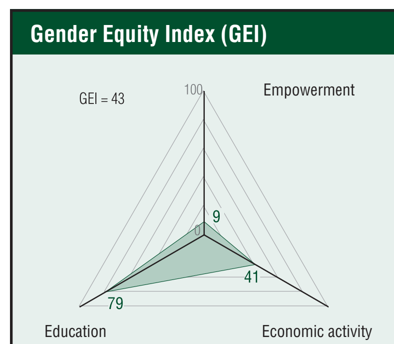
- A valid contract between a willing buyer and a willing seller;
- Adequate consideration;
- Absolute or partial performance;
- The goods which form the basis of the contract must be of merchantable quality, that is, the goods must be for the purpose for which the contract was meant;
- There must be probity, transparency and accountability;
- There must be justice and equity.

The debt in question involves several turnkey contracts where contractors fronting for members of the Paris Club were to build, operate and transfer projects. For example, in the case of the building of steel factories, this means that the contractors were supposed to have built and then managed the factories until they reached a high level of sales and profit, and then subsequently transferred them to the Government. This was never so. The funding was managed by the foreign contractors, who arranged and opened various foreign accounts for themselves, in addition to completing the necessary formalities for the Government and its agencies to open foreign accounts. It was into these accounts that the proceeds of all manner of bribes, kickbacks and gratification were paid. There is evidence that none of the projects that incurred the debts was adequately funded or completed after more than 20 years have passed since their establishment. Yet money claimed to have been spent on these projects was passed onto Nigeria as part of its external debt. These were highly capital-intensive projects, including three steel plants, five machine tool factories and three steel rolling mills, among others, which were never completed. There is also evidence that the controversy surrounding the projects involved both Nigerians and the foreign creditors.

Basic Capabilities Index (BCI)



Gender Equity Index (GEI)



Many of the debts held by overseas agencies including the Paris Club and the London Club were private sector debts and bills for collection that were converted to public debts. The full details surrounding them have been unavailable to the current Government, hence the continued disputes about the actual amount involved. The truth of the matter is that there were high level conspiracies between officials of the government of the day and some foreign creditors to ensure the irregular conversion of these debts into public debts. The foreign agencies took over the debts without even carrying out full due diligence on them. This has cost Nigeria a great deal of money that it could have directed towards poverty alleviation in order to meet the Millennium Development Goals (MDGs).

By the time the debt relief was granted, the conditions of its repayment constituted an enslavement of the country. The combined principal of the loans purportedly taken out was about USD 18 billion; Nigeria had paid over USD 42 billion yet still owed over USD 36 billion. Between 2003 and 2005, for instance, Nigeria paid USD 3.4 billion to service its debts, but the interest alone rose by USD 4 billion during the same period, causing the debt to jump from USD 32 billion to USD 36 billion.

Even with its oil wealth, the debt burden is still enormous, given its huge population of over 140 million and its extreme poverty, with an average annual income of USD 270. The country has become an increasing source of transnational security threats, including regular hostage taking of foreign oil workers; and has suffered a heavy toll from diseases such as HIV/AIDS. Most African countries have been granted debt relief from the Paris Club creditors, typically with a two-thirds stock reduction under the so-called "Naples Terms". In addition, 23 countries have also benefited from the multilateral Heavily Indebted Poor Countries (HIPC) Initiative. Nigeria was denied debt relief under both the Naples Terms and the HIPC Initiative, at least in part because its oil wealth prevents it from being considered a poor country. Excluding Nigeria from the HIPC initiative totally ignores the relationship between what the country earns from oil exports and its population. In fact, Nigeria's annual income from oil is less than USD 25 per capita.

Nigeria was eventually granted debt relief on the Paris Club option of case-by-case "Evian Terms" introduced in 2005 to reduce the Iraqi foreign debt. Following the payment of the first instalment in October 2005, the Executive Committee of the IMF approved a Policy Support Instrument (PSI) for the country as means of backing its economic reform policies.

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1 Social Watch Nigeria: Socio Economic Rights Initiative (Ray Onyegu); Women & Youth Advancement Foundation (Judith Ogunniran); Centre for Peace & Development (Luke Chukwu); CASSAD (Nicholas Dosumu); YDP Network (Ceicile Payne); Concerned Professionals (John Onyeukwu); Project Alert for Women's Rights (Josephine Chukwuma); Legal Defence & Assistance Project (Chinonye Obiagwu); Legal Defence Centre (Basil Ugochukwu).

The implications on Nigeria's capacity to meet the MDGs

In order to benefit from the debt relief, Nigeria paid USD 12 billion to the Paris Club between October 2005 and April 2006. The payment of such a whopping sum of money by a poverty-ridden, hugely populous country like Nigeria in the space of just seven months clearly deprives it of funds that could have been channelled towards social development and poverty alleviation. Given that 70% of the population currently lives below the USD 1 poverty line, this is obviously an urgent task. Indeed, the component states of the Nigerian federation whose debts were higher than the others continue to have huge chunks of their statutory allocations deducted at the source in order to pay back the states that had lower debts or no debts at all.

However, in order to ensure that resources freed from the debt relief are well utilized, the Paris Club inserted two conditions: (1) that the bulk of the money should be spent on social issues; and (2) that the monitoring and evaluation of the management and expenditure of the money must involve civil society organizations in Nigeria. In fulfilment of these terms, the Federal Budget 2006 provides that the sum of NGN 100 billion (USD 1 billion) released from external debt service will be used to fund projects in ministries, departments and agencies whose mandates are relevant to the attainment of the MDGs. This amount is in addition to the statutory allocations that are earmarked in the budget for MDG-related sectors but which are already included in the sectoral envelopes.

To guarantee that the funds are properly directed to MDG-related activities and that the expected results are achieved, a system for the effective monitoring of MDG-related projects executed with the "debt relief gains" has been put in place. This special tracking system is known as OPEN, which stands for Oversight of Public Expenditure Under NEEDS. NEEDS stands for National Economic Empowerment and Development Strategy, and is Nigeria's official poverty-reduction strategy paper. OPEN will follow allocated resources from the point of disbursement to the point of expenditure to ensure that the intended results are achieved.

The federal government has mandated the Office of the Senior Special Assistant to the President on the Millennium Development Goals (OSSAP-MDGs) to invite members of civil society to participate in the monitoring and evaluation of projects undertaken with debt relief gains. The OSSAP-MDGs has held two meetings on the subject with civil society actors, the first between 24 and 25 February 2006, and the second from 29 to 31 March 2006. At both meetings, the Government explained that civil society actors had been invited to monitor and evaluate the implementation of the 2006 budget as it relates to the debt relief gains spent on the MDGs as a means of developing a stakeholder feedback system, in which they will serve as primary contacts during the project implementation period.

Civil society actors and Nigerians in general believe that if the touted new regime of openness in the management and expenditure of public funds as exemplified by their participation in the monitoring and evaluation of budgets is adhered to, it will reduce the leakage of public money and free up considerable funds towards alleviating poverty in Nigeria.

The EU proposal of free trade agreements with ACP countries and their negative effect on the availability of financing for development

Since decolonization, the relationship between the European Union (EU) and 77 of its member states' former colonies in Africa, the Caribbean and the Pacific - known as the ACP countries - has remained important for both sides. This has been symbolized by the successive agreements of Yaounde (1963-1975), Lome (1975-2000), and most recently, Cotonou (2000-2020). An important feature of these agreements has been the preferential access to the European market that they have granted to exports from ACP countries. Even though the full potential of these trade preferences has never been realized, trade with the EU continues to be a crucial element in most ACP countries' development strategies.

The conditions of trade between the EU and ACP countries may change dramatically as a consequence of the current negotiations on Economic Partnership Agreements (EPAs), which are basically free trade agreements between the EU and ACP subregions where an internal free trade arrangement has already been or is being negotiated. All stakeholders in the EPA negotiations agree that development must be the primary objective of these agreements. However, much controversy has arisen over what kind of agreement would best serve development in the ACP countries.

Many governments and other stakeholders, particularly civil society organizations in ACP countries, are deeply worried and have raised serious concerns about the EU proposals and the direction of the EPA negotiations. Some of the ACP countries' concerns include the following:

- The trend of EPA negotiations is not geared towards promoting development; rather, the proposals being made would serve to undermine the industrial and development efforts of the ACP countries.
- Free trade agreements are based on reciprocity. If the ACP countries have nothing to show by way of accrued benefits after more than 40 years of trade preferences, what is the basis of the expectation of developmental outcomes from a regime of reciprocal trade and competition?
- One of the reasons for the failure of the ACP countries to exploit these trade preferences is that they have problems of supply-side constraints (power, water, roads, etc.). With these problems still prevalent despite failed EU promises of aid to scale up infrastructure, how can the EPAs be proposing reciprocal access? Reciprocity derives from competitive positions, and the ACP countries are decidedly in no position to compete with Europe.
- The negotiating process is skewed against ACP countries, many of whom are in the club of Least Developed Countries (LDCs) and depend on EU aid for up to 40% of their national revenues.
- Tariff revenue currently makes up a substantial component of ACP countries' national revenue, but with increasing liberalization as demanded by EPAs, most national revenues would be hurt, thus compromising social spending in many countries.
- Negotiating EPAs at the same time as WTO negotiations are going on is over-stretching the negotiating capacity of the LDCs, who are then obliged to maintain negotiating teams both in Geneva and at their regional headquarters.
- Some of the issues proposed for negotiation under EPAs by the EU are issues that the LDCs have successfully resisted at the WTO. To raise them at the EPA negotiations would seem unfair and a roundabout way of reintroducing them at the WTO. Some of the proposals are not even trade-related.
- There is indecent haste in the process of bringing down tariffs as demanded by the EU; deep and rapid liberalization of the type proposed would not only wreak havoc on the ACP countries' economies, but also undermine their regional integration efforts. Some sympathetic EU governments have even suggested that liberalization should be phased over 20 years rather than the 12 years proposed by the EU.

Civil society organizations in ACP countries have raised serious concerns related to the development dimensions of these EPAs and their impact on poverty, on the regional integration process of the various ACP regional groupings, and on the unity of the ACP group as a whole. They have also analyzed the merits of reciprocal market opening, the capacity of ACP countries and regions to negotiate and implement EPAs, and the linkages and coherence with parallel trade initiatives like the WTO. Addressing these concerns in the context of EPA negotiations has proved a very difficult challenge. If the free trade agreements succeed, they will substantially erode the capacity of the affected countries to raise finances for their development. ■