The Loan Contraction Process in Africa

Making loans work for the poor

The Case of Tanzania

AFRODAD

African Forum and Network on Debt and Development

AFRODAD AND CHRISTIAN AID

MAKING LOANS WORK FOR THE POOR IN ZAMBIA

STUDY REPORT

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LIST OF ACRONYMS

ACGO	Auditor and Controller General's Office
AFRODAD	African Forum and Network on Debt and Development
AG	Attorney General
AIDS	Acquired Immune Deficiency Syndrome
AU	African Union
BoT	Bank of Tanzania
CCM	Chama Cha Mapinduzi
CIS	Commodity Import Support
CS-DRMS	Commonwealth Secretariat Debt Recording and Management
CSO	Civil Society Organisation
DCC	Debt Coordination Committee
DCP	Debt Conversion Programme
DMC	Technical Debt Management Committee
EAC	East African Community
ERP	Economic Recovery Programme
ESAF	Enhanced Structural Adjustment Facility
ForCU	ForDIA Consulting Unit
ForDIA	Concern for Development Initiatives in Africa
GDP	Gross Domestic Product
HIPC	Heavily Indebted Poor Country
HIV	Human Immunodeficiency Virus
IFI	International Financial Institution
IMF	International Monetary Fund
ISI	Import Substitution Industries
IT	Information Technology
LDC III	Third UN Conference on Least Developed Countries
MDG	Millennium Development Goal
LDC	Least Developed Countries
MoF	Ministry of Finance
NDMC	National Debt Management Committee
OGL	Open General Licence
P&HDR	Tanzania Poverty and Human Development Report
PAC	Parliamentary Public Account Committee
PO-PP	Presidents Office, Planning and Privatisation
PRGF	Poverty Reduction Growth Facility
PSRC	Public Sector Reform Commission
PS	Permanent Secretary

PSSS	Tanzania Policy and Service Satisfaction Survey
SADC	Southern Africa Development Community
SAP	Structural Adjustment Programmes
SSA	Sub-Saharan Africa
TASAF	Tanzania Social Action Fund
TCDD	Tanzania Coalition and Network on Debt and Development
TDMC	Technical Debt Management Committee
UK	United Kingdom
UNITAR	United Nations Institute for Training and Research
URT	United Republic of Tanzania
US	United States
WB	World Bank

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Introduction

Tanzania is one of the world's severely indebted poor countries. Without debt cancellation, the country will at least for the years ahead continue paying more in debt service than on health and education. According to the World Bank, Tanzania will have an unsustainable debt burden until at least 2007. The economy is heavily dependent on agriculture, which accounts for more than half of GDP, provides 85% of exports, and employs 80% of the work force. For more than 20 years after independence, its first president, Julius Nyerere, leader of the Chama Cha Mapinduzi, ruled Tanzania. Following a policy of self-help socialism, Nyerere improved welfare and educational standards but was less successful with the economy, which in the 1980s started to decline.

The World Bank, the International Monetary Fund, and bilateral donors have provided funds to rehabilitate Tanzania's deteriorated economic infrastructure. On 27 November 2001 the Bank and the Fund approved Tanzania's Poverty Reduction Strategy Paper (PRSP). The PRSP provides the basis for assistance from the Bank and the Fund as well as debt relief under the HIPC initiative. According to the Bank, PRSPs should be participatory, country-owned, and comprehensive in scope; partnership orientated national development strategies for reducing poverty. The bank's rationale for PRSPs is based on the fact that experience has shown that lasting development and poverty reduction require true transformation of society, driven by the countries themselves, in consultation with civil society and the private sector. Despite the implementation of SAPs, PRSPs and the HIPC initiative in Tanzania, its external debt continues to balloon.

Tanzania's inability to serve its debt is vividly reflected not only in massive build-up of arrears but most importantly by the number of frequency of rescheduling. The structural adjustment programmes (SAPs) that have been designed to rescue debtors seem to have made the situation worse as Tanzania's debt increased rapidly from US$2 257 million in 1980 to more than US$5bilion at the beginning of the 1990s.[1] . A combination of both external and domestic factors has caused Tanzania's debt problems. Tanzania's economic woes were compounded in 1979 and 1981 by a costly military intervention to overthrow President Idi Amin of Uganda.

Apart from external causes of poverty and continued indebtedness, internal factors such as domestic budget deficit, structural rigidity of the economy, inappropriate economic policy, inefficient public sector, the misconcepted investment policy, bureaucracy and corruption have been mentioned in various literature as some of the causes of poverty and indebtedness in Tanzania. In 1995, Benjamin Mkapa won the presidency in the first Multi-party elections as an anti-corruption crusader. It is against such a background that AFRODAD and Christian Aid commissioned a study in Tanzania to look at how external loans can be better utilized in order to benefit the poor. The study sought above all things, to identify existing bottlenecks that continue to perpetuate the debt crisis within the institutional and legislative framework of Tanzania.

Background

In the late 1960s, Tanzania under the leadership of Mwalimu Julius Nyerere, its first president embarked on a development strategy of substituting domestically produced goods for imports, based on the concept of "socialism with self-reliance" articulated in the 1967 Arusha Declaration. A series of ambitious investment programs, embodied in five-year plans, targeted mainly at the expansion of the labour-intensive (capital saving technology) industrial sector and infrastructure projects were implemented. These were punctuated by the domination of public enterprises in the economy and legal monopolies in the pricing, processing and marketing of agriculture.

With the decline of primary commodity prices and the oil crisis of the 1970s, Tanzania experienced external debt crisis and economic shocks that were beyond its control, such as drought and declining terms of trade. Falling export earnings soon led to foreign exchange shortages, and the consequent drop in imports of intermediate goods and raw materials led to sharp cutbacks in production, especially in the highly import-dependent industrial sector, and to a deterioration in the country's infrastructure. Large imbalances in the country's fiscal and external accounts emerged, and gross official reserves fell to the equivalent of less than one week of imports by the end of 1985. The country also experienced debt repayment problems. In order to redress the compounding economic problems, Tanzania found its forced to go implement the Bank and the Fund's structural adjustment programs. The economic reform and stabilization effort regained momentum in the first half of 1996 following the election of a new government, and later in that year a three–year ESAF arrangement was approved.

The existing weak legal and institutional framework has been another source of Tanzania's increasing economic doldrums and external public debt burden. Neither the Constitution of the United Republic of Tanzania of 1977 nor legislative Acts do provide enough direction and guidance for external public debt contraction, execution, management, transparency and accountability. Public participation has been very poor with the executive arm of government been the sole contractor and regulator, implementer and evaluator of financial resources especially external loans. Faced with economic difficulties, Tanzania borrowed heavily from a number of credit facilities, these include loans related to the Structural Adjustment Programmes (SAPs), the Economic Recovery Programme (ERP) I and II, and the Extended Structural Adjustment Facility (ESAF) just to mention a few. Bretton Woods institutions themselves through contact in high secrecy initiated most of these credit programmes with top government officials. Some loans were worth taking and others were just a question of the Bank and Fund officials pushing loans on the government without proper assessment of project viability, ability to repay and the necessary need.

Equally of importance to note is the role-played by state-owned companies and the large sum of loans advanced to them despite their inefficiency and losses. Although a number of loans were secured to establish the manufacturing, extractive and construction industries these experienced huge retrenchments and viability problems. Considering the high debt burden of Tanzania, its high dependence on donor funds and its high social and developmental needs, the Bank and Fund gave an early consideration of Tanzania's eligibility to the HIPC initiative. As such Tanzania was among the first countries to qualify for the HIPC initiative and it is also among the first HIPC graduates, though still struggling with unsustainable debt and increasing abject poverty.

1.2. Objectives of the Study

The overall objective of this study is to ensure that the loans taken by the poor countries are legitimate and serve the basic functions of poverty reduction and development. This objective should primarily be achieved in the short, medium and long term planning of governments of the poor countries. By this objective the study intends to realign the support rendered by international financial institutions to poor countries with the basic needs of those countries.

The specific objectives of the study are to:

1 Challenge African Governments and international financial institutions to become more transparent, accountable and inclusive in the loan contraction and debt management process starting from 2004;

2 Raise the awareness of anti-debt campaigners, civil society organizations and the general public in Southern and Eastern Africa and the UK, in the course of 2004, on the need to monitor loan decisions and push for or use existing spaces

for civil society participation in the loan contraction and debt management process; and

3 Strengthen AFRODAD and Christian Aid's partnership to continue collaborating to achieve their collective goals using their respective strengths and resources in advocacy and research.

1.2 Rationale for the Study

The study is premised on the understanding that the procurement, utilization and management of public loans and debts are a national and global issue and, therefore, should be seen to be transparent, accountable, participatory and inclusive. The processes of loan procurement and debt management require legitimacy and systematic planning to be sustainable. By making loans sustainable, governments will have extra revenue to support their social services and goods for development and enhance their people's welfare and reduce poverty. This study constructs a framework for rationalization of the loan contraction and debt management process in these terms.

1.3 Research Methodology

The methodology for this research included scanning of available loan documents from the Ministry of Finance and Treasury, 2000/01 to 2003/4 financial years, budget speeches, documents from WB and IMF, relevant Acts of Parliament, the Constitution of the United Republic of Tanzania and research reports on poverty from amongst Tanzania think tanks.

The consultant conducted semi-structured and open interviews with government officials (External Debt Department) in the Ministry of Finance (MoF), Presidents Office, Planning and Privatisation (PO-PP), Bank of Tanzania (BoT), World Bank - Tanzania Country Office, Civil Society Organisations (CSOs), independent researchers and Members of Parliament (Chairman Public Accounts Committee).

Finally, consultants and staff at ForDIA discussed the draft findings from which some comments have been used to polish up this report.

2.0. Overview of Tanzania's Debt Crisis

Tanzania external debt crisis was acknowledged as far back as 1993 when the government formulated its first External Debt Strategy (EDS). This was also the year when the foreign exchange regime changed and the currency started to be traded in twice-weekly auctions. Prior to that, private firms and parastatal organisations that wished to service their external debt obligations had done so by paying debt service in local currency to the Bank of Tanzania but BoT could not service the debts because of lack of foreign exchange. Thus the period before 1993 saw an increase not only in accumulation of arrears, but also in the proportion of the debt guaranteed by government.

2.1 Stock of Debt and Debt Indicators

The first table below shows how Tanzania has been fairing in terms of both external and internal debt, comparing 2002 and 2003 figures.

Table 1: Tanzania's Stock of Debt (Tz Shillings billion)

Total Public Debt Stock	Quarter Ending	
	March 2002	**March 2003**
Domestic		
Central government securities	786.7	823.1
Other public sector	536.9	642.6
Sub Total	1 323.6	1 465.7
External		
Central government	5 847.2	6 332.1
Other public sector	626.6	351.9
Sub Total	6 473.7	6 684.0
Total		
Central government	6 633.9	7 155.2
Other public sector	1 163.5	994.5
TOTAL DEBT	**7 797.3**	**8 149.7**

Source: MoF: Policy Analysis Department: Public Debt Report January – March 2003, Table 1

Despite HIPC debt relief, the country is confronted with a huge debt from the non-HIPC countries. This in a way nullifies the debt relief been obtained through the HIPC process. Tanzania's debt situation with non-Paris club members is shown in table 2 below;

Table 2: Status of Relief Negotiations with Non-Paris Club Creditors as at end of March 2003

S/N	Creditor Countries	**Disbursed Outstanding Debt (USD mn)**	**Interest arrears (USD mn)**	**Debt Stock (USD mn)**	Current Status
1.	Angola	3.406	2.003	5.409	Wants to be paid/supply of cotton.
2.	Algeria	58.029	53.478	111.507	Not willing for PC terms.
3.	Bulgaria	23.220	6.553	29.773	Demands payments, sale of deb to third parties and swaps.
4.	China	134.873	0.005	134.878	Willing to reschedule due payments but not on PC terms. Cancelled interest amounting to 37 USD mn.
5.	Slovak and Czeck	1.836	0.256	2.092	Demand payments and sell off debt to third parties.
6.	Egypt	1.969	0.000	1.969	Has offered relief/cancelled some interest arrears.
7.	Hungary	8.869	2.831	11.700	Silent
8.	India	13.252	20.984	34.236	Wants commercial debt settlement as per 5th Indo-Tanzania Joint Commission Agreed Minute of May 2001. They have offered debt relief and instrument for its execution is being worked out.
9.	Iran	63.828	98.117	161.945	Demands adherence of debt settlement along the MOU of 1994.
10.	Iraq	38.711	98.216	136.927	Not willing to accept the PC terms but ready to write off sizeable amount of debt if payment of USD 5million can b made on an upfront basis.
11.	Korea DPR	1.916	0.000	1.916	Wants payments.
12.	Kuwait	58.460	4.540	63.000	Signed agreement to effect debt relief under HIPC framework.
13.	Libya	42.205	73.971	116.176	Willing to offer debt relief but not on the the PC terms subject to renegotiation and wants swap arrangement for the remaining debt.
14.	Romania	0.105	0.012	0.117	Silent.
15.	Saudi	9.689	0.216	9.905	Wants to be paid.

A number of general indicators of Tanzania's Debt Situation are listed in Table 3, below.

2.2 Debt by Economic Sector and Borrower Category

Table 3 Indicators of Tanzania's Debt Situation

Total Public Debt Stock	Quarter Ending	
	March 2002	March 2003
Domestic Debt/Total Debt	17.0%	18.0%
External Debt/Total debt	83.0%	82.0%
Total Public Debt/GDP	92.3%	86.4%
Total Public Debt/Domestic Revenues	774.2%	690.3%
National External Debt/Exports	484.7%	364.6%
PV of Public Debt/GDP	43.1%	64.5%
PV of Public External Debt/Exports	261.7%	244.2%
Annualised Public Debt Service/Domestic Revenues	11.4%	11.8%
Real GDP Growth Rate (for year-ending)	5.6%	6.2%
Inflation Rate (for year-ending)	4.7%	4.2%
Exchange Rate Depreciation (for year-ending)	14.1%	10.0%
Weighted Average Interest Rate on Total Debt*	8.8%	5.5%
GDP at Current Market Prices	8 445.4	9 434.4
Total Domestic Revenues (for year-ending)	1 007.1	1 180.7
End-Period Exchange Rate (TZS/US$)	981.3	1 030.2

* Based on all public domestic debt.

Source: MoF: Policy Analysis Department: Public Debt Report January – March 2003, Table 1

Percentage distribution of external debt by economic sector and the amounts disbursed by sector at 31 March 2002 and 31 March 2003 are shown in Tables 4 and 5 respectively, below.

Table 4 Utilisation of External Debt (percent)

	1994	1995	1996	1997	1998	1999	2002	2003*
BOP support	27.3	25.5	23.1	23.2	23.0	18.7	26.4	18
Transport	19.2	19.5	20.3	20.3	20.3	21.5	16.0	23
Agriculture	14.7	14.6	14.4	14.2	14.6	15.6	14.0	15
Energy and Mining	10.0	10.9	11.3	12.3	12.5	13.2	12.0	13
Industries	9.5	9.2	8.6	8.2	7.7	7.8	5	5
Social Welfare	3.2	3.7	3.9	4.3	4.4	4.9	-	-
Education	-	-	-	-	-	-	3	3
Insurance	-	-	-	-	-	-	1.1	1.1
Tourism	-	-	-	-	-	-	1	0.6
Finance	3.1	2.9	2.8	2.6	3.3	3.7	-	-
Others	11.8	12.3	14.2	13.7	12.9	13.5	26	18

*Up to 31March

Source: Danilson and Mjema (2001), Table 10; MoF: Policy Analysis Department: Public Debt Report January – March 2003, Table 3

Table 5: Disbursed Outstanding Debts by 31 March 2003 (US$ million)

Sector	March 2002	March 2003
BoP Support	1 568.8	1 133.0
Infrastructure	952.4	1 338.8
Agriculture	832.2	887.7
Energy and Mining	742.2	756.5
Industry	290.7	304.2
Education	174.9	187.6
Insurance	67.0	61.2
Tourism	36.5	36.3
Others	1 279.2	1 034.3
TOTAL	**5 943.8**	**5 739.5**

Source: MoF Policy Analysis Department: Public Debt Report January – March 2003, Table 3

2.3 Terms and Conditions of each Loan

External public borrowing terms and conditions for HIPC initiative budget support have the goal of enhancing Tanzania's continued good performance in macroeconomic policy reform. The emphases are:

- Tanzania continuing with privatisation of former public corporations and parastatal organisations;
- No subsidies to farmers;
- With exception of primary education (financed under HIPC initiative debt relief funds) users of social services must pay utility or service fees;
- Tanzania to trim the size of its public service workforce concomitant with undertaking rigorous reforms of the central establishment;
- Tanzania to undertake reform in the legal and judiciary system aimed at reducing red tape and endemic corruption, to promote good governance; and
- Tanzania to continually increase GDP growth (rate) as well as keeping inflation below the current levels (now at 4.2 percent).

Specific conditions which form part of loan contracts, especially with reference to bilateral loans and grants are not readily available. The interest rates payable on each loan are not available. According to NDS guidelines applicable at MoF, the general policy on interest rate is that every external loan must be analysed on its own merit.

However, as a matter of policy, for external loan to be accepted, corresponding Debt Sustainability Analysis must be undertaken so as to determine its grant element, which must be between 35 percent and 50 percent, and indeed, its corresponding interest rate should not exceed one percent. Moreover, for the same loan to be accepted it must have the grace period of seven years or above, with repayment period not less than twenty-three years.

The preceding paragraph suffices to explain that all contracted external debts are subjected to NDS policy provisions as aforementioned above. To this end, interest rates specific to each loan vary between zero to one percent.

2.4 Current Debt Service Payments versus National Expenditure

One of the elements of external funding is grants, which may have to be repaid but on which no interest is payable. Grants include debt relief, in which the creditor country or institution agrees to funds that were due as interest or repayment of the principal on

Table 6 External Debt Flows and Debt Service (US$ million)

External Debt Flows	Quarter Ending	
	March 2002	March 2003
Principal repayments		
Multilaterals		
IMF (net of HIPC)		
IDA (net of HIPC)	13.00	1.61
Others	5.09	1.81
Sub Total	**18.09**	**3.42**
Bilaterals		
Paris Club	0.56	0.60
Non-Paris Club	5.89	0.52
Sub Total	**6.46**	**1.12**
Other/ Commercial	1.81	
Total Principal Repayments	**26.35**	**4.54**
Interest payments		
Multilaterals		
IMF (net of HIPC)		
IDA (net of HIPC)	2.49	2.31
Others	4.27	2.52
Sub Total	**6.76**	**4.83**
Bilaterals		
Paris Club	0.12	0.81
Non-Paris Club	1.31	0.11
Sub Total	**1.44**	**0.92**
Other/ Commercial		
Total Interest payments	**8.19**	**5.75**
Total Debt Service (Actual)*	**34.55**	**10.29**

* Debt service figures are taken from BOT (Debt); are net-of-HIPC (for IMF and IDA payments), and are as per externalisation.

Source: MoF Policy Analysis Department: Public Debt Report January – March 2003, Table 5

loans, being diverted to development projects and programmes. As indicated in table 6, Tanzania had, by 31 March 2003 paid US$ 10.29 million in debt service.

3 The Legal Loan Contraction Process in Tanzania

This section assesses previous and current practice in Tanzania's external public debt management and the country's legal and regulatory framework in light of the United Nations Institute for Training and Research (UNITAR) model for public participation, external debt management, regulatory and legal framework in public debt management, external borrowing and contract drafting technique.

3.1 Legal Provisions and Procedures

The legal and regulatory framework for loan contraction in Tanzania is rooted in the Constitution of the United Republic of Tanzania (URT) of 1977 with various legislation including Act No. 30 on Government Loans, Guarantees and Grants of 1974, (which was amended by Act No 9 of 2003); the Public Finance Act of 2001; and the corresponding regulations and standing orders made by Minister for Finance, to regulate the business of official public loan contraction in Tanzania.

Article (141) in the Constitution makes specific reference to public debt. It reads:

> (1) The public debt of the United Republic shall be secured on the Consolidated Fund of the Government of the United Republic.
>
> (2) For the purpose of interpretation of this article, "the public debt" means the debt itself and also the interest charged on it, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.[2]

The Constitution and the statutes mentioned above are not exhaustive nor are they comprehensive in matters pursuant to external public borrowing. The Legislature, under both the Constitution and the statute, is not given legal powers to oversee Tanzania's external public debt. Nor is it the external public borrowing approving authority, although best practice in external debt contraction suggests that it should be. Consultation with civil society (the supposed beneficiaries) before loan contraction is not mentioned anywhere, either in the Constitution or in the statutes.

External borrowing powers are concentrated in the hands of the Minister of Finance. The Government Loans, Guarantees and Grants Act (No. 30 of 1974) empowers the Minister of Finance to raise or contract loans and grants on behalf of the government. Under the same Act the Minister of Finance was authorised to delegate to a public officer the authority to execute any agreement or instrument relating to a loan or guarantee raised on behalf of the government.

Tanzania's external borrowing practice has a number of weaknesses and flaws the greatest being poor administration and not being properly observed. There are cases where unauthorised persons contracted loans without the consent of the Minister of Finance. This partly explains some foreign loans being contracted without respect for the legal limits, leading to the current unsustainable foreign debt burden.

Tanzania's current external public debt burden is ascribed to the inadequacy of Act No 30 of 1974. The law fell short of conformity to external public debt best practices with regards to public participation, regulatory framework for public debt management, external borrowing and external debt management.

The eventual response to these shortcomings came in March 2003, through an Act of Parliament to amend Government Loans, Guarantees and Grants Act No. 30 of 1974 and replace it with the Government Loans, Guarantees and Grants (Amendment) Act No. 9 of 2003.

3.2. Borrowing Strategy and Negotiations

The Statutes provide guidance on administrative strategy geared to promote operational efficiency in external public borrowing and negotiations thereof. The Constitution is silent on matters pertaining to borrowing strategy and negotiations, except for a brief explanation of 'safe custody of the gains' from public debt and providing the constitutional meaning of the same.

Act No. 30 of 1974 sheds light on Tanzania's borrowing strategy and negotiations practices. The institutional set up defining borrowing strategy and negotiations in Tanzania involves four key central institutions, namely, the Ministry of Finance; the Planning Commission (now Presidents Office-Planning and Privatisation); the Attorney General's Chambers; and the Bank of Tanzania - the Central Bank.

The Attorney General's Chambers provide legal opinions at the time of loan negotiation so as to ensure that agreements are in line with the 1974 Act No. 30 on Government Loans, Guarantees and Grants, as amended by the 2003 Act No. 9 on Government Loans, Guarantees and Grants.

As mentioned earlier in this report, external borrowing is guided by the national Debt Strategy (NDS). The policy sets such benchmarks as DSA compulsion to determine grant element minimum of 35 percent, interest rate maximum of 1 percent, grace period minimum of 7 years, loan repayment period minimum of 23 years and undertaking regular debt sustainability analysis (six months).

Processing for external debt to finance a project/programme usually starts and is, therefore, raised by beneficiary. Loan beneficiaries, say, independent project/programmes, quasi government institutions, government departments or public corporations, established and operating within government ministries make relevant requisitions by way of project/programme proposals.

Be they for extending the existing or initiating new project/programmes, proposals are presented to project planning departments in parent ministries. The latter appraise proposals, weighing their respective social, economic and environmental viability (significance). Expert level project/programme consultative process may start right at this stage. If satisfied, proposals are forwarded, for further review, to the National Budget Committee based in MoF. The Committee assesses financial viability aspects of the proposals, make recommendations and forward the same to PO-PP.

PO-PP may commission feasibility study, whenever deemed necessary, especially for clearing such mandatory technical issues as EIA. Moreover PO-PP may allow potential financiers to participate in the process at this stage, in which case they provide risk capital.

Upon clearance, PO-PP takes the proposals with recommendation for financing, back to MoF. At this stage a number of technical personnel addressing the legal, coordination, managerial and administrative, Monitoring and Evaluation (M&E) and financial aspects, come into the loan cycle to facilitate processes leading to access at external credit facility. Office of the Attorney General, BoT, National Debt Management Committee (NDMC), which is the advisory body (with legal powers) to the Minister for Finance on all matters relating to debt management; and the Technical Debt Management Committee (TDMC) of the National Committee, will all come in at this stage.

The loan cycle covers activities for project identification, project appraisal and approval, loan negotiations and contracting, loan disbursement, implementation and monitoring, project evaluation as well as loan repayment.

Nevertheless, in most cases the procedures explained for accessing external credit funding facility are not always adhered to. Projects/programmes in which creditors have vested interest do not follow all these procedures, but usually start at MoF. This is partly because creditors already have the financial and expertise, which local concerns seeking credit facility must indicate to command beyond reasonable doubt. In fact this is the weakness. Another weakness is the practice of appealing to Cabinet in cases where external loan applications fail to get PO-PP's approval.

The Central Bank (BoT) effects the payments, monitors the private sector debt and keeps those records of public debt flows required for their overall objective to preserve monetary stability.

Recently, the Ministry of Finance has been strengthening its debt management capacity by recruitment and training of new staff and investment in Information Technology (IT) infrastructure. As a result, some of duties previously performed by the BoT are being transferred to the Ministry of Finance.

3.3 Institutional Relations in Loan Negotiations (Act No. 9 of 2003)

Government Loans, Guarantees and Grants Amendment Act No. 9 of 2003 establishes the National Debt Management Committee (NDMC) as the advisory body (with legal powers) to the Minister of Finance on all matters relating to debt management, and the Technical Debt Management Committee (TDMC) of the National Committee.

The NDMC is composed of Permanent Secretaries drawn from the ministries of Treasury (Chairperson), Finance, Finance Zanzibar, President's Office, Planning and Privatization, Attorney Genera's office, Prime Minister's Office, Foreign Affairs and International Cooperation, as well as the Governor of the Central Bank, Accountant General (Ministry of Finance) and Accountant General (Ministry of Finance Zanzibar). Its functions are:

- Advising the Minister of Finance on matters related to external and domestic borrowing, issuing of government guarantees and acceptance of grants on behalf of the government;
- Monitoring the implementation of the Annual Debt Strategy and borrowing plan approved by the government for the ensuing quarter;
- Preparation of the quarterly debt and budget execution reports;
- Advising on the formulation of the Annual Debt Strategy and borrowing plan;
- Monitoring, coordinating and directing the activities of all government departments and institutions involved in the management of debt, grants and guarantees; and
- Advising on the measures to be taken against any person for non-compliance with the provisions of the Act.

The Commissioner for Policy Analysis chairs the TDMC in the Ministry of Finance, and the TDMC's main function is to provide technical advice to the NDMC in the course of the latter performing its functions. TDMC has members drawn from amongst heads of the units involved in debt management from the respective institutions composing the NDMC membership.

It is also important to note, especially with regard to institutional relations in loan negotiations, the following provisions from the statute (Act No. 9 2003):

- NDMC shall have a Secretariat (National Secretariat) comprising not less than five and not more than seven members appointed from the TDMC and the Policy Analysis department of the Ministry of Finance;
- Where and when need arises and it is in the interest of sustainable public debt management, NDMC may from time to time, form such sub-committees as it may determine;
- NDMC shall hold meetings quarterly or at any time as may be advised by

TDMC; and

- NDMC and TDMC membership are by virtue of civil servants holding such office at a given time rather than by individual right.

In a nutshell, Government Loans, Guarantees and Grants Amendment Act No. 9 of 2003 gives NMDC powers to authorise public external debt contracts This law makes the Minister of Finance more accountable than in previous cases. In conformity to this law, the Minister of Finance is obliged to prepare the Annual Debt Strategy and Borrowing Plan, the quarterly Debt Strategy Implementation Report and Debt and Budget Execution reports. Furthermore, upon government approval the Minister of Finance shall be obliged to prepare and submit to Parliament semi-annual debt strategy and borrowing plan, debt strategy implementation report and debt and budget execution reports.

3.4 Institutional and Legal Checks and Balances

Part VI, Act No.9 of 2003, which establishes and gives the NDMC powers to regulate (authorising contraction and execution of loans) hinges on the premise of strengthening operational efficiency in debt management. However, this is done at the expense of establishing a sound institutional and legal system with built in mechanisms for achieving long term efficiency in sustainable external debt management.

3.4.1 The Parliamentary Public Accounts Committee (PAC)

Despite the fact that the PAC is, under the Parliamentary Standing Orders, empowered by law to conduct independent audits on all public spending and to take appropriate measures as deemed necessary according to provisions of the law, there is no documented evidence of the PAC ever coming out boldly on matters of external public debt.

The PAC powers are compromised by the influence and dominance that the ruling Chama cha Mapinduzi (CCM) enjoys over the weak and fragmented opposition in parliament. The CCM has an 87 percent majority in the current Parliament.

3.4.2 The Auditor and Controller General's Office (ACGO)

The Office of Auditor and Controller General, according to the law, performs auditing of all public spending in Tanzania. However, there are no records of the ACGO undertaking pre-audit functions for external public debt contraction. In fact, ACGO is the dog that 'barks but never bites' as it only illuminates bad spending of public resources without having the legal powers to book the offenders.

3.4.3 The Central Bank of Tanzania

The Bank of Tanzania Act empowers the central bank as an agent to the Government to provide operational support in debt management. But, in practice since early 1990s, the reality has been that the BoT became far more involved in debt management than had been intended because of better staffing and strong pressure on the MoF.

3.4.4 Other internal controls

Act No.30 of 1974, as amended by Act No. 9 of 2003 provides limits within which the government can borrow. Such limits are as follows:

- The total debt service cost of the next four successive years as well as the recurrent year should not exceed 15 percent of the average annual foreign exchange earnings for the preceding three years;
- The total debt service cost of all foreign and local loans due in the recurrent year and the next four years should be less than 30 percent of the annual recurrent revenue for the past three years;

- Nevertheless, such ceiling may prove unrealistic because of factors outside control of government, which may include changes in commodity (agricultural produce) prices at world market, changes in exchange rate and changes in fiscal and monetary policies of world dominant economies such as the US or EU.

There are two units in the Ministry of Finance involved in the management of public debt, namely, the Public Debt Unit in the Accountant General's Department and the Debt Policy and Strategy Unit in the Policy Analysis Department. The key roles of the Public Debt Unit are to:

- Interpret and record all loan agreements and grants in a computerised database using the Commonwealth Secretariat Debt Recording and Management System CS-DRMS;
- Verify demand notes;
- Disseminate debt data through regular and special reports; and
- Effect debt service payments.

The Debt Policy and Strategy Unit performs strategic functions of debt management. The unit has access to the database maintained by the Public Debt Unit in order to conduct sustainability studies, compare different loan scenarios and operate the management module in CS-DRMS.

3.5 The Norm versus Practice

It has been common practice for WB and IMF officials to tend to prefer working with certain individuals (those they consider to be powerful) in institutions instead of following the laid down rules and procedures established primarily to make institutional systems work. This tendency has had a far reaching impact on power relations with respect to matters pertaining to decision making on external public borrowing.

Another common practice concerning external public debt handling is the fact that although the law (Act No. 9 of 2003) vests the powers of issuing guarantee to the Minister for Finance upon advise of the NDMC, the minister has been guaranteeing loans raised externally by parastatal organisations or other corporate bodies.

The statutes recognise the possibility of default amongst those guaranteed to acquire and utilise public debt resources. In case this happens, and in the interests of the public, the law empowers the Minister of Finance, upon advice from the NDMC, to firstly withdraw the guarantee, possibly followed by confiscating the defaulter's property, with intention to recover the value and additional cost on the guaranteed loan.

However, the law is only meant for resolving internal conflict with matters respect to handling of external public debt. It does not obligate the creditor nation/government, commercial banks or other financial institutions to shoulder, partly or wholly, the value of the loan for failed projects that primarily were conceived by and/or for creditors' own motives. Renegotiation of failed projects and programmes depends solely on specific provisions within loans contracts (not on the law of the land enacted by Parliament).

3.6 Relationship to the UNITAR Model on External Borrowing Practices

A critical look at Tanzania's legal and institutional framework and relations with respect to management of external public debt shows lack of conformity to UNITAR-prescribed best practices.

In terms of public participation, UNITAR emphasises three key areas that must be observed to ensure participation. These elements are:

1 Shared decision making, including public review of draft documents, participatory project planning, workshops to identify priorities, conflict resolution etc.;

2 Collaboration between joint committees or working groups and stakeholders' representatives with stakeholders taking responsibility for implementation; and

3 Empowerment, ensured through capacity building activities and stakeholder initiatives.

The UNITAR model emphasises consistency with international practices, such as the UN Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.2 Participation of the public is a key component to achieving sustainable development because it empowers people by ensuring they have a voice in decisions on public debt as it affects their health, livelihood and environment, thus granting them self-determination.

There is a need, therefore, to ensure that people in Tanzania participate at all stages of external public debt contraction, namely, needs assessment for the loan, project preparation, project appraisal, project implementation and management, project supervision, project monitoring and evaluation, project completion and the stage of portfolio review.

For matters concerning external debt management, UNITAR raises key issues, such as regulation of the power to borrow, identification of sources of loans, application of a solid negotiation strategy, establishment of a sound debt management strategy and regional networking and information sharing – all contributing to improved efficiency in external debt management.

Tanzania's borrowing powers are almost entirely concentrated in the executive arm of Government. The role of legislature (and the judiciary, where necessary) in the whole external public debt cycle is, by implication of the law, insignificant.

Table 9: Development and Recurrent Expenditure from External Debt (Tz Shillings million)

Financial Year	Recurrent Expenditure Budget		Development Budget		Total Budget	Total External Debt Service	
	Total Recurrent Budget	External Sources of Funding	Domestic Sources	Foreign Sources		Budgeted	Actual
1998/99	743 321	309 265	10 000	254 465	1 007 786	209 123	149.818
1999/2000	921 176	392 443	31 972	214 943	118 0741	266 299	153.342
2000/2001	DNA	DNA	DNA	DNA	DNA	DNA	107.363
2001/2002	1 412 225	649 643	47 240	302 272	1 764 737	232 387	84.372
2002/2003	1 499 085	993 661	95 662	624 465	2 219 212	323 523	10 556
2003/2004	1 799 765	1 175 821	140 091	667 349	2 607 205	408 600	DNA

*** DNA = data not available**

***Source*: National Budgets 1998/1999 – 2003/04 Financial Years; MoF Policy Analysis Department: Public Debt Report January – March 2003, Table 5** and BOT: Economic and Operations Report June 30, 2002, Table A4.7&A5.1

Important to note also, is the inability of the law and the Constitution to define and set priority areas for which external public debt may be acquired. There is a conspicuous variation between development and recurrent expenditure in the national budgets, and the sources of financing. The table below shows the relationship between budgeting and sources of financing in Tanzania.

4 The Role of Tanzania's External Creditors

Tanzania's external creditors fall into two major categories - Paris Club and non Paris Club creditors. There are currently thirteen countries on the Paris Club creditors list and eighteen non Paris Club creditors. Tanzania's Paris Club creditors are Japan, Belgium, the Netherlands, France, Russia, Germany, Canada, the UK, Norway, Italy, the US and Brazil, The non Paris Club creditors are Angola, Algeria, Bulgaria, China, the Slovak and Czech Republics, Egypt, Hungary, India, Iran, Iraq, Korea, Kuwait, Libya, Romania, Saudi Arabia, the United Arab Emirates, Zambia and Zimbabwe.

The Paris Club is an informal group of official creditors whose role is to find co-ordinated and sustainable solutions to the payment difficulties experienced by debtor nations. Paris Club creditors agree to reschedule debts due to them. Rescheduling is a means of providing a country with debt relief through a postponement and, in the case of concessional rescheduling, a reduction in debt service obligations. The creditor countries meet 10 to 11 times a year, for negotiation sessions or to discuss among themselves the situation of the external debt of debtor countries or methodological issues on the debt of developing countries.

4.1 The Role of IMF and World Bank Country Mission Teams

Both the World Bank and IMF are physically present, functioning from Dar es Salaam, the defacto Capital city of Tanzania. World Bank (Tanzania) country mission was established in 1973. The generally stated roles of the two international financial institutions are very similar. Plausible stated reasons are that their physical presence is meant to quickening facilitation of various applications that Tanzania frequently makes, seeking from either of the two institutions, credit facility for 'home-grown' projects/ programmes.

World Bank has the decentralised organisational structure/system in which the projects/programmes it supports are prepared, negotiated and finally contracts signed in Tanzania. Government officials are no longer required to go to Washington for negotiation or signing of contracts. When need be, however, final negotiation between Washington and Dar es Salaam is carried out through video conferencing facility. World Bank Country Director (based in Dar es Salaam but catering for both Tanzania and Uganda) is mandated and actually signs all contracts on behalf of the World Bank. The major roles of the Bank's and the Fund's country missions have always been:

- Providing fulltime technical personnel support to Government for the latter to efficiently implement specific macroeconomic reform programmes;
- Undertaking monitoring and evaluation of specific development projects financed through IMF or WB agreements;
- Strengthening local functional expertise through which WB and IMF directly, or through local think tank institutions, support operational research activities that cater for their own policy information needs;
- Reviewing completed programme activities, making recommendations on their follow up and influencing Government to negotiate additional loan tranches (hence increasing external public debt) if further funding is needed; and
- Establishing, building and maintaining strong local public relations, especially with top political leadership.

The World Bank has always being in the habit of loan pushing in poor countries like Tanzania, piling new debts on top of old unpayable ones. Jubilee 2000 UK (2001) observed that despite the fact that many World Bank loans in the agricultural sector have been ineffective and added to the debt burden, the World Bank considered a new programme that could entail lending almost US$1 billion to Tanzania. In the considering the Country Assistance Strategy (CAS), almost in less than three months after Tanzania received its HIPC debt relief agreement, it was considered that as long as Tanzania stays on track with its IMF-supported adjustment programme, the World Bank intended to lend the government at least US$790 million over the next three years. There was also a proposal to increase lending in the third year of the CAS by US$200 million if the government performs exceptionally well in its adjustment programme, increasing lending over the period to some US$990 million3 .

5 Civil Society's Role in Loan Contraction and Monitoring

Although both economic and political liberalisation have contributed to the numerical growth of CSOs, from a qualitative point of view, this growth does not mean improvement in the CSOs in all aspects. Generally, they are still weak in terms of management capacity, linkages in society, and institutional development. CSOs linkages with the state are still informal and based on personal relationships amongst state officials and CSOs activists. Moreover, CSOs linkages with their communities tend to be weak. It is not yet clear, for example, what vision Tanzanian CSOs have developed regarding the role they should fulfil, or their relationship with government.

CSOs are lacking leadership and personnel with enough skills, knowledge and information to manage their entities and the majority hardly have any influence beyond their locality. They are small scale, local (rural or urban) in outlook and do not focus on well-defined target groups. Several factors seem to be at work here, including the political legacy of one party rule that creates a political culture of retreat and apathy.

Because of the lack of strength of Tanzania's CSOs, external creditors have tended not to give serious consideration to them during loan negotiation, or during loan procurement and use. Moreover, Government is in the habit of fully supporting the World Bank, IMF and other donors, encouraging them to disregard civil society voices raised against donor financed projects with adverse effects on the environment and the external debt burden.

Despite aforementioned weak capacities and un-conducive legal and institutional arrangement, some NGOs such as ACORD-Tanzania and Tanzania Home Economics Association (TAHEA), Tanzania Gender Networking Programme (TGNP), Tanzania Association of NGOs (TANGO), Legal and Human Rights centre (LHRC) and other phenomenal urban-based civil society organisations are aware of Tanzania's current external debt trends and dynamics. ACORD-Tanzania claims to have been already involved in loan monitoring, while other civil society organisations are also interested in external public loan monitoring. They give such reasons for intervention, as because of being stakeholders, and that they feel the government is poorly managing proceeds of external public debt. Moreover there is another category of CSOs declining to take part in Tanzania external loan functional processes. They have various reasons but the frequent ones being because the law does not mandate them do so. Other reasons they cite are government exclusivity and lack of necessary expertise and skills.

The Tanzania Coalition on Debt and Development (TCDD) is currently undertaking a small-scale district-level (Ilala District, Dar es Salaam) PRS expenditure tracking of corresponding debt relief funds, with some implication on monitoring of external debt.

Another CSO, the Campaign for Good Governance (CGG) is also doing expenditure tracking (small scale) in Kwimba district, Mwanza region. Moreover, HakiElimu, the Dar es Salaam-based elite advocacy group concerned with the rights to education (primary), undertook nationwide survey in 2002, tracking PRS funds allocated to districts for expending on education. Findings of the survey were alarming. Strong evidence was established indicating district officials' misuses of PRS funds allocated to education.

6 Case study of a loan: Tanzania Social Action Fund (TASAF)

The Tanzania Social Action Fund (TASAF) is a creation of the World Bank and the Government of Tanzania. It is a project funding facility established by Government as a key poverty alleviation institution designed to address community social needs. TASAF is the rapid disbursement fund that responds directly to requests generated by and for rural and urban communities for sub-project assistance.

TASAF is a typical copy of Malawi Social Action Fund (MASAF), which President Benjamin Mkapa emulated, apparently responding to pressures of 2000 general elections demands. In short President Benjamin Mkapa initiated TASAF; and the organisation is directed from the State House. TASAF main objective is more of operational than addressing the dynamics of local social-economic problems, this of course, explains the very nature of TASAF.

The main objective of TASAF is to increase and enhance the capacity of communities and stakeholders to prioritise, implement and manage sustainable development initiatives, and in the process, improve socio-economic services and opportunities. TASAF activities are financed through a US$60 million concessionary loan from the World Bank.

6.1 The Purpose of the Loan

The purpose of the TASAF loan is financing socio-economic development amongst rural and urban poor communities in Tanzania.

Working in 40 Tanzanian mainland districts and on Zanzibar and Pemba Islands, TASAF has over the last six years completed a total of 534 projects while 690 projects are in progress. Completed projects include building of 1 888 classrooms, 481 teacher houses, 277 modern school latrines, 272 outpatient health facilities, 339 houses for medical staff and 301 modern latrines for health units. Others are 163 incinerators, 244 water wells, 46 rural roads, six dams, eight tree seedling nurseries, one market and four storm water drainage systems. Moreover, TASAF provided 69 699 employment opportunities, of which 32 800 were taken up by women.

6.2 Negotiation and Procurement

By practice and orientation, TASAF works within government frameworks at all levels. The President appoints TASAF national level leadership. At regional, district, ward and village levels where TASAF implements projects, it uses the existing government leadership and structure to mobilise project beneficiaries. At these levels there is no TASAF membership, nor is there any kind of civic movement other than directives and orders to beneficiaries. These are the powerless poor members of communities who cannot afford asking critical questions but accept whatever poverty reduction initiative is brought in, seizing the opportunity made available to them.

This means that negotiation of the US$ 60 million concessionary loan for TASAF has remained the exclusive business of the government. There were no beneficiaries involved in negotiating the loan for TASAF or its procurement. Indebtedness status information indicating whether or not the government has started to repay the TASAF-derived debt (concessionary loan) is not yet available. However, it is important to note that Phase I of the TASAF project activities ended in the last quarter of 2003. The World Bank has since then released the second tranche for TASAF to implement Phase II project activities.

6.3. Problems and Challenges of the Loan

The Chief Executive of TASAF is a Presidential appointee. This means that Government is both the guarantor and the owner of TASAF. At the level of local operations, it is the owner but, in negotiations with the World Bank, it becomes the guarantor of an 'independent national organisation'. The obvious challenge of this loan is to manage it in such a way that its impact on the already existing unsustainable external public debt burden is minimised. Value added by would be the attainment of significant positive changes to economic growth relevant for reducing the current level of poverty in Tanzania.

However, there seems to have been a 'mechanical fix approach, in which project beneficiaries are 'instructed' to choose the type of social development project they like most, with the money being readily available through TASAF for financing the people's selected priority project.

Given the same goal, objectives and intentions, our proposed recommendation would be that for the purpose of internalising optimal participation of key TASAF project stakeholders, the government work with existing national level CSO networks that are already working in communities with the grassroots people. This implies that there was no need to incorporate TASAF.

However, as the already functional TASAF is in place, our recommendation is for the government to introduce a policy directive aimed at changing the current TASAF orientation from that of a state appendage to that of a true civil society organisation. When this is done, then TASAF must establish formal working relationships with existing national level, grassroots, non state organisations.

Establishing of formal working relationships would be intended to establish TASAF coalition governance structures for guaranteeing transparency, accountability and participation of members, stakeholders and project beneficiaries in the course of TASAF borrowing/debt (and implementing of programme) cycles. This will enable beneficiaries to set real poverty reduction priorities.

TASAF national level secretariat would assume the role of social development project technical machinery support without powers to make policy decisions.

This new ownership and functional framework that we recommend for TASAF retains the government in its erstwhile position of guarantor for TASAF external public borrowing in a structure in which this does not conflict with other roles.

7.0 International Issues

7.1 The Human Rights Based Approach and the Debt Question

The following quotation from AVY Mbelle8 explains the plight that poor Tanzanians are muddling through due to the country's debt burden,

About thirty years ago, in 1970, the external debt of Tanzania was only 16.8% of GDP and only 58.6% of exports. The ratio of per capita debt to per capita income was 14.4%. By 2001 the debt has reached over 100% of GDP and over 11 times the value of exports, with a per capita debt to per capita income ratio of 202%. By any wisdom this is a terrifying story.7

The state's capacity to deliver social services, such as education, water, health services and subsidies, which are the entitlements of citizens, has been squeezed since the mid 1980s due to increased servicing of external public debt. This has serious repercussions for Tanzanians, denying them social justice and their economic and social human rights. Women, children, people living with HIV or AIDS and elderly people are the most seriously affected vulnerable groups.

Thirty two percent of Tanzania's total population is estimated to be illiterate; 89 percent is estimated to have no access to safe and clean water; the infant mortality rate is 96 per 1000 live births; the under-five mortality rate is 158 per 1000; and maternal mortality is standing at 200 to 400 per 100 000. About 43 percent of the total population is food insecure, resulting in 30.6 percent being underweight. Moreover, more than 50 percent of the Tanzania's population survives on less than US$ 1 per day and it is that 70 percent of the total urban population lives in squatter and shanty settlements.

The non income poverty data shown above indicate the extent to which Tanzanians are increasingly having their basic entitlements compromised to external public debt servicing. Tanzania needs a projected US$ 5.4 billion9 input to its productive sectors to begin to move out of the poverty bracket but, by March 2003, the country's national foreign debt burden stood at US$ 7.08 billion 1 0.

As the late former president of Tanzania, Julius Nyerere, comments:

If in year 2000 Tanzanians (31.9 million) decided…starve themselves to death in order to pay off their external debt, they would have succeeded in paying about 78 percent of their debt burden. They would all go in their graves with an unpaid debt of nearly US$ 57 per capita. That kind of poverty cannot pay that kind of debt. [11]

Source: World Development Indicators database, April 2002

Conclusions

The HIPC debt relief initiative seems to be “a mere drop in the ocean” when considering the high levels of poverty in Tanzania. A commitment from the international community to help Tanzania fulfill its Millennium Development Goals can only be shown by canceling the country’s external debt burden. The meaningful involvement of all stakeholders- civil society, donors, the executive and the legislature can help Tanzania rid itself of the external debt burden which has been growing for a long time. The institutional structure and the necessary legislation seem to be in place but the political will and commitment to make it a reality is what is needed.

Nyerere summed up the best approach in dealing with the Tanzanian debt crisis when he said, “When I am asked why the debts of the Highly Indebted Poor Countries should be cancelled; my answer is simple: these countries are very poor: their debts are immense and unpayable; and their heroic attempts to pay inflicts intolerable pain on people who are already too poor.”4

Recommendations

On the basis of findings and discussion above, the following are policy recommendations for action areas, directed towards eventually making loans work for the poor in Tanzania:

1 A shift in policy emphasis on external public borrowing from financing of budget deficit, in which a good portion of foreign public loan is expended for recurrent expenditure, towards expanding the development budget, the multiplier effect of which is significant for debt servicing/loan repayment (through GDP growth) and thus for reducing poverty.

2 The government should establish benchmark priorities for which external public borrowing shall be acceptable. Benchmark priorities must be specific in terms of both type of goods and services for which to engage public borrowing and ceilings for the amount of money that may be borrowed and repaid annually.

3 The government should conform to the UNITAR best practices model with respect to the institutional and legal framework for external public borrowing, so as to share borrowing powers equally between the Executive and the Legislature.

4 The Government uses all available diplomatic resources to convince other debt ridden, poor countries to establish a Debt cartel for negotiating debt relief, instead facing multilateral and bilateral donors individually.

5 Additional ODA grants are very much needed is Tanzania is to attain the MDGs by 2015. An increase of ODA to the promised 0.7% of GDP by developed countries could make a difference.

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