



African Forum and Network  
on Debt and Development

# **BORROWING CHARTER**

Principles and Guidelines on sovereign financial borrowing  
by African countries



## **ABOUT AFRODAD**

### *AFRODAD Vision*

AFRODAD aspires for an equitable and sustainable development process leading to a prosperous Africa.

### *AFRODAD Mission*

To secure policies that will redress the African debt crisis based on a human rights value system.

AFRODAD Objectives include the following:

- 1 To enhance efficient and effective management and use of resources by African governments;
- 2 To secure a paradigm shift in the international socio-economic and political world order to a development process that addresses the needs and aspirations of the majority of the people in the world.
- 3 To facilitate dialogue between civil society and governments on issues related to Debt and development in Africa and elsewhere.

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## **PREAMBLE**

Sub-Saharan Africa (SSA) countries face tremendous challenges in loan contraction processes and public debt management. The challenges have to do with sources of development finance, loan approval processes, loan conditions and conditionality, macroeconomic and regulatory policies, overall institutional capacity, and country creditworthiness.

The causality of debt crises of the 1970s, 1980s and 1990s is attributable to weak loan contraction processes and public debt management. These debt crises contributed heavily to the social and economic problems in most Sub-Sahara Africa countries affecting their macroeconomic stability and international creditworthiness. The debt overhang stunted investment, economic growth and trade. Debt servicing crowded out public expenditure on education, health and other social needs in most debtor countries.

This Borrowing Charter contains principles and guidelines on sovereign financial borrowing. It seeks to guide and

inform sovereign borrowing with the aim to contribute to the improvement of current weak administrative, institutional and legal processes for loan contraction and public debt management. AFRODAD, therefore, urges borrowing countries especially those in SSA to adapt the principles and guidelines, so as to ensure efficient and effective use of debt resources and instruments, prevent recurrence of the debt crisis and make governments accountable to their citizens.

This Charter contains the following seven broad principles and guidelines:

- 1 Adherence to prudent public borrowing and debt management practices
- 2 Existence of predictable rules and regulations
- 3 Coordinated and coherent structures and obligations
- 4 Existence of an autonomous debt management office
- 5 Public participation, inclusivity and information disclosure
- 6 Respect for human and people's ecological rights
- 7 Mutual respect and equal partnership with lenders and international financiers

## **I ADHERENCE TO PRUDENT PUBLIC BORROWING AND DEBT MANAGEMENT PRACTICES**

*1.1. Political Support:* National governments need to give prudent public borrowing and public debt management the necessary high level political support to ensure debt sustainability.

*1.2. Stable Economic Environment: National governments must:-*

**1.2.1** Guarantee that public debt strategy is consistent with broad macroeconomic policy by ensuring that the rate of growth of the present value of new debt disbursements is equal or less than the rate of growth of the country's exports, for external debt sustainability.

**1.2.2** Check the conformity of any new project loan with overall economic development policy before its approval.

**1.2.3** Ensure that borrowing is limited to priority sectors and should strengthen the capacity of

the public sector especially in public investment management to enhance value for money on loan financed projects.

**1.2.4** Ensure macroeconomic stability, fiscal sustainability, low interest rates, and manageable levels of risk of funding sovereign entities.

**1.3. Constitutional Provisions:** Governments must establish appropriate and dynamic legal frameworks and structures that will be responsible for coordinating and managing public debt.

**1.4. Public Consent and Transparency:** Governments must undertake to adopt legislative measures that ensure that all public borrowing and debt management receives parliamentary and public approval.

**1.5. Capacity Building:** Governments must ensure that their countries have comprehensive, sustainable and long-term debt management capacities. This includes:

**1.5.1** Having a set of Debt management tools: Accurate and up-to-date records of all public and publicly-guaranteed external loans, schedules on debt servicing obligations including contingent

liabilities; the capacity to project the impact of borrowing decisions of various domestic entities on the country's overall debt profile; national budget and balance of payments.

**1.5.2** Ensuring that all public staff dealing with loan contraction and public debt management are geared for effective delivery of their duties and responsibilities:

**1.5.2.1** Ensure further training of office bearers involved in loan contraction and public debt management-auditors, accountants, economists and lawyers.

**1.5.2.2** Ensure that experienced and motivated staff are retained and supported by the necessary infrastructure, technology and financial resources.

**1.5.2.3** Encourage hiring of external experts to build skills of existing resource persons as and when required.

**1.5.2.4** Encourage Joint audits with other developed Audit Supreme Audit Institutions.

## 2 EXISTENCE OF PREDICTABLE RULES AND REGULATIONS

**2.1 Legal Framework:** All public loan contraction and debt management rules and regulations must be anchored on constitutional provisions and other precise pieces of legislation defining how public loans should be obtained, used and serviced.

**2.1.1** The legal framework must also provide a timeframe within which loan requests are made and approved to avoid slowing down approval processes to ensure time bound implementation and effective monitoring.

**2.1.2** New loans will be contracted within the context of the government's overall debt strategy and in line with national development plans/programmes. Government's borrowing plans need to be consistent with the long-term sustainability of the debt.

**2.2 Borrowing Powers:** The Legal Framework must stipulate clearly who has powers to borrow on behalf of the government.

**2.2.1** There should be clear legal/constitutional guidelines regarding to responsibilities and associated accountabilities among government agencies involved in debt management, particularly as regards the Ministry of Finance, the central bank and any separate or other debt management agency and well-articulated responsibilities for staff with clear monitoring and control policies and reporting arrangements.

**2.3Borrowing Ceilings:** There should be laws, regulations and policies which stipulate the limits of external public debt borrowing. This should be linked to the country's debt sustainability analysis.

**2.4Borrowing Approval:** The legislative arm of government – Parliament shall approve loans before contracts are signed. This will enable and ensure that the loan contraction process was done within the established guidelines and laws, and can be serviced within the national budget.

**2.5Authorization process:** A policy on borrowing which spells out authorization processes, composition of negotiating teams and preparations for negotiations should be put in place.

### 3 COORDINATED AND COHERENT STRUCTURES AND OBLIGATIONS

**3.1 Institutional Framework, Coordination and Communication:** Governments shall establish a National Debt Management Office (DMO), to ensure coordination and smooth communication among the various stakeholders in the loan contraction and debt management processes.

**3.2 Ministry of Finance:** Responsible ministry (e.g. Ministry of Finance) shall present borrowing requirements to government for authorization and to parliament for approval as may be required in accordance with the laws and regulations of country.

**3.2.1 The Ministry of Finance:** shall supervise the finances of a country so as to ensure that a full account thereof is made to Parliament and that its financial control is maintained.

**3.2.2 Line Ministries:** Line ministries will:

**3.2.2.1** Provide regular progress reports on all external loan supported programmes/projects to Ministry of Finance.

**3.2.2.2** Participate in all consultations and negotiations of all loan agreements for projects and programmes under their jurisdiction.

**3.2.2.3** Implement, monitor and evaluate all projects and programmes within their jurisdiction in close collaboration with funders, Ministry of Finance, civil society and beneficiaries.

**3.3 Parliamentary oversight:** Parliament shall play the critical role of ensuring accountability in loan contraction and debt management processes.

**3.3.1** An effective and responsible parliament mitigates the risks of excessive borrowing by reinforcing the countervailing mechanisms of government accountability and legislative scrutiny, and exerts pressure on the executive to improve fiscal and budgetary performance.

**3.3.2** The Attorney General: The Attorney General shall provide legal advice during the loan contraction process so as to ensure that it is consistent with national legislation.

**3.4 Public Enterprises borrowing:** Government must establish procedures and criteria for issuing guarantees to public enterprises. This is important because if public enterprises fail to meet the interest and amortization charges, government will have to pay.

**3.5 Central Bank Role:** The Central Bank should act as financial advisor of government on issues of loan contraction and debt management.

**3.5.1** National legislation should state clearly the powers of the Central Bank, its relation to the Ministry of finance, its autonomy/independence, its accountability to parliament and the nation, caution must be exercised to avoid arbitrariness/abuse of such powers.

**3.5.2** The Central Bank should maintain a secure and efficient payment and settlement system.

**3.5.3** The Central Bank should obtain all details of all financial assets of government and quasi-government from financial institutions and report the same to the Debt Office and the Ministry of finance.

**3.5.4** The Central Bank should facilitate settlement of Debt service payments on instructions of the Debt Management Office.

**3.6 Auditor General:** The Auditor General's office shall be responsible for auditing the publicly disclosed debt information in the Government financial statements or other documents in which the amounts of the public debt are disclosed and ensures that the amounts are measured on appropriate bases.

**3.6.1** The Auditor General must be well equipped and timeously report on the country's public accounts.

**3.6.2** The Auditor General shall undertake independent analysis and ensure that information is disclosed to the public and relevant bodies or interest groups to foster improved management of the debt and understanding of the current and future financial implications of the commitment. The Auditor General must conduct audits to ensure compliance with set benchmarks of financial transactions in debt management.

**3.7 Accountant General:** The Office of the Accountant General shall provide guidelines and procedures for management of public funds. The Accountant General's office should provide the overall framework for control of public resources and expenditure.

### **3.8 International Financial institutions (IFIs)/lenders::**

IFIs must through the use of IMF/World Bank Group Guidelines on Public Debt Management facilitate technical advice to the country, often to emphasize the need for sustainable debts and facilitate efficient implementation of macroeconomic programs.

**3.8.1 Local Capacity support:** IFIs must assist with building and strengthening local capacity to carry out research that would inform policy making process.

## 4 EXISTENCE OF AN AUTONOMOUS DEBT MANAGEMENT OFFICE

*4.1 A Single Debt Management Structure:* For the purposes of having a well-coordinated loan contraction and Debt Management System government must establish a Debt Management Office. Debt Management functions should be consolidated into a single debt management office consisting of back, middle and front office functions. The front office will deal with debt policies, policies for borrowing, procedures and techniques for debt negotiations, technical knowledge, the middle Office will focus on Analysis- portfolio and risk, suitability of proposed loans while the back office will deal with databases, maturity of loans, debt data validation, grants, and conditionality.

*4.2 Coordination of all Debts:* A Debt Management Office enables a country to consolidate, streamline and strengthen all debt management functions into a single specialized semi-autonomous entity. This allows better organizational control and eliminates the overlap and duplications associated with a situation

where several agencies are involved, and where information flow is weak and poorly coordinated.

**4.3 Debt Management Information System:** The Debt Management Office functioning and responsibility should be well written and documented, with a procedures manual, with computerized support relevant debt management software packages.

**4.4 Existence of specialized Services:** Autonomous public debt management offices (DMOs) should confer distinct organizational and staffing advantages and flexibilities not ordinarily open to debt management offices/units which are 'embedded' in ministries of finance and/central banks.

**4.5 Type of Debt Management Office:** The role of a debt office depends on its debt management functions, such as the duties that laws and regulations assign to it, on the strategy it chooses to adopt and on the means placed at its disposal to achieve its goals. In order to ensure that debt management processes, such as debt servicing are done more efficiently; roles and responsibilities must be clear and debt data must be consolidated.

## **5 PUBLIC PARTICIPATION, INCLUSIVITY AND INFORMATION DISCLOSURE.**

*5.1 Ownership and Accountability:* National ownership is crucial for the success of all loan and grant funded development projects. The people, who should be the ultimate beneficiaries of loans taken in their name, should have the right to participate in the decision making process pertaining to public borrowing. This should be done through parliamentary representation; direct citizen participation or citizen participation through their civic organizations or representations. Civic groups, especially watchdogs and interest groups, should be recognized as vehicles to enhance public finance ownership and accountability.

*5.2 Transparency and full engagement of citizens:* The loan contraction process should be transparent and participatory, involving citizens and affected communities through giving them adequate time and information to debate the taking-on of the loan, including purpose, terms and conditions of the loan in accordance with the national constitution.

### *5.3 Legal and institutional recognition of civil society:*

Governments parties to this charter should set up official fora and processes through which citizens can debate and influence economic policy proposals to strengthen public ownership of the economic and debt strategies. Government legislation should state clearly that civil society will:

**5.3.1** Play an advisory role in the process of loan contraction and debt management working as ‘think tanks’ working closely with negotiators and governments by influencing policy decisions, giving legal, technical or expert advice.

**5.3.2** Carry out research and advocacy during the project/programme proposal development and loan agreement negotiation stages.

**5.3.3** Monitor development projects and programmes, including how they are financed. This allows civic groups to monitor the effect of loan-funded programmes and projects, as well as the funds freed up as a result of debt relief initiatives.

**5.3.4** Conscientize the public and raise awareness on issues of loans, grants and development finance issues.

**5.4 Public disclosure of information:** Government legislation on Public Finance and Accountability should clearly stipulate that information on the use of borrowed funds should be made available to the public, especially civic group, that are interested in monitoring government loans and grants. The loan contract must be available to the public and transmitted to various stakeholders using appropriate and locally-accessible means of communication. This could be via members of parliament, announcements through websites, national press, radio and/or television.

**5.5 Language:** The contract must be made available in the main national languages (including the language(s) of affected communities). Both original and translated versions should have equal validity in a court of law.

## 6 RESPECT FOR HUMAN AND PEOPLE'S ECOLOGICAL RIGHTS

*6.1 Public right to sustainable development:* In line with the African Charter on Human and People's Rights governments should ensure that citizens have the right to fully enjoy their right to sustainable development derived from debt resources. The right to development and economic rights should not be dissociated from social, political and cultural rights.

*6.2 Address negative effects of borrowing:* Government should ensure that the negative effects of borrowing and any adverse effects of the implementation of development projects are reduced to the minimum for ordinary people especially vulnerable groups such as women and children. Projects financed through debt must not violate human rights and must not contribute to the violation of human rights. These rights are set out in the internationally recognised human rights treaties and conventions to which either borrowers or lender is signatory.

**6.3 Displacements:** Large scale development projects should by all means avoid resulting in the displacement of the indigenous people, the rural poor and urban slum-dwellers from their land, livelihood and community. Should development projects for any reason result in displacements adequate compensation will be granted to the affected communities.

**6.4 Environmental damage:** Any public borrowing must not support ventures that contravene internationally accepted minimum standards on social, labour and environmental protection.

## 7 MUTUAL RESPECT AND EQUAL PARTNERSHIP WITH LENDERS AND INTERNATIONAL FINANCIERS

**7.1 Mutual respect:** Governments shall ensure that loan contraction and debt management issues with lenders are done with mutual respect and dignity. The fundamental principles of Aid Effectiveness in the 2005 Paris Declaration, the Accra Agenda for Action 2008 and The Busan Partnership for Effective Development Cooperation 2011 must be applied to ensure equal partnership between donors and borrower nations.

**7.2 No to conditionality:** The member states parties to this charter should resist the use of conditionality by donors and international financial institutions when borrowing funds. This causes them to be accountable to the lender and not to their own citizens.

**7.3 Respect and Empowerment of local institutions:** Both Financers and Lenders should provide government watchdog bodies and parliaments with financial and technical assistance to enable them to play an effective role in negotiating and monitoring external loans.

**7.4 Fair and Transparent Arbitration:** The loan contract must provide a provision for an independent and transparent arbitration procedure in case of repayment difficulties or dispute (at the request of borrower or lender). There will be a stay on debt repayments while negotiations are underway. The borrower should be protected from litigation while negotiations are in progress. Borrowers and lenders must abide by the decision of the independent arbitrator and there is a right to appeal.

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***FOR MORE INFORMATION CONTACT***

African Forum and Network on Debt and  
Development(AFRODAD)

31 Atkinson Drive, Hillside

PO Box CY1517, Causeway

Harare, Zimbabwe

Tel: +263 4 778531/6

Fax: +263 4 747878

Website: [www.afrodad.org](http://www.afrodad.org)

Emails: [tirim@afrodad.co.zw](mailto:tirim@afrodad.co.zw) or [fanwell@afrodad.co.zw](mailto:fanwell@afrodad.co.zw)





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PO Box CY1517, Causeway

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Fax: +263 4 747878

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