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GHANA CASE STUDY OF THE $3 BILLION CHINA DEVELOPMENT BANK LOAN

By

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SUMMARY

The Institute of Economic Affairs (IEA), with support from the Center for International Private Enterprise (CIPE), conducted a case study of a loan negotiated between the Government of Ghana and the People's Republic of China. This was a $3 billion loan agreement signed in 2011 and is to date the largest single loan ever contracted in the history of Ghana.

The overall objective of the case study was to determine the impact of the loan on governance standards and the economy. Specifically, the paper assessed whether there were any violations of labour regulations and standards, environmental standards and public procurement laws. There is also an assessment of the economic impacts of the loan.

From the analysis the following preliminary conclusions were drawn:

- There was no transparency in terms of full public disclosure of the terms and conditions of the loan, as well as the processes involved in contracting the loan.
- Not only were the processes shrouded in mystery but also it was not possible for civil society groups to verify any transactions associated with the loan, thereby making it virtually impossible to hold the government accountable.
- Although the loan agreement was laid before Parliament as required by law, there was strong opposition to the terms and conditions, and the Majority side used its numerical strength to approve the loan. The loan was hastily approved and was not subjected to adequate scrutiny by either the House or civil society organizations (CSOs). This gives the perception that the Legislature, instead of diligently scrutinizing and questioning legislation from the Executive, is merely a rubber stamp for the latter.
- CSOs did not play any formal role in the process leading to the approval of the loan, although some of them had expressed concerns about the loan agreement that were not addressed.
- The loan agreement involved sole sourcing by Chinese companies, which may be in violation of Ghana's procurement laws, specifically the Public Procurement Act, Act 613.
- The impact of the project in terms of employment and promotion of local businesses would have been minimal due mainly to the sole sourcing of inputs from China including labour.

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1. Introduction

Foreign aid to the developing world has traditionally been dominated by western countries, particularly Organisation for Economic Cooperation and Development (OECD) countries. However, within the last three decades the situation has shifted with the emergence of new players such as China. Since the onset of reforms and economic opening, particularly after 2000, Chinese aid to sub-Saharan Africa (SSA) has increased exponentially. China is currently the largest non-traditional contributor of aid to SSA. The combined value of Chinese equity and net loans to African enterprises reached $39.9 billion by the end of 2016,[1] compared to a total of $44.2 billion in net Official Development Assistance and Official Aid received in the same period.[2,3] Much of the Chinese aid is in the form of soft loans, sometimes referred to as development finance. In many cases it is made in exchange for gaining access to natural resources and it often comes with little or no strings attached.

This case study focused on a single loan negotiated between the Government Ghana (GoG) and the People's Republic of China. The $3 billion loan agreement was signed in 2011 and remains the largest single loan ever contracted in the history of Ghana. The overall objective of this case study is to determine whether and how this loan has impacted governance standards and the economy.

[1] CGTN Newscasts (2018) 'Chinese investment and loans in Africa give priority to infrastructure', accessed at https://america.cgtn.com/2018/05/25/chinese-investment-and-loans-in-africa-give-priority-to-infrastructure.

[2] World Bank (2018) World Development Indicators, World Bank, Washington, D.C. accessed at http://databank.worldbank.org/data/source/world-development-indicators

[3] Official Development Aid is defined here as aid received from OECD (or advanced) countries. The aid could be bilateral or channelled through multilateral development agencies such as the UN and the World Bank.

2. Overview of the Loan

GoG on the 16th of December 2011 signed a $3 billion commercial loan agreement (referred to as a Master Facility Agreement, MFA) with the China Development Bank (CDB) of the People's Republic of China. The projects to be funded under the loan were identified based on GoG's Ghana Shared Growth Development Agenda which had a focus on public infrastructure development.[4] The US$3 billion facility was a commercial loan to be made available in two tranches. The first tranche was $1.5 billion with a 15-year repayment period and a five-year grace period. The second tranche was also worth $1.5 billion, but with a 10-year repayment period and a three-year grace period. Two years after the original $3 billion loan agreement had been signed, GoG sought to reduce the loan commitment to $1.5 billion. The government's justification for the decision to cap the loan was that the Chinese had made fresh demands on some of the original subsidiary agreements (SAs) that it disagreed with either because they contravened Ghana's laws or because they were different from what had originally been agreed to. This impasse led to a cessation of disbursements after an initial payment of $1.5 billion. In the end the only project that was under the loan facility was the Western Corridor Gas Infrastructure Project, which was completed in 2015.

3. Analysis

A preliminary analysis of the governance, economic, and democracy impacts of the loan are presented below.

[4] The Ghana Shared Growth Development Agenda was a medium-term development plan of the then government. Projects to be funded with the loan included: Western Corridor railway retrofit; upgrade of the Takoradi port; construction of coastal fishing harbours and landing sites; upgrade of the Volta lake ferries, pontoon and landing sites; and the Western Corridor gas infrastructure project.

3.1 Governance Impacts

The governance impacts are discussed under three main headings: transparency in terms of public disclosure of the processes associated with accessing the loan and whether transactions could be verified; the role of Parliament and Civil Society Organisations (CSOs); and the effect on local corruption.

Transparency: Although some information about the loan is publicly available, the processes surrounding the acquisition of the loan cannot be said to be fully transparent and there is no means by which specific transactions can be verified. A summary of the CDB loan can be found on the website of the Ministry of Finance. However, details of the subsidiary agreements have not been made publicly available.

Role of Parliament: The loan facility was laid before Parliament on 25 August 2011 by the Chairman of the Joint Committee on Finance and Poverty Reduction Strategy. There was a fierce debate between the Majority (NDC) and Minority (NPP) sides of the House on the motion to approve the loan. The Majority Members of Parliament argued that the projects earmarked for funding with the loan facility were critical to the nation's development. They pointed to the development of gas infrastructure and urged the House to approve the facility. Although the Minority thought the purpose for which the loan was sought was good, it argued that the loan agreement did not offer value for money. In the end, the loan was approved by Majority on a voice vote, with the Minority abstaining. The lack of bipartisan support for the loan agreement suggests it might have been rushed through parliament and hence it did not undergo thorough scrutiny. This stands in contrast to other loans, such as the $918 million International Monetary Fund (IMF) loan or the $498 million US Millennium Challenge Corporation Compact loan, which had strong support from both sides. Thus, it could be surmised that parliamentary oversight in the case of the $3 billion Chinese loan was somewhat weakened.

Role of CSOs: Civil Society Organisations did not play any formal role in the process leading to the approval of the loan. However, some of them also publicly questioned the loan agreement. The main criticisms against it at the time were on two main grounds. First, there were those who thought the government was too ambitious in contracting a loan of such magnitude. Proponents of this position were concerned that the government would not be able to satisfy all the conditions needed to access the loan. The other group felt that the whole process was being rushed and that there was need for more due diligence in terms of the viability and programming of the projects as well as the terms of the loans including collateralisation of Ghana's natural resources such as oil. There was no public response by the government to the CSOs' concerns and the loan agreement was passed without any consultation with them.

Effect on Governance and Integrity: There is circumstantial evidence of improprieties around procurement for the loan. Four Chinese-made helicopters were purchased for $100 million from the CDB loan. They were commissioned by then-President John Mahama in September 2015 as part of the Ghana Gas infrastructure project. The helicopters were meant to assist the company in its surveillance and monitoring responsibilities in order to secure installations such as gas pipelines and other allied operations across the country. However, more than two years after they were purchased, they are yet to be used and are currently housed at the Airforce base in Accra. The sole sourcing of the helicopters from a Chinese company may have been in violation of the Public Procurement Act, Act 613. A recent amendment to Act 613 is the Public Procurement (Amendment) Act (Act 914), Section 14(1) of which states that "This Act applies to procurement with public funds including loans procured with government grants, foreign aid funds and internally generated funds except as exempted under section 96." The exemption relates to procurement with international obligations arising from a grant or concessionary loan. Given that the $3 billion loan was a commercial loan, this exemption was not applicable and therefore the transaction could have been a violation of the Act.

3.2 Economic Impact

The loan had a negligible impact on the local business community due to the truncation in funding. The impact of the project in terms of employment and promotion of local businesses would have been minimal due mainly to the sole sourcing of inputs from China including labor.

3.3 Impact on Democracy

Given that disbursements under the loan were made for only two years and effectively only one SA was funded, there is insufficient information to ascertain whether the loan had any impacts on democracy. It is unlikely that the loan gave the party in power any political advantage. In fact, the then ruling party that contracted the loan (the NDC) lost power in the 2016 general elections that followed the signing of the loan agreement. It is instructive to note that then President John Mahama had won the 2008 general elections on the back of significant popularity following the death of President John Evans Atta Mills and yet failed to win re-election.

4. Conclusions and Recommendations

On the basis of the foregoing analysis, the following preliminary conclusions are drawn.

- There was no transparency in terms of full public disclosure of the terms and conditions of the loan, as well as the processes involved in contracting the loan.
- Not only were the processes shrouded in mystery but also it was not possible for civil society groups to verify any transactions associated with the loan, thereby making it virtually impossible to hold the government accountable.
- Although the loan agreement was laid before Parliament as required by law, there was strong opposition to the terms and conditions, and the Majority side used its numerical strength to approve the loan. The loan was hastily approved and was not subjected to adequate scrutiny by either the House or civil society organizations (CSOs). This gives the perception that the Legislature, instead of diligently scrutinizing and questioning legislation from the Executive, is merely a rubber stamp for the latter.
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