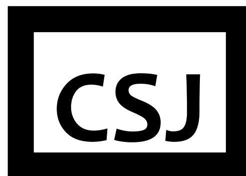
SINKING DEEPER

(Report on the Implementation of the Fiscal Responsibility Act
in the 2010 Financial Year)



Centre for Social Justice (CSJ)

(Mainstreaming Social Justice In Public Life)

Sinking Deeper

(Report on the Implementation of the Fiscal Responsibility Act
in the 2010 Financial Year)

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Abbreviations and Acronyms

Act	Fiscal Responsibility Act
BDC	Bureau De Change
BOF	Budget Office of the Federation
BPP	Bureau of Public Procurement
CBN	Central Bank of Nigeria
Commission	Fiscal Responsibility Commission
CRF	Consolidated Revenue Fund
CRFC	Consolidated Revenue Fund Charges
CIT	Company Income Tax
CPI	Consumer Price Index
CSJ	Centre for Social Justice
CSOs	Civil Society Organisations
DMO	Debt Management Office
DMBs	Deposit Money Banks
DSA	Debt Sustainability Analysis
ECA	Excess Crude Account
ECOWAS	Economic Community of West African States
EFCC	Economic and Financial Crimes Commission
EITI	Extractive Industries Transparency Initiative
EXCOF	Executive Council of the Federation
FAAC	Federation Accounts Allocation Committee
FDI	Foreign Direct Investment
FIRS	Federal Inland Revenue Service
FGN	Federal Government of Nigeria
FMF	Federal Ministry of Finance
FRA	Fiscal Responsibility Act
FRC	Fiscal Responsibility Commission
FRL	Fiscal Responsibility Law
FSP	Fiscal Strategy Paper
GDP	Gross Domestic Product
ICT	Information and Communication Technology
ICM	International Capital Market
INEC	Independent National Electoral Commission
IGR	Internally Generated Revenue
ISA	Investment and Securities Act, 2007
JVC	Joint Venture Call
MEND	Movement for Emancipation Niger Delta
MBPD	Millions of Barrels Per Day
MDAs	Ministries, Departments and Agencies of Government
MDGs	Millennium Development Goals

Minister	Minister of Finance
MPC	Monetary Policy Committee
MOF	Ministry of Finance
MPR	Monetary Policy Rate
MTEF	Medium Term Expenditure Framework
MTSS	Medium Term Sector Strategies
NASS	National Assembly
NBS	National Bureau of Statistics
NEC	National Economic Council
NEEDS	Nigeria Economic Empowerment and Development Strategy
NEITI	Nigerian Extractive Industries Transparency Initiative
NEPAD	New Partnership for Africa's Development
NERC	Nigeria Electricity Regulatory Commission
NITEL	Nigerian Telecommunication
NPV	Net Present Value
NLNG	Nigeria Liquefied Natural Gas
NNPC	Nigeria National Petroleum Corporation
OAGF	Office of Accountant-General of the Federation
OPEC	Organisation of Petroleum Exporting Countries
PEM	Public Expenditure Management
PHCN	Power Holding Company of Nigeria
PIB	Petroleum Industry Bill
PPA	Public Procurement Act
PPMC	Petroleum Pricing Monitoring Corporation
PPP	Public Private Partnership
RCP	Reference Commodity Price
SEC	Securities and Exchange Commission
USD	United States Dollars
UNDP	United Nation Development Programme
VAT	Value Added Tax
VGF	Viability Gap Funding
WAMZ	West African Monetary Zone
WHO	World Health Organisation

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Chapter One

INTRODUCTION: SINKING DEEPER

1.1 SINKING DEEPER

This is the third year of the implementation of the Fiscal Responsibility Act (FRA or Act), a legislation that held out so much promise for reforms of the fiscal system at the federal level and to an extent, state level fiscal responsibility practices. What has been the success, the challenge(s) and how do we proceed as a nation to the greater height of fiscal transparency? Have we taken deliberate retrogressive steps? Are we sinking deeper into the mud of fiscal irresponsibility while pretending to be implementing the FRA? Have the states taken up the challenge of enacting state level Fiscal Responsibility Laws (FRLs) and improving fiscal governance at the sub-national level? The answers to these posers are clearly articulated in this report.

The report focuses on the provisions of the FRA within the context of an oil dependent economy, high level of unemployment amidst over 7.5% economic growth recorded in 2010, poor human development indicators, dilapidated infrastructure and imminent failure to attain most of the Millennium Development Goals (MDGs). The FRA was anchored on the economic objectives of state found in section 16 of the 1999 Constitution under the Fundamental Objectives and Directive Principles of State Policy. It was the promise at the time of enactment of the FRA that the Act was the magic bullet that will conserve national resources, introduce efficiencies and discipline spending and decision making. It was supposed to remove national resources from the depravity of the political class that has held Nigeria to ransom. But the unfortunate scenario is that not much has changed. Value for money is largely lacking and the anticipated discipline is far from being imbibed. Politicking still dominates fiscal decision making and the living conditions of the people has not improved. Policy, programme and budgeting are yet to be linked as Vision 20:2020 has little or no relationship with the Medium Term Expenditure Framework (MTEF) and the annual budget.

This report is presented as a wake-up call to all stakeholders including the executive and legislature, civil society and communities and the private sector. The central agenda is to state that the coast is clear for citizens to insist on higher decibels of accountability and refuse to accept the continued violation of the provisions of the Act. These infringements are to a large extent responsible for the aggravated poverty of the majority of the population. Late presentation of the budget by the executive to the National Assembly (NASS) and its late passage by NASS can only lead to one result - a budget that is only implemented by paying salaries and spending overhead votes. A

bloated expenditure profile for the NASS and the Presidency also has one result - withholding resources for education, health, roads, etc. Mismanagement of resources and outright looting of same in some other Ministries, Departments and Agencies of government (MDAs) withholds resources meant for the people and diverts same to illegal ends. Thus, this report provides information and data for evidence based advocacy on the need to hold elected and appointed officials to account for the management of public resources. A situation where there is disconnection between fiscal, monetary, trade and industrial policies cannot augur well or support an economy that delivers new jobs, increasing growth and productivity.

1.2 EXECUTIVE SUMMARY

Chapter Two is about the 2010 Annual Budget and its implementation. The budget was presented in November 2009 and enacted by NASS and assented to by the President in April 2010 after the end of the first quarter. 2010 recorded a budget amendment and two supplementary budgets. Budget reports for the year came late and there was failure to prepare and publish the Annual Cash Plan and Budget Disbursement Schedule by the Office of the Accountant-General of the Federation (OAGF) and the Minister of Finance (Minister) respectively. The Excess Crude Account (ECA) was depleted while we budgeted for an agency unknown to the law. Capital budget implementation continued in the tradition of previous years. The result was a capital budget that did not record more than 50% implementation by the end of the year. Only 51% of the capital budget was released which amounts to 17.5% of the overall budget for 2010 and implementation of the capital budget for 2010 was extended to March 2011.

The usual reasons for poor capital budget implementation surfaced and they include poor project planning practices by MDAs, delays in payment to contractors even when releases have been made to MDAs by the OAGF, lack of ownership of projects by communities, etc. These excuses had been identified in the 2009 Budget Implementation Reports and nothing was done to change the tide. Oil revenue exceeded projections while non oil revenue recorded deficits. The quarterly budget monitoring reports focused on reporting “oil lifting” rather than “oil production”, a discrepancy that brings confusion into budget reporting.

Chapter Three is on Borrowing and Debt Management. It recounts the latest Debt Sustainability Analysis (DSA) in 2010 which used two scenarios - the Baseline and Optimistic Scenarios. The DSA was based on the updated World Bank/IMF Debt Sustainability Framework for Low Income Countries. The DSA came up with the verdict that Nigeria’s debt is sustainable although it acknowledged that in extreme stress conditions, the country will be vulnerable to unsustainable debts. The 2010 External Borrowing Plan did not come with a cost benefit analysis of the projects for which the country seeks to borrow. And some of the requests for borrowing were evidently

frivolous. Contrary to section 42 of the FRA which requires the President with advice from the Finance Minister, subject to the approval of the NASS to set limits on the consolidated debt of Federal, State and Local Governments in the country, no such limit has been set by the President. The effect of this failure to set limitations has disabled the provisions of section 42 (3) to (7) of the Act. This provision requires the Commission to verify compliance with the limits of consolidated debts and to publish on a quarterly basis, the list of Governments in the Federation that have exceeded their limits of consolidated debt indicating the amount by which the limit was exceeded. The provisions require Governments violating the provisions to bring their debt within the limits not later than the end of three subsequent quarters with a minimum of 25% reduction in the first quarter. Inter agency collaboration between the agencies that should collaborate to ensure that sub-national debts are kept within reasonable limits is lacking. Securities and Exchange Commission (SEC), Central Bank of Nigeria (CBN), OAGF and Fiscal Responsibility Commission (FRC or Commission) should have taken steps to rein in debts of sub-national governments arising from bank borrowing, bond floatation, etc. The only sub-national debts that would have been difficult to track would be arrears arising from personnel costs and indebtedness to contractors. However, intergovernmental collaboration envisaged in the Act would have provided solution to difficulties encountered in collating the arrears.

Chapter Four is focused on the MTEF 2011-2013, its timing, comprehensiveness, consultations and inputs. The preparation started late, leading to late approval and the MTEF was based on Medium Term Sector Strategies (MTSS) that did not cover all MDAs. The MTEF did not indicate that it sought the inputs of all relevant stakeholders. It reviews the macroeconomic framework including projections for growth, interest rates and lending to the economy, inflation and exchange rate. However, projections for growth do not tally with the rates in Vision 20:2020. The objectives of the Fiscal Strategy Paper are outlined but none of the objectives is directly geared to realize the economic objectives in section 16 of the Constitution. The review and projections of oil production in millions of barrels per day (mbpd) and Reference Commodity Price (RCP) were based on reasonable evidence.

The aggregate expenditure of the Federal Government for the medium term is projected as follows: N4,629.95 billion in 2011, N5,013.26 billion in 2012 and N5,465.03 billion in 2013. The disaggregation showed that recurrent expenditure will trump capital expenditure over the medium term. The MTEF indicated capital expenditure envelopes for MDAs but failed to provide the recurrent equivalent. Key issues emerging from the capital recurrent expenditure mix are that:

- The percentage of the budget dedicated to capital expenditure will not allow the country to meet the accelerated infrastructure upgrade expected in Vision: 20:2020. With an investment of a paltry 23% of the budget over the medium term, poverty will deepen and this will result in economic stagnation. A country that seeks double digit growth rate must channel more resources to capital investment. Essentially, the implication of the foregoing is that improvements in infrastructure promised under the 7-Point Agenda, Vision 20:2020 and the Millennium Development Goals ("MDGs") may not materialize. The National Economic Empowerment and Development Strategy ("NEEDS") reforms had articulated the ratio of recurrent to capital spending to be 60%-40% from the year 2007 and onwards. Apparently the MTEF estimates are retrogressive.

- Although, there are plans for PPP, a Viability Gap Fund and the pursuit for private sector investments to drive infrastructural growth, the government must invest a minimum to attract the investments of non state actors. The envisaged capital vote is not sufficient for that purpose and such, the chances of private sector investors championing the cause of infrastructure upgrades in Nigeria will be diminished.

- With more borrowing in the local and international financial markets, the demand for more resources to service and pay back debts will crystallize. And since the borrowed money is not invested in growth, value creating and income generating capital expenditure, it would be more difficult to pay back the borrowed money over the years.

The chapter reviews the emergent deficit and sources of its financing, consolidated debt statement and debt sustainability, contingent liabilities and quasi fiscal activities.

Chapter Five is on the Appropriation Bill 2011 as presented by the President to NASS. The Bill was presented late in the year to the NASS, specifically on December 15 2010 arising from the late preparation and presentation for legislative approval by the executive of the 2011-2013 MTEF.

The overview of the Bill shows that revenue from Federal Government's share of the Federation Account has been increasing since 2009. Revenue peaked in 2010 and decreased by 10.80% in 2011 and there is a projected increase of 8.59% in 2012. On the expenditure side, statutory transfers have been increasing while recurrent (non-debt) expenditure took a quantum leap of 116.53% in 2010. However, the proposal for 2011 seeks to reduce recurrent non debt expenditure. Projection for capital expenditure grew exponentially in 2010, but has generally not matched the growth in recurrent expenditure over the four years 2009-2012. There is an unhealthy relationship between

the deficit and the revenue. The deficit as a percentage of the revenue has averaged 49.39% between 2009 and 2011- an unduly high percentage. The debt service obligation increased between 2009 and 2010 and has maintained an even keel between 2010 and 2011. The budget has consistently been on deficit financing with the deficit exceeding the 3% of GDP rule in the FRA. Generally, Nigeria has been spending more than it earns.

Oil production is stated at 2.3mbpd in the Bill while NASS had approved 2.25mbpd in the MTEF. The benchmark price for oil is stated at $65 which is the same as the approval in the MTEF. However, the empirical method of using the ten year moving average to calculate the RCP worked out the RCP at $58. The RCP has implications for budget implementation and accrual of resources to ECA. The first is that if the commodity price falls below the RCP, Federal, State and Local Government budgets will be totally distorted and will become un-implementable in view of the fact we have fully drawn down the resources in the Excess Crude Account (ECA). The second issue is that the new RCP will decrease the level of accruals to the ECA at a time ECA needs to be replenished. The Bill does not contain a clear cut articulation of the expected inflows into the ECA. Rather, it contains FGNs share of ECA in the sum of N152.98 billion. The MTEF had proposed a hedging strategy providing FGN with the option of transferring risks associated with downside movements in the price of oil to a third party. With the payment of a premium, FGN can purchase a hedging solution such as *put options, cap and floor agreements, no cost collars* amongst others which would guarantee government earnings below a floor, such as the benchmark price, while allowing us to reap the gains from higher oil prices. Non oil revenue projections in Company Income Tax (CIT) and Value Added Tax (VAT) are realistic and realizable while the projections for Customs and Excise may be difficult to meet.

The expenditure breakdown for 2011 shows that social sectors like education and health got 11.56% and 8.03% as against the international benchmarks for developing countries of 26% and 15% respectively. Agriculture and natural resources despite its huge contributions to GDP and employment generation got a paltry allocation of 3.30% of the budget. Defence, Police Formations and Command and the Office of the National Security Adviser representing internal and external security demands got a total of 24.65% of the proposed 2011 spending. The NASS and Presidency got 3.79% and 1.34% respectively. The allocations to the foregoing sectors (with the exception of education, health and agriculture) are excessive and can be reduced and channeled to other sectors in need of increased funding.

Recurrent (non-debt) expenditure at 58.72% of the overall budget is also very high and the reduction of the recurrent vote, particularly the overhead vote which is crowding out capital investments can start with the two key institutions that should lead the reform of fiscal governance in Nigeria to wit: the Presidency and the NASS.

There has been a progressive decline of the capital budget in the last three years. From a budgeted figure of 34% in 2010 to 23.8% in 2011 is a huge decline. Thus, the capital expenditure failed to support any of the four pillars of the budget as the budget failed to optimize capital spending by rationalizing recurrent expenditure. Rather, the budget rationalized capital expenditure from 34% in 2010 to 23.8% in 2011. The implication of the low capital votes is that Nigeria will most likely miss the development targets of Vision 20:2020 and the MDGs. When the capital votes of education, health, agriculture and water resources, works, power, transport, lands and housing, aviation, Niger Delta, Defence and mines and steel are put together, they only amount to 94.7% of the debt service vote. Capital supplementation envisages the establishment of a National Job Creation Scheme with a seed capital of N50billion and all memoranda submitted to Executive Council of the Federation (EXCOF) regarding procurement contracts from MDAs are to indicate the local employment content implication of the projects.

The deficit is -3.62% of the GDP which contrasts with the MTEF approval of -4.49% of the GDP. The percentage of retained revenue to overall budget is 67.11% while the percentage of deficit to overall budget is 32.89%.

There are unresolved issues about whether revenue expectations from Privatisation and Signature Bonus will materialize and even if they materialize, it would be contrary to the FRA (sections 41 and 53) to use the proceeds to fund recurrent expenditure. Domestic borrowing is listed as a source of funding the deficit to the tune of N865.24 billion in the Revenue and Expenditure Framework. At N150 to 1USD, this amounts to $5.768 billion. But N865.24 billion exceeds the recommendation of the DSA 2011 on money to be raised from domestic sources. The DSA recommends a maximum sum of N639billion to be borrowed from domestic sources and $2.84billion from external sources. Although, this is less than the N1,346.58 borrowed in 2010, the implication is that the public sector will continue its crowding out effect on access to credit by the private sector and banks will continue to be risk averse. Finally, the projected total external and internal debts do not seem to correspond with the reality of facts in terms of the existing quantum of debt and recent new approvals by the legislature. The 2011 budget recognized that the government will provide guarantees for private sector driven infrastructure projects in the power, transportation and housing sectors, etc and estimates the guarantee in 2011 to be within the range of $3billion to $5billion.

The real GDP growth rate is projected at 7% for 2011 in the Fiscal Target Appendix. However, the MTEF and the Documents Accompanying the 2011 Budget did not contain an evaluation and analysis of the macroeconomic projections for the three preceding financial years. This is a failure to comply with section 11 (3) (a) of the FRA as an analysis of previous forecasts against their actual performance could have revealed the binding constraints on growth with a view to articulating strategies to

address them. The rates of growth projected for 2011 falls short of the 13.8% envisaged in Vision 20:2020.

The Bill sets the target inflation rate at 10% against the MTEF's approval of 9% while the exchange rate in the MTEF and in the Bill is set at N150 to the USD. The inflation rate as at October 2010 is 13.4%, down from the 13.9% recorded in December 2009. The formula used in arriving at the inflation rate for the budget is unknown considering that there is no major shift in the prevalent economic variables between October 2010 and the year 2011. However, the expansionary fiscal policies being pursued in 2011 and in the medium term and the fact that the bulk of the monies are voted for recurrent expenditure makes the realization of the 10% inflation rate doubtful.

The MTEF and the budget contained no projections on interest rates or strategies to reduce the spread between lending and deposit rates for the medium term. With a prevailing 12 months deposit interest rate of 3.97% payable by banks to depositors and savings deposit rate of 1.43%, the current high prime lending rate of 16.50% and the maximum lending rate of 22% is nothing but usury. This cannot be justified considering that banks before the banking crisis were paying depositors interest rates averaging 7.92% per annum and yet had maximum lending rate of 18.23% per annum in 2007. Credit to the public sector grew exponentially while credit to the private sector recorded less than 4% growth between 2009 and 2010.

Chapter Six is on Other Issues and Challenges in Fiscal Responsibility. It reviewed the work of the FRC, budgetary allocation to the Commission, etc. It recalls the constitutional amendment process that led to changes in the Constitution. This however did not touch a number of sections that govern fiscal management. The sections that impact on fiscal governance were analysed with suggestions for amendments and justifications. Fiscal issues in power sector reform were also discussed in the chapter. The last issue for the chapter was state level fiscal responsibility legislation and practices.

Chapter Two

THE 2010 BUDGET AND ITS IMPLEMENTATION

2.1 LATE PRESENTATION AND PASSAGE OF THE BUDGET

The 2010 Appropriation Bill was presented by the President on November 23 2009 to the NASS. It was eventually passed by NASS and assented to by the President in April 2010. This was after the end of the first quarter of 2010. The Budget had aggregate expenditure of N4,608 billion, out of which N1,854 billion was allocated to capital spending, N497.07 billion to debt service, N180.28 billion for statutory transfers and N2,077 billion for recurrent non debt expenditure.

As has been the usual practice, the capital budget of 2009 was rolled over to the end of the first quarter of 2010 indicating that capital projects in the 2009 Appropriation Act were being implemented up to the end of the first quarter of 2010. This method of budget execution runs contrary to the Financial Year Act which states the period of a financial year in Nigeria to be between January 1st and December 31st of every year[1]. It brings confusion to reporting of budget implementation. This confusion is shown by the position of the Budget Office of the Federation in September 2010 as documented in the MTEF 2011-2013 below[2]:

> *The execution of the 2009 capital budget was extended to March 2010, hence provisional releases were made to honour existing commitments in the first quarter of 2010. Due to cash flow challenges and the need for reconciliation of releases made, the due proportion of the budget was partially funded over the first half of the year. In the light of these circumstances, it is difficult to carry out a complete assessment of the budget performance over the 1st half year. Implementation of the budget is ongoing and a more detailed assessment will be available at a later date* (underlining supplied for emphasis.

2.2 CONFUSING SIGNALS - AMENDMENTS AND SUPPLEMENTS TO THE BUDGET

Despite the late passage of the budget, there were still inconsistencies between the projections originally made by the executive and the budget passed by the legislature. This led to a request for amendment of the budget in May 2010. Further, there was another executive request, this time for a supplement to the original budget. The Supplementary Budget was supposed to cater for what the administration referred to as

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[1] Financial Year Act, Cap.F27, Laws of the Federation of Nigeria 2004.

[2] See page 26 of MTEF 2011-2013.

unanticipated expenses in wage increases to civil servants, university lecturers, medical personnel and PHCN arrears of monetization. Thus, NASS amended the budget to reduce the expenditure to N4,427billion. It passed a Supplementary Budget of N644.75billion. Also another Supplementary Budget of N87.72billion was approved for INEC for activities related to the 2011 elections. The 2010 budget including the amendments and supplements is broken down as follows:

Table1: Breakdown of the 2010 Budget

Expenditure Head	Amount	%
Statutory Transfers	183.58bn	4%
Debt Service	542.38bn	10%
Recurrent (Non-Debt) Expenditure	2,669.01bn	52%
Capital Expenditure	1,764.69bn	34%

Source: MTEF 2011-2013

To further bring confusion into budget management and reporting, the amendment of the 2010 Budget passed by NASS in August 2010 reviewed the benchmark crude oil production from 2.35 to 2.25mbpd. The RCP was lowered from $67pb to $60pb. The first and second quarter budget implementation reports were based on the original budget while the third quarter report which came after the amendment was based on the later amendment. The Third Quarter Budget Implementation Report had this to say about the 2010 Budgets[3]:

> *Consequently, as at the end of the third quarter, we had three budgets running: the 2010 Amended Budget - N4,427.19 billion, Supplementary Budget 1 - N644.75 billion and Supplementary Budget 11 - N87.72 billion all aggregating to N5,159.66billion.*

This cannot be the hallmark of a budgeting process anchored on the MTEF involving proper planning, sound fiscal forecasts and preparations and MDAs manned by competent personnel. According to Vision 20:2020, the MTEF is a tool for linking policy, planning and budgeting over the medium term horizon of three years at a government wide level. It takes account of government's long term and medium term strategies and the resources available to meet objectives over the medium term. It also allocates resources to strategic priorities among and within sectors[4]. Although the usual stories of legislative executive feuds may be pleaded, but the FRA provides prior consultation and engagement opportunities between both arms of government through the MTEF and its undergirding MTSS development sessions. If these opportunities have been taken by both arms of government, FGN would have been spared this budgeting fiasco.

[3] At page 19.
[4] Nigeria's Vision 20:2020 at page 95.

The confusion led a media organization in reviewing the 2010 budget to state that the budget was dead on arrival[5].

2.3 TRANSPARENCY AND ACCOUNTABILITY ISSUES IN BUDGET PREPARATION AND APPROVAL

The budget being an important economic policy instrument of government should be formulated and approved with the highest level of popular participation, inputs, transparency and accountability. This fact is recognized in section 48 of the Act which requires that:

> *(1) The Federal Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances.*
>
> *(2) The National Assembly shall ensure transparency during the preparation and discussion of the Medium Term Expenditure Framework, Annual Budget and Appropriation Bill.*

However, there are no substantive provisions in the preparation and approval methodologies of the Budget Office of the Federation and the National Assembly for inputs by citizens into the budget process. If any such process exists, it is merely a perfunctory process to satisfy all righteousness. This is the only reasonable conclusion when the budget is suffused with slush funds that benefit only the operators of the system. The budget is always tilted in favour of recurrent expenditure and the little that goes to capital expenditure is heavily loaded with administrative capital to the detriment of developmental capital.

There are many questions. How does the BOF and MOF arrive at priorities given the disconnection between the MTEF and the annual budget? What parameters does NASS use in coming to the decision to increase or decrease executive proposals in the annual Appropriation Bill? What parameters are in use in NASS to determine what constitutes adequate appropriation for NASS? How can Nigerians be tolerating a regime where the Presidency and the leadership of NASS are in perennial request for the refurbishment of guest houses? How can we justify the appropriation of N167.480m[6] in the 2010 budget for members' image laundering in the House of Representatives? There are very few answers because frivolities have taken the place of priorities in our national budget.

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[55] Champion Newspaper, Monday June 7 2010.
[6] Page 792 of approved Budget.

2.4 FAILURE TO PREPARE AND PUBLISH THE ANNUAL CASH PLAN AND THE BUDGET DISBURSEMENT SCHEDULE

The FRA requires the Accountant-General of the Federation to prepare in advance of the financial year, an Annual Cash Plan setting out projected monthly cash flows[7] while the Minister of Finance is to prepare and publish a Budget Disbursement Schedule derived from the Annual Cash Plan for the purpose of implementing the Appropriation Act[8]. The Minister is to prepare the Schedule within 30 days of the enactment of the Appropriation Act. Neither the OAGF nor the Minister prepared the aforesaid documents in breach of the provisions of sections 25 and 26 of the FRA. This has been the practice of the OAGF and the Minister since the FRA dispensation in 2007. They are yet to prepare and publish any of the required documentation under the Act. This is an advocacy point for the FRC and civil society.

2.5 FAILURE TO PUBLISH BUDGETARY REPORTS

The Act requires the Minister of Finance through the BOF to monitor and evaluate the implementation of the annual budget, assess the attainment of fiscal targets and report thereon on a quarterly basis to the FRC and the Joint Finance Committee of the NASS[9]. Such report is to be published in the mass and electronic media and the website of the MOF not later than 30 days after the end of the quarter[10]. However, at the end of March 2011, only the first and second quarter budget implementation reports of 2010 are available on the website of the BOF. Although, a third quarter report has been prepared, it is not available on the website of the BOF or the MOF. Also, the Minister has consistently failed, refused and neglected to publish the reports in the mass and electronic media contrary to the clear provisions of the Act.

2.6 CONTINUED DEPLETION OF THE EXCESS CRUDE ACCOUNT

The proceeds of the Excess Crude Account (ECA) have been depleted without concrete improvements in the living conditions of Nigerians. This questions the prudence of the administration. From an all time high of over $20 billion in 2007, to an all time low of less than $3 billion by the end of December 2010 does not show sound economic management. Most of the withdrawals were made in contravention of the FRA considering that they were done when the RCP did not fall below the predetermined level for three consecutive months and there was no agreement between the Federal and State Governments to appropriate and channel the withdrawals to capital projects. It is imperative that Federal and State Governments publicize the specific projects where the proceeds of their shares of ECA were invested.

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[7] Section 25 of the Act.
[8] Section 26 of the Act.
[9] Section 30 (1) of the FRA.
[10] Section 30 (2) of the FRA.

The depletion of the ECA became a subject of newspaper editorials where the media voiced public disapproval of the unnecessary withdrawals. Part of the Daily Trust Editorial of Thursday April 1 2010 reads:

> *The $20 billion balance of January last year was reduced in February after the Federation Account Allocation Committee recommended the sharing of $2 billion following pressure from state governors for about $4 billion. In April, the National Economic Council (NEC) approved $5.3 billion to fund the power intervention to help in realization of the 6000MW the President promised. Between June and August 2009, another $4 billion was shared after the state governors went to court demanding for the whole amount in the heat of global economic crisis due to drastically reduced international oil prices. Towards the end of 2009, Federal Government used $2 billion and injected that into the economy as economic stimulus.*
>
> *In what was widely interpreted as an inducement to the governors to support his bid to be declared Acting President, Dr. Goodluck Jonathan approved $2 billion to be shared, which pundits have insisted explains the governor's 24-hour turnabout on the matter. Less than one month later, another $1 billion is now being shared.*
>
> *Nigerians should be alarmed by this rate of withdrawals and sharing of money by the three tiers of government, as well as the subsequent supplementary budgets that always result. Whatever constitutional reservations or objections to this account, no one needs to tell us that when the nation is making good money from selling oil, we should set aside something for when the going gets tough. Wasting all that accrues now, without regards to the future, portends grave danger.*
>
> *While we do not fault the need to simulate the economy, there is no denying that there are other ways to achieve that without draining the excess crude account. Let the government concentrate on our electricity, water supply, bad road network, obsolete railway system, collapsing hospitals and neglected schools, but not by emptying the till and borrowing massively from banks, leaving the next administration with nothing but debts to repay. Right now, Nigerians have not seen any impact to justify these massive spending.*
>
> *Indeed, the Excess Crude Account itself may need to be revamped, or replaced with other arrangements, to protect against this kind of abuse.*

Other media reports on ECA were against the continued sharing of the funds without commensurate results[11]. Even the FRC publicly requested that the FG and State Governments should not empty the ECA and declared withdrawals that were not in

[11] Guardian of May 25, 2010; Nigerian Tribune of May 19 and 24 2010; Vanguard of April 19 2010.

accordance with the FRA as illegal[12]. Part of the sharing of the ECA was done in late December 2010, shortly before the political parties primaries and during the Christmas vacation. The timing showed it had nothing to do with any development effort of the FGN and the States. And that drawdown left about $3 billion in the ECA compared to the figures at 2007 when the Obasanjo government handed over to the present one.

The central challenge is that ECA was established to counter the boom burst cyclical nature of income from oil and gas. What will happen if the price of the commodity falls below the RCP? What will Nigeria fall back upon considering the depletion of the ECA? This development has made Nigeria vulnerable to commodity price shocks.

The total accruals to ECA within the first three quarters of the year are as shown in Table 2 as follows:

Table 2: Accruals to ECA

First Quarter	Second Quarter	Third Quarter	Total
245.93	172.95	151.91	570.79

BOF-Third Quarter Budget Implementation Report

Accruals to the ECA in the first quarter were based on RCP of $45pb which was subsisting in the quarter considering that the 2010 budget had not been passed. By the second quarter, the accrual was based on budgetary $67pb. By the third quarter, the amended budget had reduced the RCP to $60 which was the basis of calculating accruals into the ECA.

The total neglect of the provisions of the law regarding the management of ECA provides an opportunity for the FRC to take immediate and expeditious steps to ensure that the provisions of the Act in respect of ECA are held sacrosanct and not rubbished by the extant powers. It will be recalled that one of the fundamental functions of the FRC in section 3 is to monitor and enforce the implementation of the provisions of the FRA and perform other functions consistent with the promotion of the objectives of the Act. When this is coupled with the liberalized *locus standi* provisions in section 51, the FRC and its civil society partners will need to explain to Nigerians the reasons why ECA was depleted without a protest and action for reversal from them.

2.7 PROFLIGATE CELEBRATION OF 50 YEARS OF INDEPENDENCE

The executive requested for N10 billion as resources for the celebration of Nigeria's Silver Jubilee. However, with little or no achievements in 50 years of nationhood and the ever increasing poverty profile, it was clear that expenditure of such huge sum of money for celebrations was a misplacement of priority. Nigeria needed a period of sober

[12] Vanguard of April 24, 2010.

reflection and stock-taking which the Silver Jubilee occasion provided. Considering that the request was made in June 2010 shows the lack of planning by the nation's fiscal managers. That Nigeria will be celebrating 50 years of nationhood was a fact known to all from the 1st day of October 1960. Using this fact for which a court could be requested to take judicial notice as an excuse for supplementary budget ridicules the budgetary and planning process.

2.8 BUDGETING FOR AN AGENCY UNKNOWN TO THE LAW

A budget of N5.8 billion was approved for the Maritime Security Agency at a time the bill to establish the agency was still in the legislative mill of NASS. Essentially, the implication of the factual situation was that there was no Maritime Security Agency known to Nigerian law. Clearly, this was an exercise in illegality.

2.9 THE PERENNIAL MALADY: WEAK CAPITAL BUDGET IMPLEMENTATION

The late passage of the 2010 budget coupled with the amendments and supplementary budgets meant that implementation of the budget based on the actual figures did not kick off until the end of the second quarter of 2010. As allowed under the Financial Regulations, first quarter capital releases were based on the 2009 Appropriation Act. During the first quarter, a total of N198.18 billion was released and N196.38 billion was cash-backed. By March 31, only N36.46 billion representing 19% was utilized by MDAs. The performance of the MDAs however varied. About 34.88% of the MDAs were yet to start utilization of their capital votes and these include the Ministries of Transport, Niger Delta and Police Formations. Agriculture and Water Resources, Defence and Information and Communication had utilization rates of over 50% of the amounts released to them[13]. Table 3 which is a sample of MDAs Capital Budget Utilization demonstrates the utilization rate as at the end of the first quarter.

Table 3: A sample of MDAs' Capital Budget utilization (as at 31st March, 2010)

MDA	IST QUARTER WARRANT	AMOUNT CASH BACKED	UTILIZATION		
	N	N	Amount (N)	As % of Cash-backed Funds	As % Total Budgetary Releases
Power	12,221,434,882	12,221,434,882	739,100,844	6.05	6.05
Transport	9,645,022,871	9,645,022,871	0	0.00	0.00
Health	8,351,220,826	8,351,220,826	1,914,536,813	22.84	22.93
Agric & Water	17,970,225,588	17,970,225,588	14,165,926,232	78.83	78.83

[13] First Quarter Budget Implementation Report at pages 21-22, Budget Office of the Federation, Federal Ministry of Finance, Abuja.

Resources					
Education	8,969,480,317	8,969,480,317	324,115,836	3.61	3.61
Works	50,453,447,436	50,453,447,436	5,842,672,318	11.58	11.58
Niger Delta	12,000,000,000	12,000,000,000	0	0.00	0.00
FCTA	16,662,500,000	16,662,500,000	3,805,033,067	22.84	22.84
Police Formation & Commands	5,331,157,500	5,331,157,500	0	0.00	0.00
Overall Average Utilization				18.57	18.4

Source: OAGF and BOF[14]

The Second Quarter Budget Implementation Report revealed a disturbing dimension that accompanied the low level of capital budget implementation. Some of the projects were observed to have been executed at escalated cost resulting from poor project management in the MDAs[15]. The sum of N423.88 billion was released for capital expenditure in the second quarter and N404.82 billion was cash-backed. However, only N124.79 billion was utilised by MDAs representing 30.83% by the end of the quarter.

The Second Quarter Budget Implementation Report states[16]:

> *Based on data from the Office of the Accountant-General of the Federation (OAGF), an appraisal of fifty-six MDAs reported upon shows a low level of utilisation of capital releases in the first half of the year. The data indicates an overall capital utilization rate of 30.83% based on the total amount cash-backed to the MDAs as at 30 June 2010. Matched against the total releases of N423.88 billion for the period, the position worsens to 29.44%. The low utilization rate might not be unconnected to previously reported impediments to MDAs' capital budget implementation like improper planning and procurements, and the late cash-backing of the capital releases due to liquidity challenges.*
>
> *A review of the MDAs' performances indicates varied level of utilization among the MDAs. On the whole, sixteen (or 34.78%) of the MDAs including Defence, Federal Capital Territory Administration, Agriculture, Works, Environment, Power, Foreign Affairs, Tourism & Culture and Commerce and Industry each utilized over the overall average utilization rate of 30.83%. Six of these (or 13.04% of the MDAs) including Agriculture, Presidency, Foreign Affairs, Environment, National Planning and Office of National Security Adviser had utilization rates of over 50% of their respective released amounts. It is noteworthy that 9 (or 19.57%) of the MDAs were yet to utilise any portion of the capital budget funds released to them. Key among these MDAs*

[14] First Quarter Budget Implementation Report at page 22.
[15] Page 24 of the Second Quarter Budget Implementation Report.
[16] Second Quarter Budget Implementation Report at pages 24-26, Budget Office of the Federation, Federal Ministry of Finance, Abuja.

are: Women Affairs, Federal Civil Service Commission, and Police Service Commission.

Beyond the percentages stated in the First and Second Quarter Budget Implementation Reports, if N36.46 billion utilized in the first quarter is added to N124.79 billion utilized in the second quarter, it amounts to N161.25 billion which is less than 10% of overall capital budget of N1,764.69 billion. It is actually 9.14% of the overall capital budget.

Table 4 which is a sample of MDAs capital budget implementation as at June 30 2010 speaks for itself.

Table 4: A Sample of MDAs' Capital Budget Utilization (as at 30th June, 2010)

MDA	IST QUARTER WARRANT	2nd QUARTER WARRANT	AMOUNT RELEASED	AMOUNT CASH BACKED	UTILIZATION		
	N	N		N	N	As %age of Cash backed Funds	As %age Total Budgetary Releases
Power	12,221,434,882	23,653,197,490	47,374,632,372	45,891,504,947	16,052,930,734	34.98	33.89
Transport	9,645,022,871	15,806,863,660	25,516,886,531	25,516,886,531	4,282,411,849	16.78	16.78
Health	7,996,824,800	7,263,332,610	16,200,157,410	16,182,354,044	2,998,914,569	18.53	18.51
Agriculture	16,036,657,458	3,358,989,753	19,395,647,211	19,342,020,545	15,197,461,811	78.57	78.36
Water Resources	1,850,528,527	14,316,192,933	16,166,721,460	16,166,721,460	1,017,326,944	6.29	6.29
Education	7,403,020,883	10,244,778,975	17,647,799,858	17,647,799,858	4,887,143,240	27.69	27.69
Works	50,453,447,436	21,483,959,994	71,937,407,430	71,937,407,430	28,750,947,858	39.97	39.97
Niger Delta	12,000,000,000	10,579,059,441	22,579,059,441	22,579,059,441	2,849,799,806	12.62	12.62
FCTA	16,662,500,000	16,315,578,167	32,978,078,167	32,978,078,167	15,553,946,348	47.16	47.16
Police AFFAIRS, Formation & Commands	5,376,015,391	6,655,374,294	12,031,389,685	12,031,389,685	432,732,731	3.60	3.60
Overall Average Utilization						**30.83**	**29.44**

Source: BOF and OAGF[17]

In the third quarter, there was hardly any improvement over the first and second quarter budget implementation results. The Third Quarter Budget Implementation Report states[18]:

As at the end of the quarter, an aggregate of N541.33 billion had been released for MDAs capital budget implementation..Of the total released amount, N530.46 billion (or 97.99%) was cash-backed by OAGF following revenue constraints while only N278.88 billion (or 53.47%) was utilised by MDAs to-date.

[17] Second Quarter Budget Implementation Report, 2010.
[18] Budget Office of the Federation, Federal Ministry of Finance, Abuja at pages 24-25.

An appraisal of fifty MDAs reported upon by the Office of the Accountant-General of the Federation (OAGF) showed a varied level of utilization. Twenty six (or 52%) of the MDAs including: Interior, Niger Delta, Agriculture, Water Resources, Defence, Federal Capital Territory Administration, Works, Commerce & Industry, Mines & Steel, Health and Police Affairs each utilized above the overall average utilization rate of 53.47%. Eleven out of these (or 22% of the MDAs) including Defence, Federal Capital Territory Administration, and Agriculture had utilization rates of over 70% of their respective cash-backed releases. Going by the OAGF report, it is noteworthy that six (or 12%) of the MDAs were yet to utilize any portion of the capital budget funds released to them. Key among these MDAs are: Police Service Commission and INEC.

Table 5 shows the capital budget implementation in ten MDAs considered as key to the realization of the Administration's goals as at September 30 2010.

Table 5: A Sample of MDAs' Capital Budget utilization (as at 30 September, 2010)

MDA	TOTAL AMOUNT	TOTAL AMOUNT	UTILIZATION		
	N	N	N	As %age of Cash backed Funds	As %age Total Budgetary Releases
Power	46,258,772,213	46,258,772,213	30,993,881,251	67.08	67.00
Transport	25,516,886,531	25,516,886,531	9,962,875,299	39.04	39.04
Health	16,241,618,749	16,223,815,383	7,753,933,449	47.79	47.74
Agriculture	19,471,927,853	19,471,927,853	16,881,789,040	86.70	86.70
Water Resources	16,166,721,460	16,166,721,460	9,213,838,677	56.99	56.99
Education	20,041,501,796	20,041,501,796	11,551,050,287	57.64	57.64
Works	71,954,836,097	71,883,780,763	45,941,790,227	63.91	63.85
Niger Delta	22,579,059,441	22,579,059,441	21,984,055,246	97.36	97.36
FCTA	32,978,078,167	32,978,078,167	31,894,837,379	96.72	96.72
Police Formation & Commands	11,811,354,350	11,811,354,350	4,546,161,630	38.49	38.49
Overall Average Utilization				**53.47**	**52.38**

Source: BOF and OAGF[19]

The release of N541.33 billion at the end of the third quarter is only 30.7% of the overall capital vote of N1,764.69bn. The actual utilisation of N278.88 billion is only 15.8% of the overall capital budget.

[19] Third Quarter Budget Implementation Report 2010.

The Minister of Finance, Dr Aganga informed the House of Representatives in plenary in the first week of November 2010 that of the entire capital budget, only the sum of N749 billion had been released, cash-backed and available for MDAs to draw from. Dr Aganga was also quoted to state that the FGN will increase the released and cash-backed sum to N900 billion by the end of 2010, which will be an addition of N151billion. The Minister of Finance further informed the House of Representative that of the N749 billion cash-backed, only N404.5 billion has been accessed and utilized by MDAs[20]. Essentially, by his estimation, what the Federal Government had released and cash backed by November 2010 is 42% of the capital budget and what had been accessed and utilized by MDAs is 22.92% of the entire capital budget for 2010.

On December 15 2010, the President acknowledged in the 2011 Budget Speech that only N749.75 billion of the 2010 capital budget has been released for the first, second and third quarters of 2010 and with the "fourth quarter releases shortly to be implemented" to bring the total to N900 billion. The implication is that capital releases for the fourth quarter were yet to be made as at December 15 2010 when the President was reading the Budget Speech. The President also stated that the average capital utilization rate across MDAs was just under 50% as at the end of October. This to an extent contradicted the Finance Minister's claim of N404.5 billion utilisation. Essentially, by the President's speech, if the average utilization is 50% of the released sum, then N374.875 billion (which is 50% of N749.75 billion) out of a capital budget of N1.764.69 billion had been utilized which is less than 21.25% of total capital expenditure for 2010.

Further, if only N900 billion is released and utilized by MDAs, this will amount to 17.5% of the overall budget for 2010 and 51% of the capital expenditure of N1,764.69 billion. These revelations do not reflect the infrastructure needs of the country and a desire on the part of government to meet the infrastructure deficits. It demonstrates the need for reforms to the capital budget implementation process of the administration.

According to the Third Quarter Budget Implementation Report[21], several facts emerged during field visits to a sample of selected capital projects across selected MDAs which revealed some of the constraints faced by MDAs and their contractors in bringing their projects to completion. These include:

- Poor project planning practices by MDAs leading to stalled projects arising from project site issues or contractor pull out; overloading of specific contractors with more contracts than they can handle, spreading resources thinly across several projects and delays in project completion and poor resource allocation;

[20] The Nation Newspaper of Wednesday, November 10, 2010 at page 58.
[21] Budget Office of the Federation, Federal Ministry of Finance, Abuja, pages 78-80.

- Delay in payments to contractors even when releases have been made to MDAs by the OAGF;

- Poor MDAs representation at project sites;

- MDAs project status data inconsistencies;

- Lack of ownership of projects by local communities which leads to neglect of completed projects and a hostile attitude towards contractors.

These were exactly the same challenges documented in the 2009 Full Year Budget Implementation Report! To address some of these challenges, Government states that it has made several efforts to ease the constraints faced by MDAs. The simplification and decentralization of the procurement process, which is an ongoing process, has already yielded positive results and a cabinet-level meeting every month is devoted to assessing the progress made by MDAs in implementing their budgets. Ministerial approval thresholds have also been raised and several training programmes have been organized to train key MDA staff in the e-payment and procurement processes. MDAs are also encouraged to start the planning phase of their projects as early as possible as this will give them the required momentum to complete their projects on time.

The BOF also continues to interact with key MDA officials and other stakeholders involved in the implementation of capital projects to find a lasting solution to these problems. The constraints faced by contractors in particular were also identified at the Budget Implementation Workshop organized by the BOF in February 2010 and efforts are continuously being made to remove all bottlenecks that are currently impeding the budget implementation process.

The monitoring team in the 2009 Full Year Report also made several observations concerning practices by MDAs which impeded their ability to implement their budgets.

- Several MDAs did not make adequate provision for the completion of both new and ongoing projects, leading to resources being spread thinly across several projects;

- There were disparities between the actual projects executed by some MDAs and project descriptions in the 2009 Appropriation Act;

- Contract awards for some projects were delayed for no apparent reason by some MDAs, leading to delays in project execution;

- ❖ Some contracts were awarded based on the preliminary design rather than the final design, resulting in cost variations;
- ❖ Delays in project completion for the reasons outlined above, led to the extension of project completion dates which oftentimes gave rise to additional costs due to the request for 'cost variation' by contractors;
- ❖ There were concerns about the manner in which Internally Generated Revenue (IGR) was being utilized by some MDAs in completing their projects as there are strict and specific guidelines on what portion of IGR can be retained for use by MDAs.

Apparently, these challenges of 2009 budget implementation continued in the year 2010.

2.10 REVENUE FORECASTS VERSUS THE ACTUALS

2.10.1 Oil Revenue

The 2010 Budget was based on a projected oil production of 2.35mbpd and a RCP of $67pb. In the first quarter of 2010, oil lifting was the same as the projection while the price averaged $77.67pb. This is $10.65 per barrel above the RCP. However, the net distributable revenue to all tiers of government from crude oil sales, petroleum profit tax, royalties, gas tax, gas and other related matters was short by 20.9%. N1,462.70 billion was expected while the actual accrual was N1,156.73 billion. The Federal Government's share of oil revenue was projected at N515.817.42 billion per quarter. But only N233.80 billion accrued to FGN in the first quarter.

By the second quarter of 2010, the average oil lifting has increased to 2.39mbpd, which is more than the projection of 2.35mbpd. The price of crude oil averaged $79.54pb. However, only N334.16 billion accrued to the Federal Government in the second quarter bringing the total for the half year to N567.97 billion as against a projection of N1,034.03 billion. This amounts to a shortfall of N466.06 billion representing -45.07% of the projections[22].

By the third quarter, the RCP has been lowered to $60 while the daily production was lowered to 2.25mbpd through the amendment of the budget. The actual oil lifting in the third quarter averaged 2.53mbpd while the price averaged $78.43pb. Thus, by the end of the third quarter, the price averaged $78.54 for the three quarters. Based on the

[22] Second Quarter Budget Implementation Report at page 15

amended budget, the following inflows into the FGN Budget were expected and recorded as shown in Table 6.

Table 6: Inflows of Oil Revenue into the Federal Budget as at September 2010

Item	Amount (N billions)
Annual share of oil revenue	1,455,500.52
Quarterly share of oil revenue	363,875.13
Share in three quarters	1,091,625.39
Actual; in quarter 1	255,681.20
Actual in quarter 2	487,065.27
Actual in quarter 3	430,403.08
Actual in 3 quarters	1,173,149.55

Source: 3rd Quarter Budget Implementation Report, BOF[23]

The Federal Government also got a total sum of N287.1 billion from Excess Crude Savings and a further sum of N16.820 billion from Excess Crude Proceeds Exchange Gain. Essentially, FGN got more in oil revenues than it budgeted; the addition of the sums from the ECA and Exchange Gain to the actual revenue of the three quarters is in excess of expected oil revenue for the year.

There are discrepancies in the numbers reported by the Budget Implementation Reports of the three quarters. The First and Second Quarter Budget Implementation Reports had indicated that FGN's actual share of oil revenue in the first and second quarters amounted to N567.97billion made up of N233.80 billion in the first quarter and N334.16 billion in the second quarter. But the Third Quarter Budget Implementation Report which was computed with a lower RCP and ideally should have lower figures is reporting higher figures. It reported N255,681.20 billion for the first quarter and N487,065.27 billion for the second quarter. The discrepancy is unexplained[24].

It is imperative to note the use of different terms in budget reporting and the budget itself. The budget forecasts production of crude oil in millions of barrels per day. The First, Second and Third Quarter Budget Implementation Reports are not reporting oil production but "oil lifting". Something is fundamentally wrong with this approach of using a different benchmark to fulfill the reporting obligation of an entirely different activity. What is required is a report on the number of barrels produced per day as against the lifted barrels. Essentially, more barrels could be produced and unaccounted for while the Budget Implementation Reports only reports about the lifted barrels.

This terminology change brings to the fore the crux of the transparency challenge in the extractive industries. Yes, it is true, Nigeria's actual oil production volume is unknown.

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[23] Page 15 of the Third Quarter Budget Implementation Report.

[24] See pages 15 respectively of the Second and Third Quarter Budget Implementation Reports.

This disclosure was made by the Chairman of the Board of the Nigerian Extractive Industries Transparency Initiative, Professor Asisi Asobie as follows[25]:

> *"After 58 years of producing oil, Nigeria does not know how much was being produced. It is regrettable that we have not been able to get oil companies to tell Nigerians exactly what they produce. The sector is shrouded in secrecy*"

From the NEITI Audit of the year 2005, released during the reporting period, there were revelations that inefficiencies in the Department of Petroleum Resources and Nigeria National Petroleum Corporation allowed for improprieties in collation of data on oil production and earnings per oil firm. There were significant process weaknesses such as inadequate metering system, successive versions of data, un-clarified royalty calculations, poor signature bonus collecting system, disputed legal interpretation of gas flare penalty which hampered expected growth in the sector. Data received from NNPC and its downstream subsidiary, the PPMC were not reliable as they presented different versions of data without any detailed explanations about the inherent changes[26]. With this scenario, a lot of remediation efforts need to be done to ensure that transparency reigns in the forecast and calculation of oil rents.

2.10.2 Non Oil Revenue

The First Quarter Budget Implementation report indicates that:

> *As at the end of the first quarter of 2010, the actual gross non-oil revenue amounted to N343.46 billion. This represents an underperformance of N73.29 billion (or 17.6%) when compared with a quarterly projection of 416.75 billion. The Value Added Tax (VAT) for the same period amounted to N139.25 billion depicting a shortfall of N5.75 billion (or 4%) when compared with the quarterly budgeted estimate of N145 billion. Similarly, the Company Income Tax (CIT) and Customs & Excise Duties underperformed against their quarterly budgeted estimate of N146.75 billion and N125 billion by N14.52 billion (or 9.9%) and N53.01 billion (or 42.4%) respectively.*
>
> *Consequently, the performance of the non-oil revenue heads after netting out the cost of collection was below their estimated figures. The actual net Value Added Tax (N133.96 billion), Company Income Tax (N126.94 billion) and Customs & Excise Duties (N66.95 billion) fell short of projected levels by N4.39 billion (or 3.17%), N13.97 billion (or 9.91%) and N49.3 billion (or 42.41%) respectively[27].*

By the second quarter, the performance of the non oil revenue was reported as follows:

> *As at the end of the second quarter of 2010, the actual gross non-oil revenue fell short of the budgeted quarterly estimate of N454.25 billion by N113.13 billion (or 24.9%). This*

[25] THISDAY, March 29 2010 at page 3.
[26] The Guardian March 26, 2010.
[27] First Quarter Budget implementation report at page 9.

also implies a quarterly drop in revenue between the first quarter's collection (i.e., N343.46 billion) and the second quarter by N2.34 billion (or 0.68%). This follows the comparatively lower performances of all the key non-oil revenue items in the second quarter. The Value Added Tax, Customs & Excise Duties and Company Income Tax underperformed against their quarterly budgeted estimates of N145 billion, N162.5 billion and N146.75 billion by N1.87 billion or (1.29%), N93.79 billion (or 57.71%) and N17.47 billion (or 11.91%) respectively. Comparing the second and first quarter figures, the Value Added Tax in the second quarter showed a positive performance of N3.88 billion (or 2.79%) over the collection of N139.25 billion in the first quarter. However, the actual receipts of Customs & Excise Duties and Company Income Tax were below their first quarter figures by N3.28 billion (or 4.55%) and N2.95 billion (or 2.23%) when compared with N71.99 billion and N132.23 billion respectively recorded in the first quarter[28]

From the Third Quarter Budget Implementation report, it is indicated that:

In the third quarter of 2010, actual gross non-oil revenue was higher than the budgeted estimate of N416.75 billion for the quarter by N24.72 billion (or 6%). This also indicates an N100.35 billion (or 29%) performance over N341.12 billion collected in the second quarter. Comparatively, the Value Added Tax and Company Income Tax were higher than their respective quarterly budgets while receipts from Customs and Excise fell below its quarterly projection. Value Added Tax and Company Income Tax were N2.34 billion (or 2%) and N66.4 billion (or 45%) higher than their quarterly estimates of 145 billion and N146.75 billion respectively. On the other hand, Customs and Excise Duties was N44.02 billion (or 35%) when compared with its quarterly budgeted estimate of N125 billion. Compared with the second quarter performance, the receipts in the third quarter exceeded the receipts in the second quarter. In the third quarter, Value Added Tax, Customs and Excise and Company Income Tax grew by N4.21 billion or (3%), N12.27 billion (or 18%) and N83.87 billion (or 65%) when compared with their second quarter performances of N143.13 billion, N68,71 billion and N129.28 billion respectively.

The annual expectation from non-oil revenue into the Federal Budget was N830,030.20 billion at a quarterly inflow of N207,507.55 billion. For three quarters, it should amount to N622,522.65 billion. However, by the end of the first three quarters, the accruals amounted to N458,637.45 billion, a shortfall of N163,885.20 or -26.3%. Considering the fact of augmentation of short falls in revenue from the Excess Crude Account, shortfalls in revenue cannot be a good excuse for poor capital budget implementation. Augmentation and other financing sources brought in N303.920 billion while the shortfall is about N163 billion. Thus, there was more revenue than budgeted at the end of the third quarter. Generally, more revenues come into government coffers in the third and fourth quarters of the year and the trend was expected to continue in the last quarter of 2010.

[28] Second Quarter Budget Implementation Report at page 10.

Chapter Three

BORROWING AND DEBT MANAGEMENT

3.1 DEBT SUSTAINABILITY ANALYSIS 2010

The Debt Sustainability Analysis 2010 (DSA) was carried out by the National Debt Sustainability Analysis Team led by the Debt Management Office. The Team had representations from the Federal Ministry of Finance, Central Bank of Nigeria, National Planning Commission, Budget Office of the Federation, National Bureau of Statistics. The Team got support from the West African Institute for Financial and Economic Management[29]. However, there was the expectation that the Fiscal Responsibility Commission with the mandate of enforcing the FRA especially, the consolidated debt limits should have been part of the team conducting the DSA. The DSA was limited to the Federal Government because the data on sub-national debts and contingent liabilities was not available. However the basis for the limitation of the DSA to the FGN appears to have resulted from non-implementation of the provisions of section 44 (5) of the FRA which mandates the DMO to maintain comprehensive, reliable and current electronic database of internal and external debts, guaranteeing public access to the information. The 2010 DSA used the updated World Bank/IMF Debt Sustainability Framework for Low Income Countries[30]. The DSA is reported to have the following objectives:

- *updating the 2009 DSA by incorporating the main tenets of the 2010 approved budget and recent developments in the national and world economy;*
- *providing input into the 2011 budget and the 2011-2013 Medium Term Expenditure Framework;*
- *identifying government's new borrowing requirements and funding options; and*
- *improving public financial management, and providing training ground for debt managers.*

The DSA used two Scenarios - the Baseline and the Alternative or Optimistic Scenario. The Optimistic Scenario is derived from the assumptions in Vision 20:2020. In the Baseline Scenario[31]:

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[29] See the report of the Annual Debt Sustainability Analysis 2010, Debt Management Office, 2010.
[30] Nigeria is rated as a medium performer with a 3.4 rating under the World Bank's Country Policy and Institutional Assessments Index.
[31] DSA at page 8.

The results of the DSA showed that Nigeria is at a low risk of distress under the Baseline Scenario. Solvency indicators in the Baseline Scenario showed that Nigeria's total public debt would remain within the sustainability thresholds throughout the projection period (2010-2029). The Net Present Value (NPV) of total debt is 16.2 percent of GDP in 2010; this would fall to 2.2 percent in 2020 and 0.9 percent in 2029, and still remain well below the indicative threshold of 40 percent. The NPV of total public debt as a percentage of total revenue would remain well within the sustainability threshold, as it peaked at 129.4 percent in 2010, which is well below the indicative threshold of 250 percent. Liquidity Indicators in the Baseline Scenario shows that NPV of total debt service to revenue would peak at 21.9 percent in 2012 and then maintain an average of 9.0 percent between 2013-2029, and still remain within the sustainability threshold of 30 percent[32].

The DSA noted that[33]:

However, under the most Extreme Stress test (severe condition), the total public debt is most vulnerable to real GDP growth at historical average minus 1 standard deviation, as the NPV of the total debt ratio is 42 percent of GDP in 2015, marginally exceeding the 40 percent threshold. Also, the total debt to revenue ratio will exceed the 250 percent threshold from 2012 to the remaining projection period. This clearly shows that under the most extreme stress test condition, Nigeria's total debt would not be sustainable in the medium to long term.

[32] The following are the macroeconomic assumptions of the Baseline Scenario:

i) Average GDP growth rate of 6.0 percent over 2010-2029. Growth to be driven by the non-oil sector with agriculture playing a leading role.
ii) Single digit inflation rate over 2010-2029. This is in accordance with the principle of complying with West African Monetary Zone (WAMZ) criteria.
iii) Oil price is projected at US$67 per barrel for 2010 and to average US$65 per barrel over 2011-2029.
iv) Crude oil production is projected at 2.35mbd for 2010, 2.4mbd in 2011, 2.66mbd over 2012-2013, and 2.6mbd over 2014-2029. Oil production is based on the sustained implementation of the Amnesty Programme.
v) Nominal exchange rate of the Naira is projected at US$1/N147 in 2010, US$1/N150 over 2011-2014, US$1/N157 over 2015-2029.
vi) Budget deficit for the Federal Government is projected at 5 percent of the GDP in 2010 and 3 percent of the GDP over 2011-2029. This is in line with the provisions of the Fiscal Responsibility Act (FRA).
vii) Current Account Position is projected to remain in surplus over 2010-2029. This is due to enhanced output growth of the oil sector, higher remittances and inflow from Nigerians in Diaspora.

[33] Page 9 of the DSA.

Under the Optimistic Scenario:[34]

The result of the Solvency Indicators showed that Nigeria's total public debt would be sustainable throughout the projection period, as the total debt-to-GDP would be within the 40 percent threshold. The NPV of the total debt to-GDP maintains a decreasing trend, as the rate of growth of debt accumulation is lower than the rate of growth of the economy with Foreign Direct Investment following a similar trend. The result also showed the dominance of foreign borrowing from 2015 onwards, which would mainly be sourced from the International Capital Market (ICM). Similarly, the NPV of total debt-to-revenue would also remain sustainable with all ratios falling below the 250 percent threshold. This is due to higher level of receipts arising from projected higher oil prices as well as higher volume of oil production as envisaged in Vision 20:2020. Liquidity indicators under the Optimistic Scenario showed that the NPV of total debt service to the percentage of revenue will be sustainable with all ratios falling below the indicative threshold of 30 percent. This is also attributable to higher expected revenues relative to debt service cost in the projection period[35].

Table 7 shows the domestic debt stock as at December 31 2010.

Table 7: Domestic Debt Stock Outstanding as at 31st December, 2010

INSTRUMENTS	AMOUNT IN NIGERIA	% OF TOTAL
FGN BONDS	2,901,600,329,000.00	63.75
NIGERIAN TREASURY BILLS	1,277,101,559,000.00	28.06
TREASURY BONDS	372,900,500,000.00	8.19
DEVELOPMENT STOCK	220,000,000.00	0.005
TOTAL	**4,551,822,388,000.00**	**100.00**

[34] Page 10 of the DSA.

[35] The following are the macroeconomic assumptions of the Alternative Scenario:

i) Average GDP Growth Rate of 8.2 percent in 2010 and 12.6 percent over 2011-2029. In absolute terms, it translates to US$191 billion in 2010 and US$900 billion over 2011-2029. It is assumed the Government will attract massive investment from foreign and domestic sources to facilitate infrastructure development.
ii) Single digit inflation rate averaging 7.2 percent over 2010-2029.
iii) Oil price is projected to average at US$80 per barrel over 2010-2029. This is based on sustained improvement in global economic performance.
iv) Nominal exchange rate of the Naira is projected at US$1/N150 over 2010-2015, US$1/N153 over 2016-2020, US$1/N156.06 over 2021-2025, and US$1/159.18 over 2026-2029.
v) Budget Deficit for the Federal Government is projected at 3 percent of GDP in compliance with the provisions of FRA.
vi) Current Account Position is assumed Current Account Surplus over 2010-2029.

Table 8 shows the External Debt Stock as at December 31 2010

Table 8: Nigeria's External Debt Stock at 31st December, 2010 in Millions of USD

Category	**Principal Balance 1**	**Principal Arrears 2**	**Interest Arrears 3**	**Total 4**	**Percentage 5**
MULTILATERAL World Bank Group					
IBRD	35.52	0.00	0.00	35.52	
IDA	3,589.81	0.00	0.00	3,589.81	
IFAD	59.75	0.00	0.00	59.75	
African Development Bank Group					
ADB	100.48	0.00	0.00	100.48	
ADF	312..08	0.00	0.00	312.08	
EDF	116.90	0.00	0.00	116.90	
IDB	3.21	0.00	0.00	3.21	
SUB-TOTAL	**4,217.76**	**-**	**-**	**4,217.76**	**92.12%**
NON – PARIS					
BILATERAL	163.20	0.000	0.000	163.20	
COMMERCIAL	197.81	0.00	0.00	197.81	
SUB – TOTAL	**361.01**			**361.01**	**7.88%**
GRAND TOTAL	**4,578.77**	**0.000**	**0.000**	**4,578.77**	**100.00%**

Source: DMO Website: www.dmo.gov.ng

Note: 1. The increase in the current debt stock compared to that of 30.09.2010 is as a result of additional disbursements on existing loans and exchange rate variations.

Trying to reconcile the figures in the Tables 7 and 8 with the feel good picture painted by the DSA is not an easy task. As at December 31 2009, the total outstanding domestic debt stock stood at N3,228 billion. Within the twelve months period leading to December 31 2010, it has increased to N4,551.822 billion, an addition of over N1.3 trillion. An external debt stock of $3,947.30 million as at the end of December 31 2009 has increased to $4,578.77 million by the end of December 2010. The total debt stock as at the end of December 2010 amounts to about $34.923 billion, an increase of about $9.106 billion compared to the total debt figure of $25,817.42 as at December 2009. The 2010 figures exclude the approvals given by the National Assembly for borrowing

towards the end of the year[36]. It would be recalled that the approval of the 2010 budget by NASS came with an approval of the sum of $915 million as a facility from the International Development Association. A further request by the President towards the end of the year led to the approval of a further sum $1,537.2 million. This last sum is broken down as follows[37]:

- African Development Bank facility of $152.2 million for Economic and Power Sector Reform Programme;

- Export/Import Bank of China facility of $900 million for the Abuja - Kaduna Railway Gauge Line/National Security;

- International Development Association, a World Bank Concessionary Loan Window facility of $315 million for Public Private Partnership Project; and

- French Development Agency facility of $170million for National Electricity and Gas Improvement Project.

The foregoing is definitely not a rosy picture. This actually calls for the exercise of caution in committing to new borrowings particularly in consideration of the fact that the National budget is still over 60% recurrent expenditure. This call for caution is further accentuated by the prevalent corruption in the management of the investment of these loans.

3.2 THE 2010 EXTERNAL BORROWING PLAN

The 2010 External Borrowing Plan of the Federal Government is suffused with projects that will contribute little or nothing to the economic, social and political growth or development of Nigeria. Projects like the State Governance and Capacity Building Project (II) which is meant to improve transparency, accountability and quality in public financial management and human resources management system in sixteen participating states will add no benefit to the citizens but simply line up the pockets of a few consultants and the managers of the funds. Pray, where is the report of the achievements of the first phase of the project? Have we made progress in public expenditure management in any of the states? No State Government needs a loan to enact fiscal responsibility, public procurement or audit reform laws or to obey extant financial regulations, etc. The proposed borrowing for Economic and Power Sector

[36] As at the end of the first quarter of 2011, when this report was being complied the external debt has grown to $5,227.05 million.
[37] See the Senate of the Federal Republic of Nigeria, Votes and Proceedings of December 21, 2010.

Reform Programme is a paradox. Government is moving steadily towards the privatisation of the Nigerian Electricity Industry. Yet it wants to borrow for the expansion of existing power capacity in transmission and distribution through rehabilitation of power stations and construction of new power stations and associated delivery infrastructure. A borrowing plan must be consistent with other polices of the Federal Government. This is not the case in the extant borrowing request.

Indeed for most borrowed funds, experience has shown that there is no credible mechanism to monitor expenditure, ensure value for money and that goals are reached. When budgetary resources that should fall under the oversight powers of the NASS and other agencies of government are mismanaged with reckless abandon, one can only imagine the (mis)management that accompanies projects funded with borrowed money.

3.3 FEDERAL GOVERNMENT'S DOMESTIC BORROWING

Government's increased domestic borrowing also has negative effects on the economy. According to the MTEF 2011-2013, credit to the private sector had been on the decline while credit to Government continued to grow at a faster rate. Communique No.73 of the Meeting of the Monetary Policy Committee of the Central Bank of Nigeria held November 22-23 2010 states inter alia under the heading "Monetary Credit and Financial Market Development" that:

> *Available data showed that in October 2010, aggregate domestic credit (net) grew by 19.69% over the December 2009 level, and by 23.63% when annualized. Credit to government (net) which grew substantially by 53.35 percent over end December 2009 (or 64.02 percent on annualized basis) was the major source of expansion in aggregate credit. Credit to the private sector grew marginally by 3.22 percent (or 3.68 percent on an annualized basis)*

The credit squeeze for the private sector had a lot of negative fallouts which include reduction in capacity utilization of many manufacturing firms as a result of lack of access to working capital from the banks. Their capacity to source for raw materials was impaired. Consumer product distributors could not access credit to buy products. There was abandonment of construction projects by contractors who could not access funds to complete the projects and slump in real estate projects as funding was not forthcoming for new property development[38]. When an analysis of the holders of domestic debts at the end of 2010 is done, it will reveal that CBN holds 7.54%, banks and discount houses 57.23%[39], non-bank public 32.06% while sinking funds hold 3.17%. The implication of the foregoing is that if government for any reason is unable to honour its repayment

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[38] See the Guardian newspaper of April 14, 2010 - Femi Duru on the position of the private sector.
[39] This is in excess of N2.6trillion.

obligations, it will drag the entire banking system down with it and indeed the Nigerian economy.

The DSA stated that the maximum government borrowing for 2011 is N639 billion from domestic sources and $2.84 billion from external sources. However, the 2011 Appropriation Bill projections for borrowing exceeded the DSA recommendations. Domestic borrowing is listed as a source of funding the deficit to the tune of N865.24billion in the Revenue and Expenditure Framework[40]. At N150 to 1USD, this amounts to $5.768bn.

3.4 THE FISCAL RESPONSIBILITY COMMISSION AND DEBT MANAGEMENT

The Fiscal Responsibility Commission states as follows on its role in Debt, Indebtedness and Borrowing[41]:

For the purposes of monitoring, enforcement and verifying compliance with the provisions of the Act on debt management, the Commission adopted the procedure and process which include the following:

- *Identification of the relevant partners and stakeholders such as the Federal Ministry of Finance (FMF), DMO, CBN, Securities and Exchange Commission (SEC), other Federal MDAs, States, Local Governments, the 24 commercial banks in Nigeria and the National Assembly (NASS);*

- *Announcement of the existence and commencement of operation of the FRA and FRC to the partners and stakeholders in writing with a copy of the Act enclosed, requesting them to implement, and comply with the provisions on the management of public debt;*

- *Call for reports, returns and information on compliance with the provisions on public debt;*

- *With respect to setting overall limits to consolidated debt and maintenance of database on the debt of the Federal, State and Local Governments, the FMF was requested to provide the limits as approved by the NASS while the DMO was requested to furnish the Commission with the stock of debt as stipulated by law for verification;*

- *The 24 commercial banks in the Federation were written to obtain proof of compliance with the Act on public debt before extending loan to any government;*

[40] At page C-6 of the Documents Accompanying the 2011 Budget to the National Assembly.
[41] Page 39 of the Maiden Annual Report 2009.

- *Writing to all 36 Governors and the Minister of the Federal Capital Territory, FCT to comply with the provisions of the FRA on public debt management;*

- *Processing of the records, returns and information from the partners and stakeholders to verify, asses the levels of compliance with the provisions and suggest remedial courses of action where necessary.*

The foregoing shows that the FRC recognizes its role in public debt management.

3.5 LIMITS ON CONSOLIDATED DEBT OF FEDERAL, STATE AND LOCAL GOVERNMENTS

The FRA requires the President with advice from the Finance Minister but subject to the approval of the NASS to set limits on the consolidated debt of Federal, State and Local Governments in the country. However, no such limit has been set by the President. The effect of this failure to set limitations has disabled the provisions of section 42 (3) to (7) of the Act. This Act requires the Commission to verify compliance with the limits and publish on a quarterly basis the list of Governments in the Federation that have exceeded their limits of consolidated debt indicating the amount by which the limit was exceeded. The provisions require the Governments violating the provisions to bring their debt within the limits not later than the end of three subsequent quarters with a minimum of 25% reduction in the first quarter. Essentially, the activities of the Commission are contingent and should await the setting of the limits by the authorities. It appears that the political will has been lacking since 2007 for the setting of the consolidated debt limits.

The Fiscal Responsibility Commission in its 2009 report published in 2010 had indicated that it is not possible for the Commission to determine on a quarterly basis the consolidated debt of each tier of government for the following reasons[42]:

(i) the setting of overall limits on consolidated debts of the Federal, State and Local Governments by the Executive and Legislature under Section 42, subsection (1) and (2) of the FRA, 2007 has not been done;

(ii) debts are from many and various sources and seem to be consolidated and serviced once or thereabout in a year, hence, it appears difficult to give reliable figures quarterly;

(iii) the figures for the domestic debt of the State Governments are not available;

(iv) although the Local Governments do not contract external loan, their figures for domestic debts are not available;

[42] *Maiden Annual Report for the Year ended 2009* at page 40.

The Commission can take steps to facilitate the setting of the consolidated debt limit through a comparative empirical study of countries with legislation similar to our FRA. Such a study can be undertaken in collaboration with the Debt Management Office and will contain recommendations on debt limitations. The report of the study should be submitted to the President, NASS and the Minister of Finance.

3.6 VERIFICATION OF COMPLIANCE WITH THE CONDITIONS OF BORROWING

The Act in section 44 (4) states that the Commission shall verify on a quarterly basis, compliance with the limits and conditions of borrowing by each Government in the Federation. In Part 1X- sections 41, 42 and 43 of the Act, the issue of Debt and Indebtedness are dealt with extensively and section 44 sub-sections 1 provides that

> (1). *Any government in the Federation or its agencies and corporations desirous of borrowing shall specify the purpose for which the borrowing is intended and present a cost-benefit analysis detailing the economic and social benefits of the purpose to which the intending borrowing is to be applied ;*
>
> *(2) Without prejudice to subsection 1 of this section, each borrowing shall comply with the following conditions - the existence of prior authorization in the Appropriation Act or other Act or law for the purpose for which the borrowing is to be utilized and the proceeds of such borrowing shall solely be applied towards long-term capital expenditure.*

If the Commission cannot verify limits considering that no limits have been set, it can verify compliance with conditions of borrowing. In this regard, the Commission has taken steps to verify compliance with the conditions of borrowing. In its 2009 Report it states as follows[43]:

> *All the Governments that borrowed from the external and internal sources from August, 2007 to December 2009 did not comply with the conditions for borrowing. Records from the DMO covering external loans contracted between August 2007 and December 2009, indicates that 32 external loans obtained within the period amounting to US$1,899,594,993,03 did not comply with the conditions of borrowing under Section 44, Subsections (1) and (2) which require specification of the purpose of the loan; production of cost-benefit analysis of the loan; prior authorization of the loan by the Federal and State legislatures; and that the proceeds of the borrowing shall be solely applied to long-term capital expenditure. Our analysis also indicates a possible duplication of some loan instruments to the tune of US$425,600,000. Further analysis also seems to suggest that the Federal Republic of Nigeria is the only borrower of all the 32*

[43] At pages 42-43 of the Report.

loans. This may not be true because while only the FRN can borrow outside Nigeria, it usually on-lends to States and FCT.

The powers of the Commission in this regard can be exercised through the establishment of a Borrowing Clearing Centre in the Commission mandating all Governments in the Federation to submit information about their borrowing activities to the Commission. Where the Commission finds that borrowing is about to be done without compliance with the rules, it can intervene through a multiplicity of instruments to ensure that the parties comply with the provisions of the Act[44].

3.7 SUBNATIONAL DEBTS

The 2009 DSA recounted steps being taken by DMO, National Planning Commission and National Bureau of Statistics to cure the dearth of data on domestic debts of sub-national governments. The expectation was that the 2010 DSA would have followed up and provided an update of progress made since the 2009 DSA. However, the 2010 DSA was silent on developments in sub-national domestic debts. The excuse of lack of information on sub-national debts is a lame one.

Information on domestic sub-national debts is very easy to collate if there is the political will and inter-agency collaboration. The CBN as the regulator of the banking industry is a position to give the FRC quarterly updates on the exposure of banks to state and local governments. CBN from time to time issues Prudential Guidelines to banks and part of the Guidelines indicate the monthly debt-service ratio of sub-national governments, the provision to be made by a bank lending to a sub-national government, etc. No sub-national government in accordance with the provisions of section 224 of the Investments and Securities Act, 2007 can float a bond to raise funds in the capital market without the approval of Securities and Exchange Commission. The Accountant-General of the Federation is usually given an irrevocable letter of authority by sub-national governments to deduct at source from the statutory allocation due to the issuer in the event of a default by or failure of the issuer to meet its payment obligations[45]. Thus, the CBN, Securities and Exchange Commission, Accountant-General are all in a position to give credible information on the states and values of their exposures to the banks and capital market. The only information that may be missing would be personnel and contractor arrears and judgement debts. However, judgement debts could be sourced from the office of the Federal and State Attorneys-Generals. Other outstanding

[44] The Commission can develop jurisprudence in this regard through issuance of *cease orders* in fulfillment of its powers and functions under sections 2 and 3 of the Act and where the *cease order* is disobeyed, the Commission can follow up with court ordered injunctions. Alternatively, it can prod its civil society friends to institute cases in court under section 51 of the Act to stop infringements of the Act.

[45] Section 224 (3) (a) (iii) of the Investments and Securities Act, 2007.

information could be sourced from the available public financial documents of the states.

Table 9 shows the external debt position of the states as at December 2010.

Table 9: External Debt Stock of States as at December 31 2010

Federal and State Government External Debt Stock As at 31st December, 2010 (in US Dollars)				
S/No.	**State**	**Multilateral**	**Non Paris & Other Commercials**	**Total**
1.	Abia	29,120,883.47		29,120,883.47
2.	Adamawa	27,775,651.15		27,775,651.15
3.	Akwa Ibom	61,381,054.86		61,381,054.86
4.	Anambra	21,304,916.77		21,304,916.77
6.	Bauchi	54,988,989.15		54,988,989.15
6.	Bayelsa	26,370,754.04		26,370,754.04
7.	Benue	24,317,295.87		24,317,295.87
8.	Borno	13,550,693,68		13,550,693,68
9.	Cross River	110,907,737.94		110,907,737.94
10.	Delta	16,376,917.03		16,376,917.03
11.	Ebonyi	34,333,745.82		34,333,745.82
12.	Edo	41,187,862.95		41,187,862.95
13.	Ekiti	33,112,142.40		33,112,142.40
14.	Enugu	37,296,208.24		37,296,208.24
15.	Imo	49,768,366.96		49,768,366.96
16.	Gombe	26,054,925.98		26,054,925.98
17.	Jigawa	21,912,012.01		21,912,012.01
18.	Kaduna	157,357,908.32		157,357,908.32
19.	Kano	53,799,176.40		53,799,176.40
20.	Katsina	81,136,369.00		81,136,369.00
21.	Kebbi	47,764,918.39		47,764,918.39
22.	Kogi	33,534,387.32		33,534,387.32
23.	Kwara	43,308,071.39		43,308,071.39
24.	Lagos	400,592,623.89		400,592,623.89
25.	Nasarawa	32,944,190.75		32,944,190.75
26.	Niger	27,950,961.36		27,950,961.36
27.	Ogun	81,644,567.61		81,644,567.61
28.	Ondo	54,181,822.95		54,181,822.95
29.	Osun	61,981,193.67		61,981,193.67
30.	Oyo	87,431,628.55		87,431,628.55
31.	Plateau	24,429,249.85		24,429,249.85
32.	Rivers	35,508,206.25		35,508,206.25
33.	Sokoto	38,320,925.19		38,320,925.19
34.	Taraba	20,203,471.79		20,203,471.79
35.	Yobe	28,454,914.24		28,454,914.24
36.	Zamfara	24,816,275.91		24,816,275.91
37.	FCT	35,493,774.84		35,493,774.84

	Sub Total	2,000,704,815.97		2,000,704,815.97
	FGN	2,217,051,747.97	361,013,093.65	2,578,064,841.63
	Total	4,217,756,563.95	361,013,093.65	4,578,769,657.60

Source: DMO Website

The worrisome aspect of some of these external loans came to the fore during the quest of the Oyinlola administration in Osun State to borrow N18.3billion from a bank. In the course of opposition to the loan by stakeholders, the Government of Osun state took full pages of advertisement[46] where it revealed that some of the external debts of the State Government originated from 1980, 1982 and 1983. Borrowings for water schemes in Ilesa and Ejigbo were never executed although the sums had been fully drawn down by government. Yet, no one has been held to account for sums of money accruing from the loans. Pitiably, the loan of about $10million for the said water project had ballooned to over $36million by 2006 when Nigeria exited the debt of the Paris Club. This was due to the fact that the State Government abandoned servicing obligations. The people did not get access to water but have been made to pay back over 350% of the value of the money initially borrowed.

However, for Osun State Government to borrow N18.3billion from the banks would have been in violation of the FRA and other laws and policies on sub-national borrowing. The monthly debt-service ratio would have exceeded 40% of its monthly Federation Account allocation of the preceding 12 months. The interest rate would not have been concessional because it would have been in excess of 20% per annum while concessional rate is defined as interest rate of not more than 3% percent per annum[47].

In these days of privatization, the idea of a State Government using a commercial bank loan to establish a hotel which it may seek to privatise for peanuts in the not too distant future does not make economic sense. Further, the origin of the funds from a commercial bank and the interest it attracts shows that it will be a mismatch to use short term funds for long term development capital funding. Roads, equipping schools and hospitals which do not attract service or user fees for full cost recovery cannot reasonably be funded by loans bearing interest in the quantum of 20% per annum.

The crisis that ensued in the Ogun State House of Assembly following the decision of the Ogun State Government to raise bonds from the capital market continued in the year 2010. The State Government had listed a number of projects it wanted to borrow money to execute but met stiff opposition from the State House of Assembly who refused to approve the loan. Attempts were made to impeach the Speaker of the State House of Assembly who had majority of the members on his side. This led to a series of

[46] The Guardian Newspaper, April 30, 2010.
[47] See the interpretative section of the FRA which defines the term "concessional".

court proceedings. Ironically the first action of the "new Speaker" was to give the State Government approval to borrow from the capital market. However, court proceedings stultified the move to raise the bonds.

During the period under review, Abia State was reported to have procured a $200million World Bank loan without the approval of the National Assembly. This led the House of Representatives to conduct a public hearing and investigations on the constitutionality of the borrowing.

The following States were reported to have accessed funds from the capital market since the return to civil rule in 1999. They are Edo (1999) N1billion; Delta (2000) N3.5 billion; Yobe (2001) N2.5 billion; Ekiti (2002) N4 billion (in two tranches of N2.5billion in 2002 and N1.5 billion in 2004); Lagos (2002) N15 billion; Cross River (2003) N4billion; Akwa Ibom (2004) N6 billion; Kebbi (2006) N3.5 billion; Lagos (2009) N50 billion first tranche of a N275 billion issue; Imo (2009) N18.5 billion bond issue in Series 1 of a N40 billion Medium Term Bond Issuance programme[48].

[48] See Vanguard Newspaper of March 7 2010; *Bonds- why states are unable to raise funds*, by Peter Egwuatu.

Chapter Four

THE MTEF 2011-2013: ANCHORING THE 2011 APPROPRIATION BILL

4.1 INTRODUCTION

The MTEF in accordance with S. 18 of the Act shall:

(1) be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the National Assembly under section 81 (1) of the Constitution.

(2) The sectoral and compositional distribution of the estimates of expenditure referred to in subsection (1) of this section shall be consistent with the medium-term developmental priorities set out in the Medium-Term Expenditure Framework.

The general terms of reference of this review of the M TEF 2011- 2013 are:

- To review the 2011-2013 MTEF as presented by the Executive highlighting areas of concern.
- To review the MTEF submitted by the Executive with a view to highlighting areas of strength and weaknesses.
- To review the MTEF in the light of the Fiscal Responsibility Act including the procedural issues, previous macroeconomic forecasts and their results, extant macroeconomic indicators and prevailing social and economic conditions.

The specific terms of reference are:

- To review the revenue projections of the MTEF against the background of the criteria used in the projections. The revenue projections will include Customs and Excise, Company Income Tax, Value Added Tax, income from oil and gas, FGN independent revenue and balances in special accounts. This is in a bid to establish whether they are realizable or under-projected and how they can be reconciled with other macro-economic forecasts and policy goals.
- To review the expenditure projections including capital, recurrent, statutory transfers, debt service, etc based on their internal consistency with stated policy goals and commitments of the government. These will include reviewing these expenditures against the background of demands of Vision: 20:2020, the MDGs and the extant Debt Sustainability Analysis prepared by the Debt Management Office, etc.

- To review the memorandum items including non oil primary balance as a percentage of GDP, total spending as a percentage of GDP, total spending as a percentage of non-oil revenue, capital expenditure as a percentage of total expenditure, non oil revenue as a percentage of total revenue, etc.

- To review the links between monetary and fiscal policy especially how they impact on the macroeconomic performance of the economy.

- To review the indicative envelopes to the sectors.

- To review the conditions necessary for the realization of economic growth, employment creation and other policy goals and targets.

4.2 METHODOLOGY

The Analysis reviewed the 2011-2013 MTEF against the background of previous MTEFs, budget implementation reports 2008, 2009 and the half year report on the implementation of the 2010 budget, Vision 20:2020 document, economic trends and forecasts from the Budget Office of the Federation, National Bureau of Statistics, Central Bank of Nigeria, MDG Office, the World Bank and International Monetary Fund, emergent literature on the practice of MTEFs from different parts of the world, etc. The analysis emerging from the review indicates areas in need of further clarification, amendments and alignments with available fiscal data and trends.

4.3 PRELIMINARY ISSUES

4.3.1 Timing of the MTEF

The 2011-2013 Medium Term Sector Strategies (MTSS) sessions underpinning the MTEF were held in July 2010[49]. The MTEF was reported to have been endorsed by the Executive Council of the Federation on September 8 2010 and finally forwarded to the National Assembly on November 1 2010. The implication of this is that the process leading to the MTEF was kick-started after the end of the period when the MTEF should have been considered and endorsed by the Executive Council of the Federation. S. 14 (1) of the Act was clear that the Minister of Finance should present the MTEF to EXCOF before the end of the second quarter which is June of 2010. The presentation to NASS

[49] Page 39 of the MTEF.

on November 1 was also late considering that the Act requires it to be laid before the NASS not later than four months before the commencement of the next financial year[50].

The foregoing has adverse implications for the presentation and passage of the annual budget. The annual budget is drawn from the MTEF and as such awaits the approval of the MTEF by the NASS so that variables like aggregate expenditure, benchmark price of oil, envelopes for MDAs etc, will be drawn from it. In the last two years, the federal budget has never been passed early, before the commencement of the New Year and delays in presentation and passage of the budget eventually lead to poor capital budget implementation[51]. The 2009 budget was passed in March 2009 while the original 2010 budget was passed in April 2010. At the end of the day, requests by the executive and approvals by the legislature for the extension of the financial year for implementation of capital components of the budget to March of the following year have become the norm. The Financial Year Act[52] clearly states the Nigerian financial year to be the period between January 1 to December 31 of every year.

4.3.2 Comprehensiveness

The 2011-2013 MTEF was based on the MTSS of selected high spending agencies in the priority sectors. The 13 MDAs involved are the Ministries of Agriculture and Water Resources, Aviation, Defence, Education, FCT, Health, Interior, Niger Delta, Police (Affairs/Formation and Command), Power, Transport, Works and Environment. The MTSS sessions were used to articulate, develop, cost and prioritise spending over the medium term based on high level policies of the administration. Restricting the MTEF formulation process to these key ministries is not in consonance with the demands of the Act which foresees the MTEF as a product of the MTSS of all MDAs. In the early years of the development of MTSS like in 2006, before the enactment of the Act, the MTSS covered over 19 MDAs and the promise by government was to ensure that the process covers all MDAs once the law was passed. MTSS sessions also provide the opportunity to review existing budget commitments, develop key performance indicators and agree on outputs and outcomes for respective MDAs and spending agencies. The process adopted by the Minister raises critical questions vis; what would be the benchmark for assessing the performance of the spending agencies that were not part of the MTSS? What was the basis for the allocation of indicative envelopes to the agencies that were not part of the MTSS? Thus, the formulation of the MTEF did not proceed in accordance with the law.

[50] S. 11 (1) (b) of the Act.

[51] Vision 20:2020 projects the adoption of measures to improve budget implementation to include the timely passage of the annual budget.

[52] Financial Year Act, Cap F.27, Vol.7, Laws of the Federation of Nigeria 2004.

The MTEF at page 41 states that *to rationalize capital expenditure, a circular has also been forwarded to all MDAs requesting for a list of all ongoing building projects*[53]*. Emphasis is also being placed on completing ongoing projects as only highly critical new projects will be entertained and only after all ongoing projects have been fully funded*. This quote creates the impression that the MTEF has been concluded without considering the list of ongoing projects and the rationalization is being done after the formulation of the MTEF. This list should have been available at the MTSS sessions of MDAs and should have been used as a basis for prioritization and selection of projects that would be included in the MTEF and subsequent budgets. Considering this list after the MTEF formulation goes to show that the MTEF recommendations were not informed by a review of all ongoing projects.

The need for the MTEF to cover all anticipated revenue and expenditure calls to question the provisions of the indicative envelope on education and recent reports credited to the EXCOF. With an indicative capital envelope of N47.6 billion in 2011, the decision of EXCOF to establish six new universities at one university per geopolitical zone seems not to have been captured in the indicative expenditure ceiling for education. This figure will definitely not be enough to service the capital needs of existing universities and one wonders how the figure can pay for the establishment of six new universities. It is even reported that Government has released take off grants for the universities and these grants were neither captured in MTEF 2010-2012 or in the 2010 budget. It is either the expenditure for these universities has been wrongly classified or not captured at all in the extant MTEF.

It also appears that on the revenue side, some outstanding revenues have not been captured. It was widely reported in the media without any clarifications from the Minister of Finance and the BOF that the sum of $462 million retrieved from the nation's investment in the African Finance Corporation is lying idle in a nominal interest yielding account with JP Morgan Chase Bank in New York[54]. At a time Nigeria is raising the sum of $500 million in Eurobonds and plans local borrowing of about $12 billion in 2011, the money could be captured to help finance the deficit as a fund from a special account.

It will also be imperative to state that the process for the privatization of companies under the Power Holding Company of Nigeria has commenced. Considering government's resolve as unfolded in the Power Sector Reform Roadmap, the privatisation will likely be completed in 2011. Even if it is delayed, it will be completed in 2012. Thus, on the expenditure side, provisions should be made for the severance packages of workers while the revenue side should anticipate income from the sale or

[53] Underlining supplied for emphasis.
[54] See the Editorial of the Nation's Newspaper of Monday October 11, 2010 at page 13.

concession of the Federal Government's 51% shareholding in the companies. Any concluded wage increases with labour unions or professional associations should also be captured in the MTEF. And any further request from INEC for the logistics of the elections should be addressed at this stage. It does not make sense to continue requesting for two to three supplementary budgets in a year. Labeling wage increases to civil servants, university lecturers and medical personnel as well as the monetization arrears of PHCN workers as unanticipated expenditure is a misnormer. The unresolved issue for supplementary budgets is how these supplements fit into the original MTEF plan for the year.

4.3.3 Consultations and Inputs

The Act in section 11 requires the Federal Government to consult the States as part of the process of formulating the MTEF. The reasons for this requirement are not far-fetched. Macroeconomic indicators like the benchmark price of oil, interest, inflation and exchange rates would definitely impact on the revenue and expenditure of States. Also, most States in the Federation depend on allocations from the Federation Account as their main source of revenue. The States are therefore partners and stakeholders who should make contributions to MTEF formulation. However, there is no indication in the MTEF as to whether States were consulted and the nature of such consultation.

By S.13 (2) (a), in preparing the MTEF, the Minister may hold consultations on the Macroeconomic Framework, the Fiscal Strategy Paper, the Revenue and Expenditure Framework, the strategic economic, social and developmental priorities of government and such other matters as the Minister deems necessary. There is no indication in the MTEF whether such consultations were held. Although the Act used the discretionary "may" in directing the Minister to hold consultations, the intention of the legislature was to ensure popular inputs and participation in the formulation of this very important document. This position is supported by the provisions of S. 48 (1) which requires the Federal Government to ensure that its fiscal and financial affairs are conducted in a transparent manner, ensuring full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances. Transparency is the bedrock of participation because there can be no meaningful participation and input making without access to fiscal information.

The Act in S.13 (2) (b) further requires the Minister to seek inputs from the National Planning Commission, Joint Planning Board, National Commission on Development Planning, National Assembly, Central Bank of Nigeria, National Bureau of Statistics, Revenue Mobilisation Allocation and Fiscal Commission and any other relevant body as the Minister may determine. The mandatory "shall" is used by the section in directing the Minister to seek the inputs. The MTEF only indicated that the National Planning

Commission, Chief Economic Adviser to the President and the Office of the Senior Special Assistant to the President on MDGs participated in the MTSS formulation. There is no indication in the MTEF whether inputs were sought from the other listed agencies.

It is imperative that the MTEF details its formulation process so as to enable a dispassionate third party to determine whether there has been compliance with the law.

4.3.4 Last Minute Changes

Some figures in the MTEF on the website of the BOF appear to have been changed by a new submission by the Director General of the BOF to the NASS. The Table below speaks for itself.

Table 10: Proposed Changes to MTEF by the Minister of Finance

Item	Original Projections	New Projections
Average budget price per barrel in US$	$58	$65
Gross federally collectible revenue	N7,202.34bn	N7,915.67bn
Total oil and gas revenue	N5,021.88bn	N5,760.39bn
FGN revenue inflows	N2,470.26bn	N2,820.62bn
Total government spending	N4,629.95bn	N4,611.74bn
Budget deficit	-5.67%	-4.70

Apparently, the Minister has juggled the benchmark price and used same to arrive at these new figures. But the challenge is that the figures on the website are the ones endorsed by EXCOF which was originally forwarded to the NASS. It appears to be an exercise in illegality for the Minister to change the figures after EXCOF's endorsement and having forwarded the MTEF to NASS for their consideration and approval.

4.4 THE MACROECONOMIC FRAMEWORK

The Macroeconomic Framework is set against the background of Nigeria's gradual recovery from the global economic recession. The global recession had affected Nigeria mainly through the international market for oil, the domestic capital market and FDI remittances. The MTEF recalls the 2004-2009 period when economic growth averaged 7%. The Macroeconomic Framework contains projections on GDP growth, exchange rate policy, inflation, etc. The Act requires the Macroeconomic Framework to set out the macroeconomic projections for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the macroeconomic projections for the preceding three financial years. However, the MTEF did not evaluate and analyse the performance of macroeconomic projections for the three preceding financial years

4.4.1 Projections for Growth

The real GDP growth rate is projected at 7% for 2011 and 7.5% for 2012 and 2013 respectively. As already stated, the MTEF did not evaluate and analyse the macroeconomic projections for the three preceding financial years. This is a failure to comply with the Act as an analysis of previous forecasts against their actual performance could have revealed the binding constraints on growth with a view to articulating strategies to address them. The rates of growth projected for the medium term falls short of the 13.8% envisaged in Vision 20:2020. The problem is that the MTEF failed to explain why government cannot meet the targets of the Vision 20:2020 and takes it for granted that there should be a discrepancy between the MTEF and the Vision document. It also fails to devise steps and strategies to ensure that even if the country does not achieve the growth rates in the Vision, it comes very close to that growth rate - to meet at least 80% of the target. The current growth projections for 2011, 2012 and 2013 are 50.72% and 54.34% of the rates in Vision 20:2020.

The expected growth in GDP will be driven by the non oil sector and the non oil sector is characteristically led by rain-fed agriculture, which is expected to contribute 40.6%, 37.9% and 37.9% in 2011, 2012 and 2013 respectively. Essentially, growth in agriculture is hinged on our having favourable weather conditions. Any unfavourable weather conditions will therefore halt the projections for growth in agriculture. However, the MTEF makes no mitigating provisions against bad weather conditions or to project alternative growth poles in the event of the failure of rain-fed agriculture.

Table 11 shows the actual growth rates 2007 to 2010 and the projections of the MTEF 2010-2012 and the variations in the extant MTEF 2011-2013. Considering that the MTEF did not review previous growth forecasts, the gulf between the 2010-2012 MTEF forecasts and the extant MTEF is unexplained. Specifically the reason informing the growth rate projection for 2010 at 2.61 in 2010-2012 MTEF, now moving to the actual of 7.69 is unexplained. Also, the relationship between the growth drivers and investment decisions in capital and recurrent expenditure is also unexplained either in this part or subsequent parts of the MTEF.

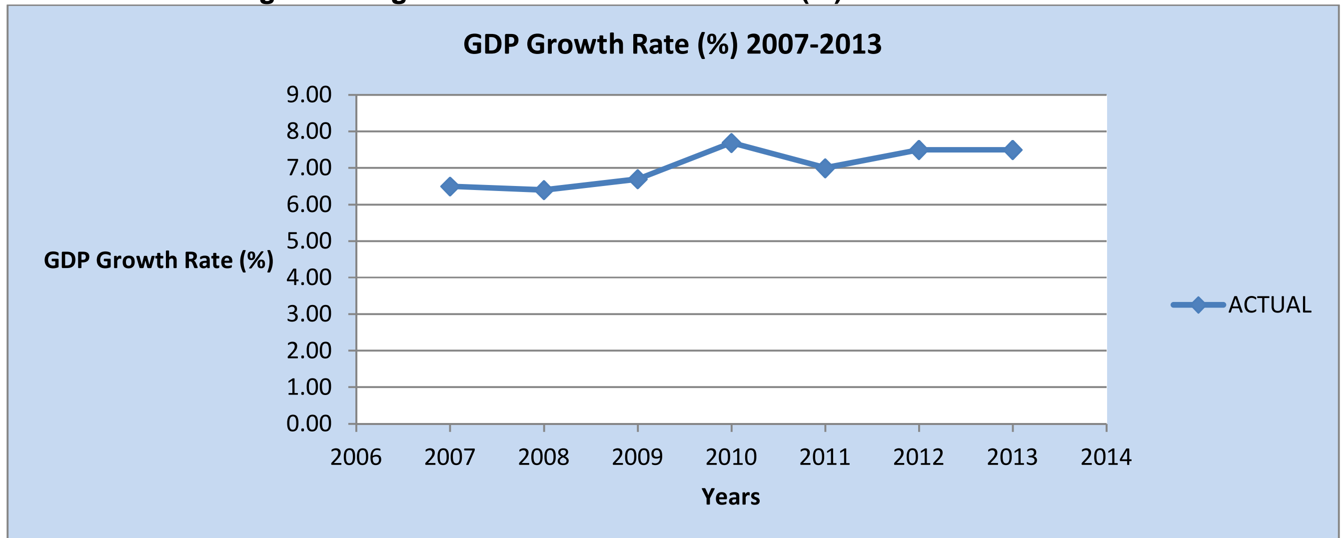
Table 11: Nigeria - Real GDP Growth Rate (%) 2007-2013

	GDP GROWTH RATE (%)		
YEAR	ACTUAL	2010-2012 MTEF	2011-2013 MTEF
2007	6.50		
2008	6.40		
2009	6.70		
2010	7.69	2.61	
2011		4.89	7.00
2012		5.83	7.50
2013			7.50

Source: CBN and BOF Statistics

Figure 1 also shows the real GDP trajectory for 2007-2013

Figure 1: Nigeria - Real GDP Growth Rate (%) 2007-2013



Source: CBN and BOF Statistics

Vision 20:2020 projects a shift in the sectoral contributions to GDP which will reduce the share of agriculture and petroleum over the years. However, the MTEF did not plan for this shift to begin. With manufacturing still getting a projected contribution to GDP of 4.5% and 3% for 2011, 2012 and 2013 respectively, it is clear that planning, revenue and expenditure are not geared towards meeting the targets of the Vision. It appears unfortunate that Nigeria is planning to fail. Instead of projections for the contribution of manufacturing to GDP to increase, a decrease from 4.5% to 3% is projected over the medium term.

Growth projections indicate that the oil sector will grow within the medium term as it is expected to contribute 26.4%, 29.1% and 29.1% of the GDP for the years 2011, 2012

and 2013 respectively. Recent developments in the Niger Delta where oil production is centred, indicates that the prevalent relative peace arising from the Federal Government's Amnesty Programme may become permanent. Bombings and destruction of oil facilities have been reduced drastically. However, a cautious and not too optimistic approach is recommended.

Projections of oil sector contribution to GDP and growth did not analyse the respective scenarios and contributions to growth if the Petroleum Industry Bill is passed into law or the full implementation of the Local Content Act in the oil industry. The Local Content Act seeks to create strategic linkages between the oil industry and the rest of the economy. The Local Content Act was necessitated by the enclave nature of the oil sector which effectively disconnected it with the rest of the economy.

4.4.2 Interest Rate and Lending to the Economy

The MTEF recalls the measures taken by the CBN to improve lending by banks to the private sector and the economy and to lower interest rates on borrowing. These include reduction of the MPR and the liquidity ratio to their present rates of 6% and 25% respectively. Cash requirement was also cut from 4% to 1% to encourage lending. According to the words of the MTEF[55]:

> *These measures were intended to encourage lending by DMBs but had limited effects on retail lending rates given the disconnection between monetary policy and market interest rates. The disconnection can be attributed to the high cost of funds and of doing business in Nigeria, mainly a result of the infrastructure gap, which leaves DMBs with little choice but to transfer these costs to their customers.*

The foregoing seems to be a lame apology for the failure of the CBN to properly regulate the interest chargeable by banks. Table 12 shows the average interest of deposits 2007-2009.

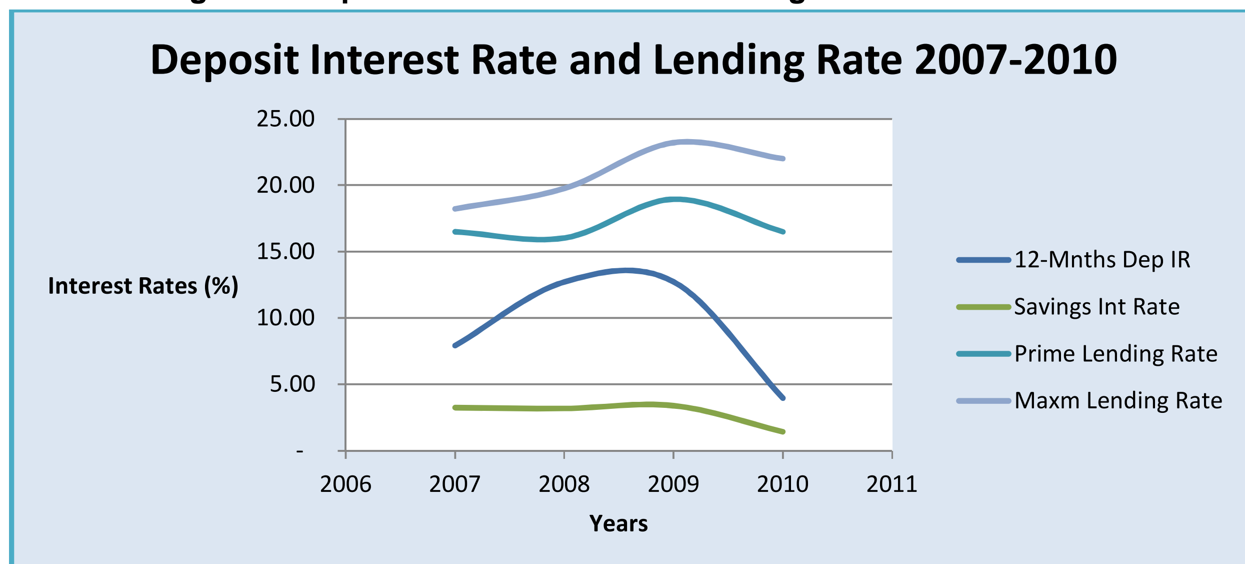
Table 12: Average Interest on Deposits and Loans 2007-2010

YEAR	2007	2008	2009	2010
12-Mnths Deposit Interest Rate	7.92	12.71	12.72	3.97
Savings Deposit Interest Rate	3.24	3.17	3.38	1.43
Prime Lending Rate	16.50	16.03	18.95	16.50
Maximum Lending Rate	18.23	19.76	23.20	22.00

Source: CBN Statistics

[55] Page 14 of the MTEF.

Figure 2: Deposit Interest Rate and Lending Rates: 2007-2010



Source: CBN Statistics

With a prevailing 12 months deposit interest rate of 3.97% payable by banks to depositors and savings deposit rate of 1.43%, the current high prime lending rate of 16.50% and the maximum lending rate of 22% is nothing but usury. This cannot be justified considering that banks before the banking crisis were paying depositors interest rates averaging 7.92% per annum and yet had maximum lending rate of 18.23% per annum in 2007. The MTEF contained no projections on interest rates or strategies to reduce the spread between lending and deposit rates for the medium term. It is either the CBN compels banks to reduce the lending rate or increase the deposit rate. The spread between lending and deposit rates should not exceed 4 points to wit, if the deposit rate is 5% per annum, banks should not be allowed to charge more than 9% per annum on lending. The current profit made by banks from these transactions under the present scenario is unearned.

The MTEF noted that credit to the private sector had been on the decline while credit to Government continued to grow at a fast rate. Communique No.73 of the Meeting of the Monetary Policy Committee of the Central Bank of Nigeria held November 22-23 2010 states inter alia under the heading “Monetary Credit and Financial Market Development” that:

> *Available data showed that in October 2010, aggregate domestic credit (net) grew by 19.69% over the December 2009 level, and by 23.63% when annualized. Credit to government (net) which grew substantially by 53.35 percent over end December 2009 (or 64.02 percent on annualized basis) was the major source of expansion in aggregate*

credit. Credit to the private sector grew marginally by 3.22 percent (or 3.68 percent on an annualized basis)

This cannot be the hallmark of an economy that desires to grow at a double digit rate. Vision 20: 2020 was right when it stated that public sector borrowing crowds out the private sector and constitutes a hindrance to the financing of the private sector. Furthermore, it furthers adverse selection and encourages banks to become more risk averse[56]. The CBN should take steps to encourage lending to the private sector. If the private sector is to assume its role as the engine of growth, then credit to the sector should increase geometrically within the medium term.

4.4.3 Inflation

Table 13: Nigeria - CPI Inflation Rate (%) 2007-2013 (2003 Base Year)

	INFLATION RATE		
YEAR	ACTUAL	2010-2012 MTEF	2011-2013 MTEF
2007	6.60		
2008	15.10		
2009	11.50		
2010	13.40	10.11	
2011		8.50	9.00
2012		8.50	8.50
2013			8.50

Source: NBS, CBN and BOF Statistics

Table 13 and Figure 3 show the actual CPI inflation rates for 2007-2010 and projections for the MTEF 2010-2012 and the extant 2011-2013.

Figure 3: CPI Inflation Rate

Source: NBS, CBN and BOF Statistics

56 Page 18 of Vision 20:2020.

The CPI inflation rate is projected at 9%, 8.5% and 8.5% respectively for the years 2011, 2012 and 2013. The current inflation rate as at October 2010 is 13.4%. However, the expansionary fiscal policies being pursued in the medium term and the fact that the bulk of the monies are voted for recurrent expenditure makes the realization of the single digit inflation rate doubtful. For 2010, the Amended and Supplementary Budgets provides N2,669.01 billion for recurrent non debt expenditure, N1,764.69 billion for capital expenditure, N542.38 billion for debt service and N183.58 billion for statutory transfers. These figures as a percentage of the overall budget represent 52% for recurrent non debt expenditure, 34% for capital expenditure, 10% for debt service and 4% for statutory transfers respectively. The Government is targeting to release only N900 billion which is 51% of the appropriated capital expenditure. Thus, instead of the capital budget being 34% of the overall expenditure in accordance with appropriation, if N900 billion is cash-backed and accessed by MDAs, the actual 2010 capital budget will amount to a paltry 17.5% of overall expenditure. This was the pattern for the implementation of the 2008 and 2009 capital budgets. Considering the constraints on capital budget implementation which have not been addressed, this is likely to be repeated in 2011 and in the outer years of 2012 and 2013. While capital budgets are reducing, the recurrent side is ballooning.

For the year 2011, out of an aggregate expenditure of N4,611.74 billion, only N1,083.44 billion is voted for capital expenditure. In accordance with tradition, the capital vote will not be fully cash-backed and released.

Further, with very high deficits projected in the MTEF, taming inflation may be difficult. For the year 2011, the deficit is 46.65% of the overall budget and 46.13% and 47.39% in 2012 and 2013 respectively. Essentially, the MTEF's projections on single digit inflation are in line with the provisions of Vision: 20:2020 but they are not realizable under the current macroeconomic environment.

4.4.4 Exchange Rate

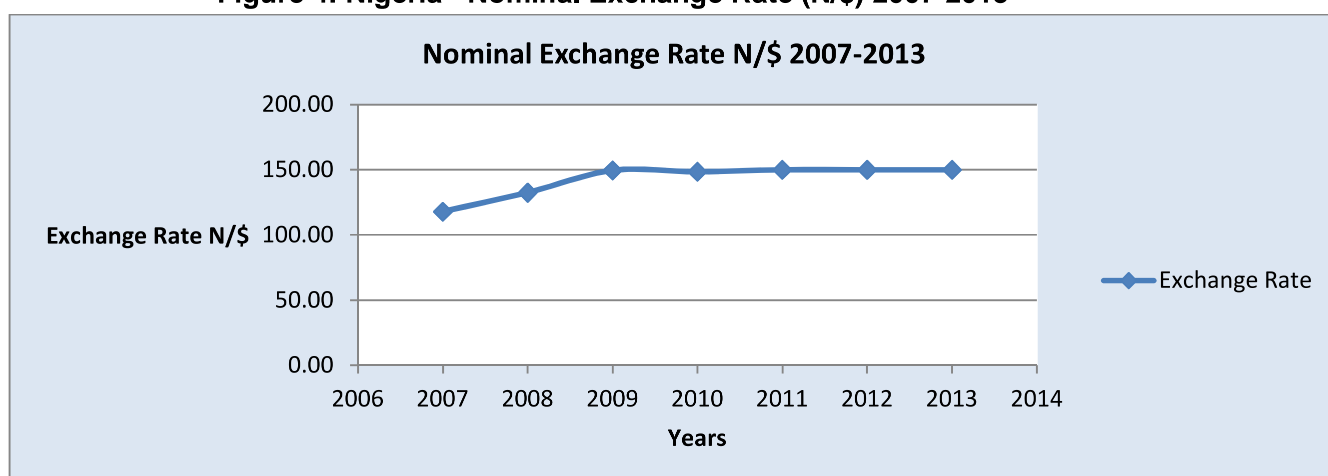
It is projected that the exchange rate will be N150 to 1USD throughout the medium term. Table 14 and Figure 4 show the actual exchange rate for 2007-2010 and the projections of MTEF 2010-2012 and the extant MTEF 2011-2013.

Table 14: Nigeria - Nominal Exchange Rate (N/$) 2007-2013

	EXCHANGE RATE		
YEAR	ACTUAL	2010-2012 MTEF	2011-2013 MTEF
2007	117.90		
2008	132.50		
2009	149.58		
2010	148.50	147	
2011		147	150.00
2012		147	150.00
2013			150.00

CBN and BOF Statistics

Figure 4: Nigeria - Nominal Exchange Rate (N/$) 2007-2013



CBN and BOF Statistics

With our depleting foreign reserves and a depleted ECA, there is the likelihood of a depreciation in the value of the Naira. Besides, the additional expenditure burden occasioned by the recent pay increase for civil servants by the FGN may exacerbate the fiscal pressure and further the likelihood of a naira devaluation to enable government raise more naira. Although the gap between the BDC and DAS has narrowed considerably, the recommendation of Vision 20: 2020 in the context of a market framework and managed exchange rate regime, that there is the need to adopt an exchange rate band in order to minimize volatility, has been abandoned by this projection. To boost the value of the naira against international currencies may require the direct allocation of foreign exchange earned from oil to the three tiers of government

rather than monetizing it[57]. The only envisaged challenge is that this solution may encourage capital flight. However, this challenge is not serious enough to rubbish this good option. Any serious government can always devise ways and means of tackling capital flight. Nigeria is already experiencing capital flight.

4.5 FISCAL STRATEGY PAPER

In accordance with the Act, the Fiscal Strategy Paper (FSP) is supposed to contain:

> *(i) the Federal Government's medium-term financial objectives,*
>
> *(ii) the policies of the Federal Government for the medium-term relating to taxation, recurrent (non-debt) expenditure, debt expenditure, capital expenditure, borrowings and other liabilities, lending and investment,*
>
> *(iii) the strategic, economic, social and developmental priorities of the Federal Government for the next three financial years,*
>
> *(iv) an explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to sub-paragraphs (i), (ii) and (iii) of this paragraph relate to the economic objectives set out in section 16 of the Constitution;*

The MTEF sets the objectives of the FSP as follows[58]:

- ❖ *Promote fiscal discipline and diversification in revenue sources through the adoption of accurate revenue estimates and the continued, sustainable growth in oil and non-oil revenues;*
- ❖ *Outline fiscal policies which will work in consonance with monetary policies to create an environment of macroeconomic stability, characterized by low inflation and interest rates – in which private sector investment may create jobs and translate the gains of the reform programmes into poverty reduction and wealth creation;*
- ❖ *Adhere to prudent limits for expenditure to ensure relatively low fiscal deficits with little public sector borrowing and sustainable levels of public debt; and*
- ❖ *Create a framework within which public funds can be allocated optimally to ensure consistency with the goals of the 7 Points Agenda, the MDGs, and Vision 20:2020 and thereby ensure the improvement of key social indicators in Nigeria.*

Another set of objectives are listed in Chapter 5 of the MTEF as follows:

- ❖ *Improve the efficiency and quality of capital spending by promoting Public Private Partnership (PPP) arrangements through initiatives such as Viability Gap Funding (VGF);*

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[57] Vision 20:2020 at page 24.
[58] Page 18.

- *Place greater focus on critical infrastructure as a means of promoting long-term economic growth, particularly in the non-oil sector;*

- *Continue the application of a fiscal stimulus in the medium term to kick-start the economy, taking into consideration the current revenue constraints and its impact on the fiscal deficit;*
- *Pursue gradual fiscal consolidation in order to return the fiscal balance below the 3% threshold prescribed by the Fiscal Responsibility Act, 2007;*
- *Rationalize the outlay on recurrent expenditure through the identification of cost-saving measures; and*

- *Boost revenue receipts and identify and plug revenue leakages through audits of revenue-generating agencies.*

These objectives, laudable as they are, do not seem to build any relationship with the economic objectives in S.16 of the Constitution. S.16 provides for a number of general issues but the most relevant and pointed part of S.16 of the Constitution provides as follows:

> *(2) (d) that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, unemployment and sick benefits and welfare of the disabled are provided for all citizens.*

Promoting fiscal discipline and diversifying sources of government revenues are not ends in themselves. They are means to a larger end which is the improvement of the security and welfare of the people. There is nothing in this chapter and in the whole MTEF that addresses these constitutional imperatives.

4.5.1 Review of the 2009 and 2010 Budget Implementation

The MTEF reviewed the implementation of the full 2009 budget and what has been done in the 2010 budget. For 2009, the President gave assent to the Appropriation Bill to become law in March 2009. This was followed by two Supplementary Appropriations in August and December 2009. Of the three budgets, recurrent non debt expenditure got N1,825 billion (51%); capital expenditure got N1,281 billion (36%); statutory transfers got N168.62 billion (5%) while debt service got N283.65 billion (8%). Revenue underperformed by 24.73% and budget expenditure outturns fell below budgetary projections. Capital budget implementation was reported to have recorded 60.59% implementation at the end of the year but when it was extended to March 2010, it recorded 77.13% implementation.

For the year 2010, the Appropriation Bill became law in April 2010 followed by an amendment and two Supplementary Budgets. The budget summary is as follows: N2,669.01 billion for recurrent non debt expenditure, N1,764.69 billion for capital expenditure, N542.38 billion for debt service and N183.58 billion for statutory transfers.

As at the end of the Second Quarter, revenue inflows had underperformed by 22.72% while expenditure had underperformed by 32.02%.

The review of the 2009 and 2010 budget implementation show a lack of fiscal discipline and coordination and the multiple requests for supplementary budgets and amendments indicate poor forecasting capacity by the fiscal authorities leading to revenue underperformance and poor capital budget implementation. This is a call on the fiscal authorities to draw some lessons from this review so as to close the gaps in the 2011 budget. However, it appears that not much has been learnt as the 2011 Appropriation Bill was presented very late to NASS, indeed later than the time the 2010 Bill was presented to NASS.

4.5.2 Assumptions Underlying Projections of Oil Revenue

4.5.2.1 Oil Production in MBPD

The target production for the medium term is 2.3mbpd, 2.4mbpd and 2.45mbpd for 2011, 2012 and 2013 respectively. This is against the background of average production of 2.1mbpd in 2008 and 2.132mbpd in 2009.

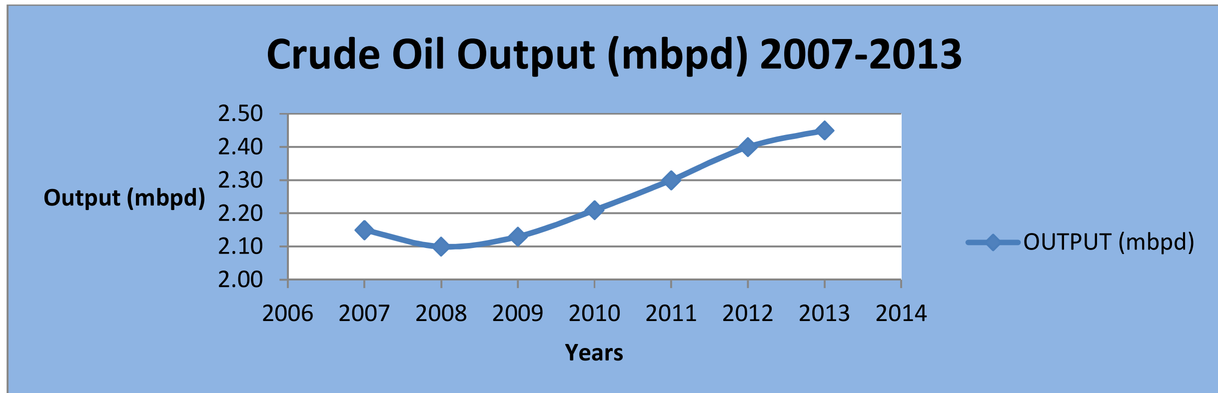
Table 15: Crude Oil Production 2007 - 2013

YEAR	OUTPUT (mbpd)
2007	2.15
2008	2.10
2009	2.13
2010	2.35[59]
2011	2.30
2012	2.40
2013	2.45

Source: BOF/FMF 2011-2013 MTEF

[59] The lower figure of 2.35mbpd recorded in the First Quarter is used as against the 2.39mbpd recorded in the Second Quarter of 2010.

Figure 5: Crude Oil Output



Source: BOF/FMF 2011-2013 MTEF

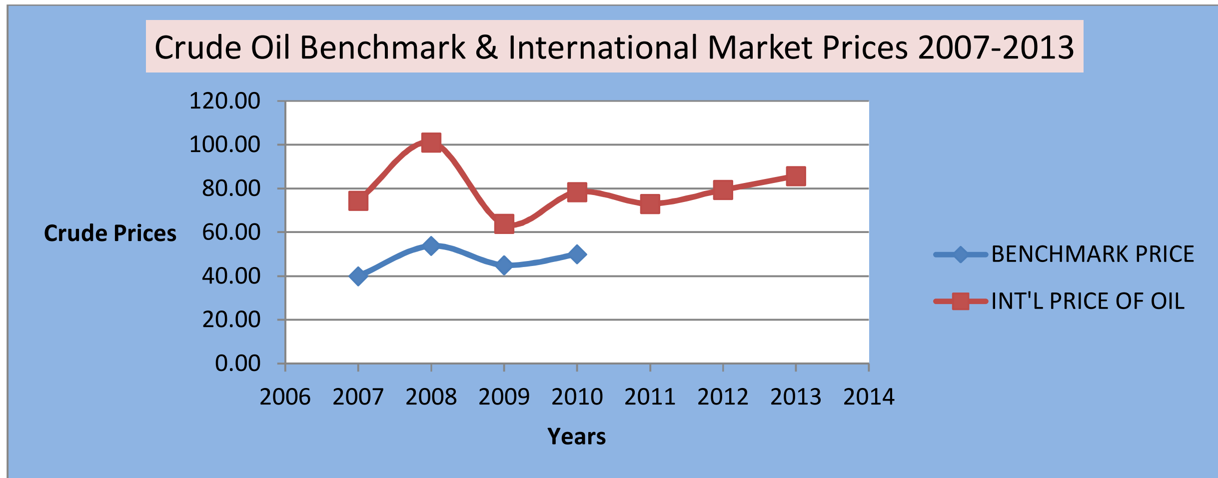
The success of the Amnesty Programme is said to anchor this optimistic projection. NNPC claims that these medium term production figures represent some discounting as they have taken into consideration any eventualities that may lead to production shortfalls. It must however be noted that projections in 2008 and 2009 fell short of the actual production. The trend has been that of decreased production since the year 2005. These projections appear realistic on the presumption that the Amnesty Programme will be sustained in the Niger Delta. For the first half of 2010, while production was benchmarked on 2.35mbpd, the first quarter averaged 2.35mbpd whilst the second quarter averaged 2.39mbpd[60]. This brings the average for the half year to 2.37mbpd. However, recent disturbances by MEND in the Niger Delta, if they continue, may rubbish the projections. It is recommended that the production figures projected by the MTEF should be retained.

4.5.2.2 The Market and Benchmark Price of Oil

The Act provides that the predetermined reference commodity price adopted and tax revenue projections shall inform the estimation of aggregate revenue for the Federation. The market price of oil is determined by a number of variables most of which are international in nature. The global recession and relative recovery by many emerging economies and the Euro zone crisis informed the projections of the market price of oil. By OPEC projections, demand for oil is expected to grow by 1.2% in 2010. The MTEF therefore projected that demand for oil may remain flat within the medium term.

[60] Second Quarter Budget Implementation Report by BOF at page 18.

Figure 6: Crude Oil Benchmark & International Market prices 2007-2013



Source: BOF/FMF and EIA Statistics

Considering the need to delink the budget from the volatilities of the oil market, in arriving at the reference commodity price, the MTEF used a ten year moving average while treating the spikes of $148 per barrel during some part of 2008 as an outlier and as such made slight adjustments to that moving average. The figure of $58 per barrel arrived at during this exercise seems realistic considering the price of oil in recent years. However, the Minister and the BOF have changed the pre-determined RCP to $65 in their new submission to NASS. The basis of this new RCP is unknown and not backed by any empirical evidence. Apparently, the new RCP could have been conjured in a bid to reduce the huge deficit proposed for 2011. The additional $7 per barrel could not have been based on any moving average.

The new average has implications for budget implementation and accrual of resources to ECA. The first is that if the commodity price falls below the RCP, Federal and State budgets will be totally distorted and will become un-implementable in view of the fact we have fully drawn down the resources in ECA[61]. The second issue is that the new RCP will decrease the level of accruals to the ECA at a time ECA needs to be replenished. It is recommended that the MTEF retains the first RCP of $58.[62]

The development that the Federal Government plans to use hedging mechanisms to ensure that volatilities in the oil market do not affect budget implementation may sound good on paper. But this will involve the payment of a premium by government to some commodity hedging firms. This is a risk that ECA should have resolved if the fiscal authorities have abided by the provisions of the Act.

[61] About 70% of the 2010 budget revenue came from oil.
[62] The benchmark prices of $59 and $45 for 2008 and 2009 were realistic.

4.5.3 Accruals to and Projected Withdrawals from ECA

The MTEF was surprisingly silent on the quantum of resources available in the ECA and the expected accruals within the medium term. It also said nothing on the disbursements in the last couple of years and whether those disbursements were made in accordance with the stipulations of the Act. It is a notorious fact that the ECA has been depleted by the current administration.

The depletion of the ECA without concrete improvements in the living conditions of Nigerians questions the prudence of fiscal administration. From an all time high of over $20 billion in 2007, to an all time low of about $3 billion does not show sound economic management. Even the $5.5 billion set aside for the power sector, the MTEF did not explain to Nigerians how that money has translated into increased megawatts of electricity to the national grid which is wheeled into homes, offices and factories. Most of the withdrawals were made in contravention of the Act considering that they were done when the reference commodity price did not fall below the predetermined level for three consecutive months and there was no agreement between the Federal and State Governments to appropriate and channel the withdrawals to capital projects. The MTEF should inform Nigerians about the specific projects where the proceeds of the Federal Governments share of ECA were invested.

4.5.4 Non Oil Revenue Baselines and Assumptions

The non oil revenue forecasts were based on three main assumptions vis, the rate of growth in the different bases for different taxes, effective tax rate ratio of collection and an efficiency factor to account for operational improvements in the various tax administration agencies. Generally, non oil revenues underperformed by 33.66% in the first half of 2010 and the reasons informing the underperformance include waivers and exemptions on imported goods as well as the sharp decline in trade following the global recession. The MTEF surprisingly did not articulate strategies to control and rein in the controllable reasons such as increased waivers and exemptions on imported goods.

4.5.4.1 Company Income Tax (CIT)

A 7.8% increase over the 2010 figured is targeted for CIT thereby bringing the forecast to N632.8 billion. The 2010 Second Quarter Budget Implementation Report indicates that the quarterly projection of CIT fell short by 38.31%. The shortfall was attributed to the continuing effects of global economic crisis leading to a shrink in consumption. Government expects a rise in consumption in the medium term when the impact of its stimulus financing takes greater effect. The MTEF indicated that the 2009 projections were not met and the projected revenues were based on overly optimistic assumptions regarding increases in efficiency of the operations of the relevant tax collection agencies. In 2009, CIT fell short by 3.7% or N21.93bn. This figure for 2009 was

however in excess of the actual receipts for 2008 by 35.6% or N148.24 billion. The 2008 CIT projections were exceeded by 14.5% or N24.6 billion. From this trajectory of collections and the reasons proffered as informing them, the CIT projections are realizable if FIRS improves the efficiency of collection thereby reducing tax avoidance and evasion. The realization of this projection would be further dependent on the growth of the economy since the GDP estimate liable to CIT is higher than was projected in 2010. The CIT rate is retained at 30%.

4.5.4.2 Value Added Tax (VAT)

N625.24bn is the estimated VAT collections for 2011[63] which represents an increase of 7.8% over the 2010 projections. It is the assumption that the effect of the stimulus packages would increase consumption and as such the share of consumption liable to VAT will increase. The VAT rate is still 5%. The 2010 Second Quarter Budget Implementation Report indicates that VAT fell short of projection by 1.29%. In 2008, VAT exceeded its target by N10.96 billion or 25.52% while in 2009, there was a shortfall of 19.2%. However, this shortfall exceeded the 2008 figures by 15.8%. Although the projection appears optimistic, it should be retained while the VAT office should work hard to meet the targets.

4.5.4.3 Customs and Excise

Customs Duty Collection has been projected at N450 billion which represents an increase of 12.5% over the 2010 projection. The expectation is that as the global recession is easing and the effect of the stimulus packages take greater effect, trade will increase and customs duties will also increase. The 2010 Second Quarter Budget Implementation Report indicates that Customs duty collection fell short of its target by 57.71%. The variance between target and actual receipt is apparently wide and calls for concern particularly in view of the fact that the 2010 estimates were more conservative than the estimates of 2009. In the year 2008, when CIT and VAT exceeded their targets, Customs duty collected fell short of its target by 1%, while in the year 2009, it fell short by 40%. Considering the trajectory of customs duty collection missing targets even in a good year like 2008, this projection appears unreasonable and may not be met. It should therefore be revised downwards to the 2010 level. One of the hallmarks of the MTEF is predictability and the stability to plan ahead over the medium term horizon. This will mean little or no variations in major revenue forecasts to fund the budget. A major underperformance will distort and upset the equilibrium needed for achievement of policy results.

[63] Factoring 2% discounted arrears of collection.

4.6 REVENUE AND EXPENDITURE FRAMEWORK

The Act requires the MTEF to contain a revenue and expenditure framework which sets out:

> *(i) estimates of aggregate revenues for the Federation for each financial year in the next three financial years, based on the predetermined Commodity Reference Price adopted and tax revenue projections;*
>
> *(ii) aggregate expenditure projection for the Federation for each financial year in the next three financial years,*
>
> *(iii) aggregate tax expenditure projection for the Federation for each financial year in the next three financial years,*
>
> *(iv) minimum capital expenditure floor for the Federation for each financial year in the next three years;*
>
> *Provided that, the estimates and expenditures provided under paragraph (d) of this subsection shall be-*
>
> *(i) based on reliable and consistent data certified in accordance with section 13(2) (b) of this Act,*
>
> *(ii) targeted at achieving the macroeconomic projections set out in subsection (2) (a) of this section,*
>
> *(iii) consistent with and derive from the underlying assumptions contained in the macroeconomic framework, the objectives, policies, strategic priorities and explanations in the Fiscal Strategy Paper.*

4.6.1 Aggregate Expenditure

The aggregate expenditure of the Federal Government for the medium term is projected as follows: N4,629.95 billion in 2011, N5,013.26 billion in 2012 and N5,465.03 billion in 2013. When compared with the 2010 figure of N5,159.66 billion, the medium term aggregate expenditure projections are slightly lower with the exception of the 2013 envelope. The implication of these projections is that the FGN will continue to run expansionary budgets in the medium term "to spend Nigeria" out of the recession. However, the projection for 2011 may be more than the actual expenditure of 2010 because of the gulf between the 2010 projections and the actual expenditure figures. For instance, the capital expenditure projection for 2010 has been slashed by 49% as only 51% (N900bn) of the N1.764 trillion will be released and cash-backed[64]. The challenge is to attempt to answer the poser whether it makes sense to have a huge

[64] Finance Minister's briefing to the House of Representatives on the poor implementation of the capital budget in late November 2010.

expenditure profile which will not be implemented at the end of the year or to have a more robust and smaller expenditure projection which will be fully implemented. The MTEF and indeed budgets lose their planning function the moment revenue and expenditure forecasts are made with baseless optimism.

Table 16 below demonstrates the gulf between budgeted figures and actual expenditures in the year 2009.

Table 16: FGN Budget Expenditure: Budget vs. Actual (2009)[65]

FISCAL ITEMS	BUDGET (bn)	Actual (bn)	Variance (09 Bud & Act)	
	Annual	2009	Diff. (bn)	%
FGN RETAINED REVENUE	**2,265,209.6**	**1,704,985.6**	**-560,224.0**	**-24.73**
FGN EXPENDITURE				
RECURRENT EXPENDITURE				
Personnel Costs	857,042.00	857,041.98	-0.02	0.00
Pension	161,592.00	129,188.10	-32,403.90	-20.05
Pension Redemption Funds	35,350.00	32,403.93	-2,946.07	-8.33
Overhead Costs	338,273.23	338,273.21	0.02	0.00
Domestic Debt	227,809.00	209,511.95	-18,297.05	-8.03
Interest on Ways & Means	-	5,030.72	5,030.72	0.00
Foreign Debt	55,841.00	37,248.66	18,592.34	-33.30
Others[66]	432,450.51	355,558.35	-76,892.16	-17.78
Sub Total (Recurrent)	**2,108,357.74**	**1,964,256.90**	**-144,100.84**	**-6.83**
Sub Total (Non-Debt Recurrent	**1,824,707.74**	**1,717,496.29**	**-107,211.45**	**-5.88**
CAPITAL EXPENDITURE				
Capital Vote[67]	928,178.41	562,373.10	-365,805.31	-39.41
Sub Total	**928,178.41**	**562,373.10**	**-365,805.31**	**-39.41**
TRANSFERS				
Niger Delta Development Commission	51,317.00	51,317.00	-	0.00
National Judicial Council	78,000.00	78,000.00	-	0.00
Universal Basic Education	39,303.00	39,302.94	-0.06	0.00
OTHERS				
Refund of Signature Bonuses	-	1,979.60	1,979.60	0.00
Sub Total	**168,620.00**	**170,599.54**	**1,979.54**	**1.17**

[65] Expenditure items for the 2009 fiscal year include provisions made under the annual budget and both Supplementary Budgets I and II.

[66] This category includes both Service Wide Votes and Multi-Year Tariff Order as allocated in the annual and supplementary budgets

[67] The capital vote excludes allocations made in the 2nd Supplementary Budget which was approved in late December, 2009, leaving the MDAs with insufficient time to utilize funds. The total allocated for capital expenditure in the Annual and Supplementary Budgets was N1,280.71 billion, however, only N928.18 billion was cash-backed while N562.37 billion was utilized by the MDAs.

AGGREGATE EXPENDITURE	**3,205,156.15**	**2,697,229.55**	**-507,926.61**	**-15.85**
Deficit/ Surplus	**-939,946.60**	**-992,243.97**	**-52,297.37**	**5.56**
Deficit as % of GDP	**-3.40%**	**-3.59%**		

Source: OAGF and BOF

Out of a budgeted aggregate expenditure of N3,205,156.15 billion in 2009, only 2,697,229.55bn was spent leaving a difference of N507.926.61 which amounts to 15.85% variation. It may be wise to consider scaling down the expenditure projections for 2011 if there is no political will and or absorptive capacity to implement certain components of the budget particularly capital expenditure.

The MTEF provides indicative capital expenditure ceilings but is silent on the expenditure ceilings on the recurrent side. It also offers no justification as to its choice of sectors to receive enhanced funding. It therefore did not present a comprehensive picture of what the expenditure per sector will be in 2011 and the medium term. Presenting the whole recurrent and capital spending would have facilitated a review of the envelope to the sectors - to determine their compliance with stated policy goals.

4.6.2 Projected Revenues

Table 16 and Figure 7 show the Federation Revenue projections 2010 to 2013. The MTEF's provisions comply with the Act which requires the estimates of aggregate revenues for the Federation for each financial year in the next three financial years, based on the predetermined Commodity Reference Price adopted and tax revenue projections.

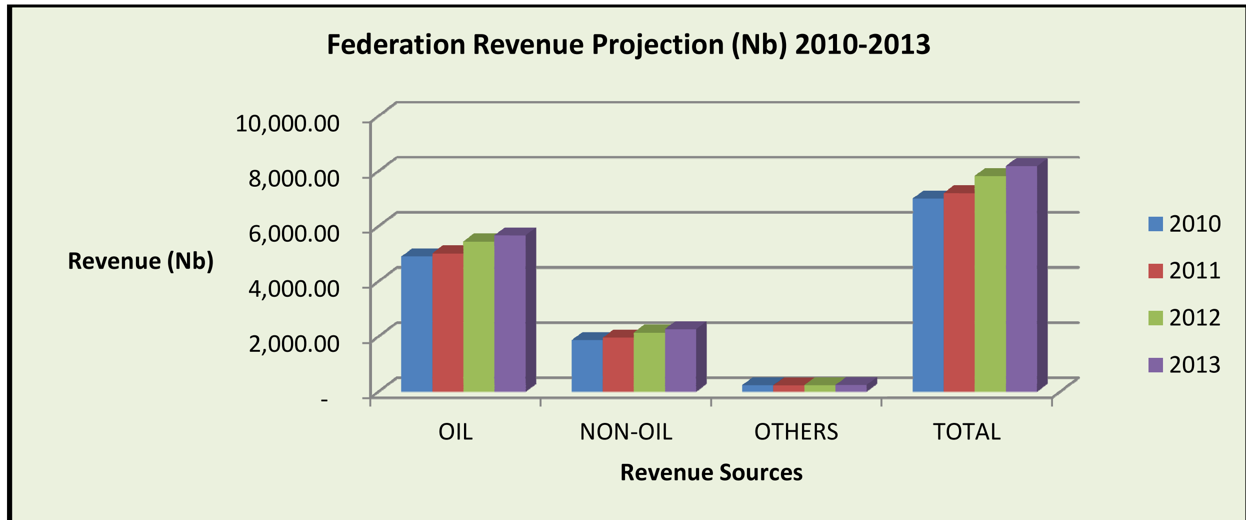
Table 17: Federation Revenue Projections (Nb) 2010-2013[68]

YEAR	OIL	NON-OIL	OTHERS	TOTAL
2010	4,902.33	1,867.00	233.52	6,999.15[69]
2011	5,021.88	1,958.04	222.43	7,202.34
2012	5,449.65	2,143.56	233.21	7,826.43
2013	5,670.69	2,268.21	240.43	8,179.33

Source: BOF/FMF

[68] Page 36 of the MTEF.
[69] The 2010 figures add up to N7,002.85bn instead of the figures indicated in the column by the BOF.

Figure 7: Federation Revenue Projections 2010-2013



Source: BOF/FMF

However, the total Federal Government Retained Budget revenue amounts to N2,470.26 billion in 2011, N2,700.54 billion in 2012 and N2,875.12 billion in 2013[70]. What is evident in these revenue projections as shown in the Table 16 and Figure 7 in the Federations revenue projections (which is also replicated in the FGN revenue projections) above is the dominance of oil revenue. Despite many years of the mantra of diversifying the economy away from oil, the fiscal authorities still lack the imagination and creativity of raising non oil revenue through the stimulation of appropriate growth drivers that will lead to development of new sectors and enhanced taxation to fund the national budget. The hope is that if government sticks to its promises of refocusing and revamping the power sector and making the operating environment more hospitable for the private sector to create wealth, add value and grow jobs, then non-oil revenue will increase its contribution to overall revenue. Although the revenue framework appears slightly conservative, it is imperative to retain it as it is and to err on the side of caution rather than banking on resources that will never materialize.

4.6.3 Recurrent, Capital and other Government Expenditure

The 2011 expenditure is broken down as follows: recurrent non debt expenditure got N2,849.66 billion; capital expenditure got a vote of N1,083.44 billion; statutory transfer N179.78 billion while debt service got a vote of N517.07 billion. This shows that the largest chunk of expenditure went to recurrent non-debt expenditure. Personnel costs will gulp 35.29% of the overall budget while capital investments will get 23.4% of the expenditure. From previous experience, there is no guarantee that the entire capital vote will be fully disbursed. The picture over the medium term is as follows:

[70] Page 39 of the MTEF.

Table 18: Structure of Expenditure over the Medium Term

Particulars/Items	YEAR 2011		YEAR 2012		YEAR 2013	
	Amount(Nbn)	%	Amount(Nbn)	%	Amount(Nbn)	%
Statutory Transfers	N179.78	3.88	N188.76	3.77	N196.41	3.6
Debt Service	N517.07	11.17	N566.83	11.3	N621.47	11.37
Recurrent Non Debt Expenditure-MDAs Spending	N2,849.66	61.55	N3,085.22	61.54	N3,378.13	61.81
Capital Spending	N1,083.44	23.4	N1,172.45	23.39	N1,269.02	23.22
Total	**4,629.95**	**100%**	**5,013.26**	**100%**	**5,465.03**	**100%**

A number of preliminary implications arise from this structure of government expenditure:

- The percentage of the budget dedicated to capital expenditure will not allow the country to meet the accelerated infrastructure upgrade expected in Vision: 20:2020. With an investment of a paltry 23% of the budget over the medium term, poverty will deepen and this will result in economic stagnation. A country that seeks double digit growth rate must channel more resources to capital investment. Essentially, the implication of the foregoing is that improvements in infrastructure promised under the 7-Point Agenda, Vision 20:2020 and the Millennium Development Goals ("MDGs") may not materialize. The National Economic Empowerment and Development Strategy ("NEEDS") reforms had articulated the ratio of recurrent to capital spending to be 60%-40% from the year 2007 and onwards. Apparently the MTEF estimates are retrogressive.

- Although, there are plans for PPP, a Viability Gap Fund and the pursuit of private sector investments to drive infrastructural growth, the government must invest a minimum to attract the investments of non state actors. The envisaged capital vote is not sufficient for that purpose and such, the chances of private sector investors championing the cause of infrastructure upgrades in Nigeria will be diminished. However, the role of sound economic policies in attracting investments is not denied.

- With more borrowing in the local and international financial markets, the demand for more resources to service and pay back debts will crystallize. And since the borrowed money is not invested in growth, value creating and income generating capital expenditure, it would be more difficult to pay back the borrowed money over the years.

Table 19: Debt Service as a Percentage of Capital Expenditure 2011-2013

Particulars/Items	YEAR 2011		YEAR 2012		YEAR 2013	
	Amount (Nbn)	%	Amount (Nbn)	%	Amount	%
Debt Servicing	N517.07	47.72	N566.83	48.35	N621.47	48.97
Total Capital Expenditure	N1,083.44		N1,172.45		N1,269.02	

Table 20: Debt Service as a % of FGN Retained Revenue 2011 - 2013

Particulars/Items	YEAR 2011		YEAR 2012		YEAR 2013	
	Amount (Nbn)	%	Amount (Nbn)	%	Amount	%
Debt Servicing	N517.07	20.93	N566.83	20.99	N621.47	21.62
Total Retained Earnings	N2,470.26		N2,700.54		N2,875.12	

The figures on Table 19 show what should have gone to fund capital expenditure or other pressing needs but now diverted to debt service. If these percentages for debt service are added to the capital vote, there would have been substantial increase in the votes. Table 20 shows that FGN will be servicing debts with 20.93%, 20.99% and 21.62% of FGN's actual earnings (retained revenue before borrowing) in the medium term.

Table 21: Indicative Capital Vote of Key MDAs and the Debt Service for 2011-2013

Particulars/Items	**YEAR 2011**		**YEAR 2012**		**YEAR 2013**	
	Amount (Nbn)	**Debt Serv.**	**Amount (Nbn)**	**Debt Serv.**	**Amount**	**Debt Serv.**
Education	**N47.6**		**N50.6**		**N53.9**	
Health	**N47.1**		**N49.9**		**N52.9**	
Agriculture	**N40.0**		**N43.4**		**N47.0**	
Water Resources	**N43.3**		**N47.0**		**N51.0**	
Works	**N117.1**		**N127.0**		**N137.8**	
Power	**N115.8**		**N125.7**		**N136.4**	
Transport	**N93.1**		**N101.0**		**N109.6**	
Total	**N504**	**N517.07**	**N544.6**	**N566.83**	**588.6**	**N621.47**

Table 21 shows the capital vote of key MDAs which should drive the growth of the GDP, build and strengthen human capital and provide infrastructure for the growth of the economy as against the provision for debt service. The envelopes for these MDAs do not add up to the amount required for debt service. They amount to 97.47%, 91.22% and 94.71% of the debt service figure for the years 2011, 2012 and 2013 respectively. The conclusion to be drawn from Table 21 is that Nigeria needs to get her priorities right and if there is the need to borrow, it must be for value adding and wealth creating capital expenditure.

The sectoral indicative envelopes only showed the allocations to capital expenditure without showing the figures and percentages allocated to sectoral recurrent non debt expenditure. If the MTEF had done that, it would have given a more comprehensive picture of the allocations to the sectors.

It is noted that Lands, Housing and Urban Development which got zero allocations in the 2009 and 2010 budgets received a vote during the medium term. The votes are 31.6 billion, 34.3 billion and 37.2 billion for the years 2011, 2012 and 2013 respectively. This may be interpreted to mean some level of policy shift in government. The idea behind the zero votes in the past had been the decision to withdraw government from direct investments in housing and to rely on the private sector to use the market approach to develop the housing sector. The disaggregation of the envelope is not available to indicate which of the three gets the huge vote between lands, housing and urban development.

It is also noted that allocations to the key social sectors that drive human development vis, health and education are not impressive. Allocations to agriculture and its water resources which are expected to contribute the most to the growth of the GDP over the medium term seems grossly inadequate. There is also no articulation of how the funding gap to drive growth as anticipated in Vision 20:2020 will be reduced. The bloated recurrent non debt expenditure consuming 61.55%, 61.54% and 61.81% in 2011, 2012 and 2013 is not sustainable. Running the administration with such percentage of the budget is a waste and would not drive economic growth particularly when a good part of such funds are sourced from borrowing. The level of funding of recurrent expenditure should be reduced and the savings put into the capital budget.

4.6.4 The Emergent Deficit and Sources of its Financing

The aggregate expenditure breaks the rules of the Act on the aggregate expenditure ceiling. Specifically section 12 of the Act provides that:

(1) The estimates of aggregate expenditure and the aggregate amount appropriated by the National Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit, not exceeding three percent of the estimated Gross Domestic Product or any sustainable percentage as may be determined by the National Assembly for each financial year.

(2) Aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) of this section, if in the opinion of the President, there is clear and present threat to national security or sovereignty of the Federal Republic of Nigeria

Table 22: Percentage of Retained Revenue to Overall Budget 2011 – 2013

2011			2012			2013		
Overall Budget (₦)	Retained Revenue (₦)	% of Retained Revenue to Overall Budget (₦)	Overall Budget (₦)	Retained Revenue (₦)	% of Retained Revenue to Overall Budget (₦)	Overall Budget (₦)	Retained Revenue (₦)	% Retained Revenue to Overall Budget (₦)
4,629.95	2,470.26	53.35%	5,013.26	2,700.54	53.87%	5,465.03	2,875.12	52.61%

Table 22 shows that the retained revenue that needs augmentation through deficit financing as 53.35%, 53.87% and 52.61% for the years 2011, 2012, and 2013 respectively. Table 23 shows the percentage of Deficit to Overall Budget 2011 – 2013.

Table 23: Percentage of Deficit to Overall Budget 2011 – 2013

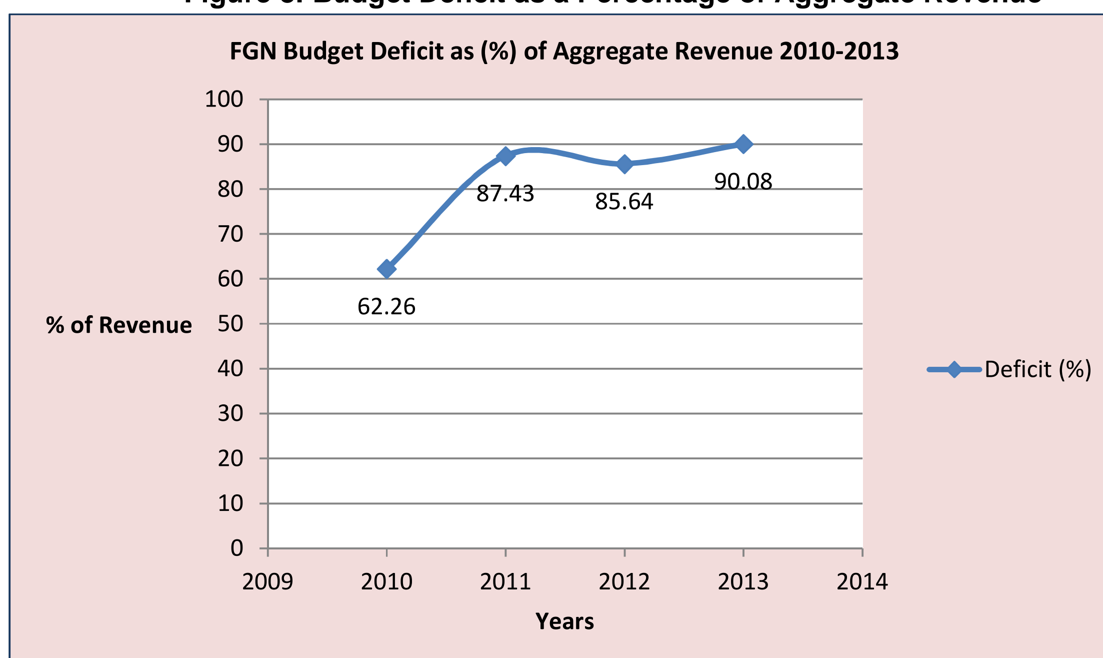
2011			2012			2013		
Overall Budget (₦)	Deficit Sum (₦)	% of Deficit to overall Budget (₦)	Overall Budget (₦)	Deficit Sum (₦)	% of Deficit to overall Budget (₦)	Overall Budget (₦)	Deficit Sum (₦)	% of Deficit to overall Budget (₦)
4,629.95	-2,159.69	46.65%	5,013.26	-2,312.72	46.13	5,465.03	-2,589.92	47.39

Table 23 shows that huge deficits of 46.65%, 46.13% and 47.39% of overall budget are projected for 2011, 2012 and 2013 respectively. The projected deficits in the medium term are -5.67%, -5.21% and -5.02% of GDP for 2011, 2012 and 2013 respectively. This translates into -N2,159.69bn, -N2,312.72bn and -N2,589.92bn for the years 2011, 2012 and 2013 respectively. FGN's projected deficit as a percentage of aggregate revenue is also very high as shown in Table 24.

Table 24: Federal Government Projected Deficit as a Percentage of Aggregate Revenue (Nb) 2010-2013

Year	FGN Aggregate Revenue	Budget Deficit	Deficit (%)
2010	3,179.87	1,979.79	62.26
2011	2,470.26	2,159.69	87.43
2012	2,700.54	2,312.72	85.64
2013	2,875.12	2,589.91	90.08

Figure 8: Budget Deficit as a Percentage of Aggregate Revenue



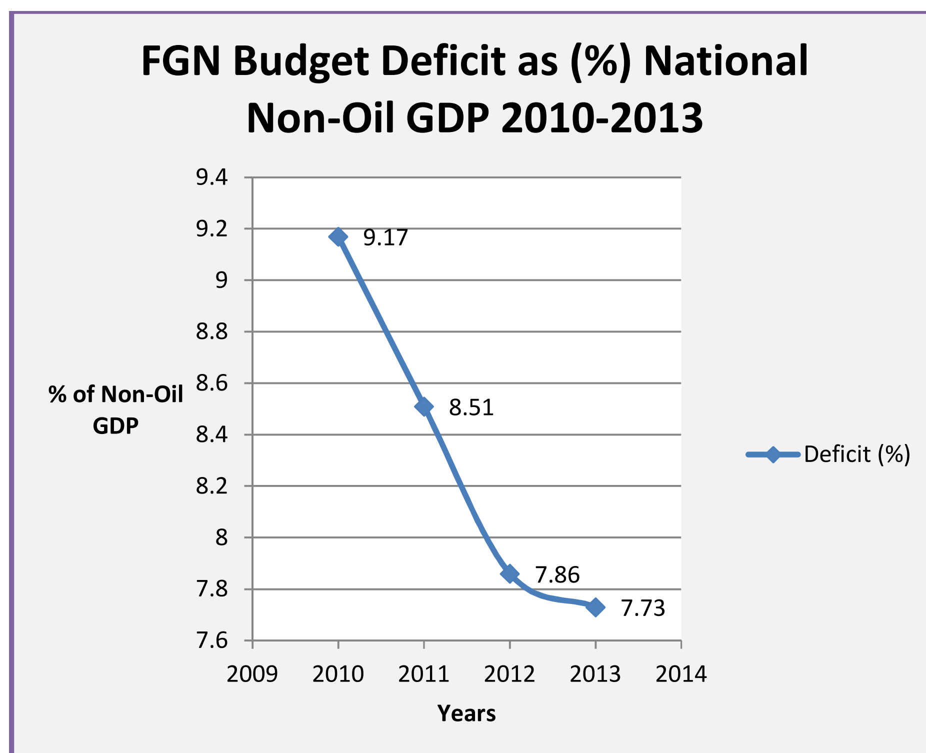
The deficit as a percentage of non oil GDP is very high as shown below in Table 25.

Table 25: Federal Government Projected Budget Deficit as a Percentage of Non oil GDP 2010-2013

Year	Non-oil GDP	Deficit	Deficit (%)
2010	21,597.00	1,979.79	9.17
2011	25,380.00	2,159.69	8.51
2012	29,441.00	2,312.72	7.86
2013	33,502.00	2,589.91	7.73

Source: BOF/FMF

Figure 9: Federal Government Projected Budget Deficit as a Percentage of Non oil GDP 2010-2013



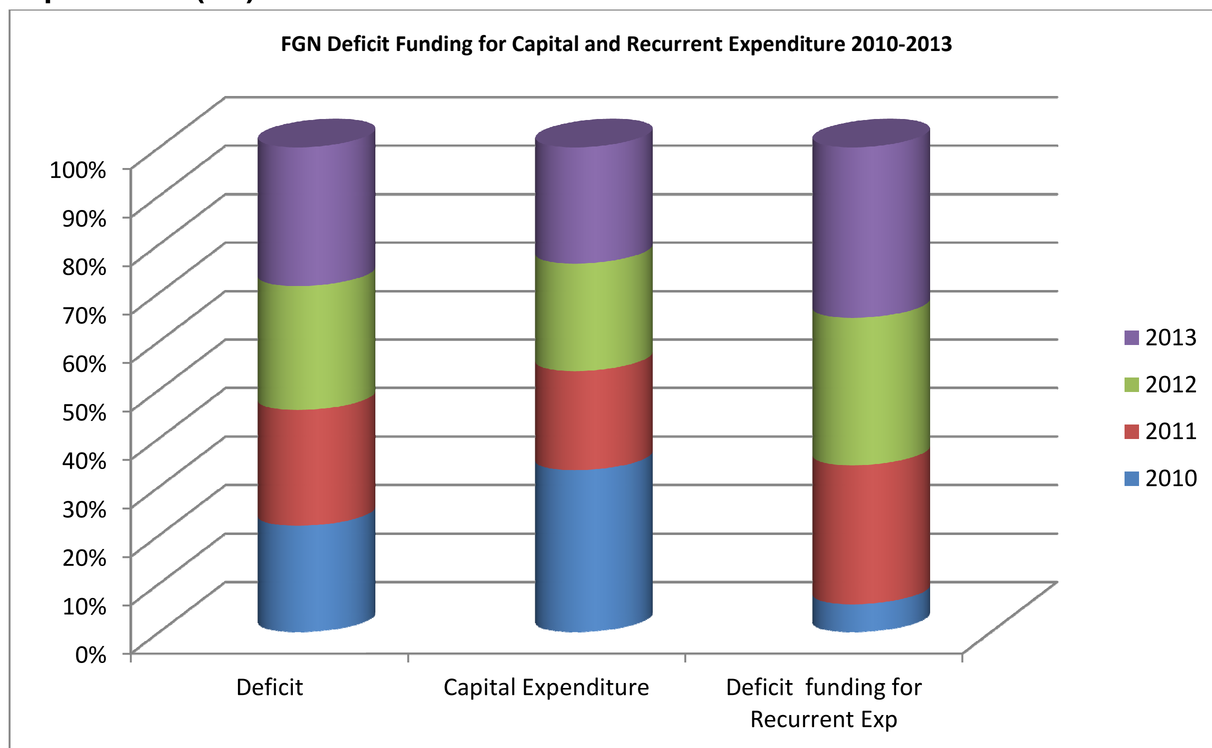
Source: BOF/FMF

Continued deficit financing over a number of years will definitely not be sustainable in the long run. With overall available budget revenue of N2,470.26 out of a budget of N4,629.95 in 2011, it means that the country will be borrowing to fund recurrent non debt expenditure in the medium term, a situation that contradicts the provisions of the Act on borrowing. Borrowing to fund salaries and overheads makes no economic sense and is not sustainable in the long run. The Act permits borrowing only to fund capital expenditure and human development. Table 26 and Figure 10 show the components of deficit financing going into capital and recurrent expenditure for the years 2010-2013.

Table 26: Projected Federal Government Deficit funding for Recurrent Expenditure (Nb) 2010-2013 (Source- BOF/FMF)

Year	Deficit	Capital Expenditure	Deficit funding for Recurrent Exp
2010	1,979.79	1,764.69	215.10
2011	2,159.69	1,083.44	1,076.25
2012	2,312.72	1,172.45	1,140.27
2013	2,589.91	1,269.02	1,320.89

Figure 10: Projected Federal Government Deficit funding for Recurrent Expenditure (Nb) 2010-2013



Source: BOF/FMF

4.7 CONSOLIDATED DEBT STATEMENT AND DEBT SUSTAINABILITY

By the Act, the MTEF should contain a Consolidated Debt Statement setting out and describing the fiscal significance of the debt liability of the Federal Government and measures to reduce any such liability. The MTEF recalls the annual Debt Sustainability Analysis undertaken by the DMO which generally showed that Nigeria's debts are sustainable. This year, the DSA was undertaken by the DMO in collaboration with the National Planning Commission, Federal Ministry of Finance, Budget Office of the Federation, National Bureau of Statistics with support from the West African Institute for Financial and Economic Management[71]. The public debt of the Federation 2005-2009 is shown in Table 27 and Figure 11 below.

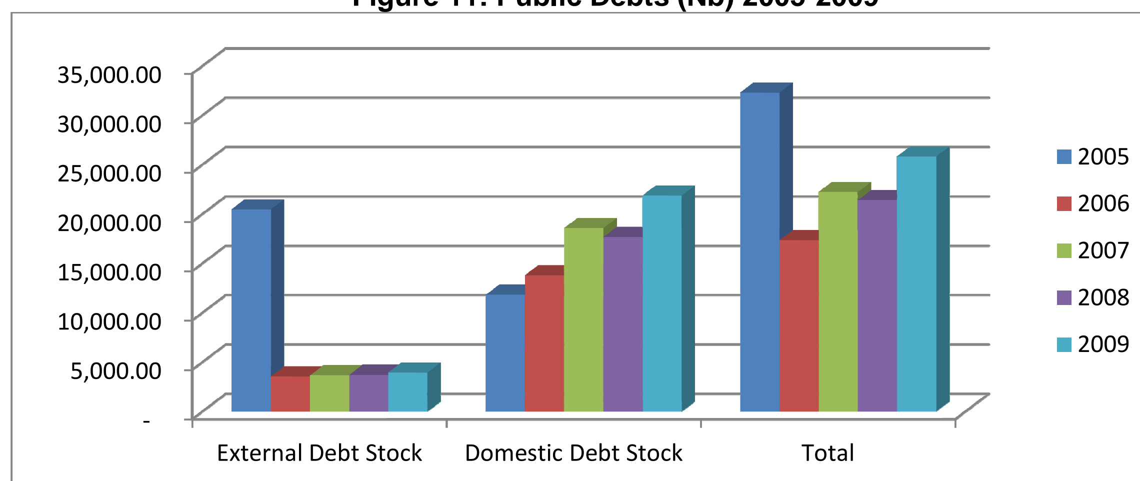
[71] Report of the Annual National Debt Sustainability Analysis 2010, Debt Management Office, Abuja.

Table 27: Total Public Debts (Nb) 2005-2009

YEAR	External Debt Stock	Domestic Debt Stock	Total	Total Debt to GDP %
2005	20,477.97	11,828.76	32,306.73	28.60
2006	3,544.49	13,805.20	17,349.69	12.39
2007	3,654.21	18,575.67	22,229.88	11.67
2008	3,720.36	17,678.55	21,398.91	11.77
2009	3,947.30	21,870.12	25,817.42	13.88

DMO – DSA 2010, BOF/FMF 2011-2013 FGN MTEF

Figure 11: Public Debts (Nb) 2005-2009



Source: DMO – DSA 2010, BOF/FMF 2011-2013 FGN MTEF

The total debt stock as at September 2010 is $32.5 billion made up of $4.5 billion external debt and internal debts of $28 billion.

The DSA's preparation used the updated World Bank/IMF Debt Sustainability Framework for Low Income Countries. Under the World Bank's Country Policy and Institutional Assessment score card, Nigeria is rated as a medium performer. The MTEF states that Nigerian's debts are sustainable under both the Baseline and Optimistic Scenarios used in the DSA and the solvency and liquidity ratios show that Nigeria is within the sustainability threshold. The NPV of Debt to GDP; NPV of Debt to Revenue and Debt Service to Revenue are all sustainable. The DSA warns that Nigeria's debts would increase in the medium term under the Optimistic Scenario due to increases in

funding public infrastructure. However, there is the need to harmonise the MTEF and the DSA because the two documents were prepared with different underlying assumptions. Some examples will suffice:

- The DSA Baseline Scenario projects crude oil production of 2.35mbpd in 2010, 2.4mbpd in 2011 and 2.66 over 2012-2013. The MTEF projects 2.3mbpd, 2.4mbpd and 2.45mbpd for 2011, 2012 and 2013 respectively;

- The DSA Baseline Scenario projects oil price to average $65 per barrel over the medium term while the Optimistic Scenario puts it at $80 per barrel over the medium term. However, the MTEF projects the 2011 RCP as distinct from oil price at $65;

- The DSA Baseline and Optimistic Scenarios project budget deficit of the Federal Government at 3% over the medium term while the MTEF projects the deficit at 5.67%, 5.21% and 5.02% in 2011, 2012 and 2013 respectively;

- Growth rate of GDP is projected at 6% over the medium term in the Baseline Scenario while the Optimistic Scenario projects 12.6% over the medium term. This contrasts with the MTEF projection of 7%, for 2011 and 7.5% over 2012 and 2013.

It is imperative to note that in absolute terms, Nigeria's current debt is in excess of our total debt in 2005 when the debt relief package was negotiated. The total debt in 2005 was $32.306 billion as against our end of year debt of $34.923 billion. The DSA recommended a total borrowing of $7.1 billion for the year 2011 which should be sourced from domestic and foreign sources in the ratio of 60:40. However, the MTEF is projecting N1,815.60 billion as domestic borrowing in 2011. This translates to about $12.1bn at N150 to 1USD, which is $5.1 billion in excess of the DSA recommendation. When this figure is added to the executive request approved by NASS in the sum of $1.537 billion late last year, the total debt figures by 2011 will be in the region of over $40 billion and the nation's debt to GDP ratio will be above 25%. The implication of this is that higher sums of money will be required in the budget for debt servicing and repayment purposes.

It would be a misnormer to compare Nigeria's debt figures and ratios with that of advanced democracies where checks and balances exist and corruption is abhorred and punished. Nigeria does not have much to show in terms of new capacity and infrastructure resulting from the investment of the proceeds of borrowing. Rather, the borrowed sums have been mismanaged. With projections of deficit in the outer years of the MTEF, which will be funded by borrowing, our debts will sooner become unsustainable. The proposed borrowing under the MTEF is not sustainable and should

revert to the figures proposed in the DSA 2010. If the Government ignores the DSA, a product of the DMO, BOF, MOF, NPC and the Bureau of Statistics, who is then devising government's fiscal policy in the area of debt management? Finally, the MTEF failed to provide measures for the reduction of the debt liability of Government. It rather provides for increased debt liability.

The last part of the debt challenge is the failure of the President and the National Assembly to approve the Consolidated Debt Limit of the Federal, State and Local governments in accordance with S.42 of the Act. Beyond reference to international standards, this would have provided a benchmark based on national law on the sustainability of government's debts. This fact was not reflected in the MTEF.

4.8 CONTINGENT LIABILITIES

The MTEF by S.11 (3) is to contain a statement describing the nature and fiscal significance of contingent liabilities and quasi-fiscal activities and measures to offset the crystallisation of such liabilities.

The MTEF was almost silent on the nature and fiscal significance of contingent liabilities. It generally offered a definition of the term. It acknowledged that these liabilities could arise where guarantees of debt are made by FGN with regard to contract agreements entered into by MDAs for capital projects. It could also arise through PPP arrangements. Known contingent liabilities in Nigeria include pension arrears and contractor's/procurement debts and guarantees on sub-national borrowing. The provisions of the Pensions Reform Act providing for contributory pensions and the Public Procurement Act have streamlined government's interventions in pensions and public procurement respectively. However, the MTEF should contain information on the quantum of such contingent liabilities and what measures are to be taken to ensure that they do not crystallize or how to deal with them when they crystallise.

4.9 QUASI FISCAL ACTIVITIES

The description of the quasi fiscal activities of the government is missing from the MTEF. The Central Bank of Nigeria has been engaged in a number of quasi fiscal activities and sees itself as an enabler acting as an intermediary and contributor to economic growth. And the CBN governor reaffirmed that given the current situation of the economy, its role cannot be limited to occasional interventions but requires sustained intervention to realize the desired results[72]. CBN's intervention include the bailout funds it doled out to the rescued banks last year, specific funds targeted at sectors of the economy including small and medium enterprises, aviation, agriculture

[72] Communique of the Second Bankers Committee National Retreat held in Calabar, Cross River State, and published in THISDAY Newspaper of Tuesday December 7 2010 at page 56.

and power sectors which are available at reduced single digit interest rates; contributions to the Assets Management Company of Nigeria, etc. Even the President recently announced the establishment of a special fund worth $200 million for the entertainment industry. This fund is not yet part of any federal budget or MTEF and the source of the fund has not been identified. The expected documentation of quasi fiscal activities in the MTEF should also cover subsidies, losses in foreign exchange holdings and cost of sterilization operations.

Chapter 5

THE 2011 APPROPRIATION BILL AND THE FRA

5.1 METHODOLOGY

The Appropriation Bill is reviewed against the background of the MTEF 2011-2013, budget implementation reports 2008, 2009 and the half year report on the implementation of the 2010 budget, Vision 20:2020 document, economic trends and forecasts from the Budget Office of the Federation, National Bureau of Statistics, Central Bank of Nigeria, MDG Office, the World Bank and International Monetary Fund, emergent literature on the practice of budgets derived from MTEFs from different parts of the world, etc. The Review indicates areas in need of further clarification, amendments and alignments with available fiscal data and trends.

5.2 FIRST THINGS ABOUT THE APPROPRIATION BILL

According to the President, the budget is set against the background of four critical pillars to wit; to foster inclusive growth and job creation; optimize capital spending by rationalizing recurrent expenditure and maximizing Government's revenues; accelerate the implementation of reforms to enhance the quality and efficiency of public expenditure and reinstate greater prudence in the management of the nation's financial resources. It is a budget of fiscal consolidation and the first budget to be prepared based on the Vision 20: 2020's First National Implementation Plan.

The Appropriation Bill is based on the following macroeconomic assumptions: oil production of 2.3mbpd and benchmark oil price of $65pb; a real GDP growth rate of 7%; target inflation rate of 10% and exchange rate of N150 to 1$USD; a fiscal deficit of N1,389.76 billion amounting to a deficit of -3.62% of the GDP resulting from a projected expenditure of N4,226.19 billion and a retained revenue of N2,836.43 billion. The projected expenditure comprises of N196.12 billion for Statutory Transfers, N542.38 billion for Debt Service, N2,481.71 billion for Recurrent (Non-Debt) Expenditure and N1,005.99 billion for Capital Expenditure. This represents an 18.1% contraction from the N5,159.66 billion budgeted in the 2010 Amended and Supplementary Budgets.

Table 28 on the Expenditure Structure of the 2011 Budget

Heading	AMOUNT (NBILLIONS)	PERCENTAGE
Statutory Transfers	N196.12	4.64%
Debt Service	N542.38	12.83%
Recurrent (Non Debt) Expenditure	N2,481.71	58.72%
Capital Expenditure	N1,005.99	23.80%
TOTAL	N4,226.19	100%

The presentation of the 2011 budget by the President to NASS in accordance with the provisions of S.81 of the Constitution is a welcome development. However, it is imperative to note that the figures and the underlying assumptions in the Appropriation Bill lack internal consistency and credibility and they may not lead to the realization of the goals and objectives which have been set for the budget by the President.

5.3 LATE PRESENTATION OF THE BUDGET

The Budget was presented to NASS on December 15 2010, very late in the year and some few days to the beginning of the legislative Christmas and New Year recess. The implication is that the budget will not be ready before the end of the first quarter of 2011. As at April 2011, when this report was under preparation, the budget had not got legislative and executive approval. It will be recalled that the 2010 budget was presented in late November 2009 to NASS and did not get legislative approval until April 2010. When the late presentation in 2010 is combined with the political party primaries and campaigns for the 2011 elections which took legislators away from their normal legislative schedules, it becomes clear that the late presentation has done a great disservice to the nation. The background to the late presentation was anchored on the late preparation of the MTEF by the Minister of Finance and the late presentation of same to the legislature for approval in November 2010. This development cannot in any way accelerate the implementation of fiscal reforms. It has laid a strong foundation for the impending failure of implementation of the 2011 budget, particularly its capital vote.

5.4 LEGISLATIVE CONSIDERATION AND APPROVAL OF THE MTEF

The Bill is anchored on the MTEF 2011-2013 which is the second MTEF to be considered and approved by NASS since the commencement of fiscal responsibility reforms in Nigeria. It appears however that NASS has not fully understood its role and what it should do in the consideration and approval of the MTEF. First, NASS restricted itself to the consideration and approval of the following; benchmark oil price and daily oil production benchmark, non oil revenue assumptions and general expenditure projections. This is not the full picture of the MTEF. Growth projections, interest rate, inflation rate, sectoral indicative envelopes, etc, were not reviewed. Also the available

indicative envelopes were only for capital expenditure as the executive did not provide overall indicative envelopes comprising the recurrent and capital projections for year 2011. In the House of Representatives, the Joint Committee[73] was given less than one week to meet and come up with recommendations to be adopted by the House. NASS did not have the opportunity of holding public hearings or holding extensive consultations with stakeholders and experts before the approval of the MTEF. As such, NASS did not satisfy the requirement of section 48 (2) of the FRA to ensure transparency during the consideration of the MTEF. Perhaps, NASS was constrained by time as the MTEF was presented late and needed to be approved before the presentation of the Bill.

5.5 EVALUATION OF RESULTS OF PROGRAMMES FINANCED WITH BUDGETARY RESOURCES

Section 19 (d) of the FRA demands the executive to report to the legislature on evaluation of the results of programmes financed with budgetary resources. The word evaluation is defined to mean to form an opinion of the amount, value or quality of something after thinking about it carefully[74] - some form of assessment. This would essentially involve an analysis of the impact of the programmes on the population or segments of the population targeted by specific programmes. It should deal with such issues as increase in school enrolment and improvements in learning outcomes, greater number of mothers and children reached with maternal and child health services, increased access to immunization, number of new households that have access to portable water, etc. The evaluation of results is not about the fiscal projections in terms of revenue and expenditure projected versus the actual(s) and the reasons for realizing or not realizing the forecasts which the quarterly budget implementation reports are assigned to do. The evaluation should lead us to what has changed positively or negatively through the expenditure of government resources. However, neither the Appropriation Bill nor the accompanying documents provided the evaluation of results of programmes financed through budgetary resources as required by section 19 (d) of the FRA.

5.6 OTHER DEVELOPMENTAL TARGETS AND THE FISCAL TARGET APPENDIX

Section 19 (e) of the FRA requires the Appropriation Bill to be accompanied by:

> *A Fiscal Target Appendix derived from the underlying macroeconomic framework setting out the following targets for the financial year-*

[73] The Joint Committee is made up of the Committees on Finance, National Planning and Legislative Budget.
[74] Oxford Advanced Learners English Dictionary, 6th Edition at page 396

(i) target inflation rate,

(ii) target fiscal account balances

(iii) any other development target deemed appropriate

The Appropriation Bill is accompanied by the Fiscal Target Appendix containing the target inflation rate, target fiscal balances, GDP growth rate and exchange rate of the naira. It however has nothing on development targets. Fiscal targets and balances are different from development targets which ideally should include targets on the right to an adequate standard of living including targets on the attainment of the MDGs, job creation, targets for the rights to adequate housing, health, education, access to water, etc. Considering that the FRA is anchored on section 16 of the Constitution, this explanation of the dictates of this provision appears to be the only reasonable intention of the legislature in providing for developmental targets. Section 16 of the Constitution provides inter alia that:

(2) The State shall direct its policies towards ensuring:

(d) that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, unemployment and sick benefits and welfare of the disabled are provided for all citizens.

NASS should insist that the President submits these targets to inform the full consideration of the budget particularly in consideration of the fact that the President declared the budget to be geared towards the achievement of fiscal consolidation, enhanced employment generation and wealth creation. These targets will also facilitate the evaluation of the results achieved through budget implementation at the end of the year.

5.7 OVERVIEW OF APPROPRIATION BILL PROJECTIONS (2009-2012)

Table 29 shows the Budget Expenditure and Revenue Profile of the Federal Government for the years 2009-2012. The projections of the previous years 2009 and 2010 and the outer year of 2012 are added to facilitate a comparative analysis of the provisions for 2011.

Table 29: FGN Budget Revenue and Expenditure Profile 2009-2012				
	FISCAL YEAR			
	2009	**2010**	**2011**	**2012**
REVENUE PROFILE	Naira (Billions)	Naira (Billions)	Naira (Billion)	Naira (Billion)
Opening Balance	300.00	129.54	120.00	120
Federal Budget Share of Federation Account	1,516.50	1,910.87	2,404.79	2,625.93
Value Added Tax (VAT)	77.9	77.95	84.03	92.44
FGN Independent Sources	305.9	300.00	214.00	232.19
Other Sources*	64.8	761.51	13.61	9.53
Total Revenue	**2,265.10**	**3,179.87**	**2,836.43**	**3,080.09**
Growth in Total Revenue	*(12.62)*	*40.39*	*(10.80)*	*8.59*
EXPENDITURE PROFILE				
Statutory Transfers	**168.6**	**183.58**	**196.12**	**205.29**
Growth in Statutory Transfers	*3.7*	*8.88*	*6.83*	*4.68*
MDAs Recurrent Expenditure (Non-Debt)	**1,232.60**	**2,669.01**	**2,481.71**	**2,479.07**
Growth in MDAs Recurrent Expenditure	*11.2*	*116.53*	*(7.02)*	*(0.11)*
Capital Expenditure	**1,022.30**	**1,764.69**	**1,005.99**	**1,097.79**
Growth in Capital Expenditure	*30.2*	*72.62*	*(42.99)*	*9.13*
Debt Service Recurrent				
Domestic Debts Service	227.8	503.47	503.47	548.78
External Debts Service	55.8	38.92	38.92	40.86
Total Debt Service Charges	**283.6**	**542.39**	**542.38**	**589.64**
Growth in Total Debt Service	(23.80)	91.25	-	8.71
Total Expenditure	**3,101.80**	**5,159.67**	**4,226.19**	**4,371.79**
Growth in Total Expenditure	*17.2*	*66.34*	*(18.09)*	*3.44*
SURPLUS/(DEFICT)	**(836.70)**			

		(1,979.80)	(1,389.76)	(1,291.70)
Growth in Budget Deficit (%)	*44.23*	*136.62*	*(29.80)*	*(7.06)*
Deficit as % of Revenue	*(36.90)*	*(62.26)*	*(49.00)*	*(41.94)*
Deficit as % of Budget Estimate	*(27.00)*	*(38.37)*	*(32.88)*	*(29.55)*
Nominal GDP	27,672.00	32,648.31	38,427.06	45,026.91
Deficit as % of GDP	***(3.02)***	**(6.06)**	**(3.62)**	**(2.87)**

** Other sources of revenue in 2010 include Carry Over from Supplement II of 2009, DMO Bond Issuance for Monetisation Arrears PHCN (Supplementary I 2010), Other Revenue Supplementary I, Special Bond Issuance for INEC (Supplementary II), and Estimated FGN's Balances of Special Accounts December end 2010.*

Table 29 shows that revenue from Federal Government's share of the Federation Account has been increasing since 2009 and it is projected to increase further over the medium term. Projections for VAT are also increasing. Revenue peaked in 2010 and decreased by 10.80% in 2011 and there is a projected increase of 8.59% in 2012. On the expenditure side, statutory transfers have been increasing while recurrent (non-debt) expenditure took a quantum leap of 116.53% in 2010. However, the proposal for 2011 seeks to reduce recurrent non debt expenditure. Projection for capital expenditure grew exponentially in 2010, but has generally not matched the growth in recurrent expenditure over the four years. The Table shows an unhealthy relationship between the deficit and the revenue. The deficit as a percentage of the revenue has averaged 49.39% between 2009 and 2011 - an unduly high percentage. The debt service obligation increased between 2009 and 2010 and has maintained an even keel between 2010 and 2011. The budget has consistently been on deficit financing with the deficit exceeding the 3% of GDP rule in the FRA.

Figure 12 shows the Growth in FGN Budgeted Total Revenue and Expenditure 2009-2012

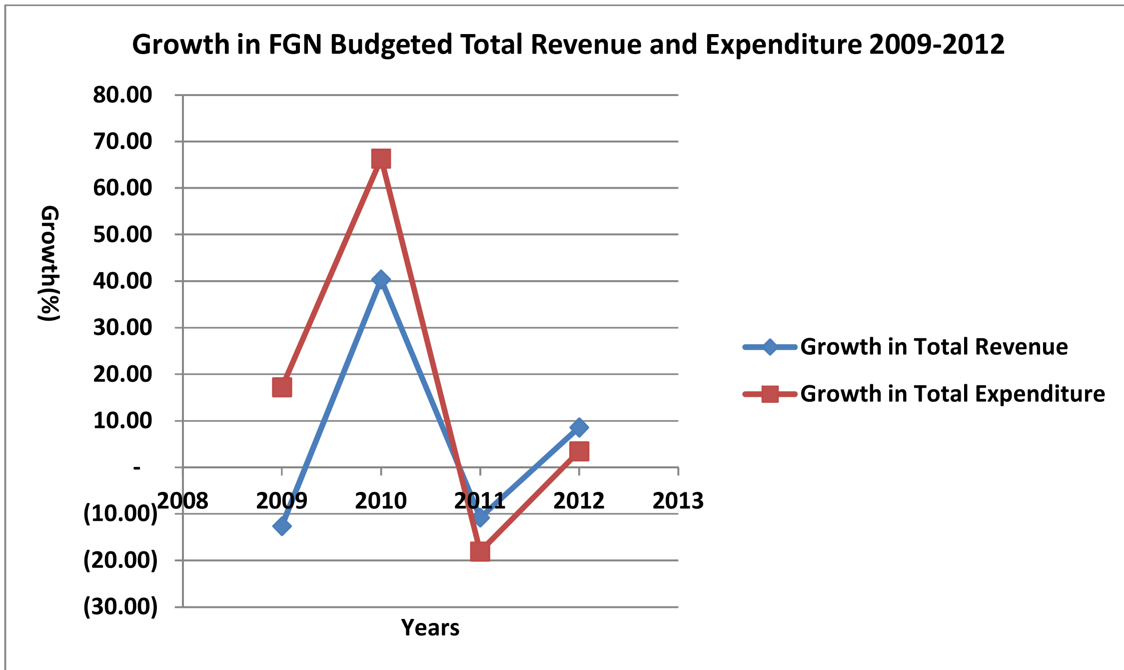
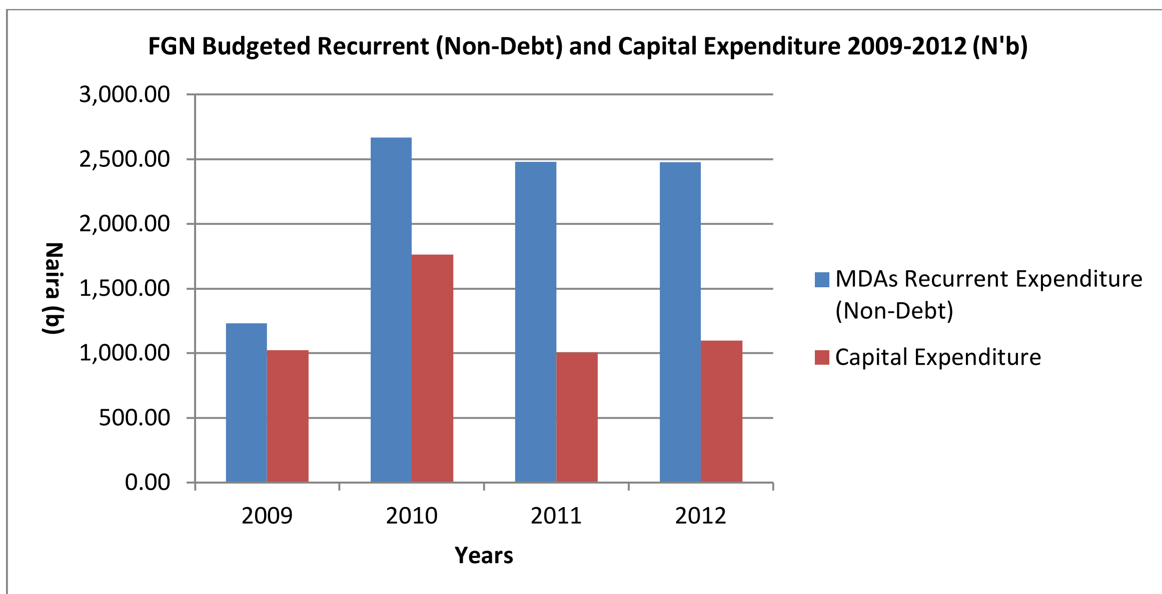


Figure 12 shows that revenue has not matched expenditure indicating that the country is spending more than it earns. This is the basis for the perennial deficit budget indicating that FGN is living above its means.

Figure 13 is the FGN Budgeted Recurrent (Non-Debt) and Capital Expenditure 2009-2012 (N'b). It shows that FGN is committing more resources into recurrent expenditure and consumption as against capital expenditure.



5.8 REVENUE FRAMEWORK OF THE APPROPRIATION BILL

5.8.1 Oil Production in MBPD

The MTEF endorsed by the EXCOF had projected oil production at 2.3mbpd for 2011 while NASS which is the approving authority under the Fiscal Responsibility Act approved 2.25mbpd. Benchmarking the Appropriation Bill on 2.3mbpd is surely in contravention of the Fiscal Responsibility Act. However, given the explanations of the NNPC that the 2.3mbpd is a conservative estimate, it seems reasonable to expect that the benchmark will be met.

5.8.2 Benchmark Price of Oil

Considering the need to delink the budget from the volatilities of the oil market, in arriving at the Reference Commodity Price (RCP), the MTEF used a ten year moving average while treating the spikes of $148 per barrel during some part of 2008 as an outlier and as such made slight adjustments to that moving average. The figure of $58 per barrel arrived at during this exercise seems realistic considering the price of oil in recent years. Thus, the MTEF endorsed by the EXCOF had projected the benchmark price of oil at $58 per barrel using a ten year moving average. The subsequent approval of $65 per barrel by NASS following the intervention of the Budget Office of the Federation and its use in the budget was not based on any empirical evidence/formula and did not take cognisance of the possibility of an oil price shock. This comes against the background of a depleted Excess Crude Account (ECA). Apparently, the new RCP could have been conjured in a bid to reduce the huge deficit proposed for 2011.

The new RCP has implications for budget implementation and accrual of resources to ECA. The first is that if the commodity price falls below the RCP, Federal and State Government budgets will be totally distorted and will become un-implementable in view of the fact that we have fully drawn down the resources in ECA. The second issue is that the new RCP will decrease the level of accruals to the ECA at a time ECA needs to be replenished.

5.8.3 Excess Crude Account and the Proposed Hedging Mechanism

The Bill does not contain clear cut articulation of the expected inflows into the ECA. Rather, it contains FGNs share of ECA in the sum of N152.98 billion. The MTEF had proposed a hedging strategy providing FGN with the option of transferring risks associated with downside movements in the price of oil to a third party. With the payment of a premium, FGN can purchase a hedging solution such *as put options, cap and floor agreements, no cost collars* amongst others which would guarantee government earnings below a floor, such as the benchmark price, while allowing us to reap the gains from higher oil prices.

The administration is suggesting this hedging mechanism because of the emptying of the ECA which was supposed to break the oil price boom burst cycle and make our spending sustainable. A hedging mechanism comes with the price of premiums to be paid. The premium is extra expenditure to be incurred before achieving what a functional ECA would have guaranteed the FGN and other tiers of government free of charge. The hedging mechanism cannot guarantee the required sustainability and the payment of a premium is an unacceptable waste. Rather, FGN and other tiers of government should properly manage the proceeds of ECA in accordance with the FRA.

5.8.4 Non Oil Revenue

The non oil revenue forecasts in the MTEF which were adopted by the Budget were based on three main assumptions vis, the rate of growth in the different bases for different taxes, effective tax rate ratio of collection and an efficiency factor to account for operational improvements in the various tax administration agencies. Generally, non oil revenues underperformed by 33.66% in the first half of 2010 and the reasons informing the underperformance include waivers and exemption on imported goods from duty payments as well as the sharp decline in trade following the global recession. The Budget surprisingly did not articulate strategies to control and rein in the controllable reasons such as increased waivers and exemptions on imported goods.

5.8.4.1 Company Income Tax (CIT)

A 7.8% increase over the 2010 figure is targeted for CIT thereby bringing the forecast to N632.8 billion. The MTEF approval is the same as the provision of the Appropriation Bill. The 2010 Second Quarter Budget Implementation Report indicates that the quarterly projection of CIT fell short by 38.31%. The shortfall was attributed to the continuing effects of global economic crisis leading to a shrink in consumption. Government expects a rise in consumption in the medium term when the impact of its stimulus financing takes greater effect. The MTEF indicated that the 2009 projections were not met and the projected revenues were based on overly optimistic assumptions regarding increases in efficiency of the operations of the relevant tax collection agencies. In 2009, CIT fell short by 3.7% or N21.93 billion. This figure for 2009 was however in excess of the actual receipts for 2008 by 35.6% or N148.24 billion. The 2008 CIT projections were exceeded by 14.5% or N24.6 billion. From this trajectory of collections and the reasons proffered as informing them, the CIT projections are realizable if FIRS improves the efficiency of collection thereby reducing tax avoidance and evasion. The realization of this projection would be further dependent on the growth of the economy since the GDP estimate liable to CIT is higher than what was projected in 2010. The CIT rate is retained at 30%.

5.8.4.2 Value Added Tax (VAT)

N625.24 billion is the estimated VAT collections for 2011 which represents an increase of 7.8% over the 2010 projections. The MTEF approval is the same as the Appropriation Bill figure. It is the assumption that the effect of the stimulus packages would increase consumption and as such the share of consumption liable to VAT will increase. The VAT rate is still 5%. The 2010 Second Quarter Budget Implementation Report indicates that VAT fell short of projection by 1.29%. In 2008, VAT exceeded its target by N10.96 billion or 25.52% while in 2009, there was a shortfall of 19.2%. However, this shortfall exceeded the 2008 figures by 15.8%. Although the projection appears optimistic, it should be retained while the VAT Office should work hard to meet the targets.

5.8.4.3 Customs and Excise

Customs Duty Collection has been projected at N450 billion which represents an increase of 12.5% over the 2010 projection. The MTEF approval is the same as the Appropriation Bill figure. The expectation is that as the global recession is easing and the effect of the stimulus packages take greater effect, trade will increase and customs duties will also increase. The 2010 Second Quarter Budget Implementation Report indicates that Customs duty collection fell short of its target by 57.71%. The variance between target and actual receipt is apparently wide and calls for concern particularly in view of the fact that the 2010 estimates were more conservative that the estimates of 2009. In the year 2008, when CIT and VAT exceeded their targets, Customs duty collected fell short of its target by 1%, while in the year 2009, it fell short by 40%. Considering the trajectory of customs duty collection missing targets even in a good year like 2008, this projection appears unreasonable and may not be met. It should therefore be revised downwards to the 2010 level. One of the hallmarks of a good budget is predictability and the stability to plan ahead over the medium term horizon. This will mean little or no variations in major forecasts to fund the budget. A major underperformance will distort and upset the equilibrium needed for achievement of policy results.

5.8.4.4 FGN Independent Revenue and Unspent Balance from 2010

The executive MTEF had proposed FGN Independent Revenue as N250 billion for 2011 while NASS approved N200 billion. However, the budget is predicated on N214 billion, a sum higher than the approved MTEF figure. The approved MTEF contained an unspent balance for 2010 as N120 billion. This was also the submission in the 2010 Budget. The unspent balance would have been higher if not for the extension of the financial year for the implementation of the capital budget to March 2011[75].

[75] The initial proposal in the MTEF was N150 billion.

5.9 EXPENDITURE FRAMEWORK

5.9. 1 MTEF versus the Bill

The MTEF anchors the Appropriation Bill and it is the basis for the preparation of the Bill. The sectoral and compositional distribution of the estimates is supposed to align with the MTEF as approved by the legislature[76]. NASS worked on the underlying assumptions of the MTEF 2011-2013 and did not review the actual expenditure figures of the MTEF. The expenditure projections in the 2011 Appropriation Bill vis a vis the contents of the approved MTEF are shown in Table 30.

Table 30: MTEF Versus Budget's Expenditure Framework

Item	MTEF (Billions)	Appropriation Bill (Billions)
FGN Revenue	2,405.23	2,836.43
Statutory Transfer	179.78	196.115
Debt Service	517.07	542.381
Recurrent MDA (Non Debt)	2,849.66	2,481.705
Capital Spending	1,083.44	1,005.989
Aggregate Expenditure	4,629.95	4,226.191
Deficit as a % of GDP	-4.49%	-3.62%

The deviations between the contents of the MTEF and the presentations in the Bill are as follows: FGN revenue, statutory transfers and debt service projections in the Bill exceeded the MTEF projections by 17.93%, 9.09% and 4.9% respectively. Recurrent non debt expenditure, capital spending and aggregate expenditure projections in the MTEF recorded shortfalls of 12.91%, 7.14% and 8.73% respectively in the Bill.

5.9.2 Sectoral Breakdown of Expenditure

Table 31 shows the sectoral breakdown of expenditure for recurrent and capital components of the budget excluding service wide votes and pensions.

Table 31: Sectoral Breakdown of Expenditure in 2011

	Fiscal Year 2011	
MDAs	**Estimate NBillions**	**% of Budget**
Presidency	39,470,800,624	1.34
SGF	63,563,978,750	2.16
Youths Development	47,272,599,579	1.61
Women Affairs	2,810,641,366	

[76] See section 18 of the FRA.

		0.10
Agriculture & Water Resources	97,027,506,255	3.30
Auditor General's Office	4,926,415,201	0.17
Independent Corrupt Practices Commission	3,500,959,435	0.12
Defense	313,869,733,252	10.69
Education	339,481,528,685	11.56
FCT	44,183,583,306	1.50
Foreign & Intergov't Affairs	45,239,702,830	1.54
Finance	15,150,616,145	0.52
Health	235,866,483,244	8.03
Commerce & Industry	11,505,121,119	0.39
Information & Communications	28,403,947,507	0.97
Interior	158,157,297,012	5.39
Head of Service	13,590,986,443	0.46
Justice	19,822,776,913	0.67
Labor and Productivity	8,616,487,013	0.29
Science and Technology	27,587,283,407	0.94
Transport	55,954,636,803	1.91
Petroleum Resources	48,762,661,861	1.66
Energy (Power)	90,026,917,709	3.07
Mines & Steel Dev.	13,754,925,050	0.47
Aviation	27,156,093,072	0.92
Works, Housing & Urban Dev.	184,189,064,623	6.27
National Salaries, Income & Wages Commission	849,615,239	0.03
Environment	17,332,157,698	0.59

Culture and NOA	19,709,843,821	0.67
National Planning Commission	6,778,205,927	0.23
National Sports Commission	11,830,440,416	0.40
National Security Adviser	105,240,648,267	3.58
Police Affairs	3,583,058,547	0.12
Police Formation and Command	304,737,303,692	10.38
Niger Delta	56,629,811,018	1.93
Special Duties	432,723,683	0.01
Fiscal Responsibility Commission	714,868,837	0.02
Infrastructure Regulatory Com.	1,163,946,974	0.04
Federal Executive Bodies	62,591,087,605	2.13
National Assembly	111,244,416,513	3.79
Capital Supplementation	294,091,885,524	10.01
Grand Total	**2,936,822,760,966**	**100.00**

5.9.2.1 Education and Health

Table 31 shows that key social sectors like education and health got votes below the expectations of national and international standards in 2011. Education got 11.56% of the allocation which is less than half of the 26% demanded by international standards while health got only 8.03% against the demand of 15% of the allocation. Various compilations of recent human development indicators[77] have pointed at the very poor performance of Nigeria and appropriating less than required resources to education and health will compound already existing challenges.

The announced approval and plan of FGN to establish six new universities at one university per geo-political zone also comes up for discussion. With the paltry sum allocated for capital projects in education, the source of funding for the start off of these universities is doubtful considering that no funds were allocated to the six universities in

[77] Over 12 million school age children are out of school; 70% of the country's 140 million people live in poverty; Nigeria is ranked 158th out of 177 countries in the UNDP Human Development Index; only 17% of the population have access to clean drinking water asserts the United States State Department.

the 2010 budget. Alternatively, it appears that FGN is planning extra budgetary expenditure for the establishment of these universities. This proposal further raises new questions; whether Nigeria can afford the establishment of six new universities when existing ones are beset by poor funding for both recurrent and capital expenditure. The second question is whether political exigency should trump proper planning for the establishment of institutions of higher learning. If the reason for establishing the universities is to increase intake of students, then increased intake of students can be achieved through expanded facilities in already existing institutions which will be less expensive than building new institutions.

The following statistics from the MDG Report 2010 show the need to increase education funding[78]. Net enrolment ratio in primary education is 88.8%, proportion of pupils who start primary 1 and who reach primary 5 is 72.3%, primary 6 completion rate is 67.5% while literacy rate of 15 to 24 year olds is 80%. Continued and enhanced funding of schemes to enhance the quality of learning by the Federal Government will enhance the right to education in Nigeria.

In enhancing access to affordable and quality healthcare, Nigeria's Vision 20:2020 acknowledges that[79]:

> *The poor healthcare situation in the country is mainly attributable to various underlying factors, such as inadequate and poorly maintained facilities, very high patient to doctor ratio and inefficient service delivery. Nigeria records low human development indicators (158 out of 177) for health (especially for women and children), even within sub-Saharan Africa, and her targets on the Millennium Development Goals for child mortality, maternal mortality and nutrition may be missed by wide margins, if current trends continue unabated.*

Vision 20:2020 articulated various initiatives to remedy the situation and these initiatives require adequate funding. According to the Millennium Development Goals Report 2010, a lot of gaps exist in child and maternal health. Under five mortality rate (per 1000 live births) is157; infant mortality rate (per 1000 live births) is 75 while percentage of one-year olds fully immunized against measles is 74.3%. Maternal mortality rate (per 100 live births) is 545 while proportion of births attended by skilled health personnel is 38.9%.

The current funding scenario fails to meet the minimum standards envisaged by Vision 20:2020 and will not bridge the gaps identified by the MDG 2010 Report.

[78] Although it is acknowledged, that primary education is basically more a function of the States and Local Governments.
[79] At page 31.

5.9.2.2 Agriculture and Water Resources

Agriculture and water resources despite its huge contribution to GDP, employment generation and the realization of the MDGs got a paltry allocation of 3.30% of the budget, a decline from the 5.44% it got in 2010. Agriculture is expected to contribute 40.6% of the GDP in 2011. However, production is dominated by rain-fed agriculture which is subject to the vagaries of the weather. Although government is not directly involved in agriculture and merely helps to set policy direction and regulation over agriculture, the vote is meager for government to perform this role that will act as a catalyst to stimulate the private sector to increase production, value addition and enhance the sectoral contribution to GDP and employment generation. Government is expected to invest more resources in irrigation facilities, dissemination of best practices and enhanced access to improved agricultural infrastructure, inputs and facilities. The paltry allocation will not scratch the surface of the sectoral challenges.

5.9.2.3 Defence, Police Formations and Command and the National Security Adviser

The huge allocation of 10.69% of the budget to defence is apparently not justified when Nigeria is not faced with any external crisis especially when this allocation is read in conjunction with the large allocation of 10.38% of the budget to Police Formations and Command which takes the lead and is responsible for internal security. Further, taking account of the allocation of 3.58% of the budget to the National Security Adviser, it means that between those charged for internal and external security, FGN is spending 24.65% of the overall budget. This investment is not supportable by facts and logic or the security demands of Nigeria. Previous large votes to these sectors have not yielded positive results in terms of enhanced security of lives and property. Rather, the situation has degenerated, What is required is a re-engineering and reorganization of these agencies to begin to yield greater value for money with already available resources rather than throwing more money at them.

5.9.2.4 National Assembly

The allocation of 3.79% of the budget to NASS appears too high coming against the background of the national clamour for the reduction of the jumbo allowances and perks of the lawmakers. Although, this is less than the 4.68% they enjoyed in 2010, the NASS needs less than 1.5% of the budget to effectively carry out its constitutional duties.

5.9.2.5 The Presidency

The huge votes of 1.34% to the Presidency also demands pruning down considering that it is a vote meant essentially for the bureaucracy and administration. The Presidency can run efficiently with about 50% of its extant proposal.

5.9.3 Recurrent Expenditure

Recurrent expenditure is gulping a total of N2,481.71 billion which amounts to 58.72% of the budget. Recurrent expenditure is shutting out capital expenditure and has contributed immensely to the perennial deficit. For the economy to grow at the rates projected in Vision 20:2020, the outlay on recurrent expenditure has to be reduced whilst the capital vote is to be increased. A reduction of the recurrent expenditure will also imply the reduction of the deficit. Table 32 shows a breakdown of the recurrent expenditure projections of the 2011 budget**.** The Table excludes service wide votes and pensions.

Table 32: Recurrent Expenditure 2011

MDAs	**Fiscal Year 2011**	
	Budget Estimate	**% of Budget.**
Presidency	26,583,128,891	1.38
SGF	57,604,822,199	2.98
Youths Development	44,208,603,401	2.29
Women Affairs	2,060,641,366	0.11
Agriculture & Water Resources	42,809,222,974	2.22
Auditor Gen. Office	2,935,161,388	0.15
Independent Corrupt Pract. & Com.	3,338,916,953	0.17
Defense	288,675,027,680	14.95
Education	304,392,631,774	15.76
Federal Capital Territory		0.00
Foreign & Intergov't Affairs	38,992,135,003	2.02
Finance	12,081,460,230	0.63
Health	202,338,852,916	10.48
Commerce & Industry	10,351,160,220	0.54
Information & Communications	27,021,995,211	1.40
Interior	152,310,965,961	7.89
Head of Service	6,731,188,057	0.35
Justice	19,414,987,811	1.01
Labor and Productivity	8,150,616,175	0.42
Science and Technology	22,460,277,443	1.16
Transport	7,050,173,566	0.37

Petroleum Resources	38,489,462,056	1.99
Energy (Power)	3,776,270,909	0.20
Mines & Steel Dev.	11,512,637,069	0.60
Aviation	6,414,115,291	0.33
Works, Housing & Urban Dev.	30,239,841,958	1.57
National Salaries, Income & Wage Com.	741,586,918	0.04
Env. Housing & Urban Dev.		0.00
Environment	12,580,318,277	0.65
Culture and NOA	17,216,793,821	0.89
National Planning Commission	5,299,236,399	0.27
National Sports Commission	10,696,143,045	0.55
National Security Adviser	50,860,044,639	2.63
Police Affairs	3,222,404,970	0.17
Police Formation and Command	293,569,995,125	15.20
Niger Delta	3,229,809,338	0.17
Special Duties	379,923,683	0.02
Fiscal Responsibility Commission	552,826,355	0.03
Infrastructure Regulatory Com.	1,077,524,318	0.06
Federal Executive Bodies	53,431,892,439	2.77
National Assembly	**108,030,573,962**	**5.60**
Grand Total	**1,930,833,369,794**	**100.00**

It is heartwarming to note that FGN has set up an Expenditure Review Committee with representation from the Public Service, Civil Society, Organised Private Sector and the Academia to review and rationalize the outlay on recurrent spending. The reduction of the recurrent vote in the 2011 Bill, particularly the overhead vote which is crowding out capital investments can start with the following recommendations on two key institutions that should lead the reform of fiscal governance in Nigeria:

- The overhead costs of the Presidency amounting to over N9 billion is overbearing. Reductions can be effected from the vote of the State House in refreshments and meals, welfare packages and other provisions that are not matters of national priority.

- The overhead costs of the Senate and House of Representatives are scandalous. With personnel cost of N1.856 billion and N4.923 billion respectively,

it does not make sense to give the Senate an overhead vote of N27.184 billion and the House of Representatives N41.291 billion respectively. The budget of the NASS is suffused with perennial requests for the purchase of motor vehicles despite the monetization arrangement dictated by law and huge miscellaneous provisions which are not properly defined and delineated. The *Measures on Cost Control* which is an accompanying document to the Bill indicates as follows: "*Expenditure on the procurement of motor vehicles has been deferred. Provision for security vehicles and other specialized automobiles for specific agencies of government are pooled into Service Wide Votes*". However, this is not the case in the demand for new vehicles in the NASS. The implication of this cost control measure is to state that every demand for procurement of vehicles will be justified within this framework as a special automobile or security vehicle. The demands of NASS do not meet any of these criteria.

A third cost saving measure is the re-allocation of welfare packages in all MDAs running into tens of billions to more demanding uses. Welfare packages are just slush funds for the purchase and distribution of consumables to public officers. This is a frivolous expenditure. Further, a lot of provisions have been made for generators and their fuel supplies. The implementation of government's agenda in power sector reforms will facilitate the reduction of these expenses.

5.9.4 Capital Expenditure

There has been a progressive decline of the capital budget in the last three years. From a budgeted figure of 34% in 2010 to 23.8% in 2011 is a huge decline. Thus, the capital expenditure failed to support any of the four pillars of the budget as the budget failed to optimize capital spending by rationalizing recurrent expenditure. Rather, the budget rationalized capital expenditure from 34% in 2010 to 23.8% in 2011.

FGN proposes to engage global project management firms for the enhancement of capital budget implementation. However, this would not improve capital budget implementation as it would only lengthen the bureaucracy and establish new conduit pipes for bribery and leakages in the system. What is needed is more of the political will to drive capital budget implementation, empower the public service and plug leakages. It should not involve spending money on project managers.

The Bill proposes as part of the measures on cost control under procurement and maintenance that:[80]

[80] See Measures on Cost Control in Documents Accompanying the 2011 Budget to the National Assembly.

Technical items and items of specialized nature should be procured directly from their manufacturers. This is with an objective to maintaining quality standards while achieving cost savings in maintenance services. In addition, such procurement should have warrantee and maintenance agreements.

This is a welcome development. The MOF and BOF should liaise with the Bureau of Public Procurement to ensure that appropriate circulars and directives are issued to guide the implementation of this cost saving measure. The breakdown of capital expenditure is as shown in Table 33.

Table 33: Breakdown of Capital Expenditure

MDAs	Fiscal Year 2011	
	Budget Estimate	% of Budgt
Presidency	12,887,671,733	1.28
SGF	5,959,156,550	0.59
Youths Development	3,063,996,178	0.30
Women Affairs	750,000,000	0.07
Agriculture & Water Resources	**54,218,283,281**[81]	**5.39**
Auditor Gen. Office	1,991,253,812	0.20
Independent Corrupt Pract. & Com.	162,042,482	0.02
Defense	**25,194,705,572**	**2.50**
Education	**35,088,896,911**	**3.49**
FCT	**44,183,583,306**	**4.39**
Foreign & Intergov't Affairs	6,247,567,828	0.62
Finance	3,069,155,914	0.31
Health	33,527,630,328	**3.33**
Commerce & Industry	1,153,960,899	**0.11**
Information & Communications	1,381,952,297	0.14
Interior		0.58

[81] Some MDAS written are in bold for the purpose of emphasis.

	5,846,331,051	
Head of Service	6,859,798,386	0.68
Justice	407,789,102	0.04
Labor and Productivity	**465,870,838**	**0.05**
Science and Technology	**5,127,005,964**	**0.51**
Transport	**48,904,463,237**	**4.86**
Petroleum Resources	10,273,199,805	1.02
Energy (Power)	**86,250,646,800**	**8.57**
Mines & Steel Dev.	2,242,287,981	0.22
Aviation	20,741,977,781	2.06
Works, Housing & Urban Dev.	**153,949,222,665**	**15.30**
National Sal. Income & Wage Com.	108,028,321	0.01
Environment, Housing & Urban Dev.	-	0.00
Environment	**4,751,839,421**	**0.47**
Culture and NOA	2,493,050,000	0.25
National Planning Commission	1,478,969,528	0.15
National Sports Commission	1,134,297,371	0.11
National Security Adviser	54,380,603,628	5.41
Police Affairs	360,653,576	0.04
Police Formation and Command	11,167,308,567	1.11
Niger Delta	**53,400,001,680**	**5.31**
Special Duties	52,800,000	0.01
Fiscal Responsibility Commission	162,042,482	0.02
Infrastructure Regulatory Com.	86,422,657	0.01
Federal Executive Bodies	9,159,195,166	0.91
National Assembly	3,213,842,551	0.32
Capital Supplementation	294,091,885,524	29.23
Grand Total	**1,005,989,391,172**	**100.00**

With capital expenditure at 23.80% of the budget and the deficit at 32.88% of the budget, the government will use deficit financing to run administrative and consumption costs which do not add much to growth of the economy or the envisaged job creation.

Table 34 below shows the capital vote of key MDAs which should drive the growth of the GDP, build and strengthen human capital and provide infrastructure for the growth of the economy as against the provision for debt service.

Table 34: Capital Vote of Key MDAs and Debt Service for 2011

Sector	Amount(NBillions)	2011 Debt Service (NBillions)
Education	N35.10	
Health	N33.53	
Agriculture & Rural Development	N29.46	
Water Resources	N24.75	
Works	N136.88	
Power	N86.25	
Transport	N48.90	
Lands & Housing	N17.07	
Aviation	N20.74	
Niger Delta	N53.40	
Defence	N25.19	
Mines & Steel	N2.24	
TOTAL	**N513.51**	**N542.38**

This quantum of capital expenditure will therefore not support the pillar of job creation enunciated as one of the basic pillars of the Budget. The capital envelopes of these key MDAs do not add up to the amount required for debt service. They amount to 94.7% of the debt service figure. The conclusion to be drawn from the Table 34 is that Nigeria needs to get her priorities right and if there is the need to borrow, it must be for value adding, wealth creating capital expenditure. It also buttresses the fact that all stakeholders from the executive, legislature, civil society and the private sector need to take action to police and monitor the implementation of capital projects funded from borrowed money. Some of the debts being repaid were supposed to have been invested in capital projects but the fact is that most of these projects were mismanaged.

The debt service as a percentage of capital expenditure of N1,005 billion is 53.92% while the debt service as a percentage of the government's retained revenue of N2.836 trillion is 19.12%. The debt service as a percentage of capital expenditure represents lost opportunities for investment in infrastructure which goes to service debts that Nigerians did not reap the benefits of their investment.

It is also pertinent to note that previous years budget since 2008 have recorded an average of 50% capital budget implementation by the end of the financial year in December. If this trend continues in 2011, FGN will have committed less than 12% of overall budget to capital expenditure.

5.10 NATIONAL JOB CREATION SCHEME AND CAPITAL SUPPLEMENTATION

In an economy that is reported to have grown by over 7.5% in 2010 and targets 7% growth in 2011, it is a contradiction that the unemployment situation has hit an all time high. Thus, Nigeria is experiencing a jobless growth pattern. The administration seeks to start a new job creation scheme to be kick-started with a seed fund of N50 billion provided in capital supplementation. According to the President, this programme will involve the engagement of private sector contractors to implement simple, labour intensive public works in areas such as the renovation and maintenance of buildings such as schools, hospitals and primary health care centres; roads rehabilitation and maintenance works; urban sanitation and solid waste disposal; erosion control and community works projects. Some of the projects are to be funded from conditional grants and targeted at sectors critical to the achievement of MDGs. However, there are no targets either in the MTEF or in the Bill on job creation.

This is apparently not a new idea but a continuation of more of the same thing under the MDG investment. That private sector contractors are going to get contracts to procure public works is already an ongoing routine assignment in MDAs. From the contours of this programme already announced by the President, contractors will get richer while the few that will be engaged will likely be paid peanuts. It will likely end as an allocation for *a job for the boys*. An earlier project of N10 billion during the Obasanjo regime is unaccounted for till today. This is therefore not a sustainable way of alleviating joblessness. What is required is a complete restructuring of the economy to make it more competitive and create the necessary infrastructure and macroeconomic environment to attract and encourage local and international investors. It is also pertinent to clarify whether a new agency will be created to manage the funds considering the documented grave allegations of fraud against the National Poverty Eradication Project, the comatose state of the National Directorate on Employment, etc.

However, it is a welcome idea that all memoranda submitted to EXCOF regarding procurement contracts from MDAs are to indicate the local employment content implication of the project. The thrust should be to extend this directive to all bidders and service providers in public procurements to indicate how their technical and financial proposals will maximize local employment generation. The Bureau of Public Procurement established under the Public Procurement Act of 2007 should be involved in devising the appropriate policy framework for the implementation of this directive. In

this direction, domestic preferences under section 34 of the Public Procurement Act for suppliers of goods manufactured locally should be extended to national competitive bidding as against the current limitation to international competitive bidding.

It is imperative to align the current efforts in job creation with the work of agencies such as the National Automotive Council charged by law[82] to inter alia regularly study and review the automotive parts and components development industry in Nigeria. The expenditure of the funds available to the Council should be streamlined to increase capacity utilization, stimulate demand, develop technology and create new jobs in automotive industries in Nigeria.

Further, since the private sector is expected to take the lead in the job creation initiative, it may be pertinent to review the challenges that have held down the private sector and restrained it from contributing optimally to economic growth and job creation. In this direction, government must creatively address infrastructure challenges. Government can also consider inter alia, a graduated reduction of company income tax to benchmark same against new hiring and job opportunities created by companies. In other words, eligibility to benefit from this tax reduction will be hinged on the number of new jobs created by a company. In the alternative, government can consider a 10% reduction in corporate tax thereby reducing same to 20%. The reduction in governmental revenue from CIT will be compensated by increased production and consumption and new jobs which will manifest in increased VAT collections and enhanced country social indicators.

There is also the need to harmonise trade policy with the industrial and job creation policy. A situation where government liberalises the importation of toothpicks and cassava products cannot be seen to be encouraging job creation. Those sectors that the country has comparative advantage over other countries should be protected and allowed to grow and create jobs in the local economy. FGN has to consider a tradeoff between expected custom and excise revenue and creating jobs at home.

5.11. DEFICIT AND DEBTS

The projected deficit is 3.62% of the GDP which contrasts with the MTEF approval of - 4.49%. The further reduction of the deficit by the Bill as against the MTEF recommendation is a welcome development although the law requires the two to tally. Both the MTEF and budget projections violate the spirit and letter of section 12 of the Fiscal Responsibility Act which sets a limit of expenditure to be not more than the aggregate revenue plus a deficit not exceeding 3% of the estimated GDP unless there is a national emergency. There appears to be no national emergency but a need to re-

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[82] National Automotive Council Act, Cap.N8, Laws of the Federation of Nigeria, 2004.

engineer fiscal resource management in line with high policy goals of the FGN. Table 35 shows the percentage of retained revenue to overall budget expenditure.

Table 35: Percentage of Retained Revenue to Overall Budget 2011

Overall Budget (NBillions)	Retained Revenue (NBillions)	% of Retained Revenue to Overall Budget
N4,226.19	N2,836.43	67.11%

Table 36 shows the percentage of deficit to overall budget.

Table 36: Percentage of Deficit to Overall Budget 2011

Overall Budget (NBillions)	Deficit Sum (NBillions)	% of Deficit to Overall Budget
N4,226.19	(N1,389.76)	32.89%

The Budget states the source of deficit financing as follows in Table 37:

Table 37: Sources of Deficit Financing

Deficit Financing Source	**Amount N Bn**
Privatisation Proceeds including the sale of NITEL	242.21
FGN's share of Signature Bonus	132.31
Sharing from Stabilisation Account	150.00
Domestic Borrowing	865.24
Total	**1,398.76**

From the Bill, the proceeds of privatization and signature bonus may be used to finance the deficit including recurrent expenditure. But their use in funding recurrent expenditure is barred by section 53 of the FRA which states:

> *The proceeds derived from the sale or transfer of public properties and rights over public assets shall not be used to finance recurrent and debt expenditure, provided that such proceeds may be used to liquidate existing liabilities directly charged against such properties or assets.*

Considering the paltry capital vote of 23.8% of the budget and the provisions for recurrent non debt expenditure and debt expenditure which amounts to over N3.024 trillion, it is clear that a good part of the proceeds expected from Privatization and Signature Bonus will be used to fund debt and recurrent expenditure. Further, a good part of domestic borrowing may also go into funding recurrent non debt and debt expenditures contrary to the provisions of section 41 of the FRA which states that:

Government at all tiers shall only borrow for capital expenditure and human development, provided that such borrowing shall be on concessional terms with low interest rate and with a reasonably long period of amortization.

In 2010, the sum of N132.31 billion was expected from Signature Bonus and nothing came from that source at the end of the year. The circumstances leading to the failure of the accrual of that source of revenue is closely linked with the uncertainties surrounding the reforms articulated in the Petroleum Industry bill which is still pending before the National Assembly. To still include Signature Bonus as a source of funding the deficit in 2011 when the challenges militating against its realization have not been resolved may amount to mere wishful thinking. NITEL's privatization appears to have gone awry as the preferred bidder and core investor has been unable to raise and pay the initial deposit of 30% of the bid sum. This makes it unlikely that the proceeds expected from the privatization will accrue.

The International Bond of N75 billion, which was included as a source of deficit funding in 2010 did not materialize in the course of the year although steps have been taken to float the bond. Considering that the year 2010 is ended and government has started the process of floating this bond, which would materialize in 2011, it would have been more appropriate to list International Bond as a source of funding the 2011 deficit rather than leaving it for 2010, a year that has already ended.

Domestic borrowing is listed as a source of funding the deficit to the tune of N865.24 billion in the Revenue and Expenditure Framework[83]. At N150 to 1USD, this amounts to $5.768 billion. But N865.24 billion exceeds the recommendation of the DSA 2011[84] on money to be raised from domestic sources. The DSA recommends a maximum sum of N639 billion to be borrowed from domestic sources and $2.84 billion from external sources. Although, this is less than the N1,346.58 borrowed in 2010, the implication is that the public sector will continue its crowding out effect on access to credit by the private sector and banks will continue to be risk averse.

However, this figure on domestic borrowing in the Revenue and Expenditure Framework did not tally with the figures stated in the Borrowing Programme for 2011 which is also part of the *Documents Accompanying the 2011 Budget to the National Assembly*. The Borrowing Programme states in page G-2 that:

"*The planned borrowing from External and Domestic sources by the Federal Government during the 2011 Fiscal year is as following: External Sources-US$1,209 million; Domestic Sources-N64.54 billion"*

[83] At page C-6 of the Documents Accompanying the 2011 Budget to the National Assembly.
[84] Report of the Annual Debt Sustainability Analysis, 2011 at pages 31 to 32.

The Borrowing Programme further stated that an additional N370.37 billion would still be raised during the year for the purpose of refinancing maturing bonds and restructuring of short term instruments. There is the need to reconcile the figures in the Borrowing Programme and the Revenue and Expenditure Framework.

Further, the total external debt figures in the Borrowing Programme do not seem to tally with the reality of facts. The legislature is reported to have approved the request for the procurement of $1.537 billion loans which is contained in the 2010 Borrowing Programme[85]. That figure has not been factored into these calculations. If the external debt before September 2010 as stated in the Borrowing Programme was $4,548.52 billion and an additional N500 million was drawn down bringing the total to $5,048.52 billion, adding $1.537 billion to this figure and an additional $1,209 million will definitely swell the external debt as shown in Table 38.

Table 38: Projected External Debts 2011

Details	Amount in $Bn
Debt at 2010 end projected without the legislative approval of $3.7bn	5.048
New approved borrowing by the legislature	1.537
Proposed borrowing for 2011	1.209
Total External Debt in 2011	**7.794**

Thus, the projected external debt stock of $6.257 billion in the Borrowing Programme for the year 2011 will be less than the actual figures which would be in the neighbourhood of $7.794 billion.

If the 2010 experience is anything to go by, the President will present a borrowing request without a cost benefit analysis of the projects to be executed from the proceeds of the borrowing request. However, NASS should insist on full compliance with the law on the need to present a detailed cost benefit analysis before approving borrowing requests.

5.12 CONTINGENT LIABILITIES

The 2011 budget recognized that the government will provide guarantees for private sector driven infrastructure projects in the power, transportation and housing sectors, etc and estimates the guarantee in 2011 to be within the range of $3 billion t o $5 billion. The contingent liabilities seems understated considering that the President indicated in the Budget Speech that the Infrastructure Concession Regulatory Commission leading a National Economic Management Team Infrastructure Technical Working Group has

[85] The approval was given on December 16 2010.

produced a road map for investments in the provision of critical infrastructure identifying 50 priority projects to boost productivity. Since most of these projects are going to be funded through PPP, the contingent liabilities may be far higher than stated.

The MTEF which guides the budget, as provided in S.11 (3) of the FRA is to contain a statement describing the nature and fiscal significance of contingent liabilities and quasi-fiscal activities and measures to offset the crystallisation of such liabilities. The budget was almost silent on the nature and fiscal significance of contingent liabilities. It generally offered a definition of the term. It acknowledged that these liabilities could arise where guarantees of debt are made by FGN with regard to contract agreements entered into by MDAs for capital projects. It could also arise through PPP arrangements. Known contingent liabilities in Nigeria include pension arrears and contractor's/procurement debts and guarantees on sub-national borrowing. The provisions of the Pensions Reform Act providing for contributory pensions and the Public Procurement Act have streamlined government's interventions in pensions and public procurement respectively. However, the budget should contain information on the quantum of such contingent liabilities and what measures are to be taken to ensure that they do not crystallize or how to deal with them if they crystallise

Chapter 6

OTHER ISSUES AND CHALLENGES IN FISCAL RESPONSIBILITY

6.1 THE WORK OF THE FISCAL RESPONSIBILITY COMMISSION IN 2010

6.1.1 Staffing of the Commission

The FRC is an independent FGN Commission created by the FRA with the legal obligation to ensure the implementation of the FRA. Although Commissioners have been appointed, they cannot work and achieve the intendments of the Act without full time staff to support their research, sensitization, outreach and enforcement initiatives. The work of the FRC took off on a note of delay in 2008 occasioned by the late constitution of the Commission and its inauguration by then President Umaru Musa Yar'dua in December 2008.

In the year 2010, the Commission having commenced its uphill task with few civil service hands poached from other federal government MDAs carried out its first direct recruitment exercise. This is in line with section 7 (C) of the Act which states that the Commission shall have power to appoint such number of employees as may in the opinion of the Commission be expedient and necessary for the proper and efficient performance of its functions. The recruitment vacancy was widely publicized and examinations conducted for different levels of staff that were employed by the Commission. However, the Commission is yet to fill all its staff requirements.

6.1.2 Budgetary Allocation and Resources for the Commission

The Fiscal Responsibility Commission was allocated the sum of N742 million in 2009 budget which was its inaugural year. However, in the year 2010, its appropriation increased to the sum of to N1.012 billion made up of recurrent expenditure of N654.615 million and capital expenditure of N357.5 million. This increase over the 2009 allocation is a welcome development considering that the Commission needs to be involved in a lot of activities to promote and mainstream fiscal prudence in FGN's public expenditure management.

However, the Commission needs to be proactive by going beyond its budgetary allocation to raise funds from development partners to organize its activities. These resources could be deployed in strategic areas of research, sensitisation and enforcement actions. The development of a medium term strategic plan with inputs from stakeholders will facilitate the raising of funds from bilateral and multilateral sources.

6.1.3 Studies, Research, Sensitisation etc

During the period under review, the Commission undertook inter alia a Five Year Budget Implementation Study and a Study on the Excess Crude Account. It also reviewed the MTEF 2011-13 and the 2011 Appropriation Bill in the light of the FRA.

The FRC has established a website and published copies of the Act. It also embarked on a sensitization session in Kaduna. However, the Commission in 2010 did not achieve the level of corporate presence necessary to mainstream fiscal prudence as a basic necessity for public expenditure management in Nigeria. Some FGN agencies still conduct their affairs as if the rules of fiscal prudence in Act do not exist.

6.1.4 Civil Society and the FRA

The FRA makes provision in section 5 (1) (b) (ii) that: *The commission shall consist of one member each, representing – (ii) civil Society engaged in causes relating to probity, transparency and good governance.*

In 2009, shortly after the constitution of the Commission, the civil society representative at the Commission who was the editor of the Guardian newspapers resigned his appointment. It was expected that in 2010, a new person from the Civil Society sector would have been appointed to fill the vacant position. On the contrary, the seat of the Civil Society representative is still vacant. The inclusion of the Civil Society representative in the Commission was made to engender transparency and whistle – blowing capacity in the system. But the absence of the Commissioner from Civil Society on the Commission while the body operates is contradictory to the essence of the Act. On the other hand, civil society activities in support of the FRA were not robust. Few workshops and inputs into laws and policies were the hallmarks of the year.

6.2 FISCAL ISSUES IN CONSTITUTIONAL AMENDMENTS

The National Assembly amended the 1999 Constitution in the year 2010. The amendments were focused on political and electoral issues ignoring other important issues that required the attention of the legislature. In the fiscal arena, there are a number of pressing issues that have bedeviled the budget and its reporting process. However, key fiscal challenges facing the nation were left out of the amendments. The only fiscal issue touched in the process is that appropriations for the National Assembly and Independent National Electoral Commission are now under Statutory Transfers. And the salaries and allowances of the chairman and members of INEC is now a charge upon the Consolidated Revenue Fund of the Federation. Table 39 below shows the areas in need of amendment, recommendations and justification for the proposed amendments.

Table 39: Fiscal Issues in Constitutional Amendment

Constitutional Provision	Recommendation	Justification
S.81 (1): The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.	The President shall cause to be prepared and laid before each House of the National Assembly before the end of August in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.	There is no time frame in the Constitution for the presentation of the estimates. This has led to late presentation of the estimates by the President to the National Assembly. This also leads to the late passage of budgets by the legislature, poor capital budget implementation and perennial failure of budgets to realize their stated objectives. The legislature needs a minimum of four months to conclude deliberations on the budget
S.121 (1): The Governor shall cause to be prepared and laid before the House of Assembly at any time before the commencement of each financial year estimates of the revenues and expenditure of the State for the next following financial year.	The Governor shall cause to be prepared and laid before the House of Assembly before the end of August of each financial year estimates of the revenues and expenditure of the State for the next following financial year.	There is no time frame in the Constitution for the presentation of the estimates. This has led to late presentation of the estimates by the Governor to the State House of Assembly. This also leads to the late passage of budgets by the legislature, poor capital budget implementation and perennial failure of budgets to realize their stated objectives. The legislature needs a minimum of four months to conclude deliberations on the budget.
S.81 (3): Any amount standing to the credit of the judiciary in the Consolidated Revenue Fund of the Federation shall be paid directly to the National Judicial Council for disbursement to the heads of the courts established for the Federation and the	A new subsection (4) in line with subsection (3) and renumber the other subsections accordingly: (4) Any amount standing to the credit of the Auditor-General of the Federation in the Consolidated Revenue Fund of the Federation shall	By section 85 (6), the Auditor-General in the exercise of his functions shall not be subject to the direction or control of any other authority. This is an affirmation of independence. But there can be no independence without the building blocks of financial

States under section 6 of this Constitution	be paid directly to a fund established by the Auditor General.	autonomy. A situation (as is presently the case) where the Auditor-General goes cap in hand to the executive who he is to audit, for funds cannot be supportive of independent audit work. If financial autonomy is good for the Judiciary, Independent National Electoral Commission and the National Assembly, then, the Auditor-General's office surely needs that autonomy. If Nigeria is serious about combating corruption, the Auditor General's office needs to be strengthened.
S.84 (7): The recurrent expenditure of judicial offices in the Federation (in addition to salaries and allowances of the judicial officers mentioned in subsection (4) of this section) shall be a charge on the Consolidated Revenue Fund of the Federation.	A new subsection (9) partially modeled after subsection (7) and (8) as follows: (9) The recurrent expenditure of the office of the Auditor-General shall be a charge on the Consolidated Revenue Fund	Independence and the enabling environment to discharge the functions of his office as anticipated by the Constitution would be facilitated by the recurrent expenditure being a charge on the Consolidated Revenue Fund of the Federation.
S. 85 (3): Nothing in subsection (2) of this section shall be construed as authorizing the Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by an Act of the National Assembly, but the Auditor-General shall- (a) provide such bodies with- (i) a list of auditors qualified	Delete subsection (3)	The provisions which exclude the Auditor-General from auditing the books of parastatals, commissions and certain agencies is not in tandem with the demands of transparency and accountability. For the management of an agency facing audit to be the ones appointing the auditor essentially weakens the independence and impartiality of the auditor. The danger of collusions and excessive familiarity between the managers and the auditor is ever present in such arrangements.

to be appointed by them as external auditors and from which the bodies shall appoint their external auditors and (ii) guidelines on the level of fees to be paid to external auditors; and (b) comment on their annual accounts and auditor's reports thereon.		
S.85 (5): The Auditor-General shall within ninety days of receipt of Accountant-General's financial statement, submit his reports under this section to each House of the National Assembly and each House shall cause the report to be considered by a committee of the House responsible for public accounts.	Provide a time frame for the Accountant-General to submit the financial statements to the Auditor-General as a new subsection (6) and renumber the remaining subsections accordingly: (6) Within the period of three months after the end of the financial year, the Accountant-General shall sign and present to the Auditor-General a financial statement showing fully the financial position of the Federal Government of Nigeria on the last day of such financial year.	It is imperative to provide a time frame for the Accountant-General to conclude his work since the Auditor-General's work will start only when the Accountant-General submits the financial statements. Otherwise, the current practice of late submission and consideration of audit reports will continue.
S.162 (2): The President, upon the receipt of advice from the Revenue Mobilization Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of population, equality of States, internal revenue	Amend the proviso to read: Provided that the continental shelf of a State shall be deemed to be part of the State and the principle of derivation shall be constantly reflected in any approved formula as being not less than fifty percent of the revenue accruing to the Federation Account directly from any resources.	There is no Nigeria without the component units and the continental shelf belonging to the Nigerian State in international law is situated within a State that is a federating unit in Nigeria. This was the position in the 1960 and 1963 Constitutions. The current 13% derivation is obviously too low and not in tandem with the practice immediately after independence. Derivation

generation, land mass, terrain as well as population density: Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen percent of the revenue accruing to the Federation Account directly from any natural resources.		under S.134 of the 1960 Constitution and reproduced in S.140 of the 1963 Constitution was pegged at 50%. Secondly, restricting derivation only to natural resources is unfair because whether resources are natural or other resources, they are derived from a certain State or location. Therefore, derivation should not be limited to natural resources but to any resources from which there are accruals to the Federation Account.
S.162 (5): The amount standing to the credit of local government councils in the Federation Account shall also be allocated to the States for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly. (6) Each State shall maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the local government councils of the State from the Federation Account and from the Government of the State.	(5): The amount standing to the credit of local government councils in the Federation Account shall be directly allocated to the local government councils on such terms and in such manner as may be prescribed by the National Assembly. Delete subsection (6).	The State Joint Local Government Account offers no visible advantages but only impedes development at the local government level. States have repeatedly mismanaged and stolen local government funds. It has therefore become necessary for direct funding and allocation of local government funds instead of the joint account approach. However, it may be argued that local governments have no business receiving funding from the Federation Account since they are not federating units. It is submitted that once the decision is made for local governments to receive funding from the Federation Account (which is the position of this discourse), then the meddlesomeness of the State is unnecessary.

6.3 FISCAL ISSUES IN ELECTRIC POWER SECTOR REFORMS

6.3.1 Source of Funding Electricity Investments

The Goodluck Jonathan administration has launched a Power Sector Roadmap for the implementation of reforms in the power sector. It is imperative to understand that the road chosen by the Nigerian reform agenda under the Roadmap which seeks to implement the Electric Power Sector Reform Act of 2005 is one where private capital is expected to lead the way in financing new projects in generation and distribution while government concentrates on regulation and policy making. However, government will still own the transmission facilities and let it out for private sector management. The NIPP apparently is a reaction to the crisis situation and does not reflect government's policy position in the long run.

Against the background of the foregoing, the issue of financing the reform comes to the front burner. How can the reforms be financed in such a way that funds are raised at rates that interest payments do not impose unaffordable tariffs before investors can recoup reasonable returns on investment? What is the role of law and policy frameworks for the provision of cheap funds for power sector development? And what type of policies, economic, social and political contexts can support the reform agenda to respond to the needs and demands of all segments of society? Clearly, there is a role for the government and another role for the market through the private sector.

The first point to note is that answers to the above posers should be Nigeria specific and should be arrived at after a through diagnosis of the political economy of the power sector. There are no short cuts and formulas that apply in all situations. Case studies should recognize the difference in levels of development. It has been rightly noted that[86]:

> *Industrialized countries have embarked on the move to competition after developing mature power sectors that have achieved full cost recovery, have well-established subsidies to poor consumers, provide full electricity coverage to the entire population and have met basic environmental objectives. In contrast, developing countries have been led to introduce competitive markets even though their power sectors often have not achieved full cost recovery, have poor subsidy delivery programmes, often do not provide full coverage to all consumers, and fall short of meeting environmental and social objectives.*

Thus, in a country like Nigeria, the challenge of financing should respond to the need for full coverage of the entire population, development of indigenous capacity in the sector,

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[10] Sustainable Power Sector Reform in Emerging Markets-Financial Issues and Options, Joint World Bank/USAID Policy Paper, June 2004.

full cost recovery while subsiding vulnerable groups, and meeting sustainable development concerns. Private sector participation and investments should be recognized not as end in itself but as a means to an end, to achieve economic development and other societal goals. The following important considerations are pertinent as shown in the Box below.

Box 1: Important Financing Considerations

Some important considerations that impact private capital flows into emerging markets power sector are exogenous to the power sector and increase volatility. This observation suggests that power market reform policies need to be more robust and able to sustain power sector development in the face of volatile capital flows and less than stable interest by foreign investors. Focus more attention on enabling self financing and encouraging domestic capital where possible.

Power sector development requires coordinated progress on all four legs of the development process, i.e, political, macroeconomic, sector and financial. The failures in reform and private investment mobilization highlight the fact that electric power, as a social good and key input to economic development, is inextricably tied to larger political, macroeconomic, and financial considerations that need to develop in parallel to enhance the potential for reform.

Power sector reforms will be enhanced through more of a cross sectoral development strategy. Development professionals in the financial, public, social, private, and infrastructure sectors are all active in areas affecting the governance of the power sector. Selective coordinated exchanges across sectors can potentially better leverage development financing to support effective reform not only in power but in other sectors as well.

Source: Sustainable Power Sector Reform in Emerging Markets - Financial Issues and Options; World Bank/USAID Policy Paper, June 2004 authored by Deloitte Tohmatsu .

For financing of power sector reforms to achieve its objectives, the initial strategies for reform have to be the product of wide ranging societal consensus which can then attract the support of government, investors, civil society and communities. Imposed reform options can only succeed by ensuring structural violence on the society and its financing will be vulnerable to a number of social and political risks.

For tariff reforms to work, the cultivation of community support will be necessary; it will also be necessary to link tariff increases to better performance. Expanding electricity access to poor neighbourhoods whether in the urban or rural settings should also attract other financing implications. Income generation and job creating avenues need to be opened up including micro finance options to enable the poor access electricity and be

able to pay the enhanced tariffs. Electrification should come as a component of poverty reduction.

Six years after the enactment of the Electric Power Sector Reform Act, it is imperative to devise a financing mechanism and framework for the funding of the electricity industry. In terms of domestic financing of power sector reforms, the establishment of pension funds which has accumulated over N2 trillion and the revitalization of the insurance industry through increased capital base, consolidation and enhanced corporate governance will lead to effective national mechanism for pooling long term funds that can be channeled to the long term gestation power project. The challenge is on how to steer the management of these resources coupled with financing from appropriation to strategic national goals in the power sector.

The upsurge in capital market activities in 2006 to late 2007 before the crash and the recent enhanced oversubscription and investments in government bonds shows that the government and corporate sector can raise long term funds at single digit rates. The market can be accessed through private placement, public offers, rights issue while the other instruments apart from bonds include ordinary shares, preference shares, debentures and hybrids. With effective regulation for trading equities, debt securities and raising long terms funds, it may be possible to get financing from this window for the power sector.

Foreign private sector investment in the power sector is imperative since the domestic economy cannot provide all the needed finance. But it may not be ideal. While the investor is entitled to 100% capital repatriation from Nigeria, the local investor will likely keep his profits within the Nigerian economy which will further boost economic activities. The need to convert local proceeds into international currencies in a bid to repatriate profits also puts pressure on the naira. This may not be the case if local financing is the source of the investment.

Electricity is not a sector that directly earns foreign exchange although it may do so if Nigeria begins to export power to neighbouring countries under a power pool arrangement. The converse argument is that increased electrification will lead to the flourishing of industries that can engage in the export market and earn foreign exchange for the country. If foreign funding is also accompanied by foreign ownership, the stream of profit outflows will eventually lead to a process referred to as *decapitalisation* since foreign direct investment earns higher rates of return than debts and aid.

The source and terms of funding of electricity projects will eventually reflect as tariffs and user fees to be paid by electricity consumers. Nigeria Electricity Regulatory Commission in collaboration with the Ministry of Finance, Debt Management Office and the Central Bank of Nigeria should establish prudential guidelines for public and private

borrowing in the power sector to avoid financial mismatch between projects and loans. Sectoral funding should come from long term concessional sources, with low interest rates and reasonable long periods of amortization. This should lead to the establishment of a window for long term funding of the electricity industry beyond budgetary appropriations and loans from the banking industry.

Proceeds of privatization in the sector (after settling liabilities) should form the core of this Fund and a certain percentage of the tariffs of distribution companies should also be channeled to this Fund. The experience of the National Housing Fund, Education Trust Fund, National Health Insurance Scheme and Pension Reforms should inform the design of this funding mechanism. The Central Bank of Nigeria's N500 billion intervention fund which will also be available to the electricity industry is a welcome development but it is a one off intervention and too small to be compared to required investment in the sector.

6.3.2 Increase in Tariff

Plans are underway by NERC to increase electricity tariff**.** According to the authorities, there are different schedules of new tariffs for residential, commercial and industrial users. According to the NERC, the Multi Year Tariff Order (MYTO) sanctions this increase. The MYTO has an inbuilt methodology for a cost pass through scheme that ensures that (any) existing subsidies are removed, consumers eventually pay the market price of electricity which will in turn lead to full cost recovery and profits for operators in generation, transmission and distribution, etc. The idea is to remove barriers that impede private sector investment in the power sector and to reflect actual market prices for electricity consumed. The argument is that prices of inputs are increasing, for instance, a new price regime has been approved for gas supplied to power stations. Under the new regime, the price of gas has increased progressively from 20 cents per million British thermal units (mbtu) to $1/mbtu by the end of 2010 and to $2/mbtu by the end of 2013.

However, the proposed increases are in violation of the PHCN Service Charter. Though one of government's obligations in the Service Charter is the approval of an economic tariff structure required for PHCN's sustainability, this is not automatic and is to be done on the fulfillment by PHCN of certain conditions. One of the conditions is PHCN's obligations to its customers. PHCN is to drastically reduce the level of losses (technical and non technical) and raise collection efficiencies to world benchmark levels as a pre-requisite for putting cost effective tariffs for electricity in place. PHCN has not attained the pre-requisites and conditions precedent for such a hike. However, PHCN has legally ceased to exist going by the provisions of the EPSRA 2005.

Government had made available the sum of N177 billion for subsidies under the MYTO to ensure an orderly transition from subsidy to market determined prices of electricity. Out of this provision, a total of N43.9 billion has been released for onward disbursement to beneficiaries. Labour and civil society have come out strongly against this upward review of tariffs arguing that increase in price must be preceded by improvements in service delivery considering that it makes no sense to increase the price of a service that is not available.

Beyond the disputations, in accordance with the established tradition in the pricing of hitherto government provided services, electricity tariffs will eventually go up. What is required is the establishment of a lifeline tariff, a subsidised tariff for the poor, through a threshold agreed to by stakeholders where the first 1-100 kilowatts of electricity (or any agreed threshold) consumed on a monthly basis by persons earning below a fixed sum (N000 per annum) will attract lower tariffs and after this threshold, the normal commercial rate applies. The subsidy will come from a fund appropriated by the legislature or raised through NERC/Government regulations. Essentially in accordance with General Comment No.4 of the United Nations Committee on Economic, Social and Cultural Rights:

> *Personal and household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.*

The tariff structure should reflect this admonition.

6.3.3 Indebtedness of Customers to PHCN

Recent reports indicate that the Power Holding Company of Nigeria is owed over N70 billion by consumers. This debt profile of customers has been hampering the operations of the unbundled companies considering that no service provider would offer his services to consumers that are unwilling to pay for the services. However, PHCN has no plans and ideas on how to recover this debt. Since the successor companies of PHCN are being privatized, the privatization exercise should have arrangements to recover these outstanding debts. An action plan for the recovery of debts owed by consumers should be drawn up.

6.3.4 Pre-Paid Metres

Unnecessary indebtedness to PHCN brings to the fore the issue of pre-paid metres which should have facilitated the collection of tariffs before customers enjoy the service. From the reform agenda rolled out under the National Economic Empowerment and Development Strategy (NEEDS), prepaid metres should have been available everywhere PHCN renders its services. The pre-paid metre option comes with many

advantages over the post paid metre. It enables the consumer to pay as he consumes; does not create room for estimated and crazy bills; takes away the need for disconnection of supply and the payment of reconnection fees; reduces and will eventually eliminate consumer indebtedness to PHCN and above all ensures transparency in electricity consumption and management.

However, PHCN and its unbundled companies have treated the issue of providing these metres with levity and there are instances where customers are ready to pay for the metres but they are not available. Even in some areas, PHCN is yet to make available the old metres and customers are made to pay estimates of what PHCN officials consider to be their bill. Licensing and establishment of companies interested in producing pre-paid metres in Nigeria is an option worth exploring. As at 2004, the then NEPA had given an indication that local production of these metres was in the offing. It was announced that government had signed an agreement with a Chinese firm for the local manufacture of pre-paid metres. An agreement for three million pre-paid metres was said to have been signed. This was expected to be enough for 60% of the requirements given the then number of NEPA's registered customers which stood at 5 million. 6 years down the line, the story has changed and is still evolving!

It is recommended that PHCN and its unbundled entities implement full installation of pre-paid metres in all existing and new connections and this could be achieved by collaboration and arrangements with the producers of the metres, financial institutions, consumers or funding through budgetary appropriation. The cost of these metres could be gradually deducted over a reasonable period of time from customers in rural areas and poor households who may not be able to immediately afford the cost of the metres.

6.3.5 Establishment of the Power Consumer Assistance Fund

The Electric Power Sector Reform Act 2007 envisages in section 83, the establishment of the Power Consumer Assistance Fund with the objective of subsidising underprivileged power consumers to be specified by the Minister of Power and Steel. Five years after the Act, there has been no attempt at establishing the Fund. This is a Fund that deserves the urgent attention of the government and NERC which is the regulatory agency.

6.4 STATE LEVEL FISCAL RESPONSIBILITY LEGISLATION AND PRACTICES

Since 2007, a good number of states are apparently foot-dragging in adopting Fiscal Responsibility legislation and policies. The Table below shows the position of states in respect of the passage of the Law.

Table 39: Sub-national Fiscal Responsibility Laws[87]

1	Abia State	Yes
2	Adamawa	No
3	Akwa Ibom	No
4	Anambra	Yes
5	Bayelsa	Yes
6	Bauchi	Yes
7	Benue	No
8	Borno	No
9	Cross River	Yes
10	Delta	Yes
11	Ebonyi	Yes
12	Edo	No
13	Ekiti	Yes
14	Enugu	No
15	Gombe	No
16	Imo	Yes
17	Jigawa	Yes
18	Kaduna	No
19	Kano	No
20	Katsina	No
21	Kebbi	Yes
22	Kogi	No
23	Kwara	Yes
24	Lagos	No
25	Nasarawa	No
26	Niger	Yes
27	Ogun	Yes
28	Ondo	Yes
29	Osun	Yes
30	Oyo	Yes
31	Plateau	No
32	Rivers	Yes
33	Sokoto	Yes
34	Taraba	No
35	Yobe	Yes
36	Zamfara	No

[87] *Implementing the Fiscal Responsibility Act at the State level in Nigeria*, CSEA Working Paper WPS/10/002, of October 2010.

With the exception of Akwa Ibom State, all the “no” indicate that a Fiscal Responsibility Bill is being discussed by the State House of Assembly.

During the reporting period, the Governor of Abia State, Theodore Orji, appointed 457 Special Advisers, Senior Special Assistants and Personal Assistants. Eight of the 457 appointees are Special Advisers, 397 Senior Special Assistants and 52 Personal Assistants. This came against the background of complaints by states including Abia of paucity of funds to finance development projects that will positively impact on the living conditions of majority of the populace.

The first issue arising from these appointments is that the action of the Governor is illegal as it contravenes section 196 of the Constitution of the Federal Republic of Nigeria 1999. The said section states:

> *(1) The Governor of a State may appoint any person as a Special Adviser to assist him in the performance of his functions.*
>
> *(2) The number of such Advisers and their remuneration and allowances shall be prescribed by law or a resolution of the House of Assembly of the State.*

Pray, did the Abia State House of Assembly approve of the appointment of 457 new Special Advisers, Senior Special Assistants and Special Assistants? The answer is in the negative and there is no appropriation or financial provision in the 2010 Abia State Budget for these 457 Advisers and Assistants. The true intention of the Governor was revealed by the Chief Press Secretary to the Governor who stated that some of the appointees were brought on board to compensate them for their loyalty and steadfastness. These appointments are unreasonable and clearly an abuse of office by the Governor.

The second issue is that these appointments amount to fiscal rascality as the Governor is under constitutional (section 14 (2) (a) of the Constitution) obligation to invest the resources of the State towards the primary duty of government, which is the security and welfare of Abia people. These appointments did not contribute to the improvement of the security and welfare of the State and this shows that the Governor places his personal interest over and above the welfare of the people. The resources required to pay these Advisers would be better deployed to rehabilitate the infrastructure of a major commercial city like Aba. A government that imbibes the spirit of fiscal responsibility will not dedicate State resources to illegal and unproductive ends.

The third is that the Governor attempted to be clever by half by trying to use State resources to pay his campaign managers and coordinators who will work for his re-

election. This is against the letters and spirit of the Electoral Act 2010 which in section 100 states that State apparatus and resources shall not be deployed to the advantage or disadvantage of any political party or candidate at any election. By appointing campaign coordinators and officers under the guise of Special Advisers and Assistants and paying them with state financial resources, the Governor, contrary to law, is enjoyed undue advantage over other candidates contesting for the Governorship seat in the State.

Chapter Seven

CONCLUSIONS AND RECOMMENDATIONS

7.2 CONCLUSIONS

The 2010 Appropriation Bill was presented late to the NASS on November 23 2009 and became law in April 2010. The 2011 Appropriation Bill was also presented late on December 15 2010 to NASS and has not become law by the end of the first quarter of 2011. 2010 recorded a budget, an amended budget and two supplementary budgets thereby creating confusing signals in fiscal governance. The Accountant-General of the Federation failed to prepare the Annual Cash Plan while the Minister did not prepare the Budget Disbursement Schedule. Budgetary reports were late in coming and are still outstanding while the ECA was depleted in utter contempt of the FRA. The 2010 budget recorded appropriations for an agency unknown to the law (Maritime Security Agency) as at the time of appropriation. The perennial malady of poor capital budget implementation continued to haunt the budget. MDAs displayed low absorptive capacity and the political will to push fiscal reforms was lacking. Further, while the budget 2010 provided for millions of barrels to be produced per day, the BOF refused to report on the production per day, but rather reported on millions of barrels lifted per day.

The DSA 2010 affirmed that Nigeria's debts are sustainable under the Baseline and Alternative or Optimistic Scenarios. However, the addition of almost $10 billion indebtedness in one year is a cause for concern, particularly the ballooning domestic debts which is crowding out the private sector from accessing credit. Banks and other financial institutions have become risk averse and have perverse incentives to stop playing their financial intermediation role to the private sector. The President is yet to set the limits of consolidated debts of the Federal, State and Local Governments. The lack of inter agency collaboration and poor inter-governmental fiscal relations has led to the failure of FRA and DMO to monitor and report on the debts of sub-national governments. The 2010 External Borrowing Plan did not come with cost benefit analysis for the projects that are the subject of borrowing. Indeed, some of the borrowing request are apparently unreasonable and frivolous.

The 2011-2013 MTEF was prepared late by the Minister, considered and endorsed late by EXCOF and sent to NASS for approval on November 1 2010. The MTEF was not comprehensive as the undergirding MTSS did not cover all MDAs. It did not articulate its consultation and input making process. Under the macroeconomic framework, the medium term projections for growth (7% in 2011 and 7.5% in 2012 and 20103) fell short of the provisions of Vision 20:2020. The analysis of interest rate and lending to the

economy produced no recommendations on the way forward. Inflation is projected at single digit throughout the medium term despite the expansionary nature of fiscal policy. The exchange rate is to stabilize at N150 to 1USD over the medium term.

Under the Fiscal Strategy Paper, assumptions for oil production and the market price of oil are realistic. The calculation of the Reference Commodity price based on a ten year moving average is also realistic. But the additions to this moving average that takes the RCP to $65 is not founded on empirical evidence. There were no projections for accruals to the ECA. The projections for non-oil revenue from VAT and CIT are credible. However, the projection for Customs and Excise revenue appears overstated.

The expenditure side shows that government will commit more resources to recurrent expenditure over the medium term. The percentage of the budget dedicated to capital expenditure will not allow the country to meet the accelerated infrastructure upgrade expected in Vision: 20:2020. With an investment of a paltry 23% of the budget over the medium term, poverty will deepen and this will result in economic stagnation. A country that seeks double digit growth rate must channel more resources to capital investment. Essentially, the implication of the foregoing is that improvements in infrastructure promised under the 7-Point Agenda, Vision 20: 2020 and the Millennium Development Goals ("MDGs") may not materialize. The National Economic Empowerment and Development Strategy ("NEEDS") reforms had articulated the ratio of recurrent to capital spending to be 60%-40% from the year 2007 and onwards.

Debt service as a percentage of capital expenditure and debt service as a percentage of retained revenue is on the high side. Debt service is higher than the indicative capital envelope of key MDAs which should drive human development and infrastructure upgrades for the growth of the economy. The deficit projected over the medium term is in excess of the 3% of GDP rule. There is little or no information on contingent liabilities and quasi fiscal activities of government.

The 2011 Appropriation Bill was presented late to the legislature, specifically on December 15 2010. The Bill was not accompanied by evaluation of results of programmes financed with budgetary resources or developmental targets. The Appropriation Bill is based on the following macroeconomic assumptions: oil production of 2.3mbpd and benchmark oil price of $65pb; a real GDP growth rate of 7%; target inflation rate of 10% and exchange rate of N150 to 1$USD; a fiscal deficit of N1,389.76 billion amounting to a deficit of -3.62% of the GDP resulting from a projected expenditure of N4,226.19 billion and a retained revenue of N2,836.43 billion. The projected expenditure comprises of N196.12 billion for Statutory Transfers, N542.38 billion for Debt Service, N2,481.71 billion for Recurrent (Non-Debt) Expenditure and N1,005.99 billion for Capital Expenditure. This represents an 18.1% contraction from the N5,159.66 billion budgeted in the 2010 Amended and Supplementary Budgets.

The deviations between the contents of the MTEF 2011-2013 and the presentations in the Bill are as follows: FGN revenue, statutory transfers and debt service projections in the Bill exceeded the MTEF projections by 17.93%, 9.09% and 4.9% respectively. Recurrent non debt expenditure, capital spending and aggregate expenditure projections in the MTEF recorded shortfalls of 12.91%, 7.14% and 8.73% respectively in the Bill.

The 201 budget bill recorded the dominance of recurrent (non-debt) expenditure which accounts for 58.72% of the votes while the capital estimates is 23.80% of the budget. Apparently, key growth and human development drivers did not get the required prioritization. Allocations to education and health fell below national and international standards. Education got 11.56% of the allocation which is less than half of the 26% demanded by international standards while health got only 8.03% against the demand of 15% of the allocation. Despite the huge contribution of agriculture to GDP, it got an allocation of 3.30% of the budget. Allocations to the Presidency, SGF, NASS, Defence, Police Formations and Command and National Security Adviser are higher than what is needed to run the offices. The projected deficit is 3.62% of the GDP and borrowing is to exceed the projections of the DSA.

The FRC recruited staff within the year and had an increased budgetary allocation compared to its inaugural allocation. It has commenced studies, research and sensitization. The position of the representative of civil society remained vacant on the Commission. Constitutional amendments failed to address the yawning gaps in fiscal constitutionalism. Electric power sector reforms brings a lot of fiscal issues to the fore including sources of funding electricity investments, increase in tariff, indebtedness of customers to PHCN, availability of pre-paid metres and the establishment of the Power Consumer Assistance Fund. It was reported that many states were still dragging their feet on the enactment of fiscal responsibility legislation.

7.2 RECOMMENDATIONS

The report makes the following recommendations

7.2.1 Preparation of MTEF and Budget

- ❖ The Minister and the BOF should start the process for the preparation of the MTEF by February of every year. This will allow adequate time for the MTSS sessions, consultations with states, legislature, relevant stakeholders and the listed federal agencies.

- ❖ The consultation and engagement of the legislature should be deep enough that the legislature will be co-owners of the drat MTEF. This is to reduce legislative

executive frictions in the budgeting process and ensure quick passage of the MTEF and the budget to be derived from it.

- The undergirding MTSS sessions should involve all MDAS to ensure comprehensiveness of the process. All anticipated revenue and expenditure of government should be captured in the MTEF.

- The macroeconomic framework of the MTEF should not just contain projections for the medium term but an evaluation and analysis of the macroeconomic projections for the three preceding financial years.

- Future real GDP growth rates should be aligned with the projections in Vision 20:2020 or in the alternative there should be explanations and reasons that make the Visions growth projections unattainable.

- The relationships between key growth drivers, human development indicators and investment decisions in the MTEF should be clearly articulated.

- Fiscal policy should be harmonized with monetary, trade and other policies to ensure consistency and delivery of national goals.

- The MTEF should be forwarded to the EXCOF for endorsement before June every year.

- The MTEF as endorsed by EXCOF should be forwarded to NASS in July or as soon as it is endorsed by EXCOF, whichever is earlier.

- NASS should hold public hearings and allow popular inputs into the MTEF before its approval in accordance with section 48 (2) of the Act to ensure transparency during the preparation of the MTEF. NASS should consider all provisions of the MTEF and not merely limiting itself to the benchmark price and quantum of oil production, etc.

- Budget preparation should commence as soon as the MTEF is approved by NASS and the Appropriation Bill should be presented by the President to NASS not later than the last week of August every year.

7.2.2 The Budget Year and the Capital Budget

- The Legislature should endeavour to pass the budget by December of the preceding year and before proceeding on their Christmas and New Year

vacation. The commencement of budget implementation early in the year will lead to increased capital budget implementation.

- NASS should stop acceding to executive requests to extend the budget year for capital budget implementation to March of the following year.

7.2.3 Contents of the Appropriation Bill and Accompanying Documents

- In accordance with section 19 (d) of the FRA, the Minister should submit with the budget or NASS should insist on documentation evaluating the results of programmes financed with budgetary resources.

- NASS should also insist that the Minister submits other developmental targets as required in the Fiscal Target Appendix. This should include targets on the right to an adequate standard of living including targets on the attainment of the MDGs, job creation, targets for the rights to adequate housing, health, education, access to water, etc.

7.2.4 Revenue Framework of MTEFs and Appropriation Bills

- Forecasts for oil production should be based on realistic empirical evidence.

- The RCP of oil should be determined on empirical evidence - the ten year moving average and not on the whims of either the BOF, the Minister or the legislature. The framework should clearly articulate the empirical method(s) used in arriving at the benchmark.

- Amendments to the RCP mid year after the commencement of budget implementation should be stopped because of its distortion of the accounts and calculation of income and expenditure.

- Future Bills and the MTEF should clearly articulate the expected inflows into the ECA.

- The proposed hedging mechanism should not be used because premiums will be paid which is extra expenditure on the public purse. Rather, FGN and other tiers of government should properly manage the proceeds of ECA in accordance with the FRA.

- Forecasts for non oil revenue should be based on empirical evidence.

7.2.5 Expenditure Framework

- The Minister and NASS should endevaour to re-order the expenditure pattern to ensure that at least 40% of the budget is voted for capital expenditure every year.

- NASS and the Presidency should lead the way in reducing their recurrent expenditure particularly the bloated overheads. NASS and the Presidency can run efficiently with 50% of their current proposals.

- The full implementation of the Monetisation Programme would facilitate the reduction of the bloated recurrent expenditure of FGN.

- Education and Health sectors should get at least 26% and 15% of the overall budget allocations.

- Allocations to agriculture and water resources should also be enhanced to guarantee its contribution to GDP and employment generation.

7.2.6 Capital Budget Implementation

- The idea of engaging global project management firms should be discarded as they can only lengthen the bureaucracy as conduit pipes of corruption. Rather, FGN should develop the political will and empower the civil service for enhanced capital budget implementation.

- NASS should use its oversight activities to strengthen capital budget implementation.

- Civil society including traditional NGOs, the media, professional associations and the academia should become more interested in capital budget monitoring and reporting, to expose corruption and inertia in government.

- Strong collaboration is recommended between MOF, BOF and the Bureau of Public Procurement if the capital budget is to record appreciable implementation beyond the perennial 50% recorded by the end of every year. And the BPP is called upon to intensify capacity building and opening up the process to more stakeholders who can hold public officers to account.

7.2.7 Job Creation

- The National Job Creation Scheme should be structured and benchmarked in a way that will show its achievements in the number of new jobs created, their sustainability and what they add to wealth creation and national productivity.

- FGN should consider the option of reducing CIT as a means of generating new jobs and benchmark eligibility to benefit from the reduced CIT to new hiring and job opportunities created by companies. A 33.33% reduction is recommended.

- To create new jobs, fiscal, monetary, trade, industrial, etc policies need to be harmonized for the achievement of the job creation goal.

7.2.8 Debts, Deficits and Contingent Liabilities

- FGN should reorder its expenditure to ensure that the proceeds of borrowing are channeled towards capital expenditure and human development. Borrowing for recurrent expenditure is outlawed by the FRA.

- Borrowing should not exceed the recommendations of the DSA and there should be a harmonization between the assumptions used in preparing the MTEF and the DSA.

- NASS should ensure that the sources of deficit financing are realizable before approving the Appropriation Bill.

- NASS should insist on the presentation of a well articulated cost benefit analysis before giving approval to any executive request for borrowing.

- The President and NASS should initiate steps towards the approval of the Consolidated Debt Limit for Federal, State and Local Governments in accordance with section 42 of the FRA.

- FGN should ensure the proper documentation and recording of its contingent liabilities. The available information in the 2011 Bill seems underestimated in view of recent PPP arrangements and documentation from the Infrastructure Concession Regulatory Commission.

- Inter agency collaboration between the CBN, SEC, DMO, OAGF and FRC will facilitate the determination of the level of indebtedness of sub-national governments.

7.2.9 Budget Reporting

- ❖ BOF should ensure timely and regular reporting on the implementation of the annual budget. It should also ensure proper dissemination of reports.

- ❖ Reports on oil production should report on quantity of oil produced per day as well as the quantity of oil lifted per day.

- ❖ Preparation and publication of the Annual Cash Plan and the Budget Disbursement Schedule should be done by the Accountant-General of the Federation and the Minister of Finance.

7.2.10 Others

- ❖ The new NASS should endeavour to amend the sections of the Constitution that retard fiscal responsibility as detailed in Chapter Six of this Report.
- ❖ States should endeavour to enact fiscal responsibility legislation and the FRC should provide technical guidance to states in this direction.
- ❖ FRC should be more proactive, conduct more studies and engage in nation-wide sensitization and actively engage civil society.
- ❖ The President should appoint the civil society representative to the FRC.

- ❖ Privatisation and investment decisions in the reformation of the power sector should take account of the challenges of affordability, building local capacity and universal access to electric energy.