International Journal of Engineering Science Invention
ISSN (Online): 2319 – 6734, ISSN (Print): 2319 – 6726
www.ijesi.org Volume 2 Issue 2 ǁ February. 2013 ǁ PP.09-14

Debt Management and Economic Recovery In Nigeria

G.O. DEMAKI[(FCIS)]

Department of Business Administration Delta State University Abraka

ABSTRACT: *Debt management through the Asset Management Corporation of Nigeria (AMCON) that will help to stimulate economic recovery by stabilizing the crisis in the Nigerian financial system and boosting liquidity of troubled banks and related institutions through buying their non-performing loans (NPLs), helping in the capitalization of the CBN intervened banks and increase access restructuring/refinancing opportunities to borrowers are highlighted. Aggregation theory is the theoretical framework of this paper. Debt management mechanisms including AMCON's functions, objectives, powers and debt recovery procedures together with anecdotal studies and recommendations for enduring debt management and recovery are disclosed.*

I. INTRODUCTION

Nigeria was not an exception to the global financial crises between August and November 2008 which started with the sub-prime mortgage disaster in the United States (US) that was induced by the collaterised debts obligation and corporate governance failure. The effect of the crisis was amplified in Nigeria by the collapse of oil and equity prices from a peak of $147/barrel to $35/barrel, sharp depreciation of the naira from N118/$ to N150/$1, collapse of the stock market by 70% together with the weakness or failure of corporate governance (Benson, 2011).

The defining moment was 2009 when the Central Bank of Nigeria (CBN) declared eight banks illiquid and undercapitalized, namely; Afribank (Nig) Plc (now Mainstreet Bank Ltd) Fin Bank Plc, Intercontinental Bank Plc, Oceanic Bank Intercontinental Bank Plc, Spring Bank Plc (now Enterprise Bank Ltd), Union Bank Plc, Wema Bank Plc and Bank PHB Plc (now KeyStone Bank Ltd) that had an aggregated toxic assets in excess of ₦2 trillion. According to Stockwatch (2010), the economy could have lost N4.481 billion had the above banks been allowed to go under. Failure to resolve the banking crisis will lead to loss of value to shareholders, job losses, negative credit risk rating, destruction of confidence in the stock market, lack of confidence by foreign creditors and investors.

Shareholder funds of the affected banks were eroded which called for a drastic debt management action like the establishment of the Asset Management Corporation of Nigeria (AMCON) in 2010 to avoid the total destruction of the entire banking and financing sector.

Conceptual Issues and Theoretical Framework

Proceeding further will require the definition of "forbearance", "Eligible Bank Assets" "Debt Management", "AMCON", "Corporate governance", "Economic Recovery" together with the disclosure of the theoretical framework on which this paper is rooted.

Forbearance means the postponement of loan payments granted by a lender or creditor, for a temporary period of time. This is done to give the borrower time to make up for overdue payments.

Eligible Bank Assets; It is a bank asset that is in a designated eligible class of bank asset which is secured by collateral and which has entered the balance sheet of an eligible financial institution at least 30 days before the 14th day of August 2009 shall be an eligible bank asset for the purpose of the Act establishing AMCON.

Debt Management? It is a unique strategy developed to help debtors manage their debts.

AMCON? Is Asset Management Corporation of Nigeria, which came into existence by a bill passed by the National Assembly and signed into law by the President on 19th July, 2010. The main objective are to stabilize the country's financial sector and stimulate national economic recovery. The Corporation (AMCON) is expected to buy over non-performing loans (NPLs) of banks at discount and then restructure and reschedule these loans over a long period of time.

Economic Recovery? Benson (2011) disclosed that the 2005 banking consolidation as an instrument of economic recovery which reduces the 89 banks in Nigeria to 25 with a minimum capital requirement of N25 billion together with aggressive targets to deliver returns on larger funding base resulted in positive recovery indices in Nigeria as set out below.

- Higher flow of capital
- Nigeria stock exchange increases by 31% between 2005 and 2008.
- Increased exposure to oil and gas and real estate industry supported by rising oil prices and real estate valuation.

Corporate Governance? Ekpenobi (2007) described it as a framework within which the shareholders, board of directors, management staff and other stakeholders address their responsibilities.

Lemo (2010) stated further that corporate governance is a body of rules for the management and supervision of companies by board of directors to protect financial stakes of stakeholders far removed from management of the firm.

Mensah (2003) recognizes corporate governance provide the discipline that hold the excess of controlling managers in check and efficient pricing punishes companies with poor governance with low prices. In addition, proxy contest, take over and buy out provides an environment in which the control of companies can be bought and sold allowing non-performing managers to be replaced.

II. THEORETICAL FRAMEWORK – THE AGGREGATION THEORY

According to Joo (2010), when American states in the Jacksonian era began granting special incorporation to business like the Asset Management Corporation Bill by the National Assembly that was signed into law by President Goodluck Jonathan, some criticized such incorporation as example of favouritism. Many Nigerian scholars had insisted that there are available options to deal with the distressed bank. For example, they could have been liquidated by the National Deposit Insurance Corporation of Nigeria (NDIC). Special incorporation was therefore eventually replaced by general incorporation, the role of the state in any given incorporation became less apparent than the role of entrepreneurs and investors in the formation of enterprises. The aggregation theory now involves the notion of a corporation as the natural outcome of private interaction.

Garner (2004) further described “Aggregation” as a concept like a football team below.

I think of aggregation as a football team as a combination, one passes, one receives, another runs and still others hold the line. Eleven men are doing different things each in his own way and not always simultaneously; yet they are working to a common end, to advance the ball and they coact as a unit.

However, the objectives of AMCON, like the Aggregation theory, exemplified as a football team coacting with other regulatory bodies like the Central Bank of Nigeria (CBN), the National Deposit Insurance Corporation (NDIC) and the Security and Exchange Commission (SEC) to advance the ball (economic recovery) is to stabilize Nigeria’s financial sector and to stimulate national economic recovery collectively.

III. BANKS CORPORATE GOVERNANCE WEAKNESSES AND FINANCIAL CRISIS IN NIGERIA

Lemo (2010) attempted to provide a link between poor corporate governance practices and the debt burden of distressed banks in Nigeria. Poor corporate governance was identified as one of the primary causes of all known incidence of distress in the Nigerian banking industry and that was why the Central Bank of Nigeria issued the code of corporate governance for banks in Nigeria in 2006 to check corporate governance abuses and professional misconduct by the board and management staff of deposit money banks (DMBs). In practice, the principles of sound corporate governance ensures: the ability of the board to set clear lines of responsibility and accountability, a focused board of director with strong and effective oversight function possessing a high degree of courage and management team and an acceptable institutional mechanisms for managing inevitable disagreements between the board, management and staff.

Benson (2011) further adumbrated instances of corporate governance breakdown resulting in illiquidity in some of the banks to include: ill-equipped board/executive management, overbearing influence and unfettered decision making by the Chief Executive Officer (CEO), lack of independence of the board of directors, weak ethical standards of the board, fraudulent use of special purpose vehicle (SPVC), two or more family members on the same board, lack of transparency, due process and disclosure requirements.

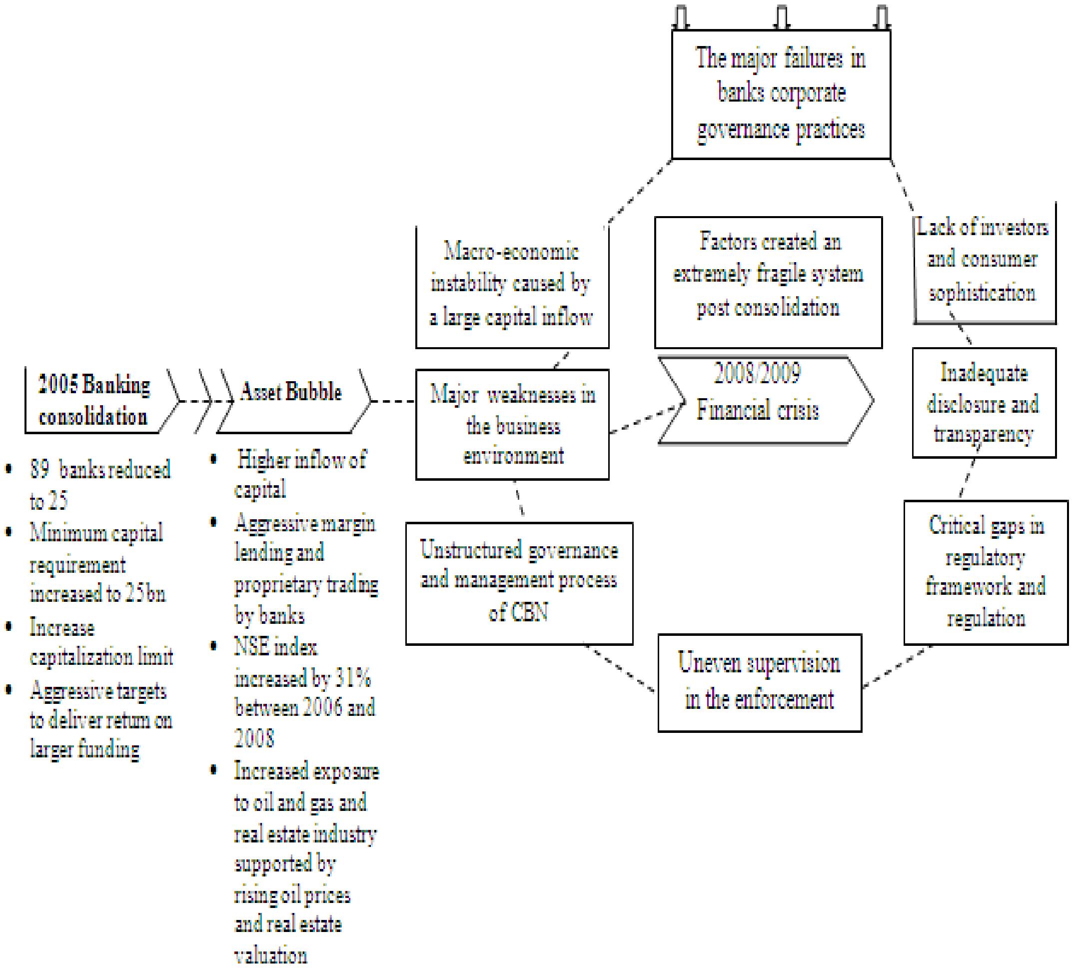
Other major factors in the business environment, as illustrated in the diagram below, which created an extremely fragile financial system post consolidation as manifested in the 2008/2009 financial crisis included: macroeconomic instability caused by a large capital inflow, weaknesses in the business environment, unstructured governance and management process of the Central Bank of Nigeria (CBN) and uneven supervision in the enforcement, enduring critical gaps in regulatory framework and regulation, inadequate disclosure and transparency together with lack of investors and consumer sophistication.

The Financial Crisis

The effect of the crisis was amplified by

- Collapse of oil and equity prices from a peak of $147/barrel to $35/barrel when banks were heavily exposed.
- Sharp depreciation of the naira from N118/$ to N150/$.
- Stock market collapse by 70%
- Weakness in corporate governance.

IV. GLOBAL FINANCIAL CRISIS



Source: Benson, H. (2011). AMCON & Debt Management in Nigeria: Issues & Challenges. A paper presented at the 35th Conference of the Institute of Chartered Secretaries and Administrators of Nigeria. (ICSAN). Ikeja: Sheraton Hotels and Towers. October 26th and 27th.

V. DEBT MANAGEMENT MECHANISMS

According to Benson (2011), debt management mechanism include, namely; nationalization, merger and acquisition, establishment of asset management company (AMCON) and winding up. Others, as disclosed by Stockwatch (2010) include the AMCON special debt recovery procedures.

- **Merger and Acquisition**

One of the banking resolution option for debts by the CBN was through Merger and Acquisition process that involves merging troubled financial institutions with sound ones. More often than not, this involves coercion from the regulator to induce the sound one to merge with the troubled institution. It may end up in bigger or less stable institutions that will require further assistance. The acquisition of Oceanic Bank International Plc by Ecobank Nig Plc is an example of this mechanism.

- **Winding Up**

This involves the liquidation of the troubled financial institutions by the regulator. This is the least preferred alternative as it incurs significant cost on the economy.

- **Asset Management Corporation (AMCON)**

AMCON is another debt management mechanism as a resolution trust vehicle to improve the liquidity of the banks through non-performing loans (NPLs) purchase and the injection of capital to adequate level, where necessary. This approach has been used by many Asian countries during the 1997/98 Asian financial crisis, Sweden in 1972, USA in 1932 and the Savings and Loans Crisis of the 1980's and 1990's respectively.

AMCON Functions, Objectives, Powers and Debt Recovery Procedures

The main function of AMCON is to act as a resolution of vehicle for purchasing NPLs from deposit money banks through freeing up their balance sheet of NPLs and providing liquidity for them to create new risk asset. The main objective is strategically to make banks recover to lend to real economy by acquisition, management and recapitalization of the banks. The objective of the acquisition is to reduce the level of NPLs on the books of eligible financial institutions and offer listed and tradable bonds for the NPLs. It perform loans without resolution to get loans for reperforming and sell acquired assets (NPLs, Equity and Real Estate). Its recapitalization objective is to assist in the recapitalization of the banks that have been intervened and inject equity into the banks (Benson 2011).

According to Stockwatch (2010), AMCON have power to act as or appoint a receiver for a debtor company whose asset have been charged, mortgaged or pledged as security for an eligible bank asset acquired by the corporation. A receiver under the AMCON Act shall have power – to realize the asset of the debtor company; to enforce the individual liability of the shareholders and directors of the debtor company; to manage the affairs of the debtor company, where the corporation has reasonable cause to believe that a debtor or debtor company is the bonafide owner of any movable or immovable property, it may with the assistance of the law enforcement agencies, take custody of such property. Furthermore, AMCON, discharges Debt Recovery Obligation through the Chief Judge of the Federal High Court who may designate any judge of the Federal High Court to hear matter of the recovery of debt owed to an eligible financial institutions and other matters arising from the provision of the AMCON Act to the exclusion of any other matter for such period as may be determined by the Chief Judge. Offences and penalties include any person who makes false claim in any material respect in relation to any movable or immovable property used as collateral for any loan with a view to defeating the realization of the debt, commits an offence and is liable to conviction to a fine not less than five million naira or imprisonment for a term not less than three years or to both such fine and imprisonment. The conviction of anybody, corporate for any of the above offences shall be a ground or winding up the affairs of the body corporate.

Benefits of AMCON

The banking sector contributes over 60% to the total market capitalization in Nigeria and with AMCON taking over the toxic assets in troubled banks, the valuation of those troubled banks will improve, lead to less provisions, resulting in strong earnings. Strong earnings reflects in the banks valuation, strong valuation attracts investment in bank's shares which drives share prices.

It is envisaged that it will give forbearance on capital market loan thereby facilitating a rebound of the capital market and capitalize more foreign interest in local market.

VI. ANECDOTAL STUDIES OF DEBT MANAGEMENT AND ECONOMIC RECOVERY

Benson (2011) in his report outlined the AMCON milestone in debt management and economic recovery in Nigeria and highlighted progress and delivering on agreed timelines as stated below:

- 31st December, 2010 – the 1st tranche and settlement of NPLs acquisition of 21 banks, the issued zero coupon of N886 billion (yield 10.125%), bond guaranteed by First Bank of Nigeria (CBN)
- 6th April 2011 – 2nd tranche for cash and price discovery, 3rd tranche purchases NPLs from 22 banks issued zero coupon bond of N377 billion (Yield 11.8%).
- 6th August, 2011 – Acquired 3 Bridgebank (Mainstreet, Keystone and Enterprise) from NDIC, issued zero coupon bonds of N679 billion (Yield 190.52) to capitalize bridge banks.
- 13th October 2011 – injected N1.36 trillion to recapitalize 5 banks.

However, anecdotal studies reveals that there have been setback to the anticipated progress and delivering on timeliness outlined above.

Oloja (2012) contended that too many cooks spoils the broth. The authorized capital of AMCON of N250,000,000,000 which is subscribed by the Central Bank of Nigeria (CBN) and the Federal Ministry of Finance incorporated in the proportion of 90% and 10% respectively is a major challenge to debt management and economic recovery in Nigeria.

He disclosed that although some of the debtors have started paying back their outstanding debt including the payment of N140,999,620, 395.80 owed to AMCON Central Bank of Nigeria (CBN), still directed bank from granting further loans to the remaining 113 companies and their directors/shareholders who are in default of the payment of outstanding debts and consequently found them not to be credit worthy. Banks that flouts the guidelines would be severely penalized by the CBN. The CBN directive is to strengthen the financial stability and instill discipline in the banking sector as it also orders banks not to grant credit facilities to organizations and their owners because of their reluctance to pay back their loans despite the purchase of the debts at agreed price by AMCON. The restrictions apply to individuals, organsiations, companies, principal shareholders and directors of firms where the outstanding value of loans purchased by AMCON amounted to N5 billion or above as at the date of purchase without regard to the actual amount paid by AMCON.

He further stated that there would have been no need for AMCON if the affected banks or some of their officers were not guilty of underhand dealings in which due process was compromised in violation of the required financial diligence. Before giving loans, the banks are required to know the applicant, their businesses and financial capacity. The unpaid loan were as a result of the violation of proper banking procedure for which the CBN should hold bank officials liable.

Shodipo (2010) however, disagreed with the restrictive recovery measures of the CBN on banks in Nigeria. He insist that the impact of financial disintermediation on the economy arising from such stringent CBN actions on debt management include: inability of banks to finance letter of credit, negative foreign investors outlook on Nigeria, higher assessment of risk for Nigerian Securities, stagnation of economic growth and business activities, increased political tension and crime rate, inability to attract foreign capital for local projects, increased unemployment, social unrest, armed robbery and kidnapping, capital flight and decline in foreign direct capital inflows.

Olaja (2012) argues that the N22.6 billion stockbrokers bailout, by the Federal Government of Nigeria (FGN) through the Ministry of Finance incorporated, for the debt owed commercial banks by 84 stockbrokers and bought out by AMCON was a wrongheaded initiative enabling damaged firms to be recycled than allowing their exit through market forces. It violates the centralized control of bad debts by AMCON for which it was established. It is not in the place of public treasury to underwrite vested commercial interest at the expense and neglect of Nigerians. The consideration in exchange of this N22.6 billion gift of public money to the 84 stockbrokers that are bank loan defaulters are grossly insufficient.

Such consideration include inadequate actions of stockbrokers being barred from AMCON mandate for not less than 3 years; restriction on debt financing of trade, or taking proprietary positions, compulsory report of trade in excess of N25 million and use of custodian. No jurisdiction has paid off stockbrokers commercial debts like this at the expense of decaying public infrastructure including utilities in Nigeria.

According to Okereke-Onyuike (2012), the indiscriminate margin loans by banks to stockbrokers who were obligated to purchase the bank shares created over bloated share prices outside corporate profitability based on sound corporate governance practice. The CBN and the Securities and Exchange Commission (SEC), the regulatory authorities, had no guidelines on margin loans which led to the abuse of margin loans by banks.

According to Atuche (2012), the debt crisis in Nigeria including the stagnation of the capital market became aggravated as a result of the actions of the regulatory authorities. Rather than wage war against the crisis, they inadvertently paired with the storm to tumble the economy. He stated further that the United States of America (USA) for example took the requisite actions to restore the liquidity to the financial market and resuscitate confidence, Toxic Asset Purchase Programme (TAPP), an equivalent of AMCON in Nigeria, which was estimated at $700 billion was launched for lending to banks in exchange for dividend paying stock, an economic stimulus package worth US$168 billion in form of tax rebate checks.

Atuche (2012) further stated that following the stress test outcome conducted by the Federal Reserve Bank (equivalent of CBN) more than 50% of the 19 largest banks did not measure up and required US $75 billion within a period not exceeding 6 months. The US Federal Reserve also took other reflationary economic steps. The struggling banks were expected to come up with a rescue plan within one month and six months respectively duly executed, ailing banks that required funds to raise new common equity from existing shareholders or new investors, convert preferred shares held by private investors or government into common equity or sell additional asset, upon application bail out funds to banks that required further fund after exhausting the aforementioned capital raising avenues outlined above.

Atuche (2012), maintain that the Nigerian approach differs in comparison to the USA response to the debt management crisis. The stress test outcome in Nigeria was not an objective scoring of banks health. The outcome of the stress test did not qualify the banks for takeover because such stress test report was never discussed with the audited banks in violation of due process. The regulator in Nigeria pronounces the outcome of stress testing 45 days ahead its completion date. The outcome did not alleviate the burden of the banks nor did it re-inject the requisite funds into the banks.

VII. CONCLUSION AND RECOMMENDATIONS

Shodipo (2010) cautioned that continued freezing of credit by Nigerian banks, as attention has shifted to loan recoveries, will lead to growing uncertainties and lack of business confidence, starvation of funds to importers of petroleum products and other goods, declining investors confidence over takeover of banks, massive job layoffs by banks and other businesses affected by the debt recovery mechanisms, slow down in lending by commercial banks, criminalization of borrowing, general fear of persecution of the banking public and bankers, demotivation of entrepreneurship, take over of banks viewed by foreign and international community as crude expropriation of private asset. There is the need for an objective approach to addressing the ills in the financial sector in Nigeria. It is imperative for the regulatory authorities in Nigeria to study the US model of economic recovery for possible adoption of the relevant components in Nigeria. The US response via the stress test was objective with the overall motive of alleviating the burden of the bank, re-injecting funds into the banks and as such re-igniting banking lending in order to spur the economy. The Federal Reserve Bank, unlike the CBN, deferred any decision to remove Chief Executive Officer (CEO/Managing Director (MD)) of the wanting banks to the affected shareholders, who stand to loose the most, will go the extra miles to protect their stake.

Furthermore, there must be restraint to the unguarded pronouncements from the office of the Governor of the CBN that are capable of aggravating the prevailing distress in the financial sector. Claims of economic recovery by delivering on agreed timelines are still suspect as foreign direct investment inflow to Nigeria is on the decline as investors go to other emerging markets with better rating and risk profile.

It is not enough to stop the granting of loans, the people blacklisted by the CBN should also be blacklisted by the government and government should stop doing business with such people with high debt profile. Their names should be expunged from the list of business partners or economic advisers to the government.

Furthermore, the CBN, the Federal Ministry of Finance and AMCON actions should be harmonized rather than working at cross purpose to the detriment of the economy. They should carry on as a team.

REFERENCES

[1]. Atuche, F. (2012). "A Capital Market in Comatose, the Way Forward. *Financial Vnaguard*. www.vanguardngr.com

[2]. Benson H. (2011). "AMCON & Debt Management in Nigeria. Issues and Challenges". A paper presented at the 35th Conference of the Institute of Chartered Secretaries and Administrators of Nigeria (ICSAN). Ikeja: Sheraton and Towers. October 26th and 27th.

[3]. Ekpenobi, A.N. (2007). "Corporate Governance and Public Service in Nigeria". A paper presented at the 31st Conference of the Institute of Chartered Secretaries and Administrators of Nigeria. (ICSAN). Ikeja: Sheraton and Towers. September 5th and 6th.

[4]. Garnar, B.A. (2004). *Black's Law Dictionary*. Texas: West Publishing Company.

[5]. Joo, T.W. (2010). "Theories and Models of Corporate Governance". In Baker H.K. and Anderson R. (ed). *Corporate Governance: A Synthesis of Theory, Research and Practice*. New Jersey: John Wiley and Sons Inc.

[6]. Lemo, T. (2010). Keynote Address. 34th Annual Conference of the Institute of Chartered Secretaries and Administrators of Nigeria. (ICSAN). Ikeja: Sheraton and Towers. September 22nd and 23rd.

[7]. Mensah, S.(2003). "Corporate Governance in Africa: The Role of Capital Market Regulation". Nairobi. 2nd Pan African Consultative Forum on Corporate Governance.

[8]. Mogbolu, E.I. (2010). "AMCON A Breath of Fresh Air for Nigerian Banks". The Flagship Journal of the Institute of Chartered Secretaries and Administrators of Nigeria. 3 (3) pp. 19-20.

[9]. Okereke-Onyuike, N. (2012). "Blame Government Regulators for Market Crisis" In Anikulapo (Ed). The Guardian. 29 (12190). Pp. 14. www.ngrguardiannews.com

[10]. Oloja M. (2012). "CBN Directive on Big Debtors" The Guardian. 29 (12334). P. 14. www.ngrguardiannews.com

[11]. Shodipo V. (2010). Sanusi Lamido Vs. The Nigerian Economy. www.renaissanceprofessional.com

[12]. Shodipo, V. (2010). "Sanusi Lamido Vs the Nigerian Economy: A Nation in the Throes of a Recession". www.renaissanceprofessional.com

[13]. Stockwatch (2010). Asset Management Corporation (AMCON) and all that. The Guardian 29 (12190). Pp. 14 www.ngrguardiannews.com