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Technical notes

Note by the Secretary-General

Addendum

Technical Note No. 5: Existing proposals for improved or new processes for coordinated debt restructuring (prevention and treatment of debt problems) in order to sustain growth and support economic and social development*

I. Introduction

1. The typical process for an orderly workout from an external debt crisis begins with the adoption by the Government of the crisis country of a macroeconomic adjustment programme aimed to restore stability and growth after the onset of the crisis. It is accompanied by interim international financing (which possibly includes the short-term rollover of external obligations falling due and/or an accumulation of arrears to specific classes of creditors, as well as new multilateral lending). In time, a restructuring and/or refinancing of accumulated arrears plus future debt-servicing payments are/is normally negotiated with various groups of creditors.

2. The main groups of creditors are private banks (with renegotiation in ad hoc "Advisory Committees" or "London Clubs"), bond holders (with no specific forum), official bilateral creditors (beginning with the "Paris Club" of major creditors, serviced by the French Treasury), and multilateral financial institutions (obligations to these institutions being addressed only in the most extreme situations). Governments of debt-crisis countries usually work closely with and are financially supported by the International Monetary

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Fund (IMF) and the World Bank during the debt-workout process, often along with the relevant regional development bank. In cases deemed to be "systemically important", Governments of major countries have also provided substantial financial resources.

3. Restructuring options on individual debts range from a rescheduling of debt-service payments to reduction of interest charges, exchange of one form of debt obligation for another with a lower face value, and outright creditor total or partial cancellation of a debt obligation.[1] There is a central problem that has to be solved: the set of multifaceted negotiations that constitute the debt workout should leave the country at the end of the exercise with a "sustainable" overall schedule of debt servicing.[2]

4. The present note includes the "existing proposals" that have been discussed recently in one or another intergovernmental forum on how the process of debt restructuring might be reformed or replaced by another process (or how preventive measures might be organized), emphasizing relationships between the debtors, their creditors and the international community. A bibliography of recent papers and publications that contain these and additional proposals is also included at the end of the note.[3]

II. Proposals

Strengthening the enhanced Heavily Indebted Poor Countries (HIPC) Initiative and other initiatives for low-income countries

5. The international community has developed a special programme for treating the external debt of a group of heavily indebted poor countries (HIPCs), which were identified as requiring assistance above and beyond that available to other developing or transition economy countries. The following are proposals that have been made to strengthen the current version of the programme, known as the "enhanced HIPC Initiative".[4]

6. The General Assembly, in its resolution 55/184 entitled "Enhancing international cooperation towards a durable solution to the external debt problem of developing countries" of 20 December 2000, discussed, inter alia, how the enhanced HIPC Initiative should be implemented. In particular, it

- Stressed the importance of continuing to implement the enhanced HIPC Initiative flexibly, noting the provision of significant interim debt relief between the decision and completion points and taking due account of the policy performance of the countries concerned in a transparent manner and with the full involvement of the debtor countries, including for the setting of the floating completion point, and in that regard stressed the importance of country-owned poverty reduction strategy papers (PRSPs) (para. 6);
- Noted that it was important for IMF and the World Bank to continue their efforts to strengthen the transparency and integrity of debt sustainability analysis, and also noted the importance of cooperation with debtor countries in order to obtain relevant information (para. 8);
- Welcomed the framework for strengthening the link between debt relief and poverty eradication, and stressed the need for its continued flexible implementation, recognizing that, while the PRSPs should be in place by the decision point, on a transitional basis the decision point could be reached with agreement on an interim PRSP, but that in all cases demonstrable progress in implementing a poverty reduction strategy would be required by the completion point (para. 9);
- Emphasized that poverty reduction programmes as linked to the implementation of the enhanced HIPC Initiative must be country-driven and in accordance with the priorities and programmes of countries eligible under the Initiative, and stressed the importance of a participatory process that involved civil society in that regard (para. 10);
- Stressed the importance of building coalitions with civil society organizations and non-governmental organizations in all countries to ensure in the shortest possible time the implementation of pronouncements of debt forgiveness (para. 11).

7. In the communiqué issued at the end of their joint meeting on 29 April 2001 (IMFC and Development Committee, 2001) the International Monetary and Financial Committee (IMFC) of IMF and the Joint IMF/World Bank Development Committee addressed additional dimensions of implementation of the

enhanced HIPC Initiative. The members of the Committees:

- Emphasized the importance for countries to demonstrate strong commitment to reform programmes and reaffirmed the possibility, on a case-by-case basis, for flexibility on track record requirements where such conditions were in place. While recognizing the special needs of particular developing and low-income transition country creditors, they also urged that all donors and creditors participate in HIPC relief and meet their commitments of financial support (para. 4);

- Agreed that at the completion point there should be a thorough analysis and discussion of the prospects for long-term debt sustainability. More broadly, they agreed on the importance of regular monitoring by HIPCs of their debt situation, with the support of the Bank and IMF, including beyond the completion point. In exceptional circumstances, when exogenous factors caused fundamental changes in a country's circumstances, they reaffirmed that within the HIPC framework the option existed, at the completion point, to consider additional debt relief (para. 7);

- Agreed on the importance of maintaining a strong focus on performance, including transparency in military spending to ensure that debt relief was used to reduce poverty and was not diverted to military spending. They agreed that the enhanced HIPC Initiative framework had sufficient flexibility to accommodate the special circumstances of post-conflict HIPCs, including with regard to the length of the track record if significant progress had been made towards macroeconomic stability, governance, capacity-building and monitoring (para. 10).

8. At the fourth meeting of HIPC Finance Ministers, on 5 June 2001 in London, 25 HIPC countries agreed to a set of proposals for addressing "common problems which require urgent solutions if HIPC II (another term commonly used for the enhanced HIPC Initiative) is to achieve the desired long-term reduction in poverty".[5] The process-oriented proposals which went beyond those already noted above included the following:

- The international financial community was urged, inter alia, to accelerate the implementation of agreements on interim relief (by all creditors, but especially multilateral and Paris Club) in order to ensure that fiscal relief was provided almost immediately after the decision point in line with popular expectations created by HIPC II;

- All creditors were urged to accelerate and increase their contribution to HIPC by making more rapid progress on debt relief from non-Paris Club Governments by convening an international conference of such creditors, and by creating a special window or fund for clearing HIPC debts to other HIPC or International Development Association (IDA)-only countries[6] through buybacks, funded by resources from within the multilateral system; by accelerating efforts to achieve adequate debt relief from smaller multilateral creditors; by providing capacity-building support to multilateral creditors to ensure they were calculating and interpreting HIPC relief methodologies correctly; and by providing legal and political support to HIPCs in resisting lawsuits by commercial creditors that had not participated in commercial debt reduction operations;

- In addition, the international community was urged, inter alia, to acknowledge that the PRSP process had been a learning exercise for everyone, including the development partners, this learning process having to accelerate to fulfil the high popular expectations of reducing severe poverty in most countries; learn and transmit maximum lessons from implementation experience and new international knowledge (from the widest possible range of sources) in order to improve the PRSPs regularly; avoid continuing delay in completion points by streamlining and facilitating the PRSP consultation process to focus on the key issues; support HIPCs in their efforts to lead donor coordination, by encouraging all major donors to focus their support on programme aid for poverty reduction; and provide greater capacity-building resources on poverty reduction for HIPC administrations and civil societies, to ensure leadership of the poverty reduction process;[7]

- Ministers emphasized the importance of continuing to organize exchanges of experience among HIPC countries at both technical and political levels and urged continued rapid decentralization by all international institutions to regional partners.

9. The Lusaka Assembly of Heads of State and Government of the Organization of African Unity (OAU) adopted on 11 July 2001 “A New African Initiative” Organization of African Unity (OAU, 2001), which included a new African Debt Initiative (para. 54.7 (i)) that seeks to extend debt relief beyond its current levels. According to the Initiative, countries would engage with existing debt relief mechanisms — the HIPC and the Paris Club — before seeking recourse through the African Initiative, which would require agreed poverty reduction strategies, debt strategies and participation in the Economic and Corporate Governance Initiative (para. 54.2) (of the New African Initiative) to ensure that countries were able to absorb the extra resources. The following actions were set forth:

- The African Initiative heads of State would seek to secure an agreement, negotiated with the international community, to provide further debt relief for countries participating in the African Initiative, based on the principles outlined above;
- The African Initiative leadership would establish a forum in which African countries might share experiences and mobilize for the improvement of debt relief strategies. They would exchange ideas that might end the process of reform and qualification in the HIPC process.

10. In the Programme of Action for the Least Developed Countries for the Decade 2001-2010 (United Nations, Third United Nations Conference on the Least Developed Countries (LDC, 2001)) adopted by the Third United Nations Conference on the Least Developed Countries in Brussels on 20 May 2001, least developed countries and their development partners agreed to actions along the following lines:

- *Least Developed Countries*: initiating joint action with their development partners on the debt situation, including a comprehensive assessment of their debt problems and debt sustainability (para. 87 (i) (d)); sustaining and intensifying efforts to improve debt management capability, inter alia, by regularly consulting with creditors and development partners on the debt problem (para. 87 (i) (e));
- *Development partners*: reviewing and continuing to monitor least developed countries’ debt sustainability in the appropriate forums on the basis of objective criteria and transparent analysis (para. 87 (ii) (i)); actively assisting least developed countries to build their capacities in the area of debt management (para. 87 (ii) (j)).

11. The Secretary-General in his report to the Preparatory Committee for the International Conference on Financing for Development (United Nations (FfD, 2000)) highlighted one especially difficult situation that sometimes confronted heavily indebted low-income countries:

> Low-income countries with fragile economies might find themselves unable to service debt obligations under certain circumstances — no matter how skilled their economic management was. Such circumstances might include natural calamities or economic catastrophes (such as major drops in the price of export commodities or other terms-of-trade shocks). In those circumstances, special measures — even debt cancellation — might be called for. Therefore, steps should also be considered to provide, in exceptional situations and where appropriate, for a moratorium or even for debt cancellations (para. 118).[8]

This issue was considered at the second and third sessions of the Preparatory Committee (see United Nations (FfD, 2001a and 2001b)).

12. The Commission on Human Rights (United Nations, Economic and Social Council, Human Rights, 2001, para. 1) recently welcomed the report submitted by its independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights particularly economic, social and cultural rights (Cheru, 2001). That report, inter alia, recommended that the international community:

> De-link HIPC debt relief from the PRSP process. Real national ownership of poverty reduction frameworks can happen only if the threat of “conditionality” is removed by IMF and the World Bank from the back of vulnerable Governments. Linking debt relief to the preparation of the PRSP removes the “autonomy” of countries to come up with a framework that clearly makes an explicit connection between macroeconomic policies and poverty reduction goals … The only connection should be that countries receiving debt relief establish an independent entity, like Uganda’s Poverty

Reduction Action Plan, to channel freed resources towards social development. Such an entity — preferably an independent non-governmental body — will manage the fund. This entity must follow important rules … to ensure that the Government will not be able to draw funds from the debt relief fund for other non-productive purposes. A steering committee composed of representatives of the non-governmental organizations, the Government and the donor community shall oversee the management of the independent entity to ensure financial and programmatic accountability (para. 47 (a)).

Proposals for engagement of debtor countries with their creditors[9]

13. In recent years, negotiating a debt workout for an individual country has become more complex, owing to the rapid development of international financial markets and the increased access to the financial instruments traded on these markets, as well as to the liberalization of the capital accounts of emerging economies, which increased the types of external finance that their firms and banks, as well as the government, may draw upon. This has prompted a number of proposals for how to negotiate a debt workout when a crisis arises.

14. The General Assembly recommends making fullest use of existing mechanisms and principles in its resolution 55/184 in which the Assembly:

- Called for concerted national and international action to address effectively the debt problems of middle-income developing countries with a view to resolving their potential long-term debt-sustainability problems through various debt-treatment measures, including, as appropriate, existing orderly mechanisms for debt reduction, and encouraged all creditors, both public and private, and debtor countries to utilize to the fullest extent possible, where appropriate, the mechanisms for debt reduction (para. 18);
- Recognized the need for countries, even when experiencing a debt problem, to continue to work with creditors in order to facilitate continued access to international capital markets and, in the event that extraordinary circumstances precluded a country from temporarily meeting its debt-servicing commitments, urged creditors and Governments to work together in a transparent and timely fashion towards an orderly and equitable resolution of the repayment problem, including consideration of temporary debt standstill arrangements in exceptional cases (para. 19).

15. One approach for more effective handling of debt crises in cases in which private creditors hold a major portion of a country's external debt is to devise a mechanism or framework by which the private creditors and the Government can engage in ongoing dialogue. Such a mechanism is meant to assist in preventing crisis and in helping to resolve one more smoothly when it does occur. Specific proposals have been made in this regard.

16. The Finance Ministers of the Group of 7 (G-7) made a number of recommendations for further work on the framework for private sector involvement in their recent report from Rome to the G-7 Heads of State and Government (Group of 7 (G-7), Finance Ministers, 2001), which was subsequently endorsed at the Summit in Genoa Group of 7 (G-7, Heads of State and Government, 2001, para. 12). The Finance Ministers

- Stressed the importance of information sharing and enhancing the dialogue between countries and their private creditors, both during normal periods and when addressing emerging pressures in the external account, and encouraged countries to establish mechanisms to support a dialogue with creditors and called on the Fund to support this process (para. 12);
- Agreed on the importance of collective action clauses to facilitate orderly crisis resolution (para. 12);
- Welcomed the agreement by IMF to take forward further work on the framework for private sector involvement. ... In particular, further efforts were needed, inter alia, to:
  - Strengthen the relationship and increase coordination between IMF and the Paris Club in the process of assessing the level and scope of participation of private creditors in debt restructuring cases, especially concerning the comparability of treatment of official and private creditors (para. 13);

– Ensure that all programmes were subject to transparent ex post monitoring and evaluation, with a view to assessing the involvement of the private sector against the assumptions made in the programme (para. 13).

17. The "collective action clauses" in bond agreements referred to above specify the requirements for changing the financial terms of a bond, such as the percentage of bond holders needed to approve a change. The High-level Panel on Financing for Development elaborated on the usefulness of such clauses, as follows:

> The most important outstanding issue in the discussions on a new international financial architecture concerns how to "bail in" the private sector. ... Some helpful elements of a solution can be delineated. Bonds ought to have collective action clauses, permitting a qualified majority of bond holders to approve changes in the payments clauses. Most bonds issued in London already have such provisions, but bonds subject to New York law do not. Other major industrialized countries ought to join Canada and the United Kingdom in introducing such clauses into the bonds they issue, to ease the way for their adoption by emerging markets (United Nations, High-level Panel on Financing for Development (Zedillo, 2001), technical report of the High-level Panel, sect. 3, twelfth paragraph).

18. Regarding the framework for making the private-sector involvement operational, the Ministers of the Intergovernmental Group of Twenty-four (G-24), in their communiqué of 28 April 2001 (Intergovernmental Group of Twenty-four (G-24), 2001, para. 11):

> Underscored the catalytic role of IMF and the World Bank in the resolution of financial crises in ways that could effectively help to involve the private sector … While welcoming the ongoing work on involving the private sector, … they stressed the need to maintain a voluntary approach under which member countries were ultimately responsible for negotiating with their private creditors.

19. The General Assembly, in its resolution 55/186 of 20 December 2000 entitled "Towards a strengthened and stable international financial architecture responsive to the priorities of growth and development; especially in developing countries, and to the promotion of economic and social equity", reaffirmed the need to consider appropriate frameworks for the involvement of the private sector in the prevention and resolution of financial crises, including the need to implement and further refine the framework laid down by the International Monetary and Financial Committee at its meeting held on 16 April 2000 (further elaborated at its meeting in Prague in September 2000), and underlined the importance of an equitable distribution of the cost of adjustments between the public and private sectors and among debtors, creditors and investors, concerning, inter alia, highly leveraged operations, as well as the consideration, in exceptional cases, of debt standstill arrangements (para. 22).

20. In June 2000, IMF established the Capital Markets Consultative Group (CMCG) to provide a direct channel of communication between the Fund and the private international financial sector. One of CMCG's first acts was to create a joint working group of IMF and financial sector staff to consider one approach to the above concerns raised by the private sector as well as by Governments. This was to encourage debtor country Governments to open or strengthen "investor relations programmes" (IRPs).

21. The working group reported to CMCG at its second meeting, in Hong Kong Special Administrative Region (SAR) of China, 31 May 2001, when CMCG strongly recommended that the working group's report (International Monetary Fund (IMF, 2001a)) be published, with which recommendation the IMF Executive Board concurred. While the recommendations are quite detailed, their thrust may be seen in the following excerpt:

> Establishing sound relations between authorities and market participants is predicated upon maintaining constructive dialogue between the two parties during bad times as well as good. In this context, the support, commitment, and active involvement of high-level sovereign policy makers is the sine qua non of an effective IRP by countries (para. 22);

> IRPs should allow candid, specific, timely and forward-looking dialogue. … More precisely, the IRP should be based on the premise that the authorities are willing to engage in open and candid discussions with the stakeholders in the investment community, and that it would stand ready to share important and strategic information

that is of specific interest to investors in a rapid and timely manner. Bland generalities or over-optimistic assessments will be of little value to the investor community, and would diminish the use they made of the IRP when making investment decisions (para. 23).

22. To rebuild confidence in the bond market of emerging economies and to establish orderly principles to reduce uncertainty, a "round table" of financial professionals met at the Council on Foreign Relations (CFR) and proposed a set of principles for sovereign bond restructuring. The IMF Executive Board considered the proposal, the first of its kind, at its meeting of 24 January 2001.

23. The essence of the proposal is that when a Government is in or near default, it should enter into a formal dialogue with all its creditors. The major private creditors would form an "ad hoc Steering Committee", with possible subcommittees for specific groups of creditors, in particular for the bond holders. The Government would be expected to cooperate directly and closely with the Steering Committee, which would also consult with the Paris Club, inter alia, through the sharing of analyses of the country and in discussing respective public and private creditor contributions to the solution of the debt crisis. All relevant private and Paris Club debt would be included in any restructuring. In addition, creditors would refrain from taking legal action or advancing any pending lawsuits against the sovereign while it is cooperating in resolving the debt crisis. A further proposal is that the cost of legal and financial advisers retained by the Steering Committee and other expenses would be borne by the debtor Government. Finally, the documentation of new bonds should include collective action clauses and provision for appointment of trustees for the bond holders which would simplify reaching agreement on the restructuring of claims (see Council on Foreign Relations Roundtable on Country Risk (CFR, 2000), chap. 2).

24. During the discussion in the IMF Executive Board, Directors considered what the Fund's role should be in debt renegotiations:

> "While Directors considered that the principles on debtor-creditor negotiations, as proposed by the CFR, could provide one of a number of possible approaches to reaching a collaborative agreement, they generally did not consider it appropriate for the Fund to endorse these principles. Most Directors emphasized that the responsibility for debt negotiations should rest squarely with the debtor and its creditors, while the Fund's principal role in this regard should be to set out, with the member, the medium-term external prospects for the country and help assess whether the terms of a proposed restructuring are consistent with the programme's financing needs and the member's medium-term external financial sustainability. Some Directors, however, considered that the Fund should play a more central role in debtor-creditor negotiations" ("Summing up by the Acting Chairman", eighth paragraph) (in International Monetary Fund (IMF, 2001)).

25. There is an inherent "collective action problem" in resolving a debt crisis with multiple creditors: each would like the other to make the larger sacrifice in terms of the debt relief given to the crisis country in order to strengthen the recovery of its own claims. Partly in response to the private sector concern about "comparability of treatment" between official and private creditors, the Paris Club is increasing transparency and in April 2001 opened an Internet web site describing its operating procedures and giving details of current and past Paris Club agreements (see http://www.clubdeparis.org). In addition, building upon earlier discussions organized by the Institute of International Finance (IIF) with the Paris Club leadership in 1999 and 2000, the Club hosted a meeting on 3 April 2001 with representatives of three international organizations of private sector creditors: IIF, the Emerging Markets Traders Association (EMTA) and the Emerging Markets Creditors Association. While the Paris Club (2001) and IIF (2001) each issued a short press release about the meeting, noting importantly that a further meeting would take place in the autumn of 2001, EMTA made public a fuller account (Emerging Market Traders Association (EMTA, 2001), pp. 5-6, and insert). In addition to hearing a Paris Club briefing about its new web page, the meeting considered two topics:

- "The second topic … focused on the desirability of more extensive, ongoing consultations between the Paris Club and the private sector. Following a wide-ranging discussion, Paris Club Co-Chair Stephane Pallez expressed the Paris Club's willingness for better two-way communications with the private sector and invited proposals for such consultations …

- "The third topic, comparable treatment, involved the most spirited discussion. Paris Club representatives explained some of the history and philosophy of the principle and provided their analysis of its application to Pakistan in 1999 and Ecuador in 1999/2000. … Various private sector representatives pointed out difficulties in the principle and its application."

26. EMTA went on to say that ongoing dialogue was very important "because we believe it is key to Paris Club decision-making, both understanding it better and improving it". It further saw "serious questions that require further discussion" regarding the principle of comparable treatment and that much of the coming dialogue would focus on this issue.

27. One key policy issue is that in the sets of separate but interdependent negotiations of the debtor with its various classes of public and private creditors, it is not always clear who ensures that the process moves forward expeditiously, that the terms of relief meet the financial, economic and social needs of the country, and that there is comparability of treatment of different creditors. One approach would seek to strengthen the support that IMF could give to the process of debt restructuring without its own staff's taking a proactive stand vis-à-vis any group of creditors in a particular negotiation. The Secretary-General made a proposal (see United Nations (FfD, 2000) para. 125) in this regard to the Preparatory Committee for the International Conference on Financing for Development, which considered that proposal at its second and third sessions (see United Nations (FfD, 2001a and 2001b)). The proposal was to appoint an independent mediator, who would be assisted by IMF and other experts, and ask him or her to devise a "simultaneous, fair and full treatment of all of a country's debt obligations, along with the provision of required new funds by the international community or other creditors" and to place the proposal before the debtor, its groups of creditors and others whose agreement would be necessary for its approval. It continued:

> "The use of such a mechanism, which could be invoked under specified conditions by a country already cooperating with IMF and other international financial institutions, would bring together committees representing bank creditors, bond holders, the Paris Club and other bilateral official creditors, as appropriate, plus the debtor Government. ... The aim would be to ensure fairness, reduce financial uncertainties quickly and lower the cost to creditors as well as to the debtor of arriving at a final debt restructuring agreement. ... (Thus,) to complement other initiatives under way, the potential value of a mediation-type mechanism deserves particular attention. Such a mechanism could be made available to debtor countries as an additional, voluntary option for restructuring debt from private and official creditors".

Proposals for other approaches to resolving debt problems

28. The proposals indicated thus far presume an essentially cooperative approach between the Government of the debt-crisis country and its creditors. A number of proposals have also been made for the international community to tackle debt crises of developing countries in different ways, some of which may differ significantly from some of the current approaches.

29. One proposal has been suggested by the United Nations Conference on Trade and Development (UNCTAD), presented in several issues of its *Trade and Development Report*, namely, that an "insolvency principle" for sovereigns, under which a Government would be warranted to impose a temporary standstill on foreign debt servicing (and possibly on domestic capital outflows) at the onset of a crisis, should be adopted internationally. To avoid abuse of this authority, it has been proposed that an independent panel of experts convoked for the purpose should quickly assess the seriousness of the situation and sanction the decision.

30. The proposal aims, in the first instance, to accord the debtor a breathing space by stemming the outflow of resources from the country during its crisis, which can seriously worsen the cost of its ultimate resolution, especially if the debtor country has fully liberalized its balance of payments. After the standstill is imposed, the insolvency principle would follow the standard track of adoption of an adjustment programme, which would be supported with liquidity from IMF and possibly other resources, followed by a negotiated restructuring of obligations owed to the country's various creditors. Considered as a whole, this proposal would "combine voluntary mechanisms designed to

facilitate debt restructuring with internationally sanctioned temporary standstills to be used when needed" (see United Nations Conference on Trade and Development (UNCTAD, 2001), part two, chap. VI, sect. F).

31. The General Assembly has recognized the possible greater use of standstills in its resolutions 55/184 and 55/186 (paras. 19 and 22, respectively). Standstills have also been discussed in the IMF Executive Board, where attention focused on the kinds of situations in which an involuntary standstill might be warranted, and the pros and cons of establishing a clear framework for the situations in which a standstill would be invoked (see International Monetary Fund (IMF, 2000)).

32. International principles as now embodied in IMF policy also offer some options for dealing with cases in which there is a less harmonious initiation of a crisis, in particular when private creditors do not seek to cooperate with the debtor in resolving its crisis. In such a case, IMF may cooperate with the country in seeking to resolve its crisis and "lend into arrears", that is to say, informally sanction the accumulation of arrears to non-cooperating creditors while IMF itself provides foreign exchange resources to the country.

33. Another proposal is to replace the debt restructuring negotiations with an arbitration process. Such a proposal was made in the hearings with civil society that the Preparatory Committee held on 6 and 7 November 2000 and was commented upon by a number of delegates and civil society participants (see United Nations (FfD, 2000 (a)), paras. 80-100). It was argued there that the chapter 9 bankruptcy procedures for municipalities in the United States of America could be adopted to international conditions. The United States procedures were designed, it was said, to protect both creditors' rights and the debtor's governmental powers, which extend to protection of the population under the Government. However, whereas the workout from a municipal bankruptcy in the United States would be overseen by a court, there is no comparable institution at the global level for debtor countries. Instead, it is suggested that an arbitration panel should be convoked to serve this purpose, with the creditors and the debtor each nominating an equal number of arbitrators and the panel together choosing an additional arbitrator who would break any tie votes. The arbitration panel would gather information from all relevant stakeholders in the country's situation, including its citizens, for example, through civil society organizations. It was also suggested that the United Nations could serve as facilitator for the arbitration process, receiving requests for arbitration and organizing the nomination of arbitrators (see Raffer, 2001).

34. The Commission on Human Rights has made explicit some of the linkages between human rights and debt problems. The Commission in its resolution 2001/27:

- Affirmed that the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment could not be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from their external debt (para. 7);
- Reiterated its view that, in order to find a durable solution to the debt problem, there was a need for a political dialogue between creditor and debtor countries and the multilateral financial institutions, within the United Nations system, based on the principle of shared interests and responsibilities (para. 18).

35. African Ministers of Finance at the African Regional Consultative Meeting on Financing for Development, held in Addis Ababa from 15 to 17 November 2000, endorsed two proposals put forward by UNCTAD. The first was a call for the establishment of an "independent body that would not be unduly influenced by the interest of creditors" (United Nations Conference on Trade and Development (UNCTAD, 1998), overview, sect. entitled "African development in a comparative perspective", ninth paragraph), which would examine the situation of HIPCs and other debt-distressed low- and middle-income countries with respect to debt sustainability, eligibility for debt reduction programmes, amount of debt reduction warranted, conditionality, and modalities for the provision of multilateral and other needed funds. The second proposal was that there should be an agreed suspension on debt-servicing payments by HIPCs, without further interest accruing during the moratorium period, which should last until the panel had made its recommendations. The Ministers of Finance in their Ministerial Statement (United Nations (FfD, 2001), annex) declared:

"We also call on our development partners to provide a debt-servicing moratorium, including accrued interest, in order to allow African countries to find durable solutions to their debt problems. We further call on the donor community to seriously consider the idea of referring the issue of the sustainability of Africa's debt to an independent body composed of eminent persons conversant with financial, social and development problems. Such persons would be selected by mutual agreement between creditors and debtors, with creditors committing themselves to considering the cancellation of such debt as is deemed unpayable" (para. 12).

36. At the end of the second session of the Preparatory Committee, the Co-Chairmen listed a number of proposals (United Nations (FfD, 2001a), annex I) that they believed some members of the Preparatory Committee had an interest in considering further. One of those was "a proposal that debtor countries should form a 'debtors' club' and negotiate their debt relief terms together, rather than on a case-by-case basis" (para. 21, "Convergence of views", thirteenth paragraph).

Notes

[1] With implicit or explicit creditor approval, Governments have also reduced their debt through swaps of debt instruments for equity investment or for commitments to make domestic public expenditures for environmental or social purposes.

[2] How the notion of "sustainable" should be defined in practice remains evidently under discussion. In addition, whatever definition is used, its actual application depends on economic projections and assumptions about international trade and financial flows of the indebted country and assessments of domestic socio-economic conditions in the present and medium-term future.

[3] While the attempt has been made to cast a wide net for materials to include in this note, the literature is vast and therefore it cannot be certain that every existing proposal has been identified.

[4] In the enhanced HIPC process, after a period of years in which a crisis country demonstrates its commitment to macroeconomic adjustment and poverty eradication, it reaches the "decision point", at which coordinated commitments are made to provide appropriate overall debt relief. Following a further period in which the "track record" of sound policies continues to build, the full relief is granted at what is called the "completion point" (see IMF, 2000a).

[5] The meeting was jointly organized by Debt Relief International (a non-profit organization funded by the Governments of Austria, Denmark, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland) and the United Kingdom Department for International Development (see HIPC Finance Ministers, 2001).

[6] These are low-income countries whose World Bank borrowing is exclusively through the highly concessional International Development Association (IDA).

[7] Ministers made specific proposals with respect to capacity-building in the areas of institutions, operational management of development finance, debt renegotiation, new financing policy, macroeconomic forecasting, poverty reduction programmes and computerized analysis of financial sustainability.

[8] The HIPC Finance Ministers, at the meeting noted above, also urged the international community to take much more account of shocks that hit economies, in two ways:

1. Introduce a range of new measures to combat them (advance contingency and rapid compensatory financing; accelerating the recommendations of the World Bank Task Force on Commodity Risk Management; reinforcing insurance mechanisms such as those of the Commonwealth Disaster Management Agency; and providing more predictability and stability in donor aid flows) rather than inadequate and delayed additional disbursements of donor grants or multilateral loans (sect. I, para. 1);

2. Take account of shocks in interpreting more flexibly compliance with conditionality (sect. I, para. 2).

[9] See also technical note No. 8 (A/AC.257/27/Add.8) entitled "Existing proposals on financial crisis prevention including operation of early warning systems and transparent and predictable international financial markets", sect. entitled "Private sector role in crisis prevention".

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