

## Second Drafting Session on Third FfD Conference

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### *Civil society interventions on Debt and Debt Sustainability*

*Statement delivered by Mr. Aldo Caliarì, Center of Concern/ Jubilee USA Network / CIDSE*

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Thank you, Mr Co-Chairman,

The draft misses acknowledging progress on a multilateral legal framework for sovereign debt restructuring registered in the context of the ad hoc committee established by UN GA resolution of September last year, and a commitment for implementation of this resolution. (We realize not all member States are engaged in this process but now the zero draft has several references to other processes where not all members are engaged – OECD BEPS, Paris Club, G20, even ICMA which is not a public process, receives a mention -- so it is not justifiable to exclude a process that is going on within the UN -- and in which, as opposed to those other processes I just mentioned, all members have a right to engage).

On para 88, we 'd request a more balanced statement. This paragraph now only refers to progress in contractual approaches to prevent holdout behavior. But it is well known by looking at the academic literature that the contractual approach has serious limitations in dealing with disruptive behavior by minority holdouts. If this document is to have any credibility on this area, such limitations should be recognized, too.

We feel the reference in paragraph 85 needs to address more substantively the lender's side of responsibility and culpability for the accumulation of unsustainable debt, and also events that are nobody's fault – a commodity price shock or a natural disaster – but where, precisely because they are nobody's fault, it's not fair that responsibility for them falls on the borrower alone.

Also on this paragraph, we do not believe there is need to do more work on the UNCTAD's Principles on Responsible Sovereign Lending and Borrowing. Addis Ababa would be a great opportunity for their adoption (in fact these are not new principles, but a development of existing international law, widely accepted practices, general principles of law). Perhaps if there is work to be done it should be an expansion to make these principles a binding covenant, but there is no excuse to not endorse them in July.

Finally, two points:

- We appreciated the language on debt audits that was in the Elements paper, and request that it be restored.

- We think the draft should include language that commits governments to take steps to address the question of illegitimate and odious debts and, where pertinent, have payments of such debts that have already been made, returned to countries of origin.

Thank you.

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*Statement delivered by Ms. Bhumika Muchhala, Senior Policy Analyst, Finance and Development Programme, Third World Network*

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Co-Facilitators and Member states, thanks for this opportunity to contribute.

On the extremely important subject of debt, the zero could place more priority on **four key areas where the UN** has ongoing work:

- (1) the UN ad hoc committee on a multilateral framework for sovereign debt restructuring;
- (2) the UNCTAD-convened working group on sovereign debt workouts;
- (3) the Guiding Principles on Foreign Debt and Human Rights; and,
- (4) the Principles on Responsible Sovereign Lending and Borrowing.

**Paragraphs 83 and 86** both have the potential to make a very significant link between debt sustainability and the ability of a country to finance implementation of its Sustainable Development Goals. It is important to **prioritize the fulfilment of SDGs over debt servicing** in order to enable developing-country governments to allocate their financial resources toward their SDG obligations. This was included in the first Elements paper but has now been omitted. Similar language was also agreed to in the Monterrey Consensus regarding the realization of the MDGs by states.

If the Addis Ababa outcome is to be associated as a significant part of the Means of Implementation for the Sustainable Development Goals, there must be mention of the impact of debt servicing on a state's realization of the SDGs, **as well as incorporation of SDG implementation into the World Bank and IMF's analyses on debt.**

With regard to the production of debt sustainability analysis, **independent debt sustainability analysis** should be highlighted from parties that do not have a creditor relationship with affected countries and that fulfill the standard of good governance.

**With regard to Paragraph 84**, the zero draft could include that for many developing countries debt problems are not confined to external debt contracted in foreign currency, but also, increasingly, **domestically-issued debt held by non-residents, and domestic debt as a whole.**

**With regard to Paragraph 87**, the absence of an international debt restructuring mechanism is

a **fundamental gap and weakness of the international financial architecture**. This paragraph is therefore of great importance and should be strengthened. The means by which growth and renewed access to external finance can be afforded to countries in sovereign insolvency is a critical means of financing for development and was agreed to in the Monterrey Consensus.

There should thus be an explicit reference to the **sovereign debt workout resolution (Res. 63/804)** adopted by the UN General Assembly in September 2014 so as to recognize this important initiative and commit to fulfill the mandate. The zero draft should include a commitment by all member states to engage in the negotiations in the working group to establish the mechanism.

**Paragraph 88** should mention the **Human Rights Council (HRC) resolution on vulture funds**, with language to encourage further work on this resolution in the HRC and in other fora.

*Three key issues that are currently missing in the debt section of the zero draft, and that should be highlighted are the following:*

**First, the need for debt cancellation for** LDCs, SIDs, countries in crisis, countries severely impacted by climate change and experiencing huge loss and damage is also important.

**Second, reference to some of the various policies and practices of lenders that lead to sovereign debt accumulation (for example, predatory lending, supply-driven lending, public guarantees to the private sector in the context of Public-Private Partnerships).**

**Third,** a new paragraph is needed to take steps to address the longstanding and fundamental question of **illegitimate and odious debts**.

Thank you.