

Ad Hoc Committee on a Multilateral Legal Framework for Sovereign Debt Restructuring Processes

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Ad Hoc Committee on a Multilateral Legal Framework for Sovereign Debt Restructuring
Processes

The establishment of the *Ad Hoc Committee on a Multilateral Legal Framework for Sovereign Debt Restructuring Processes* in the UN General Assembly constitutes a big step forward for the international debate on the sovereign debt restructuring mechanism.



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- Greater convergence on the need for a sovereign debt restructuring mechanism since 2008;
- The centre of the international debate has shifted to “options for moving forward”.



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First step: Dispel misconstrued fears of a multilateral legal framework and make the process inclusive

- **1. Fear of loss by creditors from the developed countries and gains for debtors from the developing ones**
- **2. Fear of moral hazard**
- **3. Fear of loss of sovereignty**
- **4. Fear of increasing cost of borrowing**



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Second Step : Identify guiding principles in conducting debt restructuring

Main principles identified by the UNCTAD working group on debt restructuring mechanism

- **good faith**
- **legitimacy**
- **impartiality**
- **transparency**
- **sustainability**



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Step three: Identify complementarities between contractual and statutory approaches

- When debt contracts are better designed, debt servicing can be better self-enforced, thus less probability of the need for debt restructuring



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Limitations of the contractual approach

- **1. Inability to address some fundamental and systemic problems facing sovereign debt restructuring like procrastination or “too late and too little”**
- **2. Legal forum fragmentation**
- **3. Lack of comprehensiveness in debt restructuring**
- **4. Problem of interim financing,**
- **5. Incremental contractual improvements take decades to phase in fully**
- **6. Super CACS may not be able to protect countries with small quantities of bonds**



Step four: Building consensus on major building blocs of the multilateral legal framework

Possible elements:

- Decision by debtor countries to engage in debt restructuring
- introduction of debt standstill
- Interim financing with seniority status.
- An inclusive negotiation process
- Overriding power of the decision by supermajority creditors (like CACS but immediate enforcement)
- Independent and impartial body to oversee the process



Voluntary implementation

- Voluntary implementation at beginning. Gradually harden up, as the framework is being perfected and also more generally accepted.



Thank you

