



10th UNCTAD DEBT MANAGEMENT
CONFERENCE

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Debt Issues of the Trade and Development Report

by

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD



Sovereign Debt Workouts: Roadmap and Guide

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Current Gaps in sovereign debt restructuring processes

- Efficiency deficit - 'too little too late'
 - Fairness deficit - unclear and non-transparent processes; asymmetric burden sharing
 - Coherence deficit – legal fragmentation and lack of coordination (inter-creditor, creditor-debtor, inter- debtors); arbitrary decisions
- ➔ Unhealthy mix of uncertainty and biases; damaging economic and social costs when shock hits and crisis follows

Main challenges to be met

Improving bond contracts: strengthening commercial law

Keeping the *public interest* at the heart of global concerns - there is a need for:

- More legitimate processes capable of providing a fresh start to debtor states without denying creditor rights;
- Normative coherence at the international level that reduces uncertainty
- Clarification of processes in a transparent way for all that can reduce costs of restructuring;
- Impartiality of process which does not depend on narrow points of view and interests

Sovereign Debt Workout Principles

- Sovereignty
 - Good faith
 - Transparency
 - Impartiality
 - Equitable treatment
 - Legitimacy
 - Sustainability
 - Majority restructuring
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- GA Resolution 69/319: consensus-based, would apply to all debt instruments, greater coordination than market-based approaches
 - non-binding, with no guarantee that a critical mass of parties would adhere to it

Restructuring Steps

Four steps:

- Decision to restructure
- Preparing for negotiations
- Negotiations
- Restructuring and post-restructuring issues

And one overarching challenge: Implementation

Debt workout mechanism

- UNCTAD has been a long-standing advocate of a multilateral debt workout mechanism drawing on national bankruptcy laws.
- Such a mechanism should meet 2 objectives:
 - prevent financial meltdown
 - Provide forum to facilitate an equitable restructuring

Preventing meltdown

- A **temporary standstill**, whether debt is public or private, and regardless of whether the servicing difficulties are due to solvency or liquidity problems (a distinction which is not always clear-cut); an **automatic stay** on creditor litigation.
- Standstills should be accompanied by **exchange controls**, including the suspension of convertibility for foreign currency deposits and other assets held by residents as well as non-residents.
- Provision of **debtor-in-possession financing**, automatically granting seniority status to debt contracted after the imposition of the standstill. IMF should lend into arrears for financing imports and other vital current account transactions.
- **Debt restructuring** including rollovers and write-offs, based on negotiations between the debtor and creditors

Merits of the UNCTAD approach

- Deals with process from a **substantive** point of view beginning with a set of principles (instead of focusing on an institutional debate)
- Acknowledges the political nature of sovereign debt workout processes (instead of treating it as a purely commercial endeavor) - and the importance of **public interest**
- Is **Inclusive** (across the spectrum of stakeholders' opinions) and **comprehensive** (from beginning to end of debt workouts)
- Provides a **flexible** instrument needed in a complex and ever-changing financial environment
- Identifies institutional gaps: case for a Debt Workout Institution

Thank You

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