



BRAZIL

Ad Hoc Committee on Sovereign Debt Restructuring Processes

First Working Session

Statement by the Deputy Permanent Representative
Ambassador Guilherme de Aguiar Patriota

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(Please check against delivery)

Thank you, Mr. Chairman,

I wish to congratulate you on your election as Chair of this committee, as well as all the bureau members for the important task they have taken on, and to express Brazil's commitment to working towards a successful outcome.

My delegation associates itself with the statements made by South Africa on behalf of the G-77/China, and Uruguay on behalf of UNSAUR, and has the following remarks to make in its national capacity:

We have ample reason to believe that the current architecture for dealing with sovereign debt restructuring processes can be considerably improved through a multilateral framework discussed and developed in the UN with the participation of relevant institutions.

A positive result would seek to better safeguard the interest of debtor countries and the social and economic development needs and priorities of their populations. It would do this through moderating predatory or unfair behavior on the part of creditor groups, in particular the so called vulture-funds when they exploit a minority holdout position as leveraged for seeking unusually high returns on speculative^{ive} investments against nations and their peoples. It would attempt to create a set procedures that would encourage^{ive} more predictable road map for dealing with debt sustainability assessments, crisis and restructuring.

Most countries have detailed legal frameworks for dealing with debt crisis and bankruptcy, such as the well-known US Chapter 9 and Chapter 11 bankruptcy codes. Nothing that could remotely compare to such procedures exists in the international arena. Building a reasonable framework for debt restructuring at the international level could improve conditions for both debtors and creditors to be fairly treated, reducing the margining for social and economic ~~and economic~~ sacrifice as in settlements. In fact, it is the

UN's role to promote the most adequate international environment for the full enjoyment of human rights, including the economic, social and cultural rights of all peoples.

As we prepare to adopt an ambitious and universal development agenda for the next fifteen years, progress in the area of sovereign debt restructuring could represent a significant contribution to its means of implementation. This process under the initiative of the G-77/China can make a positive contribution if all engage in discussions. On our side of the globe, there is ample support we can build on, from national governments, regional blocs such as MERCOSUR, UNASUR and CELAC, as well as NGOs and international organizations such as UNCTAD, OAS and the Ibero-American Summit.

In light of ^{its} democratic governance structure and universality, based on one country one vote, the United Nations clearly is a legitimate forum to deal with the issues of debt restructuring. A good debt restructuring framework can expand development opportunities for developing countries facing liquidity or solvency crisis, and this is a goal of the UN and its development cooperation system.

→ Actually it already has several agreed mandates to do so, be it in 2nd Committee, be it in the PPS process, which will culminate with yet another Conference in Addis Ababa, next July.

Brazil supported the creation of the Ad Hoc Committee on Sovereign Debt Restructuring Processes, and is of the opinion that its work will bear fruits to the extent that ~~work done~~ ^{progress achieved in} by organizations such as the G-20 and the IMF are taken into account and factored into the discussions.

We should analyze recent developments with regards to the strengthening of collective action and "pari passu" clauses for sovereign debt contracts and assess the extent to which they provide a greater margin of protection against unwarranted extraterritorial legal actions of predatory so called vulture-funds.

There seems to be a general perception that the strengthening of those two clauses goes in the right direction but does not provide a full and adequate systemic solution to the multiple problems that still may arise from a poor debt restructuring. It also leaves behind a large stock of debt under contracts that do not have the updated clauses.

Coupled with the adoption of new CACs and "pari passu" provisions, a legal framework encompassing a set of high-level principles on responsible debt management and restructuring could result in more timely and organized restructuring ~~processes~~. The Ad Hoc Committee should draw on the extensive work of UNCTAD on Consolidated Principles for Promoting Responsible Sovereign Lending and Borrowing, with a view to establishing a set of best practices for fair debt restructuring processes.

The definition of concrete procedures would help increase predictability, as it would describe expected behavior from both sides. The role of multilateral financial institutions in these instances should be clearly established.

Recommendations and guidelines such as these would help expedite restructuring processes as soon as their need is recognized, and would be a useful parameter for assessing good faith and for confidence building. They should address the issue of holdout creditors, stimulating cooperative behavior within reasonable parameters in the interest of fair and more symmetric negotiations with indebted countries in vulnerable financial positions, safeguarding the core social and economic well-being of their populations.

Finally, the proposed framework could include provisions to provide low-income countries with the necessary technical assistance and capacity building to transmit the skills needed to negotiate with lenders on a better footing, as those are critical to enable responsible debt management and prevent future debt crises.

Mr. Chairman,

The Brazilian delegation calls on all UN members states to ~~work~~ collectively discuss and decide on a multilateral legal framework for debt restructuring based on principles as a consensual outcome of the Ad Hoc Committee's mandated work. The benchmark of our

work should be achieving meaningful positive impact for sovereign debt restructuring processes in the future.

Thank you.