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ENHANCING ACTIONS AND INFORMATION EXCHANGE ON CREDITOR PARTICIPATION AND LITIGATION RELATING TO HIPC DEBT RELIEF

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EXECUTIVE SUMMARY

This background paper for the CMDSF, to be held on 22 April, recommends actions necessary to improve creditor participation, reduce litigation, and increase information exchange to reinforce debtor negotiation capacities, in regard to HIPC relief.

After extensive analysis of *creditor participation and litigation*, it makes the following recommendations for actions by the CMDSF, by suggesting that Ministers could:

- Request a more detailed feasibility study of how remaining debts to small multilateral creditors could be extinguished.
- Request the CMDSF Chair to write to G8 leaders, urging them to take up the issue of debt relief forcefully bilaterally at head of state level with non-Paris Club creditors.
- Encourage Commonwealth and other donors could provide funding to cancel debts among low-income countries, or owed to creditors which have received debt relief, and wealthier Commonwealth developing country creditors to provide relief.
- Encourage all HIPCs with significant remaining commercial debt to explore prospects for a “repeat” IDA Debt Reduction Facility operation.
- Urge full use of DRF and Commonwealth Clinic legal technical assistance, and rapid activation of the African Legal Support Facility. They could also urge cooperation among the TA sources, to maximize synergies and complementarity.
- Request Commonwealth and other donors could encourage non-Paris Club creditors, and commercial creditors, to agree not to sell debts to potential litigants.
- Support efforts to change creditor legislation to prevent lawsuits being launched in their jurisdictions, along the lines of the current bill being presented to the US Congress. This is particularly important in the UK, where many lawsuits have been launched (as well as in France and Belgium).

In regard to *improving information exchange*, it recommends that Ministers could:

- Urge international and regional organizations to work together to compile more detailed information for HIPCs (on a creditor by debtor basis where possible) on creditor participation, best possible relief terms and litigation experiences, in a format designed to assist negotiations, by October 2009.
- Undertake to provide all necessary information freely with institutions participating in such an information-sharing system to facilitate its work, as well as other HIPCs. This is of course a prerequisite for the success of any information-sharing.
- For maximum learning of best practices, urge information-sharing to draw on the experiences of all possible (including non-Commonwealth) HIPCs.
- Urge that information could be made available in French, Spanish and Portuguese as well as English, assuming funding for translation is available, to maximize its utility.
- Suggest that for the sake of timeliness, information be electronically supplied through websites and “listserve” emails.
- Urge donors to provide funding for such information-sharing activities.

ENHANCING ACTIONS AND INFORMATION EXCHANGE ON CREDITOR PARTICIPATION AND LITIGATION RELATING TO HIPC DEBT RELIEF

I. BACKGROUND AND OBJECTIVES

1. As Chair of the Commonwealth Ministerial Debt Sustainability Forum (CMDSF), the Government of Guyana has commissioned several studies to provide analytical support on key issues to be discussed at the Commonwealth Ministerial Debt Sustainability Forum meeting on April 22. These are funded by the Department of International Development of the United Kingdom, and include this study of how to improve actions and information exchange on creditor participation and litigation on HIPC debt relief.

2. In principle, all external creditors are expected to participate in Enhanced HIPC Initiative relief on an equal burden sharing basis. Paris Club bilateral and almost all multilateral creditors have done so, but non-Paris Club bilateral creditors have provided only 40% of their share, and commercial creditors only 33%. Some non-Paris Club bilateral creditors and many commercial creditors have also sought full repayment through litigation. Moreover, relatively little information is available on creditor participation, relief terms and how these have been negotiated, or on litigation.

3. The paper therefore has two objectives:

- To identify actions which can be taken to improve participation, and how the CMDSF can lobby effectively for these actions; and
- To suggest ways to establish structures and databases for information exchange on creditor participation and litigation – whose success will be critically dependent on the willingness of debtors to share such information.

4. The remainder of the paper is divided into two sections. Section 2 examines the current status of creditor participation and litigation related to HIPC relief, and defines actions which can be taken to improve creditor participation and reduce litigation. Section 3 examines prospects for enhancing mechanisms for information exchange on creditor participation and litigation, in order to assist debtors in negotiations to enhance participation, as well as in avoiding or defending lawsuits, ending with recommendations to improve information sharing, placing particular emphasis on electronic mechanisms.

II. ACTIONS TO IMPROVE PARTICIPATION/REDUCE LITIGATION¹

2.1. Current Status of Creditor Participation and Litigation

2.1.1. Multilateral Creditors

5. As shown in Annex Table 1, all major multilateral creditors are either fully participating in HIPC, or have indicated their intention to participate. The latest BWI Status Report states that the four largest creditors (IMF, World Bank, AfDB and IADB), representing 85.7% of multilateral relief due, are delivering fully on their assistance under both HIPC and MDRI. **It should be noted, however, that only these four major**

¹ This section of the paper is based in considerable part on Gueye, Vaugeois, Martin and Johnson, *Negotiating Debt Reduction in the HIPC Initiative and Beyond*, HIPC CBP Publication 11, available at http://www.hipc-cbp.org/files/en/open/Publications/Pub11_June07.pdf, and on the IMF and World Bank Board Paper, *HIPC and MDRI – Status of Implementation*, September 2008, available at <http://www.imf.org/external/pp/longres.aspx?id=4278>.

multilateral institutions have been funded to deliver on MDRI relief, and that including other multilaterals (such as the Caribbean Development Bank, East African and West African Development Banks, and PTA Bank) in the MDRI could increase relief provided to HIPCs significantly.

6. However, the report is somewhat uncertain about delivery by other multilaterals which have indicated an intention to participate in HIPC (though indicating that it is collecting updated information for the next status report). It suggests that

“Due to incomplete information, delivery of HIPC Initiative assistance by smaller multilateral creditors cannot be estimated at this juncture. The majority of the 20 participating creditors has reportedly agreed on the modalities to deliver HIPC Initiative debt relief to their post-completion-point HIPC debtors. Six creditors representing 62 percent of the cost, are known to have provided debt relief in the interim period through debt service reduction or rescheduling of arrears and maturities falling due.”²

7. However, information supplied to DRI by HIPCs indicates that creditors covering a further 13.2% of relief due are delivering relief on HIPC comparable terms, leaving the status of only 0.9% of delivery uncertain. It also confirms that, as stated by the BWIs, 7 small multilateral creditors,³ owed a total of USD 35.6 million or 0.2% of the assistance due from multilateral creditors, have not indicated an intention to participate in HIPC. **As these multilateral creditors are largely governed by low-income countries, including many HIPCs, which do not have the resources to make debt relief contributions, it would seem appropriate for donor countries to fund the extinguishing of debts owed to them through the HIPC Trust Fund.**

2.1.2. Paris Club Bilateral Creditors

8. All Paris Club creditors are now participating fully in HIPC relief. Indeed, as can be seen in Annex Table 2, most have gone beyond the minimum requirements of HIPC and have cancelled 100% of the debt owed to them. There are some exceptions to this in terms of the coverage of debt (especially some creditors do not cancel 100% of post-cutoff date debt), and the timing of service and stock cancellations in relation to HIPC initiative progress varies somewhat. In addition, there are some questions as to whether all creditors are negotiating HIPC relief which is fully comparable in their bilateral post-Paris Club agreements. However, these issues would not constitute “non-participation” and therefore are not dealt with here.⁴

2.1.3. Non-Paris Club Bilateral Creditors

9. Based on information collected by the HIPC CBP and the BWIs, Annex Table 3 shows the best terms achieved with each non-Paris Club bilateral creditor by HIPCs. It is

² These creditors are Arab Bank for Economic Development in Africa, Central American Bank for Economic Integration (to Honduras only), European Commission, European Investment Bank, Islamic Development Bank and OPEC Fund for International Development.

³ These are the Banque des Etats de l’Afrique Centrale (BEAC), Economic Community of West African States (ECOWAS), Banque de Développement des Etats de l’Afrique Centrale (BDEAC), Eastern and Southern African Trade and Development Bank (PTA Bank), Banque de Développement des Etats des Grands Lacs (BDEGL), Conseil de l’Entente (FECECE), Fondo Centroamericano de Estabilización Monetaria (FOCEM), and Fund for Solidarity and Economic Development (FSID).

⁴ For more details on these issues, see Gueye et al 2007, Chapter 3.

evident from that table that 20 creditors⁵ have not provided any relief to HIPCs (though Colombia and Costa Rica look likely to shortly), while 17 creditors have provided relief to only some HIPCs.⁶ BWI data indicate that those creditors delivering all necessary relief represent only 1% of the total relief due, while those delivering partial relief represent 65% and those not participating at all represent 34%.

10. Overall across all HIPCs, the largest amounts of debt are owed to Costa Rica, Taiwan, Libya, Algeria, China, Honduras, Iraq and Kuwait. For Commonwealth HIPCs, the key non-participating non-Paris Club creditors are Algeria, China, Kuwait and Libya, for which relief is outstanding on more than US\$500 million.⁷ Most Algerian, Kuwaiti and Libyan debt relates to decades-old oil facility borrowings, though some was lent by state investment corporations for projects. Kuwait is understood to be changing the regulations of its investment corporation to allow debt relief on this non-concessional debt, and other Arab creditors should be encouraged to follow suit. China should also be encouraged to provide relief on commercial loans to countries with which it has diplomatic relations.

11. Other non-Paris Club bilateral creditors which have yet to participate in HIPC, and to which Commonwealth HIPCs owe more than US\$ 10 million, are Angola, Bulgaria, Serbia (ex Yugoslavia), India, Iran, Iraq, Romania, Slovak Republic and Taiwan. Of these creditors, Angola, Iran, Iraq and Taiwan have not to date provided any debt relief to any HIPCs. In some cases, the creditors have not even been willing to enter discussions or reply to debtor country correspondence. Some creditors, notably Libya, Iraq and Taiwan, have even been suing or threatening to sue for full repayment (see 2.1.5. below).

12. Over the years, efforts by the BWIs and the Paris Club to encourage comparable treatment, including supplying TA to creditors on how to provide relief, raising the issue during Article IV missions, and publishing the names of non-participating creditors, have not been highly successful in increasing creditor participation. This issue needs to move up the political agenda of major G8 creditors – as was successfully done by the EU in its accession talks with Bulgaria and Romania. Bilateral discussions at the highest level between for example France and Algeria or Libya, the US/UK and Iraq are likely to have more impact, and Ministers could encourage the next G8 summit to pursue this issue.

13. Six Commonwealth non-Paris Club creditors have yet to provide relief (India, Namibia, Nigeria, Pakistan, Zambia and Zimbabwe). For the last five, amounts outstanding are under US\$ 8 million, of which US\$ 3 million is owed by Commonwealth HIPCs. On the other hand, India has written off much of its government-to-government debt to HIPCs, but has not provided comparable relief on Export Credit Guarantee Corporation debt. As the amount owed to non-participating Commonwealth creditor countries (excluding Indian ECGC debt), is small and all but Namibia⁸ are themselves low income countries, Commonwealth HIPC Ministers could reiterate their request for one or more wealthier Commonwealth countries to extinguish debt owed to other Commonwealth low-income

⁵ Angola, Cape Verde, Cote d'Ivoire, DRC, Ecuador, Honduras, Iran, Iraq, DPR Korea, Namibia, Niger, Nigeria, Oman, Pakistan, Peru, Taiwan, Thailand, Uruguay, Zambia and Zimbabwe.

⁶ Algeria, Bulgaria, Argentina, China, Cuba, the Czech Republic, Guatemala, India, Kuwait, Libya, Mexico, Poland, Romania, Saudi Arabia, Serbia, the Slovak Republic and UAE. Venezuela has recently provided full relief to all HIPCs.

⁷ All data in this section are from the BWI's *HIPC and MDRI –Status of Implementation*, September 2008.

⁸ Namibia and India are lower-middle income countries.

countries, by providing funds to buy the debt at a discount equivalent to each HIPC country's HIPC common reduction factor⁹ to ensure comparability. They could also urge India and Namibia to participate fully in HIPC relief.

Commercial Creditors

14. There has been considerable progress in recent years with commercial creditor participation, as countries with large amounts of commercial debt such as Cameroon and Congo have been moving through their HIPC processes. The recent improvements in the IDA Debt Reduction Facility (DRF), from which Mozambique and Nicaragua have benefited, have allowed countries to move rapidly ahead with "repeat" buybacks to clear remaining commercial debts, even to previously litigating creditors.¹⁰ Liberia and Sierra Leone in particular could be able to follow the same path. Nevertheless, there remain some creditors which are refusing to participate in commercial debt reduction operations, so it will be important to ensure that countries continue to receive legal assistance after DRF operations have been completed, in case such creditors decide to resort to litigation.

2.1.4. Litigation

15. One recent feature of HIPC-related negotiations has been the proliferation of lawsuits by creditors. The BWIs list 54 cases with court settlements of USD 1.2 billion. HIPC CBP numbers indicate 57 cases with USD 1.7 billion under dispute.

16. Many Commonwealth HIPCs (Cameroon, Guyana, Sierra Leone, Uganda and Zambia) have had to pay heavily for commercial creditor lawsuits, others (such as Guyana) have only just averted legal judgments, and many have been threatened with suits. Cameroon, Sierra Leone and Uganda have ongoing cases. Among non-Commonwealth HIPCs, 14 countries have suffered threats or actual lawsuits.

17. The Nicaragua DRF was successful in extinguishing current lawsuits, as was the Congo Republic debt reduction agreement. Similar operations could play a major role in avoiding future lawsuits, especially if high-quality legal assistance is provided to HIPCs. As the IMF has recently suggested, public opinion is also vital, as Guyana vs Iceland shows – the dropped litigation, largely due to a major NGO campaign.

18. It is equally important to ensure that new lawsuits do not emerge, particularly by discouraging existing creditors from selling their debts to unscrupulous 'vulture funds' or other creditors who are likely to sue. While Paris Club and EU members have already agreed not to sell their debts, it is vital to extend this as far as possible to non-Paris Club bilateral creditors, particularly Iraq and Serbia (ex-Yugoslavia), and to more reputable commercial creditors such as banks and multinational enterprises. Bilateral discussions between G8 members and these other creditors, as well as encouragement by EU and G8 governments for commercial creditors not to sell debts on, could be very productive here.

19. Three types of technical assistance are available to debtor countries:

- Legal assistance from top international law firms as part of the IDA DRF operations.
- The Commonwealth Secretariat Legal Clinic, which is described in detail in Box 1.

⁹ The common reduction factor is the % by which all creditors are required to provide debt relief to ensure comparability. It is found in the HIPC decision and completion documents.

¹⁰ Guyana also had a repeat buyback before the DRF rules were changed

BOX I

THE COMMONWEALTH SECRETARIAT LEGAL CLINIC

The Commonwealth Secretariat's Legal Clinic was set up in 2006, and has since then been providing legal and technical advice to debtor countries, to deal with actual lawsuits and also to prevent future lawsuits. The Legal Clinic has been:

- (i) providing legal advice to countries facing litigation on the steps to take in order to resolve or stop the litigation process
- (ii) conducting a series of capacity building seminars in Loan Negotiation and Renegotiation, and Legal Aspects of Public Debt for staff of Ministries of Justice and Finance of both Commonwealth and Non-Commonwealth Countries, in collaboration with Partner Organisations such as Pôle-Dette, MEFMI and Crown Agents.
- (iii) advocating the need for fiscal responsibility frameworks
- (iv) sharing information through the website of the Legal Clinic on judicial precedents
- (v) building a database of legal and financial experts and law firms as well as loan agreements
- (vi) drafting a compendium with a toolkit on legal aspects of debt ; and
- (vii) advocating changes of legislation to stop vulture fund creditors' lawsuits in court.

- The African Legal Support Facility, administered by the African Development Bank. This will provide (i) technical legal advice to members of the Facility in creditor litigation, and (ii) technical legal assistance to members of the Facility to strengthen their legal expertise and negotiating capacity in matters pertaining to debt management, natural resources and extractive industries management and contracting, investment agreements, and related commercial and business transactions.

20. Finally, Parliamentarians and CSOs are continuing to pursue efforts to change legislation in Belgium, France, the UK and the US, to make lawsuits by vulture funds much more difficult or even impossible in those jurisdictions. Most recently, the US Congress introduced in August 2008, a Stop Vulture Funds bill to cap the amount of profit attainable by vulture funds, and to make the litigation process far clearer and more regulated.¹¹ This bill will be reintroduced in April 2009 with stronger bipartisan support. It is structured so as to overcome common worries about potential negative effects on secondary markets and commercial lending, and therefore Commonwealth Ministers could advocate the adoption of similar legislation in other jurisdictions.

21. **Recommendations on Increasing Participation and Improving Terms**

After extensive analysis of *creditor participation and litigation*, it makes the following recommendations for actions by the CMDSF, by suggesting that Ministers could:

- Request a more detailed feasibility study of how remaining debts to small multilateral creditors could be extinguished.
- Request the CMDSF Chair to write to G8 leaders, urging them to take up the issue of debt relief forcefully bilaterally at head of state level with non-Paris Club creditors.

¹¹ For details of this bill, see <http://www.jubileeusa.org>. For information on other countries, see <http://www.eurodad.org>.

- Encourage Commonwealth and other donors could provide funding to cancel debts among low-income countries, or owed to creditors which have received debt relief, and wealthier Commonwealth developing country creditors to provide relief.
- Encourage all HIPC's with significant remaining commercial debt to explore prospects for a "repeat" IDA Debt Reduction Facility operation.
- Urge full use of DRF and Commonwealth Clinic legal technical assistance, and rapid activation of the African Legal Support Facility. They could also urge cooperation among the TA sources, to maximize synergies and complementarity.
- Request Commonwealth and other donors could encourage non-Paris Club creditors, and commercial creditors, to agree not to sell debts to potential litigants.
- Support efforts to change creditor legislation to prevent lawsuits being launched in their jurisdictions, along the lines of the current bill being presented to the US Congress. This is particularly important in the UK, where many lawsuits have been launched (as well as in France and Belgium).

III: ACTIONS TO ENHANCE INFORMATION EXCHANGE

22. The need to improve exchange of information on relief provided by creditors, and on litigation, is crucial to ensuring all HIPC's are able to negotiate maximum relief from creditors, and take steps to avoid costly litigation. In many cases over the past few years, HIPC's have faced long delays in negotiations or failed to achieve HIPC-comparable terms due to lack of information on better precedents established by others. This section therefore examines prospects for enhancing information exchange on creditor participation and litigation, to assist debtors in negotiations and defences against lawsuits.

3.1. Debtor Information Needs

23. There are three key aspects of information provision which are needed in order to make it useful to the widest range of debtor countries:

- *the maximum amount of detail*, as to the terms negotiated or the content and results of litigation. On terms, this implies maximum detail on: the methods used by creditors to provide relief, and how to calculate whether relief is comparable with HIPC commitments; the interest rates, fees, and grace and maturity periods applied to any rescheduled or refinanced debt; the degree of flexibility in the terms provided by any creditor; and the basis on which that flexibility is provided. On litigation, it implies information on the basis for the litigation and where it is likely to be launched, on the litigant if they have any track record of prior litigation, and on all the possible strategies available to preempt or renegotiate litigation. In both cases it implies contact details of debtors with prior experience of such negotiations or litigation, as well as of sources which can help immediately with further advice;
- compilation of the information, sometimes from multiple sources, into *easily accessible formats* which present exactly the information countries need to support their negotiations, as well as a network of contacts through which the debtor can access similar-level officials in other countries to discuss in more detail why negotiations were successful. Easy accessibility implies that it should be available through the web in easily and simply downloadable formats eg Word/PDF/Excel;
- *timely information*, preferably updated at least semiannually and more often when there are urgent positive or negative changes in a particular creditor's policy. This

implies that there would need to be a system for regular communication with HIPCs through electronic mailings to inform them about latest developments;

- **information in multiple languages.** The results of the HIPC-CBP of negotiation results conducted in 2006-07 leave no doubt that a broader exchange of information would be useful as various non-Commonwealth HIPCs (eg Sahelian HIPCs with Arab creditors, Latin American HIPCs with Latin American creditors) have achieved considerably better terms than Commonwealth members, from which they could benefit through a wider information exchange. In order to facilitate this wider exchange, information would need to be available in French, Spanish and Portuguese (the languages spoken by 2/3 of HIPCs) as well as English.

3.2. Information Currently Available

24. Currently, information exchanged is as follows:

- on **multilateral creditors**, the BWIs provide detailed tables, updated annually, on the amounts of relief provided by the IMF and the major RDBs, as well as an update on provision of relief by other creditors (though this information is currently out of date and being updated for next September). The HIPC CBP provides details on the ways in which the multilateral creditors provide their relief, updated annually.
- on **Paris Club creditors**, the Paris Club secretariat provides details of multilateral agreements on its website (www.clubdeparis.org), the BWIs provide information on debt relief beyond Paris Club/HIPC in their annual status report, and the HIPC CBP provides information on debt relief beyond Paris Club/HIPC (as shown in Annex Table 2) as well as on the best terms obtained in Paris Club bilateral negotiations.
- on **non-Paris Club bilateral creditors**, the BWIs provide information on % participation and amounts of outstanding debt in their *HIPC and MDRI Status of Implementation* Report every September. The HIPC CBP compiles information on the best relief terms HIPCs have received from each non-Paris Club bilateral creditor, which is disseminated to all HIPC Governments via its website (www.hipc-cbp.org), as shown in Annex Table 3.
- on **commercial creditors**, the BWI HIPC Status Report and HIPC CBP technical resources provide information on recent agreements and terms under the IDA DRF – and are both updated annually.
- on **lawsuits**:
 - A table of the number, status and amounts of commercial creditor lawsuits against HIPCs is published annually by the BWIs' in their *HIPC Status* report. The HIPC CBP compiles information which is provided to HIPCs via its website on the members' only pages. The CBP has also produced a chapter on Lawsuits in its publication *Negotiating Debt Reduction*, which discusses steps Governments can take to avoid litigation¹² (http://www.hipc-cbp.org/index.php?option=com_content&task=view&id=163&Itemid=18).
 - Commonwealth Secretariat Debt Clinic provides necessary information regarding recent judgments governing a loan agreement on its website (www.thecommonwealth.org/Internal/140503/157583/legal_debt_clinic).
 - EURODAD and Jubilee USA have produced useful recent reports on progress with efforts to change legislation in creditor jurisdictions to limit the feasibility of lawsuits (www.eurodad.org and www.jubileeusa.org).

25. Overall, there are several key problems with current information:

¹² See http://www.hipc-cbp.org/files/en/open/Publications/Pub11_June07.pdf

- It is not always available in sufficient detail or in the right format to assist negotiations. In general, the HIPC CBP information has been tailored to this purpose so that it provides most (but not necessarily all) of the information needed by debtors, including information on room and basis for negotiation in its publication. The CBP also provides details of debtor contacts, but it is not clear that these are sufficiently used, as debtors still tend to contact CBP partners for information. BWI information is somewhat more tailored to a global overview of relief, focusing on the amounts of relief and problems with participation rather than the detailed information on negotiations. They also receive considerable numbers of requests for more information on debt relief terms. The Comsec Legal Clinic has useful detailed information on lawsuits, and is preparing a legal compendium containing a toolkit for examining the legal and economic concepts underlying loan agreements and other legal aspects relevant to help during loan negotiations and during litigation.
- The information is not always in easily accessible formats. Some information is too detailed (eg individual documents on lawsuits) while other information is too aggregated, is buried in longer documents, or does not provide the details of the terms negotiated or which debtor countries have received them. Information therefore needs to be provided in separate files which can be easily downloaded.
- The last issue raises the question of confidentiality – whether debtor countries are prepared to share with others the terms they achieve. Experience indicates that they will share this information verbally or when placed in direct contact with counterparts in other countries, which implies the need for a web-based network to facilitate such contacts. However, even if debtors are prepared in principle to share this information, they do not always do so given pressures of other work.
- The information provided is not always sufficiently timely, mostly being updated only annually (though some of the CBP information is updated semiannually). The CBP has attempted to supply electronic mailings to countries on latest terms and lawsuits, via listserves and newsletters, but it is not clear whether this has been sufficiently systematic to be of maximum use to HIPCs. The Commonwealth Legal Clinic updates its information when a new legal precedent or judgment arises, or when an interesting debate on debt related-lawsuits is occurring
- Information is not necessarily available in multiple languages. BWI and Comsec information is available only in English, though all HIPC CBP information is available in English, French, Portuguese and Spanish.

3.3. Prospects for Improving Information Supply

26. Ideally, to supply the information debtors need, all the international and regional organizations currently involved in producing information would collaborate and agree on a common format for collecting and disseminating information through an annual survey, as well as for compiling the information into a debtor-friendly and easily accessible format, and sharing it through a common website. This would include all the details of negotiations and litigation, as well as contact details for debt managers in all HIPCs so that debtors could find out more details directly from one another. The information would be updated as often as possible (at least quarterly) based on inputs from other sources including debtor officials about the latest negotiations and lawsuits, and these updates would be supplied to debtor officials through e-mail listserves. In addition, the information could be placed on the web in the form of a private “wikipedia” with access granted for officials of HIPCs and international organizations to edit information on each creditor or lawsuit. Such a system would be of immense benefit to HIPCs (and could potentially be extended to any other countries receiving debt relief).

27. There may be several constraints to this “big idea”, but all can be overcome:
- **Confidentiality of the data** collected by different organizations. In principle, there should be no problems with sharing data among official sources, as it all comes from the same primary sources of HIPC governments or creditors. However, it is not clear that either of these sources would be prepared to share information, especially on ongoing negotiations, unless they had established close relationships of trust with the institution requesting information (as is the case with the BWIs and HIPC CBP).
 - **Reluctance to provide information** which might enhance HIPC negotiations. This might apply to some sources which are governed by major creditors, but this problem could be overcome by allowing more neutral sources to disseminate such information.
 - **Legal issues.** It might be felt by some organisations that ongoing lawsuits would be difficult to publicise and that information and advice on how to combat lawsuits would be difficult to publish, without risking being seen as taking a legal position and therefore risking being sued. However, unless they were disclosing information which had not been discussed in open court, or making a biased interpretation of the information, such risks would be minimal or nil.
 - **Issues relating to institutional mandates.** Different institutions have different mandates – the BWIs to monitor overall progress of debt relief, Comsec and AfDB to assist with legal issues, the HIPC CBP to assist countries in their negotiations. As a result, it might be hard for them to agree on the priorities and formats for data collection and dissemination. In addition, organisations which are themselves creditors might find it harder to disseminate detailed information on creditor terms (eg, the Paris Club might not be able to disseminate bilateral agreement terms).
 - **Staff and financing constraints.** All institutions currently involved in collecting and disseminating data face staff and financing constraints, which is one of the reasons underlying the relative infrequency of updates and paucity of languages for most information produced. Based on HIPC CBP experience, it might cost USD 150,000 a year to establish and maintain the electronic tools described above, in four languages.
28. **Recommendations on Information Exchange:**
- In this context, priorities for information-sharing would appear to be for Ministers to:
 - Urge international and regional organizations to work together to compile more detailed information for HIPCs (on a creditor by debtor basis where possible) on creditor participation, best possible relief terms and litigation experiences, in a format designed to assist negotiations, by October 2009.
 - Undertake to provide all necessary information freely with institutions participating in such an information-sharing system to facilitate its work, as well as other HIPCs. This is of course a prerequisite for the success of any information-sharing.
 - For maximum learning of best practices, urge information-sharing to draw on the experiences of all possible (including non-Commonwealth) HIPCs.
 - Urge that information could be made available in French, Spanish and Portuguese as well as English, assuming funding for translation is available, to maximize its utility.
 - Suggest that for the sake of timeliness, information be electronically supplied through websites and “listserv” emails.
 - Urge donors to provide funding for such information-sharing activities.

ANNEX TABLE 1 : MULTILATERAL CREDITORS: CONTRIBUTIONS TO THE HIPC INITIATIVE

Creditor	Between Decision and Completion Points	After Completion Point
African Development Bank/Fund (AfDB/AfDF)	Debt service relief: ceiling of 80% annual service (90% in exceptional cases to achieve total PV reduction) and max 40% of total PV relief	Debt service relief: max 80% of annual service due, until remaining 60% PV relief is delivered within 15 years
Andean Development Corporation (CAF or ADC)	Front-loaded stock of debt relief over a period of 5 years	Front-loaded stock of debt relief
Arab Fund for Economic and Social Development (AFESD)	To be determined	Concessional refinancing with 0.5% interest rate, 10 years grace, 40 years maturity
Arab Monetary Fund (AMF)	75% debt service reduction over 5 years	Case-by-case via partial debt service reduction and concessional rescheduling of arrears
Arab Bank for Economic Development in Africa (BADEA)	Clearance of arrears only	Reschedule 100% stock on terms needed to produce PV reduction: (0-3 years grace, 11-34 years maturity, 0-1% interest)
Caribbean Development Bank (CDB)	100% debt service relief on selected loans	100% debt service relief on selected loans needed to provide PV reduction, partly using donor assistance
CARICOM Multilateral Clearing Facility (CMCF)	Reschedule 100% stock at lower interest rate and extended maturity needed to produce PV reduction	Cancel accrued interest and reschedule rest on terms needed to produce PV reduction, partly using donor assistance
Central American Bank for Economic Integration (CABEI)	Cancellation of arrears, rescheduling of stock at lower interest rate and longer maturities	Partial cancellation and reschedule remaining stock at lower interest rate and/or with extended maturity
Central Bank of West African States (BCEAO)	No relief	Concessional rescheduling over 24 years, no grace, no interest
East African Development Bank (EADB)	No relief	Refinance on terms needed to provide PV reduction, eg 0 grace, 10-year maturity, 4% interest
European Investment Bank (EIB)	Forgive 100% annual debt service on identified loans	Prepayment of loans to produce PV reduction
European Union (EU)/European Commission (EC)	Forgive 100% debt service	Grants to provide full or partial cancellation to produce PV reduction
Financial Fund for the Development of the River Plate Basin (FONPLATA)	Under original framework: concessional loan restructuring	Cancellation of up to 25% not exceeding US\$4 million in PV terms

Inter-American Development Bank (IDB)	Maximum of 33% of total PV relief. Debt service relief of 50% of annual service due.	Debt service relief: 50% of annual service due on FSO loans and subsidy to selected Ordinary Capital loans to 2008. Beyond 2008, selective cancellation of principal for FSO loans outstanding before 2000
International Fund for Agricultural Development (IFAD)	Clearance of arrears only	Forgive up to 100% debt service, until PV reduction provided
International Monetary Fund (IMF)	Up to 100% of annual debt service; not to exceed 60% of total PV relief (75% in exceptional cases) or 20% in any one year (25% in exceptional cases)	Remaining 40% of PV relief
Islamic Development Bank (IsDB)	Rescheduling or refinancing of arrears during interim period	Rescheduling or refinancing with 0-1 year grace, 25-30 years maturity and 0% interest
Nordic Development Fund (NDF)	No relief	Forgive 100% debt service, until PV reduction provided
Nordic Investment Bank (NIB)	No relief	Case-by-case, percentage of debt service forgiven over 3 years
OPEC Fund: Organisation of Petroleum Exporting Countries Fund for International Development	Case-by-case treatment of arrears	Case-by-case including refinancing with new loans (1-3% interest, 19-23 years maturity with 3-5 years grace); reduction of interest and service charges of existing loans; restructuring principal repayments
West African Development Bank (BOAD)	Debt stock or service reduction needed to produce PV contribution	Debt stock or service reduction needed to produce PV contribution
World Bank		
International Development Association (IDA)	Debt service relief: 50% or more of annual service due (100% in exceptional cases to achieve total PV reduction) Front-loading = max 1/3 of total PV relief	Debt service relief: 50% or more of annual service due. To be delivered within 20 years of DP
International Bank for Reconstruction and Development (IBRD)	IDA grant = IBRD share of relief in period Front-loading = max 1/3 of total PV relief	IDA credit to prepay debt = remaining PV relief

Source: HIPC CBP, based on information contributed by HIPCs, and on BWI HIPC Board papers.

ANNEX TABLE 2 : Paris Club Debt Relief Additional to HIPC*

Creditor country	Countries covered	Debt Relief Additional to the HIPC Initiative				Method of delivery	
		ODA		Non-ODA		Decision Point	Completion Point
		pre-cutoff date	post-cutoff date	pre-cutoff date	post-cutoff date		
Australia	HIPCs	100%	100%	100%	100% ^{1/}	^{1/}	^{1/}
Austria	HIPCs	100%	-	100%	-	case by case, flow	stock
Belgium	HIPCs	100%	100%	100%	-	100% flow	stock
Canada	HIPCs ^{2/}	^{2/}	^{2/}	100%	100%	100% flow	stock
Denmark	HIPCs	100%	100% ^{3/}	100%	100% ^{3/}	100% flow	stock
Finland	HIPCs	100%	^{4/}	100%	^{4/}	-	-
France	HIPCs	100%	100%	100%	-	100% flow ^{5/}	stock
Germany	HIPCs	100%	100%	100%	100%	100% flow	stock
Italy	HIPCs	100%	100% ^{6/}	100%	100% ^{6/}	100% flow	stock
Japan	HIPCs	100%	100%	100%	-	-	stock
Netherlands	HIPCs	100% ^{7/}	100%	100%	-	90-100% flow ^{7/}	Stock ^{7/}
Norway	HIPCs	^{8/}	^{8/}	^{8/}	^{8/}	-	-
Russia	HIPCs	^{9/}	^{9/}	100%	100%	-	stock
Spain	HIPCs	100%	case by case	100%	case by case	-	stock
Sweden	HIPCs	-	^{10/}	100%	-	-	stock
Switzerland	HIPCs	^{11/}	^{11/}	90 - 100% ^{11/}	-	90 - 100% flow	stock
United Kingdom	HIPCs	100%	100%	100%	100% ^{12/}	100% flow ^{12/}	stock
United States	HIPCs	100%	100%	100%	100% ^{13/}	100% flow	stock

Sources: Paris Club Secretariat, IMF/IDA

* A '100 percent' mention in the table indicates that the debt relief provided under the enhanced HIPC Initiative framework will be topped up to 100%t through a bilateral initiative.

1/ Australia: post-cutoff date non-ODA relief to apply to debts incurred before a date to be finalized; timing details for both flow and stock relief are to be finalized.

- 2/ Canada: including Bangladesh. Canada has granted a moratorium of debt service as of January 2001 on all debt disbursed before end-March 1999 for 13 out of 17 HIPCs with debt service due to Canada. Eligible countries are Benin, Bolivia, Cameroon, Congo (Rep. Dem.), Ethiopia, Ghana, Guyana, Honduras, Madagascar, Rwanda, Senegal, Tanzania, and Zambia. 100% cancellation will be granted at completion point. As of July 2004, Canada has provided completion point stock of debt cancellation for Benin, Bolivia, Guyana, Senegal and Tanzania.. 100% of ODA claims have already been cancelled on HIPCs, with the exception of Myanmar's debt to Canada.
- 3/ Denmark provides 100% cancellation of ODA loans and non-ODA credits contracted and disbursed before September 27, 1999.
- 4/ Finland: no post-COD claims.
- 5/ France: cancellation of 100% of debt service on pre-cutoff date commercial claims on the government as they fall due starting at the decision point. Once countries have reached their completion point, debt relief on ODA claims on the government will go to a special account and will be used for specific development projects.
- 6/Italy: cancellation of 100% of all debts (pre- and post-cutoff date, ODA and non-ODA) incurred before June 20, 1999 (the Cologne Summit). At decision point, cancellation of the related amounts falling due in the interim period. At completion point, cancellation of the stock of remaining debt.
- 7/ The Netherlands: 100% ODA (pre- and post-cutoff date debt will be cancelled at decision point); for non-ODA: in some particular cases (Benin, Bolivia, Burkina Faso, Ethiopia, Ghana, Mali, Mozambique, Nicaragua, Rwanda, Tanzania, Uganda and Zambia), the Netherlands will write off 100% of the consolidated amounts on the flow at decision point; all other HIPCs will receive interim relief up to 90% reduction of the consolidated amounts. At completion point, all HIPCs will receive 100% cancellation of the remaining stock of the pre-cutoff date debt.
- 8/ Norway has cancelled all ODA claims. Due to the current World Bank/IMF methodology for recalculating debt reduction needs at HIPC completion point, Norway has postponed the decisions on whether or not to grant 100% debt reduction until after the completion point.
- 9/ Russia has no ODA claims
- 10/ Sweden has no ODA claims.
- 11/ Switzerland has cancelled all ODA claims. In some particular cases (Central African Republic, Liberia, Republic of Congo, Sierra Leone, Togo) Switzerland will write off 100 percent of the remaining debt stock at completion point; all other HIPCs will receive debt relief according to Paris Club terms.
- 12/ United Kingdom: 'beyond 100%' full write-off of all debts of HIPCs as of their decision points, and reimbursement at the decision point of any debt service paid before the decision point.
- 13/ United States: 100% post-cutoff date non-ODA treated on debt assumed prior to June 20, 1999 (the Cologne Summit).

ANNEX TABLE 3

Best Terms Agreed with Non-Paris Club Bilateral Creditors							
	TYPE OF DEBT	GRACE PERIOD	MATURITY PERIOD	BASE INTEREST RATE	MARGIN %	PENALTY %	
	Full relief to all debtors	Some relief to debtors			No relief		
Algeria	Concessional	7	24	2%	0	+1	
Angola	No agreement to relief - creditor is HIPC and lacks resources						
Argentina	Buybacks at 8-16% of face value but rapid payment of rest						
Bulgaria	Bilateral	Comparable relief		Reduced from 5% to 0%	0	+4	
	Commercial	No debt relief - out of court settlement following lawsuit to one country					
Burundi	No relief provided but initial threats of lawsuits dropped						
Cape Verde	No comparable treatment - debt was workers remittances						
China	Commercial	No HIPC-comparable relief		LIBOR	1	+1	
	ODA	Comparable - cancels 100% of stock at end 2004 if diplomatic relations					
Colombia	IMF indicates promise of comparable treatment to Honduras following congress bill passage						
Costa Rica	Agreed to provide comparable relief but still being negotiated						
Cote d'Ivoire	No agreement to relief - creditor is HIPC and lacks resources - but has dropped lawsuit						
Cuba	Cancels 100% for countries with good relations						
Czech Rep	Buybacks at 10-16% of face value - comparable with Lyons or Cologne						
DRC	No agreement to relief - creditor is HIPC and lacks resources						
Ecuador	No agreement to relief - legal constraints to cancellation cited						
Egypt	Full delivery of relief to Tanzania						
Guatemala	Buyback of debt by Spain, then HIPC comparable relief provided						
Honduras	Indicated similar operation to Guatemala possible						
Hungary	Commercial	90% cancellation, reschedule rest over 16 years, 0 grace, 0% interest during grace					
India	ODA	Comparable - lines of credit 100% written off					
	ECG Corporation	No comparable relief		LIBOR	2	+1	
Iran	No agreement to relief - cites legal constraints to cancellation						
Iraq	No agreement to relief for 9 countries - sold debt to commercials who are litigating						
Jamaica	Full delivery of relief to Nicaragua						
Korea (DPR)	No agreement to relief						
Korea (Rep)	Concessional	Reduced from 2.5% to 1%					+2
Kuwait	Kuwait Fund	10	30	1-4.5%, reduced to 0.5-2%	0	+0	
	Kuw Inv Authority	No agreement to participate in HIPC - considering change of law to permit					
Libya	Mixture of cancellation, conversion at 20% and payment - usually not comparable						
Mexico	90.5% cancellation under HIPC I						
Morocco	Full delivery of relief						
Namibia	No agreement to relief						
Niger	No agreement to relief - creditor is HIPC and lacks resources						
Nigeria	No agreement to relief						
Oman	No agreement to relief for 6 countries						
Pakistan	No agreement to relief						
Peru	No agreement to participate in HIPC - cites legal constraints						
Poland	80% cancellation and 20% for embassy costs - comparable HIPC I						
Romania	Buybacks at 8-10% of face value but sold some debts to commercial creditors, then lawsuit in Zambia case						
Rwanda	Comparable relief for Uganda but not DRC						
Saudi Arabia	Saudi Fund (if fully disbursed)	10	30	Reduced from original to 1-2%	0	+0	
Serbia (ex-Yugo)	Some ex-parastatals buyback at 95% discount, many selling claims then lawsuits from purchaser						
Slovak Rep	Commercial	6	23	0% for 10 years then 3% for 3	0	+1	
South Africa	Cancels 100% of debt						
Taiwan	No agreement to relief for 11 countries - sued Niger successfully for payment						
Tanzania	Buyback of Uganda debt funded by Austria @ 10%, remainder cancelled						
Thailand	No agreement to relief						
Trinidad & Tobago	Full delivery of relief to Guyana						
UAE	Abu Dhabi Fund (arrears only)	5	12	Not comparable - 2%	0	0	
Uruguay	No agreement to relief						
Venezuela	100% cancellation for countries with good relations						
Zambia	No agreement to relief - creditor is HIPC and lacks resources						
Zimbabwe	No agreement to relief - creditor is severely indebted and lacks resources						

Sources: HIPC Governments; IMF/World Bank September 2008