Parliamentary Briefing | February 2025

The UK's role in tackling the debt crisis by passing the Debt Relief (Developing Countries) Bill

"It's time to face the reality: the poorest countries facing debt distress need debt relief if they are to have a shot at lasting prosperity… Sovereign borrowers deserve at least some of the protections that are routinely afforded to debt-strapped businesses and individuals under national bankruptcy laws. Private creditors that make risky, high-interest loans to poor countries ought to bear a fair share of the cost when the bet goes bad."
- Indermit Gill, Chief Economist, World Bank

Summary

Lower-income countries have been plunged into a debt crisis that is preventing them from addressing the needs of their people or responding to the climate emergency, threatening a wave of political instability. Thirty-two African countries now spend more on paying external debts than they do on healthcare. Twenty-five African countries spend more on external debt repayments than they do on education.

Urgent debt relief is being blocked by the failure of bilateral, multilateral and private creditors to agree on sharing the burden of debt restructurings. The G20 initiatives in response to the crisis have neglected to include robust processes to require banks, hedge funds and oil traders to agree as much debt relief as governments.

The vast majority of lower-income country debt contracts are governed by English or New York law. This means that the UK could pass legislation to ensure that predatory minority creditors cannot undermine collectively agreed restructurings. This would protect countries which have negotiated a debt restructuring from being sued by predatory creditors seeking payment in full, as well as benefit responsible private creditors, allowing them to participate in restructurings without fear of losing out to competitors or reneging on any fiduciary duty to maximise returns for investors.

The UK played a key role in ensuring the success of the global initiative to address the last debt crisis by passing the Debt Relief (Developing Countries) Act in 2010, which ensured that no creditor could sue for more than they would have got if they had participated in debt restructurings agreed under the Heavily Indebted Poor Countries Initiative.

The Debt Relief (Developing Countries) Bill, introduced as a Ten Minute Rule Bill by Bambos Charalambous MP in November 2024, provides an opportunity for the UK to play a similar global leadership role and rebuild relationships with lower-income country partners, at no cost to the taxpayer – indeed, this bill would protect British taxpayer pounds from being used to bail out unscrupulous lenders. If the bill passes, the UK could present it on the global stage as a key element of a wider agenda to strengthen and expand the Common Framework, in order to address the critical financing gaps facing lower-income countries.

The debt crisis

Lower-income countries have been facing increasingly unsustainable debts since the 2008 financial crisis, with debt payments increasing by over 200% between 2010 and 2024, reaching their highest level since the mid-1990s. The economic shocks imposed on lower-income countries from the pandemic have significantly exacerbated the situation. For the 69 countries they assess, the IMF say that 37 are in debt distress or at high risk of being so, up from 17 in 2013.

As a result, resources needed to respond to energy and food price crises, the climate emergency and other locally determined needs are increasingly being diverted to debt repayments. In 2023, African countries spent over 50 times more on external debt than they received in aid from the UK, and 50% more than total aid to the region.

Lower-income countries simply cannot afford to invest in mitigating and adapting to the impacts of the climate crisis, and in preparedness for climate-related disasters such as hurricanes and floods. This means that climate-related disasters will continue to have devastating effects on unprepared communities.

Delays in the Common Framework process

The Common Framework for Debt Treatments Beyond the DSSI was announced by the G20 in November 2020 in response to the growing debt crisis triggered by the pandemic. However, in more than three years since it was established, only four countries (Chad, Ethiopia,

Ghana and Zambia) have applied. All have faced long delays in completing restructurings, which are discouraging other countries from applying. Even after debt relief, Ethiopia, Ghana and Zambia will be left one climate or economic shock away from being pushed back into debt crisis.

The key reason for the delays has been the reluctance of some private creditors to provide equal levels of debt cancellation to that agreed by government creditors. The participation of private creditors in debt restructuring is critical: 39% of lower-income country external debt repayments are to Western private creditors between 2020-2025, compared to 34% to multilateral institutions and 13% to Chinese public and private lenders.

The Common Framework requires private creditors to take part on a fair and equitable basis, recognised in the principle of comparability of treatment. However:

- Chad failed to get any debt relief from its main private creditor, UK-based Glencore, and Glencore will be repaid 50% more than government creditors
- Ethiopia has been negotiating for four years but has yet to reach any debt relief agreements.
- Zambia has been negotiating for over four years. In spring 2024 it finally reached a debt relief agreement with bondholders, but one which will see these private companies paid 13% more than governments, including the UK. Other private lenders to Zambia, including UK-based Standard Chartered and Investec, are still to agree to debt relief.
- Ghana reached a deal with is bondholders in June 2024 which is comparable to the debt relief offered by governments such as the UK. However, other private lenders, including banks in the UK, have yet to agree to debt relief.

Although there has been some progress, Zambia and Ghana have faced long delays in reaching agreements with private creditors, due to the lack in the Common Framework of a process to enable deals to happen in a timely manner. The potential for holdout creditors to sue defaulting countries in the English courts creates significant risks and uncertainty both for countries and responsible creditors.

The UK has a unique opportunity to strengthen the legal framework to ensure that future restructurings under the Common Framework treat all creditors fairly, as in the case of the Ghana deal, without the long delays that have been seen up to now. 90% of bonds issued by countries eligible for the Common Framework are governed by English law, including all bonds of Zambia and Ghana, as well as countries like Kenya that need debt restructuring but are nervous of requesting it. By eliminating the risk of vulture fund litigation, UK legislation would provide clarity to negotiations and strengthen the hand of defaulting countries and responsible creditors in agreeing to equal treatment.

There is a precedent for UK legislation to facilitate debt restructuring processes: the Debt Relief (Developing Countries) Act 2010 prevents a private creditor from suing a borrowing government for more than it would have received if it had taken part in the Heavily Indebted Poor Countries process, the previous major debt relief initiative.

What reform would look like

The Debt Relief (Developing Countries) Bill would incentivize private creditors to take part in debt relief. It would replicate the 2010 Debt Relief (Developing Countries) Act by ensuring that no creditor can hold out for more than government creditors will receive through a Common Framework debt restructuring. It would also initiate a debt payment standstill once a country applies for debt relief, so long as it is negotiating in good faith. This would give debtor countries greater confidence that applying for debt relief is legitimate and protect them from being sued during the negotiation process. Such protection is standard practice for corporate debt restructurings. Similar legislative proposals are being advanced in New York, to minimise the risk of lenders avoiding contracts under English law.

This should be part of a package of reforms to the debt relief process including deeper debt relief, so countries are not at risk of repeated crises and restructurings, suspension of debt payments during negotiations and making clear how much debt relief is on offer before countries apply.

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