Fonds vautours contre pays pauvres

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Let’s Stop Vulture Funds from Preying on the Poor
By Danny Leipziger*

Recent headlines have highlighted the activities of the specialized asset management funds that buy the distressed commercial debt of the poorest and most indebted countries on earth to then go after them and their assets in the courts of rich nations. These are the so-called vulture funds.

From the pledges of Britain’s Chancellor Gordon Brown to take action to curb the behavior of these funds to the recent hearing on the issue held in the U.S. Congress, a new consensus is emerging around the world: that unless we tackle this problem effectively, we risk seeing an unnecessary erosion of the benefits of the developing country debt relief for which so many people have campaigned and on which the hopes of so many of the world’s poorest people depend.

Vulture funds buy the sovereign debts of low income countries from other creditors at deep discounts and then attempt to obtain a settlement with the debtor on substantially better terms. They know that international debt relief is putting the governments of the reforming heavily indebted poor countries (HIPCs) in a better position to pay. By litigating and attempting to attach assets, they seek to force these HIPCs to settle with them.

There are 41 countries recognized by the World Bank and the IMF as eligible for debt relief. These 41 countries, mostly in Africa, are amongst the poorest and more economically distressed in the world. The Bank has already delivered more than US$40 billion in debt relief to 30 of these countries under Heavily Indebted Poor Countries (HIPC) Initiative and the parallel Multilateral Debt Reduction Initiative (MDRI); and many other multilateral and bilateral creditors are also playing their part. Thanks to this, countries like Ghana can provide micro-credit to farmers, build classrooms for their children, and fund water and sanitation projects for the poor.

Yet the activities of vulture funds threaten to undermine such efforts. A case in point is the recent lawsuit of Donegal International Limited and the Republic of Zambia. In April, the High Court in London ruled that Zambia must pay £7.7 million (about $15.5 million) plus a share of legal costs to Donegal International. Donegal bought the debt from the Romanian Government for less than US$4 million (about £2 million) but had sued Zambia for a total claim of more than $55 million (about £28 million).

In better-off countries, a case could be made that such secondary market trading in debt improves the efficiency of credit markets. But in very poor countries, secondary markets for debt are inevitably thin and highly uncompetitive. Meanwhile, the strategies adopted by vulture funds divert much needed debt relief away from the poorest countries on earth and into the bank accounts of the wealthy.

At end-2005, it’s estimated that more than a third of the countries receiving debt relief had been targeted with lawsuits by at least 38 litigating creditors. Judgments, awarded in 26 of these cases, were believed to amount to around US$1 billion with further judgments pending.

Where judgments are awarded, HIPCs are often forced into adopting non-transparent accounting practices, such as the use of intermediaries and shell companies to protect overseas assets from attachment. For the same reason, they have also been forced to manage their foreign assets in costly and ineffective ways; and to spend their scarce resources on expensive legal defenses.

Poor countries with huge debts already face major challenges from poverty, corruption and limited administrative capacity. They should not have to shoulder the additional burdens and costs that vulture funds impose on them.

As a steward of the HIPC Initiative, the World Bank continues to call for all commercial creditors to provide debt relief on terms comparable to those provided by other creditors. But the fact is that creditor participation in debt relief is voluntary. There is no legal basis for compelling participation.

What more can be done? As a start, we can help the HIPC countries eliminate their commercial debt so that they don't become prey of the vulture funds. In fact, we at the World Bank are taking a step forward in this direction by extending our Debt Reduction Facility for another five years (from July 2007 though July 2012).

Managed by the International Development Association, the World Bank's arm that provides concessional grants and credits to the poorest countries in the world, this Facility helps HIPC Governments in buying down their outstanding commercial debt. Over the past 17 years, the Debt Reduction Facility has supported commercial external debt buy-back operations in 21 countries, extinguishing some US$8 billion of debt.

Likewise, we can take action to choke off the supply of HIPC debt to vulture funds. Last month, the Paris Club, the group of government creditors from major industrialized countries, called on both bilateral and commercial creditors to avoid selling their claims on these very poor countries to other creditors who do not intend to provide debt relief. The Bank also is taking action to discourage such sales.

Beyond that, it is surely possible that the countries in which such litigation is taking place – principally the United States and the United Kingdom – can do more to ensure coherence between their public policies towards poor, highly indebted countries and their laws protecting the rights of private creditors to demand repayments from these countries. Those commercial creditors who play by the rules should be part of this dialogue.

The issues involved are not simple and any response must be cautious. But there is certainly a need for further investigation of options to tackle vulture funds. Continued investigation of their actions by governments, parliamentary bodies, media and civil society could help provide some answers. It would certainly cast much needed light into this dark corner of international finance.

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