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(ECOFIN)

BACKGROUND GUIDE

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Agenda 1

Global Anti-Tax Avoidance Package as a mechanism to combat the risks of tax evasion, tax avoidance and double taxation.

Introduction

Imagine a world where everyone paid their fair share of taxes and have the revenues being spent for the benefit of education, healthcare, development and other public welfare measures. Unfortunately, the world we live in is far from perfect. Some individuals, firms and MNCs (Multinational Corporations) operating around the world don't pay their share of taxes, which results in billions lost in terms of lost tax revenue. The ripple effect of thisleads to the Government of the nationlosing out on the amount of money to bereceivedtoimplement their duties for the society. Not only does this affect the government funding, but also increases the burden on others by resulting in a higher tax bill for genuine taxpayers. It also increases the marginal cost for companies paying their taxes fairly, thereby increasing the price of the product and decreasing demand.

Tax Avoidance is the method of legally and legitimately reducing the tax amount payable to the government. This is generally done by claiming deductions and credits for payments like- Charity, Retirement Schemes etc.Tax avoidance is different from Tax Evasion, Tax evasion is an illegal method of concealing income or misrepresentation of expenditure, i.e. it is the process of window dressing of one's accounts in order to show lesser income. If a person pays 1000 rupees for charity he can claim it to be exemption or avoidance of tax, but if he pays only 1000 and says he paid 1500 or incasepresents he paid 1000 for charity but doesn't pay anything at all, it is an illegal act of Tax Evasion. It's either a case of not filing returns or filing false returns.

What citizens don't realize is that by not paying taxes, they're starting a cycle of problems with them being at the receiving end.

To avoid these issues,the EU (European Union) came up with the Anti-Tax Avoidance Package. This was done in order to ensure that large companies meet their full tax amount payable in full transparency. Noting the efforts made by the EU even the OECD (Organization for Economic Co-operation and Development) countries are working on implementing this package in order to curb Tax Avoidance on an International level. However there still exist multiple facets to be touched upon by the international community toreduce the amount of lost tax revenue.

Scope of the Agenda

Tax is a compulsory contribution from an individual or organization to the Government or any public authority of the state to defray the common expenses incurred in the common interest of all the citizens of the state, without reference to special benefits conferred. Every country has their own tax laws with different sources of capital and revenue receipts to meet respective capital and revenue expenditures.

Tax Evasion

Tax evasion is the intentional and fraudulent practice to escape payment of taxes in whole or in part. Thishappens when people conceal their income from the tax officials so as to pay less tax. It is a common occurrence in almost every country where businessmen adopt fraudulent practices to save themselves from paying taxes. This leads to the generation of black money or unaccounted income. Tax evasion can range from avoiding taxes levied on income to manipulating taxes charged on the sale of goods[1]. Corrupt officials are one of the reasons the amount of tax evaded has been increasing.

Being illegal, many countries have laws as stringent as putting the perpetrators behind bars, others impose penalties such as a fine.

Tax evasion is one of the most widespread fraudulent practices taking place all over the world, however, the efforts made in the direction to curb this have been minimal. The citizens fail to understand that by evading taxes, they are setting up a parallel economy of black money which in turn raises the price of goods they consume and the burden falls on them in the end.

One of the reasons that tax is easily evaded is due to the fact that the laws followed in different areas are not uniform. The MNCs find loopholes and exploit the situation to their advantage.

Tax Avoidance

While tax evasion is an illegal offense, tax avoidance is the legal means by which a taxpayer can reduce his tax liability owed to the state. There are many ways in which the tax collecting authority of a state allows its citizens to minimize the amount of tax paid. Charitable contributions, buying insurance or saving into a pension helps reduce the tax burden on a person.

Excessive Tax avoidance is made possible by all the loopholes, complexities and inconsistencies in the tax law of different countries. For say in the EU, if one country's tax laws are not in sync with the others, MNCs can take advantage. Every year, around 1 out of 5

[1] http://legal-dictionary.thefreedictionary.com/Tax+Evasion

Euros of Corporate Tax is lost to Tax Avoidance. Through tax avoidance, the US loses $188 billion every year.

At what cost is Tax Avoidance legal?

Corporate Tax Planning

Every governing body provides opportunities to the corporate organizations either to avoid tax within the framework or minimize the tax liability. This is done through Corporate Tax Planning.

However, in recent times, several cases have come to light that show that their Tax Planning has been fraudulent as they evaded tax, instead of avoiding it. The incentives of tax rebates provided by the government have been misused to the advantage of the companies. Moreover, several obligations to be followed have been ignored due to the negligence and over-complexity of the tax laws in some countries. The recent developments of in the EU and US tax policies have taxpayers finding it hard to adjust to the rising changes.

Double Taxation

It is normal for a citizen to live in one country while having business operations in another country. How fair is it to tax the income earned by him twice, once by the country in which business profits are earned and the second time by the home country, the country of residence?

Dual taxation can either be on the income earned by a person in the form of profits or dividend earned or on the sale of a product/service. Double taxation makes operations in foreign countries too expensive thereby hampering trade and investments between two nations. In order to solve this, an attempt is made by numerous nations by signing hundreds of treaties to ensure that double taxation does not take place.

In addition to this, double taxation can be a tax levied upon another tax which increases the final cost of a product and service. Taxing the dividend earned by shareholders on the already taxed income earned by the company is an example of the same. The problem here arises when the laws of double taxation in two different countries aren't congruent.

Tax Havens

Tax havens refers to an area or jurisdiction that has non-existent or very low tax rates. A country may offer very less or zero tax liability to foreign companies, even in completely stable economic conditions.The major loophole to payment of taxes is that companies are not required to operate or carry out business from the country they are enjoying local tax benefits from. This attracts many companies to store their cash and money in tax havens and enjoy the tax benefits byminimizing the corporate tax liability. Though this is considered a flaw, it is completely legitimate as this is a good way for a developing country, or a country with limited financial and economic resources to attract investment from MNCs and it is legal for MNCs to be able to enjoy those tax benefits for taking certain risks.

In such situations, companies are not to be blamed, because if there is a country X offering say 20% tax and a country Y(Tax Haven) offering 6% tax. The company is likely to choose the country offering a lesser tax rate because that would fulfil its duties to its shareholders.

The argument against tax havens is that it is not fair for some countries to offer such opportunities as it affects the business cycle of other countries but also gives the companies the freedom to pay lesser tax which again hampers the global economy. The lost tax revenues due to Tax Havens is huge. It is large enough to make a significant difference to the finances of many countries. A 2012 report by the BritishTax Justice Networkestimated that between US$21 trillion and $32 trillion is sheltered from taxes in unreported tax havens worldwide.[2]

Examples of Countries and Regions that are known Tax Havens[3]

- Luxembourg
- Switzerland
- Bermuda
- Cayman Islands
- British Virgin Islands

Anti-Tax Avoidance Package

The European Union, on 28th January 2016, published the Anti-Tax Avoidance Package as a means to address the lost tax revenue by tax avoidance by MNCs operation in Europe. It has the following key elements: [4]

- Chapeau Communication: The Chapeau Communication outlines the political, economic and international context of the Anti-Tax Avoidance Package and gives an overview of the different elements.
- Anti-Tax Avoidance Directive proposal: The Anti-Tax Avoidance Directive proposes six legally-binding anti-abuse measures, which all Member States should apply against common forms of aggressive tax planning.It aims to create a minimum level of protection against corporate tax avoidance throughout the EU, while ensuring a fairer and more stable environment for businesses.
- Revision of the Administrative Cooperation Directive:The revised Directive proposes country-by-country reporting between Member States' tax authorities on key tax-

[2] http://www.bbc.com/news/business-18944097

[3] http://taxclimate.com/blog/2016/06/14/how-do-tax-havens-work/

[4] https://ec.europa.eu/taxation_customs/business/company-tax/anti-tax-avoidance-package_en

related information on multinationals operating in the EU.These new transparency provisions will allow all Member States the information that they need to detect and prevent tax avoidance schemes.

- Recommendation on Tax Treaties: The Recommendation advises Member States how to reinforce their tax treaties against abuse by aggressive tax planners, in an EU-law compliant way.It covers the introduction of general anti-abuse rules in tax treaties and the revision of the definition of permanent establishment.
- Communication on an External Strategy for Effective Taxation: The External Strategy presents a stronger and more coherent EU approach to working with third countries on tax good governance matters.It also sets out a process to create a common EU list of third countries for tax purposes.

  Study on Aggressive Tax Planning: The study looks at Member States' corporate tax rules (or lack thereof) that can facilitate aggressive tax planning and key structures used by companies to avoid taxation.It includes factsheets with the main findings for each Member State and examples of tactics used by multinationals to lower their taxes.

The cross-border nature of corporate tax avoidance means that action only at the national level cannot tackle the problem and can even lead to further problems. Unilateral efforts by Member States to protect their tax bases create administrative burdens for businesses, legal uncertainty for investors and new loopholes for tax avoiders to exploit.[5] Hence, the way forward is the formation of a Global-Anti Tax Avoidance Package.

Current Situation

The Panama Papers leak shed light into what had once been the highly secretive, protected world of offshore banking and propelled numerous governments into action. The leak exposed risks relating to money laundering, bribery, and tax evasion, among other illegal practices. In response, several governments initiated investigations of individuals and the financial institutions that aided them. This is in addition to pre-existing investigations conducted by countries into banks located outside of their physical jurisdiction and voluntary disclosure programs for previously undisclosed account holders, which have resulted in the collection of significant tax, interest, and penalty payments. Perhaps more important, during the investigations of individuals and financial institutions, governments are learning valuable information about previously undisclosed offshore account holders and the institutions that aid them.[6]

[5] http://europa.eu/rapid/press-release_MEMO-16-160en.htm

[6] https://www.navigant.com/-/media/www/site/downloads/financial-services/2017/navigant-global-tax-evasion-review-2016.pdf

Panama Scandal

In 2015, the Panama papers were leaked by a John Doe[7]. These documents gave an insight intogovernments, individuals and even non-governmental bodies that used Havens in order to protect their wealth from getting taxed.

These papers belonged to Mossack Fonseca and included confidential financial information of over offshore entities and how they would manipulate money systems, avoid taxes and dodge the tax payable to their home countries. More than 214,000 offshore entities appear in the leak, connected to people in more than 200 countries and territories.[8]There were totally around 11.5 million documents leaked which has information of over 12 head of states, including dictators who were accused of stealing from their own countries.

List of notable individuals allegedly involved:

- Mauricio Macri, President of Argentina
- Petro Poroshenko, President of Ukraine
- Salman, South Africa
- Khalifa Bin Zayed Al Nahyan, President of United Arab Emirates
- Hamad Bin Khalifa Al Thani, Former Emir of Qatar
- Ahmed Al Mair Ghani, Former President of Sudan
- Malcolm Turnbull, Prime Minister of Australia
- Sigmundur DavíðGunnlaugsson's, Prime Minister of Iceland (and his wife)

It also revealed the alleged involvement of:

- The associates of Vladimir Putin in Money Laundering
- The late father of David Cameron
- Xi Jinping’s brother in law
- Some of Nawaz Sharif’s children

The scandal also involves the world football governing body, FIFA. The documents spoke about a Uruguayan law firm providing legal assistance to a number of offshore companies for football corruption.These documents brought to light the amount of tax havens that were done all over the world, especially by many known personalities, many of whom enjoyed positions of important status in the governments of various countries. The process of tax havens simply showed how money laundering and corruption are bred throughout the world.

[7]John Doe is a name given to an anonymous male. Jane Doe is the name given to anonymous females. This prevents the leak of their identities.

[8]https://panamapapers.icij.org/20160403-panama-papers-global-overview.html

Around The World

European Union

The European Union has adopted the ATP for fairer and simpler taxes to be incorporated all over Europe. However, the complexity of these laws need to be addressed.

Asia

China, Hong Kong SAR, Indonesia, Korea, Malaysia, Nepal, Singapore, and Sri Lanka have decided to implement GAARs[9]
India plans to apply GAARs in and after 2016.

Developing countries in Asia are struggling to strengthen their tax systems and counter tax evasions, which is detrimental in nature because without higher revenue it is impossible to keep maintaining a steady rate of economic growth and development.

Tax reforms in other countries have also focused on anti-avoidance, with Japan, Indonesia, Korea, Thailand and Vietnam specifically tackling anti-avoidance through SAARs on various aspects, including transfer pricing, CFC Rules, thin capitalization, beneficial ownership, besides others.

African Union

Africaloses over 50 Billion Dollars every year in illicit outflows. The governments and MNCs adopt fraudulent schemes to avoid tax payment to some of the most poor countries which has resulted in hampered development and denial of crucial services to many poor people. South Africa has implemented a new GAAR system which has made the legislature very complex.

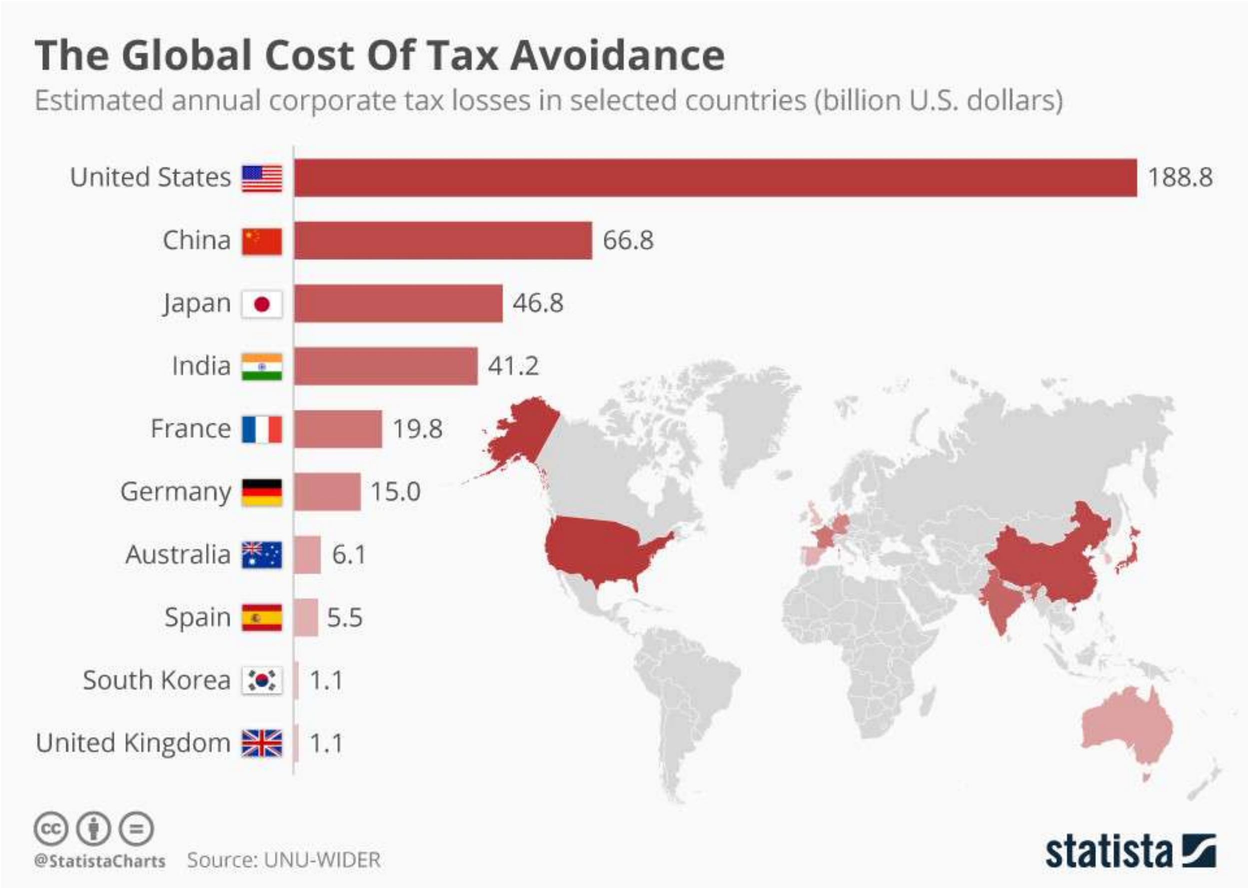
USA

Many banks and companies from the United States were involved in the Panama Scandal, showing that it has now become one of the largest countries to have major tax havens. Many US based companies like Walmart are avoiding proper taxation and the US has shown interest in implementing a system to avoid anti-taxation but hasn't shown aninterest in following the EU Anti-Tax Avoidance rules.

UK

The United Kingdom does not have a GAAR, instead it relies on its judiciary system to formulate Anti-Tax Avoidance policies just like GAAR would do. They also have strict Targeted Anti Avoidance Rules (TAARS) which is an anti-avoidance legislation speciallydesigned to target a territory or area, where the existing legislature isn't able to solve the problem.

[9] GAAR (General Anti-Avoidance Rules)


The Global Cost Of Tax Avoidance
Estimated annual corporate tax losses in selected countries (billion U.S. dollars)
United States 188.8
China 66.8
Japan 46.8
India 41.2
France 19.8
Germany 15.0
Australia 6.1
Spain 5.5
South Korea 1.1
United Kingdom 1.1
@StatistaCharts Source: UNU-WIDER
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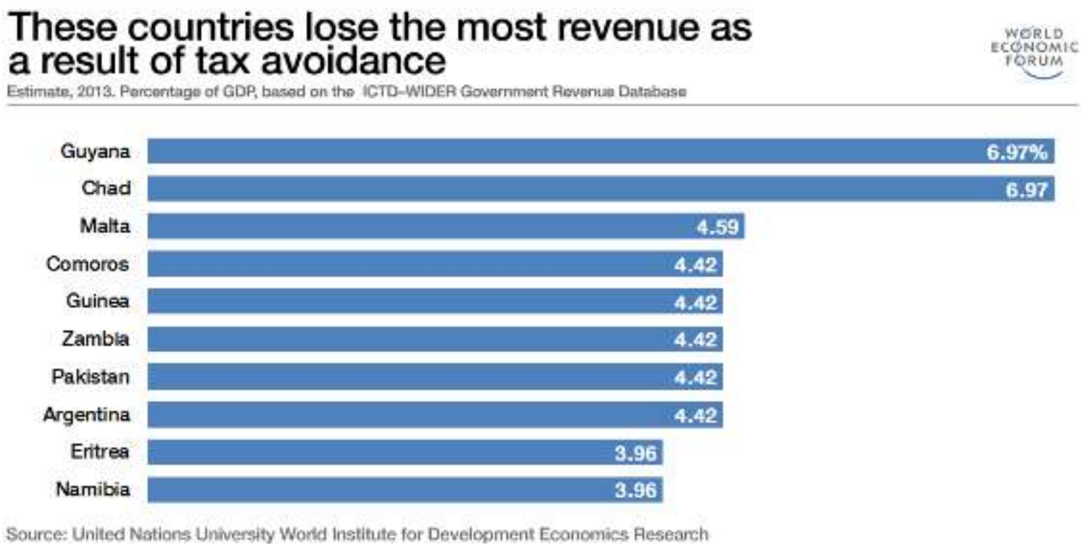
These countries lose the most revenue as a result of tax avoidance
WORLD ECONOMIC FORUM
Estimate, 2013. Percentage of GDP, based on the ICTD-WIDER Government Revenue Database
Guyana 6.97%
Chad 6.97
Malta 4.59
Comoros 4.42
Guinea 4.42
Zambia 4.42
Pakistan 4.42
Argentina 4.42
Eritrea 3.96
Namibia 3.96
Source: United Nations University World Institute for Development Economics Research

Questions a Resolution Must Answer

1. Should tax avoidance be minimized? If yes, how so?
2. How can double taxation be avoided?
3. Should Tax Havens be made illegal?
4. With the Panama Papers highlighting the scandals of various heads of state, what measures can be taken, legally as well as politically, to ensure the protection of tax revenues?
5. How can tax laws (specifically GAARs) be simplified to make legislatures understandable?
6. How will the setting up of a Global Anti-Tax Avoidance Package combat Tax Evasion, Tax Avoidance and Double Taxation?

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- OECD
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Agenda 2

Agenda 2: Role of the United Nations in promoting financial debt sustainability and financing for development.

Introduction

It is very difficult, impossible even, for a country to run on the resources generated by the people living within its territories. This is when aid from International Monetary organizations and other countries comes in, in the interest of both, the receiving entity as well as the one sanctioning the loan. In many countries, mainly developing nations, the expenditure incurred by the government on the welfare and developmental schemes for the citizens exceeds the amount of revenue collected in the forms of taxes, fees etc. The excess amount is borrowed in the form of debt.

In a world where funds are being wasted either due to corruption or mismanagement, how sustainable is debt? How long will it be until every country has borrowed such a huge amount that it cannot repay it? These are questions that require the careful consideration of policy makers.

Debt

Debt is an obligation to be paid by the borrower to the lender within a stipulated time period. Debt satisfies the need to meet current/future expenditure when the revenues are not sufficient.

Sustainable Debt

Sustainable debt is the type of debt in which the revenues generated are enough to pay back or maintain the debt taken. Making payments of current and future debts without resolving to external help or accumulating it is sustainable. It is an economic condition where the incoming revenue is adequate to continue vital services as the cost of maintaining debts is low.

International Monetary Fund (IMF)

The IMF is an international organization formed in 1944, and which came into formal existence in 1945. It is an organization of 189 countries aimed at stabilizing the global economy. It was constituted with the objective of regularizing global financial relations and exchange rates. IMF guides its member nations in preventing financial crises by monitoring global conditions and identifying risks. By providing alternative sources of financing and overseeing exchange rates between countries IMF helps its members prioritize economic growth. Historically, the IMF aided countries in mending their economies after the Great

Depression and World War II. Traditionally, only developing countries borrowed from IMF. However, this changed when IMF gave short-term loans to Greece in 2010 during the eurozone crisis. Ever since the outbreak of the global financial crisis in 2008, the importance of IMF has elevated.

In 2002, an explicit framework was established by IMF to analyze the sustainability of public and external debts. DSA (Debt Sustainability Analysis) helps recognize, avert and settle a debt crisis. IMF determines the current debt situation, identifies defects in the debt structure in advance, so that policy changes can be brought into effect before the problem arises, and in cases where the problem has already arisen, IMF explores other debt stabilizing policies and their repercussions.

Paris club

It is an informal group of 19 nations including most of the western European and Scandinavian nations, the United States of America, the United Kingdom and Japan. Being an informal group, it has no official statute or guidelines, but it has five key functioning principles: case by case, consensus, conditionality, solidarity and comparability of treatment.

Initially, the Paris Club only sought to prevent loan defaults by providing temporary debt relief to countries with short-term liquidity problems. However, what happened was, debt was only recapitalized at new interest rates, increasing the long-term debt burden of states for the sake of short-term relief. Recognizing this problem, the Paris Club shifted its approach in the early 1980s to reduce long-term debt burden in addition to short-term liquidity problems. When that approach still did not produce ideal results, the Paris Club began concessional debt restructuring 1987.

Heavily Indebted Poor Countries

The IMF combines information from the framework of debt sustainability and other assessments done by the IMF of a state's macroeconomic activities and fiscal policy to determine access to IMF financing and the extent of debt limit the country is entitled to on IMF supported programmes. This information is also given to the World Bank, which is authorized to grants and low to countries with a low income. The HIPC (Heavily Indebted Poor Countries Initiative) is one such program which relies on such information and is a joint program in collaboration of the IMF with the World Bank. The main goal of HIPC is “ensuring that no poor country faces a debt burden it cannot manage” The HIPC initiative has a two-step process. First interim debt relief is provided to eligible states after which a full debt relief is given to countries that need further assistance. Based On the collected data, the IMF and world bank establishes eligibility criteria which is as follows, be eligible to borrow from the World Bank’s International Development Agency and the IMF’s Poverty Reduction and Growth Trust (both programs provide interest-free or subsidized loans and grants to the poorest countries); hold an unsustainable debt burden that cannot be addressed through traditional debt relief mechanisms; establish a record of reform and sound economic policies;

and develop a Poverty Reduction Strategy Paper. This is known as decision point. The Executive Boards of the World Bank and IMF then observes the country's progress and if they feel the country has made significant progress, they decide its eligibility for interim debt. Once approved, the international community works on reducing a country's debt to a sustainable level which is primarily based on the information gathered by the debt sustainability framework.

To complete the second step, *i.e.* the "*completion point*", a country is required to complete the second step, the "completion point," a state must:

1) "*establish a further record of good*" economic governance;
2) "*implement reforms agreed to at the decision point*"; and
3) adopt and "*implement [the] Poverty Reduction Strategy Paper for at least one year*".

After meeting with the above-mentioned requisites, full and irrevocable debt relief (the amount that is committed to in the interim at the decision point) is granted.

As of 2013, 36 post-decision point states had received $76.4 billion. Of those 36, 35 are post-completion point countries and one is an interim country between decision point and completion point. Since 2011, the pace of the HIPC Initiative has slowed as most of eligible states have completed both steps in the process. Adding to this reduced pace, in December 2011, eligibility criteria for entering the HIPC Initiative were restricted. These restrictions eliminated Bhutan, Kyrgyzstan, and the Lao People's Democratic Republic because their external debt was below the new threshold restrictions. Despite the new restrictions, Eritrea, Nepal, Somalia, and the Republic of Sudan remain eligible to enter the HIPC Initiative; Nepal has, however, indicated that it does not wish to participate and receive assistance from the program. Although the specific reasons for Nepal's non-participation are not clear, they highlight potential downsides that countries face by entering the program. Requirements for the completion point include macroeconomic stability indicators and implementation of structural reform measures. These structural reforms often target the social sector and public expenditures. For example, in accordance with each state's Poverty Reduction Strategy Paper, the HIPC requires that government spending be realigned to priority areas consistent with the Strategy Paper.99 Additionally, some governments associate a stigma with HIPC status. In 2001, Ghana received debt relief under the HIPC Initiative. Highlighting this concern, former Ghanaian Finance Minister Yaw Osafo Maafo recently contested claims that Ghana's current government spending and debt accumulation could once again meet the requirements for HIPC Initiative Eligibility arguing that Ghana is now a middle-income country far removed from the threshold requirements of the HIPC Initiative, Maafo reiterated his position that, "*the HIPC initiative is to provide debt relief and low-interest loans to very poor countries in the world and Ghana is not inclusive.*"

With the increased volume of domestic sovereign debt, it becomes increasingly important to specify how the bonds will be treated in the event of difficulty in maintaining normal payments. The Task Force could also provide progress reports on national legislative initiatives to govern the issuance and restructuring of domestic sovereign bonds on a case study basis.

Multilateral Debt Relief Initiative

To achieve the Multi Development Goals, the group of 8 (G8) proposed the formation of the Multilateral Debt Initiative Relief MDRI. The G8 wanted International Monetary Fund (IMF) and other international bodies to forfeit 100% of their debt claims on poor countries. As this wouldn't be viable for the financial institutions in the long run, they suggested a “dollar-to-dollar” system.

Countries that have already reached the completion point mentioned in HIPC initiative and countries which aren't a part of the HIPC initiative are privileged to activate debt cancellation if their per capita income is below $380 and their outstanding debt are with the following institutions: IMF, African Development Fund, and the International American Development Bank. Presently the MDRI acts as an offshoot of the HIPC initiative and is available to the 35 HIPC countries that have managed meeting their completion point and includes Cambodia and Tajikistan too. To get a grant, just like in the HIPC, states must implement acceptable macroeconomic policies, manage public expenditures and work on reduction of poverty.

To take a stand on the efficiency of all three, we must observe the conditions before and after. The total debt after the decision point for the 36 countries was 140 billion dollars before any form of relief was provided. After traditional methods (E.g.: Paris Club), the total debt came down to 117 million dollars. After applying the HIPC initiative it came down to a whopping 58 billion dollars, and after the MDRI, the total debt stood at 12 billion dollars which is just around 10% of the original debt value. So, it is apt in saying that the G8 succeeded as this reduced the financial obligation of states and has allowed greater investment in development and has set them in the right path to reach the MDG.

Questions a Resolution Must Answer

1. What can the international community do towards financing sustainable development?
2. What steps are required towards achieving the Millennium Development Goals?
3. What measures can heavily indebted countries take?

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