

Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill 2012 **Second Reading approved**

3.2. Mr Teare to move:

That the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill 2012 be read the second time.

The Speaker: We turn to the second Bill for Second Reading, the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill, and I call on the mover, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

Hon. Members, this Bill is the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill 2012. The Bill has been drafted to support the enhanced Heavily Indebted Poor Countries Initiative, which will be referred to as 'the Initiative' for ease of reference.

The Initiative is an international initiative that provides debt relief to heavily indebted low-income countries. The roots of the Initiative lie in the Millennium Development goals which were set in 2000. This saw 189 nations pledging to free people from extreme poverty and multiple declarations by 2015. The goals set include: eradication of extreme poverty; reduction in child mortality rates; fighting disease epidemics; and developing a global partnership for development. In the intervening period, it has become increasingly clear that many countries, particularly those in sub-Saharan Africa, will fail to meet the objectives of the Millennium Development Goals without significant levels of assistance from international creditors.

The Initiative has been implemented under the stewardship of the International Monetary Fund and the World Bank. In order for the Initiative to succeed, all international creditors must participate – this includes multinational creditors, such as regional development banks and the World Bank, official bi-lateral creditors, governments or their instruments, such as credit export agencies and private creditors. Private creditors who are unwilling to participate in the Initiative pose the greatest risk of failure to the Initiative. It is here that what have become referred to as 'vulture funds' will be found.

Countries that qualify for the initiative must meet certain criteria. These include that a country must: be eligible for assistance from the IMF and the World Bank; continue to face an unsustainable debt burden after non-official development aid has been reduced by a factor of 67%; and have a track record of reform and sound policy under IMF and World Bank supported programmes.

There are four stages to the Initiative. These are: (1) the preliminary period, which requires a country to have implemented IMF and World Bank supported reform programmes. At this point, preliminary debt relief should be provided by all creditors. (2) At decision point, the IMF and World Bank carry out a debt sustainability analysis. If the ratio of the present value of external debt to exports for that country remains in excess of 150%, the country qualifies for relief under the Initiative. (3) During the interim period, relief tailored to the particular circumstances is provided to countries. Satisfactory performance of IMF programmes must continue to be demonstrated. (4) Completion point is reached when a country can demonstrate macro-economic stability under a poverty reduction and growth facility programme for a minimum of one year. Debt relief is provided irrevocably at this point.

The Initiative was never intended to be a permanent mechanism for all countries that experience difficulty in servicing external debts. The list of countries that were potentially eligible under this initiative was closed to new entrants in 2006. There are three reasons for this. The first is to ensure that the Initiative does not become permanent and raise expectations that all debts will always be reduced. The second considers the moral hazard and potential for free riding. This discourages countries not yet at decision point from borrowing unnecessarily in anticipation of eventual debt relief. The third reason is to encourage countries to adopt reforms as early as possible.

Under the Initiative, all creditors are expected to provide the same level of debt relief. Although it appears to be at odds with the Initiative itself, external debt is recognised to be a valuable source of financing for developing countries. This is because the ability to raise funds from the international financial community permits developing countries that are in transition to finance their development. This includes attracting equity from foreign direct investment, receiving grants from donors and borrowing from foreign lenders.

Debt obviously results in future obligations on the debtor to repay these loans. The debtor must be in a position to repay debt, notably through the efficient use of the loans to generate income that will be used to repay the debt. For the poorest countries, high levels of debt have themselves become a barrier to development.

A fundamental principle of the Initiative is that all debtor countries should seek to receive comparable treatment from all creditors, including those that do not participate in the Initiative. A failure of some creditors to provide comparable treatment increases the prospect of these countries continuing to face unsustainable debt situations. This directly undermines their prospects of economic development and poverty reduction.

Some unco-operative creditors are indulging in morally dubious practices. This sees the debt of a country

sold on the open market for a substantially reduced cost. The purchaser of the discounted debt then seeks to recover the full amount of the debt with costs and damages through the courts. Creditors of this type are referred to as 'vulture funds'. They seek to free ride on the efforts of those creditors who *do* provide the level of debt relief expected under the initiative. This free riding on the back of the Initiative diverts the benefit of debt relief provided under the Initiative away from its intended use in the fight against poverty in some of the world's poorest countries.

This Bill will ensure that the courts of the Isle of Man cannot be used to enforce a judgement in full against a country eligible for the Initiative. If the Bill is enacted, it will ensure that the highest amount of debt that can be recovered by the Isle of Man and its courts will be limited to the level of debt that remains after the reduction factor has been applied. The Bill, when enacted, will ensure that the Isle of Man will continue to act as a responsible world citizen and that the jurisdiction cannot be used to further morally questionable practices.

Mr Speaker, I beg to move the Second Reading of this Bill.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

I would just like to rise to congratulate the Treasury on bringing this very important Bill forward. I think we have seen, in one of our competitor jurisdictions, the way in which vulture funds have been used, and certainly that was very embarrassing for the administration in that area. I am delighted that the Treasury are coming forward with this and certainly will be giving my full support.

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

I think everybody would agree with the aims of this Bill, but I do have a couple of concerns about it which I hope the Minister will be able to address for me.

Firstly, it is restricting what we can do, so to actually revoke this we would have to go back for Royal Assent, I understand. Would it not be more appropriate to have some sort of sunset clause, or a clause that allows Tynwald to revoke it without Royal Assent? Really, this should be in place in every Bill that is restricting what the Isle of Man can do.

With regard to the vulture funds, I think everybody finds them really abhorrent, and certainly we would not want to go down that road, but would it not be possible to introduce something, a clause that would restrict such enterprises from suing for more than the original debt, so that it would stop the Isle of Man becoming a location of choice to operate from?

The Speaker: I call on the Minister to reply.

Mr Teare: I would like to thank my colleague, the Hon. Member for Rushen, Mr Gawne, for his very supportive comments. This really does recognise that there are unsatisfactory activities in some areas and the Isle of Man has no wish to be involved in these. We want to make it abundantly clear that we will not support these activities.

Going on to the Hon. Member for Douglas South, Mrs Beecroft, there is a dichotomy in her argument, because on one side she is saying that we should have a sunset clause in his legislation. Surely that gives a message that, in the future it will be accessible, it will be acceptable. We need to make it clear here and now that it is not acceptable. I think that we need to do that, it is a positive mention as well and I think too, she might have misunderstood my original comments, because if I picked her up correctly, she said that vulture funds should not be able to sue for more than the original debt. What I did say in my speaking notes is that they should not be able to sue for more than the written-down value of that debt – two different things of it. If they were able to sue for more than the written-down value of the debt, it would mean that they would get a disproportionate benefit from the recovery proceeds. In effect they would stand in priority in terms of their recovery rate to the World Bank and other organisations, which have agreed to participate in writing down the value of the debt.

We really want to make sure that we have high standards and I feel that, if we did have a sunset clause, it might give the impression that we were prepared to move on that in the future, and certainly that would not be my wish. We need to maintain our high standards. That is a very strong advantage, both from a moral perspective and a marketing perspective for the Isle of Man.

Mr Speaker, I beg to move.

The Speaker: Mrs Beecroft, did you have a point of order?

Mrs Beecroft: Just that the Minister had not answered my point about the –

The Speaker: No, I am sorry –

Mrs Beecroft: No? Is that not allowed?

The Speaker: You will have an opportunity at future stages of the Bill to question the Minister formally.

I put the question, as set out on the Order Paper in the name of Mr Teare, that the Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.