

## **Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill 2012**

### **Third Reading approved**

2. Mr Braidwood to move:

*That the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill 2012 be read a third time and do pass.*

**The President:** We move now to the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill. Mr Braidwood again, please.

**Mr Braidwood:** Thank you, Madam President.

This Bill is the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill 2012. The Bill supports the Heavily Indebted Poor Countries Initiative which will be referred to as ‘the Initiative’ for ease of reference. The Initiative is an international initiative to provide debt relief to heavily indebted low-income countries. This is in support of the Millennium Development Goals set in 2000. At the time, 189 nations pledged to free people from extreme poverty and multiple deprivations by 2015. The Millennium Development Goals include eradication of extreme poverty, reduction of child mortality rates, fighting disease epidemics and developing a global partnership for development.

It has subsequently become clear that many countries, particularly those in sub-Saharan Africa, will not meet these objectives without the co-operation and support of international creditors. Ultimate responsibility for the Initiative lies with the International Monetary Fund and the World Bank. In order for the Initiative to succeed, all international creditors must participate. This includes multi-lateral creditors, regional development banks and the World Bank, official bilateral creditors, governments or their instruments such as credit export agencies and private creditors. Private creditors unwilling to participate in the Initiative threaten the success of the Initiative. These creditors have become known as ‘vulture funds’.

To qualify for relief under the Initiative, countries 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%, have a track record of reform and sound policies under the IMF- and World Bank-supported programmes.

I remind Hon. Members that there are four stages to the Initiative. These are the preliminary period, at which point preliminary debt relief should be provided by all creditors; decision point sees the IMF and World Bank carrying out a debt sustainability analysis to see if the country qualifies for relief under the Initiative; the interim period sees tailored relief provided to qualifying countries; and at completion point, debt relief is irrevocably provided.

The Initiative was never intended to be a permanent mechanism for all countries that experienced difficulty in servicing external debts. The list of countries potentially eligible under the Initiative was closed to new entrants in 2006. This ring fencing was for three reasons. The first, to ensure that the Initiative does not become permanent and raise expectations that old debts will always be reduced. The second considers 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 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. The ability to raise funds from the international financial community is critical, enabling developing countries in transition to finance their development. This includes equity from foreign direct investment, grants from donors and borrowing from foreign lenders.

Debt creates obligations on the debtor to repay loans. Debtors must be in a position to repay debt. This will primarily be through the efficient use of loans to generate income that will be used to repay the debt. For the poorest countries, high levels of debt have become a barrier to development.

Madam President, all debtor countries must seek comparable treatment from all creditors, including those that do not participate in the Initiative. Failure of some creditors to provide relief increases the prospect of these countries continuing to face unsustainable debt burdens. This undermines the prospects of economic development and poverty reduction.

Some unco-operative creditors are indulging in morally dubious practices. The debt of a country is sold on the open market at a substantial discount. 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 free-ride on the back of creditors who do not provide the level of relief expected under the Initiative. This free-riding diverts the benefit of debt relief 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 judgment 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. This will ensure that the Isle of Man continues to act as a responsible world citizen that does not sanction attempts to further morally questionable practices.

Madam President, I beg to move the Third Reading of the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Bill 2012.

**The President:** Mr Lowey.

**Mr Lowey:** I beg to second and reserve my remarks.

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** Thank you, Madam President.

I think this is a good thing and something that we should be supporting as a very responsible jurisdiction involved in financial services. We hear all of these horror tales about vulture funds and by closing the door, as it were, in this way the Isle of Man is linking itself with the much more responsible jurisdictions and making sure that people will not be able to use the Isle of Man as a place where they can come and prey on heavily indebted poor countries.

I think we should be applauded for doing this, but the International Monetary Fund is very important to the way the Isle of Man does its business and we have got to be up there with all the people at the very highest level of standards and make sure that our financial services industry is operating to these standards.

I am fully in support of the Bill that is before us today for its Third Reading.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

I too think it is right that we have this legislation, as certainly the Isle of Man does not want to be playing a part in this process of allowing these vulture funds to operate. They always find somewhere and slowly each country will be closing down this avenue of opportunity.

I think it was said at a previous Reading that it is a shame in many cases that the relief does not actually filter down to the people of that country, and that is a much wider issue which is being dealt with at various summits held around the world. This obviously is dealing with this particular situation.

It is quite interesting, during the passage of this Bill, to hear that the Island and indeed other jurisdictions were previously available for unscrupulous vulture funds to come in and use our court system. I would certainly be interested – I do not know whether the mover has the answer – in knowing a bit of the background on how they would actually do that. On the surface, to turn up here, use our courts and enforce what can be quite substantial debts against a country on the other side of the globe is quite interesting to understand how that would physically work, but thankfully this legislation will close that opportunity.

I support the Third Reading.

**The President:** Lord Bishop.

**The Lord Bishop:** Madam President, simply to say that I think this is an extremely good sign of our commitment to an important area of international development, in that countries affected by this simply cannot hope to get out of the trap if vulture funds operate. So I support the Bill wholeheartedly.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

I more or less echo the comments made so far. I think we have had several Bills of this nature in the last couple of years, which are aimed at preventing the Isle of Man being used as a back door to get around legislation elsewhere. It is good to know that our Government is on top of that and realising that they need to protect the Isle of Man's reputation by bringing these Bills forward.

It is important that we are not used as a legal loophole, in effect, to allow the taking of money from poorer countries by these people using vulture funds, and I think the comment about money filtering through to the people who need it most, no matter how small our contribution is, it may make some difference eventually and it is important that we do make that difference and allow poorer countries and the people on the very bottom rung

in those poor countries to have the chance to have their countries develop properly and have a better standard of living.

I am pleased the Isle of Man is taking its part in that and I will be supporting the Third Reading of the Bill.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

My comments, really, simply echo those made by my hon. colleagues around the table. To me, this evidences a mature and international jurisdiction. I think it also evidences a jurisdiction with a moral and caring conscience towards the developing world and this has my full support.

**The President:** The Hon. Member Mr Callister.

**Mr Callister:** Thank you, Madam President.

The notes which come with the Bill, the explanatory notes, contain a list of 32 countries which will be eligible for this Initiative. They go in alphabetical order through Afghanistan, Ethiopia, Haiti, Nigeria, right through to Zambia. I would be interested in what the position would be for countries which are not on this list that are trying to use this system?

**Mr Braidwood:** Not now, it is closed.

**Mr Callister:** Right okay, and also, I would like to comment on what Mr Butt said earlier, that the reason that most of these countries are in debt is because of the despots and the people that ran those countries. I know we had assurances that any money that goes from the Isle of Man to such areas, actually goes to the agencies such as Oxfam and so on, rather than to the governments of those countries and I think that is something that we have absolutely to be clear on, that that is the policy that we have for the future.

**The President:** Mover to reply please.

**Mr Braidwood:** Thank you, Madam President and I thank all Hon. Members who have spoken in support of the Bill.

Mr Downie, this is a pre-emptive strike. We are closing, you could say, the stable door *before* the horse has bolted, so that our courts cannot be used by unscrupulous creditors.

In regard to comments by Mr Turner, the courts being used here. In actual fact, the courts would need to decide if they had jurisdiction over the judgment debt, so that would be left entirely up to the courts and I cannot speak on their behalf.

Also, I think everybody was... and I thank the Lord Bishop for his support – and Mr Butt mentioned and Mr Callister also mentioned about the leaders and presidents of some of these heavily indebted countries and the concern that the money does not actually feed down and go to the people and that would be through the agencies. There are programmes in place under the auspices and supervision of the International Monetary Fund and the World Bank to ensure that this money goes to the people and not into the pockets of the leaders of the countries.

I do thank everybody for their support. Again, this is making sure that the Isle of Man courts cannot be used by the vulture funds and seeking the 100% debt of the country, plus the costs associated with that court case against the 67% relief which other creditors will give. I think this is right for the Isle of Man and I hope other countries around the world which do not have this legislation in place will introduce it to stop these vulture funds being able to use their courts and causing more hardship on countries which have this burden of debt.

With that, Madam President, I move the Third Reading.

**The President:** The motion, Hon. Members, is that this Bill do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.