II

110TH CONGRESS
1ST SESSION

S. 2166

To provide for greater responsibility in lending and expanded cancellation of debts owed to the United States and the international financial institutions by low-income countries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2007

Mr. CASEY (for himself, Mr. LUGAR, Mr. DODD, Mr. BIDEN, Mr. OBAMA, and Mr. SUNUNU) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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A BILL

To provide for greater responsibility in lending and expanded cancellation of debts owed to the United States and the international financial institutions by low-income countries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jubilee Act for Responsible Lending and Expanded Debt Cancellation of 2007".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Many low-income countries have been struggling under the burden of international debts for many years.

(2) Since 1996, when the Heavily Indebted Poor Countries Initiative (HIPC) was created, more than 30 countries have seen some form of debt relief totaling approximately $80,000,000,000.

(3) Congress has demonstrated its support for bilateral and multilateral debt relief through the enactment of comprehensive debt relief initiatives for heavily indebted low-income countries in—

(A) title V of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of the Act entitled "An Act making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes", approved November 29, 1999 (Public Law 106–113; 113 Stat. 1501A–311) and the amendments made by such title;

(B) title II of H.R. 5526 of the 106th Congress, as enacted into law by section 101(a) of the Act entitled "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2001, and for other purposes", approved November 6, 2000 (Public Law 106–429; 114 Stat. 1900A–5); and

(C) title V of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 747) and the amendment made by such title.

(4) In 2005, the United States and other G–8 nations reached an agreement to provide cancellation of 100 percent of the debts owed by eligible poor nations to Paris Club members, the IMF, the World Bank, and the African Development Bank. The Inter-American Development Bank reached an agreement in early 2007 to provide similar treatment.

(5) The 2005 agreement led to the creation of the Multilateral Debt Relief Initiative (MDRI). As of April 2007, 22 countries have seen the majority of their debts to the IMF, World Bank, and African Development Bank cancelled under the terms of the MDRI. In March 2007, the Inter-American Development Bank announced it would provide full debt cancellation to 5 Latin American countries on MDRI terms.

(6) Resources released by debt relief efforts to date are reaching the poor. Cameroon is using the

$29,800,000 of savings it will gain from the MDRI in 2006 for national poverty reduction priorities, including infrastructure, social sector and governance reforms. Uganda is using its $57,900,000 savings in 2006 on improving energy infrastructure to try to ease acute electricity shortages, as well as primary education, malaria control, healthcare and water infrastructure (specifically targeting the poor and under-served villages). Zambia is using its savings of $23,800,000 under the MDRI in 2006 to increase spending on agricultural projects, such as smallholder irrigation and livestock disease control, as well as to eliminate fees for healthcare in rural areas.

(7) While debt cancellation has a record of success, there remains an unfinished agenda on international debt. There are a number of challenges to the effective implementation of existing commitments, and broader debt cancellation is needed if the global community is to reach the Millennium Development Goals.

(8) 2007 marks the halfway point to the deadline set by the world's governments to reach the Millennium Development Goals.

(9) A critical issue which needs to be addressed on debt is the way that non-concessional lenders stand to gain financially from lending to poor countries that have benefited from debt relief without having paid for past debt relief or facing the prospect of paying for the future relief of unsustainable and irresponsible new lending. In these cases, the gains of debt relief for poor debtor countries are at risk of being eroded. This takes the form of new lending to countries that have received debt cancellation from countries including China, as well as the threat posed by so-called ''vulture funds''.

(10) It is also essential that all lenders and borrowers accept co-responsibility and learn from past mistakes–as evidenced by the debt crisis itself–by making more productive investment choices and engaging in more responsible lending and borrowing in the future. In October 2006, Norway became the first creditor to accept co-responsibility for past lending mistakes and cancelled the debt of 5 countries on the grounds that the loans reflected poor development policy.

(11) There is also an urgent need to look beyond the constraints of current debt relief initiatives to address the need for expanded debt cancellation.

The current initiatives allow countries to qualify for relief based on economic criteria rather than human needs.

(12) The Government of the United Kingdom has proposed that qualification for the MDRI be extended to the 67 countries that qualify for assistance exclusively from the International Development Association. To be eligible for cancellation, countries must meet requirements pertaining to public financial management, anti-corruption measures, and budget transparency.

(13) Debt cancellation is an essential component of the United States development assistance strategy and a required component to facilitate achievement of the Millennium Development Goals.

(14) The United States has been a leader in supporting debt relief efforts to date and should continue to work to improve and expand initiatives in this area.

SEC. 3. CANCELLATION OF DEBT OWED BY ELIGIBLE LOW-INCOME COUNTRIES.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–8) is amended by adding at the end the following:

"SEC. 1626. CANCELLATION OF DEBT OWED BY ELIGIBLE LOW-INCOME COUNTRIES.

"(a) IN GENERAL.—The Secretary of the Treasury shall commence immediate efforts, within the Paris Club of Official Creditors, the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (World Bank), and the other international financial institutions (as defined in section 1701(c)(2)), to accomplish the following:

"(1) Cancellation by each international financial institution of all existing debts owed to the institution by eligible low-income countries, and, to the extent possible, financing the debt cancellation from the ongoing operations, procedures, and accounts of the institution.

"(2) Cancellation by the United States of all existing debts owed to it by eligible low-income countries.

"(3) Ensuring that any waiting period for the enhanced debt cancellation is not excessive.

"(4) Requiring the government of each eligible low-income country to—

"(A) allocate the savings from debt cancellation towards poverty-reducing expenditures;

“(B) engage interested parties, including a broad cross-section of civil society groups, in the allocation determination process;

“(C) develop and implement effective policy reforms to ensure that savings from debt cancellation are redirected to poverty reduction efforts and that any future borrowing be conducted in a responsible fashion; and

“(D) produce an annual report disclosing how the savings from debt cancellation were used, and make the report publicly available and easily accessible to all interested parties, including civil society groups and the media.

“(5) Ensuring that the provision of debt cancellation to eligible low-income countries is not followed by a reduction in the provision of any other development assistance to the countries by international financial institutions and bilateral creditors.

“(6) Encouraging the government of each eligible low-income country to allocate at least 20 percent of its national budget towards poverty-alleviation programs such as the provision of basic health care services, education services, and clean water services to all individuals in the country.

"(b) ESTABLISHMENT OF FRAMEWORK FOR CREDITOR TRANSPARENCY.—The Secretary of the Treasury shall commence immediate efforts, within the Paris Club of Official Creditors, the International Monetary Fund, the World Bank, and the other international financial institutions (as so defined), to ensure that each of the institutions—

"(1) continues to make efforts to promote greater transparency regarding the activities of the institution, including credit, grant, guarantee, and technical assistance operations, following a policy of maximum disclosure; and

"(2) supports continued efforts to allow informed participation and input by affected communities, including translation of information on proposed projects, provision of information (including draft documents) through information technology application, oral briefings, and outreach to and dialogue with community organizations and institutions in affected areas.

"(c) ESTABLISHMENT OF FRAMEWORK FOR RESPONSIBLE LENDING.—The Secretary of the Treasury shall commence immediate efforts to—

"(1) develop and promote policies to ensure all creditors, with no distinction, will contribute to preserving the gains of debt relief for low-income debtor countries;

"(2) collaborate with appropriate government agencies to prevent private investors from profiting from buying low-income country debts at market value and attempting to recover their original value or more (commonly known as 'vulture funds'), including by—

"(A) designing legal remedies to curtail or realign the incentives for this activity;

"(B) identifying avenues to provide legal support to countries being sued by 'vulture funds'; and

"(C) providing technical assistance to advise possible targeted governments on measures to take to prevent 'vulture funds' from successfully taking them to court;

"(3) provide that the external financing needs of low-income countries are met primarily through grant financing rather than new lending;

"(4) seek the international adoption of a binding legal framework that—

"(A) guarantees that no creditor can take or expect to take undue financial advantage of acquired or newly awarded debt relief through the terms and rates of their new lending to beneficiary countries;

"(B) is binding on all creditors, whether multilateral, bilateral or private;

"(C) foresees, as a sanction for creditors who violate it, an equitable share in the burden of the losses from any future debt relief needed by the sovereign debtor to whom lending was irresponsibly provided;

"(D) provides for decisions on irresponsible lending to be made by an entity independent from the creditors; and

"(E) enables fair opportunities for the people of the affected country to be heard; and

"(5) support the development of responsible financing standards where creditors and aid/loan recipients alike adhere to standards to assure transparency and accountability to citizens, human rights, and the avoidance of new odious debt, while encouraging the development of renewable energy and helping countries to transition away from dependence on oil.

"(d) GAO AUDIT OF DEBT PORTFOLIOS OF COUNTRIES WITH QUESTIONABLE LOANS.—

"(1) IN GENERAL.—The Comptroller General of the United States shall undertake an audit of the debt portfolios of previous governments in countries such as the Democratic Republic of Congo and South Africa where there are allegations that odious loans were made to the government. Each such audit shall—

"(A) consider debt owed to the World Bank, the IMF, and the other international financial institutions (as so defined), export credit debts owed to governments, and debts owed to commercial creditors, and assess whether or not past investments produced the intended results;

"(B) investigate the process by which the loans were contracted, how the funds were used, and determine whether United States or international laws were violated in the contraction of these loans, and whether any of the loans were odious or onerous; and

"(C) be planned and executed in a transparent and consultative manner, engaging congressional bodies and civil society groups in the countries.

"(2) REPORT.—Within 2 years after the date of the enactment of this section, the Comptroller General of the United States shall prepare and submit to the Committees on Financial Services and on Foreign Affairs of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Foreign Relations of the Senate a report that contains the results of the audits undertaken under paragraph (1).

"(e) AVAILABILITY ON TREASURY DEPARTMENT WEBSITE OF REMARKS OF UNITED STATES EXECUTIVE DIRECTORS AT MEETINGS OF INTERNATIONAL FINANCIAL INSTITUTIONS' BOARDS OF DIRECTORS.—The Secretary of the Treasury shall make available on the website of the Department of the Treasury the full record of the remarks of the United States Executive Director at meetings of the boards of directors of the International Monetary Fund, the World Bank, and the other international financial institutions (as so defined), about cancellation or reduction of debts owed to the institution involved, with redaction by the Secretary of the Treasury of material deemed too sensitive for public distribution, but showing the topic, amount of material redacted, and reason for the redaction.

"(f) REPORT FROM THE COMPTROLLER GENERAL.—Within 1 year after the date of the enactment of this section, the Comptroller General of the United States shall prepare and submit to the Committees on Financial Services and on Foreign Affairs of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Foreign Relations of the Senate a report on the availability of the ongoing operations, procedures, and accounts of the IMF, the World Bank, and the other international financial institutions (as so defined) for canceling the debt of eligible low-income countries.

"(g) ANNUAL REPORTS FROM THE PRESIDENT.—Not later than December 31, 2008, and annually thereafter for 4 years, the Secretary of the Treasury shall submit to the Committees on Financial Services and on Foreign Affairs of the House of Representatives and the Committees on Foreign Relations and on Banking, Housing, and Urban Affairs of the Senate a report, which shall be made available to the public, on the activities undertaken under this section, and other progress made in accomplishing the purposes of this section, for the prior fiscal year. The report shall include a list of the countries that have received debt cancellation, a list of the countries whose request for debt cancellation has been denied and the reasons therefor, and a list of the countries whose requests for debt cancellation are under consideration.

"(h) ELIGIBLE LOW-INCOME COUNTRY DEFINED.—In this section, the term 'eligible low-income country' means a country—

"(1) that is eligible for financing from the International Development Association but not the World Bank;

"(2) that has transparent and effective budget execution and public financial management systems which ensure that the savings from debt relief are spent on reducing poverty;

"(3) the government of which does not have an excessive level of military expenditures;

"(4) the government of which has not repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

"(5) the government of which is cooperating on international narcotics control matters;

"(6) the government of which (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

"(7) the government of which is not engaged in, and has taken effective action to prevent entities in its jurisdiction from engaging in, the proliferation of weapons of mass destruction, related materials and components, or associated delivery systems.".

SEC. 4. PROHIBITION OF HARMFUL ECONOMIC AND POLICY CONDITIONS.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–8) is further amended by adding at the end the following:

"SEC. 1627. PROHIBITION OF HARMFUL ECONOMIC AND POLICY CONDITIONS.

"(a) IN GENERAL.—The Secretary of the Treasury shall commence immediate efforts within the Paris Club of Official Creditors, the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (World Bank), and the other international financial institutions (as defined in section 1701(c)(2)), to ensure that the provision of debt cancellation to eligible low-income countries (as defined in section 1626(h)) is not conditioned on any agreement by such a country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

"(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

"(2) provides for increased costs for low-income households to pay for basic public services such as education, health care, drinking water, or sanitation;

"(3) undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

"(4) does not exempt increased government spending on essential healthcare or education expenditures from national budget caps or restraints, hiring or wage bill ceilings, or other limits imposed by the IMF.

"(b) ANNUAL REPORTS TO THE CONGRESS.—Not later than December 31, 2008, and annually thereafter for 4 years, the Secretary of the Treasury shall submit to the Committees on Financial Services and on International Relations of the House of Representatives and the Committees on Foreign Relations and on Banking, Housing, and Urban Affairs of the Senate a report, which shall be made available to the public, on the activities undertaken under this section, and other progress made in accomplishing the purposes of this section, for the prior fiscal year.''.

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