

111TH CONGRESS
1ST SESSION

H. R. 4405

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 HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Ms. WATERS (for herself, Mr. FRANK of Massachusetts, Mr. BACHUS, Mrs. MALONEY, Mrs. BIGGERT, Mr. GUTIERREZ, Mr. PAYNE, Ms. LEE of California, Mr. CLEAVER, and Mr. WALDEN) introduced the following bill; which was referred to the Committee on Financial Services

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jubilee Act for Re-
5 sponsible Lending and Expanded Debt Cancellation of
6 2009”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Many low-income countries have been strug-
4 gling under the burden of international debts for
5 many years.

6 (2) Since 1996, when the Heavily Indebted
7 Poor Countries Initiative (HIPC) was created, more
8 than 30 nations have seen some form of debt relief
9 totaling more than \$100,000,000,000.

10 (3) Congress has demonstrated its support for
11 bilateral and multilateral debt relief through the en-
12 actment of comprehensive debt relief initiatives for
13 heavily indebted low-income countries in—

14 (A) title V of H.R. 3425 of the 106th Con-
15 gress, as enacted into law by section 1000(a)(5)
16 of the Act entitled “An Act making consoli-
17 dated appropriations for the fiscal year ending
18 September 30, 2000, and for other purposes”,
19 approved November 29, 1999 (Public Law 106–
20 113; 113 Stat. 1501–311) and the amendments
21 made by such title;

22 (B) title II of H.R. 5526 of the 106th
23 Congress, as enacted into law by section 101(a)
24 of the Act entitled “An Act making appropria-
25 tions for foreign operations, export financing,
26 and related programs for the fiscal year ending

1 September 30, 2001, and for other purposes”,
2 approved November 6, 2000 (Public Law 106–
3 429; 114 Stat. 1900A–5); and

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

8 (4) In 2005, the United States and other G–8
9 nations reached an agreement to provide cancellation
10 of 100 percent of the debts owed by eligible poor na-
11 tions to Paris Club members, the IMF, the World
12 Bank, and the African Development Bank. The
13 Inter-American Development Bank reached an
14 agreement in early 2007 to provide similar treat-
15 ment.

16 (5) The 2005 agreement led to the creation of
17 the Multilateral Debt Relief Initiative (MDRI). As of
18 August 2009, 26 nations have seen the majority of
19 their debts to the IMF, World Bank, and African
20 Development Bank cancelled under the terms of the
21 MDRI. In March 2007, the Inter-American Develop-
22 ment Bank announced it would provide full debt
23 cancellation to 5 Latin American countries on MDRI
24 terms.

1 (6) Resources released by debt relief efforts to
2 date are reaching the poor. Cameroon used the
3 \$29,800,000 of savings it gained from the MDRI in
4 2006 for national poverty reduction priorities, in-
5 cluding infrastructure, social sector and governance
6 reforms. Uganda used its \$57,900,000 savings in
7 2006 on improving energy infrastructure to try to
8 ease acute electricity shortages, as well as primary
9 education, malaria control, healthcare and water in-
10 frastructure (specifically targeting the poor and
11 under-served villages). Zambia used its savings of
12 \$23,800,000 under the MDRI in 2006 to increase
13 spending on agricultural projects, such as
14 smallholder irrigation and livestock disease control,
15 as well as to eliminate fees for healthcare in rural
16 areas.

17 (7) While debt cancellation has a record of suc-
18 cess, there remains an unfinished agenda on inter-
19 national debt. There are a number of challenges to
20 both the effective reduction of poverty and inequality
21 and the achievement of broader debt cancellation.

22 (8) A critical issue which needs to be addressed
23 on debt is the way that non-concessional lenders
24 stand to gain financially from lending to poor coun-
25 tries that have benefited from debt relief without

1 having paid for past debt relief or facing the pros-
2 pect of paying for the future relief of unsustainable
3 and irresponsible new lending. In these cases, the
4 gains of debt relief for poor debtor countries are at
5 risk of being eroded. This takes the form of new
6 lending to countries that have received debt cancella-
7 tion from countries including China.

8 (9) It is also essential that all lenders and bor-
9 rowers accept co-responsibility and learn from past
10 mistakes—as evidenced by the debt crisis itself—by
11 making more productive investment choices and en-
12 gaging in more responsible lending and borrowing in
13 the future. In October 2006, Norway became the
14 first creditor to accept co-responsibility for past
15 lending mistakes and cancelled the debt of 5 nations
16 on the grounds that the loans reflected poor develop-
17 ment policy.

18 (10) A growing number of governments and
19 intergovernmental bodies, including the United
20 Kingdom, the European Commission, and Norway,
21 are raising concerns about the harmful impacts of
22 certain economic policy conditionalities. Many impover-
23 ished countries that have received debt cancella-
24 tion under the HIPC and MDRI initiatives have
25 done so at a high social cost, because they have had

1 to implement certain economic policy conditions, in-
2 cluding the privatization of essential basic services
3 such as water, and comply with other harmful re-
4 quirements. Some of these policies have had the ef-
5 fect of limiting fiscal space for productive investment
6 and threatening growth and human development.
7 Several countries currently eligible for debt cancella-
8 tion under the HIPC or MDRI programs are facing
9 extended delays in receiving cancellation because
10 they are struggling to comply with such require-
11 ments from the IMF and World Bank.

12 (11) There is also an urgent need to look be-
13 yond the constraints of current debt relief initiatives
14 to address the need for expanded debt cancellation.
15 The current initiatives allow countries to qualify for
16 relief based on economic criteria rather than human
17 needs. A January 2007 report by the United Na-
18 tions Human Rights Council found that eligibility
19 for debt cancellation should be expanded to cover all
20 low-income countries.

21 (12) The Government of the United Kingdom
22 has proposed that qualification for the MDRI be ex-
23 tended to the 67 nations which qualify for assistance
24 exclusively from the International Development As-
25 sociation. To be eligible for cancellation, countries

1 must meet economic criteria pertaining to public fi-
2 nancial management, anti-corruption measures, and
3 budget transparency.

4 (13) Since debt cancellation is an essential com-
5 ponent of the United States development assistance
6 strategy and the United States has been able to lead
7 the debt cancellation efforts of the international
8 community by example, the United States should
9 continue to work to improve and expand initiatives
10 in this area.

11 (14) The United States has been a leader in
12 supporting debt relief efforts to date and should con-
13 tinue to work to improve and expand initiatives in
14 this area.

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

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

20 **“SEC. 1626. CANCELLATION OF DEBT OWED BY ELIGIBLE**
21 **LOW-INCOME COUNTRIES.**

22 “(a) IN GENERAL.—The Secretary of the Treasury
23 shall commence immediate efforts, within the Paris Club
24 of Official Creditors, the International Monetary Fund
25 (IMF), the International Bank for Reconstruction and De-

1 velopment (World Bank), and the other international fi-
2 nancial institutions (as defined in section 1701(c)(2)), to
3 negotiate an agreement to accomplish the following:

4 “(1) Cancellation by each international finan-
5 cial institution of all debts owed to the institution by
6 eligible low-income countries, and, to the extent pos-
7 sible, financing the debt cancellation from the ongo-
8 ing operations, procedures, and accounts of the insti-
9 tution, without undermining the financial integrity
10 of the institution.

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

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

15 “(4) Ensuring that the provision of debt can-
16 cellation to eligible low-income countries is not fol-
17 lowed by a reduction in the provision of any other
18 development assistance to the countries by inter-
19 national financial institutions and bilateral creditors,
20 or to other countries eligible for assistance from the
21 International Development Association.

22 “(5) Encouraging the government of each eligi-
23 ble low-income country to allocate at least 20 per-
24 cent of its national budget towards poverty-allevi-
25 ation programs such as the provision of basic health

1 care services, education services, and clean water
2 services to all individuals in the country.

3 This subsection shall not be interpreted to authorize the
4 Secretary of the Treasury to enter into an agreement to
5 accomplish any of the foregoing without express congres-
6 sional authorization to do so.

7 “(b) ESTABLISHMENT OF FRAMEWORK FOR CRED-
8 ITOR TRANSPARENCY.—The Secretary of the Treasury
9 shall commence immediate efforts, within the Paris Club
10 of Official Creditors, the International Monetary Fund,
11 the World Bank, and the other international financial in-
12 stitutions (as so defined), to ensure that each of the insti-
13 tutions—

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

19 “(2) supports continued efforts to allow in-
20 formed participation and input by affected commu-
21 nities, including translation of information on pro-
22 posed projects, provision of information (including
23 draft documents) through information technology
24 application, oral briefings, and outreach to and dia-

1 logue with community organizations and institutions
2 in affected areas.

3 “(c) ESTABLISHMENT OF A FRAMEWORK FOR RE-
4 SPONSIBLE LENDING.—The Secretary of the Treasury
5 shall commence immediate efforts to—

6 “(1) Support international efforts to address
7 the continued challenges associated with lending and
8 borrowing, and work to ensure debt sustainability in
9 the future, including constructively engaging in on-
10 going initiatives such as efforts by the United Na-
11 tions Conference on Trade and Development
12 (UNCTAD) to develop a code of conduct for respon-
13 sible lending and borrowing.

14 “(2) Work to ensure that the external financing
15 needs of low-income countries are met primarily
16 through grant financing rather than new lending.

17 “(3) Work within the IMF and World Bank to
18 reform the Low Income Country Debt Sustainability
19 Framework, including the establishment of inde-
20 pendent entities, which should be comprised of rep-
21 resentatives from individual countries, creditors, aca-
22 demic experts, civil society, and other experts, to
23 provide oversight and input into country debt sus-
24 tainability assessments.

1 “(d) GAO AUDIT OF DEBT PORTFOLIOS OF COUN-
2 TRIES WITH QUESTIONABLE LOANS.—

3 “(1) IN GENERAL.—The Comptroller General of
4 the United States shall undertake an audit of the
5 debt portfolios of previous governments in countries
6 such as the Democratic Republic of Congo and
7 South Africa, where there is significant evidence
8 that odious, onerous, or illegal loans were made to
9 the government. Each such audit shall—

10 “(A) consider debt owed to the World
11 Bank, the IMF, and the other international fi-
12 nancial institutions (as so defined), export cred-
13 it debts owed to governments, and debts owed
14 to commercial creditors, and assess whether or
15 not past investments produced the intended re-
16 sults;

17 “(B) investigate the process by which the
18 loans were contracted, how the funds were used,
19 and determine whether United States or inter-
20 national laws were violated in the contraction of
21 these loans, and whether any of the loans were
22 odious or onerous; and

23 “(C) be planned and executed in a trans-
24 parent and consultative manner, engaging con-

1 gressional bodies and civil society groups in the
2 countries.

3 “(2) REPORT.—Within 2 years after the date of
4 the enactment of this section, the Comptroller Gen-
5 eral of the United States shall prepare and submit
6 to the Committee on Financial Services of the House
7 of Representatives and the Committee on Foreign
8 Relations of the Senate a report that contains the
9 results of the audits undertaken under paragraph
10 (1).

11 “(e) REPORT FROM THE COMPTROLLER GEN-
12 ERAL.—Within 1 year after the date of the enactment of
13 this section, the Comptroller General of the United States
14 shall prepare and submit to the Committee on Financial
15 Services of the House of Representatives and the Com-
16 mittee on Foreign Relations of the Senate a report on the
17 availability of the ongoing operations, procedures, and ac-
18 counts of the IMF, the World Bank, and the other inter-
19 national financial institutions (as so defined) for canceling
20 the debt of eligible low-income countries.

21 “(f) ANNUAL REPORTS FROM THE PRESIDENT.—
22 Not later than December 31 of each year, the President
23 shall submit to the Committee on Financial Services of
24 the House of Representatives and the Committee on For-
25 eign Relations of the Senate a report, which shall be made

1 available to the public, on the activities undertaken under
2 this section, and other progress made in accomplishing the
3 purposes of this section, for the prior fiscal year. The re-
4 port shall include a list of the countries that have received
5 debt cancellation, a list of the countries whose request for
6 debt cancellation has been denied and the reasons there-
7 for, and a list of the countries whose requests for debt
8 cancellation are under consideration.

9 “(g) ELIGIBLE LOW-INCOME COUNTRY DEFINED.—
10 In this section, the term ‘eligible low-income country’
11 means a country—

12 “(1) that is eligible for financing from the
13 International Development Association but not from
14 the World Bank, and does not qualify for debt relief
15 under the Enhanced HIPC Initiative (as defined in
16 section 1625(e)(3)) and under the Multilateral Debt
17 Relief Initiative;

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

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

24 “(4) the government of which has not provided
25 support for acts of international terrorism, as deter-

1 mined by the Secretary of State under section
2 6(j)(1) of the Export Administration Act of 1979
3 (50 U.S.C. App. 2405(j)(1)), or section 620A(a) of
4 the Foreign Assistance Act of 1961 (22 U.S.C.
5 2371(a));

6 “(5) the government of which is cooperating
7 with the United States on international narcotics
8 control matters;

9 “(6) the government of which (including its
10 military or other security forces) does not engage in
11 a pattern of gross violations of internationally recog-
12 nized human rights (as defined in section 116 of the
13 Foreign Assistance Act of 1961 (Public Law 87–
14 195));

15 “(7) the government of which has not been
16 identified in the most recent Trafficking in Persons
17 Report issued by the Department of State as not
18 fully complying with minimum standards for elimi-
19 nating human trafficking and not making significant
20 efforts to do so;

21 “(8) the government of which has been deter-
22 mined by the President to be cooperating with
23 United States efforts to stop illegal immigration to
24 the United States;

1 “(9) the government of which has been deter-
2 mined by the President to be committed to free and
3 fair elections; and

4 “(10) the government of which was chosen by
5 and permits free and fair elections.”.

6 **SEC. 4. LIMITATION ON CONDITIONALITY OF DEBT RELIEF**
7 **FOR ELIGIBLE LOW-INCOME COUNTRIES.**

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

11 **“SEC. 1627. LIMITATION ON CONDITIONALITY OF DEBT RE-**
12 **LIEF FOR ELIGIBLE LOW-INCOME COUN-**
13 **TRIES.**

14 “(a) IN GENERAL.—The Secretary of the Treasury
15 shall commence immediate efforts within the Paris Club
16 of Official Creditors, the International Monetary Fund
17 (IMF), the International Bank for Reconstruction and De-
18 velopment (World Bank), and the other international fi-
19 nancial institutions (as defined in section 1701(c)(2)), to
20 ensure that debt cancellation is provided to eligible low-
21 income countries (as defined in section 1626(g)) subject
22 to all and only the following conditions: That the govern-
23 ment of such a country—

24 “(1) take steps so that the financial benefits of
25 debt relief are applied to programs to combat pov-

1 erty (in particular through concrete measures to im-
2 prove economic infrastructure, basic services in edu-
3 cation, nutrition, and health, particularly treatment
4 and prevention of the leading causes of mortality)
5 and to redress environmental degradation;

6 “(2) make policy decisions through transparent
7 and participatory processes;

8 “(3) adopt an integrated development strategy
9 to support poverty reduction through economic
10 growth, that includes monitorable poverty reduction
11 goals;

12 “(4) implement transparent policy making and
13 budget procedures, good governance, and effective
14 anticorruption measures;

15 “(5) broaden public participation and popular
16 understanding of the principles and goals of poverty
17 reduction, particularly through economic growth,
18 and good governance;

19 “(6) promote the participation of citizens and
20 nongovernmental organizations in the economic pol-
21 icy choices of the government; and

22 “(7) produce an annual report disclosing how
23 the savings from debt cancellation were used, and
24 make the report publicly available and easily acces-

1 sible to all interested parties, including civil society
2 groups and the media.

3 “(b) ANNUAL REPORTS TO THE CONGRESS.—Not
4 later than December 31 of each year, the President shall
5 submit to the Committee on Financial Services of the
6 House of Representatives and the Committee on Foreign
7 Relations of the Senate a report, which shall be made
8 available to the public, on the activities undertaken under
9 this section, and other progress made in accomplishing the
10 purposes of this section, for the prior fiscal year.”.

11 **SEC. 5. SENSE OF THE CONGRESS.**

12 It is the sense of the Congress that to further the
13 goals of debt reduction for low-income countries, in addi-
14 tion to the efforts described in this Act, the United States
15 should pay off outstanding arrearages to the International
16 Development Association and regional development banks,
17 and become current on all debt reduction efforts, including
18 those carried out by the International Development Asso-
19 ciation and under the Enhanced Heavily Indebted Poor
20 Countries Initiative and the Multilateral Debt Relief Ini-
21 tiative.

22 **SEC. 6. SENSE OF THE CONGRESS.**

23 (a) FINDINGS.—A March 2009 IMF report on the
24 impact of the global financial crisis found that the crisis
25 is expected to have a major impact on low-income coun-

1 tries, especially in sub-Saharan Africa. The report noted
2 that over the past decade, debt relief initiatives have sig-
3 nificantly reduced the large external debts with which low
4 income countries have often struggled, and that a lower
5 debt servicing burden has also freed greater resources for
6 development spending. The report also found that the
7 global financial crisis has led to lower levels of remit-
8 tances, lower aid inflows and reduced revenues from for-
9 eign direct investment, which has put pressure on low in-
10 come countries to undertake new borrowing. According to
11 the report, 31 low income countries are projected to be
12 at high risk of debt distress in 2009. Countries at risk
13 of debt distress face an increased risk of defaulting on
14 their foreign debts, posing high risks for consumers and
15 bondholders in the United States and elsewhere.

16 (b) SENSE OF THE CONGRESS.—It is the sense of
17 the Congress that—

18 (1) in order to help avoid a chaotic series of de-
19 faults, both creditors and debtors should have the
20 opportunity to turn to an international mechanism
21 to seek orderly debt work-outs; and

22 (2) the Secretary of the Treasury should sup-
23 port the establishment of such a mechanism for or-
24 derly, quick, predictable, and equitable resolutions of
25 sovereign debt disputes under the form of ad hoc ar-

1 bitration panels, a standing insolvency court under
2 the administration of a specialized United Nations
3 body such as the Permanent Court on Arbitration,
4 or similar alternatives.

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