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Understanding the Effects of the 'Credit Rating Impasse' Upon Sovereign Debt Treatment

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Preface

The Covid-19 pandemic has ripped through the world, with both richer and poorer countries being affected. However, whilst many richer countries have been able to flood their economies with money to allow for such initiatives as country-wide vaccination drives, stimulus cheques, 'furlough' schemes, and other initiatives designed to lessen the pain from the pandemic and control the spread of the virus, other more poorer countries do not have such a luxury. Many poorer and developing countries are heavily reliant on external sources of financing. That financing could include money borrowed from the 'official' sector – i.e. multilateral institutions like the World Bank, the IMF (International Monetary Fund), or other countries – or from the private sector – in the modern age, this essentially consists of institutional investors like pension funds and asset managers, amongst others. This borrowed money is paid back in pre-arranged instalments with interest, and because of the rate of borrowing from poorer countries to assist with their many different and varied needs, the amount to be paid back on the principle and the interest can be substantial. During normal periods these repayment schedules are more often than not adhered to, but during the pandemic many poorer countries are being faced with the most tragic of choices: adhere to the payment schedules to preserve future lines of credit, or invest more into their national health infrastructures to combat the Covid-19 virus – many cannot do both.

This Research Report is the first of a suite of documents from the Credit Rating Research Project that examines this tragic choice. This Research Report has one simple aim: look at the intricacies of this complex situation but also convey that analysis in the simplest of ways (using resources that are as accessible as possible). The reason for this is very simple; some of the underlying issues that have led to this tragedy, which is seeing many suffer and die unnecessarily, are maintained because they are considered to be complex with no resolution in sight. The 'Credit Rating Impasse', which this Report focuses on, is a fundamental problem in this area and is almost universally designated as a symptom of a complex financial architecture. However, we contest that it is not. In reality, the complexity

comes in the many actors who want to continue profiting from the investment into the poorer countries we will analyse, as well as those who serve that investment arena. Very rarely will the position of the citizens who are being subjected to this deadly virus, more than they should, be considered. We again contest that this is wholly unnecessary and, with the right actions taken by those who can take such actions, that exposure can be limited much more than it exists at present.

In the adjoining documents, we will put forward some proposals that *could* bring about such outcomes. The lack of will on behalf of many actors in this instance is something that we all truly need to consider and question much more, but there is a need now to think very differently. This non-humanist approach that prevails at present can and will likely continue, but it should not. What is required is 'out of the box' thinking to develop proposals that can a. be practically be applied, but also b. inject the concept of progression into the arena. There are some really fantastic proposals available, which we will examine, that do this. There are also a number of incredibly practicable proposals, but which do not, necessarily, seek to advance the peoples in question – they merely seek to move the machinery past this blockage in order for it to continue once the world comes to grips with the Covid-19 virus; it is central to our work that we seek to do much more than that. This is not to say that one is right and one is wrong because, in reality, a strong argument could be made for easing this blockage in the short-term so that monies can be released and therefore health-based spending can increase. Yet, a question we have is what happens to the countries then?

There are two particular aspects which need to be known before we start. The first is that we mainly focus on African countries in these reports, although the two major multilateral initiatives we will be analysing do broaden that scope to include countries in Asia, South America, Central America, and beyond. The reason for this is because the African countries who qualify as 'poorer countries' constitute the majority within these multilateral initiatives developed by the G20, the World Bank, and the IMF. Also, whilst the African continent is incredibly large and consists of many varying cultures, political approaches, monetary approaches, and allegiances, the proximity of the different countries can, at times, be

helpful and revealing. The second aspect to know is what we mean by 'Credit Rating Impasse'. Whilst we will look at this throughout the Report in many different guises, it is *central* to this project. Therefore, it is worth explaining in the simplest of terms before we start. Essentially, sovereign debtors can hold either 'official' or private debt. If, as we are seeing at the moment, a sovereign debtor needs to renegotiate the terms of their official debt, then the credit rating agencies will not view this as an event that they need to consider when providing for a credit rating on that sovereign debtor. This is because the credit rating agencies do not, necessarily, have a duty to multilateral entities *and* those entities can usually absorb any losses from a renegotiation via a variety of ways. However, if a sovereign debtor needs or wants to renegotiate their debt agreement with a private creditor, then the credit rating agencies have declared that they will, for all intents and purposes, view this act as an admission from the debtor that they are in difficulty with their finances and view it, for the most part, as a precursor to defaulting on their debt obligations. This threat of a seemingly automatic credit rating downgrade for even attempting to renegotiate one's debt agreements have seen very few sovereign debtors take part in the internationally developed restructuring initiatives that we will examine in the Report. The remarkable inaction because of this threat is what we are calling the 'credit rating impasse' and, with this Report as the basis, the next document in our suite aims to provide a solution to resolve that seemingly inherent impasse.

Ultimately, our aim in this report is to furnish you, as the reader, with the informational basis with which we can continue to question the financial arrangement that is resulting in millions of people being deprived the financially-supported health infrastructure that can limit, as far as possible, their exposure to the deadly Covid-19 virus. That, above all else, must be the focus for all who are concerned with making developments in this particular field.

Build-Up to the Current Crisis

It has been suggested that there have been four debt 'waves' since the Bretton Woods system collapsed in the early 1970s.[1] The first occurred in the low interest rate environment of the 1970s and 1980s. After a number of banking entities were caught up in this – particularly those from the US – a period of debt relief and restructuring took place. Then, against a backdrop of financial liberalisation, a number of countries from around the world borrowed heavily in foreign currencies, with the subsequent crashing of the debt wave causing crises around the turn of the millennium. The third wave culminated in the Financial Crisis of 2007/08, an era-defining crisis which is continuing to impact the world in a truly multifaceted way even today. Finally, the fourth wave identified focused on the aftermath of the Financial Crisis, where yield-hungry private investors invested heavily in sovereign debt, particularly within the EMDE sector (Emerging Markets and Developing Economies). As Lesetja Kganyago, the Governor of the South African Reserve Bank noted in 2020:

> African countries have been, and continue to be, active participants in the new debt wave. According to the IMF's Fiscal Monitor, the average general government debt ratio for low-income SSA countries increased from 22% of GDP in 2010 to 43% of GDP in 2019. Even before COVID-19, public debt ratios were on the rise again.[2]

Africa's relatively recent history is perhaps defined by these debt cycles. As Coulibaly et al. discuss, 'the previous debt crisis of the 1990s is still fresh'.[3] There were a number of initiatives developed after this debt crisis emerged, with one in particular – the Multilateral

[1] The Bretton Woods Monetary System was built in 1944 and was based around the concept of gold being the basis for the US Dollar, with other currencies being pegged to the USD. With rising spending and a rising cost for military action in Vietnam, the US announced in 1973, after President Richard Nixon announced in 1971 that the US would no longer be exchanging gold for US currency. For more see: IMF, 'The end of the Bretton Woods System (1972-81)' (2021) IMF https://www.imf.org/external/about/histend.htm; for some helpful background on the system see Stephen Pickford, 'Renew the Bretton Woods System' (2019) Chatham House (Jun 12) https://www.chathamhouse.org/2019/06/renew-bretton-woods-system.

[2] South African Reserve Bank, 'An opening address by Lesetja Kganyago, Governor of the South African Reserve Bank, at the Fourth Annual Distributed Sovereign Debt Research and Management Conference' (2020) available at https://www.bis.org/review/r200910b.pdf.

[3] Brahima S. Coulibaly, Dhruv Gandhi, and Lemma W. Senbet, 'Is sub-Saharan Africa Facing Another Systemic Sovereign Debt Crisis?' (2019) Africa Growth Initiative at Brookings: Policy Brief. Available at https://www.brookings.edu/wp-content/uploads/2019/04/africa_sovereign_debt_sustainability.pdf.

Debt Relief Initiative (MDRI) – aimed at 36 low-income countries, of which 29 were African. The MDRI, launched in 2005, was an initiative that was just one component of the larger Heavily Indebted Poor Countries (HIPC) initiative that was launched in 1996. These initiatives were successful in that they lowered the debt overhang in the eligible countries, injected new capital into the region, and saw a number of positive metrics witnessed.[4]

Insight – A Modern History of Debt Frameworks

There are perhaps two main debt treatment frameworks to focus on, although this should not discount the effect of other initiatives that have taken place. For example, the Jubilee 2000 initiative was deemed to particularly successful in lobbying governments around the world to forgive the debt held by low-income countries. However, for us we will focus mainly on two initiatives: the Heavily Indebted Poor Countries Initiative (HIPC), and the Multilateral Debt Relief Initiative (MDRI); both of which represent formal debt treatment frameworks that were politically acceptable, which is an important condition.

HIPC

The HIPC was launched in 1996 by the IMF and the World Bank. Originally, it was announced that 18 countries would qualify, writing off nearly $40bn in total from their balance sheets. They were: Benin; Bolivia; Burkina Faso; Ethiopia; Ghana; Guyana; Honduras; Madagascar; Mali; Mauritania; Mozambique; Nicaragua; Niger; Rwanda; Senegal; Tanzania; Uganda; and Tanzania. 9 other countries were immediately identified as approaching 'completion point' within 18 months, including: Cameroon, Chad, Democratic Republic of Congo; The Gambia; Guinea; Guinea Bissau; Malawi; Sao Tome and Principe; and Sierra Leone.[5] The aim of the HIPC was to 'ensure that adjustment and reform efforts were not put at risk by continued high debt and debt-service burdens'. As part of this, identified countries would be eligible for the assistance providing they 'adopted and carried out string programs of macroeconomic adjustment and structural

[4] ibid (meaning as above). The authors note that 'the median public debt level (as a percentage of GDP) for Sub-Saharan Africa declined to about 31 percent in 2012, far below the levels leading up to the HIPC initiative'.
[5] Larry Elliott and Ashley Seager, '£30bn debts write-off agreed' (2005) The Guardian (June 11) https://www.theguardian.com/politics/2005/jun/11/uk.g8.

reforms'.[6] It was a departure from normal practice because the Initiative represented the first time that debt relief was offered on multilateral debt.

The HIPC was guided by six particular principles:

- Overall debt sustainability should be assessed on a case-by-case basis that focuses on the totality of a country's debt;
- Action should be taken only when a debtor has shown the ability to put the debt relief to good use;
- Existing debt-relief mechanisms should be built on;
- The provision of debt relief should be coordinated by all creditors, with broad and equitable participation;
- The delivery of debt relief by multilateral creditors should preserve the financial integrity of the institutions and their preferred creditor status;
- New external financing to beneficiary countries should be provided on appropriate concessional terms.

The HIPC had two particular 'points' at which a country's participation in the Initiative would advance. The first was the 'Decision Point' which, in order to reach this point, a country must fulfil 4 particular conditions: be eligible to borrow from the World Bank's International Development Agency; face a demonstrable and unsustainable debt burden; have established a track record of engaging with the IMF and have performed associated reforms; and also have developed a 'Poverty Reduction Strategy Paper' (PRSP). The next point was a 'Completion Point' which, in order to progress to and therefore take advantage of irrevocable debt relief under the Initiative, a country must have: established a track record of engagement and reform; implemented key reforms agreed at the Decision Point stage; and adopted and implemented the PSRP for at least a year.[7]

In addition to this, the Boards of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) approved, in 1989, the Debt Reduction Facility (DRF) which provides for grant funding for eligible countries 'to buy back – at a deep discount – the debts owed to external, commercial creditors.[8]

MDRI

The second major framework to focus on is the Multilateral Debt Relief Initiative (MDRI), which was developed in late 2005 by the IMF. The Initiative was borne of the G8's meeting in June 2005 which called for the forgiveness of all debt owed to the IMF, the

[6] Boris Gamarra, Malvina Pollock, and Carlos A. Primo Braga, 'Debt Relief to Low-Income Countries: A Retrospective' in Dörte Dömeland and Carlos A. Primo Braga, *Debt Relief and Beyond* (The World Bank 2009) 26.

[7] IMF, 'Debt Relief under the Heavily Indebted Poor Countries (HIPC) Initiative' (2021) https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/11/Debt-Relief-Under-the-Heavily-Indebted-Poor-Countries-Initiative.

[8] The World Bank, 'Debt Relief' (2020) https://www.worldbank.org/en/topic/debt-relief.

IDA, and the African Development Fund (AfDF) by countries that had reached, or would eventually reach the 'Completion Point' within the HIPC initiative. The IMF amended the call from the G8 to focus on fairness, so that instead any country with per capita income of $380 a year or less would be eligible for the MDRI relief.[9]

It has been suggested that the total amount of relief provided for by these initiatives comes to $117bn, with $45bn coming from the MDRI.[10]

Yet, since then there has been a 'debt wave' and, obviously, there is the current crisis to consider. With regards to the build up to the current crisis, there are a number of aspects to the build-up. As part of these better economic fundamentals in the region, a number of countries gained access to the capital markets for the first time. Since the Financial Crisis, investors in the capital markets – by which we mean the international arena for investment from so-called 'sophisticated' or 'institutional' investors, rather than 'retail investors' – have been met with almost historically low interest rate environments. This creates a yield-hungry clientele on the lookout for bonds to invest in that can secure high enough returns for their purposes. It is therefore unsurprising that, since 2014 and despite arguments suggesting a 'moral hazard' to the previous debt write-downs built within previous initiatives (like those cited above and others like the Jubilee 2000 movement), there was a rapid growth witnessed within African borrowing.[11] This was itself based on substantial relative growth in the region since 2000, which was also underpinned by a period of responsible financial development based upon the debt treatment frameworks which were implemented.[12] However, that growth which was based on the interventions of the initiatives above, slowed after 2014 which is just one of the reasons for the increased need to borrow.

[9] IMF, 'Multilateral Debt Relief Initiative – Questions and Answers' (2017) https://www.imf.org/external/np/exr/mdri/eng/index.htm.
[10] (n 6) 29.
[11] Coulibaly et al. (n 3).
[12] Jonathan Said and Marianne Caballero, 'Preventing a Lost Decade in Africa' (2020) Tony Blair Institute for Global Change 3. Available at https://institute.global/advisory/preventing-lost-decade-africa; Mark Roland Thomas and Dino Merotto, 'African Debt since Debt Relief: How Clean is the Slate?' (2012) World Bank Blogs (Oct 4) https://blogs.worldbank.org/africacan/african-debt-since-debt-relief-how-clean-is-the-slate.

In the lead-up to the current crisis, it is perhaps simpler to explain what happened as somewhat of a 'perfect storm'. To explain, we can go through each element one-by-one. Let us start in 2014 with a 'Terms of Trade'[13] shock that saw energy prices and, therefore, commodity prices tumble. Said and Caballero identified that countries that are not overly dependent upon commodities like Oil and Gas would usually weather such shocks well, which explains for us why so many African countries were affected in 2014; a high proportion of African countries depend on the export of such materials (Nigeria and Angola are illustrative examples of this dependency).

Insight – Dependency

Dependency is a key issue that we need to remember as we continue. For example, let us focus on the impact upon The Gambia when the international travel operator *Thomas Cook* folded in 2019. The Gambia, with a domestic population of just under 2.5 million people, is heavily reliant on tourism. Even before the pandemic brought global tourism to a screeching halt, the collapse of Thomas Cook provides for an example of the impact of external shock on countries that do not have diversified income streams. The collapse of the company alone resulted in a 13%+ decline in The Gambia's domestic revenue, which equated to nearly 2% of their GDP. Tourism accounts for nearly half of all its 'exports' and 20% of its GDP. This level of dependency is somewhat repeated across the continent in different fields.

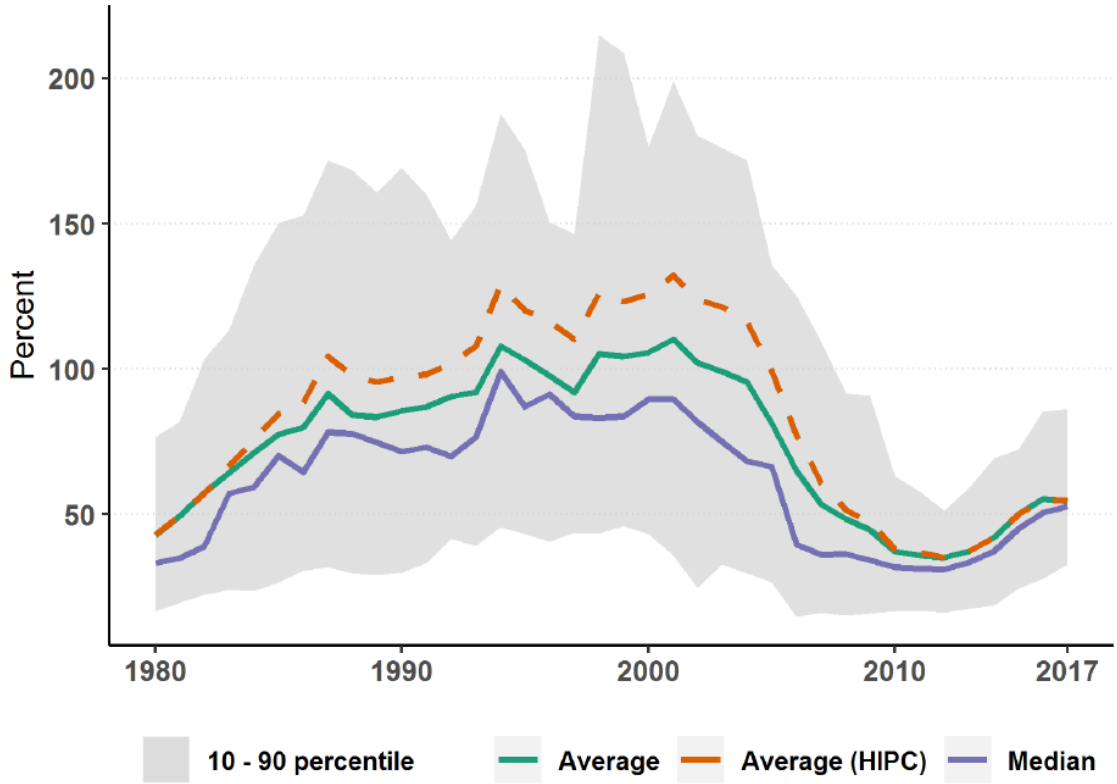
In the background, multilateral institutions and bilateral partners were moving away from debt financing, allowing for the private capital markets to take its place. At the same time, African countries – and, in truth, countries around the world – were finding that they had growing obligations to meet, emanating from growing populations and subsequent infrastructural needs to go with it.[14] This is also in addition to a weak tax base in many of

[13] Gustavo Adler, Nicolas E Magud, and Alejandro Werner, 'Terms-of-Trade Cycles and External Adjustment' (2017) IMF Working Paper WP/17/29. Available at https://www.imf.org/~/media/Files/Publications/WP/wp1729.ashx. The 'terms of trade' describes the ratio between export and import prices. Therefore, a 'shock' in this regard describes an imbalance either way, or just an offsetting between the two metrics.

[14] African Development Bank and the Infrastructure Consortium for Africa, *Infrastructure Financing Trends in Africa – 2018* (Africa Development Bank 2018)

these countries, with it being reported that domestic savings rates across the continent have maintained at low rates since the turn of the millennium.[15] It is important to note here that the debt ratio for sub-Saharan Africa is well below the pre-HIPC period, and also well below the global average (see Figure 1).[16] Yet, the intricacies of taking on private debt in the manner that the countries in question have leads to a new set of impacts that the continent has not, necessarily, experienced before.

Figure 1 – General Government Debt as a Percentage of GDP.[17]



Source: IMF World Economic Outlook Database, October 2018; IMF Historical Public Debt Database; Authors' calculations

https://www.icafrica.org/fileadmin/documents/IFT_2018/ICA_Infrastructure_Financing_in_Africa_Report_2018_En.pdf.

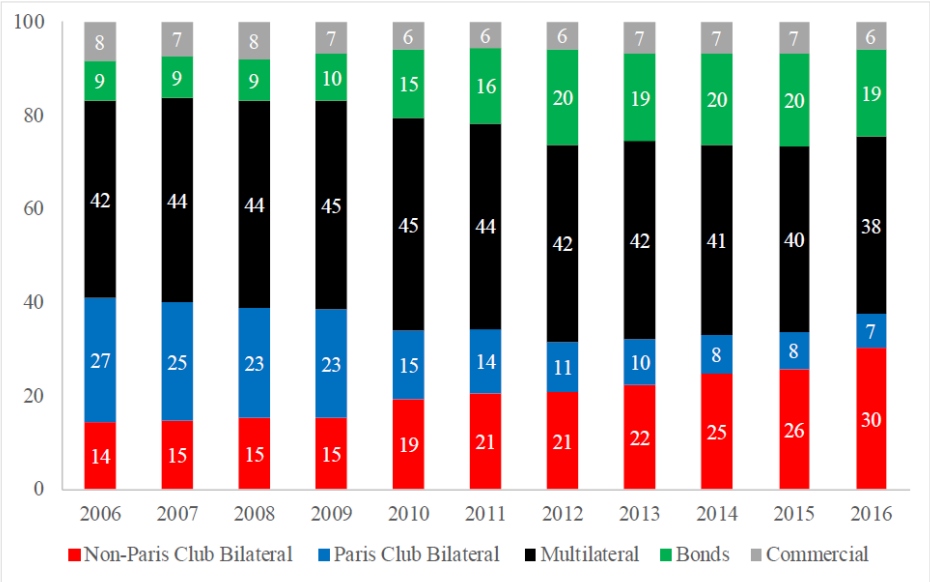
[15] (n 3) 3.

[16] Development Reimagined note that Africa, as a collective, holds a very small proportion of externally held debt in comparison to others. For example, Africa as a collective hold about $775bn USD, whilst Brazil holds $557bn on its own, and India $521bn. This pales in insignificance compared to China which has borrowed almost $2000bn from the world in various forms. See Development Reimagined, *Options for Reimagining Africa's Debt System* (2021) https://heyzine.com/flip-book/981ad6e913.html#page/1.

[17] (n 3) 3.

The new debt environment for African countries is indeed very different to previous experiences. From the turn of the millennium to the pre-Covid era, the share of private lending on the continent to the overall amounts of external debt has risen from 9% to almost 20%, whilst the opposite has been witnessed for multilateral and bilateral debt (traditionally speaking – the influence of China and the transparency issues that come with that influence somewhat distorts this picture, as we shall see shortly). In sub-Saharan Africa especially, the amount of non-concessional borrowing increased greatly. Whilst Figure 2 below does not take into account the intricacies of the form of lending provided for by the Chinese State and commercial bodies within its jurisdiction, the trend is clear to see:

Figure 2 – The Composition of Publicly Guaranteed Debt over Time (%)[18]



Source: World Bank International Debt Statistics and staff calculations. Published in: World Bank (2018) Africa's Pulse, Volume 17. Washington, DC: The World Bank, October

There are perhaps two clear advantages to this movement away from traditional lending streams. The first is that with a more diverse creditor base, there is more opportunity to

[18] Cesar Calderon and Albert G. Zeufack, 'Borrow with Sorrow? The Changing Risk Profile of Sub-Saharan Africa's Debt' (2020) World Bank (Jan) 17 http://documents1.worldbank.org/curated/en/370721580415352349/pdf/Borrow-with-Sorrow-The-Changing-Risk-Profile-of-Sub-Saharan-Africas-Debt.pdf.

receive the financing one requires. The second is that said creditor base tend not to attach particular conditionalities to the deal; as long as private creditors are paid in full, and on time, everything else is (usually) immaterial to them. There is perhaps a third advantage, in that moving away from the traditional lenders, who usually mandate certain policies like increased transparency, one can negotiate financing with other lenders who would prefer to keep their own dealings more private i.e. China. It has been suggested by the China-Africa Research Initiative that, between 2000 and 2017, China (as an 'official' lender) committed more than $125 billion in loans to the Sub-Saharan African region, with this commitment accelerating after 2012 by almost doubling the rate (from $5 billion a year to $10 billion).[19] It is clear then that courting Chinese investment and making that relationship as positive as possible is in the African countries' interest (although this has serious caveats attached to it) so allowing for opaque deals to take place is just one advantage, for the countries in question, from moving away from traditional funding routes.

However, this transition brings with it a number of complex problems. These problems then have the potential to be particularly exacerbated if a country is facing financial difficulties, as they are now during the Covid-19 pandemic. Whilst a diverse creditor base is good for diversifying funding partners, there is an attached risk; in the instances where one needs to renegotiate their debt agreements, agreeing with multiple and diverse creditors is much more difficult than dealing with one or two. In addition to this, private creditors do not have the flexibility that official creditors have for debt renegotiation because, quite simply, they are often managers of others' monies and therefore have a fiduciary duty to those principals. This is being debated currently and we will return to it later as a topic of discussion, but whilst that fiduciary relationship does not make it impossible to renegotiate, it does make it harder. With regards to China, and we are aware that we have yet to be introduced to the complexities that come with the relationship between the two entities, running into trouble regarding loans and investments from China can be particularly painful. China and its entities are positioned heavily within the region, and in particularly resource-rich areas of the continent. A lot of their deals are backed by commodities and this plays a

[19] (n 3) 12.

huge role should any renegotiation take place; China and its economic growth is underpinned by the resources that places like Angola have in abundance and, therefore, China will always seek to come out on top during said renegotiations.[20]

Behind all of these issues lurks the credit rating agencies, who have a legislated duty to consider the interests of investors (even though investors, no longer, pay for the credit ratings like they used to before the late 1960s). The move to taking on more private debt brings the countries directly into the firing line of the credit rating agencies who cannot, or *should not* technically allow for any signs of a potential default to go unnoticed and these should be immediately factored into their credit rating analyses. Now, whilst there are a number of complexities to this arrangement which this Report will detail, these fundamentals we have described here are a true reflection of the rating dynamic exists and, in a nutshell, are what makes up the reasoning for the current 'credit rating impasse' we are witnessing. It appears then, in other form, that all investment comes with strings attached, it is perhaps just a case of some strings being more visible than others.

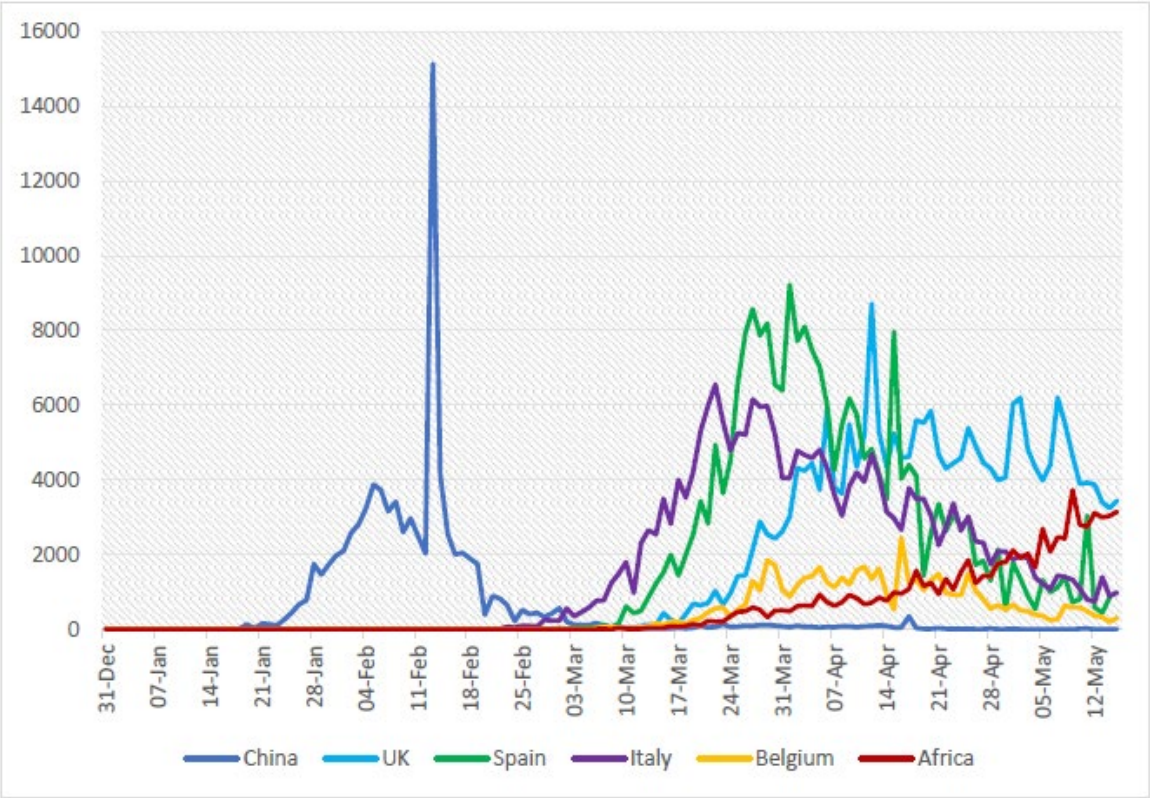
[20] ibid.


526
1024.256
256.640
564.225

Focusing on the Human Impact

It is far too easy to read all of the research and analysis being produced at this time and miss the human impact of the Covid-19 pandemic upon a region that is not able to sign Trillion-Dollar relief packages or embark upon nationwide vaccination drives. A number of analyses examine the economic impact above all else, or worse still examine what appears to be trends that show that Africa has somehow gotten off lightly from the tragic impact of Covid-19. In fact, this is not true. For example, the rate of infection in Africa is steadily rising, and has gotten much worse after its 'second wave'.

Figure 3 – COVID-19 cases per day in Africa, China, and selected countries in Europe as of 15 May 2020[21]



Source: ECDC COVID-19 Data.

[21] Grace Gondwe, 'Assessing the Impact of COVID-19 on Africa's Economic Development' (2020) United Nations Conference in Trade and Development (July) https://unctad.org/system/files/official-document/aldcmisc2020d3_en.pdf 5.

The trend has gotten much worse since then.[22] However, whilst some believe that the biggest impact of COVID-19 on the region is an economic one – citing trade losses stemming from tourism and, generally, a depressed global marketplace[23] - the reality is that 'the impact of covid-19 in Africa has been vastly underestimated'.[24] Even in relatively small samples outside of South Africa, the proportion of deaths that are linked to Covid-19 are much higher than is generally understood, with the BMJ finding that, for their sample, COVID-19 accounted for 15-20% of all deaths. This is what has led others to declare that 'inadequate health statistics information systems need to be considered when assessing the infection and mortality rates…'.[25] There is also the issue of the region having a younger demographic than its counterparts, whilst there is also the issue that health workers and health systems in the region are 'dangerously overstretched'.[26] A stark warning is that the underplaying of the impact of the virus on the continent 'may be an example of the "absence of evidence" being widely misconstrued as "evidence of absence"'.[27] It is vital that we do not continue with this misconstruction.

However, the economic impact cannot be ignored either of course. Development Economists have predicted that the pandemic and the recession it is causing could push more than 150 million people into *extreme* poverty and, ultimately, cause a 'lost decade' which will lead to 'economic scarring'.[28] The IMF have suggested the world is at a critical juncture with regards to preventing a 'debt quagmire' that could hit the low-income

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[22] Stephanie J. Salyer, Justin Maedam Senga Sembuche, Yenew Kebede, Akhona Tshangela, Mohamed Moussif, Chikwe I hekweazu, Natalie Mayet, Ebba Abate, Ahmed O. Ouma, and John Nkengasong, 'The first and second waves of the COVID-19 pandemic in Africa: a cross-sectional study' (2021) 397 The Lancet 10281 https://www.thelancet.com/action/showPdf?pii=S0140-6736%2821%2900632-2.
[23] ibid.
[24] BMJ, '"Vastly Underestimated" warn researchers' (2021) BMJ (Feb 17) https://www.bmj.com/company/newsroom/impact-of-covid-19-in-africa-vastly-underestimated-warn-researchers/.
[25] Johanna Maula, 'Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa' (2021) UN Women East and Southern Africa Regional Office (March) https://reliefweb.int/sites/reliefweb.int/files/resources/abridged_-_impact_of_covid-19_on_gender_equality_and_women_empowerment_in_east_and_southern_africa.pdf.
[26] WHO, 'Rising mortality as Africa marks one year of COVID-19' (2021) WHO (Feb 11) https://www.afro.who.int/news/rising-mortality-africa-marks-one-year-covid-19.
[27] (n 24).
[28] Ben Parker, 'The debt crisis looming for poor countries' (2020) The New Humanitarian (Oct 8) https://www.thenewhumanitarian.org/analysis/2020/10/08/pandemic-debt-crisis-looms.

countries the hardest.[29] To put this into perspective, it has been estimated that The Gambia will spend *nine times* more in debt servicing this year than it will on its health sector.[30] These weak fiscal positions held by a number of countries will, as Moody's suggests, come under increasing pressure as the impacts of the pandemic continue to reveal themselves. In reviewing the position of sub-Saharan economies, Moody's have also made the important observation that the damage caused now means that the region will struggle to deal with any future shocks which, in this era, cannot be ruled out. The observation that few governments have a track record of reversing debt distress in the region is also another important observation.[31]

This economic impact is all well observed of course, but what of the impact on the future of the continent? Let us take the development of women and gender issues as a prime example. Maula observes that a number of gender-related SDG targets (Sustainable Development Goals) will now not be in reach. She predicts that targets relating to women's economic participation and empowerment, youth unemployment, education, maternal and child health, sexual reproductive health, child marriage, gender-based violence, and female genital mutilation (FGM) are most likely to be affected negatively and steer the continent off course with meeting these societally-vital targets.[32] The need to focus on not only how the continent deals with the current crisis, but also how it will move forward progressively from this ordeal must be of paramount importance as we go forward. The health of the region cannot be written off so that we can get 'back to business', because the effects of this era will be long-lasting and impactful.

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[29] ibid.
[30] (n 12).
[31] Kevin Dalrymple, Matt Robinson, and Marie Diron, 'Coronavirus crisis will leave African sovereigns with diminished capacity to absorb future shocks' in Moody's, *Sovereign Monitor: Impact of Coronavirus on Sub-Saharan Africa, November 2020* (2020) https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC_1246395 7.
[32] (n 25) ix.


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The Debt Service Suspension Initiative (DSSI)

On the 15th April 2020, the G20 announced that it would be developing an initiative to respond to developing debt sustainability issue being witnessed in the world's poorest countries. That initiative – The Debt Service Suspension Initiative (DSSI) – was to apply to all principal and interest payments owed by those classified by the United Nations (UN) as 'Least Developed Countries', who are also known as 'IDA Countries' on account of them qualifying for assistance from the International Development Association.[33] There were a potential 77 countries identified as being applicable, but that was immediately reduced to 73 as four countries in particular (Zimbabwe, Syria, Sudan, and Eritrea) were already in significant arrears with the IMF/World Bank.

In terms of membership, there is no binding agreement in place. That means, of all the creditors who have stakes in the debt of the identified countries, only Paris Club members took part initially.[34] Multilateral institutions like the IMF and World Bank refused to take part, whilst the participation of the private bondholders – like banks, pension funds, and wealth managers, amongst a whole host of other private bondholders from the capital markets – was only *encouraged*, not *enforced*. We will return to why the multilateral institutions did not take part shortly but, in essence, the decision was made because they felt it important to preserve their 'preferred creditor' status and their high-level ratings from the credit rating agencies. The rationale that has been given by those multilateral institutions is that this allows them to provide for further financial injection moving forward.[35] The result of this is that DSSI-eligible countries sent more than $9 billion to

[33] Eurodad, *The G20 Debt Service Suspension Initiative: Draining out the Titanic with a Bucket?* (2020) https://d3n8a8pro7vhmx.cloudfront.net/eurodad/pages/768/attachments/original/1610121986/DSSI-briefing-final.pdf?1610121986 2.

[34] 'Paris Club' refers to a formal coordination of Countries in 1956, with members including Australia, France, Germany, Russia, the UK, and the US amongst a number of others. It was established after Argentina approached a number of the now-members regarding debt renegotiation. For more background on the Club, see Alexis Rieffel, 'The Role of the Paris Club in Managing Debt Problems' (1985) 161 Essays in International Finance, https://ies.princeton.edu/pdf/E161.pdf.

[35] World Bank, 'Protecting the Poorest Countries: Role of the Multilateral Development Banks in Times of Crisis: Explanatory Note' (2020) World Bank (July 7)

multilateral institutions during the May-December suspension period, with $2 billion going to the World Bank specifically.[36]

Nevertheless, the DSSI has a number of objectives, and also a number of processes contained within it. One underlying objective is concerned with the viewpoint that, as the Chief Economist for the World Bank Carmen Reinhart said, 'transparency has been a sensitive issue for some time'.[37] To this end, the DSSI enforces a number of elements but, above all, mandates that 'participating countries commit to disclose all public sector financial commitments (debt), respecting commercially sensitive information. This would involve full disclosure by creditor and lending institution of information on public and publicly guaranteed debt…'[38]

However, there are a number of issues and, perhaps, one that sits above all. Simply put, the clue is in the name. This initiative is not concerned with *cancelling* debt, only *suspending* it. The process for this is that eligible countries can suspend their debt payments for 3 years, with a 1-year grace period. The following Figure suggests the potential savings via the Initiative by country in the region:

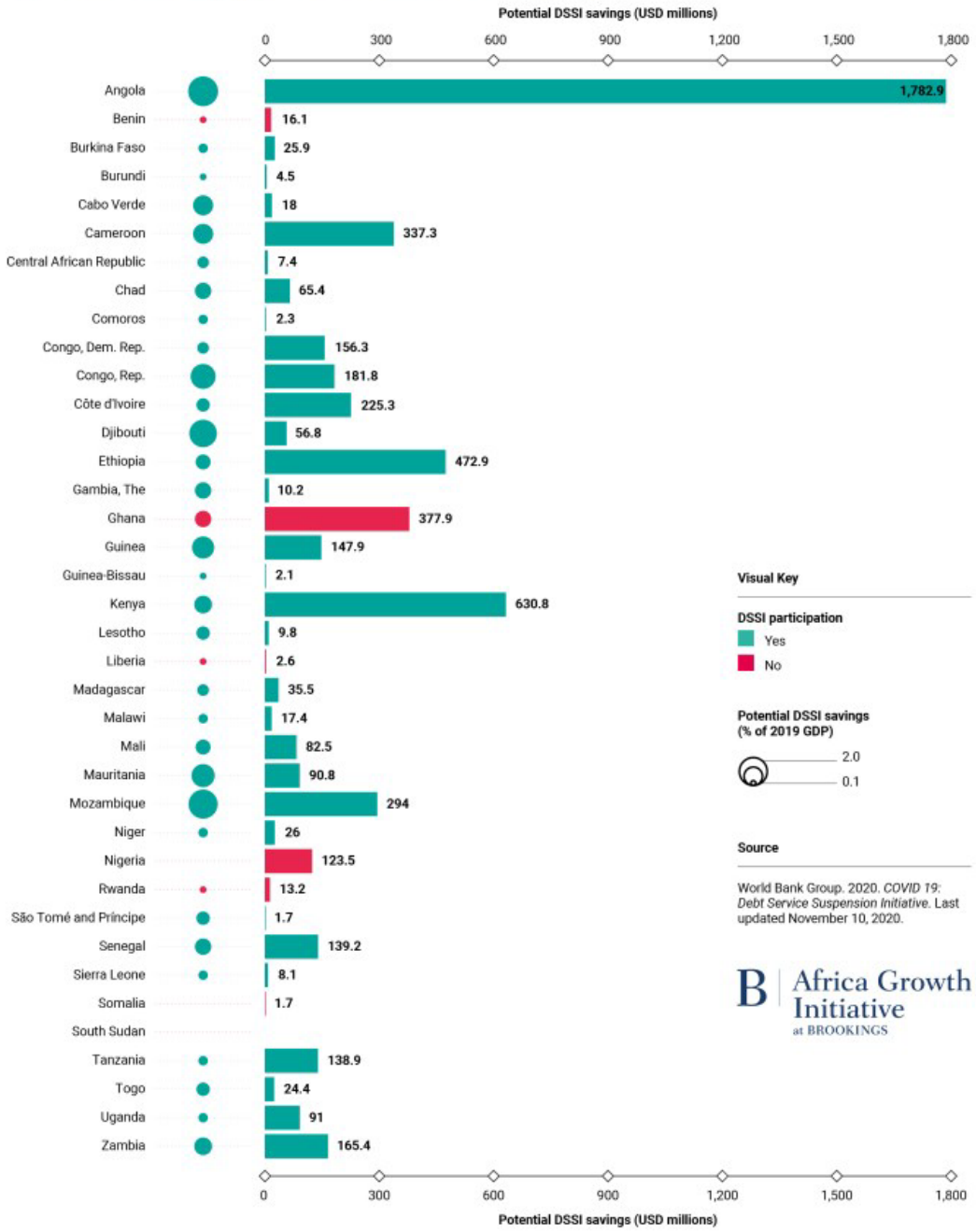
http://documents1.worldbank.org/curated/en/601251595023594564/pdf/Protecting-the-Poorest-Countries-Role-of-the-Multilateral-Development-Banks-in-Times-of-Crisis-Explanatory-Note.pdf 18.

[36] (n 28).

[37] Jonathan Wheatley, 'Borrow to fight economic impact of pandemic, says World Bank's Chief Economist' (2020) Financial Times (Oct 8). https://www.ft.com/content/0582e495-765a-46a1-98f9-ac48e80a139c.

[38] World Bank, 'Debt Service Suspension Initiative: Q&As' (2020) World Bank https://www.worldbank.org/en/topic/debt/brief/debt-service-suspension-initiative-qas.

Figure 4 – Debt Service Suspension Initiative Participation and Potential Savings[39]



However, whilst there are savings to be had for the eligible countries, the reality needs to be considered. As a report from Eurodad (a network of European-based Civil Society

[39] Brahima Sangafowa Coulibaly, 'Debt sustainability and financing for development: A key post-Covid challenge' (2021) Brookings Institute (Feb 9) https://www.brookings.edu/blog/africa-in-focus/2021/02/09/debt-sustainability-and-financing-for-development-a-key-post-covid-challenge/.

organisations) states, 'it is worth noting that deferred official payments under the DSSI are expected to be repaid in full between 2022 and 2024, when participating countries already have huge repayment obligations falling due'. They then detail their calculations based on data provided by the World Bank that suggests that, for the 68 beneficiary countries in the scheme, there will be a total of $115 billion scheduled to be repaid in 2022, 2023, and 2024 which, when combined with the $5.3 billion of postponed payments under the DSSI, $71.54 billion in pre-existing agreements, plus any other debt contracted since 2018, the burden that has been forced into the future will be *substantial*.[40] When we also consider that economic growth is predicted to be particularly supressed in the region for a number of years 'after' the pandemic, then the potential of coping with that debt burden is put into perspective. It is no surprise then that so many are calling for debt forgiveness, instead of postponement. The incentive that was built into the scheme – that all agreements must be NPV-neutral (NPV standing for Net Present Value and, essentially, meaning that no creditors will actually lose out under the arrangement) – demonstrates that the DSSI was built very much upon the foundation of voluntary engagement. It is worth further research to examine whether this was because the financial environment engulfing the world, or whether the G20 felt there was not enough authority to mandate this plan.

What this voluntary basis translated to in reality was that of all the debt owed by the participating countries between May and December 2020, only 36% was actually eligible for the DSSI postponement plan. Eurodad report that of this 36%, only 16.8% has been suspended. The breakdown of these figures is remarkable. When all the debt owed by low- and middle-income countries is considered, the $5.3 billion that is to be postponed only accounts of *1.6%* of the total debt payments due by developing countries in 2020. With up to $26 billion to be paid during the 8 months of 2020 when the initiative was activated, the result is that more than $107 million is leaving the 68 countries identified in the 'Global South' *every single day*.

[40] Eurodad, *The G20 Debt Service Suspension Initiative: Draining out the Titanic with a Bucket?* (2020) https://d3n8a8pro7vhmx.cloudfront.net/eurodad/pages/768/attachments/original/1610121986/DSSI-briefing-final.pdf?1610121986.

The Chief of the World Bank – David Malpass – himself admitted that the DSSI is 'too shallow to meet the fiscal needs of the inequality pandemic around us'.[41] This issue makes up one of the two issues that Kaiser and Kopper identified as being clear reasons for why a country would not participate in the DSSI, because the funds released are too low, as well as the threat of a downgrade which we will cover next.[42] In a webinar ran by Fitch Ratings on the 18th February the question was asked whether countries can indeed 'swallow the conditionality' that comes with the DSSI and other multilateral frameworks, with two conditions being particularly important.[43] The first relates to the condition that the participating country must open its books for inspection.[44] This is a particularly problematic condition for some, as many have entered into debt agreements with non-Paris Club members (majoritively China) whose details cannot be made public as part of the arrangement (more on this issue shortly). The second issue is that the DSSI forbids countries from taking on any more non-concessional during the period of suspension i.e. commercial debt. This potentially makes joining the initiative in a holistic manner unattractive because, as S&P have noted, the low-interest environment which is not predicted to be going anywhere soon means that lowly-rated countries can still attract investment – those rated just above investment-grade are, potentially, better off still borrowing, with S&P using the example of Mongolia issuing a 5.5 year $600 million bond with a low coupon rate of 5.125% in July 2020. The G20 did change some of the limitations after feedback, but the damage seems to have already been done. This is likely why many countries who could be on the cusp of qualifying have chosen not to take part.[45]

There are, unfortunately, a whole host of other issues which have been identified regarding the DSSI plan. The slow uptake of the Initiative certainly did not help and spread anxiety

[41] (n 28).
[42] Jurgen Kaiser and Elise Kopper, 'Debt Relief? Thanks, but no thanks!' (2020) IPS (Sep 28) https://www.ips-journal.eu/topics/foreign-and-security-policy/debt-relief-thanks-but-no-thanks-4671/.
[43] Fitch Ratings, 'G20 Common Framework Impact on Sovereign Ratings' (2021) Fitch Ratings Webinar (Feb 18) https://events.fitchratings.com/g20commonframeworkimpactonsove.
[44] (n 28).
[45] S&P, 'G20 Sovereign Debt Suspension: To Apply, or Not to Apply' (2020) Dec 1. https://www.spglobal.com/ratings/en/research/articles/201201-g20-sovereign-debt-suspension-to-apply-or-not-to-apply-11750938.

regarding participation right away.[46] Also, as we discussed in the first section, the variety of the dispersed bondholders in the new, predominantly privately-held bond environment, makes renegotiating debt very difficult indeed and when we add to this that the engagement of private creditors is purely on a voluntary basis, the obvious outcome of non-engagement that was imagined materialised.[47] Furthermore, within those private debt contracts exists a number of so-called 'triggers' that can see action taken against the sovereign by the private creditors for things like requesting renegotiation, or taking part in debt cancellation frameworks. The underlying issue is that with the move towards the capital markets comes variety, and with it individualised complexity. Those ingredients are not part of the recipe for success when it comes to debt renegotiations. However, there is a massive issue that seemingly affects all of these connected problems, and that is China.

Insight – China's Position in Africa

As the world's second largest economy, it is not surprising that China holds a significant number of sovereign bonds. In addition to this, the ever-growing Chinese economy relies has heavily on resources that are contained on the African continent and, as such, (and for other reasons), China is campaigning heavily to become Africa's 'partner of preference'.[48] The World Bank states that, in 2019, China accounted for 26% of the external debt of low- and middle-income countries, with that figure representing an 8% rise from the year before. At the same time, sub-Saharan African countries recorded the fastest accumulation of external debt in 2019, averaging an increase of 9.4%. The Jubilee Debt Campaign calculates that, as of 2018, around 20% of all African debt is held by China.[49]

China's relatively recent requirements for resources such as oil, iron, copper, and zinc have helped 'Africa reduce poverty more than it had in decades'. However, it has also been

[46] ibid.
[47] ibid.
[48] Alex Vines, 'China's Southern Africa Debt Deals Reveal a Wider Plan' (2020) Chatham House (Dec 10) https://www.chathamhouse.org/2020/12/chinas-southern-africa-debt-deals-reveal-wider-plan.
[49] Yun Sun, 'China and Africa's debt: Yes to relief, no to blanket forgiveness' (2020) Brookings (Apr 20) https://www.brookings.edu/blog/africa-in-focus/2020/04/20/china-and-africas-debt-yes-to-relief-no-to-blanket-forgiveness/.

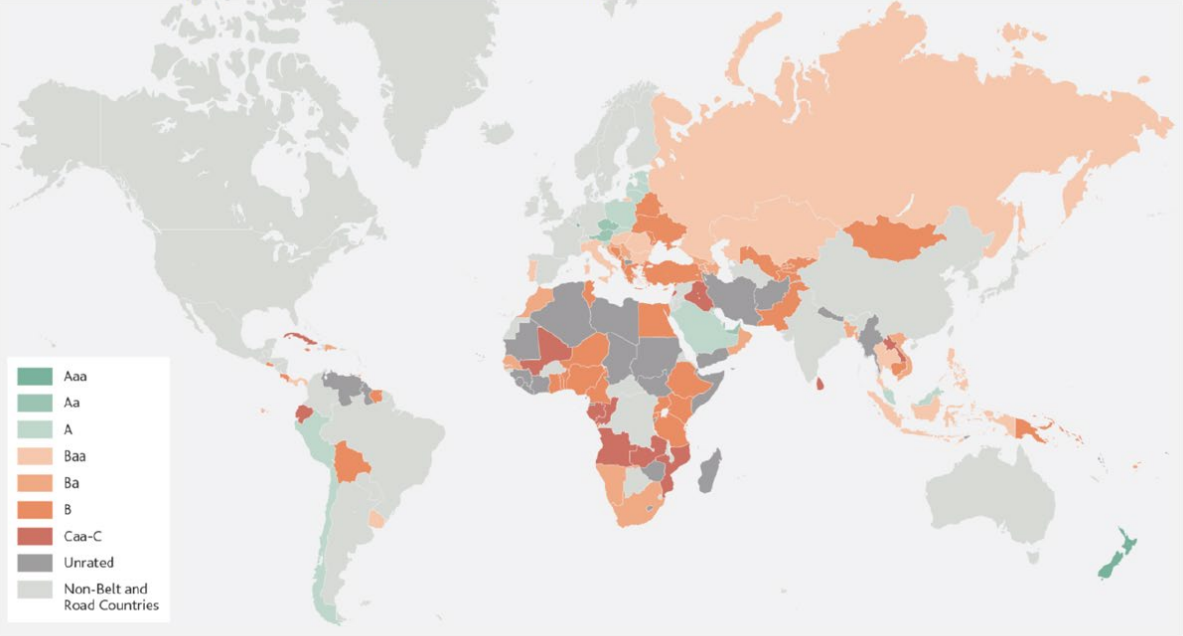
suggested that China's needs for natural resources are diminishing as it seeks to move from a manufacturing-based economy towards a consumption-based economy.[50] There are also other reasons for China's campaigning, but the outcome is that the country is a significant creditor on the African continent and its influence can be seen in many different forms, and particularly in the many Chinese-supported infrastructure projects around the continent. Yet, these many projects have also been suggested to form a different purpose: 'reshaping global norms'.[51]

The Belt and Road Initiative (BRI), which we will focus on later in the report also, is a massive part of China's future. It is a global infrastructure project that will connect China with the rest of the world via expansive infrastructure projects. It is also a massive political move from the country as it seeks to challenge the US hegemony. Although the initiative has its footprints in many different countries and regions, it is also becoming an established part of the African landscape. Whilst it suggested that the Belt and Road Initiative will evolve to become more leaner and greener, Moody's is clear in its belief that the Initiative will continue to grow and expand. This is in the face of a decreasing credit environment (as we have read) but Moody's believes that this will force the Initiative to adapt. Figure 5 illustrates the credit environment for countries involved in the Initiative, although the need to develop sustainable practices and infrastructure in the wake of the pandemic leads Moody's to believe that the future for the BRI is, at least, credit positive.

[50] David Dollar, 'China's engagement with Africa: From natural resources to human resources' (2016) Brookings (July 13) https://www.brookings.edu/research/chinas-engagement-with-africa-from-natural-resources-to-human-resources/.

[51] Rudolph du Plessis, 'China's African Infrastructure Projects: a Tool in Reshaping Global Norms' (2016) 35 South African Institute of International Affairs https://www.jstor.org/stable/resrep25976?seq=1#metadata_info_tab_contents.

Figure 5 – BRI Beneficiaries are Largely Sub-Investment-Grade and Unrated Sovereigns[52]



'Sovereign rating category as of October 8.
'ources: *Belt and Road portal of the Government of China and Moody's Investors Service*

This investing in regions that have poor credit metrics is part of a much bigger dynamic that we will examine in a later section. With regards to the DSSI though, it is the manner in which these investments are developed that is causing particular issues for the initiative. Whilst China has agreed to participate in the DSSI, it is not a member of the Paris Club. It has suspended the payment on a number of bonds in its official capacity as an official bilateral creditor to a number of DSSI countries, but the categorisation of a number of Chinese entities as 'private creditors', despite the widely-held view being that such entities are actually under the Chinese State's control, is causing difficulties for the successful realisation of the DSSI's goals.

Moody's has noted that the treatment of sovereign debt by Chinese creditors (whether official or private) has not been uniform or transparent, meaning that any prediction of future practice is difficult to do. Whilst there has been evidence of debt treatment, it has, according to Moody's, been inconsistent and has been defined by a lack of full disclosure

[52] Moody's, 'Emerging Markets Insight' (2020) December. https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC_1252416.

from both parties.[53] This inconsistency is demonstrated, perhaps, by the understanding that some debt treatment has ended in suspensions with no haircut (essentially no reduction on the debt [or the underlying collateral value]), or a change in the terms to include control of land or key ports. In addition, entities such as the China Development Bank has essentially declared itself a private creditor and has acted as such, refusing to engage with the DSSI on those grounds.

The biggest impact of this is that other private creditors cannot be sure about the concept of equal treatment. Examples of obscure debt treatment can be seen with Angola, who announced that they were near agreement with Chinese creditors regarding a postponement on $7 billion worth of debt, but since that announcement no details were forthcoming. A lack of clarity regarding the debt relationship with Chinese entities led to Zambia's request for suspension being denied by private bondholders on account of not being able to accurately understand the weight of that position by Chinese entities.[54]

This lack of transparency is just further complication in an already complicated field. The lack of disclosure standards on the continent has already been identified as a major issue for major creditors (both official and private) and the introduction of China and its developing of opaque debt agreements seemingly does not help, particularly in this era where there is a need to renegotiate on debt agreements with private creditors. This has led to a fear from private creditors that any forbearance on debt agreements could be funnelled to China because their opaque agreements would allow for them to continue having their debts serviced. It is clear then that developing a way forward with regards to bring private creditors to the table is needed, although some argue that this is not the case.

[53] ibid.
[54] ibid; Saad Hasan, 'Will Zambia be able to stand up to private creditors?' (2020) TRTWorld (Oct 2) https://www.trtworld.com/magazine/will-zambia-be-able-to-stand-up-to-private-creditors-40200.

Insight – Letting Private Creditors Face the Consequences

One of the strongest arguments being put forward, particularly in the business media, is that private creditors were well aware of the risks in investing in the debt of the countries now in the DSSI, and therefore should face the consequences of the sovereigns defaulting on their debt agreements. Dr Moritz Kraemer – formerly S&P's Chief Sovereign Ratings Officer from 2013 to 2018 - is perhaps one of the architects of this viewpoint. After arguing that HIPC countries were only able to borrow so heavily in the mid-2000s onwards because a number of initiatives essentially cleaned their balance sheets, he explains how yield-hungry investors and abundant global liquidity led to countries with particularly weak fundamentals being able to draw in large sums of Foreign Investment. With the problem now being that the debt is too expensive to service, as opposed to the cheaper official debt that the region used to rely upon, Kraemer states that the best option for the sovereigns is to default on their debt obligations, clear the decks, utilise the money then not spent on servicing the debts for their health infrastructure, and then return to the capital markets when the environment moves forward. With regards to the position of the creditors, Kraemer affirms that 'a high risk of default has been priced into African bonds. The warning signs have been clear for everyone to see'. Kraemer uses the example of Argentina to show that the countries will gain access to the capital markets again after defaulting – which they likely will – but we question this with regards to what shape will the countries be in upon returning? Also, what does this do to the global sentiment that already exists regarding the continent and investment? Nevertheless, an interesting element is that the fear over defaulting does, irrespective of the apparent 'rating impasse' that we are examining in this report, does seem to be being incubated by the private creditors themselves who are at risk of losing their investments (as Kraemer rightly notes).[55] Kaiser and Kopper agree, and note that 'private creditors like to cultivate and communicate this idea (that a default will lead to a lack of entry to the capital markets) to persuade their sovereign debtors to continue servicing those debts, even in existential crises such as the coronavirus pandemic, despite the high opportunity costs and dubious debt sustainability'.[56] There is indeed plenty of merit to this proposal, and it is an important one to consider.

Yet, the countries have not yet defaulted, which means the private creditors are still 'sat at the table'. Therefore, there needs to be something in place to allow them to engage with the debt treatment processes. But, and this is perhaps the crux of this whole research suite that we are providing here, there is not much a private creditor can do to engage if the

[55] Moritz Kraemer, 'Bondholders need to forgive some African sovereign debt' (2020) Financial Times (Aug 27) https://www.ft.com/content/7d93235c-ffea-44bc-a0f0-fa1de09012b3.
[56] (n 42).

sovereign debtors do not reach out to them for negotiation. The reason that they are not reaching out, for the most part, is that they fear being downgraded, almost automatically, as a result. This, in a nutshell, is the *credit rating impasse*.

The Credit Rating Impasse

Insight – The Credit Rating Impasse in a Nutshell

Very simply, the 'credit rating impasse' describes the dynamic whereby a sovereign debtor refuses to engage with the debt treatment frameworks, particularly with respect to engaging in negotiations with private creditors, for fear of being automatically downgraded by the leading credit rating agencies. Such a downgrade would be based on the perception by the credit rating agencies that the request to renegotiate a debt instrument with a private creditor demonstrates that the sovereign is in financial difficulty, essentially pending a full default. It is irrespective, the credit rating agencies have implied, that the sovereign debtor is merely trying to make the most of the debt treatment framework. For the agencies, the same issue is not applied to official creditors, only private creditors.

The 'credit rating impasse', as we are referring to it, is a dynamic that describes a lack of action being taken with regards to debt treatment because of the fear of rating downgrades being applied to the sovereign ratings of the debtors involved. A number of countries have already declared that they will not be making use of the DSSI initiative so as not to jeopardise their credit ratings, and they have been particularly keen to make this clear.[57]

From the credit rating agencies' perspective, they are doing what they are now legally bound to do (particularly since the Financial Crisis) which is placing the position of the investor at the forefront of their analyses. As Kearse notes:

> Rating agencies assess the credit risks associated with a borrower. More specifically, credit rating agencies evaluate the risk that the borrower will default on its debt obligations. To conduct this analysis, credit rating agencies will, amongst other things, assess the borrower's compliance with the terms of its loan documentation,

[57] (n 42) describes the statements made by Kenya.

analysing, specifically, whether the borrower has paid its creditors on time and in full in accordance with the terms of the original documentation.[58]

Even the suggestion that certain countries may need to restructure their debts has put some on review for a downgrade. This has had the result of a number of private investors taking the view that sovereign debtors are simply very unlikely to take part in the debt treatment frameworks as they are currently constructed.[59]

The credit rating agencies themselves have declared this impasse in varying but similar ways. Fitch Ratings, with regards to the 'Common Framework' which we will review next but very much on the same principle, stated that engaging with private creditors for restructuring is unlikely to be compatible with a non-junk grade sovereign.[60] In June 2020, Moody's placed Senegal on review for downgrade specifically because the decision to do so 'reflects Moody's assessment that the country's participation in the G20 Debt Service Suspension Initiative raises the risk that private sector creditors will incur losses'.[61] S&P, for their part, have been less forthcoming about their take on the issue. Interestingly, it is not the act of seeking to negotiate terms with the private creditors that the rating agencies have identified as being problematic – because restructuring is part of the realities of investment – but the requirement that countries seek to negotiate terms with private creditors 'on comparable terms' with official creditors.

The impasse therefore appears to be structural in nature, not one of choice. This is why this report will look at some of the underlying pressures that cause this structural impasse to exist, with a particular focus on both the position of the private investor and the options

[58] Nicole Kearse, 'The DSSI, Defaults and Credit Ratings: A Primer' (2020) ALSF (Jun 26) https://alsf.academy/blog/dssi-defaults-and-credit-ratings-primer.
[59] Marc Jones, 'Poorest countries face tough choice over G20 debt relief plan' (2020) Reuters (Sep 30) https://www.reuters.com/article/health-coronavirus-g20debtrelief-analysi-idUSKBN26L2N3.
[60] Fitch Ratings, 'Common Framework Access Could Lead to Sovereign Debt Default' (2021) Fitch Ratings (Feb 16) https://www.fitchratings.com/research/sovereigns/common-framework-access-could-lead-to-sovereign-debt-default-16-02-2021.
[61] Moody's, 'Rating Action: Moody's places Senegal Ba3 ratings on review for downgrade' (2020) Moody's (Jun 12) https://www.moodys.com/research/Moodys-places-Senegals-Ba3-ratings-on-review-for-downgrade--PR_426332.

available to them, but also the regulatory framework that surrounds the credit rating agencies and limits their ability to adapt to the ethos of the debt treatment framework. However, before we do that, the adaptation by the G20 and the multilateral institutions to the issues identified here regarding the DSSI has taken the form of a new debt treatment framework that is supposed to build on the DSSI. However, as we shall see, the very same issues are plaguing that new approach too.

The Common Framework

Formally agreed upon by the G20 in November 2020, the so-called 'Common Framework' (CF) – officially 'The Common Framework for Debt Treatments Beyond the DSSI' – is designed to move the debt treatment of poorer countries towards a more case-by-case basis so that, theoretically, the treatment can be as impactful as possible. On the 7th April 2021 the G20 announced, as expected, a further 6-month extension to the DSSI,[62] although the Chief of the World Bank David Malpass has been quoted as saying that this will be the last extension to the scheme.[63] It can therefore be somewhat confusing as to the delineation between the two initiatives. Simply put and as the IMF describe, the DSSI was developed upon the premise of providing debt relief to *all* eligible countries, whereas the CF focuses on a particular country's situation and then allows for specific actions to be taken to relieve the pressure on the country that is applying to the CF.[64] Although the DSSI has been extended, it is suggested by onlookers that the CF is now the primary focus of the G20 and in bringing China into the fold more, there is optimism that the CF can have more of an impact than the DSSI had.[65]

Whether or not the CF can be considered a success yet really depends upon the parameters one uses. Some have cited Angola's restructuring with Chinese creditors as a good example of how the Framework can work, but their restructuring was done before the CF was launched.[66] Of the three countries that have formally applied to be a part of the CF – Chad, Zambia, Ethiopia – no negotiations have actually started. Kristalina Georgieva, the IMF Chief,

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[62] Zak Suffee, 'Reaction to G20 extension of debt suspension' (2021) Jubilee Debt Campaign (Apr 7) https://jubileedebt.org.uk/news/reaction-to-g20-extension-of-debt-suspension.
[63] Andrea Shalal, 'World Bank chief expects G20 to extend debt payment freeze through end-2021' (2021) Reuters (Apr 5) https://www.reuters.com/article/us-imf-world-bank-debt-idUSKBN2BS1CQ.
[64] IMF, 'Questions and Answers' (2021) IMF (Apr 8) https://www.imf.org/en/About/FAQ/sovereign-debt#g20q1.
[65] Pierre-Olivier Rouaud, 'Chad: 1st Country in Covid Era to Ask for Restructuring of its Debt' (2021) The Africa Report (Feb 3) https://www.theafricareport.com/62933/chad-1st-country-in-covid-era-to-ask-for-restructuring-of-its-debt/.
[66] Macau Business, 'Angola: Only country to restructure private debt without rating downgrade – UN' (2021) Macau Business (Mar 22) https://www.macaubusiness.com/angola-only-country-to-restructure-private-debt-without-rating-downgrade-un/.

said on the 6th April 2021 that Chad's creditors will get together in the next week to start the process, but no details were given to who those creditors were, a timeframe for negotiations to take place, and Malpass noted that Chad had a very narrow group of creditors which presents particular challenges without naming them.[67] The Rating Agencies have yet to comment on this.

Whilst they have yet to comment on the proposed negotiations announced this week. They have commented on the CF more generally. The agencies' position on the DSSI was clear: if a private creditor is at risk of not receiving the payments they are due, the credit rating agencies will consider this as an action leading to default, and then rate accordingly. This (arguably) makes sense, but with the CF there is an inherent issue. As S&P note:

> Any agreement has to be signed with all creditors in a 'Memorandum of Understanding' that would have to be implemented through bilateral agreements between the debtor country and each participating lender. The framework also specified that debtor countries needed to 'seek from all its other bilateral creditors and private creditors a treatment at least as favourable as the one agreed in the MoU'.[68]

This has been identified by the rating agencies as being a particular problem. In downgrading Ethiopia in February, Fitch made it clear that the reason was because of 'the government's announcement that it is looking to make use of the G20 "Common Framework for Debt Treatments Beyond the Debt Service Suspension Initiative (DSSI)", which although still an untested mechanism, explicitly raises the risk of a default event'. It is the concept of comparability which provides the field with the latest dose of the credit rating impasse. Fitch continue, stating that the requirement to seek treatment on comparable terms means that Ethiopia's outstanding Eurobonds and other commercial debts could need to be restructured, potentially leading to a 'distressed debt exchange' under Fitch's criteria. Whilst Fitch does acknowledge that a. the CF and its processes has not been made formally clear yet, and b. within the context of the Paris Club, there is

[67] Andrea Shalal, 'IMF Chief says creditor community forming to deal with Chad debt' (2021) Reuters (Apr 7) https://www.reuters.com/article/us-imf-worldbank-debt-idUSKBN2BU0PJ.
[68] (n 45).

sometimes scope for 'waivers' to be applied which relieves this burden of absolute comparability, the reality is that the CF has been sold on the concept of *all* creditors getting involved, whether official or private. The moment there is a risk of private creditors having to face losses or defaults, the credit rating agencies are claiming that their hands are tied.[69] S&P have agreed with Fitch and stated that a distressed debt exchange would lead to a default rating.[70] Fitch did suggest that if the G20 were to build in waivers into the system then it could be the case that not every engagement with the CF would be an automatic downgrade.

It has been suggested that an option could be to expedite the process between a country defaulting and then coming out of the debt-restructuring process so that the pain of the default rating is limited,[71] but as the agencies have highlighted it is very difficult to do this with a diverse and varied creditor base; Chad may indeed have a narrow creditor base, and Ethiopia may have majoritively official multilateral and bilateral debt, but that is not the rule for countries in the region.

Insight – Ethiopia's Downgrade by Fitch[72]

In February Fitch Ratings downgraded Ethiopia because of its announcement that it would participate in the Common Framework. Citing the potential effect of the CF's requirement that a debtor country must seek 'comparable terms' when engaging with their range of creditors, Fitch concluded that this inherently raises the risks posed to private creditors.

The bulk of Ethiopia's debt, according to Fitch, is held by official creditors, both multilateral and bilateral. For the financial year 2020, that debt amounted to around $25 billion. Only $3.3 billion was owed to private creditors. This private debt includes an outstanding $1 billion Eurobond which is due to be paid in 2024, and it has an annual

[69] Fitch, 'Fitch Downgrades Ethiopia to "CCC"' (2021) Fitch (Feb 9) https://www.fitchratings.com/research/sovereigns/fitch-downgrades-ethiopia-to-ccc-09-02-2021.
[70] S&P Global, 'Credit FAQ: Beyond DSSI: S&P's Perspective on the G20 Common Framework for Debt Relief' (2021) S&P Global (Feb 17) https://www.spglobal.com/ratings/en/research/articles/210217-credit-faq-beyond-dssi-s-p-s-perspective-on-the-g20-common-framework-for-debt-relief-11840250.
[71] Hung Tran, 'The Big Issues at Play in the IMF and the World Bank Spring Meetings' (2021) Atlantic Council (Apr 5) https://www.atlanticcouncil.org/blogs/new-atlanticist/the-big-issues-at-play-in-the-imf-and-world-bank-spring-meetings/.
[72] (n 69).

servicing cost of $66 million until maturity. There is also $2.3 billion worth of government-guaranteed debt owed to foreign commercial banks. There is an additional liability, potentially, in relation to $3.3 billion worth of debt owed to creditors that relates to Ethio Telecom and Ethiopian Airlines, which for Fitch presents a potential contingent liability.

Ethiopia is suffering financially. Its reserves of foreign exchange only cover around two months of their external payments that are due and, with their rising debt repayments, the country is facing a real liquidity crisis. Fitch states that it is for this reason that Ethiopia would want to engage with the CF.

This financial position was recognised by the IMF who, in their latest round of assessments classified Ethiopia as being at high risk of external debt distress. Under the Extended Credit Facility and the Extended Fund Facility, the aim has been articulated (in 2019) as wanting to improve to moderate risk from high risk. The pandemic has clearly taken its toll on a country that did not have string metrics before the breakout of the virus. The IMF noted that the country has been responding well to the measures put in place but that, ultimately, it would need help from the international players who have a stake in the country, potentially via debt reprofiling.

Fitch has also considered the risks that emanate from potential political instability, mostly relating to the military conflict in the Tigray region.[73] The potential governmental affects from that conflict, in addition to the humanitarian crisis that is developing[74] means that the underlying economic position of the country is very weak indeed. Furthermore, the chances of 'returning to normal' via an effective healthcare infrastructure seem as far away as ever for the embattled country.

Fitch finish by highlighting factors that could negatively affect the country's progression, and factors that could be of benefit. Stronger evidence of engagement with the CF, on the terms of comparability between creditors, would be regarded negatively by Fitch. Also, any more pressure externally on the country's finance could lead to more credit risk for investors, and would be factored into their country's credit rating. However, if the G20 were to provide more details on any exemptions or conditions regarding comparability, then this could work in Ethiopia's favour regarding their credit rating. Also, if exports begin to increase as the world potentially moves past the height of the pandemic, then this would improve Ethiopia's financial position.

[73] Andres Schipani and David Pilling, 'Ethiopia: War in Tigray Threatens to end Abiy's Dream of Unity' (2021) Financial Times (Apr 8) https://www.ft.com/content/8f18a8bf-0999-43e6-9636-3581a8a2c249.
[74] Gabriela Vivacqua, 'Ethiopia: Amidst hostilities in Tigray, humanitarian situation remains "dire"' (2021) UN News (Apr 7) https://news.un.org/en/story/2021/04/1089282.

Fitch has outlined how it will continue to see a sovereign debtor's engagement with the CF. If there is evidence that a debtor will be accessing the CF then it is likely that the debtor's sovereign credit rating will be dropped to 'CC', which means that a default is 'probable'. Fitch indicate that if a debtor needs to restructure any of its debt, then this position does not align to a rating any higher than a CC. If that interest in the CF moves to the next stage and there is a published consent solicitation for bondholders to restructure or renegotiate at all, then Fitch state that this would lead to the rating dropping further to 'C'. If that solicitation is accepted, then the rating will drop even further to a 'RD', or 'Restricted Default'. Fitch then declares that the rating would be upgraded upon evidence of the impact of the restructured fundamentals. Fitch provides ratings for 22 of the 73 eligible countries for the CF (the same group that are eligible for the DSSI) and has said that it believes the IMF's 'Debt Sustainability Analysis' (DSA) will be vitally important as that will be what sets the parameters for any restructuring – a country may only need very short-term and particular assistance, therefore lessening the effect of the rating impasse. Of the 22, only Cabo Verde, Cameroon, Ghana, and Kenya had credit ratings of CCC or above with Fitch, and Fitch did not expect any of the 4 to engage with the CF.

There are perhaps two other issues of note with the CF. The first is that its coverage is still constrained to those that qualified for the DSSI. It has been argued that this needs to change because there are a number of other low- to middle-income countries that are facing liquidity issues also, not just those who qualify for the DSSI/CF.[75] The second is that arranging for more engagement from private creditors in terms of forcing debtors to seek comparability only identifies one component of a multifaceted issue. For the private creditors, there are different pressures that affect their position.

[75] Lars Jensen, 'Sovereign Debt Vulnerabilities in Developing Economies: Which countries are vulnerable and how much debt is at risk?' (2021) UNDP https://www.undp.org/content/dam/undp/library/bpps-spu/54241%20-%20UNDP%20WP%20Debt%20Vulnerability-web.pdf.

As a report from IHS Markit suggests, one of the key impediments for private creditors is not that they are unsure about the positions of others (Chinese entities, for example), but engaging will more-than-likely lead to irretrievable losses which Suckling argues contravenes 'creditors' fiduciary responsibility to protect their clients' investments. In this regard, Suckling suggests that there are four key issues that the Framework needs to address in order to successfully bring the private creditors to the table:

1. Enforcement: Private creditors' participation is voluntary: there exists no supranational legal mechanism to compel their involvement. Without enforcement, the Framework will suffer from 'free rider' issues and disagreements over the seniority of payment obligations.
2. Co-ordination: The Framework does not specify a mechanism to organise creditor committees spanning both private and official lenders. Historically the IMF has been reluctant to co-ordinate creditors. Even among private creditors, co-ordination is often difficult given the diverse range of claims against a sovereign via different types of debt instrument, especially the increased use of collateralised debt and contingent liabilities such as guarantees.
3. Transparent debt reporting: The Framework would need to ensure that all bilateral creditors (including Chinese state-owned lenders) provide accurate and transparent accounts of their lending to eligible countries.
4. Preventing litigation and holdout behaviour by bond holders: Sovereign debt has no automatic bankruptcy mechanism and there is no supranational framework for managing debt workout.[76]

So far there has been no development on the four aspects above, with the participation of private creditors not even formally worked out. The impact of the credit rating impasse upon the CF, and the pressures that impact the position of private creditors has yet to be seen but estimations suggest that the Common Framework will come up against seemingly

[76] Chris Suckling, 'The G20's Common Framework' (2021) IHS Markit (Mar 16) https://ihsmarkit.com/research-analysis/g20s-common-framework.html.

engrained structural issues that it, perhaps, has not considered or attempted to ignore to try to achieve at least some progression.

The Position of the Private Creditors

Apart from criticism aimed at the debt treatment frameworks regarding not widening the scope to capture more low- and middle-income countries in the schemes, almost everything else revolves around the position of the private creditors. Whether it is the lack of willingness to engage, the fear that the credit rating agencies have instilled in the process regarding their position, the advancement of that argument by private creditors seemingly to protect their own position, or just a lack of flexibility from them as a class, the private creditors are very much in the spotlight.

There has been some engagement between sovereign debtors caught in the debt treatment frameworks and private creditors. The IIF – The Institute of International Finance – is one of the leading bodies that have been recognised as representing a large proportion of the creditors affected by the issues we are focusing on, and in a report last year they noted a number of engagement between sovereign debtors and private creditors. Zambia, the first sovereign debtor to raise its head above the parapet during this Covid-19 era and request financial assistance – and subsequently downgraded as a result – issued a consent solicitation in September 2020 asking for forbearance on three of its Eurobonds. A committee of Zambia's creditors was convened but whilst a readiness to engage was established, the presence of Chinese creditors on Zambia's books caused issues. In Chad, a request had been generated to suspend the debt owed to Glencore, who underwrote a syndicated loan which includes more than 20 commercial banks and asset managers. The already-heavily restructure loan was related to the country's oil firm Societe des Hydrocarbures du Tchad and was related to oil deliveries. However, within both instances there is a lot of proclamations from the IIF that its members are 'ready to engage', with very little coming to fruition since.[77]

[77] Institute of International Finance, *Principles for Stable Capital Flows and Fair Debt Restructuring: Report on Implementation by the Principles Consultative Group* (2020) https://www.iif.com/Portals/0/Files/content/Regulatory/10_23_2020_pcg_report_2020.pdf.

The IIF has concocted a number of initiatives aimed at encouraging private sector participation in the debt treatment frameworks, although it has been a constant voice insisting that private sector involvement must be on a *voluntary* basis. To that voluntary end, the IIF have created a set of Principles upon which it sets out a course for its members to become more engaged, including the usage of so-called 'waivers'. The Principles 'incorporate voluntary, market-based, flexible guidelines for the behaviour of sovereign debtors and private creditors with the aim of promoting and maintaining stable capital flows, financial stability and sustainable growth. The Principles promote transparency, and open communication and dialogue with creditors and investors – particularly through investor relations programs (IRPs).[78] It is, for whatever reason, remarkably difficult to actually find out what these principles are (a number of reports, media pieces, and scholarly endeavours merely repeat the IIF's declaration of the importance of the Principles), but the 2004 set of Principles upon which the adapted Principles rely consist of the following:

1. Transparency and Timely Flow of Information
2. Close Debtor-Creditor Dialogue and Cooperation to Avoid Restructuring
3. Good Faith Actions, and
4. Fair Treatment.[79]

As for investor relations programmes, they are merely formal programmes for issuers and investors to share more information that was is mandated to be disclosed by relevant regulations (in theory); they can be useful tools for encouraging investment (if indicated prior to investment), and allow for a mutual trust to build regarding the financial interaction. The IIF has noted that both private creditors and also debtors have found these to be very useful indeed, and not only increase dialogue between the two parties can ward off negative debt outcomes much more effectively than other initiatives.[80]

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[78] ibid 6.
[79] IIF, *Principles for Stable Capital Flows and Fair Debt Restructuring* (2004) https://www.iif.com/Portals/0/Files/content/Regulatory/The%20Principles%20and%20Addendum.pdf.
[80] IIF, *Principles for Stable Capital Flows and Fair Debt Restructuring: Report on Implementation by the Principles Consultative Group* (2019) https://www.iif.com/Portals/0/Files/content/Research/pcg_report__10_22_2019.pdf.

In June 2020, UNECA (United Nations Economic Commission for Africa) requested that the IIF develop a waiver from private lenders that indicated that a request from a sovereign debtor for forbearance on official debt would not constitute an event of default. This was asked of private creditors because a number of loan arrangements may have contained 'triggers' whereby the request for any forbearance at all would constitute a default-incident, leading to the private request for the return of funds. In response, the IIF on behalf of its members created and disseminated a 'Template Waiver Letter' in July 2020.[81] The letter was not a 'fix' for the problem, but did aim to 'streamline' the process because even though the members had agreed to the Waiver, a blanket waiver is not legally possible and debtor countries still had to request a waiver from each and every creditor that they had. If a debtor country has a narrow private creditor base then this may not be overly onerous, but let us consider Zambia who, with regards to a $1 billion Eurobond that is due to mature in April 2024, have *at least 76 bondholders (managing 170 funds or portfolios) related to that one Eurobond*.[82] The waiver has been identified as having potential to resolve some of the issues, but there has also been an acknowledgement from members of the IIF that there is a need to review the usage (or increased usage potentially) of Collective Action Clauses (CACs).

Insight – Collective Action Clauses (CACs)

In modern corporate law (across a number of jurisdictions), there are a number of forms that allow for creditors to come together and negotiate with a company if it is in financial difficulty. Also, in terms of private creditors and companies, the concept of Collective Action Clauses (CACs) has long had a place within the Law of Contract in the UK.[83] That same concept exists for the sovereign debt arena too, predominantly in the form of CACs.

[81] IIF, *G20 DSSI Template Waiver Letter Agreement* (2020) https://www.iif.com/Publications/ID/3993/G20-DSSI-Template-Waiver-Letter-Agreement.

[82] Oxfam, Christian Aid, Catholic Agency for Overseas Development, Jubilee Debt Campaign, and Global Justice Now, *Under the Radar: Private Sector Debt and Coronavirus in Developing Countries* (2020) https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621063/mb-under-radar-private-sector-debt-121020-en.pdf 4.

[83] Antonio Sainz de Vicuna y Barraso, 'Identical Collective Action Clauses for different Legal Systems: A European Model' in Patrick S Kenadijan, Klaus-Albert Bauer, and Andreas Cahn, *Collective Action Clauses and the Restructuring of Sovereign Debt* (Walter de Gruyter 2013) 19.

The World Bank describes a CAC as 'provisions of bonds that specify procedures for selecting bondholders' representatives in debt negotiations and provide for the modification of terms on bonds by a substantial majority. They generally prohibit individual bondholders from initiating litigation and require that any funds recovered through litigation be shared with all creditors'. Bonds issued on the international markets have to be issued under a particular jurisdiction's laws, with the UK and the US being the preferred jurisdictions (though there are others). At the turn of the century issuances issued under English and Welsh law made up the majority of issuances (just over 50%) and British law have CAC-like provisions already built in; this can range from collective representation, majority, or sharing of repayments (a or a menu of all).[84] Up until 2003, New York law did not allow such elements, but now do.[85]

It has been suggested that CACs have either no or a positive impact on the terms of lending, with others finding empirically that bonds issued under English and Welsh law (thereby containing the option of CACs) had lower spreads than those issued under New York law for more credit-worthy issuers i.e. investors regarded the inclusion of CACs as a credit-positive element. However, for less credit worthy issuers, the inclusion of CACs has been found to contribute to higher spreads, potentially insinuating that the inclusion of CACs may be viewed as somewhat of a warning. Yet, a lack of impact either way has also been empirically found, so it is debatable how much of an effect CACs may have on the costs of issuance.[86]

One of the factors that suggest CACs may not be so helpful in preventing disorderly restructurings is that they only apply instrument by instrument and cannot be aggregated. In addition, they do not apply retrospectively. If a CAC is not applied at the start of a debt instrument's existence, then seeking to restructure and have it applied would, more than likely, be viewed in the most negative of ways.[87] CACs have a number of issues inherent within them. One is the issue of holdout creditors who, if they hold enough debt in the

[84] World Bank, *Global Development Finance: Striving for Stability in Development Finance* (World Bank 2003).
[85] Christian Kopf, 'Sovereign Debt Restructuring: Lessons from History' in Patrick S Kenadijan, Klaus-Albert Bauer, and Andreas Cahn, *Collective Action Clauses and the Restructuring of Sovereign Debt* (Walter de Gruyter 2013).
[86] (n 84) 63.
[87] ibid.

country can essentially prevent a CAC from being effective,[88] which Schwarz argues makes CACs 'an inadequate substitute for pursuing a more systemic legal framework for sovereign debt restructuring'.[89] However, to date, there has not been a formal legal framework put in place for sovereign bankruptcy proceedings, despite some suggesting it is an inevitably.[90]

Insight – The Sovereign Debt Restructuring Mechanism (SDRM)

The SDRM was designed and proposed around 2003 by the IMF. Its main objectives were to facilitate the orderly, predictable, and rapid restructuring of sovereign debt, whilst also considering creditors' rights and asset values.[91] More generally, the SDRM was designed to 'provide a framework that strengthens incentives for a sovereign and its creditors to reach a rapid and collaborative agreement on a restructuring of unsustainable debt in a manner that preserves the economic value of assets and facilitates a return to medium-term viability, thereby reducing the cost of the restructuring process'.[92] In designing what was an attempt to bring bankruptcy frameworks to the sovereign debt arena, the IMF presented the following principles upon which the SDRM would be guided:

- The mechanism should one be used to restructure debt that is judged to be unsustainable by the debtor. It should neither increase the likelihood of restructuring nor encourage defaults.
- In circumstances where a member's debt is unsustainable, the mechanism should be designed to catalyse a rapid restructuring, both in terms of when it is initiated and, once initiated, when it is completed.
- Any interference with contractual relations should be limited to those measures that are needed to resolve the most important collective action problems.
- The framework should be designed in a manner that promotes greater transparency in the restructuring process.
- The mechanism should encourage early and active creditor participation during the restructuring process.
- The mechanism should not interfere with the sovereignty of debtors.

[88] IMF, *Sovereign Debt Restructuring – Recent Developments and Implications for the Fund's Legal and Policy Framework* (2013) https://www.imf.org/external/np/pp/eng/2013/042613.pdf.
[89] Steven L. Schwarz, 'Sovereign Debt Restructuring and English Governing Law' (2017) 12 Brooklyn Journal of Corporate, Financial and Commercial Law 73-103, 75.
[90] (n 83) 24.
[91] Anne O. Krueger, *A New Approach to Sovereign Debt Restructuring* (IMF 2002) https://www.imf.org/external/pubs/ft/exrp/sdrm/eng/sdrm.pdf 4.
[92] IMF, 'Report of the Managing Director to the International Monetary and Financial Committee on a Statutory Debt Restructuring Mechanism' (2003) IMF (Apr 3) https://www.imf.org/external/np/omd/2003/040803.htm.

- The framework should establish incentives for negotiation – not a detailed blueprint for restructuring.
- The framework needs to be sufficiently flexible – and simple – to accommodate the operation and evolution of capital markets.
- Since the framework in intended to fill a gap within the existing financial architecture, it should not displace existing statutory frameworks.
- The integrity of the decision-making process under the mechanism should be safeguarded by an efficient and impartial dispute resolution process.
- The formal role of the Fund under the SDRM should be limited.

The Sovereign Debt Restructuring Mechanism was the IMF's attempt to create such a framework for sovereign debt restructuring. In identifying that debt restructurings often occur too late to be effective, the IMF argued that there were multiple pressures affecting a framework's implementation in this arena. Creditor participation was highlighted as a particular issue, particularly with regards to overcoming collective action problems. One aspect of the proposed SDRM that would have sought to address this issue was the injection of aggregation into the process, something which can overcome holdout creditors. This would have been achieved via Treaty (as opposed to the Greek imposition of aggregation via its domestic law during its debt restructuring that took place after the Financial Crisis). The IMF then add to this the problem of bringing non-Paris Club members to the table; as we have already seen so far, this remains an issue still today.[93]

Euliss helpfully explains that one of the main driving forces for the IMF's involvement was because, traditionally, the IMF would provide for bailout loans to affected sovereign debtors and this was a practice that it wanted to stop, or at least reduce. This then gives the sovereign debtor a simple choice: either default and put one's capital market access at risk, or participate in the restructuring process. However, as this report is identifying, this 'simple' choice does not take account of the credit rating impasse, which is a major factor in the decision a sovereign debtor might come to. The SDRM, which was proposed alongside a

[93] (n 88).

request for all new bonds to be issued with CACs (not just under English and Welsh law), attempted to provide an overarching solution to these issues. It had a number of stages, starting with the need for the debtor to request a stay on all creditor claims. The next stage was for the creditors to decide whether an extension to that stay was needed to break any impasse that was preventing progression. Lastly, creditors were encouraged to subordinate their outstanding claims into new products on order to encourage fresh lending.[94]

The initiative, on paper, was a good one. However, in reality, there are a number of pressures that it had not anticipated (or maybe it had, but the decision was taken to promote the proposal anyway). The first and obvious element is that such intrusion is at odds with the free-market approach of the United States, which essentially has a deciding vote in the multilateral institutions like the IMF (and the World Bank). At the time, the US made clear its objections to such a framework and instead decided to promote the use of CACs under its jurisdiction – this is why New York law began allowing for CACs not long after the IMF proposal failed.[95] Whilst the Europeans favoured such a framework,[96] the IMF had one more foe to overcome and they were not able to do so. The IIF, who often champion their members' involvement but only in a voluntary way, unsurprisingly lobbied extensively against the SDRM's creation.[97]

This section has highlighted yet more pressures that exist within the debt arena for sovereigns. Hopefully at this stage in the Report it is clear that everything is interlinked. The position of the private creditors is becoming ever more crucial the more that the capital markets become the dominant form of financing. However, as it has been suggested by others, there are truths regarding private creditors that no amount of greenwashing or public statements in support of debtors can cover up. Private creditors would rather be paid

[94] Richard Euliss, 'The Feasibility of the IMF's Sovereign Debt Restructuring Mechanism; An Alternative Statutory Approach to Mollify American Reservations' (2003) 19 American University International Law Review 1 115.
[95] ibid 124.
[96] Brad Setser, 'The Political Economy of the SDRM' in Barry Herman, Jose Antonio Ocampo, and Shari Spiegel, *Overcoming Developing Country Debt Crises* (OUP 2010).
[97] (n 85) 158.

than not paid. They would rather reduce risk than increase it, and if they are forced to accept additional risk they would rather be compensated for doing so.[98] This is not to denigrate the private sector as others have done, because that is their right to take such an approach. Yet, it will always lead to criticism. As Bolton et al state:

> In normal times, commercial actors may be expected to behave like commercial actors. There are other times, however, when venality should be tempered by a sense of social responsibility. A pandemic that shuts gown much of the world's economy is such a circumstance. Forcing governments in the middle of this pandemic to choose between their credit reputations and the lives of their citizens is, we believe, self-evidently wrong.[99]

It is not surprising then, considering this sentiment, that calls for outright cancellation of the debt, or even calls for the sovereign debtors to simply default and come back to the markets when allowed/applicable, have taken hold as some of the strongest arguments around. For us here at the Credit Rating Research Initiative, we attempt to provide a credit rating-based framework that can be activated during crises, but this proposal in the associated document will likely be exposed to the same pressures that have been identified throughout this Report – self-interest. Without the will to put others before oneself, there will likely be a change to the status-quo in this arena. The Report could move to the conclusions stage now, but there is one more aspect that probably needs to be considered more than it is in the general debate and examination of this debt issue.

[98] Patrick Bolton, Lee Buchelt, Pierre-Olivier Gourinchas, Mitu Gulati, Chang-Tai Hsieh, Ugo Panizza, and Beatrice Weder di Mauro, 'Sovereign debt standstills: An Update' (2020) VoxEU (May 28) https://voxeu.org/article/sovereign-debt-standstills-update.
[99] ibid.


Mourdou
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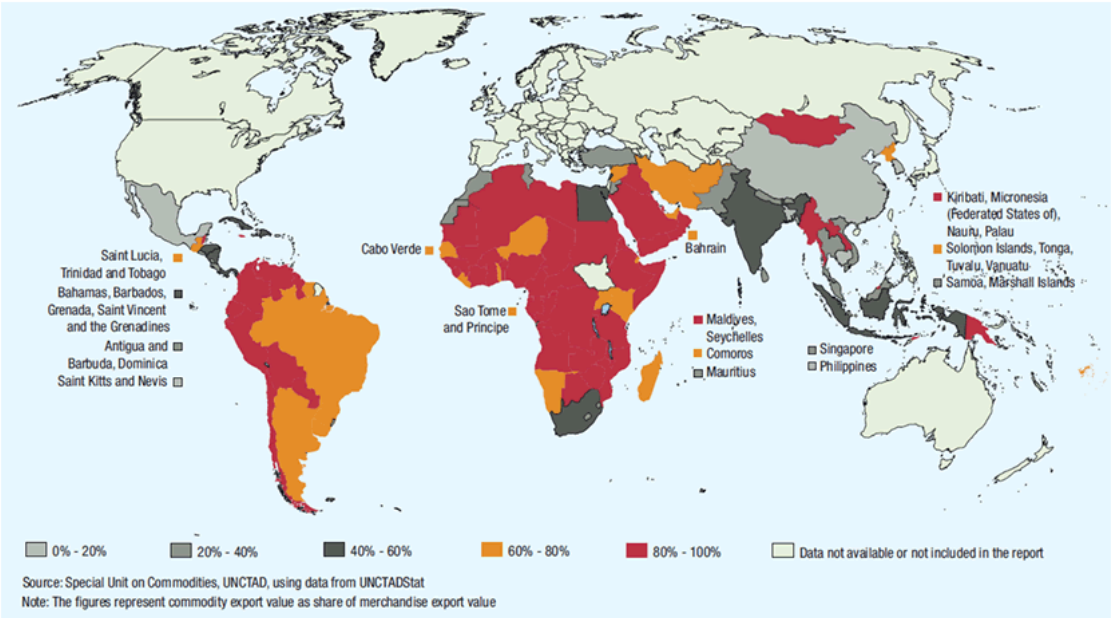
中国人民銀行

Africa After the Crisis

Obviously, it is difficult to predict both when the pandemic will 'end' and also what shape Africa as a continent will be in when that moment arrives (it will, of course, not be a moment in time but a gradual process). Yet, there is one particular dynamic that sits above all the others and whilst this Report does not seek to be overly theoretical or academic, that dynamic is ideological.

Even though there is a slowing of Chinese lending to the continent since a peak in 2016, China has become an incredibly important and substantial influence in the region. There are several reasons for this increased influence in recent times, with perhaps the main one being that a. the countries in the region are extremely resource-rich but also b. commodity dependent. As Figure 6 demonstrates, this is a theme across the developing world.

Figure 6 – Commodity Dependency in the Developing World



So, whilst the link between China's economic rise and its need for resources should be obvious, the problem is that this catapults China into political dynamics far beyond its borders. As Iwilade states:

> [China] now has a strong and growing influence in core extractive industries from Angola to Zambia, and continues to make inroads in many other states. As Chinse influence grows, however, so does the concern about what implications this may have for Africa's political processes and for global strategic alignments.[100]

He continues, in citing Richard Joseph, by raising the most prevalent and consistent criticism of this influence that is concerned with China's influence on the political spectrum on the continent. As he states, 'as Richard Joseph notes: "China's growing presence has been complicating prospects for further democratisation in Africa", because it often ignores governance and human rights problems and makes investments that strengthen autocratic regimes'. He also makes the point that China can be implicated for providing arms to regimes that commit human rights abuses, especially in protracted conflicts.[101] Others have sought to categorise certain countries on the continent by Chinese engagement. For example, where countries are undergoing democratic transitions, China has been identified as offering aid, technical assistance, and invested in infrastructure. Countries in this category include Ghana, Tanzania, and Zambia. In the second category are Angola, Sudan, and Nigeria; these countries have significant resources and China, according to the scholars, is 'hardly democratic' in its dealings with these countries, perpetuating the 'resource curse' of neopatrimonialism (a hierarchical system were the use of resources buys favour). The third category, containing countries such as Liberia, involves countries that are emerging from conflict where China makes important peacekeeping interventions. It is said that such interventions, as in line with UN frameworks, can lead to democratic developments.[102] The reason why this categorisation is important is that it shows the lazy tropes of China exporting undemocratic principles are simply untrue, and arguably identify those attempts as propaganda, for want of a better word.

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[100] Akin Iwilade, 'Has the Rise of China in Africa made Democratisation Less Likely?' (2014) 1 Accord: Conflict Trends. https://www.accord.org.za/publication/conflict-trends-2014-1/ 3.
[101] ibid.
[102] ibid.

Nevertheless, the political direction of the continent is of interest to many. It has been identified that, for the most part, repression and autocracy are on the rise across the continent. Cheeseman indicating that the continent is experiencing an overall deterioration of the overall quality of almost all indicators of political and economic governance according to the Bertlesmann Transformation Index for which he conducted his report.[103] Whilst the decline identified is not significant, it does, as Cheeseman argues, represent a continental shift further away from democratisation and economic stability. This has been noted widely by others.[104] He also noted that more countries moved towards autocracy than towards democracy over the past few years and that nothing demonstrates this more than the issue of term limits. Now, under the shadow of the pandemic, a number of leaders and regimes have sought to extend or even remove term limits (Djibouti, the Republic of Congo, Burundi, Rwanda, and Uganda are all examples of this). There is an abundance of other examples unfortunately; in Tanzania, there has been numerous reports of civilian freedoms being curtailed, with the opposition leader complaining that within the country there is a 'general war on democracy'. Tundu Lissu, the opposition leader, left the country in 2017 after an assassination attempt within which he was shot 16 times. Similarly, in Uganda, opposition leader Robert Kyagulanyi complained that Uganda was experiencing 'brutalisation', at the same time that the President, Yoweri Museveni, has banned all campaigning as part of coronavirus restrictions. Online campaigning is allowed, but in 2019 Museveni imposed a tax on usage, which has been claimed to be an attempt to stifle dissent.[105]

This issue of utilising technology to stifle opposition is, regrettably, a major factor on the continent (and arguably around the world). Also, whilst the anti-Chinese sentiment may be extensive in western media and scholarship, the reality is that nobody is apparently

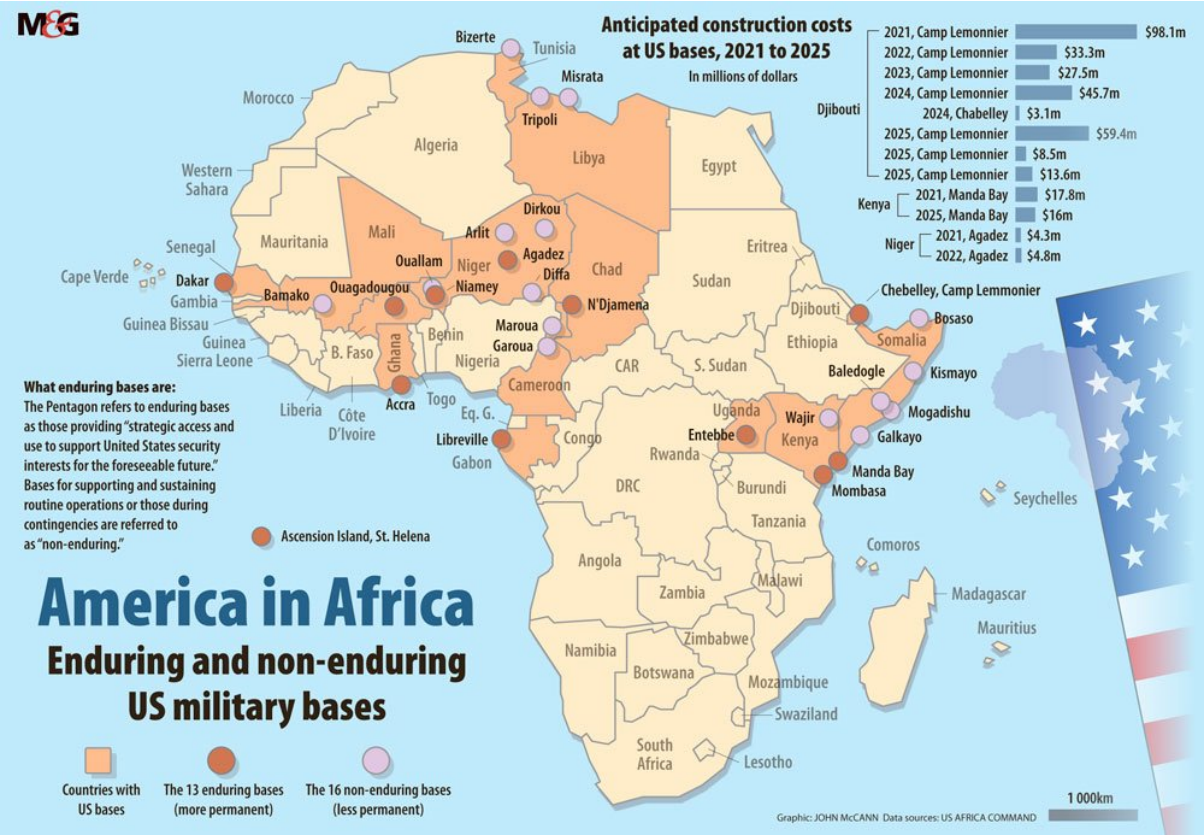
[103] Nic Cheeseman, 'Both democracy and authoritarianism are on the rise in Africa' (2019) The Conversation (Feb 18) https://theconversation.com/both-democracy-and-authoritarianism-are-on-the-rise-in-africa-111789.
[104] Neil Munshi, 'Democracy erodes in central and west Africa' (2021) Financial Times (Mar 7) https://www.ft.com/content/d7319cb8-48c3-4acf-bfcf-7aaae0e5f9fd; David Pilling, 'Democracy in Africa is in Retreat' (2020) Financial Times (Dec 23) https://www.ft.com/content/ce3626cb-a8e7-4663-a93b-478be992fe78.
[105] Sally Hayden, 'Coronavirus in Africa: Authoritarianism on the rise in crisis, say activists' (2020) The Irish Times (Jul 8) https://www.irishtimes.com/news/world/africa/coronavirus-in-africa-authoritarianism-on-rise-in-crisis-say-activists-1.4299459.

blameless in this regard. For example, Cheeseman in another report notes that, in Tanzania, any time a citizen sent a message on their mobile phones which included the name of the opposition leader Tundu Lissu, the network failed, Cheeseman's research suggests that Tanzanians were being subjected to 'selective online censorship' designed, deliberately, to undermine the candidate most likely to challenge the President John Magufuli. Upon investigation, it appears that Vodafone Tanzania, part of the Vodafone Group, were actively involved in this scheme. Further research has found that Vodafone Tanzania were not alone in providing support to autocratic governments around the world.[106] Similarly, in Uganda and Zambia, Huawei embedded cybersecurity experts within governments to help them spy on and arrest political opponents.[107] This is all in contrast to survey data that suggests the majority of citizens on the continent want to live in democratic societies.[108]

However, the focus is not just on China. The US, and also France in particular, have a massive and growing militaristic presence on the continent that has a particular impact. In Figure 7 below, the rate of the US footprint is extensive.

[106] Nic Cheeseman, 'How western companies undermine African democracy' (2020) The Africa Report (Nov 16) https://www.theafricareport.com/50500/how-western-companies-undermine-african-democracy/.
[107] ibid.
[108] Robert Mattes and Michael Bratton, 'Do Africans still want democracy? This new report gives a qualified yes' (2016) Washington Post (Nov 25) https://www.washingtonpost.com/news/monkey-cage/wp/2016/11/25/do-africans-still-want-democracy-this-new-report-gives-a-qualified-yes/.

Figure 7 – US Bases across Africa as of 2020[109]



It has been suggested that the US military is active in over 20 countries in Africa,[110] and if one does not look too deeply into it, the official line that this is with regards to counterterrorism and supporting African states in their battle against Islamist extremism. However, if one even just scratches the surface a little more, it becomes apparent that there are two other significant objectives: securing oil, and countering the Chinese influence.[111]

[109] Nick Turse, 'Exclusive: The US military's plans to cement its network of African bases' (2020) Mail & Guardian (May 1) https://mg.co.za/article/2020-05-01-exclusive-the-us-militarys-plans-to-cement-its-network-of-african-bases/.

[110] Greg Myre, 'The Military Doesn't Advertise It, But U.S. Troops Are All Over Africa' (2018) NPR (Apr 28) https://www.npr.org/sections/parallels/2018/04/28/605662771/the-military-doesnt-advertise-it-but-u-s-troops-are-all-over-africa?t=1618048145073.

[111] Kofi Nsia-Pepra, 'Militirization of U.S. Foreign Policy in Africa: Strategic Gain or Backlash?' (2014) Military Review (Jan-Feb) https://www.armyupress.army.mil/Portals/7/military-review/Archives/English/MilitaryReview_20140228_art010.pdf 51.

Furthermore, it has been suggested that the US is not dormant in its positioning on the continent. Whilst China has been lambasted for providing support to particular regimes, the US has been identified as providing support and arms to countries that are hostile to those aligned with China and, in particular, with regards to particular infrastructure elements like key pipelines (the support of Uganda, Chad, and Ethiopia against Sudan has been selected by Nsia-Pepra).[112] Whilst it appears to be a purely resource-driven campaign by both sides, it is actually the case that there are more ideological underpinnings than one can immediately see. Devermont makes the case that militaristic intervention in the region by the Americans is not all about counterterrorism, but exporting the 'values' of the US to counter the influence of China.[113] In not passing comment on the approach of exporting 'values' via a military presence, it has been noted that China has taken an entirely different route[114] that is based on economic support and a lack of intervention.[115] It has been suggested that, without claiming whether one approach is right or wrong, African leaders seem to favour the Chinese approach more because it comes with much less conditionality than what comes with American or American-backed multilateralism in the form of World Bank or IMF interventions.[116] The old approach of linking aid and assistance to political reform appears to be on the way out on the African continent,[117] which itself will have significant impacts in some way or another.

However, it is not just the Americans or the Chinese who have a stronghold on the continent. Whilst China is the new player and the US have been an influence for a few decades, other regions and countries have colonial roots on the continent, which some have

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[112] ibid.
[113] Judd Devermont, 'Defending the U.S. Military Presence in Africa for Reasons beyond Counterterrorism' (2020) Center for Strategic & International Studies (May 19) https://www.csis.org/analysis/defending-us-military-presence-africa-reasons-beyond-counterterrorism.
[114] Eric Schewe, 'Why is the U.S. Military Occupying Bases Across Africa?' (2018) Jstor Daily (Apr 11) https://daily.jstor.org/why-is-the-u-s-military-occupying-bases-across-africa/.
[115] (n 111).
[116] Temesgen L. Birru, 'The Role of IMF and World Bank in the Democratisation Process in Africa: A Critical Analysis' (2013) 6 International Journal of Science and Research 14, https://www.ijsr.net/archive/v5i9/ART20161326.pdf.
[117] Sahr John Kpundeh, *Democratization in Africa: African Views, African Voices* (The National Academies of Sciences, Engineering, Medicine 1992) 32.

built on rather than withdraw from. Figure 8 highlights the French positions across the continent.

Figure 8 – French Military Bases in Africa as of 2015[118]

Neethling notes how foreign countries are setting up bases across the African continent, highlighting France as one of the main players.[119] However, in harking back to the darker times of 'Francafrique', which describes the former sphere of influence the French had over French and Belgian colonies across Africa, the French are having a particular influence in the region. France holds a power and influence in Africa that it holds nowhere else outside of its borders, with former South African President Thabo Mbeki saying of Nicolas Sarkozy's

[118] Jeremy Bender, 'France's Military is all over Africa' (2015) Business Insider (Jan 22) https://www.businessinsider.com/frances-military-is-all-over-africa-2015-1?r=US&IR=T.
[119] Theo Neethling, 'Why foreign countries are scrambling to set up bases in Africa' (2020) The Conversation (Sept 15) https://theconversation.com/why-foreign-countries-are-scrambling-to-set-up-bases-in-africa-146032.

election to President in 2007: 'given its historical links with the African continent, France will always be a valued interlocutor and partner in our efforts to build peace and stability, strengthen democratic governance and foster social and economic development'.[120] Mbeki was right, of course, about the historical links, but the claims of strengthening democratic governance do not, unfortunately, hold up to scrutiny. In 2011, France intervene in the civil war in the Ivory Coast to swing the conflict the way of Alassane Ouattara, who retained his Presidency as a result and continues to this day. Farge cites Melly who argued that 'the problem France faces in central Africa is that the leaders who are stable, effective partners are the uncompromising veteran, strongman presidents'.[121] President Macron has attempted to move away from this traditional approach,[122] but in championing a non-interventionist approach based on economic partnership, he has been criticised as taking an approach that does not progress the continent (in fact, it has been claimed he is doing the opposite).[123]

The title of this section is potentially misleading. It indicates that the section will look at the future for the continent after DSSI and CF, but in reality the section indicates pressures that apply to the here and now. These geopolitical pressures are actively affecting the chances of developing any sort of debt treatment framework. What we see in the media, in civil society, in scholarship, and in opinion is a tendency to focus on this issue or that issue. These investigations are not wrong because they help with the building of a much larger picture. But the reality is that the debt problem being experienced by the world's poorest nations – with the majority of the identified being on the African continent- is multifaceted. This understanding has many implications for the potential to find a resolution to the debt issues affecting the countries in question. What is for sure is that each day these pressures

[120] Paul Melly and Vincent Darracq, 'A New Way to Engage? French Policy in Africa from Sarkozy to Hollande' (2013) Chatham House (May) https://www.chathamhouse.org/sites/default/files/public/Research/Africa/0513pp_franceafrica.pdf 3.
[121] Emma Farge, 'Echoes of "Francafrique" haunt central African Democracy' (2015) Reuters (Nov 12) https://www.reuters.com/article/us-africa-france-idUSKCN0T02LD20151112.
[122] Jane Flanagan, 'President Macron snubs Africa's ageing strongmen' (2021) The Times (Jan 19) https://www.thetimes.co.uk/article/president-macron-snubs-africas-ageing-strongmen-2p3zp7tqk.
[123] Benjamin Roger and Marwane B. Yahmed, 'President Macron: "Between France and Africa, it must be a love story"' (2020) The Africa Report (Nov 20) https://www.theafricareport.com/51475/president-macron-between-france-and-africa-it-must-be-a-love-story/.

prevent progression, the citizens of the countries continue to suffer at the hands of the pandemic.

Conclusions

In our associated policy proposal which you can find on our website, we put forward a solution that could help ease the 'credit rating impasse' that has been identified in this research report. However, there are important takeaways from this research that can influence the thinking around this subject. Moving forward, it is apparent that something, or anything will need to change because the market-based naturalised trajectory does simply not favour the people who have been forced to suffer at the hands of the Covid-19 pandemic more than they have needed to.

Perhaps the biggest conclusion to reach is that this problem is multifaceted and cannot be resolved by siloed thinking or solutions. For example, promoting the idea that countries should just default and then come back to the market when they are able does in fact work in reality, but does not address the position of the affected countries moving forward (although proponents of this approach have been involved in more long-term proposals).[124] There are a competing number of pressures that exist in this arena and their impacts are nuanced, not always visible, but always have an impact. The history of the African continent, as just one focus, is renowned for its complexity and relationship with other regions around the world; there will not be a day when that ceases to be the case. As three global superpowers (the US, China, and the EU [predominantly by particular members of the Union admittedly]) jostle for influence and control of different regions on the African continent, those agendas fundamentally affect what has to be the focus when considering the future of the continent: the people. The Covid-19 virus has laid bare intrinsic imbalances on a global scale, whilst also demonstrating that is easier to say words like 'partnership', 'collaboration', and 'support' than it actually is to *do* those things.

[124] Ulrich Volz, Shamshad Aktar, Kevin Gallagher, Stephany Griffith-Jones, Jörg Haas, with a contribution from Moritz Kraemer, *Debt Relief for a Green and Inclusive Recovery* (2020) https://drgr.org/2020/11/16/report-debt-relief-for-a-green-and-inclusive-recovery/.

There have been other debt treatment solutions away from the credit rating impasse, of course. One that is gaining favour and appears, at the time of writing, to be coming to fruition is the releasing of 'Special Drawing Rights' (SDRs) (though any ratification will be achieved by September at the earliest. This will have either one of two effects: either a very limited one for developing economies, or a bigger effect based on international collaboration. A number of organisations and Civil Society organisations especially have been calling for this and, at the time of writing which is during the 'Spring Meetings' of the World Bank and the IMF, there appears to be support for the releasing of a new batch of SDRs.

Insight – Special Drawing Rights (SDRs)

SDRs are essentially international reserve assets, held by the IMF. The value of the SDR is based on a 'basket' of five currencies – the US Dollar, the Euro, the Chinese Renminbi, the Japanese Yen, and the British pound sterling. Developed in 1969 by the IMF, the purpose was to 'meet the need, as and when it arises, for a supplement to existing reserve assets'.[125] The IMF proudly boasts that around $280 billion worth of SDRs were allocated to its members in the wake of the Financial Crisis.[126]

However, a number of scholars, politicians, and civil society organisations are now calling for this international reserve to be utilised to combat the effects of the Covid-19 pandemic on the world's poorest countries.[127] Countries receive SDRs based on the size of IMF Members' quotas, which are linked to voting rights. For countries on the African continent, it has been stated that their 'share' of a general SDR allocation would be just 6.4% combined. The US, with its controlling interest in the IMF, controls the amount of SDRs that can be allocated, essentially. For more than $650 billion worth to be allocated, approval must be sought from the US Congress.[128] This is potentially, and very likely to be a problem, as a number of Republican members of the US Congress have voiced their

[125] Christopher Wilkie, *Special Drawing Rights (DSRS): The First International Money* (OUP 2012) 1.
[126] Glenn Gottselig, 'IMF Survey: IMF injecting $283 Billion in SDRs into Global Economy, Boosting Reserves' (2009) IMF (Aug 28) https://www.imf.org/en/News/Articles/2015/09/28/04/53/sopol082809a.
[127] For just one example of the work Civil Society are doing, see one, 'Tell the G20 to help protect the most vulnerable countries' (2021) ONE https://act.one.org/sign/open-letter-economic-response-plan/.
[128] Nancy Birdsall, 'New SDRs? That Pesky 85 Percent Approval' (2020) Center for Global Development (May 19) https://www.cgdev.org/blog/new-sdrs-pesky-85-percent-approval.

disapproval of the allocation of SDRs for the fear that such resources could benefit the US' opponents like Iran, Russia, and China.[129]

It is for this reason that not many are promoting the idea of breaching that threshold. Instead, proposals have been put forward that call for the largest countries to forego their share and send it to vulnerable countries instead, which has been estimated could generate more than $160 billion for Africa alone.[130] It has even been shown that this could be done without costing the taxpayers of the richer countries anything at all.[131]

It appears that SDRs could be the best way on injecting much needed liquidity into the economies of poorer and more vulnerable countries in the short-term (September being, unfortunately, as short-term as possible in this arena).

What is concerning is the scramble for ideas and solutions which, admittedly, this project is also guilty of. The global pandemic has not been seen before in the lifetime of the majority of the living, but there has been a number of debt crises whereby a framework should have been built. It has not. The reason for this usually the trumping of nationalistic or organisational agendas that seemingly outweigh the experiences of those exposed to the harshness of the financial system. There are arguments that there are valid reasons for why these agendas trump the experiences of the affected (the World Bank and the IMF still collecting from the poorest countries, for example, because they want to preserve their preferred creditor status so that they can continue to lend cheaply moving forward). There are also arguments against such approaches, the majority of which are based on humanist ideals. Nevertheless, regardless of viewpoint is important to remember that this virus does not discriminate. It does not respect agendas or nationalistic positions. The impact of this

[129] David Milliken and Andrea Shalal, 'G7 agrees to back expansion of IMF financial firepower' (2021) Reuters (Mar 19) https://www.reuters.com/article/us-g7-economy/g7-agrees-to-back-expansion-of-imf-financial-firepower-idUSKBN2BB1OH.
[130] Ahunna Eziakonwa, 'How special drawing rights could help Africa recover from COVID-19' (2021) Brookings Institute (Mar 24) https://www.brookings.edu/blog/africa-in-focus/2021/03/24/how-special-drawing-rights-could-help-africa-recover-from-covid-19/.
[131] Mark Henstridge and Stevan Lee, 'Making SDRs work better for Development' (2021) Oxford Policy Management (Mar) https://www.opml.co.uk/files/2021-03/making-sdrs-work-better-for-development.pdf?noredirect=1.

virus on the world's poorest countries are real, and extraordinarily misunderstood – lower than expected rates on the African continent, for example, are merely because of the lack of testing and informational infrastructure in particular regions, nothing else. It is important to repeat a quote from earlier in the report to end this analysis:

> The common understanding of the impact of the Covid-19 virus on the African continent may be 'the absence of evidence being misconstrued as the evidence of absence'.