

FTAP is a half-hearted solution compared to a complete and unconditional cancellation of a country's foreign debt.

The opposite is true! A singular complete debt cancellation will certainly solve an immediate solvency problem. However, most indebted countries are in debt because they find themselves in a structurally disadvantaged position. Therefore it is quite likely that after a one-off cancellation they will again take out new loans to finance their current account deficits. In principle this makes sense – provided it can be guaranteed that the new loans will not drive the country into a new debt trap, i.e.: the economy will not again be burdened by debt beyond its ability to create and transfer wealth. The consequences of such an over-indebtedness after debt relief would then be the same neoliberal adjustments and cuts into benefits for the most vulnerable sectors of society. Within a national economy individuals as well as corporations (and in the USA even municipalities) are being protected from this kind of debt trap by national insolvency laws. Internationally it would be the FTAP, which would allow states to protect themselves from the grip of their creditors. The FTAP would assure that (1) contrary to present practice, creditors would have a real incentive to lend their capital in a more cautious and responsible way; (2) once a crisis occurs the creditors will have to shoulder their fair share of the losses, rather than loading it all onto the sovereign debtor.

Any decision making between debtors and creditors by a body, which has been partly set up by the creditors will still imply an undue influence by the creditors.

Why should creditors not have a say in an issue, which genuinely concerns them? Lending money does not automatically turn someone into a villain who must be stripped of fundamental democratic and human rights, including those to be heard in his own case and to be treated according to the rule of law. Moreover, not only governments and banks from the North are creditors to Southern sovereigns. Some debtor countries are considerably exposed to other Southern governments. Even some NGOs and international loan co-operatives happen to be creditors to Southern countries. A fair trial will not judge over a person but over its deeds, anyway. The behaviour of creditors and debtors is, among others things like the sustainability of total external debt, subject to scrutiny in the course of an FTAP.

Arbitration, where both parties will jointly appoint the decision making body, is a common procedure for resolving international disputes. Existing mechanisms like the Paris Club or the HIPC Initiative, on the contrary, demonstrate, how procedures which are dominated by only one of the parties, lead to meaningless and sometimes absurd results. It would be naïve to assume that shifting the one-sided decision making power to the debtor would produce less absurd outcomes. A just solution will under any circumstances require impartial decision making.

In an FTAP it is still the governments which do negotiate; civil society has no seat at the table.

Of course, debt must be negotiated by those who do have the formal competence to do so on behalf of a sovereign state. Normally this is a legitimate government, which in turn is bound by legal standards and parliamentary approval. The fact that there is a lot to criticize about some Southern (like, of course also, Northern) governments must not suspend them from their legal responsibilities. Of course, there are a handful of cases where a government must not be allowed to meet with any international cooperation. However, in those cases no debts are being paid either, which could be negotiated. Normally we are dealing with governments which's formal legitimacy is out of question, but which are more or less prone to rather serve themselves than those they are supposed to serve and who have elected them. In those cases, in particular, a fair and transparent arbitration process with a guaranteed right to be heard on the part of civil society, provides a unique opportunity to enhance transparency and participation regarding public finance.

It would be truly naive to assume that civil society organisations were genuinely the better representatives of the interests of poor people suffering from the over-indebtedness of their states. Corruption and nepotism (unfortunately) are no privilege of public bodies. The single most important instruments to fight the vices of bad governance is transparency. Media as well as civil society organisations do have genuine roles to

play in bringing it about. What is required, moreover, is a functioning division of powers. This is exactly what an FTAP brings about.

Any state, which negotiates its debts under an FTAP will thus recognize its legitimacy.

This would mean to assume that anybody going to court would thus recognize automatically his opponent's views as legitimate. In reality, calling upon a neutral body for decision making is the logical second step after a debtor has rejected to pay-up. If the indebted sovereign would not go this second step, either of two things would happen: either, the creditor on his part would seek legal protection to enforce his claim on the debtor. To that end he would fall back on the legal venue agreed upon in the original loan contract. Or the debtor would forego the opportunity to normalize financial relations with his creditors; this could include not only his immediate creditors, but also a broader group of potential donors. Larger debtor countries may well be in a position to renounce on normal relationships with the outside world for a while. Smaller countries, however, which do depend on external sources not only with regard to the financing of public budgets and current account deficits, but on a broader set of aspects, will pay a very high price for an "autarky" strategy.

If an individual claim is legitimate and thus to be paid or not will be decided in the course of the procedure by the arbitration panel.



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