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Zambia’s foreign debt tragedy – what needs to happen to resolve the crisis

Published: November 28, 2023 8:25am EST

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Zambia’s foreign debt stalemate handicaps the country’s ability to raise funds for education and health. Getty Images

Three years after defaulting on its foreign debt, Zambia is still trying to reach agreement with all its creditors on how to manage this situation. This has left the southern African country in a state of development finance limbo. It is handicapped in raising the funds needed to generate jobs, build infrastructure, provide health, education and social services and deal with climate change. Its president, Hakainde Hichilema, has warned that the situation threatens to undermine its democracy.

Zambia’s inability to reach a definitive agreement with all its creditors is not for lack of trying. But it has had bad luck. It is the test case for the Common Framework that the G20 international forum established in November 2020 to deal with the debts of low-income countries. The framework was expected to result in all creditors making comparable contributions to help a defaulting country resolve its debt crisis.

Zambia’s experience demonstrates that the Common Framework has failed to deliver.

The International Monetary Fund, the global economic governance institution responsible for assisting countries in economic trouble, lacks the resources and the bargaining power needed to push other creditors to reach a sustainable debt deal with Zambia. It could only contribute US$1.3 billion over three years to Zambia's financing gap of US$8.4 billion. Furthermore, the conditions it has attached to its financing impose tough choices on the Zambian government and require sacrifices from the Zambian people.

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Zambia's official creditors have been organised into a committee chaired by China and France. The official creditors moved slowly and appear to have been more focused on reaching agreements that serve their geo-strategic interests than on what is best for Zambia. In June 2023, they finally agreed on a common template for all official creditors. Each individual creditor is now expected, based on this template, to reach its own binding agreement with Zambia. These individual agreements are still a work in progress.

In October 2023 Zambia announced that it had reached agreement with the holders of its US$3 billion worth of Eurobonds. These creditors, with Zambian agreement, maintained that they were making a comparable contribution to the official creditors in resolving Zambia's debt crisis. In November, the deal was rejected by Zambia's official creditors and some independent experts. They argued that the commercial creditors were receiving more favourable treatment than the official creditors. While both agreed to take a haircut on their debts, they argued that the commercial creditors would received approximately 20c more for each dollar of debt outstanding than the official creditors. The result is that Zambia and its bondholders will now have to renegotiate their deal.

The current approach to sovereign debt restructuring is failing Zambia and its people. A new approach is needed. It should respect Zambia's legal commitments to its creditors and serve its need for a sustainable and fair resolution to its debt crisis.

What should Zambia do?

First, Zambia should state that its goal is to reach an optimal outcome to its debt crisis. I define an optimal outcome as one that:

- takes into account the circumstances in which the parties are negotiating and their rights, obligations and responsibilities

- offers each of them the best possible mix of economic, financial, environmental, social, human rights and governance benefits.

It should also require that the parties monitor the implementation of this outcome.

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Zambia, by calling for an optimal outcome, will call the creditors' bluff. Official creditors have all expressed their support for the sustainable development goals and for all countries meeting their nationally determined contributions under the climate agreements. However, they do not test whether the debt restructuring terms they offer Zambia are consistent with these objectives.

Zambia should publicly state that, while it is serious about fulfilling all its contractual obligations, it is also serious about meeting its SDG commitments and its nationally determined contributions. It should state that it will work with its official creditors to determine that their proposed debt restructuring terms, in fact, will help Zambia meet all these commitments.

Zambia can also point out that many of its commercial creditors have posted human rights policies or statements on their websites in which they state their support for human rights and their respect for such international instruments as the OECD Guidelines on Multinational Enterprises and the UN Principles on Responsible Investing.

Some even express their support for the UN Guiding Principles on Business and Human Rights. It can ask these creditors to demonstrate that they have they applied these principles in their transactions with Zambia and why they think the terms and conditions they are offering Zambia are consistent with their own policies.

Second, civil society organisations in Zambia and their international allies can take advantage of the fact that in each state that adheres to the OECD Guidelines, which includes many of Zambia's official creditors, there is an official designated as the national contact point. This officer is responsible for providing guidance to companies based in that country on how they can comply with the OECD Guidelines and on responding to complaints about specific instances where they have failed to comply.

If all parties agree, the officer can help facilitate dialogue between the complainants and the relevant corporations. Thus, these civil society organisations can propose to the relevant national contact points that they encourage the creditors to engage in discussions with civil society and with the Zambian government about how they can help reach an optimal outcome to Zambia's debt crisis.

Third, Zambia should propose that all its creditors agree to meet with it in one forum and make one agreement dealing with all its debt obligations. While this will, no doubt, complicate negotiations, it will improve the transparency of the process. It will also give each group of creditors confidence that they are all receiving comparable treatment.

When Zambia meets its official creditors they focus on their agreements. Similarly, when the bondholders meet with Zambia they focus only on their contractual rights. Bringing them all together in one forum will open the space for Zambia to demand that the creditors consider its other legal obligations as well as their contractual rights.

These other commitments can include Zambia’s legal obligations to its public servants, its pensioners, its international treaty commitments and its constitutional obligations.