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1ST SESSION

S. 2166

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2007

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jubilee Act for Re-
5 sponsible Lending and Expanded Debt Cancellation of
6 2007”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

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

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

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

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

20 (B) title II of H.R. 5526 of the 106th
21 Congress, as enacted into law by section 101(a)
22 of the Act entitled “An Act making appropria-
23 tions for foreign operations, export financing,
24 and related programs for the fiscal year ending
25 September 30, 2001, and for other purposes”,

1 approved November 6, 2000 (Public Law 106–
2 429; 114 Stat. 1900A–5); and

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

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

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

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

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

15 (7) While debt cancellation has a record of suc-
16 cess, there remains an unfinished agenda on inter-
17 national debt. There are a number of challenges to
18 the effective implementation of existing commit-
19 ments, and broader debt cancellation is needed if the
20 global community is to reach the Millennium Devel-
21 opment Goals.

22 (8) 2007 marks the halfway point to the dead-
23 line set by the world's governments to reach the Mil-
24 lennium Development Goals.

1 (9) A critical issue which needs to be addressed
2 on debt is the way that non-concessional lenders
3 stand to gain financially from lending to poor coun-
4 tries that have benefited from debt relief without
5 having paid for past debt relief or facing the pros-
6 pect of paying for the future relief of unsustainable
7 and irresponsible new lending. In these cases, the
8 gains of debt relief for poor debtor countries are at
9 risk of being eroded. This takes the form of new
10 lending to countries that have received debt cancella-
11 tion from countries including China, as well as the
12 threat posed by so-called “vulture funds”.

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

23 (11) There is also an urgent need to look be-
24 yond the constraints of current debt relief initiatives
25 to address the need for expanded debt cancellation.

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

4 (12) The Government of the United Kingdom
5 has proposed that qualification for the MDRI be ex-
6 tended to the 67 countries that qualify for assistance
7 exclusively from the International Development As-
8 sociation. To be eligible for cancellation, countries
9 must meet requirements pertaining to public finan-
10 cial management, anti-corruption measures, and
11 budget transparency.

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

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

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

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

1 **“SEC. 1626. CANCELLATION OF DEBT OWED BY ELIGIBLE**
2 **LOW-INCOME COUNTRIES.**

3 “(a) IN GENERAL.—The Secretary of the Treasury
4 shall commence immediate efforts, within the Paris Club
5 of Official Creditors, the International Monetary Fund
6 (IMF), the International Bank for Reconstruction and De-
7 velopment (World Bank), and the other international fi-
8 nancial institutions (as defined in section 1701(c)(2)), to
9 accomplish the following:

10 “(1) Cancellation by each international finan-
11 cial institution of all existing debts owed to the insti-
12 tution by eligible low-income countries, and, to the
13 extent possible, financing the debt cancellation from
14 the ongoing operations, procedures, and accounts of
15 the institution.

16 “(2) Cancellation by the United States of all ex-
17 isting debts owed to it by eligible low-income coun-
18 tries.

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

21 “(4) Requiring the government of each eligible
22 low-income country to—

23 “(A) allocate the savings from debt can-
24 cellation towards poverty-reducing expenditures;

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

4 “(C) develop and implement effective pol-
5 icy reforms to ensure that savings from debt
6 cancellation are redirected to poverty reduction
7 efforts and that any future borrowing be con-
8 ducted in a responsible fashion; and

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

14 “(5) Ensuring that the provision of debt can-
15 cellation to eligible low-income countries is not fol-
16 lowed by a reduction in the provision of any other
17 development assistance to the countries by inter-
18 national financial institutions and bilateral creditors.

19 “(6) Encouraging the government of each eligi-
20 ble low-income country to allocate at least 20 per-
21 cent of its national budget towards poverty-allevi-
22 ation programs such as the provision of basic health
23 care services, education services, and clean water
24 services to all individuals in the country.

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

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

13 “(2) supports continued efforts to allow in-
14 formed participation and input by affected commu-
15 nities, including translation of information on pro-
16 posed projects, provision of information (including
17 draft documents) through information technology
18 application, oral briefings, and outreach to and dia-
19 logue with community organizations and institutions
20 in affected areas.

21 “(c) ESTABLISHMENT OF FRAMEWORK FOR RESPON-
22 SIBLE LENDING.—The Secretary of the Treasury shall
23 commence immediate efforts to—

24 “(1) develop and promote policies to ensure all
25 creditors, with no distinction, will contribute to pre-

1 serving the gains of debt relief for low-income debtor
2 countries;

3 “(2) collaborate with appropriate government
4 agencies to prevent private investors from profiting
5 from buying low-income country debts at market
6 value and attempting to recover their original value
7 or more (commonly known as ‘vulture funds’), in-
8 cluding by—

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

11 “(B) identifying avenues to provide legal
12 support to countries being sued by ‘vulture
13 funds’; and

14 “(C) providing technical assistance to ad-
15 vise possible targeted governments on measures
16 to take to prevent ‘vulture funds’ from success-
17 fully taking them to court;

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

21 “(4) seek the international adoption of a bind-
22 ing legal framework that—

23 “(A) guarantees that no creditor can take
24 or expect to take undue financial advantage of
25 acquired or newly awarded debt relief through

1 the terms and rates of their new lending to ben-
2 eficiary countries;

3 “(B) is binding on all creditors, whether
4 multilateral, bilateral or private;

5 “(C) foresees, as a sanction for creditors
6 who violate it, an equitable share in the burden
7 of the losses from any future debt relief needed
8 by the sovereign debtor to whom lending was ir-
9 responsibly provided;

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

13 “(E) enables fair opportunities for the peo-
14 ple of the affected country to be heard; and

15 “(5) support the development of responsible fi-
16 nancing standards where creditors and aid/loan re-
17 cipients alike adhere to standards to assure trans-
18 parency and accountability to citizens, human rights,
19 and the avoidance of new odious debt, while encour-
20 aging the development of renewable energy and help-
21 ing countries to transition away from dependence on
22 oil.

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

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

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

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

21 “(C) be planned and executed in a trans-
22 parent and consultative manner, engaging con-
23 gressional bodies and civil society groups in the
24 countries.

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

10 “(e) AVAILABILITY ON TREASURY DEPARTMENT
11 WEBSITE OF REMARKS OF UNITED STATES EXECUTIVE
12 DIRECTORS AT MEETINGS OF INTERNATIONAL FINAN-
13 CIAL INSTITUTIONS’ BOARDS OF DIRECTORS.—The Sec-
14 retary of the Treasury shall make available on the website
15 of the Department of the Treasury the full record of the
16 remarks of the United States Executive Director at meet-
17 ings of the boards of directors of the International Mone-
18 tary Fund, the World Bank, and the other international
19 financial institutions (as so defined), about cancellation or
20 reduction of debts owed to the institution involved, with
21 redaction by the Secretary of the Treasury of material
22 deemed too sensitive for public distribution, but showing
23 the topic, amount of material redacted, and reason for the
24 redaction.

1 “(f) REPORT FROM THE COMPTROLLER GENERAL.—
2 Within 1 year after the date of the enactment of this sec-
3 tion, the Comptroller General of the United States shall
4 prepare and submit to the Committees on Financial Serv-
5 ices and on Foreign Affairs of the House of Representa-
6 tives and the Committees on Banking, Housing, and
7 Urban Affairs and on Foreign Relations of the Senate a
8 report on the availability of the ongoing operations, proce-
9 dures, and accounts of the IMF, the World Bank, and the
10 other international financial institutions (as so defined)
11 for canceling the debt of eligible low-income countries.

12 “(g) ANNUAL REPORTS FROM THE PRESIDENT.—
13 Not later than December 31, 2008, and annually there-
14 after for 4 years, the Secretary of the Treasury shall sub-
15 mit to the Committees on Financial Services and on For-
16 eign Affairs of the House of Representatives and the Com-
17 mittees on Foreign Relations and on Banking, Housing,
18 and Urban Affairs of the Senate a report, which shall be
19 made available to the public, on the activities undertaken
20 under this section, and other progress made in accom-
21 plishing the purposes of this section, for the prior fiscal
22 year. The report shall include a list of the countries that
23 have received debt cancellation, a list of the countries
24 whose request for debt cancellation has been denied and

1 the reasons therefor, and a list of the countries whose re-
2 quests for debt cancellation are under consideration.

3 “(h) ELIGIBLE LOW-INCOME COUNTRY DEFINED.—

4 In this section, the term ‘eligible low-income country’
5 means a country—

6 “(1) that is eligible for financing from the
7 International Development Association but not the
8 World Bank;

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

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

15 “(4) the government of which has not repeat-
16 edly provided support for acts of international ter-
17 rorism, as determined by the Secretary of State
18 under section 6(j)(1) of the Export Administration
19 Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section
20 620A(a) of the Foreign Assistance Act of 1961 (22
21 U.S.C. 2371(a));

22 “(5) the government of which is cooperating on
23 international narcotics control matters;

24 “(6) the government of which (including its
25 military or other security forces) does not engage in

1 a consistent pattern of gross violations of inter-
 2 nationally recognized human rights; and

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

8 **SEC. 4. PROHIBITION OF HARMFUL ECONOMIC AND POLICY**
 9 **CONDITIONS.**

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

13 **“SEC. 1627. PROHIBITION OF HARMFUL ECONOMIC AND**
 14 **POLICY CONDITIONS.**

15 “(a) IN GENERAL.—The Secretary of the Treasury
 16 shall commence immediate efforts within the Paris Club
 17 of Official Creditors, the International Monetary Fund
 18 (IMF), the International Bank for Reconstruction and De-
 19 velopment (World Bank), and the other international fi-
 20 nancial institutions (as defined in section 1701(c)(2)), to
 21 ensure that the provision of debt cancellation to eligible
 22 low-income countries (as defined in section 1626(h)) is not
 23 conditioned on any agreement by such a country to imple-
 24 ment or comply with policies that deepen poverty or de-
 25 grade the environment, including any policy that—

1 “(1) implements or extends user fees on pri-
2 mary education or primary health care, including
3 prevention and treatment efforts for HIV/AIDS, tu-
4 berculosis, malaria, and infant, child, and maternal
5 well-being;

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

9 “(3) undermines workers’ ability to exercise ef-
10 fectively their internationally recognized worker
11 rights, as defined under section 526(e) of the For-
12 eign Operations, Export Financing and Related Pro-
13 grams Appropriations Act, 1995 (22 U.S.C. 262p-
14 4p); or

15 “(4) does not exempt increased government
16 spending on essential healthcare or education ex-
17 penditures from national budget caps or restraints,
18 hiring or wage bill ceilings, or other limits imposed
19 by the IMF.

20 “(b) ANNUAL REPORTS TO THE CONGRESS.—Not
21 later than December 31, 2008, and annually thereafter for
22 4 years, the Secretary of the Treasury shall submit to the
23 Committees on Financial Services and on International
24 Relations of the House of Representatives and the Com-
25 mittees on Foreign Relations and on Banking, Housing,

1 and Urban Affairs of the Senate a report, which shall be
2 made available to the public, on the activities undertaken
3 under this section, and other progress made in accom-
4 plishing the purposes of this section, for the prior fiscal
5 year.”.

○