

Dealing Fairly with Developing Country Debt

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The Constructive Role of Private Creditors

Arturo C. Porzecanski

During the 1990s and earlier this decade, policy-makers in Washington and other capitals of countries in the Group of 7 (G-7) promoted the idea that the functioning of the world's financial markets had to be improved by making it easier for insolvent governments, especially in emerging markets, to obtain debt relief from their bondholders and bankers.

Most savvy investors, financial intermediaries, and emerging-market government officials were at a loss to understand why the G-7 and the International Monetary Fund (IMF) believed the international financial system would function better if there were specific mechanisms to facilitate sovereign bankruptcies.

The main reason corporations chartered in the United States that cannot pay their creditors subject themselves to wrenching reorganizations before entering into—or once under—Chapter 11 of the U.S. bankruptcy code is because the alternative is their outright liquidation under the code's Chapter 7. Sovereign governments, in contrast, do not operate under the threat of liquidation, and despite the strong rights that bondholders have on paper under New York, English, and other law, practical experience indicates that the enforcement of claims against sovereign governments is exceedingly difficult. Whereas delinquent corporations can be hauled, *de jure* and *de facto*, before a bankruptcy court and forced to change management, restructure operations, dispose of assets, or even liquidate to pay off claims, governments are not subjected to any of that. Chapter 9 of the U.S. bankruptcy code is similarly unhelpful as a model for how to restructure the liabilities of bankrupt governments, since it does not apply to sovereign entities, such as U.S. states and counties, which under the U.S. Constitution are ensured to remain free of federal government interference.¹

Consequently, those in the business of issuing, underwriting, or investing in sovereign bonds are generally of the view that, if anything, international reforms should focus on making contracts easier to enforce and on facilitating the constructive involvement of bondholders and other private-sector creditors in debt-restructuring negotiations.² Yet the G-7 has not called for any actions or penalties against irresponsible governments, such as the attachment of their official international reserves when they are on deposit with central banks like the U.S. Federal Reserve or with the Bank for International Settlements (BIS), the central banks' central bank. At present, for example, the investors who have filed suits and won judgments against Argentina in New York and other jurisdictions, because of the default that took place at the end of 2001, cannot get their hands on the billions of dollars that the government of that country has sheltered in those G-7 institutions. The G-7 initiatives did not contemplate any incentives—let alone principles or procedures—for ensuring that governments will become more accountable for their financial obligations.³ The intent of the initiatives was wholly one-sided: to expedite the granting of debt relief on the part of bondholders and other private-sector creditors.

THE RECORD SPEAKS

Although various proposals for resolving debt crises were advanced, they all supposed that the lack of collective action among private-sector lenders and investors is the main obstacle to the smooth functioning of the international financial system.⁴ Yet there is little if any empirical support for this assumption. On the contrary, private creditors have been much more progressive, flexible, and quick in dealing with sovereign insolvency situations than have been official lenders. In fact, private lenders have provided a good example for how official bilateral and multilateral lenders might themselves deal more fairly and effectively with sovereign insolvency situations.

The absence of innovative mechanisms has not impeded several landmark workouts of sovereign indebtedness. The governments of Ecuador, Moldova, Pakistan, Russia, and Ukraine, for example, have all been able to restructure their bonded debt in recent years—and have done so in record time. Substantial debt-service relief and even sizable debt forgiveness have

been obtained through the use of exchange offers, often accompanied by bondholder exit consents that encourage the participation of as many investors as possible in take-it-or-leave-it settlements. Rather than amending bond covenants, the exchange offers typically entail the debtor government presenting its private creditors with a menu of voluntary options, such as accepting new bonds for a fraction (for example, 60 percent) of the principal owed but paying a market interest rate, or new bonds for the original principal but paying a concessional interest rate. Experience has demonstrated that neither the threat of litigation nor actual cases of successful litigation have obstructed these debt restructurings, which have involved large, institutional as well as small, retail investors throughout the world.⁵

A recent case involved the government of Uruguay, which in early 2003 asked investors to consider a debt-restructuring request, and more than 90 percent of them agreed, enabling the operation to be consummated in a matter of several weeks. The Uruguayan authorities previously spent many months debating the nature of the restructuring with the IMF. The Fund wanted Uruguay to default on its obligations to bondholders just like Argentina had done, with the intention of obtaining massive debt forgiveness from private creditors, but the Uruguayan authorities refused to go down this potentially ruinous path. The government there wanted to pursue, instead, a market-friendly debt exchange with the sole purpose of stretching out the maturities falling due in 2003 and the next several years, while respecting the original amounts owed and continuing to make the requisite interest payments. It was only after the Uruguayan authorities sought and obtained support from the U.S. Treasury and the Federal Reserve that the IMF staff backed down and agreed to support a voluntary debt exchange.⁶

Once an understanding between the IMF and Uruguay was reached, matters moved rather quickly. Informal discussions with private creditors were held in March, 2003, a concrete proposal was put forth in April, investor replies were received in May, and by June Uruguay's bonded debt had been successfully restructured. This was accomplished despite the fact that the investor base was scattered around the globe: the operation involved everyone from retail investors in Argentina and Japan to institutional investors in the United States and Europe, all of whom were bound by contracts written in several jurisdictions, each with its own currency and distinct legal features.

The cases of Bolivia, Nicaragua, Ecuador, and Argentina, with which this author had some involvement, bring home the difference between how private and official creditors have treated—and have been treated by—governments in serious financial trouble. The cases of these developing countries offer an interesting variety because they span the range of income categories identified by the World Bank and other multilateral agencies: low income (Nicaragua), middle income (Bolivia and Ecuador), and upper income (Argentina).

Bolivia

In 1988, following many years of debt-servicing difficulties, the government of Bolivia retired most of its commercial bank debt through a buyback, with creditors writing down nearly 90 percent of what the government owed them. In 1992, under the aegis of the Brady Plan, the remaining private creditors were given the option to accept a cash buyback incorporating an 84 percent discount; a short-term bond with a similar degree of forgiveness convertible on maturity into local assets at a premium; or else a thirty-year, collateralized bond bearing no interest. And a year later, in 1993, the government offered yet another debt buyback, funded by grants from the World Bank's International Development Association (IDA) and various donor governments, whereby virtually all remaining commercial creditors tendered their debts and accepted a loss of 84 percent of the principal. As a result, Bolivia's government debt to private creditors, which had exceeded \$1 billion in 1980, accounting for half of its external obligations, dropped to less than \$75 million by the mid-1990s, equivalent to not even 2 percent of its external obligations. Private creditors had accepted huge upfront losses—but at least they were no longer responsible for Bolivia's remaining debt woes.

In contrast, Bolivia became eligible for debt relief from official bilateral and multilateral creditors under the original Heavily Indebted Poor Countries (HIPC) Initiative in September 1998, a full decade after private creditors began to forgive their share of the country's debt. Bolivia obtained less than \$30 million in official debt forgiveness in 1998. This amount was later increased to almost \$90 million per year in 1999–2001, and subsequently, having qualified under the Enhanced HIPC Initiative, to an annual average of about \$160 million during 2002–2004—or the equivalent of around 1.5 percent of annual GDP. However, despite this steady debt relief, and largely

because of growing budgetary deficits as a result of rising government spending, Bolivia's public-sector debt increased from the equivalent of 60 percent of GDP in 2001 to 71 percent of GDP (some \$6.7 billion) in 2005. It has dropped since then because of substantially higher oil-related revenues—and not because of official debt relief on the installment plan. The country's external debt-service payments, which averaged 4.3 percent of GDP per year during 2003–2005, are expected to average 2.6 percent of GDP during 2006–2008 after relief under HIPC and the Multilateral Debt Relief Initiative (MDRI), which came to supplement the HIPC Initiative in 2005.⁷

Nicaragua

In 1995, in a buyback of commercial bank debt funded by grants from the IDA and various donor governments, most private creditors forgave 92 percent of the \$1.1 billion that the government of Nicaragua owed them. Foreign commercial banks had accounted for more than 15 percent of the government's external debt, but after this immediate debt forgiveness they came to represent a mere 3 percent of the total. Earlier that year, official bilateral creditors in the Paris Club had agreed to cancel up to 67 percent of eligible debts under Naples terms, but the multilateral agencies provided no debt relief—except for the Central American Bank for Economic Integration, which agreed to reschedule the payment of its loans. The government's external debt consequently dropped from nearly \$12 billion in 1994—by far the highest debt burden among developing countries, equivalent to more than nine times the country's GDP—to \$6 billion by 1996, a still excessive 375 percent of GDP.⁸

Nicaragua never received debt relief under the original HIPC Initiative, but it reached the completion point under the Enhanced HIPC Initiative in January 2004. The government's external debt is presently being reduced from over \$7 billion to about \$3 billion (representing a high but tolerable 65 percent of GDP) thanks to debt forgiveness by bilateral and multilateral lenders. And yet, its external debt-service payments, which averaged 2 percent of GDP per year during 2003–2005, are expected to remain at that level during 2006–2008 despite HIPC and MDRI-related relief.⁹ Nicaragua is also having trouble obtaining all of its HIPC relief because twenty-three of its official creditors—more than double the average of other HIPC countries—do

not belong to the Paris Club. Among those, China, Iran, Libya, and Taiwan have refused to grant debt relief, and Libya even resorted to litigation, demanding full payment.¹⁰

Ecuador

In 1995, following many years of debt servicing difficulties, the government of Ecuador asked private creditors to grant either principal or interest forgiveness as part of a comprehensive Brady Plan restructuring of nearly \$8 billion in commercial debt, and to write off a portion of past-due interest. In response, 60 percent of the creditors agreed to thirty-year discount bonds with a 45 percent “haircut,” or reduction, on the principal owed, while the rest acquiesced to thirty-year bonds with highly concessional coupons delivering an equivalent amount of relief on the basis of net present value (NPV).¹¹ As an immediate result, Ecuador’s public external debt was reduced by \$1.8 billion, or 17 percent of the total.

When Ecuador experienced acute fiscal difficulties again in 1999, the IMF made it clear to the government that it would not get any help from the official community unless it stopped paying its private creditors and obtained debt forgiveness—again. Ecuador thus had the dubious honor of becoming the first country to default on its Brady bonds, and also one of the first (at least in post–World War II history) to default on Eurobonds. In mid-2000, the government proposed a complex debt relief operation whereby the various bonds in default were subjected to haircuts ranging from 19 percent on Brady Par bonds to 47 percent on the Eurobond maturing that year, before being exchanged for a mix of new Eurobonds (maturing in 2012 and 2030) and some upfront cash to help cover arrears. The deal as accepted resulted in a 40 percent reduction in the face value of Ecuador’s debt, and in cash-flow savings of about \$1.5 billion over the first five years. In the wake of the relief, obligations to bilateral and multilateral creditors came to account for 60 percent of the government’s remaining external indebtedness.

In sharp contrast, official bilateral and multilateral lenders have never agreed to any debt reduction for Ecuador. The country appealed for debt relief to the Paris Club time and again—in four instances during the 1980s, as well as in 1992, 1994, 2000, and 2003—and while it was deemed to be insolvent enough to deserve write-offs from private creditors in 1995 and

2000, it was considered insufficiently needy to deserve write-offs from official creditors even once. At the beginning of the 1990s, the Paris Club was owed about \$2 billion, or one-fifth of Ecuador's public-sector external debt, but it agreed merely to reschedule payments falling due in the short run according to Houston terms—namely, with some reduction in interest payments. The last rescheduling by official bilateral creditors, in mid-2003, involved stretching out a mere \$81 million falling due in the year through March 31, 2004.¹² The multilateral agencies, for their part, have neither rescheduled nor reduced any of the country's debt, and they have provided little or no net financing to Ecuador. In fact, from 2001 to 2004, amortization payments by Ecuador's government to official bilateral and multilateral creditors actually exceeded disbursements received from those same creditors.¹³

Argentina

The largest and potentially most complex default the world has known was declared by the government of Argentina in December 2001. A punishing, unilateral restructuring offer was presented to bond investors three years later, in January 2005, which was accepted under duress by 76 percent of total bondholders. The government thus obtained principal forgiveness estimated at 56 percent of affected debt, managing to inflict NPV losses of around 75 percent. Eligible for the massive bond exchange were 152 different securities amounting to a total of \$82 billion, including a relatively small amount of past-due interest accrued through the end of 2001—because the government refused to recognize interest arrears after that point. Eleven new securities were offered to participating investors, ranging from par bonds that were not subject to a haircut on nominal principal but paid just a token amount of interest and had a final maturity of thirty-five years, to discount bonds with a principal reduction of 66 percent and better terms otherwise, designed to mete out approximately equal NPV losses.¹⁴

Argentina's insistence on such massive debt relief is without precedent in its own checkered financial history, and also in comparison with the debt relief obtained in the past by other upper-middle-income countries, such as Chile, Mexico, South Africa, and Turkey. It can only be compared with the large-scale relief obtained by much poorer countries such as Bolivia or Nicaragua, as detailed above, or by other HIPC's. Adding insult to injury,

Argentina's fiscal performance and international reserves—and most economic and social indicators—have since fully recovered from their low point in 2001–2002.¹⁵ The government has remained current in its obligations to the multilateral lending agencies, even though they have greatly diminished their disbursements to the country. It has also prepaid all of its debt to the IMF: a whopping \$10 billion payment made at the end of 2005, following principal payments of about \$13 billion made earlier. And while Argentina has been in default to the bilateral agencies represented by the Paris Club—as of the end of 2006, for more than \$6 billion, including interest arrears—all that the government is reportedly expecting is an eventual rescheduling under so-called classic terms.¹⁶

Arguably, Argentina's bondholders could have fared much better if official bilateral and multilateral creditors, led by the United States and other G-7 governments, had stood up to this rogue sovereign debtor and had insisted on fair treatment for private creditors. Instead, they essentially sided with Argentina, or at best turned a blind eye to its aggressive designs, thereby encouraging the authorities in Buenos Aires to make mincemeat out of its bondholders. First, the BIS allowed itself to be used as a safe harbor for Argentina's hard-currency assets, which, while on deposit there, cannot be attached by bondholders who obtain court judgments against the government. Second, the multilateral lending agencies were actually supportive of Argentina via a series of new loans granted by the IMF, the World Bank, and the Inter-American Development Bank, especially during 2003 and the first half of 2004. This was so despite the fact that the IMF has had a policy of lending to a government in default only when it is pursuing "appropriate policies" and when it is making "a good faith effort to reach a collaborative agreement with its creditors."¹⁷

Argentina also won an important gesture of political support in the form of amicus curiae briefs filed by the U.S. government and the Federal Reserve in U.S. courts in January 2004. The Argentine government succeeded in persuading U.S. authorities that the international payments system was at risk from the potential application of a legal clause (*pari passu*) which had been used by creditors against the governments of Peru and Nicaragua.¹⁸ And then, while Argentina was crafting its request for debt forgiveness (during 2004), the IMF declined to insist upon overwhelming acceptance of

whatever debt restructuring proposal the country would put forth to its creditors. Doing so would not have been unusual for the Fund, and it would have put pressure on Buenos Aires to come up with a less punishing proposal—or to have added some last minute “sweeteners” to maximize bondholder acceptance.¹⁹

THE G-7’S UNDERLYING RATIONALE

What then is the rationale of the G-7 and the IMF in devoting so much time and effort to facilitating future workouts of sovereign debt to private creditors? Apparently, G-7 and IMF officials were trying to ameliorate the undesirable consequences of their 1990s practice of bailing out certain troubled sovereign debtors with multibillion-dollar rescue packages. Stung by criticism of these bailouts, and worried about having encouraged too many countries with looming debt crises to come knocking at their door pleading for last-minute help, the G-7 governments wanted to open up an alternative for themselves—a fast track to default, debt forgiveness (at least by private lenders), and financial resurrection. Thus, when in the future an overindebted government that is not strategically important approaches the G-7 for emergency financial help, it would no longer be able to claim that it had to obtain billions of dollars because the alternative was a hopelessly disruptive, delayed, and uncertain default with potential spillover effects around the globe. With some kind of sovereign bankruptcy procedure in place, the G-7 would feel freer to tell that government to seek debt forgiveness from its private creditors, instead, on the belief that a relatively painless and quick debt restructuring would follow.

From late 2001 until early 2003, the IMF staff worked feverishly on a proposed Sovereign Debt Restructuring Mechanism (SDRM) that, in the event, did not gain the necessary political support among a number of governments, including the United States. Its earlier versions envisioned a powerful role for the IMF that would have allowed it to make decisions limiting creditors’ rights. In the face of universal criticism from private-sector lenders and investors, the IMF’s role was later toned down to the equivalent of the sole expert witness, by passing judgment on how much debt any government could reasonably be expected to service. In this capacity, the IMF

and its G-7 shareholders on its executive board would have a procedural advantage that would allow them to protect their claims and influence the amount of debt relief granted by private creditors.

The planned SDRM was not accompanied, however, by a proposal to address what has really undermined the functioning of the international financial system in recent years: the multibillion-dollar G-7 and IMF rescue packages that have been cobbled together for strategically important countries since 1995. Thanks to the string of bailouts involving countries from Mexico to South Korea, and from Brazil to Turkey, the possibility that a country may get a huge package of financial support with which to meet its debt obligations became one of the key elements in the assessment of sovereign creditworthiness. Many credit ratings, analyst recommendations, and investment decisions have come to be based on assumptions about whether a foreign government is viewed with favor by the White House, Downing Street, or another G-7 government. The situation is akin to picking stocks or bonds for a portfolio not on the basis of whether a weak company will manage to turn itself around, but rather on whether it will be nursed back to health via an infusion of large-scale government support. How could the U.S. financial markets possibly function well if state intervention, as in the case of the Chrysler bailout of 1979–80, had become commonplace?

A counterproposal put forward by the U.S. Treasury and endorsed by many investors and financial intermediaries became the preferred alternative. It represented a contractual rather than statutory approach to sovereign bankruptcy situations, involving the introduction of new clauses into bond contracts to facilitate the debt restructuring process. The main idea was that every bond contract should designate a bondholder representative to act as an interlocutor with the sovereign debtor; require the sovereign to provide more key financial information to its bondholders; allow for a supermajority of bondholders to amend payment terms, then often requiring unanimity of consent; and include enforcement provisions that concentrate the power to initiate litigation in a single jurisdiction.²⁰ These new clauses have since become widely known as collective action clauses (CACs), and while several already existed in bonds issued under English law, most new and outstanding bonds of emerging-market sovereigns are

issued in other jurisdictions, such as New York and Frankfurt, where such clauses have not been customary.

Most emerging-market issuers and investors were initially reluctant to introduce CACs in new bond contracts for fear of signaling that they contemplate or countenance an eventual default. Besides, even if such clauses were to be introduced voluntarily in all new debt issues, the stock of outstanding bonds would still be governed by preexisting legal arrangements, so that their practical effect is marginal for years to come. Under strong pressure from the U.S. Treasury, however, the governments of Mexico and Brazil were persuaded in early 2003 to issue new bonds with CACs, and they were successfully placed with institutional investors at no measurable extra cost. Governments such as South Africa's and South Korea's followed suit, although each sovereign bond issued carried its own particular clauses that do not incorporate all of the language recommended by official and private-sector groups. Consequently, a uniform market standard in CACs did not immediately develop.

While wider inclusion of CACs into sovereign bond contracts has probably done no harm, it is doubtful that even their widespread application will make a visible difference to the workings of international finance. Of much greater significance would be a G-7 decision to scale back the massive official support to errant debtor nations. If the IMF were to go back to providing seed money for economic and policy turnarounds on a rules-based, objective basis, this alone would encourage governments and their creditors to consider much more seriously the implications of falling into the abyss of default—regardless of whether improved sovereign bankruptcy mechanisms are instituted. Moreover, it is patently unfair that some governments should be lavished with official aid and others should be starved, when the IMF is supposed to be a cooperative to which its member governments should be able to turn for fairly automatic—albeit limited—help.

In addition, the very notion of a quick and painless debt restructuring is problematic both on an ethical and practical level. Ethically there should not be, I believe, such a thing as a fast track to default, debt forgiveness, and financial resurrection. The smoother the road to sovereign bankruptcy, the more likely it is that governments will exhibit lack of fiscal discipline and “reform fatigue,” squandering the proceeds of borrowed hard currency,

in the knowledge that, if worse comes to worst, they can obtain a financial pardon. In practice, it is impossible to obtain massive debt forgiveness via quick and painless debt restructurings. The recent tragedy in Argentina, for example, would not have been avoided if the SDRM or the CACs had been in place in 2001. Because a substantial proportion of the Argentine government's debt obligations was held by local banks, pension funds, and insurance companies, any announcement of a payments standstill with the intention to seek meaningful debt forgiveness would surely have triggered a stampede of bank depositors and a collapse of the pension and insurance industries. This would have led to a run on the central bank's official reserves, precipitating a devastating currency devaluation and thus the same economic implosion, political fallout, and popular discontent that was witnessed in late 2001 and early 2002.

CONCLUSION

In sum, one of the clearest lessons from the past couple of decades of sovereign financial crises is that institutional and retail bondholders, as well as commercial and investment bankers in the United States, Canada, Europe, and Japan, have developed a commendable track record in dealing with sovereign debt problems. They have helped to resolve innovatively, expeditiously, and generously the multiple cases of sovereign overindebtedness in which they have been involved in various parts of the world—despite, or possibly because of, the absence of a supranational bankruptcy regime for sovereign debt. The official development community, in contrast, cannot make a similar claim: time and again, the bilateral and multilateral lending agencies have dragged their feet in accepting loan losses and granting debt forgiveness—whether to overindebted middle-income nations or to the poorest countries in the world. More often than not, they have been—and remain—part of the sovereign indebtedness problem, rather than part of its constructive alleviation.

NOTES

¹ Chapter 9 applies to nonsovereign entities such as municipalities, school districts, and publicly owned utilities. For a discussion of why Chapter 9 provides little guidance in the case of sovereigns, see Michelle J. White, "Sovereigns in Distress: Do They Need Bankruptcy?" *Brookings Papers on Economic Activity* 1 (2002), pp. 287–319.

- ² See, e.g., Institute of International Finance, “Principles for Stable Capital Flows and Fair Debt Restructuring in Emerging Markets” (Washington, D.C.: Institute of International Finance, March 31, 2005), available at www.iif.com/emp/principles/.
- ³ Nor, of course, have they even mentioned the idea of subjecting troubled debtor governments to outside intervention of the type that New York City, for example, had to accept when it could not pay its bills in the early 1970s.
- ⁴ According to the then first deputy managing director of the IMF, a new approach to sovereign debt restructuring was needed because “in the current environment, it *may* be particularly difficult to secure high participation from creditors as a group, as individual creditors *may* consider that their best interests would be served by trying to free ride These difficulties *may* be amplified by the prevalence of complex financial instruments . . . which in some cases *may* provide investors with incentives to hold out . . . rather than participating in a restructuring.” See Anne O. Krueger, *A New Approach to Sovereign Debt Restructuring* (Washington, D.C.: International Monetary Fund, April 2002), p. 8 (emphasis added).
- ⁵ For useful background information on sovereign debt defaults and restructurings, see World Bank, *Global Development Finance 2006: The Development Potential of Surging Capital Flows*, vol. 1 (Washington, D.C.: World Bank, 2006), pp. 43–104.
- ⁶ See the TV interview with President Jorge Batlle of Uruguay, “El Default Significaba el Quiebre Institucional de Uruguay,” July 4, 2003, available at www.presidencia.gub.uy/noticias/archivo/2003/julio/2003070404.htm. This version of events had previously been revealed by Vice President Luis Hierro of Uruguay, but had been denied by the IMF’s spokesman; see IMF, “Transcript of a Press Briefing by Thomas C. Dawson,” June 26, 2003, available at www.imf.org/external/np/tr/2003/tro30626.htm.
- ⁷ See IDA and IMF, “Heavily Indebted Poor Countries Initiative (HIPC) and Multilateral Debt Relief Initiative (MDRI): Status of Implementation,” Washington, D.C., September 7, 2006, p. 66, available at [siteresources.worldbank.org/DEVCOMINT/Documentation/21046514/DC2006-0016\(E\)-HIPC.pdf](http://siteresources.worldbank.org/DEVCOMINT/Documentation/21046514/DC2006-0016(E)-HIPC.pdf).
- ⁸ See World Bank, *Global Development Finance* (Washington, D.C.: World Bank 2001), table 1.
- ⁹ See IMF and IDA, “Heavily Indebted Poor Countries Initiative (HIPC) and Multilateral Debt Relief Initiative (MDRI),” p. 67.
- ¹⁰ See *ibid.*, p. 25.
- ¹¹ Other shorter maturity bonds were also issued, for example, to cover a portion of past-due interest, and Ecuador paid a small amount of arrears in cash.
- ¹² See various Paris Club press releases relating to Ecuador available at www.clubdeparis.org/search_form?SearchableText=Ecuador.
- ¹³ See IMF, “Ecuador: First Review under the Stand-by Arrangement and Requests for Modifications and Waiver of Nonobservance and Applicability of Performance Criteria,” IMF Country Report No. 03/248, August 2003, available at www.imf.org/external/pubs/ft/scr/2003/cro3248.pdf; and IMF, “Ecuador: 2005 Article IV Consultation,” IMF Country Report No. 06/98, March 2006, available at www.imf.org/external/pubs/ft/scr/2006/cro698.pdf.
- ¹⁴ See IMF, “Cross-Country Experience with Restructuring of Sovereign Debt and Restoring Debt Sustainability,” August 29, 2006, pp. 12, 14, and 48–49, available at www.imf.org/external/np/pp/eng/2006/082906.pdf.
- ¹⁵ See IMF, “IMF Executive Board Concludes 2006 Article IV Consultation with Argentina,” Public Information Notice No. 06/93, August 9, 2006, available at www.imf.org/external/np/sec/pn/2006/pno693.htm.
- ¹⁶ In early 2007, Argentina reportedly offered the leading Paris Club governments to pay all outstanding principal and past-due interest over a relatively short period of ten years. See Clarín, “Club de París: la oferta argentina es pagar la deuda en 10 años y sin quita,” January 14, 2007, available at www.clarin.com/diario/2007/01/14/elpais/p-01801.htm.
- ¹⁷ See IMF, “IMF Board Discusses the Good-Faith Criterion under the Fund Policy on Lending into Arrears to Private Creditors,” Public Information Notice No. 02/107, September 24, 2002, available at www.imf.org/external/np/sec/pn/2002/pno2107.htm.
- ¹⁸ The U.S. government and the Federal Reserve also filed amicus briefs for Argentina in April 2006, in support of a U.S. court decision to vacate an order of attachment against certain funds belonging to the Central Bank of Argentina held at the Federal Reserve Bank of New York, which was then on appeal.
- ¹⁹ See Arturo C. Porzecanski, “From Rogue Creditors to Rogue Debtors: Implications of Argentina’s Default,” *Chicago Journal of International Law* 6, no. 1 (2005), pp. 327–31.
- ²⁰ See Group of Ten, “Report of the G-10 Working Group on Contractual Clauses,” September 26, 2002, available at www.bis.org/publ/gten08.pdf.