PROGRAMME

Negotiating financing agreements with creditors and investors is a complex yet crucial reform area for many African countries. While some countries have clear negotiation strategies and procedures that are strictly followed, others are less able to bargain effectively and exert influence in negotiations. In the latter case, poorly negotiated agreements mean that several African countries are not getting the best terms and conditions available with agreements often skewed in favour of the creditor/investor. This imbalance can be particularly problematic in times of crisis when a restructuring becomes unavoidable. For example, contractual terms relating to confidentiality clauses, undisclosed repayment, and collateral arrangements, and promises not to seek Paris Club comparability or similar coordinated relief, can give the creditor enormous bargaining power, and undermine the effectiveness of international initiatives like the G20 Common Framework.

The objective of this policy dialogue is for African debt managers to share their experiences in negotiating with different creditor groups, highlight common pitfalls and identify practical steps through which DMOs can improve these interactions and ultimately generate more favourable outcomes for the fiscus. International experts will also participate to share the latest evidence, recommended practices and norms that influence the balance of power and outcome of sovereign debt negotiations.

The four areas of focus are:

- Improving the transparency of sovereign debt negotiations
- Enhancing the government's negotiations position through rigorous financial analysis
- Understanding key legal concepts and the room to manoeuvre
- Assessing the options and opportunities for restructuring sovereign debt

Tuesday, 5 October 2021	
11:00 - 11:15	Introduction – • House rules • Opening remarks by Neil Cole, Executive Secretary, CABRI
Session 1 11:15 - 12:00	**Session 1: Conversation among public debt managers and creditors/investors on key challenges in sovereign debt negotiations and critical areas for improvement** Negotiations between governments and their creditors/investors are affected by cultural differences, information asymmetries, and variable skills and capacities. Insufficient legal and financial capacity, excessive political interferences, time constraints, and lack of alternative funding options are some of the factors that significantly weaken the bargaining position of African governments. Moreover, domestic political considerations, perhaps due to a need to fulfil electoral promises, can override technical advice during negotiations, with little consideration to costs and risks. Some creditor representatives also approach senior government officials directly and even presidents to gain an upper hand at the negotiation table. During this session public debt managers as well as creditors will discuss measures that can curb these challenges in the negotiation process by sharing their experiences and lessons learnt. **Moderator** – **Fifi Peters**, Presenter, CNBC Africa **Panelists:** • **Arsène M Dansou** - Director General - Public Debt Management Agency, Ministry of Finance, Benin • **Patience Ohina, -** Director General – Public Debt Management Agency in Nigeria • **Mike Salawou, Head of Division, Infrastructure & Partnerships in charge of project preparation and coordinating Bank's PPP efforts -** African Development Bank • **Samad Sirohey, CEEMEA Head of Funding -** Citi Bank
Session 2 12:00 - 13:00	**Session 2: Improving the transparency of sovereign debt negotiations** This session focuses on how transparency can facilitate informed decision-making and build trust among creditors and the sovereign borrower in the negotiation process. Without the full picture of a government's total outstanding debt, composition of debt and contingent liabilities, investors or creditors cannot make informed credit decisions. In the event of a debt crisis, the prospect that certain debts may be hidden can also frustrate and delay the restructuring process due to creditors'/investors' fears of unequal treatment. In addition to data transparency, the negotiation process itself needs to be based on clearly defined procedures, responsibilities, and accountabilities, enabling stakeholders to assess if the negotiated financing arrangement has been appropriately authorized. Questions to be addressed: • What are the common challenges facing DMOs in providing accurate and comprehensive debt data to inform the negotiation process? • What has been the impact of confidentiality clauses on negotiations with other creditors, including restructurings? • What reforms can DMOs adopt to make the negotiation process more transparent and how can other stakeholders help? **Moderator: Danielle Serebro -** Acting Programme Manager**,** CABRI

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Presenter: Ms. Wanga Cibi, Acting Chief Director, Liability Management, Asset and Liability Management division, National Treasury of South Africa

Discussants:

- **Mr Gregory Kabwe**, Director for investments and public debt management department, Ministry of Finance, Zambia
- **David Mihalyi**, Senior Economic Analyst, Natural Resource Governance Institute, London

Q&A

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<tr><td>13h00 - 13h15</td><td>Break</td></tr>
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Session 3

13:15 - 14:30

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Session 3: Enhancing the government's negotiation position through rigorous financial analysis

The creditor landscape is becoming increasingly diverse with different creditors offering different financial terms (currency, maturity, interest rate, and fees). The same creditor may also offer different terms to different sovereign borrowers for a variety of reasons. This session focuses on what DMOs can do to ensure that financial terms being considered during the negotiation process are the most beneficial or cost-effective that can be obtained from potential creditors, suitable for the project to be financed in the case of large infrastructure projects and fit with the government's debt management strategy and annual borrowing plan. Ultimately, the government's bargaining power can be significantly strengthened if it has clearly defined financing strategies and is aware of the terms of alternative funding options.

Questions to be addressed:

- How does the DMO keep track of the most beneficial or cost-effective terms and conditions that are obtainable from potential creditors?
- To what extent have financial analysis and assessments been used by African governments during negotiations to build the governments' position and how can this be improved?
- What can creditors, particularly from the private sector, do to communicate their financial terms and conditions on offer to potential borrowers?

Moderator: Johan Krynauw - Programme Manager, Public Debt, CABRI

Presenter: Mr Samuel Arkhurst, Director, Treasury and Debt Management, Ministry of Finance, Ghana

Discussants -

- **Alilali Nelufule,** Acting Director, Asset and Liability Management division, South Africa,
- **Franck Olivier Zadi,** General Directorate of the Treasury and Public Accounts, Ministry of Economy and Finance, Cote d'Ivoire

Q&A

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<tr><th colspan="2">Wednesday, 6 October 2021</th></tr>
<tr><td>11:00 – 11:15</td><td>Key messages from Day 1</td></tr>
<tr><td>Session 4

11:15 – 12:30</td><td>Session 4: Understanding key legal concepts and the room to manoeuvre

When it comes to negotiating financing agreements (loans and bonds), the terms and conditions tend be dictated by the lender and/or based on best practice (albeit non-binding) guidelines issued by the Loan Market Association and International Capital Markets Association (ICMA). However, this does not mean that the sovereign borrowers cannot negotiate alternative terms and conditions or exceptions. To assess and make the most of the room to manoeuvre, DMOs must understand the rationale behind various clauses, what could be negotiated (carve-outs/exceptions), and the operational impact of key definitions.

Questions to be addressed:
What contractual provisions have caused problems for sovereign borrowers, and how can they be better designed to minimise these problems?
What contractual innovations should DMOs be aware of and when should they adopt them?
What should debt managers do to ensure that they receive appropriate legal advice when negotiating with creditors/investors?
Moderator – Rodrigo-Olivares Caminal, Professor of Banking & Finance Law, Queen Mary University of London

Presenters – Nicole Kearse, Senior Legal Counsel, African Legal Support Facility and Jim Ho, Cleary Gottlieb, London, UK

Discussants:
Maris Wanyera, Director Public Debt, Ministry of Finance, Uganda
Kanyi Lui, Partner, Pinsent Masons, Beijing, China
Q and A</td></tr>
<tr><td>Session 5

12:30 – 14:00</td><td>Session 5: Assessing the options and opportunities for restructuring sovereign debt

This session focuses on improving debt managers' understanding of the various options and opportunities for restructuring sovereign debt. In the absence of multilateral regime for sovereign insolvency, debt restructuring negotiations between sovereign debtors and their creditors currently proceed in a fragmented way with inter-creditor conflicts more pronounced and more complex now than they were a decade ago. Although the G20 Common Framework for Debt Treatments aims to improve the process by ensuring broad participation of creditors with fair burden sharing, it remains a work in progress. Similarly, while the current contractual approach has been effective in resolving sovereign debt cases involve private sector creditors since 2014, it has gaps that could pose challenges in future restructurings. Recent proposals linking debt relief to climate change agenda through debt swaps are also gaining traction though there is still a lack of clarity on what such a mechanism may entail.

Questions to be addressed:
What has been China's approach to sovereign debt restructuring and how has this changed under the G20 Common Framework?</td></tr>
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	• How can African governments use contractual innovations to incentivize creditor participation in a restructuring and to protect the sovereign from future downside risks? • What are the opportunities and challenges for linking debt relief to the climate change agenda? **Moderator: Stanislas Nkhata,** Director of Debt Management Programme, MEFMI **Presenter: Yunnan Chen,** Senior Research Officer, ODI **Discussants:** • **Livingston Bumbe -** Public Debt Management Unit, National Treasury, Kenya • **Rodrigo-Olivares Caminal,** Professor of Banking & Finance Law, Queen Mary University of London • **Kanyi Lui,** Partner, Pinsent Masons, Beijing, China Q&A
14:00 – 14:15	Wrap-up and way forward