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Reforming the International Monetary Fund's Debt Sustainability Assessments towards Achieving the UN's Sustainable Development Goals (SDGs): A Crucial Post-Pandemic Recovery Agenda

Karina Patricio Ferreira Lima*

1. Introduction

The economic fallout of the Covid-19 pandemic has triggered sovereign debt crises in the global South.[1] While a substantial wave of sovereign defaults has failed to materialise so far, debt service has become increasingly burdensome for many Developing and Emerging Economies (DEEs).[2] In this scenario, their capacity to fund appropriate responses to the pandemic is endangered,[3] risking a 'two-track' recovery in which inequalities between cores and peripheries[4] in the global economy are reinforced and exacerbated.[5]

Since the outbreak of the pandemic, 85 countries have obtained lending arrangements with the International Monetary Fund (IMF).[6] Concomitantly, fiscal consolidation – also known as 'austerity' – is expected in 154 countries or about 75 percent of the global population in 2021, rising to as many as 159 countries or 85 percent of the world population in 2022. By 2025, 6.3 billion people or 78 percent of the world's population may still be living under austerity.[7]

1 U.N Conference on Trade and Development (UNCTAD), *Trade and Development Report 2020: From Global Pandemic to Prosperity for All: Avoiding Another Last Decade* (2020); Karina Patricio, Another Lost Decade?, Phenomenal World (Aug. 15 2020), https://bit.ly/3kljFLM.; UNCTAD, *Trade and Development Report Update: From the Great Lockdown to the Great Meltdown: Developing Country Debt in the Time of Covid-19* (April 2020) (Oct. 2 2020), https://bit.ly/3hDTIVK.; *The Global Economic Outlook During the COVID-19 Pandemic: A Changed World*, The World Bank (June 8, 2020), https://bit.ly/36DArxE.; Kristalyna Georgieva et al., *Reform of the International Debt Architecture is Urgently Needed*, IMFBlog (Oct. 1, 2020), https://bit.ly/3wFb5Kh.

2 Daniel Munevar, *A Debt Pandemic: Dynamics and Implications of the Debt Crisis of 2020*, Eurodad (Mar. 2021), https://bit.ly/3ifqqw1.

3 Albert G. Zeufack et al., *An Analysis of Issues Shaping Africa's Economic Future,* 21 Africa's Pulse, (April 2020) https://bit.ly/3rchiMo.

4 I use the concept of 'core' and 'periphery' in the sense attributed in the Latin American structuralist tradition to those terms, which are commonly employed to describe distinct patterns of productive, technological, and trade specialisation in the global economy. I also extend these concepts to describe the financial and monetary hierarchies that emerge from those asymmetries. On the concept of core and periphery in Latin American structuralism. *See* Raúl Prebisch, *El Desarrollo Económico de América Latina y sus Principales Problemas*, United Nations (1950); Raúl Prebisch, *A Critique of Peripheral Capitalism,* 1 CEPAL Rev. 9-76 (1976).

5 Kristalyna Georgieva, *Urgent Action Needed to Address a Worsening 'Two-Track' Recovery*, IMFBlog (July 7, 2021) https://bit.ly/3hGzx9M.

This article examines the role of the IMF's Debt Sustainability Assessments (DSAs) in achieving the UN's Sustainable Development Goals (SDGs), which is a crucial agenda towards a resilient, sustainable, and inclusive post-pandemic recovery.[8] Crucially, it advocates that the DSA should be reformed by de-emphasizing its commitment to austerity. Austerity measures are overwhelmingly associated with the need to guarantee debt service levels through a reallocation of budgetary resources otherwise allocated to public investment and services, typically by means of fiscal adjustment and regressive taxation.[9] This threatens the post-pandemic recovery capacity of vast segments of the global economy and jeopardises the ability of societies to innovate and build capacity towards achieving the SDGs,[10] as well as the state's ability to ensure the fulfilment of fundamental human rights to its population.[11]

The IMF has the legal mandate of financing its members facing temporary balance of payments problems.[12] It also has extensive surveillance authority to monitor the economic and financial policies of its members[13] as well as to provide them with technical assistance.[14] The DSA is one of the mechanisms through which the Fund exercises its surveillance powers. However, the Fund's debt sustainability assessments also have a crucial role in sovereign debt crises. This is because, even though the IMF does not have a legal mandate to conduct debt restructurings of its member countries, the DSA is pivotal in determining not only when restructuring is necessary, but also how much debt reduction is needed. In other words, the Fund is the global gatekeeper that determines what debt sustainability means and how to achieve it.[15] A debt sustainability framework that is unable to appropriately account for sovereign insolvency problems effectively legitimises unsustainable debt service by draining vital public resources from IMF member countries. Thus, the DSA has crucial distributive, economic, and ecological implications both within debtor states and across the globe.

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6 *COVID-19 Financial Assistance and Debt Service Relief*, International Monetary Fund (June 30, 2021) https://bit.ly/2VxZiQX.

7 Isabel Ortiz & Matthew Cummins, *Global Austerity Alert: Looming Budget Cuts in 2021-25 and Alternative Pathway,* Initiative for Policy Dialogue (IPD) et al., 4 (April 2021), https://bit.ly/3ifrj7P.

8 *Working toward a Green, Resilient, and Inclusive Recovery*, World Bank (April 9, 2021), https://bit.ly/3eJN4M7.

9 As research shows, approximately 88.5 percent of IMF programmes in 2016-2017 had fiscal adjustment as an objective, policy or strategy. Gino Brunswijck, *Unhealthy Conditions: IMF Loan Conditionality and Its Impact on Health Financing*, Eurodad 12 (2018); *see* Bernhard Reinsberg, Thomas Stubbs, et al., *Taxing the People, Not Trade: The International Monetary Fund and the Structure of Taxation in Developing Countries*, 55 Stud. in Comp. Int'l Dev. 278, 304 (2020) (discussing regressive taxation in IMF policy conditions).

10 Daniel Munevar, *Arrested Development: International Monetary Fund Lending and Austerity Post COVID-19,* Eurodad (Oct. 6, 2020); see Sustainable Development Goals, United Nations, (accessed July 14, 2021), https://sdgs.un.org/goals (describing SDGs).

11 UN Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, *Integrating human rights into debt policies and debt sustainability analyses to counter new debt vulnerabilities*, United Nations General Assembly (August 5, 2016) https://bit.ly/3wHGpYJ.

12 Art. V(3) IMF Articles of Agreement.

13 Art. IV IMF Articles of Agreement.

14 Article V(2)(b) IMF Articles of Agreement.

15 Ngaire Woods, *The Globalizers: the IMF, the World Bank, and their Borrowers*, (Cornell Univ. Press 2006).

In considering the role of the DSA in the international financial architecture, this article argues that the DSA framework is both legally and macroeconomically biased towards conducting assessments that underestimate sovereign insolvency problems. Thus, rather than being the product of extraordinary circumstances or misjudgements, the underestimation of insolvency problems is a persistent pattern in the IMF's debt sustainability analyses that underpins the widespread trend of post-pandemic austerity in the global South. This renders the DSA a core legal infrastructure in the international financial architecture that needs to be reformed in the years ahead.

This article proceeds as follows. **Section 2** explains what the DSA is, as well as its uses and legal framework. **Section 3** discusses the importance of the DSA in sovereign debt crises. **Section 4** analyses the macroeconomic and legal assumptions of the DSA and critiques their adequacy to achieve the SDGs. **Section 5** discusses the legitimacy and accountability issues posed by the DSA. **Section 6** concludes this piece with some considerations on the need for reforming the DSA towards a sustainable and resilient post-pandemic recovery for all.

2. The DSA: definition, uses and legal framework

The DSA is a soft law framework created by the IMF to evaluate whether, as well as to which degree, the sovereign debt of its member states is sustainable or unsustainable.[16] It was created in 2002 after a period of deliberation following the capital account crises of the 1990s and early 2000s, when the IMF was subjected to persistent criticism over its exceptional access programmes.[17] In a nutshell, the DSA

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16 *See Assessing Sustainability*, International Monetary Fund (May 28, 2002), https://bit.ly/3i8a0WH (describing the DSA's foundational instrument); *Staff Guidance Note for Public Debt Sustainability Analysis in Market-Access Countries*, International Monetary Fund (May 9, 2013) https://bit.ly/2XQRX0f; *Modernizing the Framework for Fiscal Policy and Public Debt Sustainability Analysis,* International Monetary Fund, (August 5, 2011), https://bit.ly/3CPHRf3.

17 The 1990s marked a turning point for the IMF as regards both the magnitude and frequency of large-scale liquidity provision under its exceptional access policy. During that decade, the Fund began to act as an international lender of last resort (ILOLR) that provided liquidity to countries experiencing not only current account imbalances, but especially large stock debt and outflows of private capital. *See* Marco Committeri & Francesco Spadafora, *You Never Give Me Your Money? Sovereign Debt Crises, Collective Action Problems, and IMF Lending*, 143 Banca D'Italia Questioni di Economia e Finanza (Occasional Papers) 20 (January 2013); Susan Schadler, *Unsustainable Debt and the Political Economy of Lending: Constraining the IMF's Role in Sovereign Debt Crises*, 19 CIGI Paper (October 2013). The peak of this process was Argentina's debt crisis in 2001, which marked a landmark in the scale of exceptional financing. The IMF bailout was followed shortly by the largest default in history at that time. Years later, the Fund itself would acknowledge the inappropriateness of its approach in managing the crisis by recognising that the large-scale financing only postponed the inevitable debt restructuring and, by raising the country's debt burden, also meant that 'the costs of the eventual collapse were all the greater'. *See* Christina Daseking et al., *Lessons from the Crisis in Argentina*, 236 IMF Occasional Paper 41 (Feb. 10, 2004); *see also* John V. Paddock, *IMF Policy and the Argentine Crisis* 34 Univ. of Mia Inter-Am. L. Rev. 155, 187 (2002); *Evaluation Report: The IMF and Argentina, 1991-2001* Independent Evaluation Office, 64-76 (2004); Pablo Nemiña, *Del Blindaje a la Intransigencia: Comportamiento del FMI Durante la Crisis Económica Argentina (2000-2001),* 20 Ciclos en la Historia, la Economía y la Sociedad 219, 243 (2011), https://bit.ly/3hMlvD1; Martin Guzmán, *An Analysis of Argentina's 2001 Default Resolution*, 110 CIGI Paper (Oct. 2016).

responded to the need of establishing a framework to determine when the IMF should provide financing for members facing a balance of payments crisis to service their debt in full or, alternatively, when it should require that its programme be accompanied by private sector participation (PSI) through debt restructuring.[18] In the DSA framework, 'debt sustainability' means the ability of the state to fully service its debts in a way that is economically and politically viable.[19]

The soft law character of the DSA means that it is an informal set of rules which are not explicitly governed by the IMF's Articles of Agreement, or formal secondary or internal law enacted by the IMF's organs. Instead, it is based on papers and guidance notes issued by the management in exercise of its general competence to conduct 'the ordinary business of the Fund'.[20] Furthermore, the DSA can be seen as a derivation of the IMF's mandate to oversee the international monetary system.[21] Although the DSA is not directly binding on member states, it must be observed internally by the staff.[22] Thus, despite its soft law character, the DSA plays a key role in the IMF's surveillance, technical, and lending activities.[23] In addition, it is utilised by third parties, such as other multilateral creditors[24] and private credit rating agencies,[25] in guiding their lending and risk assessment activities, respectively. The importance of the DSA in the decision-making processes of both the Fund and other relevant actors renders it a key technology of global governance.[26]

There are two different sets of instruments governing debt sustainability evaluations: (1) the Debt Sustainability Framework (DSF), which applies to the 68 low- and some lower- and upper-middle income countries eligible to borrow from the Poverty Reduction and Growth Trust (PRGT), whose main source of financing is concessional lending; and (2) the DSA for middle- and high-income Market Access

18 *See e.g.*, Independent Evaluation Office (n 17) 42-44, 67, 115-18; *Annual Report of the Executive Board for the Financial Year Ended April 30,* International Monetary Fund, (1999) available at https://www.imf.org/External/NP/ieo/2004/arg/eng/pdf/report.pdf; *Recovery from the Asian Crisis and the Role of the IMF*, International Monetary Fund, Issues Brief No 00/05 (June 2000); *Communiqué of the International Monetary and Financial Committee of the Board of Governors of the International Monetary Fund*, International Monetary Fund (September 24, 2000).

19 "[I]f no realistic adjustment in the primary balance – i.e., one that is both economically and politically feasible – can bring debt to below such a level, public debt would be considered unsustainable. […] This is because – other things equal – a higher debt requires a higher primary surplus to sustain it." Staff Guidance Note for Public Debt Sustainability Analysis in Market-Access Countries, International Monetary Fund at 4 (May 4, 2013) https://www.imf.org/external/np/pp/eng/2013/050913.pdf.

20 Art. 12(4)(b) IMF Articles of Agreement.

21 Art. 4(3) IMF Articles of Agreement.

22 Michael Riegner, *Legal Frameworks and General Principles for Indicators in Sovereign Debt Restructuring,* 41 Yale J. of Int'l L., 141, 145-48 (2016).

23 Ibid. at 146.

24 These include, for instance, the World Bank, Inter-American Development Bank (BID), African Development Bank (AfDB), and Asian Development Bank (ADB).

25 André Broome & Joel Quirk, *Governing the World at a Distance: The Practice of Global Benchmarking*, 41 Rev. of Int'l Stud., 819, 837-38 (2015).

26 Kevin Davis, Angelina Fischer, et al., *Governance by Indicators: Global Power through Classification and Rankings* (OUP 2012); *see* Terence C. Halliday, *Legal Yardsticks: International Financial Institutions as Diagnosticians and Designers of the Laws of Nations*, 11-08 Center on L. and Glob. 2011) (discussing use of indicators in international finance).

Countries (MACs), mostly advanced and emerging economies, which borrow at higher interest rates from the IMF's General Resources Account (GRA).

The DSF for PRGT countries was jointly developed by the IMF and World Bank in 2005, with subsequent reviews in 2006, 2009, 2012, and 2013.[27] The current framework was approved by IMF and World Bank Executive Boards in 2017 and implemented in 2018.[28] It consists in a baseline scenario for the economy, government finances and external debt which compares the public sector and the external debt-to-GDP ratios and the servicing costs-to-GDP ratio against five thresholds, whose value depends on an assessment of the country's 'institutional quality'. Next, alterative scenarios are compared against the same thresholds. The assessment is concluded by producing a rating of external government debt default risk.[29]

The framework for sovereign debt sustainability analyses of MACs is exclusively run by the IMF. The Fund may, at its own discretion, conduct these assessments annually as part of its Article IV consultations.[30] These are known as 'Article IV consultations' because they are required by Article IV of the IMF Articles of Agreement, which relates to the Fund's surveillance roles. During those consultations, a team of IMF staff visits a country to assess economic and financial developments and discuss the country's economic and financial policies with government and central bank officials.[31] For countries with IMF arrangements, however, the assessment must be conducted at the time of programme approval and subsequently once a year – except for exceptional access cases, which require an updated DSA in every programme review.[32]

The DSA framework for MACs is anchored in the first debt sustainability framework introduced in 2002,[33] which was subsequently reviewed in 2003,[34] 2005,[35] and 2011-13.[36] The current framework was reformed in early 2021 and is expected to be operationalised in late 2021 or early 2022 through the completion of a staff guidance note and template.[37] It divides countries into two groups: emerging

27 *See Factsheet: Joint World Bank-IMF Debt Sustainability Framework for Low-Income Countries*, International Monetary Fund (March 12, 2020), https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/39/Debt-Sustainability-Framework-for-Low-Income-Countries.

28 *Guidance Note on the Bank-Fund Debt Sustainability Framework for Low-Income Countries*, International Monetary Fund, (February 14, 2018), https://bit.ly/2TazPfE.

29 *See* Jasper Lukkezen and Hugo Rojas-Romagosa, *Early Warning Indicators in a Debt Restructuring Mechanism*, UNCTAD 5-7 (April 29, 2014).

30 *Review of The Debt Sustainability Framework for Market Access Countries*, International Monetary Fund, 40-41 (Feb. 3, 2021), https://bit.ly/3lFJMvJ.

31 *Surveillance*, International Monetary Fund https://www.imf.org/external/about/econsurv.htm (accessed 14 July 2021).

32 International Monetary Fund, *supra* note 30, at 40-41.

33 *Assessing Sustainability*, International Monetary Fund (28 May 2002).

34 *Sustainability Assessments – Review of Application and Methodological Refinements*, International Monetary Fund, (June 10, 2003).

35 *Information Note on Modifications to the Fund's Debt Sustainability Assessment Framework for Market Access Countries*, International Monetary Fund (July 1, 2005).

36 *Modernizing the Framework for Fiscal Policy and Public Debt Sustainability Analysis*, International Monetary Fund (August 5, 2011); *Staff Guidance Note for Public Debt Sustainability Analysis in Market-Access Countries*, International Monetary Fund (May 9, 2013).

37 International Monetary Fund, *supra* note 30

markets and advanced economies. The analysis comprises a baseline scenario for the economy and public debt, along with an adverse scenario. The assessment consists of three modules: a debt fanchart composite index that quantifies medium-term debt stabilization prospects, a Gross Financing Needs (GFN) module that assesses debt rollover risk, and a crisis prediction model calibrated on past episodes of unsustainable debt. Outputs from those three modules are subsequently aggregated in a composite index, where greater index values indicate higher risk. The index is divided into three sovereign debt sustainability risk zones – sustainable with high probability; sustainable, but not with high probability; or not sustainable. In this framework, the signal 'not sustainable' is associated with a probability of debt being unsustainable of more than 50 percent. In turn, 'sustainable, but not with high probability' indicates the risk zone between 50 and 20 percent, and 'sustainable with high probability' relates to risk values below 20 percent.[38] These mechanical signals are subsequently used as an input for a case-by-case assessment on the debt sustainability of the country concerned, whose judgement ultimately lies at the discretion of IMF staff.[39]

3. The DSA's role in IMF lending and debt restructurings

The DSA framework is a critical element of the Fund's lending policies because it forms the basis of the staff's judgment on whether, to what extent and under which conditions, a country can receive IMF financing. In this sense, the DSA assesses whether the combination of structural adjustment and exogenous developments is likely to produce sustainable debt.[40] The concept of 'structural adjustment' encompasses a wide range of policies directed at stabilisation, liberalisation, deregulation, and privatisation in the debtor country, all of which must be adopted as a condition for obtaining IMF financing.[41] Where the structural adjustment approach is not feasible because a state's debt is judged to be unsustainable no matter what measures are introduced in the medium term, a restructuring or relief that reduces the debt burden is required.[42] **Alongside its pivotal role in IMF financing, the DSA also informs the lending decisions of the World Bank, regional development banks and other lenders of last resort,[43] including the Chiang Mai Multilateralization Initiative (CMIM)[44] and the European Stability Mechanism (ESM).[45]**

38 International Monetary Fund *supra* note 30, at 38-40.

39 *Questions and Answers on the New Sovereign Risk and Debt Sustainability Framework for Market Access Countries*, International Monetary Fund (Feb. 19, 2021), https://bit.ly/2XJfLDb.

40 Susan Schadler, *Unsustainable Debt and the Political Economy of Lending: Constraining the IMF's Role in Sovereign Debt Crises*, 19 CIGI Paper 10 (Oct. 2013).

41 Lawrence H. Summers & Lant H. Pritchett, The Structural-Adjustment Debate 83 Am. Econ. Rev. 383-389 (1993).

42 *Sovereign Debt Restructuring – Recent Developments and Implications for the Fund's Legal and Policy Framework*, International Monetary Fund, 9-10 (April 26, 2013).

43 For instance, the World Bank's International Development Agency (IDA) reduces its allocation to countries with weak ratings by up to a fifth and makes the loans-grants mix conditional on debt sustainability. In addition, the World Bank uses debt sustainability ratings to design non-concessional borrowing limits for low-income countries (LICs). Similarly, regional development banks and bilateral aid agencies base their grant and lending decisions on such ratings. *See also* Valentin F. Lang & Andrea Presbitero, *Room for Discretion? Biased Decision-Making in International Financial Institutions*, 130 J. Dev. Econ. 1, 2-4 (2018).

The DSA also has a decisive influence on the timing of sovereign debt restructuring processes. When a state's debt is found to be unsustainable, the Fund is precluded from providing financing to it unless the programme includes specific measures to restore debt sustainability within the medium term, which will typically involve a debt restructuring.[46] The rationale for this requirement is that, otherwise, IMF financing would not be used to resolve a temporary balance of payments problem – as mandated in the IMF Articles of Agreement[47] – but rather to fuel an insolvency problem. Thus, while the IMF does not have an explicit legal mandate to conduct restructurings or to compel a member to initiate one, the DSA has the power to trigger or postpone the restructuring process. In addition, the assessment has a crucial role in determining the size of haircuts, although this function is not legally formalised and there are no established rules to allocate losses.[48]

Finally, the DSA is also a pivotal component in sovereign debt restructuring processes involving both the Paris Club and private creditors, including bondholders and commercial banks.[49] In a scenario of increasing creditor diversification in the sovereign debt market,[50] which makes consensus on debt restructuring processes particularly hard to achieve, the role of the DSA in determining the scope of debt sustainability – and therefore the need for, and magnitude of, debt restructurings – gains an unparalleled level of importance. This is especially so as regards the need

44 The CMIM is a multilateral currency swap arrangement among the ten members of the Association of Southeast Asian Nations (ASEAN) – Brunei Darussalam, Myanmar, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam –, China (including the Monetary Authority of Hong Kong), Japan, and South Korea. To access 40 percent or more of their maximum borrowing amount from the facility, CMIM members must be under an IMF programme, the approval of which depends upon completion of the DSA. *See The Amended Chiang Mai Initiative Multilateralisation (CMIM) Comes Into Effect on 31 March 2021*, ASEAN+3 Macroeconomic Research Office (March 31, 2021), https://bit.ly/39DtYnT.

45 Under Article 13(1)(b) of the ESM Treaty, the European Commission (EC), in liaison with the European Central Bank (ECB), is entrusted with the task of conducting debt sustainability assessments of its members. The analysis is meant to be conducted together with the IMF 'wherever appropriate and possible'. The ESM Treaty is available here https://www.esm.europa.eu/legal-documents/esm-treaty See IMF, Collaboration Between Regional Financing Arrangements and the IMF – IMF Policy Paper, July 2017 available here:https://www.imf.org/~/media/Files/Publications/PP/2017/pp073117-background-paper-collaboration-between-regional-financing-arrangements-and-the-imf.ashx (pages 18-22)

46 Sean Hagan, Maurice Obstfeld and Poul M. Thomsen, *Dealing with Sovereign Debt – The IMF Perspective*, IMFBlog (February 23, 2017). In particular, under the latest exceptional GRA access policy, sovereign debt 'should be sustainable with high probability, or if debt is sustainable but not with high probability, the IMF may lend if financing provided by sources other than the Fund improves debt sustainability and enhances safeguards to Fund resources'. *See The Fund's Lending Framework and Sovereign Debt – Further Considerations*, International Monetary Fund (April 9 2015).

47 Art. I(v) IMF Articles of Agreement.

48 Riegner, *supra* note 22, at 146.

49 *See Evian Approach*, Paris Club, https://bit.ly/2UYn353.

50 On creditor diversification in the private debt market, *see The International Architecture for Resolving Sovereign Debt Involving Private-Sector Creditors – Recent Developments, Challenges, and Reform Options*, International Monetary Fund (Sept. 23, 2020); F Fastenrath, et al., *Where States and Markets Meet: The Financialisation of Sovereign Debt Management* 22 New Pol. Econ. 273 (2017). On official creditor diversification, *see* Sebastian Horn, et al., *China's Overseas Lending*, NBER Working Paper No. 26050 (2019); Kevin Gallagher & Margaret Myers, *China-Latin America Finance Database*, Inter-Am. Dialogue, (2019); Axel Dreher, et al., *Aid, China, and Growth: Evidence from a New Global Development Finance Dataset*, AidData Working Paper 46 (2017).

to ensure PSI in the restructuring process,[51] which has not been possible to achieve under recent debt treatment initiatives such as the G20's Debt Service Suspension Initiative (DSSI) and the Common Framework for Debt Treatments beyond the DSSI.[52] Despite the participation of official bilateral creditors in those agreements, including the confluence of both Paris Club and non-Paris Club creditors such as China, India, Turkey, and Saudi Arabia in the Common Framework, the voluntary character of those arrangements has kept private creditors unbound by its terms.[53] In this regard, it is worth noting that recent debt restructuring processes that involved significant levels of PSI had the direct support of the DSA by either incorporating PSI into the sustainability assessment, such as in the case of Ukraine in 2015,[54] or explicitly recognising the unsustainability of sovereign debt, such as in the case of Argentina in 2020. [55]

4. The DSA's macroeconomic and legal assumptions

In the previous section I argued that, although the Fund does not have a mandate to conduct restructurings, it has the role of facilitating them when the debt burden is unsustainable. The issue, however, is what sustainability means. Every definition of debt sustainability is embedded within a set of macroeconomic and legal assumptions. It is important, therefore, to understand what those assumptions are within the DSA and discuss their compatibility with key goals such as the SDGs, particularly within the context of the post-pandemic recovery.

From a macroeconomic perspective, two requirements are crucial to assess debt sustainability in a way that is conducive towards achieving the SDGs. First, indicators should include longer-term horizons along with shorter-term ones if they are to adequately measure the success of any development strategy.[56] This is because development strategies involve long-term processes of economic change, including through the expansion of the productive capabilities of a country (also known as 'economic complexity') and institution-building.[57] Second, achieving the SDGs requires a high level of public sector ambition and investment in innovation, infrastructure, and services.[58] This is particularly so in the context of the current environmental

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51 International Monetary Fund, *supra* note 50.

52 *See* Questions and Answers on Sovereign Debt Issues, International Monetary Fund (April 8, 2021) https://bit.ly/3utnjX3.

53 Stephen Connelly, et al., *The G20 Debt Service Suspension Initiative: What of Commercial Creditors?,* 35 Butterworths J. of Int'l Banking & Fin. L. 741, 743 (2020).

55 In March 2015, the IMF assessed Ukraine's debt to be sustainable with a high probability only if bondholders agreed to a restructuring that would reduce the debt-to-GDP ratio to 71 percent in 2020. *See Ukraine: Request for Extended Arrangement Under the Extended Fund Facility and Cancellation of Stand-By Arrangement*, International Monetary Fund, (Mar. 12, 2015) https://bit.ly/2XPz2D5; *see also* Susan Schadler, *Ukraine and the IMF's Evolving Crisis Narrative*, CIGI Policy Brief No. 68 (Nov. 2015) https://bit.ly/3nW703z.

56 Jan Kregel, *Rethinking Debt Sustainability in the Context of the Millennium Development Goals*, 59 BNL Q. Rev. 225, 248 (2006).

crisis, which prompts societies to adopt bold strategies towards achieving crucial goals such as ensuring the availability and sustainable management of clean water and sanitation (SDG6); building resilient infrastructure, promoting inclusive and sustainable industrialisation and fostering innovation (SDG9); building sustainable cities and communities (SDG11); ensuring responsible consumption and production (SDG12); combating climate change (SDG13); conserving and sustainably using the oceans, seas and marine resources (SDG14); and promoting the sustainable use of terrestrial ecosystems (SDG15). The public sector is therefore a key player in not only providing those public goods, but also shaping the market towards achieving the societal missions embedded within the SDGs.[59] This view presupposes an idea of debt sustainability that is anchored not only in economic growth, but in development as well. In other words, countries that reach higher levels of development are more equipped to achieve sustainable levels of debt, as opposed to being vulnerable to the booms-bursts in the commodity cycle that often lead to debt crises.[60] Yet moving up in the development ladder often requires expansionary fiscal policies, that is, high levels of public sector investment towards achieving the SDGs.

However, those requirements are currently incompatible with the DSA. First, in relation to the time horizon of the assessment, the current framework only makes projections for public debt over 10 years embedded in a model that projects key macroeconomic variables.[61] These projections typically consist of a baseline scenario for public finance based on existing information, measured against predetermined thresholds and alternative scenarios.[62] Those indicators do not adequately reflect development goals, focusing only on shorter-term debt service capacity instead. A longer-term span in the DSA is therefore required to bring into view a perspective of debt sustainability that captures the time needed to adequately plan, achieve, and measure development goals.

57 Ricardo Hausmann & César Hidalgo, *The Network Structure of Economic Output*, 16 J. of Econ. Growth, 309, 342 (Oct. 1, 2011); Ricardo Hausmann et al., *The Atlas of Economics Complexity: Mapping Paths to Prosperity* (Puritan Press 2011); César Hidalgo & Ricardo Hausmann, *The Building Blocks of Economic Complexity* 106 Proceedings of the Nat'l Acad. of Sci. of the U.S., 10570, 10575 (2009); Ha-Joon Chang, *The East Asian Development Experience: The Miracle, the Crisis and the Future* (Third World Network 2006); Celso Furtado, *Development and Underdevelopment* (Univ. of California Press, 1964); R Prebisch, *The Economic Development of Latin America and its Principal Problems,* 7 Econ. Bull. for Latin Am. 1, 22 (1962); Albert O. Hirschman, *The Strategy of Economic Development* (Yale Univ. Press 1958).

58 As the United Nations Conference on Trade and Development (UNCTAD) estimated in 2014, developing countries face an annual gap of USD 2.5 trillion in investment in SDG-relevant sectors. *See World Investment Report 2014,* UNCTAD, xxvi (2014) https://unctad.org/system/files/official-document/wir2014_en.pdf.

59 Mariana Mazzucato, *Mission Economy: A Moonshot Guide to Changing Capitalism* (Allen Lane, 2021).

60 *See* R Prebisch, *The Economic Development of Latin America and its Principal Problems* (ECLAC 1950) https://bit.ly/3ufhxIa; Harry Bloch & David Sapsford, *Whither the Terms of Trade? An Elaboration of the Prebisch-Singer Hypothesis*, 24 Cambridge Journal of Economics 461-81 (2000).

61 *See* Jasper Lukkezen & Hugo Rojas-Romagosa, *Early Warning Indicators in a Debt Restructuring Mechanism*, UNCTAD, 6 (April 29, 2014).

62 On the different approaches that exist to assess debt sustainability and their complexities, including the IMF's DSA, *see* Xavier Debrun et al., *Debt Sustainability* in SA Abbas, A Pienkowski, and K Rogoff (eds), *Sovereign Debt: A Guide for Economists and Practitioners* (OUP 2019).

Second, as it currently stands, the DSA focuses on fiscal adjustment and the evolution of the primary balance as the main elements underpinning debt sustainability. As Guzmán stresses, this prevents the DSA framework from adopting a more workable view based on *consistent macroeconomic policies*, rather than focusing on the short- and medium-term impacts of adjustment shocks.[63] In contrast, a definition that focuses on the consistency and political feasibility of macroeconomic policies conducive to debt stabilisation under non-extreme shock scenarios would result in a more structural approach to debt sustainability. Most importantly, as Marsh highlights, **a coherent framework on debt sustainability should be centred in the balance of payments and macroeconomic challenges facing IMF members** – after all, it is the balance of payments, or the ability to generate foreign exchange through an export surplus (as opposed to primary fiscal balance) what really matters for foreign currency-denominated debt.[64] Such framework should include a comprehensive analysis of how external developments such as export volumes and prices, capital flows, and transfers impact the economy, with a structural view towards creating a sustainable flow of foreign currency into the country by escalating on the economic complexity ladder. This would allow the Fund to contemplate a wider range of policies conducive to the restoration of debt sustainability that would be more workable in terms of achieving development goals and would not necessarily have fiscal adjustment at their core.[65] Instead, these could also include the possibility of running counter-cyclical policies, foreign exchange controls, and industrial policy strategies for dealing with debt sustainability issues as well as achieving the SDGs.

The most remarkable consequence of the current DSA framework's flawed macroeconomic assumptions is its poor performance in terms of assessing debt sustainability in practice. Admittedly, making projections about the future is a genuinely challenging activity in light of fundamental uncertainty,[66] which makes debt sustainability indicators more adequate to ascertain vulnerability in the present than in future scenarios.[67] However, the evaluations conducted under the DSA often reflect various types of assumptions underlying projected debt trajectories which are manifestly unrealistic from the outset. These include impracticable policy efforts and overoptimistic projections for growth, real interest rates, inflation, or exchange rates within the context of IMF-imposed austerity that create the illusion of a sustainable debt outlook.[68] This pattern has been recognised by IMF staff, who suggested that the DSA's assumptions are 'heroic' rather than 'realistic'.[69] As a result, projections have generally underestimated the insolvency problem of states in debt distress not only at

63 Martin Guzmán, *Definitional Issues in the IMF Debt Sustainability Analysis Framework: A Proposal*, 77 CIGI Policy Brief 4-5 (May 2016).

64 C Marsh, *Remarks on the IMF's New Debt Sustainability Framework*, General Theorist, (Feb. 16, 2020), https://bit.ly/2W1ZxEG.

65 Alan Auerbach & Y Gorodnichenko, *Fiscal Multipliers in Recession and Expansion* in A Alesina and F Giavazzi (eds), *Fiscal Policy After the Financial Crisis* (Univ. of Chi. Press 2012); Anja Baum et al., *Fiscal Multipliers and the State of the Economy*, 12 IMF (2012).

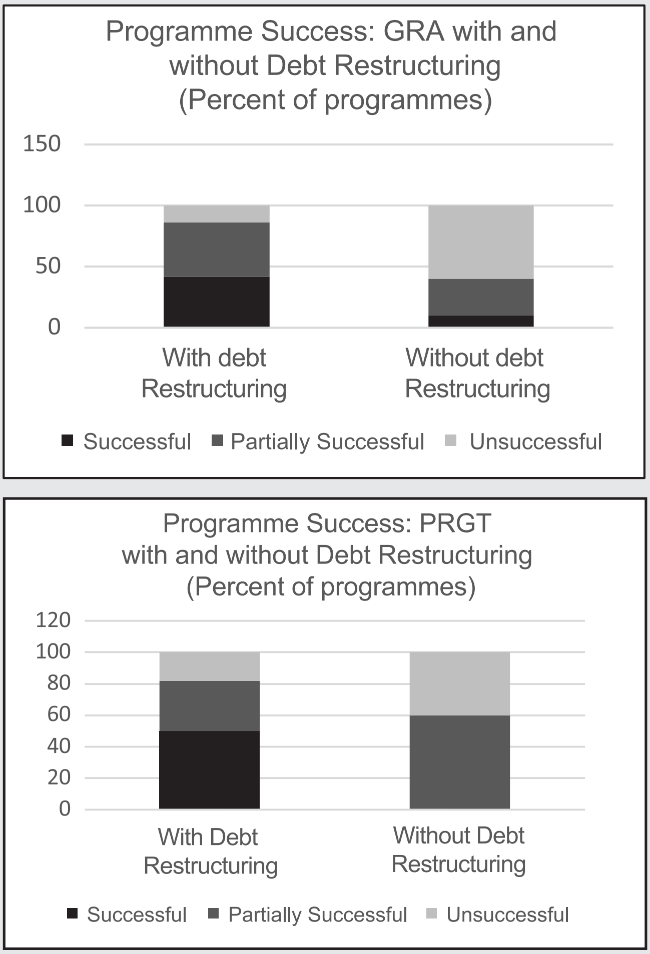
66 On modelling uncertainty in debt sustainability assessments, *see* Xavier Debrun et al., *supra* note 61, at 171-77.

67 Riegner, *supra* note 22, at 147.

the beginning of the crisis but also throughout its entire period; that is, large forecast errors typically persist even after information on the economic performance of the country has been revealed.[70]

As research conducted shortly before the outbreak of the pandemic shows, from 2015 to 2019 the Fund has approved programmes that did not involve any debt restructuring with 18 countries that, despite being highly overindebted, had their risk of default reduced to moderate or the equivalent.[71] These were effectively identified as cases where IMF financing was used to de-risk debt with the private sector in a scenario of actual or highly probable sovereign insolvency. Across those 18 members, the amount of IMF financing committed was US$93bn. As evidenced by the Fund's *2018 Review of Program Design and Conditionality*, the result of this pattern of insufficient level reduction was a significant level of failures in IMF programmes which did not involve early debt restructuring (Figure 1).[72]

Figure 1: IMF Programmes' Success Rates with and without Debt Restructuring



Source: International Monetary Fund, '2018 Review of Program Design and Conditionality', Policy Paper No 19/012 (20 May 2019) 32 (based on VE indicators, WEO, and IMF staff calculations).

Closely associated with the DSA's macroeconomic assumptions are its legal assumptions. A framework that is built upon the core premises of short-term debt service capacity and fiscal adjustment is one that is centrally focused on ensuring the performability of debt contracts between the state and its creditors, including private creditors and the IMF as preferred creditor of the debtor state.[73] However, in underestimating sovereign insolvency problems and prioritising shorter-term debt service over longer-term debt sustainability, the framework creates *de facto* priority rights in the allocation of insolvency losses to other stakeholders with equally valid legal claims on the public budget. These include, for instance, longer-term creditors of the debtor state and its population, whose claims over public services and investment, salaries, pensions, and welfare are supported by both domestic and international legal orderings.[74] Domestic legal orderings may include constitutional or other types of legislative provisions recognising the right to food safety, sanitation, healthcare, education, social protection, and other types of provisions that must be adequately reflected in a nation's budget to be operationalised. International legal orderings include obligations such as those established in the International Covenant on Economic, Social and Cultural Rights (ICESCR), whose 171 ratifying states commit to ensure a minimum floor protection for the progressive realisation of economic, social, and cultural rights.[75] Those claims, however, are neglected in the DSA's legal assumptions, which recognise the priority of legal claims over debt assets as senior to any other types of legal claims, including those associated with the human rights obligations of states.[76] A reform in the DSA framework is therefore necessary to take those claims into consideration in debt sustainability evaluations.

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68 *2018 Review of Program Design and Conditionality*, International Monetary Fund, 19 Policy Paper 26 (May 20, 2019). On the gap between debt sustainability assessments and the realism of hypothetical policies, see X Debrun, *supra* note 61, at 159.

69 Susan Hagan, *Debt Restructuring and Economic Recovery*, *in* Sovereign Debt Management, 379 (RM Lastra and L Buchheit, 2014); Susan Hagan, M Obstfeld and PM Thomsen, *Dealing with Sovereign Debt – The IMF Perspective,* IMFBlog (Feb. 23 2017).

70 Guzmán, *supra* note 62, at 2.

71 Among this group of states, eight were part of the PRGT – Afghanistan, Cameroon, Central African Republic, Chad, Ghana, Mauritania, São Tomé and Príncipe, and Sierra Leone – and ten drew on the IMF General Resources Account – Angola, Argentina, Ecuador, Egypt, Jordan, Mongolia, Pakistan, Sri Lanka, Tunisia, and Ukraine. *See* Jubilee Debt Campaign et al., *Preventing and Resolving Sovereign Debt Crises: Stop Bailing Out Reckless Lenders* (Oct. 2019).

72 *2018 Review of Program Design and Conditionality*, International Monetary Fund Policy Paper No 19/012, 31 (May 20, 2019). Under GRA programmes, the IMF's definition of success is the ending of any balance-of-payments liquidity support and medium-term external viability after programme completion. In turn, success in PGRT programmes is measured on the basis of a set of indicators tailored to the specific objectives of the LIC facilities, including the evolution of external debt vulnerabilities, social spending, capital expenditure, revenue mobilisation, real GDP growth, and inflation.

73 Rutsel Silvestre Martha, *Preferred Creditor Status under International Law: The Case of the International Monetary Fund* 39 The Int'l & Comp. L. Q. 801, 826 (1990).

74 *See e.g.*, Jackie Dugard et al., *Research Handbook on Economic, Social and Cultural Rights as Human Rights* (Elgar 2020); Ilias Bantekas and Cephas Lumina, *Sovereign Debt and Human Rights* (OUP 2018).

75 *Status of Ratification Interactive Dashboard: International Covenant on Economic, Social and Cultural Rights* UN Office of the High Commissioner for Hum. Rights, https://bit.ly/3znrq7P.

76 *Integrating human rights into debt policies and debt sustainability analyses to counter new debt vulnerabilities*, UN Independent Expert on the Effects of Foreign Debt and Other Related International Financial Obligations of States on the Full Enjoyment of Human Rights (August 5, 2016), https://bit.ly/3wHGpYJ.

In sum, the macroeconomic and legal assumptions embedded within the DSA have done little (if anything) to promote debt sustainability through economic recovery from the insolvency crisis, and have mostly been counterproductive to the socioeconomic development of the borrowing state.[77] Their effectiveness relies on their capacity to reallocate risk away from the IMF's general resources, regardless of whether the Fund's purpose of correcting balance of payments imbalances 'without resorting to measures destructive of national or international prosperity' – as per Article I of the IMF's Articles of Agreement – are achieved. Moreover, their general effect is to upset the main wealth and income distribution chains in society – wages[78] and public services.[79] In doing so, they contribute towards increasing inequality in the borrowing state,[80] thereby placing the highest burden of insolvency costs on the most vulnerable sectors in society.

5. Towards higher legitimacy and accountability standards for the DSA

Another crucial set of elements for reform in the DSA pertains to the domain of transparency, accountability, and participation in the design and application of the framework.[81] The high levels of discretion enabled by the DSA framework to IMF staff in the assessments,[82] as well as the lack of institutional voice for DEEs in the design of, and decision-making process on, such processes, often result in suboptimal levels of legitimacy, transparency, and accountability.[83] In fact, due to the soft law status of the DSA, the processes involved in its application are not subject to any formalised accountability mechanisms. The soft legal characterisation of the assessment contrasts

77 *Trade and Development Report, 2015: Making the International Financial Architecture Work for Development* United Nations Conference on Trade and Development, 138 (2015); James Vreeland, *The IMF and Economic Development* (CUP 2010) ch 5; William Easterly, *What Did Structural Adjustment Adjust? The Association of Policies and Growth with Repeated IMF and World Bank Adjustment Loans* 76 J. of Dev. Econ. 1, 22 (2005); A Przeworski and James Vreeland, *The Effect of IMF Programs on Economic Growth* 62 J. of Dev. Econ. 385-421 (2000).

78 *Income Inequality and Labour Income Share in G20 Countries: Trends, Impacts and Causes*, ILO, IMF, et al., (2015) https://www.oecd.org/g20/topics/employment-and-social-policy/Income-inequality-labour-income-share.pdf.

79 Emma Seery, *Working for the Many: Public Services Fight Inequality*, 182 Oxfam Briefing Paper (April 3, 2014), https://bit.ly/3CoEA6m; Gerlinde Verbist et al., *The Impact of Publicly Provided Services on the Distribution of Resources: Review of New Results and Methods*, 130 OECD Soc., Emp. and Migration Working Papers, 35 (2012).

80 Nona Tamale, *Adding Fuel to Fire: How IMF Demands for Austerity will Drive Up Inequality Worldwide*, Oxfam (Aug. 11, 2021), https://bit.ly/2Z9sqQh; V Lang, *The Economics of the Democratic Deficit: The Effect of IMF Programs on Inequality,* The Rev. of Int'l Org. (2020), https://bit.ly/3lHlCBi; Timon Forster et al., *How Structural Adjustment Programs Affect Inequality: A Disaggregated Analysis of IMF Conditionality 1980-2014*, 80 Soc. Sci. Rsch. 83-113, (2019); Doris A. Oberdabernig, *Revisiting the Effects of IMF Programs on Poverty and Inequality*, 46 World Dev. 113, 142, (2013); James Vreeland, *The Effect of IMF Programs on Labor*, 30 World Dev. 121, 139 (2002); Gopal Garuda, *The Distributional Effects of IMF Programs: A Cross-Country Analysis,* 26 World Dev. 1031, 1051 (2000).

81 Kern Alexander et al., *Global Governance of Financial Systems: The International Regulation of Systemic Risk,* 153 (OUP 2005).

82 Valentin Lang & Andrea Presbitero, *Room for Discretion? Biased Decision-Making in International Financial Institutions*, 130 J. of Dev. Econ. 1, 16 (2017).

83 Ngaire Woods, *Making the IMF and the World Bank More Accountable* 77 Int'l Aff. 83-100 (2001); Julia Black, *Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes*, 2 Reg. & Gov. 137, 164 (2008).

with the importance of its implications for the economic development and wellbeing of the borrowing state's population. This makes those legal decisions, despite their soft law characterisation, an exercise of international public authority.[84]

This issue is exacerbated within the IMF because the institution currently has a highly asymmetric governance profile, with an almost complete mismatch between the Fund's controlling members and those who actually use its lending facilities. IMF voting rights are allocated according to each member's quota holdings – that is, the subscription paid by each member to join the Fund.[85] IMF quotas are predominantly owed by the most monetarily powerful states in the international monetary system, which typically do not rely on IMF financing to solve balance of payments problems – most prominently, the United States, China, Japan, Germany, France, and the United Kingdom.[86] As the largest shareholder, the United States has unique veto power over major policy decisions [87] and, in practice, is able to critically influence individual country lending decisions. Consequently, a few core states hold much of the voting power over policies that are predominantly targeted at a non-controlling majority of states in the global South.[88]

As it relates to participation mechanisms in the DSA, the IMF has been historically resistant to adopt recommendations on the normative and procedural elaboration of debt sustainability analyses by both governments and various civil society actors.[89] Although since the 2000s the Fund has opened up a bit more in order to seek a higher level of legitimacy in its actions – perhaps in response to what has been called the IMF's 'legitimacy crisis' since the Asian financial crisis of 1997-98[90] –, the normative framework and decision-making procedures of the DSA establish insufficient mechanisms for the participation of debtor states and other civil society actors in its design and application. In general terms, the participation mechanisms currently in place (such as those carried out under the Article IV report framework) are not formal in nature and, consequently, have not generated any substantial changes in the DSA criteria. Indeed, the concept of debt sustainability that underlies those assessments has always been based around the idea of shorter-term debt service capacity. At the same time, particularly in the cases of low-income countries (LICs),

84 A Bogdandy and Matthias Goldmann, *Sovereign Debt Restructurings as Exercises of International Public Authority: Towards a Decentralized Sovereign Insolvency Law*, *in* Sovereign Financing and International Law: The UNCTAD Principles on Responsible Sovereign Lending and Borrowing (C. Espósito, Y Li & JP Bohoslavsky eds. 2013).

85 Rutsel Silvestre Martha, *The Financial Obligation in International Law*, 53 (OUP 2015); JK Horsefield, *The International Monetary Fund 1945-1965*, IMF 94, (1969).

86 *IMF Members' Quotas and Voting Power, and IMF Board of Governors*, International Monetary Fund https://www.imf.org/external/np/sec/memdir/members.aspx.

87 *The International Monetary Fund*, US Cong. Res. Serv. (January 13, 2021), https://bit.ly/2XDwura.

88 Daniel K. Tarullo, *The Role of the IMF in Sovereign Debt Restructuring* (2005) 6 Chi. J. of Int'l L. 287, 292-93 (2005).

89 A Caliari, *The New World Bank/IMF Debt Sustainability Framework: Does it Live Up to the Human Development Promise?* (2005) https://bit.ly/3ivuB6P.

90 Leonard Seabrooke, *Legitimacy Gaps in the World Economy: Explaining the Sources of the IMF's Legitimacy Crisis* 44 Int'l Pol. 250 (2007).

91 Caliari, *supra* note 88.

the participation of states in determining and managing the sustainability of their own debt is limited. Indeed, these countries have not had any participation in the determination of the indicative thresholds that serve as a parameter for their debt sustainability analysis.[91]

The lack of participation of many of LICs in the DSA is reflected on the fact that the debt sustainability assessments of poor and highly indebted countries apply indicators such as those of the Country Policy and Institutional Assessment (CPIA, prepared by the World Bank), without any voice mechanisms for governments regarding the applicable criteria.[92] Indeed, most of the 16 criteria used in the CPIA are irrelevant for the purpose of determining the good use of the debt that is contracted and, in some cases, are aimed at promoting specific policies, such as trade liberalisation, so-called 'deregulation' and a regressive tax structure.[93]

Finally, the ineffectiveness of the participation mechanisms for both states and civil society organisations produces negative impacts on the transparency of the framework. The IMF adopts a 'transparency policy' through which it provides the public with 'access to Fund views and deliberations' aimed at 'informing public debate and building traction for the Fund's advice, supporting the quality of surveillance and of programs, by subjecting the Fund to outside scrutiny, and enhancing the Fund's legitimacy by making the institution more accountable'.[94] Despite this policy, the substantive and procedural elements of the DSA remain at a considerably lower stage of development regarding transparency.[95] Crucially, the analysis leaves many elements to the discretion of the staff, which makes it difficult for actors external to the institution – including the governments of the countries upon which the evaluation is carried out – to demand accountability for the content of the assessments.[96]

This is where procedural and substantive elements overlap in the governance problems of the DSA: the substantive consequence of those procedural issues is the proscription of a development-oriented approach in the analysis, which would be more likely if the framework had the crucial input of those affected by the policies prescribed to deal with sovereign indebtedness problems. In this sense, a quota reform in the IMF that more adequately reflects the relative economic weights of the global South[97] could potentially lead to better transparency, accountability, and participation

92 Ibid.

93 African Forum and Network on Debt and Development, et al., *Civil Society position on the IMF and World Bank Debt Sustainability Framework Review* (2016), https://bit.ly/3xPKZpc.

94 *Updated Guidance Note on the Fund's Transparency Policy*, International Monetary Fund at 4 (April 7, 2014) https://www.imf.org/external/np/pp/eng/2014/040714.pdf.

95 On the limits of transparency and the importance of ambiguity in the governance of the Bretton Woods institutions, *see* Jacqueline Best, *The Limits of Transparency: Ambiguity and the History of International Finance* (Cornell University Press, 2007).

96 Daniel Bradlow, *An IMF that Works for Africa*, The Global Governance Project, (August 12, 2019), https://bit.ly/3lWsjiU.

97 Rakesh Mohan, *IMF Quota Reforms and Global Economic Governance: What Does the Future Hold?*, 2 Center for Soc. and Econ. Progress Working Paper (2020) https://bit.ly/3CVX7Y5 ; José De Gregorio et al., *IMF Reform: The Unfinished Agenda*, 20 Geneva Reports on the World Econ. (2018) https://bit.ly/3zNYxBP; Barry Eichengreen and Ngaire Woods, *The IMF's Unmet Challenges,* 30 J. of Econ. Perspectives 29-52 (2015).

mechanisms in the DSA and help redesigning the framework towards making its debt sustainability analyses and policy advice compatible with the SDGs.

6. Concluding Remarks

The post-pandemic recovery agenda requires a global response focused on achieving resilience and sustainability through the pursuit of the SDGs, enabling an adequate response to the crisis in DEEs. Urgent measures and policies are needed that stimulate broad-based economic growth and complexity, employment creation and socioeconomic development for all. The public sector has a crucial role in this agenda. Most countries in the global South are in desperate need to widen their fiscal and monetary space to build and shape markets through investment, innovation, and financial support to businesses and workers in the post-pandemic stage. This requires a view of debt sustainability that is conducive to long-term development strategies and is based on consistent macroeconomic policies and the sustainability of the balance of payments in the longer term, rather than short-term debt service goals. Equally, this requires a view that recognises the multiplicity of legal claims involved in sovereign debt crises, rather than creating unjustifiable legal hierarchies between claims over debt assets and other types of valid claims founded in various legal orderings.

Within a context in which most DEEs have approached the IMF for balance of payments support amid the crisis, reforming the DSA framework away from its austerity-biased legal and macroeconomic assumptions is urgently needed. This process of legal reform should ensure higher levels of transparency, accountability, and voice mechanisms to those mostly impacted by the adverse effects of sovereign debt crises, including debtor states. Embracing a debt sustainability framework that is compatible with the SDGs agenda is a crucial precondition to achieve a sustainable and resilient post-pandemic recovery in the years ahead, particularly in the global South.