

Web Document 13.A: Establishment of the HIPC Trust

A Trust for Special ESAF Operations for Heavily Indebted Poor Countries and Interim ESAF Subsidy Operations—Establishment Decision No. 11436-(97/10) ESAF, adopted February 4, 1997

1. The Fund adopts the Instrument to Establish a Trust for Special ESAF Operations for the Heavily Indebted Poor Countries and Interim ESAF Subsidy Operations, which is annexed to this decision.

2. The Fund shall conduct semiannual reviews of the financing of the Trust for Special ESAF Operations for the Heavily Indebted Poor Countries and Interim ESAF Subsidy Operations.

Annex: Instrument to Establish a Trust for Special ESAF Operations for the Heavily Indebted Poor Countries and Interim ESAF Subsidy Operations

Introductory Section

To help fulfill its purposes, and in furtherance of the purposes of the Enhanced Structural Adjustment Facility (“ESAF”) Trust as described in the Instrument to Establish the Enhanced Structural Adjustment Facility Trust adopted by Decision No. 8759-(87/176) ESAF, December 18, 1987, as amended (“the 1987 ESAF Instrument”), the International Monetary Fund (“the Fund”) has adopted this Instrument to Establish a Trust for Special ESAF Operations for the Heavily Indebted Poor Countries and for Interim ESAF Subsidy Operations (“the Trust”), which shall be administered by the Fund as Trustee (“the Trustee”). The Trust shall be governed by and administered in accordance with the provisions of this Instrument.

Section I. General Provisions

Paragraph 1. Definitions

Wherever used in this Instrument, unless the context otherwise requires:

- (i) “Initiative” means the program of action endorsed by the Fund, the International Bank for Reconstruction and Development and the International Development Association (hereinafter jointly referred to as “the Bank”)

ESTABLISHMENT OF THE HIPC TRUST

- in September 1996 for reducing the external debt burden of heavily indebted poor countries to a sustainable level by their respective completion points;
- (ii) “DSA” means a debt sustainability analysis jointly prepared by the staffs of the Fund and the Bank and the concerned member to provide the basis for determining the member’s qualification for assistance under the Initiative;
 - (iii) “decision point” means the time when the Trustee decides whether a member qualifies for assistance under the Initiative, that is, normally at the end of the initial three-year performance period;
 - (iv) “completion point” means the time when a final decision will be taken by the Trustee to approve assistance to a qualifying member, that is, normally at the end of the second three-year performance period;
 - (v) “debt sustainability” means the achievement of sustainable levels of external debt at the completion point defined on a case-by-case basis within the range of 200–250 percent for the present value of debt-to-exports ratio and 20–25 percent for the debt-service-to-exports ratio, with the specific targets determined in light of country-specific vulnerability factors, such as the concentration and variability of exports and with particular attention to fiscal indicators of the burden of debt service. A target range will be specified of plus or minus 10 percentage points around the agreed target for the present value of debt-to-exports ratio;
 - (vi) “borderline case” means the case of a member that faces an external debt burden above or in the upper end of the thresholds for debt sustainability at the decision point, and where there is a reasonable degree of uncertainty about whether traditional debt relief mechanisms would achieve debt sustainability by the completion point;
 - (vii) “traditional debt relief mechanisms” means the application of Naples terms by Paris Club creditors, including the assumption of a stock-of-debt operation, involving a 67 percent present value reduction of the eligible debt of a member at the decision point, and at least comparable treatment by other official bilateral and commercial creditors;
 - (viii) “interim ESAF subsidy operations” means operations to subsidize the interest rate on interim ESAF financing to be made following full commitment under ESAF arrangements of resources available under borrowing agreements for the current phase of ESAF operations which is expected by about December 31, 2000; interim ESAF operations are expected to take place during the period 2000/01–2004; and
 - (ix) “self-sustained ESAF operations” means ESAF-type operations financed on a revolving basis from Special Disbursement Account (SDA) resources through the retransfer of resources from the ESAF Trust Reserve Account, when they are no longer needed to cover the total liabilities of the 1987 ESAF Trust to lenders.

Paragraph 2. Purposes

The Trust shall assist in fulfilling the purposes of the Fund by providing balance of payments assistance to low-income developing members by:

- (a) making grants (“Trust grants”) and/or loans (“Trust loans”) to eligible members that qualify for assistance under the terms of this Instrument for purposes of the Initiative; and
- (b) subsidizing the interest rate on interim ESAF operations to ESAF-eligible members.

Paragraph 3. Trust Account and resources

The operations and transactions of the Trust shall be conducted through an account (“the Account”). Within the Account, the Trustee may establish such sub-accounts as it deems necessary for the administration of the resources in the Account. The resources held in the Account shall consist of:

- (a) grant contributions made to the Trust for the purposes of paragraph 2;
- (b) loans, deposits, and other types of investments made by contributors with the Trust to generate income to be used for the purposes of paragraph 2;
- (c) transfers from the Special Disbursement Account for the purposes of paragraph 2; and
- (d) net earnings from investment of resources held in the Account.

Paragraph 4. Unit of account

The SDR shall be the unit of account for commitments and all other operations and transactions of the Trust, provided that commitments for contributions may also be made in currency.

Paragraph 5. Media of payment of contributions and exchange of resources

- (a) Resources provided to the Trust may be received in any currency.
- (b) Payments by the Trust shall be made in U.S. dollars or such other media as may be agreed between the Trustee and the payee.
- (c) Contributions to the Trust may also be made in or exchanged for SDRs in accordance with such arrangements as may be made by the Trust for the holding and use of SDRs.
- (d) The Trustee may exchange any of the resources of the Trust, provided that any balance of a currency held in the Trust may be exchanged only with the consent of the issuer of such currency.

Section II. Contributions to the Trust

The Trustee may accept contributions of resources for the Account on such terms and conditions as may be agreed between the Trustee and the respective contributors, subject to the provisions of this Instrument.

Section III. Trust Grants and Loans

Paragraph 1. Eligibility for assistance

In order to be eligible for assistance from the Trust under Section I, paragraph 2(a) of this Instrument, a member shall meet the following requirements:

- (a) the member is ESAF-eligible, i.e., it is included in the list of members annexed to Decision No. 8240-(86/56) SAF, as amended;
- (b) the member was pursuing a program of adjustment and reform by October 1, 1996, or the member shall have adopted such a program in the two-year period beginning October 1, 1996, supported by the Fund through ESAF or Extended Arrangements, or, on a case-by-case basis as determined by the Trustee, a Stand-By Arrangement, a decision on rights accumulation, or financial support under the Fund's emergency assistance policy in post-conflict countries; and
- (c) in support of the member's adjustment and reform program, the member shall have received or is eligible to receive assistance to the full extent available under traditional debt relief mechanisms.

Paragraph 2. Qualification for assistance

The Trustee shall determine whether an eligible member qualifies for assistance under the Initiative in accordance with the criteria set out below:

- (a) As projected at the decision point, the DSA shall indicate that the member's external debt situation at the completion point, even after the full application of traditional debt relief mechanisms, would not be sustainable or that the member is a "borderline case."
- (b) The member has not agreed on an exit operation with Paris Club creditors on Naples terms after the adoption of this decision.
- (c) The member has established a track record of strong policy performance under Fund-supported programs, covering macroeconomic policies and structural and social policy reforms. This requirement shall normally be satisfied by an initial three-year performance period leading up to the decision point, followed by a second three-year performance period leading up to the completion point. In the case of the first three-year period, such programs shall be programs supported by ESAF or Extended Arrangements, or, on a case-by-case basis as determined by the Trustee, Structural Adjustment Facility (SAF) arrangements, Stand-By Arrangements, or decisions on rights accumulations. In the case of the second three-year period, such programs shall be programs supported by ESAF or Extended Arrangements. It is expected that the member shall have a track record of six years or more of strong and sustainable policy performance when the completion point is reached. The required period shall be evaluated flexibly by the Trustee. Members could receive credit toward the decision point for programs that were under way prior to the adoption of the Initiative. A reasonable shortening of the second stage of three years up to the completion point could

be considered—on an exceptional basis—for members that have already sustained records of strong performance.

- (d) All other creditors (holding debt claims above a de minimis amount) of the member shall have agreed to take action under the Initiative.

Paragraph 3. Amount of assistance

- (a) At the decision point, and in consultation with the Bank, the eligible member and its other creditors, the Trustee shall make a preliminary determination of the amount of resources that could be made available from the Trust to achieve a reduction in the present value of debt owed to the Fund by the member. The amount to be committed shall be confirmed by the Trustee in the context of satisfactory assurances regarding the exceptional assistance to be provided under the Initiative by the member's other creditors.
- (b) At the decision point, based on the external debt sustainability targets established for the member for the completion point, the Trustee shall commit the amount to be provided from the Trust at the completion point to a member to permit a reduction in the present value of debt owed by it to the Fund. The specific amount of assistance to be committed by the Trustee will be based on (i) the Fund's share in the present value of the multilateral debt of the member at the decision point; and (ii) the assistance to be provided by multilateral creditors, in terms of a reduction in the present value of the debt owed to them by the member sufficient to achieve the debt sustainability targets, taking into account the exceptional assistance to be provided by Paris Club creditors and at least comparable action by other official bilateral and commercial creditors under the Initiative. In the "borderline case," the Trustee may defer its commitment until the completion point.
- (c) At the completion point, with due regard to the commitment made at the decision point, the Trustee:
 - (i) will consider, on the basis of the updated DSA, an increase in the amount of assistance committed to the member at the decision point, if it is determined that the present value of debt-to-exports ratio is above the upper end of the agreed country-specific sustainability target range established at the decision point, and that this is due primarily to exogenous and not purely temporary factors; or
 - (ii) may consider, in the event of an extraordinary improvement in a member's economic circumstances as reflected in the updated DSA, a reduction in the amount of assistance committed to the member at the decision point, if it is determined that the present value of debt-to-exports ratio is below the lower end of the agreed country-specific sustainability target range established at the decision point, and that this is due primarily to exogenous and not purely temporary factors. Any such increase or reduction in the amount of assis-

ESTABLISHMENT OF THE HIPC TRUST

tance would be consistent with achieving the country-specific sustainability target range agreed at the decision point.

- (d) At the completion point, the Trustee shall confirm that it would disburse the amount committed to the member at the decision point, subject to any adjustment under (c) above; or, for a “borderline case,” the Trustee shall commit and confirm that it would disburse the amount of assistance in accordance with (b) above.
- (e) Final approval of the disbursement shall be given in the context of satisfactory assurances regarding the exceptional assistance to be provided under the Initiative by the member’s other creditors.

Paragraph 4. Terms of assistance

- (a) The assistance to be provided by the Trust to a qualifying member shall be either through a Trust grant or a Trust loan, or both. The choice of a Trust grant, a Trust loan, or a combination thereof, shall be made by the Trustee on a case-by-case basis, taking into account the objective of bringing the debt-service-to-exports ratio (after assistance under the Initiative from the Fund and other creditors) to the debt sustainability target agreed for the member at the decision point. The maturity of a Trust loan shall be determined by the Trustee on a case-by-case basis, subject to paragraph 4(c) below, taking into account the need to smooth the time profile of the member’s total external debt service and its debt service to the Fund (after assistance under the Initiative from the Fund and other creditors). The schedule for using the proceeds of the Trust grant or the Trust loan by the member shall be agreed by the Trustee and the member taking into account the same criteria for deciding among a Trust grant, a Trust loan, or a combination thereof and the maturity of such loan.
- (b) Trust grants and Trust loans (including any income from investment of their proceeds) shall be used to meet the member’s debt-service payments on its existing debt to the Fund as they fall due in accordance with the schedule for using the proceeds of such grants and loans as determined under the provisions of (a) above.
- (c) Trust loans shall be provided to members interest-free and shall have a maturity of no less than ten (10) years and up to twenty (20) years, including a grace period of no less than five-and-a-half (5½) years and up to ten-and-a-half (10½) years. The Trustee may not reschedule the repayment of Trust loans.

Paragraph 5. Disbursements

- (a) Any disbursement of Trust grants and Trust loans shall be subject to the availability of resources to the Trust.
- (b) Following final approval of a Trust grant or Trust loan (or both) at the completion point, the proceeds of such grant or loan (or both) shall be paid in a single disbursement into a separate account for the benefit of the member and administered by the Trustee. The Trustee shall use these proceeds (including any

income from investments of such proceeds) in accordance with paragraph 4(b) above. The terms and conditions for the operation of such account shall be determined by the Trustee.

Paragraph 6. Modifications

Any modification of these provisions will affect only Trust grants or Trust loans made after the effective date of the modification, provided that any modification of the interest rate shall apply to interest accruing after the effective date of the modification.

Section IV. Administration of the Trust

Paragraph 1. Trustee

- (a) The Trust shall be administered by the Fund as Trustee. Decisions and other actions taken by the Fund as Trustee shall be identified as taken in that capacity.
- (b) Subject to the provisions of this Instrument, the Fund in administering the Trust shall apply the same rules as apply to the operation of the General Resources Account of the Fund.
- (c) The Trustee, acting through its Managing Director, is authorized:
 - (i) to make all arrangements, including establishment of accounts in the name of the International Monetary Fund, which shall be accounts of the Fund as Trustee, with such depositories of the Fund as the Trustee deems necessary; and
 - (ii) to take all other administrative measures that the Trustee deems necessary to implement the provisions of this Instrument.

Paragraph 2. Separation of assets and accounts, audits and reports

- (a) The resources of the Trust shall be kept separate from the property and assets of all other accounts of the Fund, including other administered accounts, and shall be used only for the purposes of the Trust in accordance with this Instrument.
- (b) The property and assets held in the other accounts of the Fund shall not be used to discharge liabilities or to meet losses arising out of the administration of the Trust. The resources of the Trust shall not be used to discharge liabilities or to meet losses arising out of the administration of the other accounts of the Fund.
- (c) The Fund shall maintain separate financial records and prepare separate financial statements for the Trust.
- (d) The audit committee selected under Section 20 of the Fund's By-Laws shall audit the financial transactions and records of the Trust. The audit shall relate to the financial year of the Fund.

- (e) The Fund shall report on the resources and operations of the Trust in the Annual Report of the Executive Board to the Board of Governors and shall include in the Annual Report the report of the audit committee on the Trust.

Paragraph 3. Investment of resources

- (a) Any balance held by the Trust and not immediately needed in operations shall be invested.
- (b) Investments may be made in any of the following:
 - (i) marketable obligations issued by international financial organizations and denominated in SDRs or in the currency of a member of the Fund;
 - (ii) marketable obligations issued by a member or by a national official financial institution of a member and denominated in SDRs or in the currency of that member; and
 - (iii) deposits with a commercial bank, a national official financial institution of a member, or an international financial institution that are denominated in SDRs or in the currency of a member. Investment which does not involve an exchange of currency shall be made only after consultation with the member whose currency is to be used, or, when an exchange of currency is involved, with the consent of the issuers of such currencies.

Section V. Period of Operation and Liquidation

Paragraph 1. Period of operation

The Trust established by this Instrument shall remain in effect for as long as is necessary, in the judgment of the Fund, to conduct and to wind up the business of the Trust.

Paragraph 2. Liquidation of the Trust

If the Trustee decides to wind up the operations of the Trust, the resources in the Account shall be used first to discharge all the liabilities of the Trust. Any amount remaining in the Account after the discharge of all the liabilities of the Trust shall be used first to reimburse the SDA for transfers made in accordance with Decision No. 11434-(97/10), adopted February 4, 1997, and any remaining amount shall then be made available for self-sustained ESAF operations, except that at the request of the contributor, its pro rata share in any unused resources contributed to finance the operations referred to in Section I, paragraph 2(a) of this Instrument, after the completion of such operations, shall be distributed to the contributor.

Section VI. Amendment of the Instrument

The Fund may amend the provisions of the Instrument, except that any amendment of Section I, paragraph 2, Section IV, Section V and this Section shall require the consent of all contributors to the Trust.