POSITION PAPER ON DEBT SUSTAINABILITY PRESENTED BY MR. KHALED HUSSEIN ALYEMANY, MINISTER PLENIPOTENTIARY, PERMANENT MISSION OF YEMEN ON BEHALF OF THE GROUP OF 77 AND CHINA, AT THE AD HOC OPEN ENDED WORKING GROUP OF THE GENERAL ASSEMBLY FOLLOW-UP OF THE OUTCOME OF THE CONFERENCE ON THE WORLD FINANCIAL AND ECONOMIC CRISIS AND ITS IMPACT ON DEVELOPMENT (New York, 12 April 2010)

1. In accordance with the schedule presented by the co-facilitators of the ad hoc open ended working group of the General Assembly established in resolution 63/305 of the GA, to follow up on issues contained in the outcome document of the Conference on the World Financial and Economic Crisis and Its Impact on Development, HE Ambassador Lazarous Kapambwe Permanent Representative of Zambia, and HE Ambassador Morten Wetland Permanent Representative of Norway to the UN, on their letter dated March 24th 2010, today's first meeting is held to discuss the topic of "Debt Sustainability" and based, in particular, on paragraphs 15, 33 and 34 of the Outcome Document.

2. The G77 and China attaches great importance to the Working Group to follow-up on the outcome of the June Conference, but we witness with concern the slow performance, and encourages the co-facilitators to increase their interest in the process in order to honor our common commitments reflected in the outcome document. This is the first of a series of position papers of the G77 and China spanning the breadth of the issues contained in the Outcome Document. The G77 and China reserves the right to address issues that are not necessarily part of the co-facilitators work programe, but that are nevertheless referred to in the Outcome Document.

3. In that regard, the Group of 77 and China present its position on the impact of the financial and economic crisis on the problems related to the sustainability of the debt in developing countries, with the traditional openness and commitment to discuss, identify and agree upon, concrete measures to mitigate such an impact and to ensure long-term debt sustainability in the developing world.

4. For that purpose, consistent with its letter of March 4th 2010, addressed to the Co-Facilitators, the Group of 77 and China proposes the following elements for the operationalization of the decisions related to the mitigation of the impact of the crisis on the external indebtedness of developing countries, as contained in the Outcome Document, inter alia, in paragraphs 15, 33 and 34.

Impact of the Crisis on Debt Sustainability (p. 33)

5. The recent publication by the World Bank under the title "Global Development Finance, External Debt of Developing Countries 2010", shows that at the end of 2008, the dollar value of the total external debt of developing countries surpassed the US$ 3.7 trillion, with an increase of US$ 268 billion, compared to the previous year).

6. According to the UNCTAD Report "on the impact of the Financial and Economic Crisis on Debt Sustainability in Developing Countries", debt sustainability should not be viewed as simply the capacity to continue servicing debt obligations, but also, as a recognition that debt servicing costs necessarily means fewer funds available to fight poverty and meeting MDGs.

7. Unfortunately, the current crisis has demonstrated, once again, the vulnerability of developing countries to exogenous shocks and that the global downturn has affected the capacity of those countries to continue servicing their debt obligations, regardless of their good practices, with the result that fewer funds are available for financing developing and the international agreed development goals, including the MDG's, laying therefore the foundations for a debt crisis in the years to come.

8. The Outcome Document recognizes this threat in its paragraph 33, affirming that appropriate measures must be taken to mitigate the negative effects of the crisis on the indebtedness of developing countries and to avoid a new debt crisis, supporting as well, to make full use of the existing frameworks. Those measures should not be limited to the full use of the existing Debt Sustainability Framework, but should also include the provision of increased funds for debt rollover, innovative debt swap criteria, and increased concessionalities.

9. As the Secretary-General Report entitled "towards a durable solution to the debt problems of developing countries (Document A/64/167) recognizes, based on paragraph 31 of the Outcome Document, the international community should help countries with access to international capital markets, to develop new debt instruments and institutions which automatically reduce, or at least avoid amplifying, debt service in the presence of negative external shocks.

10. At the same time, the joint Debt Sustainability Framework of the International Monetary Fund and the World Bank should be put under continued review with a coordinated and cooperative approach and a full inclusion of the views of developing countries, in an open and transparent manner.

Temporary Standstills and Moratorium (p. 15)

11. During the June Conference negotiations, the Group of 77 and China called for a temporary moratorium or standstill on debt servicing for developing countries in need. In the Secretary General Report (Document A/64/167), it is mentioned that given the devastating effects of the financial crisis and the urgent need to prevent the worsening of debt ratios, which may lead to lower social expenditures and increase poverty. The UNCTAD Secretariat proposed, as well, a temporary debt moratorium or standstill on official debt for low-income countries.

12. According to the SG Report, the total amount of such a temporary moratorium is miniscule, constituting about US$ 26 billion for the 49 Low Income Countries in 2009 and 2010 combined. It would immediately and unconditionally liberate resources, as part of a multifaceted approach to mitigating the impact of the crisis and reduce the build-up of unsustainable debt.

13. In that sense, the Outcome Document recognized in its paragraph 15, the right of developing countries facing an acute and severe shortage of foreign reserves because of the fallout of the crisis, to seek to negotiate agreements on temporary debt standstills between debtors and creditors, in order to help mitigate the adverse impacts of the crisis and stabilize macroeconomic developments.

14. According to the above mentioned Report of the Secretary-General, such a policy could provide recipient countries with breathing space and offset some of the negative effects of contracting export revenue and financial inflows. The moratorium could function as a counter-cyclical measure and, by contributing to macroeconomic stability in recipient economies, play a role in sustaining global demand.

15. The operationalization of those rights recognized in the Outcome Document and reaffirmed in the recent General Assembly Resolution 64/191 of 21 December 2009, depends only on an agreement between debtors and creditors, but it could also be established under an independent international sovereign debt workout mechanism.

The provision of grants and concessional loans as the preferred modalities to ensure debt sustainability (p. 34)

16. For the past three decades, IMF loans and country assessments have been accompanied by demands that countries adopt a series of policy prescriptions, which in several cases had no relation with debt management and which have undermined the policy space of developing countries. In this regard, the G77 and China calls on the IMF to address the issue of conditionalities as an integral part of the reform process, including through re-examining the current economic parameters on which it bases its economic analysis and policy advice and we reiterate that developing countries must have the necessary policy space to pursue tailored and targeted responses in accordance with their development needs and priorities.

17. In March 2009, the IMF announced an overhaul of its lending framework with the purpose of reducing conditionality and the creation of a new Flexible Credit Line (FCL), some reforms in the Exogenous Shocks Facility and the suspension of the Structural Performance Criteria.

18. However, the precautionary oriented FCL will only be available for "strong-performance actors", with policies judged adequate by the Fund and other pre-set qualification criteria. Compared to previous years, slightly greater flexibility is shown in some programs, but as the IMF recognizes, structural reforms will continue to be part of IMF-supported programs.

19. According to SG Report on External Debt, out of the $750 billion that were pledged by some members of the international community, as a response to the crisis, only $50 billion were targeted specifically to low income countries and small and vulnerable States.

20. Therefore, substantial new and additional resources, inter alia, short-term liquidity and long-term development financing and grants will need to be made available to developing countries to be utilized towards regeneration of the economies and recapitalization of national financial institutions, as way to ensuring debt sustainability while responding adequately to their social priorities, including health and education in accordance with their national development strategies and priorities.

Enhance approaches to the restructuring of sovereign debt based on existing frameworks and principles (p. 34)

21. According to the World Economic and Social Prospect 2010, many developing countries, including those that benefited from the current debt-relief initiatives, face enormous pressures on external payments and fiscal budgets. As of March 2009, the debt levels of almost 30 countries exceeded 60 per cent of their GDP. The situation has been particularly severe for the commodity-exporting countries and aggravated in others due to the fall in foreign-exchange earnings, the reduction in export revenues, the higher-cost for imported food and fuel, currency depreciations and deterioration of tax revenues.

22. Under the Heavily Indebted Poor Countries Initiative and the Multilateral Debt Relief Initiative and the support of bilateral creditors, the 26 HIPC countries that have reached the completion point plus the 9 countries that have reached the decision point, are receiving in full or a portion of an

estimate debt relief of $85.7 billion. Five pre-decision point countries still remain in analysis for an estimated of $17 billion.

23. However, many of the countries that have not yet completed the requirements for full debt relief share some serious challenges like preserving peace and stability, improving governance and the delivery of basic services, requiring therefore extreme efforts from their Governments and the support from the international community. Another challenge is to ensure that eligible countries receive full debt relief from all their creditors, including non-Paris Club bilateral creditors, which remains until today very low.

24. At the same time, reducing debt-service payments is not sufficient to avoid the risk of debt distress. Thus, the debt situation of a number of HIPCs that have reached the completion point remain highly vulnerable to external shocks, among other reasons, because many of them continue to be heavily dependent upon commodity exports. Even prior to the global economic crisis, only about 40% of the post-completion point HIPCs had a low risk of future debt distress, and the number of countries with a high risk of debt distress had increased from one to four.

25. On the other hand, middle-income countries and low income countries that are not considered HIPCs, face longstanding external debt problems which need to be addressed, inter alia, through an urgent assessment of their debt situation by the IMF. Some of them have managed to reduce their reliance on multilateral financing by drawing on private sector credit prior to the financial crisis, but today those credits are less likely to be available, exacerbating the difficulties of several middle-income countries and low income countries to service their debts and to adopt counter-cyclical measures, without reducing their investments on development.

An international sovereign debt restructuring and arbitration mechanism (p. 34)

26. In a paper prepared by the UNCTAD Secretary General in 2009, it is mentioned that even in the presence of a more coherent international financial system, sovereign defaults are bound to happen. It is thus necessary to put in place a debt resolution mechanism aimed at guaranteeing a speedy and fair resolution of sovereign debt crisis.

27. UNCTAD has proposed the creation of such a mechanism since 1985, The proposal was reviewed in 1988 and was taken up by the IMF in 2001, recognizing therefore that the international financial system would also benefit from resolving debt problems in a rapid, less costly and equitable manner. The proposal of a Sovereign Debt Restructuring Mechanism (SDRM) within the IMF was rejected.

28. The Group of 77 and China reiterated this proposal during the negotiation process for the Financial and Economic Crisis Conference, through the establishment of an independent international system of debt arbitration, such as a possible international bankruptcy court, in which countries facing risks of debt distress can have recourse to a debt standstill, a debt workout with a burden-sharing procedure to be established, and a continued lending facility to the country under a scheme of lending in arrears.

29. The Outcome Document in its paragraph 34 opens the door to the design of such a mechanism, through the mandate to "�explore the need and feasibility of a more structured framework for international cooperation in the area of sovereign debt restructuring". The Secretary General Report corroborated this proposal and emphasizes the need for an international discussion on the design of a mechanism aimed at facilitating the resolution of sovereign insolvency.

30. This mandate is reaffirmed in General Assembly Resolution 64/191, emphasizing the special importance of a comprehensive and durable solution to the debt problems of developing countries, the need for coordinated policies aimed at fostering, inter alia, debt restructuring, and calling upon all countries to contribute to the discussions in the International Financial Institutions and other forums, on a more structured framework for international cooperation in debt restructuring.

31. The United Nations and particularly this Working Group is one of those other forums and its role in the economic and financial affairs, including its coordinating role, along with the International Financial Institutions, has been recognized in the Outcome Document and in other General Assembly resolutions.

32. Therefore, this internationally agreed legal framework for the predictable and orderly restructuring of sovereign debt could be operationalized through an independent international body, taking into account the past experiences and the situations and needs of the debtor countries in particular in the context of the complex debt restructuring, guaranteeing fair burden-sharing, to evaluate the debt situation of all countries faced with external debt problems and to propose the level and form of debt relief that needs to be provided.