

IS THE US TREASURY ABOVE THE LAW?

**Failure of the United States Treasury Department to Comply with the Congressional
Mandate to Oppose User Fees on Primary Health Care and Education at the
International Monetary Fund and the World Bank**

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EXECUTIVE SUMMARY

This paper documents the failure of the United States Treasury Department to comply with Section 596 of Public Law 106-429. Section 596 requires the U.S. Executive Directors at the international financial institutions, including the IMF and the World Bank, to oppose any loan agreement or debt relief action that includes “user fees” [service charges] or equivalent on access to primary health care and education, and to report to the Committees on Appropriations of the Congress within 10 days if an agreement including such user fees is approved. The Poverty Reduction Strategy Paper for Tanzania, approved by the World Bank Board in December, contained user fees on health care. The Treasury Department failed to comply with the law when it did not oppose the Poverty Reduction Strategy Paper [PRSP] for Tanzania and when it did not notify the Committees on Appropriations within 10 days of the approval of the Tanzania PRSP. Treasury not only failed to oppose the PRSP, but also failed to even voice objection or comment on the issue of user fees on health care. Treasury’s failure to oppose the Tanzania PRSP and report to the Committees on Appropriation violated U.S. law regardless of whether there were purported to be exemptions for the poor on user fees. Treasury’s failure to oppose the Tanzania PRSP violated U.S. law regardless of whether the government of Tanzania supported user fees for primary health care. Congress should call Treasury to account for its failure to comply with the law.

INTRODUCTION

CONGRESS REQUIRED THE U.S. TO OPPOSE USER FEES ON PRIMARY HEALTH CARE AND EDUCATION

One of the most controversial “structural adjustment” policies promoted by the World Bank and the IMF is the imposition of user fees on primary health care and education. These user fees have been associated with lower school enrollment and reduced access to primary health care. For some years, the World Bank, while acknowledging problems with the implementation of user fees, defended them on the grounds that there were, or were supposed to be, exemptions for the poor. Yet as even the World Bank was eventually forced to admit, the track record indicates that exemption schemes do not work.¹ As a 1996 UNICEF study found, “the experience with exemption or reduced contributions for the poor has not been encouraging... Empirical evidence from other regions has shown that targeted programmes often reach less than 5 percent of the target population.”² Last year, UNICEF reported, “remarkably little evidence exists on the effectiveness of exemption systems.”³

In October, 2000, in response to the World Bank’s refusal to abandon support for user fees on primary health and education, the United States Congress passed legislation requiring the United States representatives at the International Monetary Fund and the World Bank to oppose any loan or debt relief agreement which included “user fees” on access to primary health care

and education.⁴ This legislation was supported by a broad array of civil society groups in the United States.⁵

THE TANZANIA PRSP CONTAINED USER FEES ON PRIMARY HEALTH CARE

The following month, the “Poverty Reduction Strategy Paper” [PRSP] for Tanzania came before the World Bank and IMF boards. The PRSP is a planning document that is supposed to be prepared by developing country governments in consultation with the IMF and the World Bank, with broad civil society participation. The document outlines the government’s plans for reducing poverty in the country. This is in accordance with the reformed focus of the institutions on poverty reduction in poor countries announced as part of the “enhanced” debt relief initiative agreed to at the G7 meeting in Cologne. Approval of the PRSP by the IMF and the World Bank is required in order for these countries to receive debt relief.

The “interim” PRSP [I-PRSP] for Tanzania had included user fees on primary health care. Non-governmental organizations and Members of Congress who had supported the legislation requiring the U.S. to oppose user fees on primary health care and education wrote to the U.S. Treasury Department, then under the supervision of the Clinton Administration, and reminded Treasury that U.S. law required the U.S. government to oppose the Tanzania PRSP if it included user fees on primary health care. At the time of the Board meeting, the Tanzania PRSP – a document that supposedly resulted from a broad consultation with civil society in Tanzania – was a secret document.

However, after the Board Meeting, the Tanzania PRSP was released and is now available on the IMF’s web site.⁶ The PRSP acknowledged that, except where over-ridden by the PRSP, the I-PRSP was still in force. On page 14, for example, the following text appears: “Second, the poverty reduction strategy is to a large extent, an integral part of *ongoing* [emphasis added] macroeconomic and structural reforms that are being supported by Tanzania's multilateral and bilateral partners. Some of these reforms, including those being supported under the PRGF and the PSAC-1, are expected to have a significant impact on the welfare of the poor.” [The context of the paragraph suggests that it is not going to be a positive impact.]

This is followed by a footnote, which reads: “The policy matrix in the Interim PRSP also outlined details of the reform measures being implemented.” Thus, the PRSP informs us that the conditionalities listed in the policy matrix of the I-PRSP, including user fees on health, are still in force.⁷

The staff summary of the Board Meeting that approved the PRSP for Tanzania indicates that the participants in the discussion clearly understood the PRSP for Tanzania to include user fees on health care.

What actually happened at the Board Meeting is known with certainty only to those who were present, because the Board Meetings are secret, and no minutes are publicly available. However, there is a summary of the discussion. This is a secret document that is only distributed to Bank and IMF management and government representatives. The cover page states: “This document has a restricted distribution and may be used by recipients only in the performance of their official duties. Its contents may not otherwise be disclosed without World Bank authorization.”⁸

In this case, the document was leaked to non-governmental organizations. The summary is a redaction of the minutes, in the sense that it does not indicate who said what, a critical piece of information for holding governments accountable for what policies they support or oppose at the institutions.

Nonetheless, in this case the summary is telling. The summary contains the following sentence, in the fourth paragraph on the first out of seven pages: “Staff noted the concern of many NGOs over the existence of user fees in the health sector but pointed out that the poor were exempt from these charges.”

We can conclude several things from this sentence. First, the statement tells us that, according to the staff, user fees on health care were indeed part of the PRSP.

Second, while “noting” the concern of NGOs, the institutions were in fact completely ignoring them. The non-governmental organizations that were concerned about the inclusion of user fees on primary health care were concerned precisely because exemption schemes have failed. Thus, while “noting” the concern of NGOs, the institutions were treating them as irrelevant.

But the “smoking gun” here is that this is the only mention of the issue of user fees on health care in the document. The document summarizing the discussion is seven pages long, and has a specific section on health care. Yet while the concern of NGOs is noted, there is no record of any *government* representatives in the meeting registering any objection, concern, or comment on the issue of user fees on health care. While the summary does not tell us who said what among the government representatives, it does tell us that no government representative – including the United States representative – said anything on the subject whatsoever, unless we are to believe that an objection or comment by the representative of the government holding one-fifth of the shares of the IMF and the World Bank would not be considered noteworthy by the staff person preparing the summary of the discussion.

It is remarkable that even when the United States Congress, which controls U.S. appropriations to these institutions, went to the trouble of passing a specific law requiring the U.S. representative to oppose a particular policy, the U.S. representative apparently had nothing to say when the subject was discussed in the Board meeting.

TREASURY FAILED TO COMPLY WITH THE LAW

TREASURY FAILED TO COMPLY WITH THE LAW, REGARDLESS OF WHETHER THERE WERE PURPORTED TO BE “EXEMPTIONS” FOR THE POOR

As noted, a standard defense of the promotion of user fees by the international financial institutions often offered by officials of the institutions and of U.S. Treasury is that there are purported to be exemptions for the poor. As noted, the concern of non-governmental organizations and Members of Congress about this issue is precisely because World Bank exemption schemes have failed and are doomed to fail. Thus, to justify the user fees policy on the basis of purported exemptions for the poor is simply to support the present failed policy that has kept children out of school and kept poor people from accessing life-saving medical treatment.

But it is important to recognize that, regardless of whether there were purported to be exemptions for the poor, Treasury failed to comply with the law.

First, it was clearly the intent of Congress to require the U.S. to oppose the inclusion of user fees on primary health care, regardless of whether there were purported to be exemptions for the poor, precisely because the track record of user fees on primary health care and education is that they block poor people from access, regardless of whether they include exemptions.

Second, as the citation above from the staff summary of the Board Meeting indicates, while the subject of user fees on health was addressed in the Board Meeting, the U.S. representative made no comment on the subject. If Treasury interpreted its responsibility as ensuring the poor would be exempt – which would be a willful misreading of Congressional intent – it is still hard to explain why the U.S. representative would make no comment on user fees whatsoever when the issue was explicitly discussed.

Finally, Treasury failed to notify the U.S. Congress' Committees on Appropriations within 10 days, as the law requires. The reporting requirement is clear and unambiguous. It says nothing about exemptions or poor people. It says that Treasury is required to report within 10 days if the international financial institutions approve a loan agreement or debt relief action that includes user fees on primary health care or education. The law directs “that the Committees on Appropriations be notified within 10 days if any loans, community financing, cost sharing or cost recovery mechanisms requiring the imposition of user fees are approved by any multilateral development bank or the International Monetary Fund.” Representative Dennis Kucinich asked the Committees on Appropriations in January if they had been notified as the law requires, and they reported that they had not.⁹

CONCLUSION

The Congress of the United States enacted into law a clear, specific, and unambiguous mandate to the United States Executive Director at the international financial institutions to oppose loan agreements and debt relief actions that include user fees on primary health care and education and to report to Congress when such agreements are approved. Treasury was fully informed of its obligations under this law to oppose the Tanzania PRSP and notify Congress, and yet it failed to do so. Congress should call Treasury officials to account for their failure to comply with the law.

Secretary Summers claimed in January that user fees on health care were the policy of the government of Tanzania. This ignores the 15-year history of aggressive promotion of user fees on primary health care and education by the World Bank and the IMF. Moreover, if one were to accept the claim that any IMF and World Bank policy can be justified on the basis that it is really a developing country government policy, then Congressional efforts to reform the policies of these institutions would become logically impossible in the absence of a dramatic increase in the transparency of their operations. The process of negotiating agreements between the institutions and developing country governments is closed to public (and Congressional) scrutiny, and it is the standard practice of these institutions to try to shift responsibility to developing country governments for policies that the international financial institutions have imposed. For example, the World Bank still claims it did not force Mozambique to dismantle its cashew nut processing industry, even though the World Bank's imposition of its policy has been well documented in the press.¹⁰

Secretary Summers also claimed that the government of Tanzania could not afford to get rid of user fees on health care. Yet the revenues generated by such fees contribute little to the health budget. The U.S. could increase the resources available for Tanzania and other poor countries to spend on primary health care by supporting 100% cancellation of poor country debts by the IMF and the World Bank.

¹ The World Bank's Operations Evaluation Department [OED] stated in a 1998 Seminar Report that: "Project documents typically assert that the poor would be protected from the impact of these fees, but include few if any details about how this is to be done. Nor do project evaluation reports provide much evidence about how well the poor have in fact been exempted." The OED commissioned a set of country case studies and reported: "In Zimbabwe, the government included a system of waivers for the poor when it introduced user fees in the early 1990s...fewer than 20% of the eligible poor ended up receiving waivers...In Mali, the Bank had supported introduction of community-managed health centers, whose recurrent costs were covered primarily through service fees. Communities were empowered to grant fee waivers to the indigent. But in their site visits, OED team members found no examples where waivers had actually been granted. The 2000 World Bank World Development Report (WDR) on Poverty found that "few developing countries ... have successfully implemented price discrimination in health services through sliding scale fees. In most African countries such exemptions tend to benefit wealthier groups (such as civil servants). In Ghana's Volta Region in 1995 less than 1% of patients were exempt from health user fees and 71% of exemptions went to health service staff."

² "User Financing of Basic Social Services: A Review of Theoretical Arguments and Empirical Evidence," UNICEF, 1996.

³ “Absorbing Social Shocks, Protecting Children and Reducing Poverty,” UNICEF, January, 2000.

⁴ Public Law 106-429, Section 596. “The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' lending programs.”

⁵ For example, the AFL-CIO told the Clinton Administration, “The IMF and World Bank should not condition one dollar of debt relief or development financing on the creation, expansion, or continuation of a user fee program by a borrowing country. No loan agreement, decision point document, or poverty reduction strategy paper should contain such a requirement, and the United States must make it clear to the Bank and the Fund that future support for these initiatives will depend on the institutions' assurances that user fees have been eliminated. Of course, the U.S. Executive Directors must also be instructed to vote against any program or document that includes user fees.” Letter from David A. Smith, Director, Department of Public Policy, AFL-CIO, to Timothy Geithner, Under Secretary for International Affairs, U.S. Treasury Department, October 11, 2000.

⁶ Poverty Reduction Strategy Paper, Tanzania, <http://www.imf.org/external/NP/prsp/2000/tza/02/100100.pdf>. It has been announced by the World Bank that in the future PRSPs will be disclosed prior to Board Meetings.

⁷ If the PRSP were not to contain the issue of user fees on primary health care, the claim of the World Bank and the IMF to be doing “poverty reduction” would be fundamentally compromised. It would be strange indeed if the PRSP, the document that is supposed to outline the government's poverty reduction strategy, were not include an issue as crucial to the welfare of the poor as whether they have to pay for access to primary health care. By including it in the I-PRSP, the World Bank and the IMF confirmed its relevance for the PRSP. If such an issue could mysteriously disappear from the PRSP, then the PRSP process would appear to be fraudulent.

⁸ Summary of Discussion at the Meeting of the Executive Directors of the Bank and IDA, November 30, 2000, International Bank for Reconstruction and Development, International Development Association, December 15, 2000. This document is available from the Center for Economic and Policy Research.

⁹ Statement of Dennis J. Kucinich, Chairman, Congressional Progressive Caucus, To the Subcommittee on Foreign Operations, Committee on Appropriations, April 5, 2001.

¹⁰ “In Mozambique – A Less Than Helpful Hand,” Jon Jeter, *Washington Post*, October 18, 2000.