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# Revitalising the UNCTAD Principles on Sovereign Lending and Borrowing

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Public Finance for Democracy

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## Project Terms of Reference

- **Project aims at drawing recommendations on revitalising soft-law frameworks in accordance the UNCTAD (2012) Principles on Promoting Responsible Sovereign Lending and Borrowing (PRSLB) and the UN Resolution 69/319 on Basic Principles on Sovereign Debt Restructuring Processes in a national and international context.**
- **The consultant will produce a paper on the implementation of the Principles on Sovereign Lending and Borrowing within selected Asian-Pacific developing countries.**

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## Country Selection

- A number of countries were considered for this study and were classified as either **recommended for results**, **strong possibility of results**, or **limited results predicted**.
- **Factors that were considered included:**
  - Relative risk of debt distress;
  - Partner organization cooperation/activities such as UNDP and WFD;
  - Consultant experience with country/parliament; and
  - Level of engagement of key players on the ground (strong champion/point of contact)

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## Countries Selected

### Maldives

- Parliamentary system
- Strong leadership in Parliament in addressing public debt, specifically with the Committee on Debt Restructuring.
- WFD has programming and has supported the Parliament in strengthening its oversight of public debt management.

### Philippines

- Presidential system
- Strong involvement in the development of the UNCTAD Principles.
- UNCTAD DMFAS programme partner



## Respondents Targeted

- **Within the countries selected we attempted to survey representatives from Ministries of Finance, Parliament, as well as Civil Society Organizations.**
- **Generally, the research focuses more on borrowers than on lenders. Borrowers were however asked if they knew of constraints on or requirements for lenders.**

## Approach to Survey Questions

- **The survey consists of 60 questions spread across each of the 15 Principles.**
- **These questions were used to distinguish between soft laws (described as practices) and hard laws (codified legislation).**
- **The questions generally fall into three broad categories:**
  1. **What type of legislation or practices exist that support a given Principle;**
  2. **Is this legislation enshrined in law (hard law), or a practice (soft law)?**
  3. **To what degree was this practice/legislation's implementation influenced by the Principles.**

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## Question Type 1

7. Do you have any examples of lender practices that show commitment to the Principles?

- Yes.
- No.
- Not sure.
- Other (please specify)

## Question Type 2

5. Does the borrower have any anti-bribery legislation/code of ethics that would prevent/discourage breach of duty related to the issuance of loans? Is it enforced?

- |                                                 |                                                    |
|-------------------------------------------------|----------------------------------------------------|
| <input type="radio"/> No.                       | <input type="radio"/> Yes, and sometimes enforced. |
| <input type="radio"/> Yes, but never enforced.  | <input type="radio"/> Yes, and often enforced.     |
| <input type="radio"/> Yes, but rarely enforced. | <input type="radio"/> Yes, and always enforced.    |

Please elaborate on the influence of the Principles on the legislation/practice identified in this question.



## Question Type 3

11. Are there any global or regional compacts to which lenders to the borrowing country are bound by due diligence standards? If yes, to what degree are these influenced by the UNCTAD Principles?

- |                                                        |                                                       |
|--------------------------------------------------------|-------------------------------------------------------|
| <input type="radio"/> No.                              | <input type="radio"/> Yes, and somewhat influential.  |
| <input type="radio"/> Yes, but not at all influential. | <input type="radio"/> Yes, and very influential.      |
| <input type="radio"/> Yes, and slightly influential.   | <input type="radio"/> Yes. and extremely influential. |

If so please specify (i.e. is it are they global, regional or other)

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## Preliminary Conclusions

- **Difficult to identify lending practices from sovereign borrowers**
- **Principles related to sovereign borrowing deemed very influential and somewhat influential for the Maldives**
- **Philippines TBC**

# Preliminary Conclusions: Voluntary Compliance by Lenders

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- **Lender non-compliance with the Principles has been a particular problem as summarized by Tim Jones of Debt Justice**

## Preliminary Conclusions: Maldives

Principle	Principles Very Influential
<b>Principle 9: Binding agreements</b>	<ul style="list-style-type: none"> <li>-Provisions in legislation that require debts to be honoured on time and in full</li> <li>- Debt payments to be suspended in the event of a natural disaster or other external shock</li> </ul>
<b>Principle 10: Transparency</b>	<ul style="list-style-type: none"> <li>-Legislative involvement in decisions about whether and how to incur debt</li> <li>-Legislation specifying the responsibilities and accountabilities for public debt management</li> <li>-Conformity of debt reporting to international standards and norms for compiling debt statistics</li> </ul>

## **Preliminary Conclusions: Maldives**

- |                                                                                                           |                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• <b>Principle 11:<br/>Disclosure and<br/>Publication</b></li></ul> | <ul style="list-style-type: none"><li>• <b>Annual report on public debt</b></li><li>• <b>Medium-term debt strategy</b></li><li>• <b>Debt statistical bulletin</b></li></ul> |
|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Preliminary Conclusions: Maldives

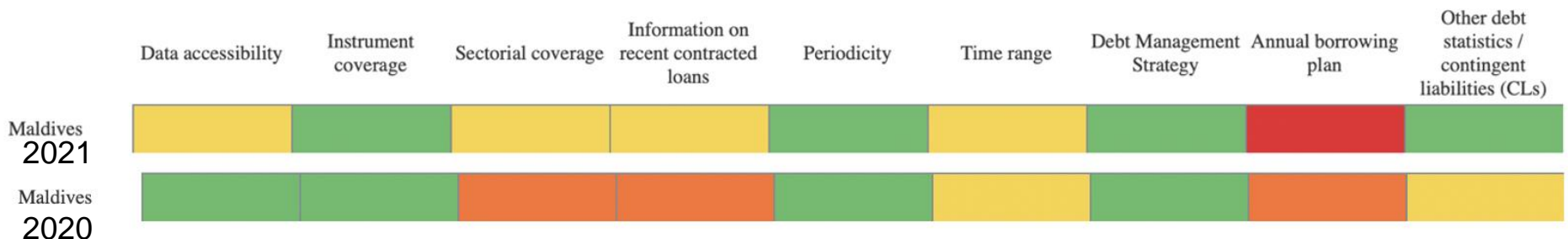
Principle	Principle Somewhat Influential
<b>Principle 12: Project financing</b>	<ul style="list-style-type: none"> <li>-Projects registered as contingent liabilities</li> <li>- Legislation or regulations or loan conditions that require loans to be used only for the purposes intended in the loan agreement</li> </ul>
<b>Principle 13: Adequate Management and Monitoring</b>	<ul style="list-style-type: none"> <li>-Systems in place to monitor subnational debt and contingent liabilities</li> <li>-Audits of debt management operations (financial audit only)</li> <li>-Outcome of debt management audits published (financial audit only)</li> </ul>

## **Preliminary Conclusions: Maldives**

### **Principle 15: Restructuring**

**Basic Principles adopted in debt restructuring including: data and policy transparency, open communication and dialogue with creditors and investors, good faith negotiations, and fair treatment of creditors**

## Debt Transparency: Maldives



Red= Not available or incomplete

Orange= Limited or infrequent/untimely

Yellow= Partial or medium frequency/timeliness

Green= Full and comprehensive or frequent and timely