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# Why Norway took Creditor Responsibility – the case of the Ship Export campaign

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## Introduction

On October 2<sup>nd</sup> 2006, at a Press Conference in Oslo, Norway's Minister of International Development Erik Solheim announced that Norway would unilaterally and unconditionally cancel debt because of creditor co-responsibility. Why? Because the claims derived from a failed development project – the Ship Export Campaign of the late 70's.

This is the first time a creditor and an OECD-country admits responsibility for irresponsible or bad lending and takes action. The move breaks the silent consensus and practice in the Paris Club that all debt is the responsibility of the borrower and that debt cancellation is only granted on the basis of debt sustainability. This represents a crucial and significant step pointing towards creditor responsibility and more equality in the creditor/debtor relationship. It is a decision that should influence how other countries and major lending institutions conduct their lending.

This paper will present in detail the case of the Norwegian ship export campaign and focus on the political reasoning behind the debt cancellation. Hopefully, this will set an example for other loans in different situations.

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– I have seen dogs wag their tails, but never a ship.

José Maria Franco, Shipowner, Puerto Rico (1978 on the harbour at Sandnessjøen)

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## Background

In the mid 70s there was a crisis in the Norwegian ship building industry. Only about 55 percent of the shipyards had any work after 1977. Around 30 000 jobs were potentially at stake – a number that no politician (with a future) could ignore. The then Labour-government had to act. The response was the Ship Export Campaign – a mechanism by which developing countries would get cheap credits in return for buying ships from Norwegian shipyards. It was hoped that this would work as development aid and both be beneficial for the borrowing country and would help the shipyards through the crisis. The campaign was passed by the Norwegian Parliament, the Storting, on November 19th, 1976.

Over the next 4 years Norway exported 156 ships and equipment worth 3,7 billion Norwegian kroner or \$593,8 million<sup>1</sup> to 21 countries. The countries were: Sierra Leone, Singapore, Lebanon, Gambia, Egypt, Ecuador, Costa Rica, Burma (Myanmar), Sudan, The Dominican Republic, Ghana, Vietnam, Turkey, Venezuela, Senegal, Jamaica, Tanzania, India, Mexico and Peru.<sup>2</sup> These credits contained a grant element of around 25 percent as required by the OECD.

Early on it became clear that the projects were high-risk and that lenders could face payment difficulties. After the oil crisis, the World was in a slump and countries all over Europe were designing mechanisms to support their ship-building industries. As a result there was fierce competition over a limited number of projects. A swift and easy way of treating credits and projects, while sticking to due process, was needed. At the same time, the quality controls were lowered. The most important thing was to ensure that Norwegian shipyards had enough to do. Credits were thus given for projects that would otherwise have been regarded as too risky.

Following the high interest and the mounting debt crisis in the early 80s, the lenders had problems paying back. In addition there was a sharp fall in ship prices – so the boats were no longer worth much as security for the loans.

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<sup>1</sup> Amounts in Norwegian kroner have been converted into US dollars using 1.1 2007 exchange rates.

<sup>2</sup> According to the White Paper there are 21 countries, but only these 20 are listed. Bistandsaktuelt 2/98 includes DR Kongo, Guinea and Coté d'Ivoire bringing the number up to 23.

In 1988–89 the Norwegian Parliament made a White Paper (St. Meld. nr. 25 (1988–89)) about the campaign summing up what was characterized as an unfortunate initiative with very little developmental effect for the countries involved. It was also clear that the formal treatment in The Norwegian Agency for Development Cooperation (NORAD), The Norwegian Guarantee Institute for Export Credits (GIEK) and the Ministry of Trade and Commerce had been rushed and that the views of NORAD and GIEK had been set aside by the ministry. A vote of no-confidence against the Minister of Trade Halvard Bakke was voiced in 1989 and nearly passed in the Parliament.

The loans remained and were converted into bilateral debt and treated under Paris Club rules. In 1998 it was decided that all HIPC countries would get their debts to Norway written off after going through the program.

In 1998 the campaign had cost Norway \$530 million in guarantees with about \$481,5 million having been repaid, in addition to the \$193 million given as aid in interest support. The total debt from the campaign in 1998 was still \$593,8 million. Before the cancellation in 2006 the debt was \$465,4 million.

## Norway's responsibility

In order to understand why Norway contrary to normal practice has assumed responsibility as a creditor for these loans, we have to look more closely at how the loans were given.

According to their rules GIEK is required to make a judgment on risk and the soundness of the projects. NORAD is required to assess the developmental benefit of a given project because of the grant element.

GIEK's board early on felt that they had little say in evaluating the many projects. Due to time constraints several new bodies for decision-making were set up. All of them were led or managed by the Ministry of Trade and Commerce. One body to identify projects and do preliminary negotiations, another for giving advice to this body, and a third for making decisions and initiating proper negotiations and signing contracts (– the final one was called the “Ship export commission”). The contracts contained a clause stating that they were dependent on approval by “competent authorities”, i.e. NORAD for development purposes and GIEK for risk assessment. Only then would the Boards of NORAD and GIEK have their say on the projects. While both NORAD and GIEK were present in the “Ship export commission”, this was felt to be inadequate both by Norad and the GIEK board.

For NORAD, the rules changed quickly. On the 4th of June 1977 the Parliament made it possible to export ships without NORAD-approval. The reason given was the special needs of the ship-building industry at the time. NORAD would still be asked – but it was clear that the decision was made by the Ministry of Trade and Commerce. It was also stressed that this would only apply to exporting ships as aid. However, even before then the NORAD-director was unable to recommend the guarantees during the GIEK-board treatment where he was required to be present. Of the 68 (36 projects) guarantees given throughout the campaign, NORAD approved only 22 (13 projects). In many of these projects approval was only given contingent on changes in the projects. These changes were often not implemented.

In the GIEK, the Board early on tried to clarify who was to be responsible for the credits given. They felt that decisions were already made prior to the guarantees were approved by GIEK. The contracts had been signed and the deals had been made – sometimes at a political level. The only thing missing was a stamp by GIEK and final approval by the Ministry of Trade and Commerce, as this was required by the statutes of GIEK given the size of the loans. After October 1977, GIEK frequently included a clause in its loan approvals stating that the guarantee would not have been given if an ordinary risk assessment (as required by the original arrangements) had been used. The Board then asked the Ministry of Trade and Commerce who were responsible for approving the projects. This led to a written legal consideration by the Government attorney. This document states that even if the process was muddled it was the ministry who was responsible. It also stated that GIEK could not be said to have approved the projects, based on the wording in the documents. Board members from GIEK at the time made it clear that it was “unthinkable” that GIEK as a government agency would not approve deals already made at a political level.

It is therefore evident that neither NORAD nor GIEK approved all loans. Thus, Norway broke or set aside its own rules motivated by the needs of the ship-building industry. The result was reckless lending.

The numbers are telling. Of the 156 ships divided among 36 projects in 21 countries only three projects were concluded in 1987. In the, same period about \$231,2 mill. was paid in guarantees and only \$29,5 mill. repaid

or reclaimed. In 1987, 12 countries had made moratorium deals. These deals consisted of 72 percent of the total debt incurred by the Ship Export Campaign. In the end only two countries, Turkey and India, paid as expected.

The loans also became exceptionally expensive. In the 80s Norway was one of the most expensive creditors with an interest rate between 12–13 percent. This was about 4–5 percent above the LIBOR-rate at the time.

The conclusion of the white paper from 1988-89 was that the campaign had been “an effective tool to alleviate an acute crisis in the ship-building-industry that was affecting many workplaces throughout the country”. The report, however, concludes that “in retrospect the Ship Export Campaign in the way it was conducted had limited importance as development aid”.

## Campaigning and political results

The decision to cancel the debt from October 2<sup>nd</sup>, 2006, points back to this white paper, because it is the only public document that acknowledges Norway’s responsibility. However, in the mean time there have been many other decisions and statements that have strengthened the case of Norway assuming responsibility for the debt. Most of them have been brought about by popular campaigning by civil society in Norway, including The Norwegian Debt Campaign - SLUG. Since the White Paper was published, the campaign’s claims have by many been perceived as inherently wrong. To a nation that prides itself with not only meeting but exceeding the 0,7% target on aid, it does not feel right to receive money through debt payments from the same countries. This holds particularly true when the origin of the debt is taken into account. SLUG was started on precisely this basis in 1994. The demand was clear: All claims from the Ship Export Campaign had to be cancelled without burdening the aid-budget. A petition was launched.

In 1998 the then Minister of Development Hilde Frafjord Johnson labeled the Ship Export Campaign “a stain of shame on Norway’s aid policy”. This was followed by Norway’s first debt relief plan. Norway would cancel 100 percent of all HIPC-country debt completion point in the programme. Politicians at the time were very happy that they by doing so were able to cancel debt from the Ship Export Campaign. Most thought that the problem had been sorted out. However, the plan does not mention the campaign and does not include indebted middle-income countries. The focus was on the poorest countries, on ability to pay and not justice, even with the campaign lurking in the background.

In 2001 SLUG started to work on the concept of illegitimate debt. The following year, SLUG arranged a public hearing on debt where the Ship Export Campaign was discussed. The hearing was led by the head of Norway’s

### Shoddy ships

The Ship Export Campaign was driven by fear for job-loss in Norway. The projects were allocated not by a principle of who would do the best job – but where the jobs were most needed. As a result some of the ships delivered were not up to the usual standard to be expected of a ship-builder. One such case was the “Shipyard” Noroff in Sandnessjøen. The company had never build a ship before. Still, that did not stop them from benefiting from the campaign. The buyer José Maria Franco from Puerto Rico was shocked when he came to Norway to see his ship. When the vessel entered its native element – water – it did something peculiar – it wagged its tail. The builders had used too soft steel so the aft of the ship was rocking back and forth. The ship had to be completely rebuilt. Mr. Franco, having had enough of Norwegian expertise, insisted that this had to take place in Puerto Rico.

Another example of poor workmanship was Smedvik Mechanical Wharfs which was supposed to deliver three luxury cruise boats. The boats had been commissioned by the Sheraton Hotel chain and were to be used on the Nile. The builders made a tiny but significant error – they built the ships for salt water. Freshwater, abundant in the Nile, has less buoyancy so the ships scraped the bottom by 10 cm. The boats had to be rebuilt – the Egyptians managed to haggle the price down by \$1,4 mill. from \$48,1 mill. The claim was later taken over by Norway.

supreme court, Trond Dolva, with a jury consisting of academics, politicians and religious leaders. One of the questions put to the jury was: Is the debt contracted through the Ship Export Campaign legitimate? While the jury did not conclude that it was, they found it “particularly upsetting” that Norway was still claiming payment from the campaign, and concluded that the “debt should be cancelled immediately and without conditions”. They further demanded that Norway should be “a driving force” for examining the term illegitimate debt and that it should be considered by the International Court of Justice (ICJ) at the Hague. The jury encouraged “radical change in the Norwegian policy regarding third world debt”.

In 2003, the Norwegian NGO Changemaker launched the dictator-debt campaign. The then Minister of International Development, Hilde Frafjord Johnson, was challenged to deal with illegitimate debt. The campaign asked the simple question: How can you lend money to a dictator and then expect the people to pay it back? The examples used were South-Africa, Zaire, The Phillippines and Iraq. The World Bank and the IMF were portrayed as the enforcers and collectors of that debt through their role as gatekeepers to development finance. This led to major opposition parties recognising the concept of illegitimate debt and starting to challenge the Government to act. The response from Ms. Johnson at the time was that all debt-cancellation had to be financed and that the poorest countries had to be given first priority. She also stated that CSOs advocating this in Norway were in danger of not being heard, i.e. that they ran the risk of being becoming irrelevant. One of the officials in her ministry colorfully described working on illegitimate debt as “shouting in the woods with a high risk of getting ones mouth filled with cones”. The opposition parties however, were still listening and soon there was a majority in the Parliament demanding that the Government look into the issue.

At a Press Conference in May 2004, Ms. Johnson launched a new expanded version of Norwegian debt-plan and opened up for multilateral debt swaps for middle-income countries. The new plan discusses illegitimate debt at length and supports initiating a study from relevant multilateral institutions on illegitimate debt. The plan does not mention Norway’s own dubious claims. The majority in the Parliament wanted the Government to go further. This was made clear by the Foreign Affairs Committee in Parliament when commenting a White Paper (Stortingsmelding nr 35) the same year. The committee requested more action from the Government and stated that:

*[...] the term illegitimate debt precisely points to the two-sided nature of debt where both parties have rights and duties. A rights-based development policy must therefore be willing to question lending practice and the creditors responsibility for their own actions.<sup>3</sup>*

The committee stressed the need for an international court to judge debt illegitimacy and requested the Government to work actively on this issue.

In 2005 most of the parties constituting the above majority came into power (except the right-wing Progress Party). The declaration of the new coalition government – the Soria Moria declaration – marks the real change in attitude towards illegitimate debt. This declaration states that:

*Norway must adopt an even more offensive position in the international work to reduce the debt burden of poor countries. The UN must establish criteria for what can be characterised as illegitimate debt, and such debt must be cancelled.*

*Norway will:*

- *lead the way in the work to ensure the debt cancellation of the poorest countries’ outstanding debt in line with the international debt relief initiative. The costs of debt cancellation must not result in a reduction of Norwegian aid, cf. the adopted debt repayment plan. No requirements must be made for privatisation as a condition for the cancellation of debt. The Government will support the work to set up an international debt settlement court that will hear matters concerning illegitimate debt,*

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3 My translation.

### The case of Ecuador – Norway<sup>1</sup>

In 2001 SLUG, CDES (Centro de Derechos Económicos y Sociales) and Jubileo 2000 in Ecuador started researching past loans given by Norway to Ecuador. Together we were able to launch a campaign on a story of illegitimate debt. As a result, in 2002, the Commission for the Civil Control of Corruption (CCCC) in Ecuador declared the debt to Norway as a violation of human rights. 100 percent of the claims between Ecuador and Norway originates from the Ship Export Campaign – a debt that has now been cancelled. Ecuadors case is a good example of how debt can spiral out of proportions and what shady deals that are often mislabeled “development”.

The company Flota Bananera Ecuatoriana (FBE) bought four ships from Norway in the period 1978–1981. The total value of the deal was about \$56,9 million. Of this approximately \$4,4 million was paid by FBE as a down payment, the remaining balance was financed by export credits. In 1985 FBE faced liquidation and the state company Transnave took over the ships and the claims. The debt was then split into two. One part of \$17,5 million that the Ecuadorian state and Transnave assumed responsibility for, and one part of \$13,6 million negotiated under Paris Club rules. The first bit was fully paid. The Paris Club debt grew exponentially over the next couple of years. In March 2001 it was \$49,6 million. Payments in the same period amounted to \$14 million. If we take into consideration all payments both from FBE, Transnave and the state it amounts to \$51,9 in 2001.

In 2006 the debt was NOK 225 million or around \$36,1 mill. Ecuador had now started to service the debt.

The CCCC points to the lack of risk-assessment and that the loans were given as aid without any benefit for the people – a requirement of Norwegian legislation. According to the CCCC this also “violates the spirit and meaning of international assistance and cooperation under the International Covenant for Economic, Social and Cultural Rights (ICESCR). [...] because ‘international economic cooperation’ should be ‘based on the principal of mutual benefit’ and should prevent denying ‘a people...its own means of subsistence’ without ‘prejudice to any obligations arising out of international economic cooperation’”.

It is clear that the Ecuadorian people did not benefit from these ships even if the Ecuadorian government paid the bill. In 1996 Transnave sold the ships. Where to – no one knows. CDES points at the corruption involved that allowed this to happen. The two companies FBE and Transnave, were both almost 100 percent owned by the Ecuadorian state. The ships were good, profitable ships making money. Yet, very little of the proceeds went into paying back the debt – that bill was covered by the Ecuadorian state and its people.

<sup>1</sup> This account is mostly based on the publication: *Upheaval in the Back Yard. Illegitimate debts and Human Rights. The case of Ecuador–Norway.* published by Centro de Derechos Económicos y Sociales (CDES) (2002), Quito, Ecuador.

While the Ship Export Campaign is not mentioned, for the first time politicians from the new opposition in the Foreign Committee in Parliament for the first time started to call the debt from the campaign illegitimate and challenged the Government to do so as well.

On the October 2<sup>nd</sup>, 2006, the current Minister of International Development Erik Solheim said about the Ship Export Campaign:

- *This campaign represented a development policy failure. As a creditor country Norway has a shared responsibility for the debts that followed. In canceling these claims Norway takes the responsibility for allowing these five countries to terminate their remaining repayments on these debts.*

The press release also reads:

*In 1988–89 the Brundtland Government conducted an evaluation of the Ship Export Campaign, in which the campaign was criticized for inadequate needs analyses and risk assessments. The main conclusion was that this kind of campaign should not be repeated.*

It is important to note that Norway only cancels debt incurred through the campaign. Unlike the write-off in 1998, this time the cancellation is motivated by justice – not the indebtedness or poverty of a country. That the cancellation is unilateral, unconditional and not financed over the aid budget, is also important. In fact, Norway simply draws a red line across the debt. The only loss Norway suffers is the estimated revenue losses from future payments, approximately \$92,6 mill. between 2006 and 2021.

## The fine print

The devil in the details is that only five of the seven countries that still owe Norway from the Ship Export Campaign will have their debts cancelled. Myanmar (Burma) and Sudan is left out because of the regimes currently in power in these countries. The press release also clearly states that these countries will only have their debts cancelled when found “eligible for multilateral debt relief operations”. It also reads that the unilateral forgiveness will be “a one-off debt relief policy measure. All future debt forgiveness will be effected through multilaterally coordinated debt relief operations”. This formulation has clearly helped Norway in the Paris Club – but could also undermine the principle of creditor responsibility laid out in the rest of the press release. After all, the claims on these two countries are no different and Norway should assume co-responsibility for these debts as well.

This inconsistency was not missed by the Foreign Affairs Committee of the Parliament in their comments to the budget. A united committee states (my translation):

*The Committee refers to that the Government underlines that such relief of debt on a unilateral basis is a one-off debt policy measure in 2007, and that all future debt forgiveness (from Norway) will be conducted through multilaterally coordinated operations. The Committee thinks the proposal from the Government can send an important signal that Norway is leading the way with a positive example by taking responsibility for a failed lending policy in Developing countries. The Committee notes that the Government states that Myanmar (Burma) and Sudan only will get the debt from The Ship Export Campaign cancelled through multilateral operations when these countries qualify for such operations. The Committee will urge the Government to cancel Myanmar (Burma) and Sudan’s debt to Norway due to the Ship Export Campaign, when these countries establish internationally recognised Governments, and that this cancellation take place regardless of what is done through multilateral debt-operations.*

In practice this means that it will be very hard for any future Norwegian government not to cancel the claims on Myanmar (Burma) and Sudan when the regimes in these countries change.

In addition the Committee urges the Government to take further action on illegitimate debt (my translation):

*The Committee stresses the importance of starting an international “barn raising” for canceling illegitimate debt. It is deeply unjust that the people in poor countries still have to suffer due to debt incurred by the respective countries during undemocratic, corrupt and development-inhibitive regimes, that have no right to make its populations into victims of debt for its own gain.*

*The Committee will also stress the responsibility that falls on those states which willingly have lent to regimes that lacked legitimacy in the population, and are thus accomplices in the debt problems of some states. The Committee therefore gives the Government its support to intensify the international debt operations in various fora.*

*The Committee will especially urge the Government to continue the work connected to establishing an international debt-court for treating questions of illegitimate debt.*

## Popular campaigning in Norway

The campaign on illegitimate debt in Norway have so far had three phases: (1) creating an understanding for the concept of illegitimate debt, (2) campaigning and challenging authorities to take action and (3) lobbying to achieve concrete political results.

At the end of the Jubilee 2000-campaign and with the expanded HIPC-programme it became increasingly clear that there was a need for a more radical position in order to continue to campaign for debt cancellation and economic justice. The ever developing discourse on what constituted a sustainable debt-burden had little to do with justice and did not address the systemic reasons for the debt-crisis. After being challenged and inspired by Jubilee South, SLUG arranged a hearing on developing country debt in 2002. This hearing along with Joseph Hanlons report on illegitimate debt<sup>1</sup> became the starting point for how illegitimate debt was understood in Norway. This gave campaigners a strong moral case that resonated well with people.

The Government, however, paid the issue only lip-service until Changemaker and SLUG did some proper campaigning. It was decided to focus on the worst and most outrageous cases of illegitimate debt first. It was necessary to make people understand the concept and the injustice of repaying such loans. At the time (2003), it would not have been possible to make the case that the Ship Export Campaign was illegitimate, as it is not a clear case of odious debt.<sup>2</sup> The word "Dictator Debt" was coined and a campaign launched. Norway and Norwegian politicians were challenged to explain how it is possible to lend to dictators, such as Ferdinand Marcos, Mobutu Sese Seko, Saddam Hussein, P.W. Botha and Suharto, and expect to get the money back. How can a country such as Norway support and be part of a system that makes this possible? The IMF and The World Bank were described as the money-collectors of the creditors both by providing new lending to repay old illegitimate loans, and by making sure that loans were being repaid. To spread this message Changemaker made flyers and postcards and collected pictures of people dressed up as dictators. asking: Would you lend to this dictator? The campaign struck a chord with people and the Minister of Development Hilde F. Johnson was hard pressed to answer. The government's best argument was (and is) that illegitimate debt is complicated and that no clear definition exist. Still, who can disagree with canceling the debt of the Democratic Republic of Congo?

While Changemaker was busy challenging the government in the streets – SLUG was convincing opposition politicians and engaging in a continuous dialogue with the Ministry of Foreign Affairs on a range of issues. This type of insider-outsider strategy challenging and dialoguing at the same time was essential to achieving results. It is important to note that the political work took time and that repeated and sustained pressure over many years was needed (and still is).

In 2005 and 2006, the focus shifted back to the Ship Export Campaign. After having established an understanding of illegitimate debt – it was now possible to make the argument that this debt was illegitimate. The challenge now was to get Norway to cancel the debt because it was illegitimate. How do you explain the difference between canceling 100 percent and canceling 100 percent for a reason to the public? Admitting culpability and thus opening up for redress of damages is hard for most nations. The solution was to demand an apology. "Solheim must say sorry". This was easy for people to understand and hard to counter. While illegitimacy is a difficult concept to explain – apologizing is something everyone does to address a wrongdoing. The message therefore became: "Superheroes say sorry". Pictures of people dressed up as Superman from all over the country was collected and sent to Mr. Solheim. People were also challenged to draw "Shoddy ships" and send them to the Minister. At one point, a 17 feet boat-wreck was dumped outside the Ministry. The international network of organisations working on debt also became crucial by sending in letters of support to the Minister. This was critical in order to convince the Ministry that unilateral action by Norway could help establish a precedent would be taken up by CSOs elsewhere.

1 Hanlon J. (2002): *Defining Illegitimate Debt. Understanding the Issues*. Norwegian Church Aid, Oslo, Norway

2 As defined by Alexander Sack.

## Setting a precedent

Summing up, is Norway setting a precedent that shifts the balance of power between creditor and debtor? To a certain degree, yes. By canceling the debt from the Ship Export Campaign unilaterally the creditor-solidarity principle of the Paris Club, in its extreme form, has been broken. It should now be acceptable to unilaterally give an indebted country better terms. At a meeting in the Paris Club, 18<sup>th</sup> of October 2006, several countries felt that Norway had broken the principle. Even so, a majority of the countries supported the view that the principle must not get in the way of unilateral debt cancellation, provided a country thereby does not gain advantages at the expense of other creditor countries. In a press release on October 25<sup>th</sup> Minister of International Development Erik Solheim stated:

*I am very pleased by the support we were shown at this meeting. I am glad that other countries are now interested in discussing the lending country's responsibility when developing countries take up big, heavy loans.*

Still, make no mistake – Norway stands alone on the issue for now. Without public pressure and mobilisation in other rich countries the move by Norway will gather dust and become an oddity. For it to become a precedent – *more* countries *have* to follow. If that happens it is possible to set a precedent that points towards more responsible lending in the future and in time a reckoning with past mistakes.

One problem with the Norwegian debt cancellation is precisely that it was unilateral. These cases have at least two sides, and unilateral cancellation only addresses one side of the problem. In the future, a debt-workout mechanism where both sides are at the table needs to be established. Hopefully, by being the first government to recognize creditor responsibility Norway can have started a debate that could lead to the establishment of such mechanisms and procedures.

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