CLEARY GOTTLIEB STEEN & HAMILTON LLP

May 2, 2014

MEMORANDUM FOR THE MINISTER OF ECONOMY AND PUBLIC FINANCE

Re: Possible results of the certiorari petition and related issues regarding the debt agreement

You have solicited a memo from us that deals with (i) the possible results of the cert petition of the Republic of Argentina pending before the US Supreme Court in which a review of the Second Circuit decision is requested, (ii) the options in the event that the petition is denied, and (iii) the legal questions related to a potential settlement of the defaulted debt outside of the legal process.

I. Possible results of the certiorari petition

As you know, on February 18, 2014, the Republic presented its certiorari petition in the pari passu case. NML solicited and obtained an extension of the deadline to present its brief in opposition from March 24 to May 7, 2014.[FN 1]. The rules of the court do not impose a deadline for the presentation of the briefs in response, but for such briefs to be effective, it's necessary that the Justices and the clerks have them when they are considering the petition. The Republic's cert petition will be circulated among the Justices on May 27, 2014, so we will present our response that day or just before. The Justices will consider the petition in an internal conference, probably June 12, 2014<x-apple-data-detectors://4>. In the conference, the judges will vote over whether to (i) grant the petition, (ii) solicit the opinion of the Solicitor General, or (iii) deny the petition. [FN 2]. If the SC grants the petition, the Court could announce their decision during the day of the conference. If not, the Court would release an order with their decision the following Monday that, in the event of a conference on June 12<x-apple-data-detectors://5>, would be June 16.<x-apple-data-detectors://6> In the event that the Court grants the petition, shortly thereafter it would set a timeline for the presentation of briefs so that the case would be heard the following Court session, which opens October 2014. In this case, the Court would be issuing a decision in roughly June 2015.

If the Court solicits the SG's opinion, the case would essentially be suspended until he presents his brief. The SG does not have a formal deadline for submitting his brief, but they usually submit such briefs in August, December, and May, so as to fit the Court's schedule. It would seem most likely in this event that the brief be submitted in August or December. Once the US has submitted its brief, and assuming it does so in support of the Republic (which would be consistent with its position in the Second Circuit), the litigants would have a brief period in which to submit their brief in response before the cert petition is circulated for another conference at the Court. After that, it is likely that in a short time the Court would release a final decision on the cert petition. If the SG presents his brief in December or before and the Court grants the Republic's petition, the oral hearings would be set for 2014 or early 2015, and it would be likely that the Court would issue a final decision about the substance of the case in June 2015. lf the SG submits his brief in May 2015, we would have a decision over the cert petition in June 2015, but the decision over the substance of the case would occur in the following Court session.

If the Court denies the cert petition, this would essentially end the appeal. As we have recently discussed in the reunions we have held, it seems to Paul Clement and to us that a denial of the cert petition in the first opportunity that the Court has to deal with the case is the least likely scenario, but it is not impossible. If the Court denies, we could present a petition for a rehearing before the Court

emphasizing that the next debt payment is nearing, which would give the Court a final clear opportunity to avoid triggering a default These requests are virtually always denied. If we were to present such a petition, the deadline to do so would be 25 days after the date the cert petition is denied, but we would probably have to present before then because our adversaries would certainly run to Judge Griesa and argue that the stay (the order by the Second Circuit suspending the effects of the pari passu decision) should be lifted so that the Republic must pay them in their totality when they make the next debt service payment on the restructured debt on June 30.<x-apple-data-detectors://7> In response to this, we could argue that the stay is still valid in virtue of the petition for rehearing by the Republic. In the past, Judge Griesa has in some cases showed restraint in dealing with questions that are still in process before higher courts.

In the event that Judge Griesa determines that the stay is no longer valid, we could also request that Griesa and/or the Second Circuit delay the execution of the pari passu order until after the June 30<x-apple-data-detectors://8> debt payment has passed. Such a petition would have to be accompanied by demonstrations by the Republic that it needs additional time to comply with the pari passu orders and pay the debtors or to be able to carry on with settlement negotiations with them. If the Republic does not offer enough evidence on this issue, the most likely result is that Judge Griesa and the Second Circuit would take the posture that the pari passu orders should enter into effect because they stay became no longer valid when the cert petition was denied.

II. Options if the certiorari petition is denied

If the cert petition is denied, the Republic will have only three options:

The first option would be to pay the debt held by the holdouts entirely before the next deadline for payment of the restructured debt. Although the pari passu order would be technically satisfied if the total was paid only to NML, Aurelius, and the other litigants for whom the orders were issued, it is highly likely that the majority or all of the other litigants would immediately solicit and obtain similar orders as soon as the SC denies the cert petition. Furthermore, the legal reasoning of the Second Circuit to confirm the pari passu orders would require the Republic to pay all of the accumulated debt in default at the same time it pays NML, Aurelius, etc. Even beyond the policy of the Republic of not giving preferential treatment to the holdouts, we understand that the Republic does not in any event have the necessary resources to handle these payments at the same time it makes the payments on the restructured debt.

The second option would be to try to reach a settlement with NML and other holdouts. Keeping in mind the probable time periods between the denial of cert and the scheduled date for the next payment of restructured debt (June 30<x-apple-data-detectors://9>), it's difficult to predict if the time that it would take to lift the stay would allow the Republic to make the payments on restructured debt so that it has enough time to negotiate a deal. Of course, it is not clear what terms would be acceptable for the other side in this situation, and it's likely that they would demand an extremely high percentage of their claim, whether the funds for an agreement come from the Republic, the holders of restructured debt, or both. Furthermore, keeping in mind that the reasoning of the Second Circuit in their pari passu decision gives every holdout the right to veto the payment to any of the other holdouts, it's likely that, unless the settlement is struck with all of the creditors at the same time, any settlement with a given creditor would create a floor, above which the other creditors would demand greater benefits, without any mechanism requiring the creditor to accept anything less than 100 percent. In Section II below, we

consider some of the legal questions that could emerge in the context of the various settlement scenarios.

The third option would be not paying the holdouts nor the holders of restructured debt, triggering a default ordered by the courts. After such a default, the Republic would not face any legal restriction that prohibits it from restructuring all of the debt in default, both the old and the new debt, and there are ways that this could be done which would not violate the pari passu clause as interpreted by the Second Circuit.

III. Legal issues related to the potential settlement of the defaulted debt

You have informed us that various creditors and investment banks seeking to have a role in the resolution of the pari passu litigation have approached the Republic. We do not know the specific details of such a proposal. Nevertheless, we understand that they are based on the following models.

(i) the so-called "Gramercy Proposal'. In this model, a group of creditors would negotiate with NML a settlement so as to arrive at a haircut that is acceptable to them. Gramercy would then lead the process to amend the bonds issued in the swaps in 2005 and 2010 so that the holders of performing debt would cede part of the value of their bonds to NML (and presumably other holdouts) so that they receive the sum they demand under a new agreement. It has been suggested that it would be necessary for the Republic to "sweeten" the deal so that an entity of the Republic indirectly contributes funds. Then the government would carry out a swap offer consistent with the 2010 swap, so that the sum of the debt offered by the holders of restructured debt, plus the funds that the government entity and the "package'' from the 2010 swap, would be enough to reach a deal with NML and the other holdouts, and

(ii) the "intermediary" proposal through which an investment bank would help the Republic negotiate a settlement.

What follows is an analysis of the issues presented by each of these models.

A. The Gramercy Proposal

It would seem that the Gramercy Proposal would be more difficult to execute successfully. The premise that the bondholders would renounce part of the value of their bonds so that others desist in their litigation has never been put to the test. Furthermore, to arrive a value that would resolve all of the litigation that is currently pending, it would seem that funds would have to be obtained beyond the ceded bonds of current bondholders. If the funds came from an entity controlled by the Republic, it is likely that this would become public and the creditors of the Republic would make claims of alter ego and of a lack of consistency in its previously adopted postures. Finally, and most importantly, it's difficult to reach the threshold of 75 percent of the pending sums of each bond to amend every series of bonds and the 85 percent of all the total pending sums plus 66.6 percent of each corresponding bond to make possible a "cramdown'' through an aggregated vote.

We also note that although we are not familiar with the particular details of how the Gramercy Proposal would be implemented, it would present a very challenging structure. At a minimum, Argentina would have to carry out an international restructuring issue. This would mean in practical terms having to register an issue in the US, Europe, and Japan. Although this could be done, it's likely to take time and it

implies responding to disclosure requirements by the regulators, which would be challenging given the political position of Argentina.

As far as the litigation strategy, Paul Clement has suggested that if the Court in any way suspects that the pari passu problem could be easily remediated through a creditor solution, it's possible that the Court would refuse to take the case. For that reason, the Republic must be extremely about not giving the public impression that it is working on a solution between creditors before the Court resolves the cert petition.

B. Intermediary proposal

Although we are not up to speed on the details, we understand that various institutions have offered to negotiate with NML and other creditors. There are at least two important factors to keep in mind in any intermediary arrangement based on bonds. First of all, carrying out a swap offer in terms that are better than those in 2005 and 2010 could violate the RUFO clause (Rights Upon Future Offers) of the bonds already issued. The Republic could complete a judicial settlement based on bonds, but in this case we should consider if the intermediaries think they could bring the bondholders to the agreement, or if they would have to in any way "go out and sell" the deal. Second, even if the agreement issuccessful in terms of achieving the acceptance of a majority of the Republic's creditors, any creditor that remains outside the deal would have the possibility initiating a new pari passu case and obtaining an injunction impeding the payment of all of the current external debt.

For this reason – that is, that any deal that is reached, no matter how successful it is, will allow creditors outside the process to use the Second Circuit's pari passu precedent to obtain an injunction that interferes with performing debt – it would currently seem that any type of deal would not modify the problem that NML has set off.

It's for that reason that we think that, without having a the Supreme Court accept a review of the lower court's decision, the best option for the Republic could be to permit the Supreme Court to force a default and then immediately restructure all of the external bonds so that the payment mechanism and the other related elements are outside of the reach of American courts.

Argentina wants to continue paying its restructured debt. The Courts, nevertheless, have placed it in a terrible position. In a position that, unless it is reviewed by the Supreme Court, would seem to be obligating Argentina to default, because none of the intermediate agreement options resolve the dilemma created by the courts when they gave each one of the holdouts the right to interrupt payment to the rest.

We hope that the above will be useful. Please do not hesitate to contact us with any question or comment on the issues we have analyzed.

Carmen Amalia Corrales
Carmine D. Boccuzzi
Jonathan I. Blackman