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A New Economic Era: How Macri's Holdout Solution Hopes to Attract Foreign Investment
and Revitalize Argentina's Economy

By: Shelly Malik

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The 2001 debt crisis in Argentina adversely affected Argentina's economy and the Argentine life. Throughout the misery of hyperinflation, high unemployment, and poverty, Argentina faced constant demands for repayment from private creditors. A wave of populist governance offered two debt restructuring rounds but refused to pay back the holdout creditors that rejected the terms of the deal. A US order that prohibited Argentina from accessing international markets until it repaid the holdout creditors dragged down the economy after many years of economic growth. Frustrated by the country's economic state, the Argentine people elected a center-right candidate to presidency, who ultimately negotiated a deal with the holdout creditors and led the country to access international capital markets for the first time in 15 years. This paper evaluates (1) the history of the debt crisis, (2) the rise of populist governance as a response to the distressed economy, (3) the evolution of the legal dispute with the holdout creditors, (4) the election of Mauricio Macri and the economic impact of his resolution with the holdouts, and (5) how Argentina hopes to attract foreign investment as it enters a new era of financial and economic reform.

1. History of the 2001 Debt Crisis

Argentina faced its most severe economic crisis in 2001, considered to be history's largest sovereign debt default. A mix of factors—from macroeconomic policies to bad IMF policy advice regarding international lending strategies—contributed to the crisis. On the national front, the return to democracy from military rule as well as protectionist economic policies¹ placed Argentina in a vulnerable position as it sought to restructure its economy

¹ Argentina went through a six-year period of military dictatorship from 1976-82. Prior to the dictatorship, Argentina's economic structure was based on the import substitution model, an economic model that emphasizes domestic production and reduces dependence on foreign imports, that was implemented during Juan Domingo Perón's governance in the 1940s. This

during the 1980s and 1990s. After the country emerged from the dictatorship, Argentina suffered massive hyperinflation at 340% and external debt of \$46 billion representing 80% of its GDP.² Economic policies by the democratically elected president Raul Alfonsín sought to restructure the economy primarily by targeting hyperinflation and implementing wage and price controls through the Austral Plan.³ Initially, the Austral Plan was successful in reducing the monthly inflation rate and received support from the IMF in the form of a \$1.2 million loan.⁴ However, Alfonsín's economic policies did not fare well with the unions who desired an increase in compensation to counteract wage controls.⁵ Eventually, the economic team's policy to shift between fixed and flexible exchange rates as well as attempts to privatize the domestic market did not tackle hyperinflation or spur economic growth.⁶ In fact, the end of the Alfonsín government resulted in more hyperinflation, high unemployment, fallout with the unions, and political instability.⁷ The failure of Alfonsín's government to restructure the economy and target hyperinflation paved the way for Carlos

protectionist model continued its reign through the 1970s and 1980s and eventually resulted in an overvalued currency, uncompetitive industrial market, hyperinflation and dependence on foreign intermediate goods in order to sustain the domestic industrial structure. Grugel, Jean and Maria Pia Riggiozzi. "The Return of the State in Argentina." *International Affairs (Royal Institute of International Affairs 1944-)* 83.1 (2007): 87-107, pg. 89

² Smith, William C. "Democracy, Distributional Conflicts, and Macroeconomic Policymaking in Argentina 1983-89." *Journal of Inter-American Studies and World Affairs* 32.2 (1990): 1-42, pg. 3.

³ The Austral Plan sought to eliminate the structural causes of inflation (protectionist policies and overvalued exchange rates) through heterodox shock policies that focused on a "wholesale de-indexation of prices in both the public and private sectors" as well as monetary reform through wage and price controls. This stabilization process, along with a moderate wage policy and privatization of the market, was expected to reduce inflation. *Id.*, pg. 10.

⁴ *Id.*, pg. 11.

⁵ *Id.*, pg. 13.

⁶ *Id.*, pg. 15-25.

⁷ Grugel, pg. 90.

Menem to assume the presidency and push for neoliberal economic policies during the period of rapid globalization.

The key feature of Menem's economic restructuring plan was the infamous Convertibility Plan, which pegged the Argentine peso on a one-to-one fixed exchange rate to the US dollar.⁸ Success of the plan required monetary and fiscal policies to be restrained either by eliminating the government deficit or financing the deficit through debt.⁹ Initially, the plan was successful in reducing inflation to less than 5% by 1995.¹⁰ During this period, Argentina had greater access to international markets and attracted foreign investment of \$11 billion in 1992 and 1993. Capital inflow into Argentina resulted in an average economic growth rate of 4.5% from 1991-95.¹¹ Additionally, Menem decentralized the government as a means to reduce central state spending through the privatization of public services and utilities as well as control on the labor movement.¹²

Although Menem's fiscal and monetary policies were successful during the first half of his presidency, the economy took a sharp downturn after 1995. The Convertibility Plan, responsible for the decrease in inflation, was the main reason behind the economic collapse during the mid to late 1990s. While the plan required a significant decrease in fiscal spending, the national and provincial governments were unable to restrain their fiscal deficits to the levels required by the plan. Moreover, the Argentine debt service ratio grew

⁸ The Convertibility Plan was enacted in April of 1991. The plan permitted conversion of pesos to dollars at the 1:1 fixed rate and restricted the printing of currency to "amounts supported by its reserve position (which could fluctuate with the amount of dollars entering or leaving the country)." Hornbeck, J.F. "Argentina's Defaulted Sovereign Debt: Dealing with the 'Holdouts.'" *Congressional Research Service Report for Congress, CRS R41029*. 6 Feb. 2013. pg. 2.

⁹ *Id.*

¹⁰ Grugel, pg. 91.

¹¹ *Id.*

¹² *Id.*

from 30% in 1995 to 66% in 2001 and the Argentine peso became greatly overvalued.¹³ Argentina's competitiveness in the foreign market decreased and the country did not retain sufficient revenue to finance its debt.¹⁴ Public revenue fell further when investor confidence in emerging markets deteriorated, resulting in massive capital flight.¹⁵ The rigidity of the Convertibility Plan prohibited the government from devaluing its currency in order to increase exports and make Argentina more competitive in the foreign market.¹⁶

In addition to the failure of the Convertibility Plan, external factors pushed Argentina as well as the world economy into economic trouble. Credit agencies overstated Argentina's strengths and international creditors made generous loans to Argentina despite the risk factors. The IMF also had a role to play in the lending problems by supporting loan agreements that were based on unrealistically optimistic assumptions about Argentina's economy. Moreover, the IMF failed to adequately monitor the Argentine economic situation and permitted an unsustainable amount of lending during the years of 1991-2001.¹⁷ In addition to problems created by external agencies, the economic crises and policy changes in other countries contributed to Argentina's economic turmoil. During the late 1990s, the 1997 Asian crisis, the 1998 Russian crisis and currency devaluation by Brazil (Argentina's major trading partner) further strained the Argentine economy, leaving Argentina in a desperate, unsustainable position.¹⁸

¹³ Hornbeck, CRS R41029, pg. 2.

¹⁴ *Id.*

¹⁵ Grugel, pg. 92.

¹⁶ Additionally, Argentina was unable to engage in fiscal spending, due to its excessive debt, nor reduce fiscal spending for fear of deepening the recession. Thus, domestically, Argentina was left without any tools to prevent the country from sliding into deeper recession. Hornbeck, pg. 2.

¹⁷ *Id.*

¹⁸ Grugel, pg. 92.

The combination of all of these factors pushed Argentina to default on its debt in December of 2001.¹⁹ The aftermath of the default led to great political instability and social turmoil. For a two-week period in December 2001, five presidents took office. Savings accounts of Argentines were frozen and money in the accounts was converted from dollars into highly devalued pesos. Additionally, unemployment reached around 25% of the workforce and poverty levels hit 44%.²⁰ Along with internal strife, Argentina was facing problems with foreign investors in international arbitration. By 2013, there were 42 ICSID²¹ claims pending against Argentina, the majority due to emergency measures taken by Argentina to expropriate previous private investments in the gas industry in order to stabilize the economy during the 2001 debt crisis.²² The international tribunal awarded judgments against Argentina, two of which resulted in damages in excess of \$100 million.²³ In the midst of internal turmoil and external pressure by foreign investors, the Argentine people sought a new government that shifted away from neoliberal policy and returned back to Argentina's Peronist roots.

¹⁹ A sovereign debt default occurs when a government is unable or unwilling to pay the debt it has acquired on the international credit markets.

²⁰ Martinez, Elizabeth A. "Understanding the Debate over Necessity: Unanswered Questions and Future Implications of Annulments in the Argentine Gas Cases." 23 *Duke Journal of Comparative and International Law* 149-86 (2012), at 154.

²¹ Formed in 1966, the International Centre for Settlement of Investment Disputes (ICSID) is an international arbitration tribunal that settles disputes between foreign investors and state governments concerning international investment disputes.

²² Hornbeck, J.F. "Argentina's Post-Crisis Economic Reform: Challenges for U.S. Policy." *Congressional Research Service Report for Congress, CRS R43022*. 15 Apr. 2013. pg., 15.

²³ In 2007, ICSID awarded a judgment of \$132 million in damages in favor of CMS Gas Transmission Company of Michigan for losses incurred due to the emergency laws imposed by Argentina. Additionally, in 2009, ICSID awarded another judgment of \$165 million in damages in favor of Azurix Corporation for a water and sewage contract. Argentina declined to pay the damages in order to prevent an influx of future ICSID claims. *Id.*

2. The Entry and Rule of Peronist Governance

The 2001 economic crisis bred mistrust among Argentines in international markets and neoliberal policies. Alarming rates of unemployment and poverty motivated the 'new poor' to protest against the neoliberal model and advocate for a return to Peronist politics. Trade unions and the 'new poor' took to the streets to protest the adverse consequences of the neoliberal model and eventually influenced President Duhalde in 2002 to institute Peronist policies, namely the reintroduction of a state-sponsored social safety net.²⁴ Additionally, President Duhalde abandoned the Convertibility Plan and converted bank deposits and debt into pesos, which devalued the currency and stimulated the domestic industry for the first time in 15 years.²⁵

Moreover, President Duhalde continued with his commitment to implement Peronist policies through the introduction of social dialogue programs that encouraged citizens from all sectors of society to voice their opinions on social programs. Societal dialogue led to the creation of the Program for Male and Female Unemployed Households (Programa Jefas y Jefes de Hogares Desempleados), which provided households an income of 150 pesos per month (US\$50) in exchange for participation in community service, construction and small-scale production projects.²⁶ The tide was shifting in the direction of a government that provided a more active role for the state and the reimplementation of the social and economic rights the Argentine people were accustomed to during Peronist governance.

²⁴ Grugel, pg. 95.

²⁵ *Id.*

²⁶ The purpose of this program was to assist workers with low wages whose interests did not align with the unions or with traditional wage workers. *Id.*, pg. 96.

With citizen support for Peronist policies, Nestor de Kirchner assumed office in 2003 with an agenda to rebuild Argentina's industrial base and public services as well as foster a more active role for the state to tackle economic issues. Regarding economic policy, Kirchner continued the policy of peso devaluation, which had the effect of increasing Argentina's exports.²⁷ Kirchner was able to raise public revenues through an increase in export taxes and by withholding the debt repayment to the IMF until 2006. Additionally, Kirchner tackled inflation through negotiations between the government and producers to foster 'voluntary' price controls on the part of the producers.²⁸ Throughout Kirchner's reign as president, Argentina's economy grew at an annual average rate of 8% (through 2008). Kirchner's policies also moved 11 million out of poverty, from a previous high of 39 million, and reduced the unemployment rate from 21.5% in 2002 to 9.6% in 2007.²⁹

In 2008, Cristina Fernández, Kirchner's wife, became president and continued with and expanded the Peronist policies promoted by Kirchner. Argentina experienced increased economic growth by the end of her first term, primarily due to a strengthened domestic sector and external factors (such as trade with Brazil). Additionally, Fernández's policies focused on reducing the unemployment rate and poverty. She also focused on social welfare programs by launching the Universal Child Allowance (Asignación Universal por Hijo), a program that allocates a certain amount of money for each child under 18 to

²⁷ *Id.*, pg. 97

²⁸ Whether the price controls were 'voluntary' remains subject to debate. The government sought to maintain the price controls through "a constant practice of monitoring and warning by government of the danger of pushing prices up." *Id.*, pg. 98.

²⁹ Weisbrot, Mark and Luis Sandoval. "Argentina's Economic Recovery: Policy Choices and Implications." Center for Economic and Policy Research. Oct. 2007. pg. 5.

families dealing with unemployment or underemployment.³⁰ Due to the success of her populist policies in stimulating the economy and reducing poverty, Fernández easily won a second term. The successes of the Kirchner administration and the first half of the Fernández administration strengthened the role for the state in determining economic policy and returned Argentine politics to the Peronist ideology.

3. The Debt Restructuring Deals and Holdout Dispute

Although Kirchner's and Fernández's policies produced economic growth and revitalized the economy, they could not ignore the repayment demands by international creditors from the economic crisis. At the time of the default, Argentina owed private investors who held bonds \$81.8 billion, the IMF \$9.5 billion, and the Paris Club countries³¹ \$6.3 billion.³² Beginning in 2002, Argentina began the process of debt restructuring³³ and negotiating with the IMF and investors to develop a repayment plan. After three years of negotiation, Argentina suspended talks with the IMF and acted on its own to reach a solution for private creditors.³⁴ Additionally, Argentina passed the "Lock Law" (Ley Cerrojo) in 2005, which "prohibited the government from reopening the exchange or making any kind of future offer on better terms, and suspended future payment on the

³⁰ Stocker, Ed. "Argentine Strength' Carrying Cristina Fernández to Presidential Re-Election." *The North American Congress on Latin America*. 23 Oct. 2011.

³¹ The Paris Club is a group of 19 countries who assist in negotiating debt relief for developing nations that have difficulty meeting their debt obligations by restructuring or reducing the debt that is owed to them.

³² Hornbeck, CRS R41029, pg. 3.

³³ Debt restructuring involves, "a formal and legal change in contractual agreements of the debt, such as reducing the face value of the obligations, issuing new bonds with lower interest rates and longer maturities, and capitalizing overdue interest, usually a sizeable loss to bondholders." A successful debt restructuring typically involves a 90% participation rate from investors that offers at least 50% of the net present value on debt. *Id.*, pg. 4.

³⁴ Bypassing IMF assistance, Argentina filed a one-time unilateral offer with the Securities and Exchange Commission in order to reach a settlement with private creditors. *Id.*, pg. 5.

untendered debt.”³⁵ This had the effect of ensuring that participants in the restructuring deal would receive payments on the same terms as any bondholders in future deals and incentivized a higher participation rate in the debt restructuring process.

In January of 2005, Argentina began its first round of debt restructuring. The first round attracted a 76% participation rate from private creditors, and Argentina was able to exchange \$62.3 billion for \$35.2 billion of new bonds of the \$81.8 billion debt.³⁶ The terms were not very favorable to the creditors, who received new bonds worth 30-35 cents on the dollar.³⁷ However, Argentina took a strong position and argued that everyone involved in the debt crisis, including bondholders, needed to take a hit and share in the misery of Argentina’s distressed economic situation.³⁸ Moreover, the bondholders of the first restructuring plan received returns of approximately 90% by 2012.³⁹

After the first round of debt restructuring, Argentina still needed to repay 24% of the private creditors, the IMF and the Paris Club countries. On January 3, 2006, Argentina repaid \$9.5 billion owed to the IMF in order to relieve itself from any IMF policy constraints.⁴⁰ Additionally, Argentina reached a deal in May 29, 2014 to pay the Paris Club countries arrears of \$9.7 billion in installments over a five-year period from 2015-2020.⁴¹ In 2009, Argentina began the second round of the debt restructuring process for private

³⁵ *Id.*

³⁶ *Id.*

³⁷ The Economist. “A Victory by Default?” *The Economist*. 3 Mar. 2005.

³⁸ Hornbeck, CRS R41029, pg. 4.

³⁹ Benson, Drew. “Billionaire Hedge Fund Snubs 90% Returns.” *Bloomberg News*. 23 Jan. 2012.

⁴⁰ Hornbeck, CRS R41029, pg. 5.

⁴¹ BBC News. “Argentina in Deal with Paris Club to Pay \$10 Billion Debts.” *BBC News*. 29 May 2014. Argentina paid its first installment of \$650 million to the Paris Club countries in July of 2014. Buenos Aires Herald. “Government Pre-Pays Paris Club as a Sign of Good Faith over Default.” *Buenos Aires Herald*. 29 Jul. 2014. Moreover, Argentina is current with its payments to the Paris Club countries as of March 31, 2016. Barnato, Katy. “Argentina Set to Launch Bond, End Hedge Fund Battle.” *CNBC News*. 31 Mar. 2016.

bondholders. Prior to the bond exchange, on November 18, 2009, the Argentine legislature temporarily suspended a portion of the Lock Law that prohibited any reopening or a debt restructuring offering. Furthermore, in December of 2009, Argentina filed a preliminary prospectus with the SEC, which had the effect of approving Argentina's request to issue new bonds.⁴² These two actions by the Argentine government paved the way for the second round of debt restructuring. The bond exchange opened on April 30, 2010 and closed on June 22, 2010 as well as a second stage that closed on December 31, 2010. In this round, \$12.8 billion of \$18.4 billion in bonds were exchanged, representing a 93% participation rate of private investors and 91.3% participation rate of total defaulted debt.⁴³ 7% of the bondholders rejected the restructuring deals and chose to pursue litigation in US courts.

The 7% bondholders, termed the holdouts, acquired the Argentine bonds when the value of the bonds significantly declined after the 2001 debt crisis. A majority of the holdouts were hedge funds that specialize in purchasing highly discounted debt in order to acquire a profit as the value of the bond rises in the future.⁴⁴ Arguing that the terms of the restructuring deals were not favorable to creditors, the holdouts pursued litigation in New York.⁴⁵ The Argentine bonds were drafted by Argentina's US attorney and are governed under New York law in order to attract investors into purchasing Argentina bonds. Additionally, the Argentine bonds contained a *pari passu* clause, meaning that the bonds a bondholder buys are given equal treatment to all other bonds issued by Argentina. Thus,

⁴² Hornbeck, CRS R43022, pg. 6.

⁴³ *Id.*, pg. 7.

⁴⁴ *Id.*, pg. 4.

⁴⁵ Typically, the strategy pursued by these kinds of hedge funds involves "realizing capital gains on discounted bonds, often purchased after the default, and settling with the debtor country for a much higher price than paid in the secondary market." *Id.*, pg. 8.

there cannot be discriminatory treatment among creditors in the repayment of bonds.⁴⁶ Moreover, the bonds did not include a collective action clause, a clause that legally requires all bondholders to accept the terms of a debt restructuring if a supermajority of the bondholders agree to the terms.

NML Capital Limited, a prominent hedge fund and holdout creditor, pursued litigation in New York court, arguing for the enforcement of the *pari passu* clause. There are two common interpretations of the *pari passu* clause: a narrow one and a wide one. The narrow interpretation requires that obligations legally rank *pari passu*, meaning that a sovereign can discriminate between creditors as long as there is no mandatory law that authorizes the discrimination. The wide interpretation prevents a sovereign nation from making any unequal payments if they are insolvent or in debt default. An opinion by Judge Thomas Griesa of the Second Circuit court on October 26, 2012 adopted the wide interpretation of the *pari passu* clause.⁴⁷ Griesa argued that legislative actions by the Argentine government, including the passage of the Lock Law, violated the *pari passu* clause because it made the non-payment to holdouts mandatory by law. The decision stated that Argentina was required to pay either all of the bondholders or none of them, and could not discriminate repayment based on participation in the 2005 and 2010 debt

⁴⁶ Allen & Overy. “The *Pari Passu* Clause and the Argentine Case.” Allen & Overy. 27 Dec. 2012. pg. 2.

⁴⁷ Specifically, the *pari passu* clause was stated as follows: “the Securities will constitute . . . direct, unconditional, unsecured and unsubordinated obligations of the Republic and shall at all times rank *pari passu* without any preference among themselves. The payment obligations of the Republic under the Securities shall at all times rank at least equally with all its other present and future unsecured and unsubordinated External Indebtedness.” Argentina argued that the *pari passu* clause only applied to the first sentence regarding bonds of that particular issue. However, the Second Circuit ruled that the *pari passu* clause applied to both sentences, meaning that bonds rank equally among themselves as well as with external debt. Thus, the new bonds issued by Argentina also ranked *pari passu* with the old bonds that were held by the holdouts. See *NML Capital Ltd., v. Argentina*, 699 F.3d 246 (2d Cir. 2012).

restructurings.⁴⁸ Thus, Argentina was prevented from paying the holders of new bonds unless it also paid the holdouts for their old bonds.

In addition to the ruling on the *pari passu* clause, the Argentine bonds contained a RUFO (“Rights Upon Future Offers”) clause. The RUFO clause states that if Argentina reaches a better agreement with future bondholders, the other bondholders have the right to demand the same terms. The term of the RUFO clause was through December 31, 2014. Essentially, if Argentina would have reached a better agreement with the holdouts prior to December 31, 2014, the creditors who participated in the 2005 and 2010 restructuring deals had the right to demand repayment on the same terms as the holdouts.⁴⁹ The 2012 decision by Griesa required Argentina to pay the holdouts in full; thus, the fear was that Argentina would be required to pay back all private creditors in full, an amount that the economy could not support. Moreover, Judge Griesa issued an injunction against Argentina in 2014 prohibiting the country from accessing international capital markets from issuing new bonds or servicing its restructured debt until it pays back all of the debt that is owed, particularly to the holdouts.⁵⁰ Due to heavy financial pressure, Argentina defaulted on its debt for a second time in July of 2014.⁵¹

The Argentine government’s reaction to Griesa’s decision was very negative. President Fernández refused to pay the holdouts and argued that these vulture funds’ (a term she used to describe the holdouts) demand for repayment would destabilize the

⁴⁸ Allen & Overy, pg. 4-5.

⁴⁹ The Economist. “Argentina Debt: Let’s Not Make a Deal.” *The Economist*. 3 Jan. 2015.

⁵⁰ Van Voris, Bob and Katia Porzencanski. “Argentina Debt Injunction to be Lifted in Blow to Hedge Funds.” *Bloomberg News*. 16 Feb. 2016.

⁵¹ The Economist.

Argentine economy, resulting in more poverty and economic misery.⁵² She maintained her position throughout the end of 2015, the end of her presidency. Although some in Buenos Aires respected her position to withhold payments to the holdouts, the dire state of the economy by 2015⁵³ persuaded many to consider a change in government.

4. Macri's Presidency and Solution to the Holdout Dispute

The 2015 presidential election was a big moment for the Argentine people to decide the future of their country and, importantly, their economy. Campaigning under a platform to change the country's political institutions and revitalize the economy, on November 22, 2015, the center-right candidate Mauricio Macri won the presidential election. Macri's victory came as a surprise for many. During the first round of elections held in October, Macri was able to pull off a close second place result behind the Peronist candidate, Daniel Scioli.⁵⁴ The close result and the first ever-presidential run-off was unexpected by many who assumed that Scioli would easily win the election. However, on November 22, 2015, the Argentine people voted to elect Macri into office, the first president in almost 100 years who is not associated with the Peronist party or ideology.⁵⁵

After assuming office on December 10, 2015, Macri worked quickly to reverse many of the policies of his predecessor, Cristina Fernández. Apart from relaxing currency

⁵² Van Voris.

⁵³ Isolation from international markets worsened Argentina's economy, resulting in around 30% inflation, a large fiscal deficit and few reserves. Wernau, Julia and Taos Turner. "Argentina Debt Deal Poised to Deliver Big Payday to Holdouts." *The Wall Street Journal*. 29 Feb. 2016.

⁵⁴ After the first round of elections, Daniel Scioli (Frente para la victoria) received 36.7% of the vote and Mauricio Macri received 34.5% of the vote. The Argentine electoral system requires that a presidential candidate receive either 45% of the vote or 40% of the vote with a 10% lead over the second place candidate. This was the first time in Argentina's political history that the country was set for a presidential run-off. BBC News. "Argentina Goes to Polls in First Ever Presidential Run-Off." *BBC News*. 22 Nov. 2015.

⁵⁵ Macri received 51.4% of the votes compared to Scioli's 48.6% in the presidential run-off. The Economist. "Argentina's New President: The End of Populism." *The Economist*. 28 Nov. 2015.

exchange controls and lifting export taxes, Macri also negotiated a deal with the holdouts in order to end the economic misery that Argentina was suffering. In February of 2016, Argentina agreed to pay a group of Italian bondholders \$1.35 billion and \$1.1 billion to two of the six holdout firms.⁵⁶ On February 19, 2016, Judge Griesa, noting the change the Macri government has brought in dealing with the holdouts, announced that he would lift the injunction on access to international capital markets if Argentina repealed domestic laws, including the Lock Law, that prevent Argentina from making payments to the holdouts. Argentina finally reached a payment plan on February 29, 2016 with the rest of the holdouts and vowed to pay them back \$4.65 billion, a large pay-off for the investors who purchased the bonds at a discounted price.⁵⁷ On March 31, 2016, Argentina's legislature agreed to repeal the domestic laws that prevented repayment to the holdouts⁵⁸ and the Senate approved a plan that permitted Macri to issue \$12 billion in bonds in order to pay back the holdouts.⁵⁹ Members of the opposing Peronist bloc supported the holdout repayment plan due to the provinces' need for vital economic reform. Many hoped that a return to international markets would attract money that could be invested in various domestic industries.

With approval to pay back the holdouts, Argentina returned to the international market for the first time in 15 years and prepared for its first bond sale to raise money for repayment. On April 18, 2016, Argentina opened its first bond sale and attracted interest from many investors. Although investors remained cautious about purchasing Argentine

⁵⁶ The Economist. "Argentina's Debt: At Last." *The Economist*. 5 Mar. 2016.

⁵⁷ *Id.*

⁵⁸ Mander, Benedict. "Argentina Clears Way for Repayment of 'Holdout' Creditors." *Financial Times*. 31 Mar. 2016.

⁵⁹ Turner, Taos. "Argentine Senate Approves Plan to End Bondholder Dispute." *The Wall Street Journal*. 31 Mar. 2016.

bonds, the positive future economic outlook and higher interest rates enticed investors.⁶⁰

The outcome of the bond sale was overwhelmingly positive, and Argentina was able to raise \$16.5 billion,⁶¹ sufficient to pay back the bondholders. Finally, on April 22, 2016, Argentina paid back \$9.3 billion to all holdouts.⁶² Under Macri's leadership, Argentina finally put an end to the 15-year saga with the hope to rouse investor interest and stimulate the economy.

Opinions about Argentina's decision to pay back holdouts have been mixed. Many commentators have noted the solution to the holdout problem as an incredibly positive step to reform Argentina's reputation regarding international investment. Once it became evident that Macri would be able to reach a deal with the holdouts after receiving approval from both houses in the Argentina legislature, the market greeted the news with optimism.⁶³ For international investors, the end of the holdout dispute and Macri's proposed economic policies sent a signal to the world that Argentina is ready to enter a new and better financial era. Additionally, support from the populace as well as members of the Peronist parties to approve the holdout plan indicates that the country is ready to follow Macri's lead to open up and revitalize the Argentine economy.⁶⁴

⁶⁰ Gilbert, Jonathan. "Argentina Re-Enters International Bond Markets." *The New York Times*. 18 Apr. 2016.

⁶¹ The Argentine bond sale was one of the largest by a sovereign in history. Regarding the sale, "demand was so high for Argentina's four-part offering that the government... was able to narrow initial guidance on the 10-year debt by 50 basis points to 7.5%. Investors placed bids for almost \$69 billion." Pronina, Lyubov. "Argentina Opens Junk Bond Spree as Emerging Issuers Line Up." *Bloomberg News*. 19 Apr. 2016.

⁶² Stevenson, Alexandra. "How Argentina Settled a Billion-Dollar Debt Dispute with Hedge Funds." *The New York Times*. 25 Apr. 2016.

⁶³ Sharma, Gaurav. "Argentina Heading for New Financial Era Under Mauricio Macri." *Forbes*. 31 Mar. 2016.

⁶⁴ *Id.*

While many commentators have expressed optimism, others have argued that repayment to the holdouts may set a bad precedent for future holdouts in seeking solutions from insolvent sovereigns. Some argue that the resolution of the holdouts crisis will incentivize creditors to reject restructuring deals and encourage them to hold out in order to seek a higher price. These holdout creditors will have the legal backing to bully insolvent nations who are desperate to reach a resolution and do not have the political or economic power to withstand the dispute.⁶⁵ The holdouts are pursuing a legal fight to demand higher payment without considering the negative effects these actions produce on the country's economy and populace. It is uncertain whether this resolution will set a negative precedent and incentivize creditors to hold out in future debt restructuring deals.

Opponents on the other side counter this idea by arguing that the market has solved the problem through the introduction of collective action clauses, which are now included in almost all bond contracts.⁶⁶ Although collective action clauses have the potential to prevent holdout disputes, this will only work if a supermajority of creditors required to trigger the collective action clauses is willing to accept the debt restructuring deals. For example, if the collective action clauses require a 90% supermajority to trigger the clause but 15% of the creditors prefer to hold out, then this may lead to another holdout dispute. For now, Argentina has included the collective action clauses in the bond contracts of its

⁶⁵ Guzman, Martin and Joseph E. Stiglitz. "How Hedge Funds Held Argentina for Ransom." *The New York Times*. 1 Apr. 2016.

⁶⁶ The argument for collective action clauses is that holdout creditors will no longer be able to pursue litigation if they are forced to accept the debt restructuring deal that has already been accepted by a supermajority of the creditors. Hence, these kinds of holdout sagas should no longer occur, since almost all bond contracts contain collective action clauses. Worstall, Tim. "Where Guzman and Stiglitz Go Wrong about Argentina and Bond Holdouts." *Forbes*. 1 Apr. 2016.

recent bond sale.⁶⁷ The next few years will determine the effectiveness of the collective action clauses in preventing holdout disputes.

5. Future: How to Persuade Foreign Investors to Invest in Argentina

Although many investors regard the holdout solution with significant progress and optimism, the issue remains how Argentina will attract foreign investors to invest, and thus revitalize, Argentina's economy. The repayment plan to the holdouts has already sent a positive signal to the market, indicating that Macri's government is pushing to eradicate his predecessors' policies and is committed to attract foreign investment. Macri has also instituted various economic policies—such as lifting currency controls and export tariffs, permitting the peso to float and thus devaluing it by 30% against the dollar, permitting access to the foreign exchange market and tackling inflation—with the intention to spur economic growth.⁶⁸ Moreover, Argentina's Labor Minister, Jorge Triaca, predicts that job creation should begin by the second half of the year due to an increase in foreign investment and planned investments in the public sector.⁶⁹ Additionally, Moody's decision to upgrade Argentina's credit rating to B3 from Caa1 as a result of Macri's entry into office

⁶⁷ Gilbert.

⁶⁸ Winkler, Matthew. "Don't Cry for Argentina's Global Investors." *Chicago Tribune*. 5 Apr. 2016.

⁶⁹ In an interview with Reuters, Triaca stated, "In the second half of the year, we should start to see the impact of investment in both private and public works...in August or September." This news will be positive for Argentine workers after Macri's commitment to "trim government payrolls" resulted in layoffs of up to 10,000 workers in the public sector. Additionally, the private sector, primarily the construction industry, has lost an estimate of 45,000 jobs as well. Misculin, Nicolás. "Argentina Jobs recovery to Start in August: Minister." *Business Insider*. 19 Apr. 2016.

and potential economic growth will assure investors that investing in Argentina is less risky and will continue to be less risky as the effects of Macri's economic policies unfold.⁷⁰

There may be a lot of excitement around the future of Argentina, but the short term has, and will continue to, negatively affect the economy. Macri's economic policy to allow the peso to float, while beneficial in the long term,⁷¹ has pushed up inflation and will continue to do so for some time. Furthermore, the economy is expected to contract by 0.5% in December and inflation, according to some estimates, will reach 40%.⁷² The Argentine people are suffering from high prices and job cuts; thus, along with the desire to spur investment in vital industries, Macri's agenda to tackle inflation should also consider ways to accommodate those who are suffering in the present.

A negotiated solution to the holdout dispute and increased investor interest also has the potential to improve relations with the United States. During President Obama's visit to Argentina in late March 2016, Obama mentioned his admiration for Macri's commitment to quickly and effectively implement economic policies to encourage foreign investment and stimulate economic growth. Additionally, Obama noted his delight in seeing Argentina

⁷⁰ Moody's Investors Service upgraded Argentina's issuer rating to B3 from Caa1, Argentina's foreign legislation and restructured local legislation foreign currency obligations to B3 from Caa2 and Argentina's senior unsecured shelf rating to B3 from Caa1, all on April 15, 2016. Moody's Investors Service. "Moody's Upgrades Argentina's Issuer Rating to B3 with a Stable Outlook." *Moody's Investors Service*. 15 Apr. 2016. Additionally, on April 21, 2016, Moody's upgraded Argentina's financial institutions and financial institutions debt ratings. Moody's Investors Service. "Moody's Upgrades Argentina's Financial Institutions Debt Ratings." *Moody's Investors Service*. 21 Apr. 2016. The rationale behind the policy upgrades is due to the resolution of the holdout dispute and economic policy improvements under Macri's administration.

⁷¹ The floating of the peso is expected to make Argentine exports more competitive as well as "reduce a drain on the central bank's foreign-exchange reserves" in the near future. The Economist. "As Argentina's Reformist President Gets to Work, Life is Still Getting Worse for Everyday People." Published in *Star Tribune*. 18 Apr. 2016.

⁷² *Id.*

reenter the global economy and optimism for improving ties between the two nations.⁷³

Along with President Obama, US Secretary of Treasury Jacob J. Lew also iterated his praise for Argentina's recent economic achievements and desire to see Argentina enter the global financial community.⁷⁴ Lew also mentioned the United States' commitment to improve the sovereign debt restructuring process by including collective action clauses that will prevent future holdout disputes.⁷⁵ With the United States' admiration and support, there is hope and excitement that Argentina and the United States will enter a new era that will restore and promote closer political and economic relations.

Professionals in Argentina discussed the need for Argentina to send a strong signal to international investors in order to attract foreign investment. Investments should ideally be made in vital industries that have been weakened and are in need of development. The major industries that need sufficient investment are public infrastructure projects (such as roads and bridges), water, oil, gas, energy, and other natural resources. Investment in these industries will lead to job creation and stimulate the economy, thus attracting foreign investors to make long-term investments in the country once they realize the potential payoffs and gains from investing in Argentina.

Argentina is in the middle of a transformative period and has the potential to make historic changes to its economy. The biggest challenge is to see whether access to

⁷³ Sharma.

⁷⁴ Lew specifically stated, "Throughout my consultations with Finance Minister Prat-Gray, I have reiterated our admiration for the speed at which Argentina is moving to create more sustainable and economic growth, and to reconnect with the global economy and the world community. Argentina's return to international capital markets and reintegration with the global economy represent a major milestone not only for Argentina but for the entire global financial system." Lew, Jacob J. "Statement by Treasury Secretary Jacob J. Lew on Argentina's Debt Repayment and Return to Global Capital Markets." *U.S. Department of Treasury Press Center*. 22 Apr. 2016.

⁷⁵ *Id.*

international markets and investment in vital industries will spur sustainable economic growth that will attract sufficient foreign investment for the long term. Along with stimulating economic growth and enticing foreign investment, Macri's economic policies must also tackle inflation so that the Argentine people do not continue to suffer price increases. The next few years are crucial in determining whether the holdout solution will result in long-term economic gains that will benefit the Argentine economy and, most importantly, the Argentine people.

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