Argentina Debt Default is Risky US Power Poker

Most are unaware of the drama unfolding behind the imminent threat of (yet another) Argentina debt default. Far from another tale of a corrupt developing country not able to meet its foreign debt obligations as the world saw during the 1980’s and late 1990’s, the real drama behind Argentina’s sovereign debt default is a risky, in fact, dangerous power play by Washington and Wall Street aimed at terrorizing not just Argentina but all emerging nations into playing by rules uniquely written on Wall Street to the unique benefit of Wall Street banks and hedge funds.

On August 1, the Wall Street credit rating agency, Standard & Poors, the same agency accused of politically intervening to turn the Greek debt crisis into a Euro crisis in 2011, acted to declare Argentina in “Selective Default.” The declaration came when negotiations between the Argentine Government and Wall Street hedge funds failed to resolve a dispute over payment of €400 million in debt. But this is more interesting that it appears. It was Argentina which refused to agree to pay the amount, not the funds who refused.

Background

The critical bit of intelligence is that the dispute is not about Argentina being able to service its foreign debts as was the case in more than a decade ago. In 2001 Argentina defaulted on almost US$ 82 billion of its sovereign debt. It was a bitter time for the country as Wall Street and City of London banks had pushed the government against the wall. Its government negotiated a debt restructuring terms in 2005 and 2010, with around 92% of the holders of defaulted debt accepting “haircuts” or significant reduction on the value of their bonds.

Then about 8% of bondholders did not accept the terms of the restructuring, so-called “holdouts” who were mostly speculative hedge funds. The hedge funds, led by NML Capital, part of Paul Singer's Elliott Capital Management, refused the terms of the haircut offered by Argentina. They demanded repayment in full of the bonds by Argentina plus interest.

Vulture capitalism rules

There is a little ugly wrinkle however. Singer’s NML Capital is not even an ordinary hedge fund. He runs what is called a “vulture fund,” a special kind of speculation fund. As the name implies, like a vulture, it scavenges debt “corpses” for potential profits as high as 1700% on investment. It is the most cynical expression of the pure free market logic of Gordon Gekko from Oliver Stone’s 1987 film Wall Street. They buy the debt of poor countries or countries in financial recovery for pennies on the dollar and then sue in known courts, often recovering up to ten times the purchase price, usually by suing in “market friendly” US or European courts. Vulture funds are very secretive and are often based in offshore tax havens like the Cayman Islands. Singer’s potential profits come by his suing in a US District Court and winning.

Thus, the issue between Argentina and Singer is whether its voluntary agreement with the other 92% debt holders, which Argentina has paid into an escrow account that the US Court judge froze pending resolution of Singer’s demands, can be sabotaged by a crass speculator gambling on friendly judges to give him obscene profit at the expense of the stability of an entire nation.
The freedom of unregulated vulture funds buying up defaulted sovereign debt and suing for recovery would be as if in 1991 at the dissolution of the Soviet state, Wall Street hedge funds sued the Russian Federation to recover in full plus accrued interest defaulted 1916 Czarist Russia bonds it had bought in some rummage sale for pennies. The point is not the madness of the vulture funds but the madness of the US Federal District Court in New York and even the Supreme Court in allowing such madness exist.

This past June the US Supreme Court, one of the most bizarre courts in US history, ruled in favor of the NML Capital Vulture Fund, holding that it would not review Argentina’s appeal of the Federal District Court Judge Thomas Griesa. Leaving aside the fact that Judge Griesa is 84 years old and his rulings suggest possible senility, the situation is more than bizarre, so much so that even the US Obama Government and the IMF oppose the Judge’s ruling.

JUDGE GRIESA HAS ISSUED CONTRADICTORY RULINGS IN THE ARGENTINE CASE YET THE SUPREME COURT REFUSES TO EXAMINE THE CASE

Griesa, using a legal argument of parity or para passu, blocked Argentina from making any payments to the 92%, the holders of its restructured debt, if it does not make payments to the holdouts suing the country. As he stated, his rulings all were intended to force Argentina to live up to what he repeatedly called its “obligations.”

Griesa ruled that Argentina must pay the old bonds in full at the same time it made the next semiannual interest payment to holders of the new bonds. And if it did not do so, any bank that helped Argentina pay interest on the new bonds would be violating the order. That ruling was upheld by the United States Court of Appeals for the Second Circuit, and in June the Supreme Court refused to hear Argentina’s final appeal.

Judge Griesa is in effect seeking to control actions by a sovereign government and issuing orders that are supposed to be binding on those who would ordinarily never be within the jurisdiction of an American court. It’s a bit mad were it not for the fact that the US Supreme Court, whose knowledge of vulture funds and complex financial deals is perhaps limited, refused to challenge the determined Griesa.

Argentine President Cristina Fernández de Kirchner called the court orders “extortion.” But she said her country will continue making payments to holders of its restructured debt. The payments however have been frozen by US Judge Griesa.

For Argentina it is a nuclear “Catch 22.” If she pays the $1.33 billion to the vulture fund as the judge demands, the other hedge fund “holdouts will in part or all sue as well to demand full 100% repayment. Argentina estimates that would cost as much as $28 billion, exhausting the country’s foreign exchange reserves. But, by blocking the payment to the 92% Judge Griesa is forcing an unwilling default by Argentina.

The savagery of Singer’s vulture fund knows no bounds. In October, 2013, in an attempt to collect its Argentine debt, NML Capital asked a Ghanaian court to seize one of Argentina's ships, the ADA Libertad, parked off the coast of Ghana. NML Capital won the case and Ghana seized the ship. Later, the ruling was overturned by the United Nations Tribunal on the Laws of the Sea and the ship was returned to Argentina. On June 21, 2013, Ghana's Supreme Court condemned the Argentine ship seizure. But it indicates the Barbary Pirate nature of these vulture funds, funds which are not recognized in many countries including Germany.

Joe Stiglitz, Nobel Prize economist, noted of the Argentina US court rulings, “We’ve had a lot of bombs being thrown around the world, and this is America throwing a bomb into the global economic system. We don’t know how big the explosion will be — and it’s not just about Argentina.”

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