

Testimony by Robert Raben, Executive Director, American Task Force Argentina
New York State Senate Hearing on
Argentine Bond Default and its Impact on New York State
Senate Standing Committee on Banks

Thank you, Senator Foley and Members of the Committee, for holding this hearing on the serious impact that Argentina's debt default has had on New York State.

I am the Executive Director of the American Task Force Argentina (ATFA), an alliance of more than 40 organizations united for a just and fair reconciliation of the Argentine government's 2001 debt default and subsequent restructuring. Our members work with Congress, the Administration, the media and other interested parties to encourage the United States government to vigorously pursue a negotiated settlement with the Argentine government in the interests of all American holders of Argentine bonds.

As others have described the particulars of the debt default and restructuring, I'd like to focus on the efforts of ATFA members who have for years now been advocating for government action to help achieve a fair resolution for American investors.

I'm glad to be able to report that all three branches of the federal government have spoken to the need for Argentina to fully and finally satisfy its obligations.

You have heard testimony about the actions that the judicial branch has taken – issuing judgments in 117 cases that Argentina needs to pay back investors holding defaulted debt.

The executive branch has also spoken out about the need for Argentina to resolve its relations with foreign investors. Secretary of State Hillary Clinton wrote that her Department would continue to urge the Government of Argentina to abide by its commitments and normalize relations with all creditors and investors. U.S. Ambassador to Argentina Vilma Martinez has echoed and elaborated on Secretary Clinton's message during her confirmation process. In addition to calling for Argentina to normalize its relations with creditors, she also pledged to specifically call on the government to abide by its commitments to private bondholders and Paris Club creditors and resolve the claims of international arbitration award recipients.

Voices in our federal legislative branch have spoken with similar clarity. Thirty Members of Congress, Democrats and Republicans, are supporting legislation that would strongly encourage Argentina to recognize its obligations. This legislation, the Judgment Evading Foreign States Accountability Act, would encourage responsible international lending and borrowing by restricting access to U.S. capital markets for wealthy and middle-income nations that have demonstrated that they are unable (or, in Argentina's case, unwilling) to meet their financial obligations. The legislation also aims to promote respect for U.S. court judgments, which Argentina has made a practice of ignoring.

Representatives Sheila Jackson Lee (D-NY) and Edolphus Towns (D-NY) first introduced the Judgment Evading Foreign States Accountability Act during the 110th Congress, on September 28, 2008. This legislation was reintroduced in the 111th Congress, on May 19, 2009.

The legislation has four components. First, it would deny Argentina and other foreign states that have been in default of U.S. court judgments exceeding \$100 million for more than two years access to U.S. capital markets. Second, it would deny domestic corporations of such judgment evading foreign states that remain in default for more than three years access to U.S. capital markets. Third, it would require the U.S. government to consider the default status of countries before granting them aid. And lastly, it would require the Secretary of the Treasury to issue annual reports naming these states and analyzing the impact of their behavior on the U.S. economy.

This legislation has been carefully and narrowly drawn to exclude poor nations. In particular, nations eligible for International Development Association financing or relief through the World Bank's Heavily Indebted Poor Countries Initiative or the Multilateral Debt Relief Initiative are specifically exempted from the bill's penalties.

In addition to the Judgment Evading Foreign States Accountability Act, various legislators have weighed in on this topic in other ways. Senator Kirsten Gillibrand wrote to Argentina's Economy Minister in January, expressing her concern about Argentina's failure to address its debt obligations and urging it do so in an equitable fashion. Representative Russ Carnahan of Missouri, who chairs the House subcommittee that oversees the State Department, wrote to Secretary Clinton in February, urging her to continue to place pressure on the Argentine government to negotiate in good faith and resolve its debts. And many other members have weighed in directly with Argentina and with the U.S. government over the years that we have been pursuing a fair and final resolution.

This sustained pressure and vigilance from all three branches of the federal government, as well as from the state government here in New York, is needed, because unfortunately, the Argentine government has demonstrated that it cannot be trusted to do the right thing on its own.

Currently, the government is touting its new offer to pay back its debt to American taxpayers and creditors. President Kirchner said in January of this year that "We are going to keep working on our responsibility because we are going to take the country out of default. We want to end the image of a country that throws the blame on others."

However, the terms of the new offer appear likely to be worse than those offered in 2005. Rather than attempt to negotiate in good faith with all of its creditors equitably, the government is instead pursuing a discriminatory policy of dealing only with some investors who, exhausted after years of litigation and

intransigence, are desperate to recoup some of their losses, even on unfavorable terms.

This is just the latest misrepresentation of reality we have seen from the Argentine government. Previously, Kirchner officials have claimed that Argentina simply could not afford to pay its debt, even though the country was holding over \$48 billion in foreign-currency cash reserves while the combined cost of all outstanding judgments in U.S. courts totals only \$7.8 billion.

Then their Ambassador in Washington said the government should not have to pay back those debts because they were incurred by the military junta between 1976 and 1983. However, Argentina's government itself has confirmed that all of the debt in question was issued by democratically-elected civilian governments since 1991, and President Kirchner herself has acknowledged that the debts are entirely legitimate.

Last year, we learned that the government had been manipulating the inflation rate figures calculated by Argentina's National Institute of Statistics in order to paint a rosier picture of economic conditions in the country. Not only did this political meddling in the work of statisticians further erode confidence in the government, it eroded the value of defaulted debt that is benchmarked to inflation.

Unfortunately, the Argentine government's track record has left us with no option but suspicion. I would therefore urge you to remain vigilant. In your duty to serve your constituents, defend the rule of law in your state's capital markets and maximize revenues for the state treasury, you took an important and appropriate step by considering and adopting Resolution J3954, which urges the New York State Congressional delegation to support enactment of the Judgment Evading Foreign States Accountability Act. So far, 13 of New York's 28 serving House members are cosponsors of the legislation. This is a good number, but it could be higher, especially considering the particular impact that Argentina's debt default has had on the state of New York. For our part, American Task Force Argentina will continue to vigorously pursue federal action until this matter is resolved in an equitable fashion.

I look forward to working with you to urge Argentina to negotiate in good faith and achieve a settlement that is fair to New York taxpayers, New York State, and all U.S. bondholders.