



THE PERMANENT REPRESENTATIVE  
OF THE  
UNITED STATES OF AMERICA  
TO THE  
UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS  
IN GENEVA

October 14, 2014

United Nations Office of the High Commissioner  
for Human Rights (UNOHCHR)  
Palais Wilson  
1211 Geneva

OHCHR REGISTRY

15 OCT 2014

Recipients :.....*SPB*.....  
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To the attention of:

Mr. Philip Alston  
Special Rapporteur on extreme poverty and human rights

Mr. Juan Pablo Bohoslavsky  
Independent Expert on the effects of foreign debt and other related  
international financial obligations of States on the full enjoyment  
of all human rights, particularly economic, social and cultural rights

Dear Mr. Alston and Mr. Bohoslavsky:

Thank you for your letter dated August 20, 2014, which raises concerns about  
Argentina's litigation with its bondholders in U.S. courts. The United States is pleased to  
respond to your request for our views on the litigation.

Litigation in U.S. courts concerning the pari passu clause in certain sovereign bonds  
issued by the Republic of Argentina, including the NML Capital Ltd. v. Argentina case  
referenced in the letter, was brought by private creditors against the Republic of Argentina. In  
the United States, litigation is subject to the due process of law, and is open to the public, and the  
courts' rulings are easily accessible. The U.S. District Court for the Southern District of New  
York has issued a number of decisions in these cases, which are available at  
<http://www.nysd.uscourts.gov/pacer.php> and through other online sources.

The United States is not a party to any of these legal cases; however, the U.S.  
government has submitted amicus briefs in some of these cases addressing relevant legal issues  
of interest to the United States. Most recently, the U.S. government filed amicus briefs with the  
U.S. Court of Appeals for the Second Circuit in the case referenced in the letter. Those publicly

available briefs outlined the United States' views on the potential implications of the lower court's decision for international sovereign debt restructuring and addressed certain issues related to the interpretation of the Foreign Sovereign Immunities Act, a U.S. law.

The United States is not of the view that states themselves have human rights, but rather that states, as the bearers of human rights obligations, have a duty to promote and protect all human rights and fundamental freedoms. Economic hardships, including where they result from unpaid sovereign debt, do not excuse a state's failure to comply with its human rights obligations. Human rights obligations also do not excuse states from complying with legal commitments entered into freely and voluntarily with creditors, whether those creditors are other sovereign states, international financial institutions, or private entities.

You ask for views about certain draft legislation introduced by Representative Maxine Waters in the U.S. House of Representatives, during a previous session of Congress in 2009. The legislation was never voted on or enacted into law, and we have no comment it.

The United States supports the Guiding Principles on Business and Human Rights and the OECD Guidelines on Multinational Enterprises, and we have worked to promote and implement both. President Obama announced on September 24 that the United States will implement a national action plan on responsible business conduct in line with the principles contained in these arrangements. The United States does not, however, recognize the validity of the Guiding Principles on Foreign Debt and Human Rights. At the Human Rights Council, the United States voted against A/HRC/RES/20/10 and issued an explanation of vote that outlined our belief that it is incorrect to treat the issue of foreign debt as a human rights problem to be addressed by the Human Rights Council.

Now more than ever, governments have access to a diverse range of domestic, international, multilateral, sovereign, and private financing options to promote economic development and improve the wellbeing of their citizens. As the United States has made clear in its amicus briefs, the policy of the United States is that the orderly and consensual restructuring of sovereign debt, in conjunction with needed macroeconomic adjustments, is the most appropriate response to sovereign debt payment difficulties. The United States has actively worked with other governments, multilateral organizations, and private actors to develop a viable, market-based approach to resolve sovereign debt issues, and we are already able to see some progress. Over the past year, an informal group of international academics, lawyers, sovereign lenders and borrowers, financial industry representatives, and international financial institutions developed new sovereign bond terms which, once adopted, will help address concerns raised by recent sovereign restructurings and litigation. These have been released to the public through the International Capital Markets Association, endorsed by the International Institute of Finance, and have been incorporated into several new sovereign bond offerings. We

will continue to support these efforts, and additional discussion through the appropriate fora, including the International Monetary Fund.

Sincerely,

A handwritten signature in blue ink that reads "Pamela Hamamoto". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Pamela Hamamoto  
Ambassador