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November 25, 2014

### VIA ECF

The Honorable Thomas P. Griesa  
U.S. District Court for the Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1630  
New York, NY 10007-1312

**Re: *NML Capital Ltd. v Republic of Argentina*, 08-cv-6978 (TPG) and related cases**

Dear Judge Griesa:

We write in response to the November 22, 2014 letter from Plaintiff NML Capital Ltd. (“NML”) in the above-captioned action, Dkt. # 721, urging that the Court enter an order disposing of the Euro Bondholders’<sup>1</sup> Emergency Motion for Clarification (the “Motion for Clarification”) of the Court’s injunctions entered on February 23 and November 21, 2012 (the “Injunctions”). Dkt. # 587.

As we informed the court in our letter of November 7, 2014, Dkt. # 709, the English High Court of Justice, Chancery Division (the “English Court”) is preparing to issue declarations that concern certain issues under English law relevant to, among other matters, issues raised in the Motion for Clarification. For the reasons explained below, we respectfully request that the Court continue to suspend its decision on the motion until the English Court issues its ruling on the proposed declarations, which is expected to occur at the end of a hearing on December 17, 18, or 19, 2014, or shortly thereafter.

As we explained in our November 7 letter, the Honorable Mr. Justice Newey of the English Court has recognized that the English Court properly has jurisdiction over the issues presented for its consideration – namely, Bank of New York Mellon’s obligations as Indenture Trustee for the Euro Bonds, which are governed by English law, and the status of certain payments made by the Republic pursuant to the Euro Bonds and the Indenture governing those bonds. Nevertheless, the English Court has been appropriately careful to respect this Court and its adjudication of this action. Mr. Justice Newey deferred to this Court explicitly, in holding that “[t]he *pari passu* clause in the FAA has been definitively interpreted in accordance with its governing law by a Court with jurisdiction.” Dkt. #709, Ex. B, ¶ 9. Moreover, in recognition of

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<sup>1</sup> The Euro Bondholders are a group of investors holding euro-denominated bonds (the “Euro Bonds”) issued by the Republic of Argentina (the “Republic”) pursuant to 2005 and 2010 exchange offers.

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principles of international comity and respect for sister courts, Mr. Justice Newey provided for a detailed process to ensure that interested parties before Your Honor adequately could be heard by the English Court as well. *Id.*, Ex. A, ¶¶ 3-9. In accordance with this process, NML and other holdout creditors of the Republic have requested, and promptly received, the submissions before the English Court; however, no holdout creditor availed itself of this opportunity to be heard.

In short, throughout the proceedings in England, the English Court has taken great care to respect the process before Your Honor. However, in connection with these proceedings, Mr. Justice Newey also found that because the Euro Bonds are “governed by English law,” *id.*, Ex. B, ¶ 13, a declaration from the English Court regarding the status of payments made pursuant to the Euro Bonds and their Indenture “is likely to be of interest to an American Court having to consider issues relating to the funds.” *Id.*, ¶ 25. Thus, while the English Court has been appropriately careful not to overstep its boundaries and to respect this Court’s jurisdiction, it has made clear it will decide the issues within the English Court’s jurisdiction, while diligently respecting the principles of international comity and the well-established mutual respect that American and English courts have long honored for one another. We respectfully submit that this Court should also honor those principles and afford the English Court the same respect, by considering the English Court’s declarations before ruling on the Motion for Clarification. The English Court has given careful consideration to the issues before it, and has held that it believes its views could be helpful in the proceedings in the United States. This Court will have the benefit of those views by mid-December 2014, or shortly thereafter.

We note in that regard the great care the Court has taken to consider the issues raised by Citibank, N.A. in connection with clarifying the applicability of the Injunctions to exchange bonds governed by Argentine law. As recently as November 10, 2014, the Court deferred its decision on Citibank’s motion to modify the Injunctions until it received further briefing from the parties, including on issues of Argentine law, *see* Dkt. # 699, “so that the Court will have the benefit of a complete and accurate record in resolving the Motion.” Dkt. # 714. We respectfully request that the Court afford the same consideration to the issues of English law that will be the subject of the English Court’s declarations.

Finally, we note that no party would be prejudiced if this Court defers its ruling on the Motion for Clarification in anticipation of a ruling from the English Court. Movant Euro Bondholders are suggesting the continued suspension of the Court’s ruling pending the English Court’s views on the matter. Likewise, there would be no prejudice to NML, who is suffering no disability from the pendency of the motion. Moreover, if this Court, having returned the respect paid to it by the English Court and honored principles of international comity by considering the English Court’s declarations, is unmoved by the English Court’s ruling in relation to the issues relevant to the Motion for Clarification, it can at that time deny the pending motion.

Regards,

/s/ Christopher J. Clark

Christopher J. Clark  
of LATHAM & WATKINS LLP

cc: Counsel of Record (by ECF)