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December 23, 2014

**BY ECF**

Honorable Thomas P. Griesa  
United States District Court for  
the Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: NML Capital, Ltd. v. Republic of Argentina, Nos. 08 Civ. 6978 (TPG), 09 Civ. 1707 (TPG) and 09 Civ. 1708 (TPG); and related cases

Dear Judge Griesa:

I write on behalf of NML Capital, Ltd (“NML”) in reply to the November 6<sup>th</sup> letter from Carmine Boccuzzi, on behalf of the Republic, in response to my letter of October 8<sup>th</sup>, in which I described the organizing principles by which plaintiffs in more than 100 actions pending before Your Honor intend to seek pari passu injunctions similar to that granted to NML, and others, in certain of their actions.

The Republic’s letter, in its last sentence, asks for six weeks to respond to motions that have not even been filed. That sentence is merely the pretext for presenting two pages of argument and reargument on issues that have already been decided against it, may never arise, or will be dealt with weeks and months from now when the motions the letter addresses are briefed and argued. The real purpose of the letter, it is clear, is to attempt to pre-condition the Court against the relief that the plaintiffs in more than 100 cases will be seeking.

Much of what is said in the Republic’s letter is either demonstrably inaccurate or a direct contradiction of representations Mr. Boccuzzi has previously made to the Court. Little purpose would be served by responding to each misstatement or mischaracterization. But one assertion does need to be addressed. Mr. Boccuzzi’s November 6<sup>th</sup> letter says the pari passu injunctions have not “furthered a resolution of these disputes, given the legal and other financial constraints faced by the Republic and the inordinate leverage these unprecedented orders give the plaintiffs....” That’s today’s convenient position. Yet on June 18<sup>th</sup>, two days after the pari passu injunctions came into effect upon the Supreme Court’s denial of Argentina’s petition for certiorari, Mr. Boccuzzi represented that his



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client was prepared to start negotiations immediately. In fact, Mr. Boccuzzi told the Court that a negotiated resolution was exactly what Argentina wanted.

I've been informed by Argentina that the authorities will be in New York next week, and that the country wants to have a dialogue and is willing to negotiate with the holdout creditors, including the plaintiffs in this case and here before your Honor.

Transcript, p. 4, lines 17-12.

I've been told that their plan is to be here next week so they can negotiate with the holdouts and try to resolve this situation.

Id. at 5, lines 6-8.

Your Honor has said to us you wanted to hear that there would be a plan or willingness to negotiate. There is that willingness.

Id. at 5, lines 15-17.

So they wanted me to inform your Honor that they are prepared to be here, they are coming here to negotiate, which is what I understand from press statements by representatives of NML, everyone is saying they want a negotiation. So Argentina is prepared to negotiate with the holdouts.

Id. at 6, lines 5-9.

Based on the coincidence of the Supreme Court's denial of *certiorari* on June 16<sup>th</sup> and Argentina's sudden willingness to negotiate on June 18<sup>th</sup>, it was unquestionably the finality of the *pari passu* injunction that brought the Republic to the negotiating table.

While little progress has been made to date, Mr. Boccuzzi, himself, has suggested that after "the end of the year" may be when talks will begin. He has also recognized that because the other plaintiffs before Your Honor are entitled to *pari passu* injunctions, they must be included in the process in order to resolve all of the actions pending before the Court. On September 29, 2014, in arguing, unsuccessfully, in opposition plaintiffs' contempt motion, Mr. Boccuzzi said:

The *pari passu* injunction[s], obviously their logic applies across the board [i.e. to all of the plaintiffs with actions pending before the



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Court]. And your (sic) Honor has been seeing the me-too [pari passu] applications coming in, the billions of dollars of claims and judgments that are being asserted by folks holding those claims and judgments saying me too, I get that [pari passu injunction] too. You couple that with the existence of the so-called RUFO clause, which doesn't sunset until the end of the year, and we have quite an intractable problem facing us.'

Transcript, p. 14, Lines 2-10.

With the able assistance of Special Master Pollack, the chances that a resolution of this "intractable problem" can be reached will be maximized if the other creditors whose claims must be resolved are at the negotiating table (or available to participate as appropriate) and have, or are in the process of getting, pari passu relief in their own right.

In response to Argentina's request for six weeks to submit opposition papers to motions not yet even made, it is respectfully suggested that the Court defer ruling until the motions are made and the parties have an opportunity to discuss an appropriate briefing schedule to propose to Your Honor. If that effort fails, the issue can be presented to the Court with the benefit of pending motions from which an assessment can be made of how long the Republic actually needs to respond.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert A. Cohen".

Robert A. Cohen

Cc: Counsel of Record (by ECF)  
Daniel A. Pollack, Esq. – Special Master (by email)