



# **Ninth UNCTAD Debt Management Conference**

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## **Debt Restructuring Mechanisms**

by

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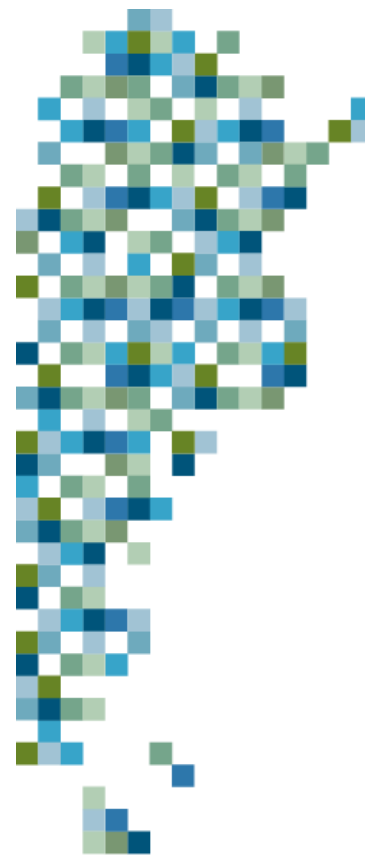
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# MANAGING SOVEREIGN DEBT RESTRUCTURING: THE ARGENTINE EXPERIENCE & CHALLENGES FOR THE INTERNATIONAL COMMUNITY

November 11, 2013



# DEBT DEFAULT & RESTRUCTURINGS

# RECENT ARGENTINE EXPERIENCE

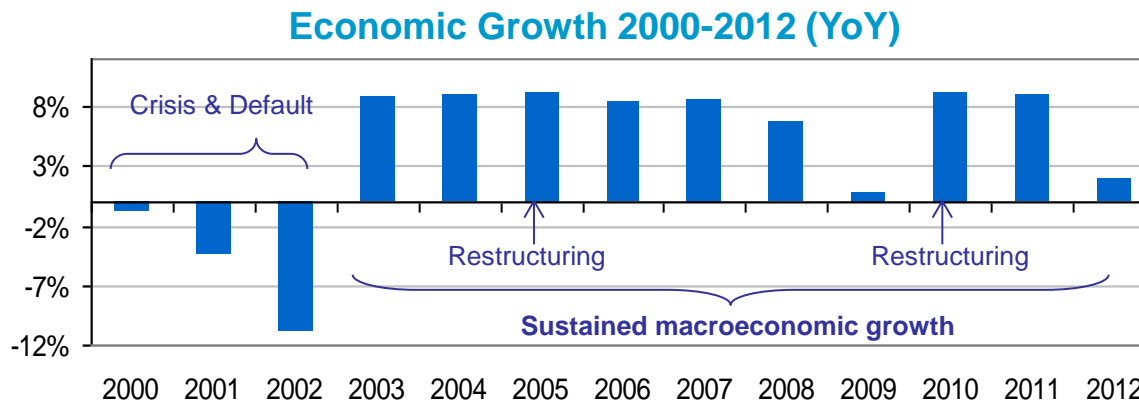
## TIMELINE OF EVENTS

	Efforts to overcome the default		Results	
<p><b>2001</b></p> <p>Economic &amp; Social Crisis and default over USD 82 Bn of bonded debt</p>	<p><b>2005 Debt Exchange</b></p> <ul style="list-style-type: none"> <li>• 76% of acceptance over the eligible amount</li> </ul>	<p><b>2010 Debt Exchange</b></p> <ul style="list-style-type: none"> <li>• 67% of acceptance over the remaining eligible amount</li> </ul>	<ul style="list-style-type: none"> <li>• 93% of acceptance of the eligible amount</li> <li>• 7% of holdouts</li> </ul>	<p><b>TODAY</b></p> <p><b>Current &amp; Future challenges</b></p>

# DEBT RESTRUCTURING

## OFFER BASED ON MACROECONOMIC SUSTAINABILITY CRITERIA

- The objective of the offers was to **reach sustainable debt dynamics** by matching financial needs from debt services with payment capacity; to promote conditions to enhance fiscal robustness and economic growth; and to reduce vulnerability against external shocks.
- 2005 and 2010 exchanges reached a cumulative acceptance of **93% of eligible debt**.
- The packages offered included **GDP-linked securities**. These are instruments that trigger payments based on economic growth. In this way, exchange bondholders were made partners of the Republic, thus benefiting from future growth.



Source: INDEC

# RESULTS OF THE RESTRUCTURING

## SUSTAINABLE AND INCLUSIVE GROWTH

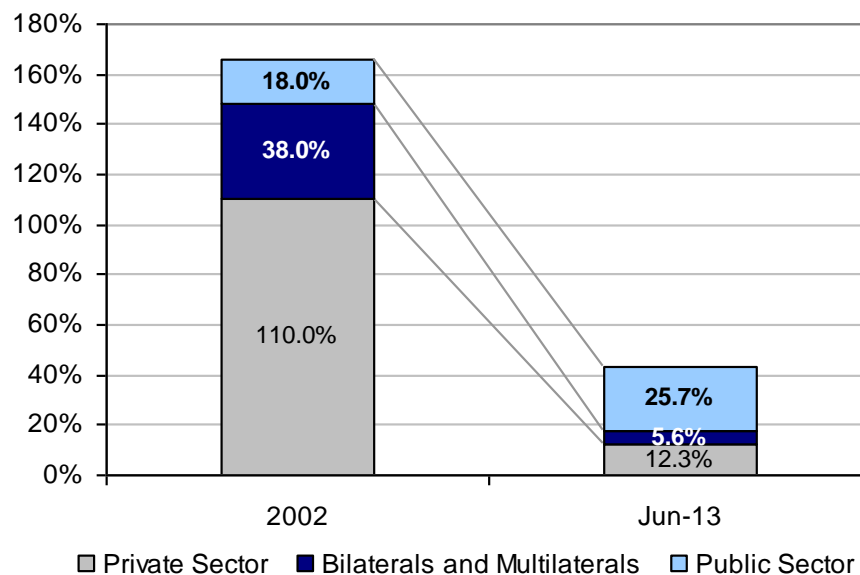
- High and sustained **economic growth**: ave. around 7% (2003-2013).
- **Sound fiscal accounts**: ave. surplus of 2.3% of GDP (2003-2012).
- **Sustained trade surplus**: ave. surplus of 5.5% of GDP (2003-2012).
- **High saving and investment rates**, stabilized over 20% of GDP.
- **Low poverty rates**: under 6%.
- **Unemployment at record lows**: around 7%.

# RESULTS OF THE RESTRUCTURING

## SUSTAINABLE DEBT DYNAMICS & LOW REFINANCING RISKS

- Composition by currency: **41% of total debt in local currency.**
- Maturity profile: **average life is over 10 years.**
- Creditors: increasing participation of **Public Sector Agencies**, which currently hold almost **60% of total debt.**

Public Debt Composition by Creditor (% GDP)



Source: National Bureau of Public Credit

# PROBLEMS ARISING FROM THE LACK OF SOVEREIGN DEBT WORKOUT MECHANISMS



# CURRENT LITIGATIONS

## STATE OF AFFAIRS

- Notwithstanding the efforts made by the Republic to regularize the situation with creditors, holdouts remain to represent a pending subject in the path to complete debt normalization.
- Some of these holdouts are undergoing aggressive litigious procedures against the Republic. Argentina has been facing them before the Courts in many instances in the past years.

## CURRENT LITIGATIONS

### STATE OF AFFAIRS

**93%**

accepted 2005 & 2010 exchanges with a new package of **long-term securities** and a considerable **haircut**

**0.45%**

claim to be paid **in full and in cash**, even if such remedy disrupts the payments of the other 93% who did enter the exchanges

**WHAT IS “EQUITABLE TREATMENT”?**

# LACK OF SOVEREIGN DEBT WORKOUT MECHANISMS

## POTENTIAL EFFECTS ON THE FINANCIAL COMMUNITY

- **KEY:** The real problem underneath the Argentine case is the lack of a mechanism to guarantee orderly debt restructurings. The current system allows minority holdouts to jeopardize debt restructurings.
- Thus, the consequences of this case can go well beyond the Argentine case, as it could **change the incentives for every sovereign debt restructuring in the future:**

*“(...) the Argentine decisions, if upheld, would likely give holdout creditors greater leverage and make the debt restructuring process more complicated for two reasons. First, by allowing holdouts to interrupt the flow of payments to creditors who have participated in the restructuring. Second, by offering holdouts a mechanism to extract recovery outside a voluntary debt exchange”. IMF, May 2013.*

# LACK OF SOVEREIGN DEBT WORKOUT MECHANISMS

## POTENTIAL EFFECTS ON THE FINANCIAL COMMUNITY

- Many other institutions and sovereign countries have expressed their support to the *pari passu* case, and have filed amicus briefs pointing out the pernicious effects of this sort of remedies.
- For example, the Republic of France presented an amicus that highlights:

*“[The decision has] a destabilizing effect on a sovereign debtor’s ability to engage in orderly and negotiated debt restructuring as a means of last resort to prevent default when the sovereign’s debt has been deemed unsustainable”. Republic of France, July 2013.*

# LACK OF SOVEREIGN DEBT WORKOUT MECHANISMS

## CACs ARE INSUFFICIENT TO SOLVE THIS PROBLEM

- Collective Action Clauses (CACs) in sovereign debt contracts are certainly a **positive development** that can eventually help to mitigate the risk of future litigations by a minority of bondholders.
- However, CACs are not a definitive solution, as they have many **important drawbacks**:
  - (1) CACs are **not as widespread as usually assumed**.
  - (2) CACs are relatively new clauses, so there is **not enough market experience** to guarantee their effectiveness.
- There is still large room to enhance the technical features of CACs. In particular, **more robust aggregation mechanisms are needed**.

# CHALLENGES TO THE INTERNATIONAL FINANCIAL COMMUNITY

## WAY FORWARD

### WHAT CAN WE DO TO ADDRESS THESE PROBLEMS?

- It is of vital importance to introduce the debate and analysis at the international level, in order to develop fair and balanced legal procedures to allow countries undergoing debt restructuring processes to find effective solutions.
- Countries should consider endorsing UNCTAD's Principles on Responsible Sovereign Lending and Borrowing, which adopt a balanced perspective of the roles and responsibilities of both debtors and creditors, particularly throughout debt restructuring processes.
- Argentina welcomes UNCTAD's initiatives on debt workout mechanisms, and looks forward to further discussions on this matter.

## FINAL REMARKS

- **Debt crises prevention** is of vital importance, and a lot can be done to extend and improve the available tools to do so.
- **More clear, transparent and coherent international rules to ensure a prompt and fair debt crisis resolution are needed.**
- **UNCTAD's** Principles and ongoing work on a *Debt Workout Mechanism* can bring valuable solutions and enrich discussions to keep on advancing towards **orderly and effective debt management and restructurings.**
- Argentina calls for your attention on these affairs and emphasizes the importance of addressing these challenges promptly.



**Thank you for your  
kind attention!**