Argentina wins brief reprieve from default, but the vulture funds are circling

Since defaulting on its debt in 2001, Argentina has been locked in a decade-long battle with international investors. Tensions between the country and institutional bondholders reached new highs on October 2, when the Ghanaian government seized the Argentine tall ship ARA Libertad. The ship was prevented from leaving the port of Tema after a Ghanian court upheld a court order at the request of Argentina’s creditors, led by US hedge fund Elliot Associates, who are suing Buenos Aires over its 2002 bond default. NML Capital, a firm affiliated with Elliot Associates, is currently trying to recoup $1.3 billion of debt from Argentina through the US legal system in New York.

The fund was created by Paul Singer, a strong backer of the US Republican Party and former Republican presidential candidate Mitt Romney. According to The Guardian, Singer’s money-making strategy involves “buying distressed debt cheaply and selling it at a profit or suing for full payment”.

Such speculative financial and profitable operations are performed by hedge or financial funds known as “vulture funds”, which obtain their name because they hover like vultures over the remains of moribund companies or debtor states like Liberia, Peru and Argentina. As such, these funds operate in a highly opportunistic and exploitative manner.

According to investigative journalist Greg Palast, they “buy up the debt of the poorest nations on the planet, usually for pennies on the dollar, then sue or use other means to squeeze the nations to pay ten times, even a hundred times, what the vulture fund paid for the debt”. Palast also notes that Liberia was sued to pay $20 million to such a sovereign fund — the equivalent of building almost half a million homes in the former war ravaged nation. This practice has cost many African and Latin American nations millions of dollars and created immense social distress. The practice continues to persist unregulated around the world, netting millions of dollars without regard to the social consequences of the most destitute people in the world.

Hector Timerman, Argentina’s Foreign Minister, explains at the Huffington Post that “vulture funds” originated in South America and then spread to Sub-Saharan Africa. “In the ‘90s vulture funds took flight and, have since then, landed on the Democratic Republic of Congo, Congo Brazzaville, Liberia, Zambia, Cameroon, Ethiopia secretly acquiring debt at bargain prices. They then waited for debt relief policies from the World Bank, IMF and wealthy nation-states to launch their attack presenting their titles before American and European courts and suing for the full value of the debt”.

In 2002, Argentina defaulted on its debt, which had been accumulated as a result of extremely poor economic management by successive governments. A large part of this debt was generated during the military’s dictatorship, which conducted a “dirty war” between 1976 and 1983 on its political opponents. This was a murderous period which saw the disappearance of nearly 30,000 political opponents. This was followed by a poorly executed and suicidal war against Britain over the Falklands/Malvinas islands. Between 1983 and 2001, a number of democratic governments managed Argentina following the now discredited neoliberal economic policies based on the Washington Consensus. These policies had catastrophic consequences, amassing billions of dollars in debt.

By 2001, Argentina’s debt stood at over $100 billion which at the time amounted to 1.5 times Argentina’s GDP. The debt was so large that Argentina was not even able to pay its interest dues, so it had no choice but to make the largest default in the world’s financial history. After its default, most of Argentina’s creditors accepted debt restructuring. In 2005 and 2010, as part of the debt restructuring plan, the great majority of bondholders agreed to exchange defaulted debt at very low prices. However, others holders of debt did not, so they sued. “U.S. District Judge Thomas Griesa … ordered Argentina to pay the holdouts, led by Elliott Management Corp’s NML
Capital Ltd and Aurelius Capital Management, who rejected the swaps and are fighting for full repayment in the courts”.

The order shocked investors and outraged the Argentine government. Argentina’s President, Cristina Kirchner stated that her government will not pay a single dollar to the vulture funds comprised of Elliott Management Corp, an affiliate of NML Capital Ltd and Aurelius Capital Management, which own $1.3 billion of the debt. For its part, Argentina’s Economics Minister referred to Griesa’s order as “judicial colonialism”. “The judgement breaches Argentine sovereignty and threatens the whole of the world’s financial system and we … are seeing a clear case of judicial colonialism. All we need is the arrival of the fifth fleet”.

Argentina’s restructured debt currently stands at nearly $25 billion. The result of this is that Argentina could default on its restructured debt payment of $3 billion to its exchange bondholders by not paying on December 15. The worst case scenario is that the possible Argentine default could spread to countries in Europe, particularly Greece, which is facing massive financial pressures and distress as a result of colossal debt accumulated over many years of excessive borrowing. Indeed, the thought of default may not be too far away, thus threatening the financial stability of the whole of the Eurozone and the world.

This clearly is a worst case scenario and one that is highly unlikely to occur, but the possibility remains. In the meantime, Argentina has received some breathing space. The three judges which upheld Griesa’s decision have postponed any decisions to February 27, 2013, when arguments by lawyers representing Argentina and the “vulture funds” argue over payment details. In the words of Felix Salmon: “My hope is that somewhere up the chain, principles of national sovereignty and smoothly-functioning markets will prevail, and Griesa will be overruled”.

The certainty is that in these times of global financial dysfunction, the biggest winners will be extremely wealthy New York lawyers who will be celebrating all the way to the bank with their obscene exorbitant fees, while millions of Argentines will continue to struggle on a daily basis.