

***Bondholders Conclude Successful Year at World Bank;  
Tribunal to Complete Merits Phase This Year***

*Nicola Stock, President of TFA, states: "The bondholders secured a series of key rulings in the past year, defeating Argentina's efforts to obstruct and delay. The final merits and damages phase is underway and scheduled to conclude this year."*

The Italian bondholders' arbitration against Argentina at the World Bank's International Centre for Settlement of Investment Disputes (ICSID) is progressing toward completion of the final merits phase, following a series of bondholder victories on critical issues in the last year. The Claimants repeatedly have overcome attempts by Argentina to obstruct and delay the proceeding, thus advancing their claims toward final resolution notwithstanding Argentina's campaign to deny the bondholders justice. Key developments since late 2011 include:

*Bondholder Success on Decision on Jurisdiction.* In a comprehensive 282-page ruling, issued in 2011, the Tribunal rejected Argentina's arguments on eleven distinct legal issues, and ruled that it properly has jurisdiction to decide the bondholders' claims on the merits. The Tribunal also rejected a request for provisional measures which Argentina had filed just prior to issuance of the Decision. The Decision has received worldwide attention and was named arbitration Decision of the Year in a survey of global arbitration experts.

*Defeat of Argentina's Arbitrator Challenge.* After the Decision on Jurisdiction, Argentina sought to disqualify the two-member majority of the Tribunal based on their rulings in the Decision. The challenge was rejected by the World Bank in Washington, DC, and in a separate assessment by the Permanent Court of Arbitration in The Hague.

*Defeat of Argentina's Annulment Challenge.* Argentina also filed for annulment of the Decision on similar grounds. The World Bank declined to register the annulment request.

*Defeat of Argentina's Requests for Provisional Measures.* After Argentina renewed its failed 2011 request for provisional measures, the Tribunal heard further arguments and rejected the provisional measures request.

*Procedural Hearing.* In May 2012, the Tribunal conducted a one-day hearing in Washington, DC where, further to detailed written submissions, both parties presented arguments on procedures for the merits phase and on a renewed request for provisional measures by Argentina.

*Establishing the Procedural Calendar.* After consideration of the parties' written submissions and hearing arguments, the Tribunal implemented procedures for the merits and damages phase, which also includes an expert review of individual claims. In a series of Orders, culminating recently in Procedural Order No. 15 dated 20 November, the Tribunal confirmed that briefing on the remaining issues should conclude by September 2013, to be followed by a hearing in the fall.

*Progress on the Merits.* Each side has already concluded their principal briefs on the merits, further to the Tribunal's Procedural Orders. The Italian bondholder Claimants filed their principal Memorial on the final merits, damages, and individual Claimant issues on 1 October 2012, and Argentina filed on 26 December. Following the parties' exchange of requests for documentary evidence and other matters in early 2013, briefing is scheduled to conclude with

Claimants' Reply on 1 July 2013, Argentina's Rejoinder on 2 September, and Claimants' Rejoinder on jurisdictional issues on 16 September. The case then proceeds to the hearing on the merits in 2013.

### **Tribunal Safeguards the Proceeding**

In a recently-released Order, designated Procedural Order No. 13, the Tribunal cited Argentina for violating a standing Confidentiality Order by disclosing confidential arbitration materials outside of the ICSID proceeding. The Order is based on evidence obtained by the Claimants revealing that the Argentine Attorney General's Office disclosed volumes of confidential material in Italy in an effort to impugn the credibility of bondholders, harass and intimidate bondholders, and aid the defense of Argentina. Together, the Tribunal's Order and the underlying evidence underscore Argentina's failing efforts to undermine the legitimacy of the World Bank proceeding and to deny Claimants justice.

The Order responds to a request from Claimants that Argentina disclose its role in certain Italian proceedings which focus on the consent documents that bondholders had signed to participate in the ICSID arbitration. At ICSID, Argentina has challenged certain consent signatures as alleged forgeries. New evidence from Italy reveals that Argentina also used the same unfounded forgery claims and manufactured evidence to intimidate bondholders by instigating proceedings against them in Italy. Argentina never disclosed its involvement in the proceedings or misuse of confidential materials, despite being expressly invited multiple times to do so.

In the Order, the Tribunal summarized the rationale for Claimants' request as follows:

[The] investigation file [contains] a 30 July 2009 submission from Argentina's Procurador Osvaldo Gugliemino to Italian authorities . . . . These submissions enclosed tens of thousands of pages of confidential material from the ICSID arbitration. These documents make it apparent that Respondent has been engaged for years in a campaign to harass and intimidate individual Claimants through reprehensible criminal actions, to disclose vast volumes of confidential materials to unauthorized third parties, and, all the while, to conceal Respondent's actions from both Claimants and the Tribunal.

In view of the evidence, the Tribunal ruled that Argentina was responsible for initiating the proceedings in Italy, and that Argentina had disclosed confidential bondholder information and documents to Italian authorities in violation of the Tribunal's standing Confidentiality Order. To preserve the integrity of the ICSID arbitration and to protect against further misuse of information, the Tribunal reaffirmed the strict protections of the Confidentiality Order, and ordered Argentina to produce "detailed information" on its improper disclosures.

The Tribunal's ruling is further to longstanding efforts by Argentina to discredit the Claimants on the basis of alleged irregularities in the written consent forms they each submitted to participate at ICSID. These unfounded efforts repeatedly have been rejected, including in the Decision on Jurisdiction and in rulings on Argentina's failed requests for provisional measures, to disqualify the Tribunal members, and to annul the Decision on Jurisdiction. The new evidence from Italy – confirming that Argentina engaged in a hidden pattern of conduct aimed at creating evidence for its own benefit – further demonstrates the lack of credibility of Argentina's efforts and arguments with respect to the bondholders' consent.

Nicola Stock, President of TFA, states: *"The bondholders end the year on a strong note. The Tribunal has acted on new evidence that Argentina violated confidentiality protections, and has taken steps to preserve the integrity of the proceeding. The decision is further to key rulings secured by the bondholders in the past year, defeating Argentina's efforts to obstruct and delay. The final merits and damages phase is underway and scheduled to conclude this year."*

Procedural Orders are public under the applicable Confidentiality Order, which dated to 27 January 2010, and are available on TFA's website.

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***This Press Release is issued further to the Tribunal's Confidentiality Order, which authorizes the publication of decisions and orders by the Tribunal and communications regarding the status of the proceeding. Italian bondholders participating in the ICSID arbitration may obtain information on the case by sending a request for information to [info@tfargentina.it](mailto:info@tfargentina.it) or consulting the website [www.tfargentina.it](http://www.tfargentina.it).***

***Any participating bondholders who revoke their participation in the cases against Argentina referenced above place the protection of their rights against Argentina at risk.***

Rome, January 9, 2013