

Background

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Holding the Kirchners Accountable for Argentina's Economic Freefall

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Abstract: *In Argentina, the rule of law and free-market principles have been weakened dramatically over the past decade. Under the leadership of Nestor and Cristina Kirchner, economic freedom in Argentina has been in a virtual freefall, corruption has been rampant, and the government's ties to strongmen in the region, such as Venezuela's Hugo Chávez, are troubling. The White House and the U.S. Congress should examine the threat posed to both the U.S. and Latin America from the continuance of the Kirchners' populist and statist policies, ensuring that Argentina's current government does not receive political favors from the U.S. government. President Obama made the right decision to skip a visit to Buenos Aires when he travels to Latin America this month. But he can do much more to hold Argentina's government accountable for the country's downward spiral.*

Shortly before President Barack Obama's first state visit to South America in mid-March 2011, the U.S. relationship with Argentina is once again in the spotlight. President Obama's decision not to include Argentina on his itinerary has ushered in a new round of bitter criticism from cabinet ministers and other figures in the government of President Cristina Fernandez de Kirchner. Argentina's foreign minister, Héctor Timerman, even accused the United States of financing "torture classes" and training in "coup techniques" at a facility in El Salvador.¹ Kirchner's domestic trade secretary, Guillermo Moreno, has reportedly called on Argentina's top importers to boycott American

Talking Points

- President Obama made the right decision to skip a visit to Buenos Aires during his Latin America trip in March. Argentina's government has demonstrated a disregard for the rule of law, has allied itself with statist populists in the region, and is pursuing an anti-American foreign and economic policy.
- The Argentinean government refuses to comply with its IMF obligations and has yet to resolve unpaid debts from the 2001 sovereign default—despite its capacity to pay.
- The Financial Action Task Force has serious concerns about Argentina's efforts to combat money laundering and terrorist financing.
- Argentina should be suspended from the G-20 and should lose its preferred partner trade status with the U.S.
- The 2011 presidential election presents Argentines with the opportunity to improve the quality of their country's governance. Congress should examine the threat that Argentina's current government poses to the rule of law and hemispheric security.

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companies.² Most recently, Argentine officials grossly mistreated U.S. personnel by unwarrantedly seizing cargo from a U.S. military plane travelling to Argentina for a routine visit.³

Yet, President Kirchner continues to seek U.S. support for her top international priorities, among them: U.S. support for Argentina against sanctions by the International Monetary Fund (IMF) and the Financial Action Task Force (FATF); U.S. backing for Argentina's demands during the Paris Club debt negotiations; and favorable changes to U.S. trade rules on Argentine lemons and beef.⁴

Argentina's position continues to deteriorate in The Heritage Foundation's annual *Index of Economic Freedom* ranking (co-published with *The Wall Street Journal*). The Administration and Congress must pay close attention to the damaged credibility of the Kirchner government, which has demonstrated a pervasive disregard for the rule of law and has become staunchly allied with statist populists in the region, such as Venezuela's Hugo Chávez, and argue that Argentina is surely no candidate to be granted any political favors by the U.S. government.

The Administration and Congress must undertake a comprehensive review of U.S. policy toward the Kirchner regime and take the threat posed to both the U.S. and Latin America by the Kirchners' populist and statist policies seriously. Argentina should receive no political favors from the U.S. government.

Nestor Kirchner's Bitter Legacy

Former President Nestor Kirchner's heart attack and sudden death in October 2010 has thrown Argentine politics into upheaval. Latin America's

most famous power couple since Juan and Evita Peron held sway in the 1940s, the Kirchners' authority reputedly rested on Nestor as the power behind current President Cristina Kirchner's proverbial throne. They were rumored to be planning to swap the top job indefinitely between themselves and thereby skirt constitutional restrictions. Nestor's death changed Argentina's political dynamic, however, and has created an opportunity for his widow to alter the political course of Argentina.⁵

It is not difficult to see the appeal that another presidential term holds for Cristina Kirchner. While the policies she and her husband implemented have had detrimental economic effects for Argentina, they have resulted in some good outcomes for the Kirchners both politically and personally. Some examples:

Pension Nationalization. In October 2008, the Kirchners nationalized about \$30 billion of private pension funds (similar to 401(k) accounts in the U.S.) under the pretext of "saving" these funds from the market downturn.⁶ President Nestor Kirchner transferred the funds to the state pension system, ANSeS. The nationalization of Argentina's pension funds gave the Kirchners access to cash that they have used to finance the government, buy back government debt, and invest in popular public works projects. It is clear that the best interests of Argentina's retirees were not foremost in their minds.

Increase in the Kirchners' Personal Wealth. The Kirchners' personal assets have grown considerably since Nestor first assumed the presidency in 2002.⁷ In 2003, they declared personal assets of \$2.3 million. In 2008, after Cristina had succeeded

1. Matt Moffett, "Argentine Comments Show Rift with U.S.," *The Wall Street Journal*, February 4, 2011, at <http://online.wsj.com/article/SB10001424052748703652104576122374127425098.html> (February 18, 2011).
2. Author's notes from conversations with business leaders in Buenos Aires, February 7, 2011.
3. Ray Walser, "Mugged in Buenos Aires: Obama's Argentine Imbroglio," Heritage Foundation blog *The Foundry*, February 25, 2011, at <http://blog.heritage.org/2011/02/25/mugged-in-buenos-aires-obama%e2%80%99s-argentine-imbroglio>.
4. "Argentina—Lemon Exports," *Meat Trade News Daily*, June 10, 2009, at http://www.meatradenewsdaily.co.uk/news/100609/argentina___lemon_exports.aspx (February 22, 2011).
5. "Americas View: Back to a Vacuum," *The Economist*, October 27, 2010, at http://www.economist.com/blogs/americasview/2010/10/death_argentinas_ex-president (February 22, 2011).
6. "Argentina's Property Grab," *The Wall Street Journal*, October 23, 2008, at <http://online.wsj.com/article/SB122471757680560465.html> (February 22, 2011).

him in office, that figure had grown to more than \$12 million.

The Kirchners own a 45 percent stake in Los Sauces, one of the most expensive hotels in their hometown of El Calafate, and 98 percent of Hotesur, a company whose main asset is Alto Calafate, another luxury hotel in town.⁸ Tiny (population about 6,000)⁹ and remote (about 1,700 miles southwest of Buenos Aires), El Calafate nevertheless enjoys frequent daily commercial jet service by the state-owned airline, Aerolineas Argentinas.¹⁰ The flights are reportedly rarely filled to capacity; the flight crews are lodged each night at the hotel Alto Calafate, at the government-owned airline's expense.¹¹

News reports suggest that the Kirchners may have accumulated additional assets not declared on their financial disclosure statements.¹² The governments of Switzerland, Luxembourg, and Liechtenstein filed reports alleging suspicious transactions by the Kirchners personally as well as by members of their inner circle of ministers and advisers.

Debt Without End: Argentina's Unresolved Sovereign Default. Argentina has a long history as a serial defaulter that has abused creditors' rights. Nestor Kirchner made the country's image and its investment climate even worse. He took power shortly after Argentina's late 2001 default on \$81

billion of sovereign debt—the largest such default in history and the second default for Argentina in 20 years. Nestor guided the government through debt-restructuring negotiations¹³ employing hardball tactics. Argentina's government refused to negotiate in good faith with its lenders until 2005 when it presented a unilateral exchange “haircut” offer of 27 cents on the dollar.

To coerce reluctant bondholders to enter the exchange, the Kirchner government passed a “locked-shut law,” which prohibited the executive branch from reopening the debt exchange once it closed, or from settling with any bondholders who refused to accept the government's take-it-or-leave-it offer.

Despite coercing bondholders to take the offer, only about three-quarters of the bondholders agreed to the huge haircut in 2005.¹⁴ Historically, the acceptance rate in negotiated sovereign restructurings has exceeded 90 percent of all bondholders. Argentina's refusal to repay its outstanding debt has led bondholders to file numerous lawsuits in the U.S. federal courts.¹⁵

In 2008¹⁶ and again in 2009,¹⁷ President Cristina Kirchner announced that she would begin to repay Argentina's outstanding debt. However, the Argentine government made no real attempt to do

7. “Welcome to the Hotel Kirchner,” *The Economist*, February 25, 2010, at <http://www.economist.com/node/15580328> (February 22, 2010).

8. *Ibid.*

9. National Institute of Statistics and Censuses (INDEC), Census of Argentina 2010, at <http://censo2010.indec.gov.ar/index.asp> (February 25, 2011).

10. Aerolineas Argentinas flight schedule. Aerolina.com, at <http://www.aerolineas.com.ar/home.asp> (January 20, 2011).

11. Marcelo L. Masia, “80 Reasons that Show Kirchner Was Never Progressive,” *Tribuna de Periodistas* (in Spanish), October 30, 2010, at <http://www.periodicotribuna.com.ar/7672-80-razones-que-demuestran-que-kirchner-nunca-fue-progresista.html> (February 22, 2011).

12. Daniel Santoro and Juan Cruz Sanz, “Confirming that There Was an Order for Financial Movements by Kirchner,” *Clarín.com*, December 3, 2010, at http://www.clarin.com/politica/Confirman-pedido-movimientos-financieros-Kirchner_0_383361809.html (February 22, 2011).

13. J. F. Hornbeck, “Argentina's Sovereign Debt Restructuring,” Congressional Research Service *Report for Congress* No. RL32637, October 19, 2004, at <http://fpc.state.gov/documents/organization/39301.pdf> (February 22, 2011).

14. “Screeching to the Precipice,” *The Economist*, February 28, 2005, at <http://www.economist.com/node/3698253> (February 22, 2011).

15. Dennis Hranitzky, Counsel, Dechert LLP, testimony before the U.S. District Court for the Southern District of New York, “New York State Senate Standing Committee on Banks,” April 23, 2010, p. 98.

16. Jason Mitchell, “Argentina: Repayment Efforts Still to Convince Investors,” *Euromoney*, October 2008, at <http://www.euromoney.com/Article/2024068/Title.html> (February 22, 2011).

so until June 2010, when the government temporarily suspended the locked-shut law and offered a second restructuring to bondholders who did not accept the 2005 restructuring.¹⁸ The terms were even worse than the first time. But the Kirchners' long and drawn-out efforts over the previous nine years had exhausted many bondholders, and so Argentina was able to exchange about two-thirds of bonds that remained in default.

After the second restructuring, the country remains indebted to private creditors around the world who hold defaulted bonds with a face value of about \$16 billion. Argentina's failure to repay its debt or settle the outstanding judgments against it is not contingent upon its ability—or willingness—to pay. With \$54 billion in Central Bank reserves, Argentina possesses more than enough to settle its outstanding obligations.¹⁹

In October 2010, economic minister Amado Boudou traveled to France to negotiate with Paris Club officials²⁰ and in late January 2011, the government announced that Argentina intends to repay nearly \$9 billion in defaulted debt plus accrued interest to the Paris Club, well above what it had said previously that it owed the major creditor nations. Although this move was welcomed by the international financial community as a step forward, Argentina has yet to negotiate a deal with the last of its external creditors, among which are many U.S. citizens.

In late December 2010, Argentina re-opened the debt swap for a second time that year before the suspension of the locked-shut law expired²¹ with the intention of achieving a total bondholder acceptance rate of 95 percent.²² The country did, in fact, succeed in negotiating new terms for an additional \$156.2 million.²³ Yet, despite Finance Secretary Hernán Lorenzino's declaration that the late-December offer would be the hold-out bondholders' "last chance," many of them still rejected it.

Unfortunately, although the country has more than enough in Central Bank reserves to resolve its debts in full, Argentina continues to owe billions to U.S. creditors—a sign that its capacity to pay far exceeds its political will.

Argentina Under the Kirchners: Rogue Behavior Threatens U.S. Security

Under the Kirchners, Argentina has registered a steady deterioration in its ranking in the annual *Index of Economic Freedom*²⁴ in light of the couple's pervasive disregard for the rule of law, their political alliances with populists and statists in the region such as Venezuela's Hugo Chávez, and the many steps they have taken that have generally weakened rule of law and free-market principles. Argentina is one of the lowest-ranked G-20 nations in the *Index*.

Meanwhile, the performance of market-friendly, democratic Peru, Colombia, and long-time economic freedom leader in Latin America Chile proves

17. "Argentina: A Move to Pay Debt," Reuters, September 3, 2008, at <http://query.nytimes.com/gst/fullpage.html?res=9F0CE7D71231F930A3575AC0A96E9C8B63> (February 22, 2011).

18. Magdalena Morales and Hilary Burke, "UPDATE 3—Argentina Tops Debt Swap Goal But Lawsuits Linger," Reuters, June 23, 2010, at <http://www.reuters.com/article/idUSN2320835020100623> (February 22, 2011).

19. *Ibid.*

20. "Boudou to Travel to France to Initiate Negotiations with Paris Club," *Buenos Aires Herald* (in Spanish), December 5, 2010, at <http://www.buenosairesherald.com/article/53177/boudou-to-travel-to-france-to-initiate-negotiations-with-paris-club> (February 22, 2011).

21. "Signal-to-Market: Government Reopens the Exchange of the Defaulted Debt," *Ambito Financiero* (in Spanish), December 22, 2010, at <http://www.ambito.com/diario/noticia.asp?id=560019> (February 22, 2011).

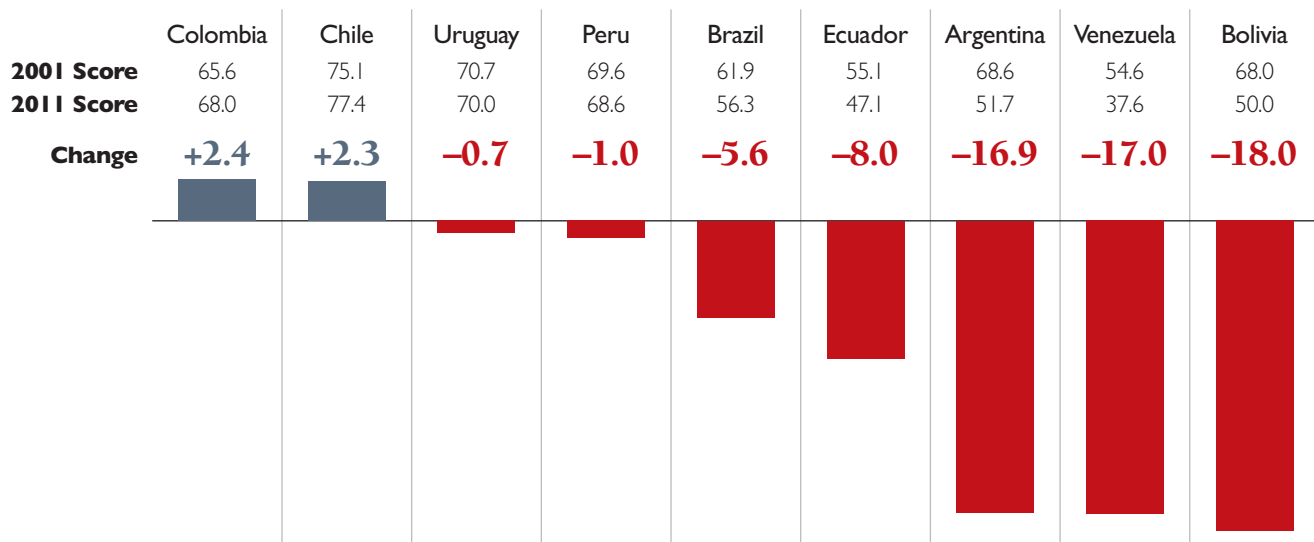
22. "The Exchange Reopened for a Week: Given the Same Bond as Before, but the Rise in Prices Will Permit Investors to Gain a Greater Profit," *La Nacion* (in Spanish), December 23, 2010, at http://www.lanacion.com.ar/nota.asp?nota_id=1335886 (February 22, 2011).

23. "Latest Debt Swap Totaled U.S. \$156 Million," *Ambito Financiero* (in Spanish), January 7, 2011, at <http://www.ambito.com/diario/noticia.asp?id=562623> (February 22, 2011).

24. Terry Miller and Kim R. Holmes, *2011 Index of Economic Freedom* (Washington, D.C.: The Heritage Foundation and Dow Jones & Company, Inc., 2011), pp. 81–82.

Economic Freedom Declining in South America

Change in Economic Freedom Scores from 2001 to 2011



Source: Terry Miller and Kim R. Holmes, *2011 Index of Economic Freedom* (Washington, D.C.:The Heritage Foundation and Dow Jones & Company, Inc., 2011), at <http://www.heritage.org/index>.

Chart 1 • B 2527 heritage.org

that South American governments can—through the correct mix of policies favoring private property, rule of law, and market-based, democratic institutions—deliver true economic and political freedom to their citizens.

The U.S. and Argentina share strategic interests, including counterterrorism, eradicating money laundering, and issues of regional peace and stability. Yet the Kirchners have reneged on those shared interests. Their policies have put at risk the security of both the U.S. and their Latin American neighbors. Following are examples of these risks:

Financial Action Task Force (FATF): Serious Concern about Argentina. The October 2010 release of the Paris-based Financial Action Task

Force’s “Mutual Evaluation of Argentina”²⁵ was worse than expected. The FATF expressed serious concern regarding Argentina’s failure to implement an adequate and effective system of anti-money-laundering practices and combating the financing of terrorism (AML/CFT).

Argentina failed to comply with, or only partially complied with, 47 of the 49 recommendations set forth by the FATF.²⁶ This is the worst evaluation of a member country since the FATF was established in 1989. (Argentina was given three months, October to December 2010, to demonstrate good-faith efforts to bring its financial supervisory system into compliance, or be placed on the FATF’s list of “countries with strategic AML/CFT deficiencies.”²⁷)

25. “Mutual Evaluation Report Executive Summary: Anti-Money Laundering and Combating the Financing of Terrorism: Argentina,” Financial Action Task Force on Money Laundering in South America (GAFISUD) and Financial Action Task Force (FATF), October 22, 2010, at <http://www.fatf-gafi.org/dataoecd/51/5/46336120.pdf> (February 22, 2011).

26. Jude Webber, “Argentina Faces Money Laundering Label,” *Financial Times*, February 22, 2011, at <http://www.ft.com/cms/s/0/a43e3a9e-3ea1-11e0-834e-00144feabdc0,s01=1.html#axzz1FHLFdQWf> (February 28, 2011).

27. Financial Action Task Force, “Mutual Evaluation Report: Argentina,” October 22, 2010, at <http://www.fatf-gafi.org/dataoecd/3/60/46695047.pdf> (February 28, 2011).

A 2009 diplomatic cable from the U.S. embassy in Buenos Aires to Secretary of State Hillary Clinton, the contents of which were leaked to the press, has suggested that those failures are willful. U.S. Ambassador to Argentina Vilma Martinez had written that the Kirchner administration lacks the political interest in enforcing the AML/CFT measures already on the books because “the Kirchners and their circle simply have too much to gain themselves from continued lax enforcement.”²⁸

According to Ambassador Martinez’s cable, a source within the International Monetary Fund’s Financial Integrity Group told embassy personnel that the UIF (the unit within Argentina’s Justice Ministry charged with enforcement of money-laundering and terrorist-financing laws) was “an inept and politically compromised institution,” whose head “is personally holding back STRs [suspicious transaction reports] on the Kirchner inner circle and has refused to respond to requests for STRs on the Kirchners themselves from Switzerland, Liechtenstein, and Luxembourg.”²⁹

The U.S. embassy concluded that Argentina’s AML/CFT failures are a threat to global security: “The near complete absence of enforcement coupled with a culture of impunity and corruption make Argentina ripe for exploitation by narco-traffickers and terrorist cells.”³⁰

Equally troubling are reports about the Kirchners’ approach to law enforcement and to economic policy. Another cable reported that the leader of a FATF review of Argentina’s anti-money-laundering and counterterrorism finance regime was “skeptical” of the Kirchners’ intentions to combat money laundering and terror financing.³¹

Additionally, a key Argentinean anti-money-laundering unit may have been protecting the Kirchners from dirty-money investigations.³²

Apparently, the U.S. government has had suspicions about the Kirchners for some time. In mid-2009, the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) suspended the sharing of sensitive information with Argentinean authorities.³³ The Treasury Department suspended this diplomatic privilege because the Kirchner administration was using the confidential information for its own political ends—by leaking negative information about an opposition candidate to a newspaper prior to elections.

Another leaked American diplomatic cable from December 2009 gave specific context to the abuse. The cable reported that the head of the UIF “personally leaked information that the UIF had requested from FinCEN on Francisco de Narvaez, a Kirchner rival,” and that this was done “by design to harm the reputation of this important opposition figure.”³⁴

The negative FATF report has sent the Kirchner government into damage control mode. In February 2011, an Argentine government delegation traveled to the FATF headquarters in Paris to discuss implementation of FATF recommendations. By sending Justice Minister Julio Alak, Argentina managed to avoid a serious reprimand by the organization, but the government’s anti-money-laundering policies will be re-evaluated in June. This FATF meeting marks the second time that the Argentine government was forced to send a high-level delegation to the task force meetings to avoid serious consequences.³⁵

28. “U.S. Raised Suspicions About the Kirchners’ Financial Dealings,” *La Nacion* (in Spanish), December 2, 2010, at <http://www.lanacion.com.ar/1330063-eeuu-expuso-sospechas-sobre-manejos-financieros-de-los-kirchner> (February 28, 2011).

29. *Ibid.*

30. *Ibid.*

31. Jim Roberts, “Life Is Not Pretty in Argentina’s Pink House,” Heritage Foundation blog *The Foundry*, December 9, 2010, at <http://blog.heritage.org/?p=48015>.

32. Mary O’Grady, “Is Argentina Washing Dirty Money?” *The Wall Street Journal*, December 6, 2010, at http://online.wsj.com/article/SB10001424052748703989004575653260680467120.html?mod=WSJ_newsreel_opinion (February 22, 2011).

33. Hugo Alconada Mon, “Money Laundering: U.S. Angered by Use of Confidential Data,” *La Nacion* (in Spanish), November 8, 2010, at http://www.lanacion.com.ar/nota.asp?nota_id=1322769 (February 22, 2011).

34. Santoro and Cruz Sanz, “Confirming that There Was an Order for Financial Movements by Kirchner.”

Argentina's International Alliances: Threats to Regional and U.S. Security. Since the Kirchners assumed office in 2003, Argentina has entered into several alliances with rogue states that are known to be threats to U.S. national security.

Palestine. Argentina's decision to recognize Palestine as a free and independent state has once again positioned the Argentinean government as a friend to controversial nations in the Middle East.³⁶ Secretary Clinton's second in command at the State Department, William Burns, has publicly questioned Argentina's decision.³⁷ Argentina's announcement directly affects ongoing peace negotiations in the Middle East that the U.S. has pursued for many years, negotiations now made all the more difficult by the recent political tensions that have erupted in Tunisia, Egypt, Libya, and Jordan.

Iran. Despite ongoing disputes with the U.S. and other Western powers over its handling of the 1994 bombing of a Jewish community center in Buenos Aires and the festering presence of Middle Eastern terrorists in the infamous "tri-border" area that Argentina shares with Brazil and Paraguay, under the Kirchners Argentina has proceeded to forge a mutually beneficial but reckless trade relationship with Iran. Argentina's exports to Iran increased from \$29 million in 2007 to \$1.2 billion in 2008, and Argentina is now Iran's second-largest trade partner in Latin America (after Brazil).³⁸

Venezuela. Argentina and Venezuela have had a long-standing alliance under the Kirchners—one

that has led Venezuela to invest in Argentinean bonds and lend money to the Argentinean government so that Argentina could completely pay off its debts to the IMF. In April 2010, Argentina and Venezuela signed 25 bilateral commerce and cooperation agreements.³⁹

Venezuela has bought \$3.5 billion in Argentinean bonds since early 2005.⁴⁰ Most notably, Argentina and Venezuela were embroiled in a campaign finance scandal in late 2007—during President Nestor Kirchner's election.⁴¹

In August 2007, Guido Alejandro Antonini Wilson, a dual Venezuelan–U.S. citizen, was caught by customs agents in Buenos Aires carrying nearly \$800,000 of undeclared cash in a suitcase in a jet chartered by an Argentinean corporation.

Two days after Cristina Fernandez de Kirchner was inaugurated as the new president of Argentina, the U.S. Attorney's office in Miami charged four Venezuelans and one Uruguayan with acting illegally as agents of the Venezuelan government. Antonini ultimately testified that in addition to the \$800,000 with which he was caught, there was an additional suitcase on the plane containing \$4.2 million in illicit political "contributions."

In addition to accusations that Argentina is not adequately combating the financing of terrorism (Argentina's poor evaluation by the FATF is the first time a G-20 country has received such poor marks since the FATF was established in 1989),⁴² these alliances are troubling and could mean serious diffi-

35. Luisa Corradini, "Money Laundering: Argentina Avoids Sanctions, but Remains on Watch," *La Nacion* (in Spanish), February 24, 2011, at <http://www.lanacion.com.ar/1352593-lavado-la-argentina-evito-una-sancion-pero-sigue-en-capilla> (February 25, 2011).

36. "Argentina: Palestine is Free and Independent State," Associated Press, December 6, 2010, at http://www.usatoday.com/news/world/2010-12-06-palestine_N.htm (February 23, 2011).

37. "Burns Questions the Official Gesture to Palestine," *La Nacion* (in Spanish), December 13, 2010, at http://www.lanacion.com.ar/nota.asp?nota_id=1333086 (February 23, 2011).

38. "Iran Trade with LatAm tripled Despite Israeli Angst," Press TV, December 5, 2009, at <http://edition.presstv.ir/detail/112901.html> (February 23, 2011).

39. "Argentina and Venezuela Announce a 'New World Order of Relationships,'" MercoPress, April 21, 2010, at <http://en.mercopress.com/2010/04/21/argentina-and-venezuela-announce-a-new-world-order-of-relationships> (February 23, 2011).

40. "Venezuelan Aid Abroad," Associated Press, at http://hosted.ap.org/specials/interactives/_international/venezuela_abroad/index.html?SITE=KVUE (February 23, 2011).

41. "'Suitcase Scandal' Goes On in Argentina," *Forbes*, January 18, 2008, at http://www.forbes.com/2008/01/17/argentina-chavez-kirchner-cx_0118oxford.html (February 23, 2011).

culties for its relationships in the Western Hemisphere. Argentina's close alliances with Palestine, Iran, and Venezuela should call into question the country's reliability as an ally to the U.S.

Argentina's Questionable G-20 Membership.

A growing number of critics have called for Argentina's removal from the G-20. France is set to host the next meeting of the G-20 Summit in Cannes in November 2011, and French President Nicolas Sarkozy is already on record as favoring a G-14—composed of the original G-5 (the U.S., the U.K., France, Germany, and Japan), the “BRIC” economies (Brazil, Russia, India, and China), Canada, and perhaps South Korea, South Africa, Saudi Arabia, and Indonesia. Argentina would be excluded, along with current G-20 members Italy, Mexico, Turkey, Australia, and the European Union.⁴³ Given Argentina's difficulties in dealing with the Paris Club, and President Cristina Kirchner's clash with President Sarkozy at last year's Toronto G-20 Summit,⁴⁴ perhaps it is not surprising that Sarkozy would prefer to not have Argentina at the table.

Argentina is the only G-20 member nation to not abide by its treaty obligations with the IMF, to default on its loans to fellow G-20 countries, and to be put on probation by the FATF.⁴⁵ At the very least, a strong case can be made that Argentina should be suspended from participation in G-20 meetings until it gets its economic house in order.

Argentina is also the only member of the G-20 that refuses to participate in Article IV review, through which a team of IMF experts periodically reviews a member country's financial management and accounting practices. IMF reviews are required of all signatories to the IMF treaty. These IMF consultations provide an independent assessment of a country's economic position for consideration by the international community.

A primary motive for Argentina's refusal of an Article IV review is that it would expose the manipulation of Argentina's official statistics by its statistics agency, INDEC. Only three others of the IMF's 187 members have recently refused Article IV review: Venezuela, Ecuador, and Somalia.⁴⁶ Some IMF officials have advocated sanctions against Argentina for not accepting a review since 2006. Such a position should be encouraged by the Obama Administration and U.S. Congress; such sanctions would be well timed with the upcoming April 2011 IMF meetings in Washington.⁴⁷

In addition to bondholder litigation in U.S. courts, Argentina is one of the only members of the G-20 to be involved in cases pending before the World Bank's International Centre for Settlement of Investment Disputes (ICSID). As of December 2010, 27 of the 121 pending ICSID cases (22 percent) are being pursued against Argentina. Of the 207 concluded cases, 22 (10 percent) were against Argentina.⁴⁸

42. “A Tough Report that Spoke of ‘Deficiencies’ in Argentina,” *La Nacion* (in Spanish), November 9, 2010, at http://www.lanacion.com.ar/nota.asp?nota_id=1323071 (February 28, 2011).

43. Ana Baron, “The G-20 at a Crossroads: Debate over If They Should Reduce the Number of Members,” *Clarín*, June 29, 2010, at http://www.clarin.com/mundo/G-20-encrucijada-debaten-cantidad-miembros_0_289171159.html (February 5, 2011).

44. “CFK [Cristina Fernandez Kirchner] Asks for Support for Crisis Countries, Clashes with Sarkozy,” *Buenos Aires Herald*, June 27, 2010, at <http://www.buenosairesherald.com/BreakingNews/View/37613> (February 28, 2011).

45. Arturo C. Porzecanski, “Should Argentina Be Welcomed Back by the Capital Markets?” *Perspectives on the Americas*, University of Miami, December 17, 2010, at https://www6.miami.edu/hemispheric-policy/Porzecanski-ShouldArgentina_Welcomed.pdf (February 28, 2011). See also Porzecanski, “Drop Argentina from the G-20,” *The American*, June 24, 2010, at <http://www.american.com/archive/2010/june-2010/dont-cry-for-argentina/?searchterm=arturo%20porzecanski> (February 28, 2011).

46. Carlos Burgueño, “Gov't Expects Obama's Help on IMF, Paris Club Deals,” *Ambito Financiero* (English edition), December 6, 2010, at <http://www.ambito.com/noticia.asp?id=557322> (February 28, 2011).

47. Carlos Burgueño, “Obama is Not Coming, But Will Give Support to the Paris Club,” *Ambito Financiero* (in Spanish), January 31, 2011, at <http://www.ambito.com/diario/noticia.asp?id=566141> (February 23, 2011).

48. International Centre for Settlement of Investment Disputes, “List of Concluded Cases,” at <http://icsid.worldbank.org/ICSID/FrontServlet?requestType=GenCaseDtlsRH&actionVal=ListConcluded> (February 25, 2011).

Among ICSID cases prosecuted against G-20 countries, Argentina is a clear outlier: Argentina accounts for 27 (84 percent) of the 32 pending cases, and 22 (44 percent) of the 49 concluded cases.

2011 Election in Argentina: A Fresh Start?

In the wake of recent revelations, Argentina's governance has been called into question. Secretary Clinton has expressed concerns about Cristina Kirchner's mental state.⁴⁹ Ambassador Martinez has revealed anxieties in the international community about how Argentina combats potential terrorist financing from domestic Argentine sources.⁵⁰

Following the death of Nestor Kirchner, the political situation in Argentina shifted. Argentinean bonds rallied immediately⁵¹ and gained a record 24 percent, marking two-year to five-year highs for some stocks. Some companies—including Telecom Argentina—also experienced double-digit growth in the hours following Kirchner's death.

Ironically, Kirchner's death also revitalized the political fortunes of his widow, current president Cristina Kirchner.⁵² In a survey the day after Nestor's death, 68.5 percent of those questioned said they supported Cristina. This figure had risen 20 percentage points from a poll taken 10 days earlier.⁵³

Nevertheless, although Cristina Kirchner's political capital surged after the death of her husband, a number of contenders have emerged for the October 2011 presidential election.⁵⁴ They include:

- **Daniel Scioli**, governor of Buenos Aires Province; served as Kirchner's vice president; president of the Justicialist Party;
- **Eduardo Duhalde**, president of Argentina from 2002 to 2003;
- **Mauricio Macri**, chief of government of the city of Buenos Aires;
- **Ricardo Alfonsín**, Radical Civic Union (UCR) member; son of former president Raul Alfonsín;
- **Julio Cobos**, UCR member; current vice president of Argentina;
- **Carlos Reutemann**, governor of Sante Fe Province; and
- **Ernesto Sanz**, senator for Mendoza Province; leader of the UCR block in the senate.

With the possibility of a shift in Argentina's governance, there is hope for improvement in Argentina's future. This improvement could come in two main areas: the calculation of Argentina's official statistics through INDEC,⁵⁵ and a reversal in the capital flight that has occurred on the Kirchners' watch.

Since the 2001 default, the Kirchners have participated in INDEC's systemic manipulation of Argentina's inflation statistics. An independent group of Argentinean economists routinely estimates that the true inflation rate is more than twice that published by INDEC.⁵⁶ In 2007, Nestor Kirchner even fired INDEC officials who refused to alter the inflation calculation methodology so that

49. Toby Harnden, "WikiLeaks: Hillary Clinton Questions the Mental Health of Cristina Kirchner," *The Telegraph*, November 30, 2010, at <http://www.telegraph.co.uk/news/worldnews/northamerica/usa/8169552/WikiLeaks-Hillary-Clinton-questions-the-mental-health-of-Cristina-Kirchner.html> (February 23, 2011).

50. O'Grady, "Is Argentina Washing Dirty Money?"

51. Agustino Fontevecchia, "The Market's Enemy? Stocks Gained Up To 24% Shortly After Death of Ex-Argentine President Kirchner," *Forbes*, October 29, 2010, at <http://blogs.forbes.com/afontevecchia/2010/10/29/the-markets-enemy-stocks-gained-up-to-24-shortly-after-ex-president-of-argentin-as-death/?boxes=marketschannelnews> (February 23, 2011).

52. Eliana Raszewski, "Argentina's Fernandez Sees Support Surge After Husband Kirchner's Death," *Bloomberg*, November 1, 2010, at <http://noir.bloomberg.com/apps/news?pid=newsarchive&sid=aTtDdoHU1deg> (February 23, 2011).

53. *Ibid.*

54. Eliana Raszewski and Rodrigo Orihuela, "Ex-Argentina President Kirchner Dies of Heart Attack," *Bloomberg*, October 27, 2010, at http://noir.bloomberg.com/apps/news?pid=newsarchive&sid=aE0jH4_k__iY (February 23, 2011).

55. "Argentina Economy: The Numbers Game" *The Economist*, August 13, 2010, at http://viewswire.eiu.com/index.asp?layout=VWArticleVW3&article_id=227349807&refm=vwHome&page_title=Latest%20analysis&rf=0 (February 23, 2011).

56. *Ibid.*

Argentina's statistics would not deter future investors.⁵⁷ Because many of Argentina's peso-denominated bonds are linked to the inflation rate, this falsification can also be construed as an assault on the property rights of Argentina's bondholders.

As a result of the Kirchners' poor track record, Argentina may register private-sector capital flight of \$11 billion in 2010 alone, according to Central Bank figures.⁵⁸ During the first nine months of 2010, the capital flight amounted to \$9.2 billion. Although the \$11 billion in capital flight in 2010 is less than the \$14.1 billion sent abroad in 2009, this will be the fifth consecutive year the country has experienced capital flight, and signifies a direct effect of the Kirchners' anti-free-market policies.

U.S. Generalized System of Preferences (GSP). Notwithstanding the outcome of the 2011 presidential election in Argentina, the U.S. government should re-evaluate Argentina's eligibility for preferential GSP tariff treatment given the Kirchners' track record of the past seven years.

Argentina is currently the beneficiary of GSP trade preferences, yet it is clear to most observers that the Argentinean government does not comply with the measures necessary to receive these benefits. Argentina's status as a GSP recipient should be re-evaluated, in part because of its numerous violations of GSP eligibility criteria:

- Seizure of property through the expropriation of private pension funds in 2008, and failure to provide fair and adequate compensation following its 2001 bond default, as well as manipulation of bond-interest-payment formulas through suspect INDEC inflation statistics.
- Even as the U.S. government currently extends GSP trade benefits to Argentina, the Argentinean government has raised tariffs, imposed new customs and licensing procedures, and taken other

measures with the intention of further blocking access to its market.

- Argentina also imposes higher export taxes on raw materials relative to those on processed products, effectively subsidizing the export of processed products.

Nearly 500 U.S. companies operate in Argentina, so the imposition of policies by the Argentinean government that make it harder for these companies to function is not beneficial to the trade relationship. This is another argument in favor of the U.S. government withdrawing Argentina's GSP eligibility. Additionally, with more than \$54 billion in reserves and relatively high per capita income, Argentina is not an impoverished country, and for that reason alone should be "graduated" from GSP status. According to the "GSP Guidebook" published by the Office of the U.S. Trade Representative, countries with a per capita income in excess of \$11,000 are deemed "sufficiently developed or competitive" and therefore no longer in need of GSP benefits.⁵⁹ According to the CIA's "World Factbook," Argentina's per capita GDP in 2010 (on a purchasing-power-parity basis) was \$14,700.⁶⁰

The cumulative effect of Argentina's poor track record took another toll recently when President Obama announced during his January State of the Union address that his upcoming visit to Latin America would not include a stop in Argentina—a country that has failed to live up to its obligations as a member of the G-20.

Argentina's next government will face a difficult task reversing the regime's destructive economic policies. To begin, the new government should:

- Adopt market-friendly policies, including a commitment to implement more welcoming policies toward foreign investment, which will in turn

57. "Argentina Official July Inflation, 0.8%; Private Sector and Unions: 1.9%," *Mercopress*, August 16, 2010, at <http://en.mercopress.com/2010/08/16/argentina-official-july-inflation-0.8-private-sector-and-unions-1.9> (February 23, 2011).

58. "Bondholders Demand 'Good Faith' from the Government," *La Nacion* (in Spanish), January 5, 2011, at <http://www.lanacion.com.ar/1338892-bonistas-le-exigen-buena-fe-al-gobierno> (February 28, 2011).

59. Office of the United States Trade Representative, "U.S. Generalized System of Preferences (GSP) Guidebook," January 2010, p. 13, at http://www.ustr.gov/webfm_send/1597 (February 28, 2011).

60. Central Intelligence Agency, "The World Factbook: Argentina," February 14, 2011, at <https://www.cia.gov/library/publications/the-world-factbook/geos/ar.html> (February 28, 2011).

benefit the economic welfare of the Argentinean public and the strength of its relationships in the international community;

- Implement a sovereign debt resolution by repaying debts to the Paris Club and private bondholders;
- Open negotiations with the U.S. aimed at reducing trade barriers and improving commercial and investment relations.

The U.S. can promote changes that will benefit Argentina, the region, and the U.S. by demonstrating its intolerance for the current regime's destructive policies.

The Obama Administration should:

- Hold Argentina accountable by urging the IMF to place sanctions on Argentina for failing to comply with a mandatory Article IV country review since 2006;
- "Graduate" Argentina from its preferred trade partner status as a GSP-eligible country;

- Lead an international effort to suspend Argentina from the G-20 group;
- Ensure that international efforts to obtain Argentinean government compliance with FATF recommendations are successful by more aggressively policing Argentinean money laundering.

Meanwhile, the U.S. Congress should examine the threat posed to the rule of law and national security in both the U.S. and Latin America by the continuance of the Kirchners' populist and statist policies.

President Obama made the right decision to skip a visit to Buenos Aires. U.S. interests would best be served by the election of an Argentinean government that supports the rule of law and free-market principles, which have been weakened dramatically under the Kirchners. The White House, however, must do much more to send the right signals to Argentina now.

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