

Statement

Relating to the Claims of U.S. Creditors

Defaulted Sovereign Debt of the Government of China

Prepared by:

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INTRODUCTION

I would like to begin by thanking each of you for your interest and for the opportunity to present this information to your attention. My name is Jonna Bianco and I serve as the president of the American Bondholders Foundation. The ABF is the incorporated organization established in 2001 at the direction of the White House Counsel, the United States Department of State and the Securities and Exchange Commission for the purpose of pursuing recovery on behalf of United States citizens holding full faith and credit sovereign debt obligations of the Government of China, upon which the Chinese Government has defaulted and continues to evade payment in violation of established conventions of international law. The ABF represents over five thousand Americans located across the United States in seeking a resolution of their defaulted obligations, which are presently held in trust for collection. The ABF has retained the law firm of Stites & Harbison as counsel in the matter, and works in close partnership with the Foreign Bondholders Protective Council to achieve recovery for the affiliated bondholders.

The ABF has been featured extensively by the news media including Business Week, Forbes, the Wall Street Journal, Financial Times, Associated Press, Barron's, USA Today and the BBC. In October 2003, the ABF provided testimony concerning this matter at a public hearing conducted by the International Relations Committee of the United States House of Representatives. Subsequent to the hearing, a resolution was introduced by the Honorable Walter Jones together with over forty other members of Congress as co-sponsors, calling on the Government of China to honor its sovereign obligations held by citizens of the United States, as it has honored its obligations to citizens of other countries.

SELECTIVE DEFAULT BY THE GOVERNMENT OF CHINA

The primary series of defaulted obligations of the Chinese Government which are presently held in trust for collection by the ABF is the globally-issued "Chinese Government 5% Reorganization Gold Loan". These obligations were issued as full faith and credit sovereign debt of the pre-communist Government of China and

were due to mature in 1960. The Government of China has consistently refused to acknowledge demands for payment by defaulted bondholders as it continues to evade payment of this debt, and has stated that it recognizes no obligation to compensate defaulted creditors of the pre-communist Chinese Government.

Under established principles of international law, a successor government is liable for payment of the sovereign obligations of the predecessor government. The People's Republic of China enjoys recognition as the government of all China and refers to the "Taiwan Region of China" in official government documents available on the Foreign Ministry's website. Yet, the Chinese Government continues to evade payment of its defaulted sovereign debt.

Although in 1979 the People's Republic did agree to compensate U.S. citizens for other claims related to expropriation of property by the Government of China, the 1979 U.S.-China Agreement negotiated by the U.S. Foreign Claims Settlement Commission did not provide for settlement of China's defaulted sovereign debt. Defaulted U.S. creditors are unable to sue China to recover payment through U.S. courts since the "commercial activity" exemption of the Foreign Sovereign Immunities Act cannot be retroactively applied to the date of default.

It is important to note that the basis of the default for which the ABF is seeking recovery on behalf of the affiliated bondholders involves the Chinese Government's intentional avoidance of a "willingness to pay", as differentiated from the "ability to pay". When considering the "willingness to pay" aspect, it is interesting to note that the Government of China is estimated to hold nearly \$800 billion in rapidly escalating foreign exchange reserves, a substantial portion of which have been accumulated through the huge trade surplus which China enjoys courtesy of the United States. The ABF believes that the global community of nations would benefit if the Government of China were to allocate a modest portion of its reserves to honor its defaulted sovereign debt, as opposed to investing in the development of expanded military capabilities.

DISCRIMINATORY SETTLEMENT AGAINST U.S. CITIZENS

In the mid-1980s, the Government of Great Britain under Margaret Thatcher's leadership enacted a prohibition on the offer and sale of any new bonds by the Chinese Government or any of its state-owned enterprises in the British capital markets, until such time as all past defaults by the Chinese Government were cured. Shortly thereafter, in 1987, a settlement accord was executed between the Government of China and the Government of Great Britain which resolved the claims of defaulted British bondholders. The British settlement discriminated against non-British citizens and provided a settlement exclusively for citizens of Great Britain.

MISLEADING SOVEREIGN CREDIT RATING CREATES ECONOMIC DISTORTIONS

Standard and Poor's, Moody's Investors Service and Fitch Ratings have all assigned an investment-grade credit rating to debt issued by the Chinese Government. Such ratings ignore the existence of the Chinese Government's defaulted sovereign debt and even violate the agencies' own definitions for their ratings. The rating agencies are paid by the Chinese Government to assign a credit rating to it, and the rating affects the ability of all corporations within the sovereign's jurisdiction to raise funds in the world's capital markets. The Chinese Government continues to issue sovereign bonds in the world's capital markets in reliance upon the investment-grade credit rating assigned by S&P, Fitch and Moody's, while continuing to evade payment to defaulted creditors.

The ABF is not alone in calling attention to what is tantamount to perpetrating a fraud upon the investing public. According to *EuroWeek Capital Markets News*, one Asian analyst called the situation "a hot potato", and the *Financial Times* recently reported that one international banker referred to the problem as "a sensitive issue". Such comments serve as a testament to the inequity which exists regarding China's sovereign credit rating. A complaint was recently filed on behalf of the ABF with the U.S. Securities and Exchange Commission, which subsequently took the position that the credit rating agencies are not subject to enforcement action under the federal securities laws, even though each is registered as an Investment Adviser.

The ABF believes that the credit rating agencies should apply a higher standard of care than is evident from the prevailing Chinese Government credit ratings, which conceal the existence of defaulted sovereign debt, evasion of payment and discriminatory settlement. As Richard Brookhiser stated in his recent article in the *Wall Street Journal* on Alexander Hamilton, entitled "Alexander the Great", "Mr. Hamilton knew that if the United States started picking and choosing among its creditors, its credit would go back into the outhouse". This same standard need not apply to the Government of China so long as the three major rating agencies continue to aid and abet China's evasion of payment on its defaulted sovereign debt.

The assignment of artificial credit ratings which exclude pertinent facts only serves the short-term interests of the agencies in securing additional ratings business from China's corporate issuers, at the cost of distorting markets by creating a misleading perception of the true risks which exist with respect to investment in sovereign obligations of the Chinese Government. This is unconscionable, not only for the risk posed to the investing public, but also because the economic distortion of the world's financial markets caused by China's artificial sovereign benchmark enables China's mercantilist economy to acquire a competitive advantage in the form of cheap access to foreign capital for industrial development, resulting in the displacement of jobs from other countries including the U.S., and even the dislocation of entire industries.

LEGISLATIVE SOLUTION REQUESTED OF THE U.S. CONGRESS

Under established conventions of international law, the Government of China remains in selective default on its full faith and credit sovereign debt and continues to discriminate against the claims of U.S. citizens. It has long been the policy of the United States Department of State that intervention by the United States Government in bondholder disputes is appropriate in situations involving either debt repudiation or discrimination. Accordingly, the ABF and its affiliated bondholders are pursuing redress of their consolidated claims through the U.S. Congress. The ABF believes that the most effective legislative action to accomplish the expedient resolution of the claims of U.S. bondholders is a prohibition similar to that enacted by the Government of Great Britain to resolve the claims of British citizens, by banning the sale within the United States of any new securities by the Chinese Government until such time as the Government of China cures all past defaults.

Legislative action is necessary in order to preserve the integrity of the U.S. capital markets and strengthen accepted conventions of international law. Since the basis of the default is a “willingness to pay” issue (as opposed to the “ability to pay”), the legislative action proposed by the ABF will serve as an effective deterrent against future defaults, preventing other sovereigns from becoming motivated to default due to a perceived ability to escape both payment and penalty.

CREATION OF DEBT RELIEF PROGRAM BENEFITTING INDEBTED NATIONS

At the invitation of the President’s Office of the World Bank, and in seeking to achieve recovery on the Chinese Government’s defaulted debt owed to the affiliated bondholders, the ABF has developed a sovereign debt relief program for the benefit of nations indebted to the Government of China, including the indebted nations of the African continent. The debt relief program enables countries which owe money to the Chinese Government to extinguish such debt at a very significant discount via international offset, a frequently utilized mechanism for reconciliation of international accounts in global trade and commerce.

Under the international offset program, a nation indebted to the Government of China may elect to subscribe a quantity of defaulted full faith and credit sovereign obligations of the Chinese Government from the ABF at a 65% discount from face value, which is the value established by the terms of the debt contract. The participating nation may then tender the defaulted obligations to the Government of China at 100% of face value in satisfaction of its existing debt, thereby extinguishing the debt it previously owed to the Chinese Government at a 65% discount.

The ABF desires to make the debt relief program available to all indebted nations across the world in order to assist such nations in easing their debt burdens including, for example, the nation of Iraq. The ABF / World Bank-sponsored debt relief program will assist indebted nations in redirecting their limited resources into sustainable economic development, ultimately building societies which transcend the otherwise endless and destructive cycle of debt.

CONCLUSION

Until such time as the outstanding defaulted Chinese Government sovereign debt is completely extinguished, the ABF will continue to pursue collective action on behalf of defaulted U.S. creditors to enforce the sovereign debt contract and obtain successful resolution of the affiliated bondholders' claims. The result will be heightened transparency in the capital markets and strengthened institutions safeguarding the investing public.

Additional information concerning the defaulted sovereign debt of the Government of China and the collection actions of the American Bondholders Foundation on behalf of defaulted U.S. creditors may be viewed on the world wide web at the following URL: www.globalsecuritieswatch.org

Thank you. It has been an honor to address you today.

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