

Committee on International Relations

U.S. House of Representatives

Washington, D.C. 20515-0128

Mr. Chairman, Members of the Committee, Ladies and Gentlemen, on behalf of the American Bondholders Foundation members and their families, we thank you for the opportunity to present this important issue.

What is the ABF:

The American Bondholders Foundation, (ABF) is the incorporated organization representing the consolidated claims of United States citizens located across America who are holders of full faith and credit sovereign bonds issued by the government of China and on which that government has defaulted and continues to evade payment. The ABF has identified over 5000 bondholders across America. These are bonds that were issued between 1912 and 1942.

Who are the Bondholders:

The bondholders are comprised of lower-to middle class tax paying citizens. Many of the bonds have been passed down through two or more generations of the same family. None of the ABF members are considered wealthy nor are there any representations of banks, corporations or businesses. While we realize that this debt goes back 3 generations, that is how long our interests have been neglected. Our claims have been ignored for so long because we are not a syndicate of powerful financial institutions. Rather, we are thousands of American individuals and families living on Main Street, not Wall Street.

What are the Bonds:

The bonds were issued between 1912 and 1942. They were issued by a global syndicate comprised of international banks and was sold to investors in the United States, Japan and Europe. The language of the individual bond certificates, as well as the language of the loan agreement authorizing the bond issue, mandated that the obligations were to be considered as binding upon the Government of China and its successors. These bonds were also endorsed and sold by two major banks, Hong Kong and Shanghai Banking Corporation (HSBC), and Deutsche Bank. Both these banks have extensive operations in the United States. Both these banks were paid approximately 5% upfront to issue these bonds. They made their money, yet now clearly state that they have no fiduciary responsibility to the people that they sold these bonds to.

With the outbreak of the Sino-Japanese war and then WW II, the Chinese Government ceased payments on the bonds in 1939 and never resumed payment. The Communist Chinese Government (the People's Republic of China) assumed control of mainland China in 1949, and repudiated all outstanding debt incurred by the prior Chinese government. While the PRC Chinese Government has received the benefits of the revenues and assets that secured the bonds, it has consistently evaded the corresponding liabilities to American bondholders.

Is there precedent for payment of these bonds?

When the People's Republic of China and the United States "normalized" relations in 1979 the Chinese Government made a small payment (totaling \$81 million) to the United States as "compensation" for American owners of tangible property located in China that the PRC expropriated in 1949. This agreement did not provide for any compensation to American holders of defaulted Chinese Government bonds.

The PRC Chinese Government did recognize the principle of its liability for payment of pre 1949 Chinese Government bonds when it paid Great Britain in 1987 to settle the claims of British bondholders. British bondholders had protested when the PRC tried to sell new Chinese Government bonds in London's capital markets without first resolving the claims of British bondholders for pre 1949 Chinese Government bonds that the PRC Government was refusing to honor. Americans own some of the same series of defaulted pre 1949 Chinese bonds that China acknowledged responsibility for in 1987 to British bondholders.

Russia assumed the debt obligations of the Soviet Union after its dissolution in 1991 and even agreed in the 1990's to honor the pre-1917 Czarist era Russian defaulted bonds owed to French bondholders. Germany assumed all the debt obligations of communist East Germany and other post communist Eastern European governments have continued to honor their communist government era sovereign bonds and debts.

The PRC has continued to have UNLIMITED access to all of our capital markets. Find me a US business or entity that is allowed to continue issuing stocks or bonds when they have not resolved the ones that are in default? Why is a foreign government not subject to the same rules and regulations that we as Americans are? Why are they afforded special rights and privileges far beyond American businesses or individuals?

Failure to resolve these defaulted bonds has allowed the PRC free and unfettered access to sell bonds in America in possible contravention of the Johnson debt default act which prohibits US firms from selling securities of sovereign issuers who have defaulted on their full faith and credit obligations owed to America. To date no one in the federal government has thought it necessary to enforce United States laws when the violator is the PRC. Why are the People's Republic of China afforded special rights and privileges far beyond American businesses or individuals?

International law requires a successor government of a prior internationally recognized and legitimate government of the same nation to honor the financial obligations of the predecessor government. Accordingly, the current government of China is obligated to pay the defaulted full faith and credit bonds owed to Americans that were issued by a predecessor Chinese government.

Unlike the pariah Saddam Hussein regime in Iraq, which was subject to condemning United Nations sanctions and resolutions prior to the April 2003 liberation of Iraq, the Chinese Government that issued the now-defaulted full faith and credit Chinese bonds between 1912 and 1949 was a long-time United States ally that had full international legitimacy as a founding member of the United Nations and as the sovereign government of China at the time of issuance of the bonds. Now the PRC publicly mandates that International Law be upheld in Iraq, where the PRC is owed significant money. How hypocritical can the leaders of the PRC be when on one hand they demand that Iraq honor its debt from a prior government and on the other hand they choose to ignore International Law when it comes to honoring China's financial obligations to American citizens?

The People's Republic of China has become an economic powerhouse with full financial ability to pay its foreign debts. They choose to evade payment on the lawful claims of American citizens who hold these bonds. The Chinese Government and its controlled agencies and businesses own large sums of bonds issued by the U. S. Treasury. The People's Republic of China presently receives approximately \$4 billion each year from American taxpayers in the form of interest income on U.S. Treasury bonds held by the Chinese government. The PRC also enjoys a \$100 billion annual trade surplus with the United States, giving them an estimated \$400 billion current account. Yet the government of China continues its discriminatory evasion of payment to American bondholders. It is the position of the Chinese government that China should not have to honor their nation's full faith and credit sovereign obligations if they choose not to. Such an insular worldview, flaunting the flagrant disregard of established principles of international trade and commerce, will not serve the interests of the PRC in the community of nations and is inconsistent with the status of the PRC as a most favored trading partner and member of the World Trade Organization. Such a posture can only act to harm the long term interests of both the United States and China.

On June 13, 2001, at the direction of the White House Counsel, the United States Department of State and the Securities and Exchange Commission, the ABF contacted the Foreign Bondholders Protective Council (the "FBPC") to initiate collection proceedings on these defaulted obligations. The FBPC was created by Presidential Executive Order to assist U.S. citizens in collecting on foreign defaulted debts. The FBPC has successfully completed collection of 47 previous defaulted bond settlements. All of the previous bond settlements have been with the direct involvement and assistance of all three Executive Branches of the US Government. The ABF has appealed to the U.S. Department of State for assistance in resolving this disgraceful situation. Our appeals have fallen on deaf ears anytime it involves China.

Direct appeals to China have been met with the response of: “We do not honor the debts issued prior to the Communist Government coming to power”. What they should say is that we do not honor debts to American citizens, even though we have recognized and honored these debts to others.

US citizens need your support. They work hard, they pay their taxes and are then slapped in the face over and over by the continuation of interest payments which are basically their tax dollars going to China for the Treasuries that they hold of ours which we do pay; to losing their jobs due to continual layoffs; to everything that they go to the store to buy is stamped Made in China. This is a shameful injustice to all Americans. The time is now to stop empowering China to continue to evade the rightful claims of American citizens and to uphold International Law. China acts as though the world owes them whatever they demand. Their actions and callous disregard for international law is mirrored in every other arena of international trade and commerce. The community of nations has rules. Hold China accountable.

Solution:

In July of this year, ABF representatives traveled to Baghdad and met with Mr. George Wolfe, Deputy General Counsel for the US Treasury and Director of Economic Development for Iraq through the CPA. The ABF proposed the following:

We took the total amount of bonds that we are holding for our members, then divided them up into 5 billion dollar blocks at current value including principal and interest. We offered to transfer ownership of these blocks over to Iraq to be used as payment towards their debts to the PRC for an 80% discount. In other words, Iraq would pay to the ABF 20 cents on the dollar, yet use 100 cents on the dollar as payment towards their debts to the PRC. For each Block that was purchased and transferred to Iraq, the ABF would provide 100 million dollars to the CPA and an additional 50 million dollars towards construction of schools, school supplies, classroom furniture, food baskets in cooperation with USAID, and security for Council and Cabinet Members. Knowing that Iraq would not have the necessary capital to expend on this proposal, we structured it whereby a small percentage of oil would be used for payment, structured over time. This information has been shared with officials of the Department of Defense who have informed us that they have no opposition with this proposal. In addition, this has been met very favorably by some members of the Iraqi Council and Cabinet. They believe this would be good for Iraq and for America.

In effect, we are accelerating future oil production to the immediate benefit of the people of Iraq and additionally, keep in mind, bondholders pay taxes so a good portion of whatever they receive, comes right back to Uncle Sam which in turn helps fund the \$87 billion dollar request, plus provides funding through the foundation by which millions of Americans will benefit.

In addition to Iraq, under very similar structures as aforementioned with Iraq, the ABF is in current negotiations and has pending contracts with several other countries that have outstanding significant debts with the PRC.

