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To: [REDACTED]

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Subject: Unprecedented Court Order Puts Sovereign Immunity at Risk in Record \$16.1B Case – Briefing with Counsel

Hi [REDACTED],

Hope you are all well. We are writing to you to bring your attention to a precedent-setting legal case (in all the wrong ways) that is a direct challenge to bedrock principles of international law and could fundamentally reshape sovereign immunity protections and impact foreign relations. It is exactly the type of case that we believe Foreign Policy's audience needs to know about.

The case is *Petersen Energia v Argentina*, and we represent the Argentine Republic. A federal judge in the SDNY has ordered Argentina to surrender ownership of Argentina's largest energy company, YPF, to litigation-financier Burford Capital in partial satisfaction of an outsized \$16.1 billion judgment – the largest damages award in U.S. history against a foreign sovereign. To comply, Argentina would be forced to break its own country's laws.

The SDNY's recent orders have troubling implications – not only for Argentina and its efforts to return to the international capital markets, but for any sovereign nation including the United States if the trial court's rulings (now being appealed in the Court of Appeals for the Second Circuit) are allowed to stand. As one legal brief puts it: "*This order is akin to a foreign trial court directing the U.S. Government to pack up the gold stored at Fort Knox and ship it abroad.*"

This began with Burford paying €15 million to pursue what is essentially a “zombie case” by buying the claims of two minority shareholders in YPF following Argentina's 2012 nationalization of YPF as the country faced an energy crisis. Burford found a way to pursue this case in the SDNY, rather than Argentina where it belongs, and have a U.S. federal judge adjudicate matters of Argentine law involving Argentine parties over investments made in Argentina in an Argentine company. Burford now stands to make a potential 37,000% return.

Why it matters now:

1. The U.S. Government has filed amicus briefs supporting Argentina and explicitly cautioning against Judge Loretta Preska's order, warning it violates sovereign immunity
2. Burford is heavily invested in this case, which represents an astonishing 42% of Burford's total capital allocated to legal finance assets from its balance sheet (see page 20 of [Burford's 10-K](#))
3. Burford's CEO has stated publicly that he is using the litigation to throw “sand in the gears” of Argentina's efforts to rebuild its economy, and now regrets his words after receiving negative publicity
4. Argentina is soon to file its brief for the turnover appeal due on **September 25**
5. Argentina's appeal of the underlying judgment and damages will be heard on **October 29**

While there has been spot news coverage as this has wound its way forward, it is a complex case and no one has really looked under the hood at its significant and very damaging implications.

We can arrange an immediate background briefing for you and any colleagues you'd like to include with Sullivan & Cromwell attorneys representing Argentina, including partner Bob Giuffra, to discuss the case's implications. We can also provide additional information and legal filings.

Please let us know if this is of interest and we can coordinate availabilities for a call.

Best regards,
Nicky

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