Wrongful and Injurious Actions of the International Credit Rating Agencies

Certain wrongful actions engaged in by the international credit rating agencies continue the propagation of the tort injury sustained by defaulted creditors holding the Chinese government's defaulted sovereign obligations, including the intentional actions involving publication and distribution of knowingly false and injurious content. These actions are discussed below, beginning with a discussion of the relevant standard of care for publishing a rating and the proximity to injury of the prevailing "investment-grade" international sovereign credit rating classifications assigned to the government of China by the three primary rating agencies, and which agencies collectively control nearly 95% of the total global market, as illustrated in Exhibit 1, below:

Exhibit 1

Global Credit Rating Market
Percentage Market Share (2005) [1]

Credit Rating Agency	(%) Share of Total Market
Standard and Poor's	40%
Moody's Investors Service	39%
Fitch Ratings	15%

As regards the development, assignment, publication and distribution of a debt rating classification, we observe that the "*qualitative* assessment" component of a specific international sovereign credit rating classification is inherently subjective in nature and this metric must not be recklessly applied (e.g., as evidenced by an instance in which the extant facts contradict the stated conclusions of the qualitative assessment, as respects, for example, the *willingness* of a sovereign to repay its debts in the face of a demonstrated and unequivocal unwillingness to pay).

We further observe that the "*quantitative* assessment" component of a specific international sovereign credit rating classification is, by contrast, objective in nature and must not be recklessly applied (e.g., as would be revealed in an instance in which the rating classification is factually incorrect or knowingly inaccurate as in the immediate instance, e.g., the omission of pertinent facts and the contradictory and inconsistent application of published criteria and definitions to existing facts, and which may have the action of causing injury as evidenced, for example, by the inducement of offerees through the misstatement of risk and the taking of rights in contract of defaulted creditors).

An examination of the facts comprising the immediate instance (i.e., the existence of defaulted sovereign debt of the government of China) reveals that the prevailing rating classifications

[1] Source: *"Senate Panel Backs Expansion of Credit-Rating Competition",* industry news article by James Tyson, Bloomberg News (August 3, 2006). The article cites reference to calculations derived from company filings. The article states that according to Senate Banking Committee Chairman Richard C. Shelby, *"By increasing competition, the bill will protect investors by improving ratings quality and providing greater transparency and accountability."* According to the article, Committee Chairman Shelby further explained, *"The thrust behind all this is competition, which is desperately needed."*

assigned by the three largest international credit rating agencies, which collectively control nearly 95% of the market, and which ratings track closely together with little variance, fail to conform to their respective published definitions when confronted with the factual evidence, as illustrated in Exhibit 2 and Exhibit 3, and so act to conceal the existence of the defaulted sovereign debt of the Chinese government, upon which that government refuses to honor repayment in violation of the successor government principle of settled international law.[2] The prevailing rating classifications assigned to the government of China are thus provably false by the application of the agencies own criteria and the published definitions of their respective rating classifications.[3] The following exhibit describes the prevailing international sovereign credit rating classifications assigned by the three primary rating agencies to the long-term foreign currency debt of the Chinese government.

Exhibit 2

Prevailing Artificial Sovereign Credit Rating Classifications

Long-Term Foreign Currency Debt of the Chinese Government [4]

Agency	Rating	Definition
Standard & Poor's	A	An obligor rated 'A' has STRONG capacity to meet its financial commitments but is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligors in higher-rated categories.
Moody's	A2	Bonds which are rated "A" possess many favorable investment attributes and are to be considered as upper medium-grade obligations. Factors giving security to principal and interest are considered adequate, but elements may be present which suggest a susceptibility to impairment some time in the future. The addition of a "2" denotes mid-range ranking within the assigned rating classification.
Fitch	A	High credit quality. 'A' ratings denote expectations of low credit risk. The capacity for payment of financial commitments is considered strong. This capacity may, nevertheless, be more vulnerable to changes in circumstances or in economic conditions than is the case for higher ratings.

Compare the above artificial rating classifications with the published definitions maintained by the same agencies as illustrated in Exhibit 3, which definitions truthfully describe the genuine rating classifications in light of the factual evidence (i.e., the actions of the Communist Chinese government with respect to evasion of repayment of its defaulted sovereign debt, including the actions of repudiation; selective default; rejection of the successor government doctrine of settled international law; discriminatory settlement with Great Britain; and the practice of preferential, exclusionary and discriminatory payments to selected general obligation creditors of the government of China).

[2] Standard and Poor's and Moody's Investors Service collectively control 79% of the market. We note that both the existence as well as the effect of the duopoly enjoyed by the two primary international credit rating agencies was explicitly acknowledged by the U.S. Congress by reference to the title of recently proposed legislation (H.R. 2990 and S.B. 3850) subsequently enacted as Public Law No. 109-291 on September 29, 2006, i.e., the "Credit Rating Agency Duopoly Relief Act of 2006".

[3] Please see, e.g., Exhibit 2, which presents a depiction of the prevailing artificial sovereign credit rating classifications assigned to the long-term foreign currency debt of the government of China by the primary international credit rating agencies, in comparison with the published definitions of the rating classifications as illustrated in Exhibit 3.

[4] Prevailing long-term foreign currency sovereign credit rating classifications assigned to the Chinese government as of August 1, 2006 by the three largest nationally recognized statistical rating organizations.

Exhibit 3

Truthful and Proper (i.e., Non-Injurious) Rating Classifications
Long-Term Foreign Currency Debt of the Chinese Government
As Determined by Conformance of Agencies' Published Criteria and Definitions to
Facts Comprising the Actions of the Communist Chinese Government, Including:
[1] **Repudiation**; [2] **Selective Default**; [3] **Rejection of Successor Government Doctrine of International Law**; [4] **Discriminatory Settlement with Great Britain**; [5] **Preferential and Discriminatory Payments to Selected General Obligation Creditors** [5]

Agency	Rating	Definition
Standard & Poor's	SD (Selective Default)[6]	An obligor rated "SD" (Selective Default) has failed to pay one or more of its financial obligations (rated or unrated) when it came due. An "SD" rating is assigned when Standard & Poor's believes that the obligor has selectively defaulted on a specific issue or class of obligations but it will continue to meet its payment obligations on other issues or classes of obligations in a timely manner.[7]
Moody's	Ba (high range) Caa (low range)	Bonds which are rated "Ba" are judged to have speculative elements; their future cannot be considered as well-assured. Often the protection of interest and principal payments may be very moderate, and thereby not well safeguarded during both good and bad times over the future. Uncertainty of position characterizes bonds in this class. Bonds which are rated "Caa" are of poor standing. Such issues may be in default or there may be present elements of danger with respect to principal or interest.[8]
Fitch	DDD RD (Proposed)	Default. Entities rated in this category have defaulted on some or all of their obligations. Entities rated "DDD" have the highest prospect for resumption of performance or continued operation with or without a formal reorganization process. Proposed new rating classification: a newly introduced rating of "RD" (Restrictive Default) is proposed for assignment to an issuer (including sovereigns) in cases in which the issuer has defaulted on one or more of its financial commitments, although it continues to meet other obligations.

[5] According to the United States Foreign Bondholders Protective Council, established by the U.S. Department of State, Department of the Treasury, and the Federal Trade Commission for the purpose of assisting U.S. citizens in recovery of repayment of defaulted obligations of foreign governments, the Communist Chinese government represents the only instance, in over 40 successful settlements of defaulted sovereign debt, of a government refusing to negotiate the settlement of its defaulted sovereign debt.

[6] Recent instances in which Standard and Poor's has assigned an "SD" rating classification to the long-term foreign currency debt of a sovereign issuer include Russia in 1998 (which defaulted on its domestic obligations while continuing to service its eurobonds); Argentina, following its sovereign debt default in December 2001 and subsequent restructuring, including an exchange offer to existing bondholders; and the Dominican Republic in 2005 (which became delinquent on payments owed to commercial bank creditors while continuing to service its bonded debt). The "SD" rating remained in full force and effect until all outstanding defaulted obligations were resolved.

[7] A prime example of "Selective Default" is the series of full faith and credit sovereign obligations issued as the "Chinese Government Five Per Cent Reorganization Gold Loan", scheduled to mature in 1960 and which debt remains in default as an external payment obligation of the successor government of China (i.e., the Communist Chinese government, which was established on October 1, 1949). The Communist Chinese government replaced the Republic of China in the United Nations as the recognized government of China on November 23, 1971 and was subsequently recognized as the government of all China. Taiwan publicly renounced any claim to the government of all China in 1991.

[8] This rating classification is appropriate with respect to acknowledging the judicial risk inherent to investment in such obligations arising from the discriminatory and preferential treatment of selected general obligation creditors.

As illustrated in Exhibit 3, the Communist Chinese government continues to engage in a pattern of discriminatory, exclusionary and preferential practices while refusing repayment of its sovereign obligations for which it is legally responsible as the successor government of all China, and which actions are concealed by the assignment, publication and distribution of false international sovereign credit rating classifications by the three primary rating agencies, the published definitions of which do not conform to the fact pattern comprising the immediate instance.[9] It is the ability of the Communist Chinese government to engage in international debt financing in reliance upon its prevailing rating classifications, and so establish and maintain a sovereign benchmark for the benefit of Chinese corporate issuers, which constitutes the proximate mechanism by which the Chinese government is able to escape its repayment obligation to defaulted creditors. It thus becomes evident that the practices engaged in by the primary international credit rating agencies evidence selective adherence to their respective published definitions, methodologies and criteria in order to attain a predefined result and so avoid an inconvenient truth, to the calculated effect of maximizing their profits.[10]

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[9] See in particular the Communist Chinese government's unwillingness to respect repayment of the defaulted full faith and credit sovereign obligations held by United States citizens, for which the government of China is liable under the successor government convention of settled international law and which convention was invoked by the 1983 *Aide Memoire* in which the Communist Chinese government explicitly attempted to repudiate its obligation to repay the debt. We further note the determination by the United States Foreign Claims Settlement Commission in *Carl Marks & Co.* wherein the Commission found that the unpaid debt represents a general obligation of the government of China. By their published definitions, the prevailing sovereign credit rating classifications assigned to the Communist Chinese government exclude and thereby conceal the fact of selective default, as shown in Exhibit 2 and Exhibit 3.

[10] In this regard, we note the following statement, *"NRSROs should be legally accountable for their ratings."* Source: Investment Company Institute, Statement Before the SEC Hearings on Issues Relating to Credit Rating Agencies (November 21, 2002). See also the statement, *"Reliance by credit rating agencies on issuer fees could lead to a conflict of interest and the potential for rating inflation."* United States Securities and Exchange Commission, <u>Rating Agencies and the Use of Credit Ratings Under the Federal Securities Laws</u> (2003). See also the statement, *"Given the steps the SEC has taken to improve levels of independence for accounting firms and equity analysts, similar action should be required to restore the credibility of and confidence in the rating system."* Source: *"Is the SEC Going Soft on Credit Rating Agencies?"* Danvers, Kreag and Billings, B. Anthony, <u>The CPA Journal</u> (May 2004). For further revealing information concerning the unregulated business practices of the three primary international credit rating agencies, see our letter dated June 21, 2005, addressed to Mr. David Walker, Comptroller General of the United States of America, and in particular, footnotes #14 (at 6), #15(at 6,7), #16 (at 7), #19 (at 8,9), and #20 (at 10). The letter is accessible on the world wide web and may be viewed at the following URL:
http://www.globalsecuritieswatch.org/GAO_LETTER.pdf
Christopher Mahoney, Executive Vice President at Moody's was quoted in a recent article entitled, *"China's Pre-War Bond Default Stirs U.S. Anger"* (Gillian Tett in London, Richard Beales and Andrew Parker in New York, and Andrew Yeh in Beijing) published by the <u>Financial Times</u> (June 7, 2005) as stating, *"The fact that a country has defaulted in the past is a credit negative, but it does not preclude ... a high rating today."* This article may be viewed on the world wide web at the following URL:
http://www.globalsecuritieswatch.org/Financial_Times_June_7,2005_.pdf
Mr. Mahoney is silent as regards the critical aspect of the same country continuing to evade repayment of its defaulted debt. Interestingly, in this same article an unidentified international banker is quoted as stating that this matter represents, *"...a sensitive issue"*. In an article entitled, *"US Holders Claim on China for Pre-War Bonds"*, <u>EuroWeek</u> (April 8, 2005), an unidentified Asian ratings analyst is quoted as stating that this same matter represents, *"...a hot potato"*. According to a recent article entitled *"The Ratings Game"* by Martin Mayer (July 1999) published by <u>The International Economy</u>, *"All ratings agencies agree that a debtor is in default when it either misses a payment beyond a grace period or seeks to renegotiate the loan – 'anything', says S&P's Marie Cavanaugh, 'that is not 'timely service of debt according to the terms of*

Antitrust Injury Arising from the Wrongful Actions of the International Credit Rating Agencies

Even the most casual observer will note the prevalence of legal and prudential codification of the rating classifications assigned by Standard and Poor's and Moody's Investors Service into investment policies and financial regulations. The extensive and pervasive nature of this practice has acted to empower such ratings with the force of law, and has done so in the absence of regulatory supervision.[11]

The international credit rating industry is described to us by one independent expert as "an absolutely closed shop industry". We also note the statement of the Court in County of Orange v. The McGraw-Hill Companies: *"S&P's position in the securities field may have caused it to assume an independent professional duty enforceable in a tort action"*.[12] The Court further noted that the ratings could be the basis of liability if the plaintiff proved by clear and convincing evidence that Standard and Poor's acted with knowledge that the ratings were false or with reckless disregard of their truth or falsity.[13] The First Amendment does not protect actions which are intentional, knowingly misleading and which cause injury to others. We observe in Jefferson County School District v. Moody's Investors Service that the court reasoned that Moody's

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issue'." In fact, Standard and Poor's own "Selective Default" classification states *"An obligor rated 'SD' (Selective Default) has failed to pay one or more of its financial obligations (rated or unrated) when it came due. An "SD" rating is assigned when Standard & Poor's believes that the obligor has selectively defaulted on a specific issue or class of obligations but it will continue to meet its payment obligations on other issues or classes of obligations in a timely manner."* See supra Exhibit 5. We observe that the Chinese government's defaulted sovereign debt, existing unpaid and in a state of default, has come to rest principally in the hands of individual investors as opposed to institutions, and that the agencies and the advisers to the Communist Chinese government therefore anticipated a very minimal risk of objection via a unified voice as respects the assignment of a long-term foreign currency sovereign credit rating to the Chinese Government which has the action of concealing the existence of the Chinese Government's defaulted sovereign debt. When Standard & Poor's first assigned the rating in 1992, it did not reflect the existence of the Chinese Government's defaulted sovereign debt and established a new, and artificial, foundation upon which the Chinese Government could resume international financing without repaying its defaulted sovereign debt, and also constitute the basis upon which to build the rating over the future term.

[11] See numerous municipal investment policies (e.g., the City of Seattle, WA), financial industry regulations, and retirement system portfolio allocation policies. See also the Memorandum dated July 29, 2005 prepared by the Division of Market Regulation, United States Securities and Exchange Commission, as a response to diverse inquiries from Members of the United States Congress in regard to the Complaint filed with the Commission on behalf of defaulted creditors of the Chinese government dated March 31, 2005, wherein the SEC explicitly disclaimed regulatory jurisdiction over the activities of the nationally recognized statistical rating organizations (i.e., the international credit rating agencies), thereby depriving the agencies of an implied immunity defense as respects civil claims for injuries sustained by actions prohibited under the federal antitrust laws. The Memorandum is addressed to Cynthia A. Glassman, Acting Chairman and is endorsed by Annette Nazareth, Director of the Division of Market Regulation. Ms. Nazareth is presently an appointed Commissioner of the United States Securities and Exchange Commission. A copy of the Memorandum is attached hereto as Exhibit A.

[12] County of Orange v. The McGraw-Hill Companies (no. SA CV 96-0765-GLT, 1997 U.S. Dist., LEXIS 22459, C.D. Cal. June 2, 1997).

[13] Id.

publication was protected by the First Amendment because it neither stated nor implied an assertion that was provably false.[14]

We further note that the privileged, exclusive, influential and select position of the three primary international credit rating agencies within the industry, together with the influence of the industry, constitutes such firms in a "gatekeeper" role, comprising the unique ability and responsibility to select which issuers will be admitted into the international financial markets and on what terms. Note that Standard and Poor's, Moody's Investors Service, and Fitch Ratings are each registered with the SEC as Registered Investment Advisers and as such, they are regulated under the Investment Advisers Act of 1940.[15] The fact of registration in conjunction with the position in the industry of (i) Standard and Poor's, (ii) Standard and Poor's and Moody's Investors Service, and (iii) the three major rating agencies collectively, may act to increase the applicable standard of care required of each of the agencies.

The exclusivity of the franchise, constituted as a duopoly, is the mechanism which empowers the rating, and it is the rating which operates to the effect of stimulating, moving and guiding large capital flows in the international financial markets and in the immediate instance, to a debtor government in default under established principles of international law. In this regard, we take particular note of the following statements:

» Statement by Dr. Adam Lerrick, professor of economics at Carnegie Mellon University evidencing the proximity between the effect of misleading ratings and the "taking" of defaulted creditors' enforcement ability:

> *"If large-scale financing was supplied to governments in default, the incentive for the debtor to conclude a deal was destroyed."* [16]

Note that the wrongful assignment of investment grade sovereign credit rating classifications operate to precisely this effect.[17]

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[14] Jefferson County School District No. R-1 v. Moody's Investors Services, Inc. (175 F.3d 848, Tenth Circuit, 1999). An important distinction in the immediate instance is the ability to allege foreknowledge as opposed to asserting knowledge after the fact, as in the event of default. The prevailing artificial sovereign credit rating classifications assigned to the government of China by the three primary rating agencies are provably false by the application of the agencies' own criteria and published definitions. For an instructive discussion of related circumstances in which debt rating agencies may be held liable for erroneous statements, see, e.g., St. Amant v. Thompson, 390 U.S. 727, 731 (1968). Agencies may be held liable in situations where the agency entertained serious doubts about the truth of its publication. See also, e.g., Garrison v. Louisiana, 379 U.S. 64, 74 (1968). Agencies may be held liable in situations where the agency knew that there was a *"high degree of the awareness of the probable falsity"* of its publication. Such is the case in the immediate instance, where extensive publication and constructive notice can both be demonstrated.

[15] Investment Advisers Act of 1940, as amended, 54 Stat. 847, 15 U.S.C. § 80b-1 - 80b-21.

[16] *"A Leap of Faith for Sovereign Default: From IMF Judgment Calls to Automatic Incentives".* Lerrick, Adam. Cato Journal. Volume 25, No. 1 (Winter 2005). As a further testament, albeit of an admittedly colloquial nature, to the critical role of rating agencies in establishing marketability of debt instruments, note the widely recognized industry maxim, *"brokers are selling machines when backed by agency ratings".*

[17] See, e.g., the revealing comment, *"If you have any credibility, you would probably be rating everything junk in China".* Source: Dr. Scott Kennedy, who specializes in China's political economy at Indiana

» Statements appearing in a scholarly research monograph recently published by Cambridge University Press: [18]

> *"Recent decades have witnessed the remarkable rise of a kind of market authority almost as centralized as the state itself – two credit rating agencies, Moody's and Standard & Poor's. These agencies derive their influence from two sources. The first is the information content of their ratings. The second source is both more profound and vastly more problematic: Ratings are incorporated into financial regulations in the United States and around the world…their ratings are given the force of law. Moody's and Standard & Poor's are based in New York but have an increasingly global reach. Ratings agencies exercise significant and increasing influence over private capital movements (see Sinclair 2005).* ***No sovereign government would dare to issue debt without being rated by one or both of the agencies."*** (Emphasis added; note that this statement would appear to memorialize the precept that assignment of an international credit rating is proximate to a sovereign government's ability to resume international financing). *"A small number of rating agencies are literally, and legally, the 'gatekeepers' to the vast U.S. investing public. The U.S. government thus has put these unregulated firms in the position to express their interpretation of good economic policy to sovereign governments through the process of rating them. Issuers came to see the agencies as points of access to international capital flows. In this paper, we seek…to describe the host of problems that arise when their ratings are given the force of law through incorporation into financial and prudential regulation. Given the degree of reliance the markets and regulators place on credit ratings…the major credit rating agencies' fortunes have risen, fallen, and risen again in tandem with private capital flows. From their origin in 1909, the agencies grew as the bond market expanded from railroad bonds to include issues by utilities, manufacturers, and sovereign governments. The agencies' spectacular expansion since the 1970s has, again, effectively mirrored the growth in private capital flows over recent decades. Among the issuers that have taken part in the rapid expansion of the global bond market are a growing number of sovereign governments. The increasingly central role that a small number of prominent rating agencies have come to play in capital markets as they step into the information –gathering role previously played by banks."* [19]

The foregoing statements by recognized experts in the industry serve to cast additional light upon the power, influence and operation of the rating classifications assigned to issuers by the three primary international credit rating agencies and further corroborate the proximity and causality of injury resulting from wrongful publication. The operation of such effect is further described in Exhibit 4 on the following page.

The ability of the Communist Chinese government to purchase an international sovereign credit rating, including the influence and effect of such rating, which deviates from its published definition and for which China paid and then denied seeking, constitutes the proximate

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University. Wall Street Journal (January 5, 2004). See also the statement: *"China doesn't adhere to international accounting standards. To make matters worse, the government issues misleading statistics."* According to Mr. Brian Colton, an analyst who rates China's sovereign bonds for Fitch Ratings (Hong Kong), *"Sometimes you have a column of figures that don't add up to the total at the bottom. It's that bad."* Wall Street Journal, January 5, 2004. See also the statement by Mr. Gordon Chang, former partner at Paul, Weiss, Rifkind, Wharton & Garrison in Beijing: *"China has less borrowing capacity than many people think; it is not as creditworthy as many people think."* William J. Casey Institute of the Center for Security Policy, May 22, 2001.

[18] *"To Judge Leviathan: Sovereign Credit Ratings, National Law, and the World Economy".* Bruner, Christopher M., and Abdelal, Rawi, Harvard Business School. Cambridge University Press (2005).

[19] Id.

mechanism by which the Communist Chinese government is able to escape its repayment obligation for the Chinese government's defaulted full faith and credit sovereign debt and to engage in a pattern of discriminatory, exclusionary and preferential payments to a select group of its foreign sovereign creditors. This action has the effect of depriving defaulted creditors of their contractual rights in the nature of a "taking" (i.e., an economic tort injury).

We also note that the position of the United States Securities and Exchange Commission as articulated in the Memorandum prepared by the Division of Market Regulation (see supra note 11 and Exhibit A, attached hereto), wherein the Commission disclaimed regulatory jurisdiction over the activities of the international credit rating agencies, has effectively deprived the agencies of an "implied immunity" defense as a response to the prosecution of a claim alleging injury arising from antitrust violation(s).

Exhibit 4

Washington Post Special Feature

Serial Installment Series on the Business Practices of the International Credit Rating Agencies [20]

Monday November 22 2004	**Unchecked Power**: The world's three big credit-rating companies have come to dominate an important sector of global finance without formal oversight. The rating system has proved vulnerable to subjective judgment, manipulation and conflicts of interest, people inside and outside the industry say. • **Moody's Close Connections** • **When Interests Collide** • **Graphic: The Rating Game**
Tuesday November 23 2004	**Shaping the Wealth of Nations**: As more countries rely on the bond markets to raise capital, they have been forced to accommodate the three top rating firms. The credit raters often have more sway over foreign fiscal policy than the U.S. government. • **Transcript: Post Writer Alec Klein** • **Smoothing Way for Debt Markets** • **Graphic: Moody's Expansion**
Wednesday November 24 2004	**Flexing Business Muscle**: Lack of oversight has left the rating companies free to set their own rules and practices, which some corporations say has led to abuses. The credit raters have rated companies against their wishes and ratcheted up their fees without negotiation. • **Graphic: Raters' Big Misses**

Each of the three primary international credit rating agencies have wrongfully maintained and continue to maintain, periodically upgrade, publish, and distribute the prevailing sovereign credit rating classifications assigned to the government of China and have done so and continue to do so in the face of constructive notice.

When considering the significance of an international credit rating to an issuer's ability to issue debt internationally, and an issuer's inability to engage in international financing in the absence of such rating, and the commanding position in the industry occupied by the three main rating agencies, and the compensation practices endemic to the agencies' conduct of their business (as described in graphic detail in a three-part front page series published by the Washington Post, reference to which is presented herein as Exhibit 4), and the role of Morgan Stanley as the credit

[20] See supra note 10, specifically our letter dated June 21, 2005, addressed to Mr. David Walker, Comptroller General of the United States of America, and in particular, footnotes #14 (at 6), #15(at 6,7), #16 (at 7), #19 (at 8,9), and #20 (at 10). The letter is accessible on the world wide web and may be viewed at the following URL:
http://www.globalsecuritieswatch.org/GAO_LETTER.pdf

rating adviser to the Communist Chinese government in 1988, it is revealed that China intended to acquire an international credit rating in order to resume international debt financing, and did then engage an adviser for such purpose, and did then commission and solicit the assignment of an international credit rating on a compensated basis from the primary provider of such ratings, Standard & Poor's. Standard and Poor's was therefore paid by the Communist Chinese government for the assignment of the initial rating classification which did not reflect the existence of China's defaulted sovereign debt.[21] We may then conclude that the Communist Chinese government, after an absence of approximately fifty years from the international financial markets, and in order to establish a sovereign benchmark to facilitate the emergence of international debt financing by Chinese corporate issuers, purchased an international sovereign credit rating, which it denied seeking, and which rating concealed the fact of the Chinese government's defaulted sovereign debt, and owing to the power and influence of the provider of such rating, operated to effectively extinguish any repayment obligation thereof, including the ability of the defaulted creditors to enforce such repayment obligation. An extensive factual discovery leads to the inescapable conclusion that the international credit rating agencies did knowingly, deliberately and wrongfully act to construct and operate an enterprise which may be accurately described as *"Capitalist China"*. We further observe that the exemption of the international credit rating agencies from regulation under the Exchange Act, and which exemption thereby places such activities outside the purview of the federal securities laws, serves to strengthen a civil RICO claim brought by the injured creditors. We further note that the actions of the international credit rating agencies subject such agencies to an enforcement action brought by the United States Department of Justice alleging violations of the federal antitrust laws.

[21] As previously noted and more thoroughly described in the previous section of this Memorandum, captioned "Wrongful Actions of the International Credit Rating Agencies", and as pertains to injury arising from antitrust violations, the three primary international credit rating agencies control nearly 95% of the market and, in consideration of the extremely prevalent practice of both prudential and regulatory codification referencing their assigned ratings, and which fact gives such ratings the force of law without any regulatory oversight, constitute the proximate mechanism by which the Communist Chinese government is able to escape the repayment obligation for its defaulted sovereign debt. We note that each of the rating agencies has been served constructive notice as regards the specifications described herein.