ARGENTINA’S impressive run in the World Cup meant that, for the past few weeks, the country has existed in a state of football-fuelled bliss. Restaurants were strewn with blue and white streamers; bars extended happy hours; and stores offered discounts. Now troublesome reality has returned. Argentina’s vice-president is under investigation for corruption; its economy is in recession; and its inflation rate is the second-highest in the world. Most pressingly of all, it is less than two weeks away from default.

Last month the Supreme Court of the United States declined to hear Argentina’s defence against NML Capital, a fund that scooped up steeply discounted debt left over from Argentina’s 2001 default, and has been holding out for full payment of principal and outstanding interest. Argentina had been hoping to appeal against a decision by Thomas Griesa, a judge in a New York district court, barring Argentina from paying the 93% of investors who exchanged their non-performing securities for performing ones, if it did not also pay the holdouts.

The Supreme Court’s decision means that Argentina must either pay or do a deal with NML if it wants to keep current on its restructured debts. If it does not do so by
July 30th, when the grace period on a June 30th interest payment to exchange bondholders expires, Argentina will enter into default for the eighth time in its history.

The prevailing assumption is that a deal will be done. But the clock is ticking, and Argentine behaviour since the Supreme Court decision has been erratic, to put it mildly. President Cristina Fernández de Kirchner and Axel Kicillof, her economy minister, have both expressed willingness to negotiate in certain circumstances, only to blast the court ruling and NML in others. They have taken out full-page adverts in American newspapers lambasting Judge Griesa’s decision; Mr Kicillof has delivered impassioned diatribes against vulture funds to the United Nations (UN) and Organisation of American States (OAS).

The country’s representatives have met twice with Daniel Pollack, the “Special Master” appointed by Judge Griesa to oversee negotiations, but have yet to meet with anyone from NML itself. In a statement on July 11th, NML vented: “Argentina is still refusing to negotiate with its creditors, either directly or indirectly, about any aspect of this dispute, and we have not heard that it has any plans to change course. Simply put, we have not seen any indication that Argentina is serious about even beginning a negotiation.”

Little has been made public about the Argentine delegation’s meetings with Mr Pollack, but rumours hold the main sticking-point is timing. Argentina has argued that paying or negotiating a deal with NML before January 1st 2015 could trigger a “Rights on Future Offers” (RUFO) clause written into the restructured bond contracts. This clause, which expires on the last day of this year, says that Argentina cannot “voluntarily” extend a better offer than the one it made during its 2005 and 2010 restructurings without also proffering the same deal to all debt holders. Pay NML what it wants, in other words, and everyone could be entitled to the same treatment.

NML says that the RUFO is a red herring that Argentina is using to stall payment. Since Argentina has appealed its case all the way up to the Supreme Court and lost, no judge would interpret any settlement as “voluntary,” NML argues.

Marcelo Etchebarne, a lawyer specialising in sovereign debt, says Argentina could probably pay NML the amount in Judge Griesa’s ruling without triggering the RUFO, but that he understands the Republic’s caution. The clause is open to interpretation but if it were triggered, he thinks the claims have the potential to overwhelm Argentina’s foreign-currency reserves. There is another threat, too: criminal charges. Triggering the RUFO would have the effect of increasing Argentina’s debt burden, which could open officials up to malpractice suits. “The market has been optimistic about a negotiated solution, which is logical. There is so much upside to solving this, and so much downside to defaulting,” says Mr Etchebarne. “But what the market is not taking into consideration is that if the RUFO clause is triggered, whatever government officials worked on this deal will face years of criminal trials.”

Mr Kicillof says he has spoken with Mr Pollack about his desire for a stay on Judge Griesa’s order, which would allow Argentina to continue paying the holders of its restructured debt and also run down the clock on the RUFO clause. But Judge Griesa has already rejected one request for a stay, and there is no obvious reason for him to change his mind now. Alternatively, there is speculation that Argentina
may try to dodge the RUFO clause by offering NML promissory notes now and changing them for performing securities in January 2015. Another tack Argentina might take is to ask exchange bondholders to waive the clause altogether. On July 16th a group of creditors asked the courts to let intermediaries reveal the identities of exchange bondholders, which would help Argentina in this task.

Only two weeks remain for Argentina to resolve the conundrum. Judge Griesa has announced a new hearing on July 22nd to hear various requests and motions by banks and creditors. But no new meetings with Mr Pollack have been confirmed. Argentina is infamous for pushing things to the limit; a last-minute accord would not be out of character. Even so, time is running out.