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# An analysis of the deregulation process in the Argentine merchant marine : its consequences for seafarers, shipowners and unions

Eduardo Baglietto  
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**WORLD MARITIME UNIVERSITY**  
Malmö, Sweden

**AN ANALYSIS OF THE DEREGULATION  
PROCESS IN THE ARGENTINE MERCHANT  
MARINE**

**Its consequences for seafarers, shipowners, and unions**

By

**EDUARDO BAGLIETTO**  
Argentina

A dissertation submitted to the World Maritime University in partial  
fulfilment of the requirements for the award of the degree of

**MASTER OF SCIENCE**

in

**SHIPPING MANAGEMENT**

1999

## DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the university.

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Title of Dissertation: **An Analysis of the Deregulation Process in the Argentine Merchant Marine, its Consequences for Seafarers, Shipowners, and Unions.**

Degree: **MSc**

This dissertation is an analysis of the deregulation process in the Argentine Merchant Marine, considering the political, economical and social environment of its occurrence; comparing the objectives and aims of the deregulation process with the actual results, focusing on the consequences for seafarers, shipowners and unions.

A look is taken at the methods used to deregulate such a highly regulated business, and the reasons for using them. The deregulation is examined in the light of the results and trends that have taken place, while analysing the reform of the national public administration, and the privatisation policy, its objectives and consequences.

A description and analysis of the consequences for seafarers and the unions is made. The labour conditions and economic changes, the effects of the inapplicability of the legal framework and the consequences of job reduction and affiliation rates are explored to understand the outcomes and the trends. Additionally, the consequences for shipowners and their business are examined and paralleled with the macroeconomic environment of its occurrence. The most relevant shipping economic indicators are analysed to understand the actual status of the business and the trends.

The concluding chapter examines and draws conclusions from the former ones, analysing and describing the outcomes. Moreover, recommendations and possible solutions are made based on the findings.

**KEYWORDS:** Deregulation, Privatisation, Seafarers, Unions, Shipowners, Outflagging.

## Table of contents

Declaration	ii
Acknowledgements	iii
Abstract	v
Table of Contents	vi
List of Tables	vii
List of Figures	viii
List of Abbreviations	ix
<b>1 Introduction</b>	<b>1</b>
<b>2 The Deregulation Process in Argentina and its Methodology</b>	
2.1 The highly regulated economic environment and its relationship with the shipping business and the National Fleet	5
2.2 The general deregulation of the economy	8
2.3 The deregulation of the shipping business	20
2.4 Comparison between the Argentine and the British Registers	27
<b>3 The consequences and implications of the deregulation for the seafarers and unions</b>	
3.1 The economic and labour consequences for the seafarers market, and new working conditions	36
3.2 The actual lack of seafarers and its future consequences	46
3.3 The consequences for the unions and their work	54
<b>4 The consequences and implications for shipowners and their business</b>	
4.1 The lobby for deregulation of the shipping business	62
4.2 Economical and political consequences of the deregulation process affecting the Argentine shipowners	65
4.3 The consequences for the national shipowners' fleet	72
4.4 The consequences and implications for the small shipowners	74
4.5 The national shipping balance	77
<b>5 Summary conclusions and recommendations</b>	<b>78</b>
<b>Bibliography</b>	<b>91</b>
<b>Annex 1</b>	<b>92</b>

## List of Tables

Table1	Percentage Variations in the Argentine fleet (79/91- 91/98)	p26
Table2	Average age of the world and UK owned and registered Fleets (100grt+)	p31
Table3	Total number of employment	p59
Table4	Affiliation Level	p60
Table5	National Shipping Balance Concepts	p76



## List of Figures

Figure1	Level of country risk premium 1990-1994	p16
Figure2	Annual Inflation rate 1990-1997	p19
Figure3	Total number of units in the Argentine fleet	p24
Figure4	Evolution of the age of the Argentine fleet	p25
Figure5	Evolution of the total G.R.T in Argentina	p25
Figure6	Seafarers percentual response to the options in the Decree 1772/93	p37
Figure7	Evolution of the number of units in the Argentine fleet in relation to the evolution of the unemployment 1991-1998	p40
Figure8	Consumers' price index general level	p49
Figure9	The sandwich pattern	p50
Figure10	Net contribution of the national merchant marine to the balance of payments	p68
Figure11	Evolution of the total freight value generated by all means of transport in relation to the freight value generated by Argentine ships 1989-1997	p69

Figure12	Argentine freight value allocation in relation to foreign freight value	p70
Figure13	Gradient of the declining curve of Argentine freight values	p71
Figure14	Relation between the number of units and the age of the ship in the Merchant Marine	p73
Figure15	Evolution of the G.R.T in relation to the number of units in the Argentine fleet	p74
Figure16	National shipping balance	p77

## List of Abbreviations

Dcion	Direccion (Directorate)
ELMA	Empresa de lineas Maritimas Argentinas
Entel	Empresa nacional de telecomunicaciones
G.R.T	Gross registered tonnage
GDP	Gross Domestic Product
ILO	International Labour Organisation
Indec	Instituto Nacional de Estadisticas y Censos
LIBOR	London Interbank offered rate
Msc	Master of Science
Reginave	Regimen de la navegacion
SA	Sociedad anoninma
YCF	Yacimientos Carboniferos Fiscales
YPF	Yacimientos Petroliferos Fiscales

## Chapter One

### Introduction

Since the thirties', all the economic activities in Argentina have been highly regulated. These regulations were due to a widely spread policy in Latin America, particularly in Argentina, which was subsequently supported by the coming governments. Those regulating policies tended to control every activity, especially those considered somehow important for the country. Maritime activities were indeed considered among them, and were highly regulated in all its aspects. Moreover, the merchant marine was considered of strategic importance. Therefore the government felt the need to exercise total control over it.

As a result of all the regulations enforced, the Argentine economy which once was among the ten most developed economies of the world, started to decline. Argentina suffered because of the imposed regulations and the extremely protective and closed economy, with an increasing inflation rate that reached its highest peak in 1989. That was the inflection point, and radical changes were badly needed in order to control and modify the situation. It was at this stage, that the deregulation came about trying to solve the economic problems. The Argentine Merchant Marine as a whole was slowly declining due to its lack of competitiveness, and the shipping companies wanted a change that would enable them to become more competitive. After the general deregulation of the economy, the shipping companies made their way through and achieved the long awaited deregulation of

the merchant marine. However, not everything came about as theory would have indicated, and many a problem occurred. What were those problems affecting the merchant marine and what was the cause behind them?. Were any solutions provided by the deregulation and mainly, were the objectives of the deregulation fulfilled, are the basic questions, which this dissertation is based upon.

The purpose of this dissertation is to provide a view on the deregulation process in Argentina and particularly of the Merchant Marine, focusing on the consequences for the seafarers, shipowners and unions. This paper intends to create awareness among all the interested parties in order to give a second thought to the deregulation process, its consequences, trends, and possible outcomes. Moreover, the intention is to analyse the actual status of the Argentine Merchant Marine, to identify the problems and their causes, draw conclusions and recommend possible solutions.

In approaching such a current subject, there is always the danger of lack of sufficient or updated material. In the research and development of this dissertation, the main drawback was that there was no published material directly related to the subject. There was indeed material referring to deregulation in general, and to the deregulation of the Argentine economy. However, there was nothing written on the Argentine merchant marine in general, or to seafarers, unions or shipowners in particular. Furthermore, when it comes to statistics and data referring to Unions, especially ratings, it was almost impossible to obtain accurate and updated material as keeping statistics is not an usual part of their job, and many data was considered confidential. Therefore, the real core material was drawn from the author's own experience on the subject, from personal interviews with the representatives of every area involved, and the actual decrees and laws, as well as the economic and statistical results. Statistical data supporting the sayings was searched from

different Argentine sources, as the requirement of the research was to provide both old and actual data for a broad analysis.

The objectives this dissertation aims to accomplish are, to identify the reasons for and the characteristics of the deregulation process in Argentina, understanding its background and special features, to examine the methods used in deregulating such a highly regulated business. and to analyse the consequences and implications for seafarers, and the consequences and implications for the shipowners and their business. Finally, the objective was to draw conclusions and make recommendations based upon the findings of the research.

Chapter two describes and analyses the deregulation process and its methodology, the relation between the regulated economic environment, the shipping business and the national fleet. Moreover, it provides an understanding and analysis of the general deregulation of the economy and the laws that enabled the deregulation of the economy and the Merchant Marine. It tackles the reform of the national public administration, its quantitative and qualitative objectives, the privatisation policy, the convertibility law, and the deregulation of the shipping business, its benefits, drawbacks, and consequences.

Chapter three describes and analyses the consequences for seafarers and the unions. Furthermore, it highlights the economic and labour outcome for the seafarers market, new working conditions and labour framework. It analyses the change and repercussion in labour rights and jobs, the evolution of unemployment, wages, and social benefits, while indicating and analysing the effects on the collective labour agreements, and the elimination of nationality benefits for crews. The actual lack of seafarers and its future consequences is analysed in "the sandwich pattern". The results for the unions and their work that are shared with the seafarers are investigated. Moreover, the economic

imbalance of the unions due to job reduction and fluctuation of the affiliation rates are addressed as well.

Chapter four considers the consequences for shipowners and their business, starting with the lobby towards the deregulation of the shipping business, and following with the economical and political effect of the deregulation process on the Argentine shipowners. Moreover, the net contribution of the Argentine Merchant Marine to the balance of payments is analysed. The evolution of the total freight value generated by all means of transport in relation to the freight value generated by Argentine ships is considered to understand the trends of the business. The relation between the freights earned by Argentine ships in relation to the ones earned by foreign ships are considered to understand who is currently in command of the business, and why. Moreover, the consequences on the national fleet are analysed together with the evolution of the G.R.T in relation to the number of units in the Argentine fleet to have a clear picture of the possible outcome. In addition, the consequences and implications for small shipowners due to the deregulation process are established. Finally, the national shipping balance is analysed to have a final verdict on the business.

To conclude, chapter five contains all the conclusions and recommendations drawn from, and based on the analyses of the former chapters.

## Chapter 2.

### The Deregulation Process in Argentina and its methodology

#### 2.1 The highly regulated economic environment and its relationship with the shipping business and the National Fleet.

The Argentine economy of the last half-century has characterised itself by a large intervention of the State in market operations by means of multiple and changing regulations. Most of those regulations were originated in the Thirties. For instance, in 1931 the establishment of the currency exchange control enabled an absolute control by the State on exchange, commercial services, and financial operations. In the following years, a great number of instruments were used in order to adjust the demand and the supply of foreign currency such as, double markets, foreign currency biting, multiple exchange rates, previous import permits, prohibitions for importing superfluous goods, floating exchange rates. The concept that certain resources generated by the private sector were public property, prevailed at that time in the Argentine exchange market and economy, such as the mandatory cession to the Central Bank of Argentina of all foreign currency generated by the exports, as well as the oil production control, which was considered strategic.

Among other means to regulate the markets, quantitative rationalisation mechanisms were frequently used, such as the oil quotas for the distilleries according to their installed capacity. Likewise, a similar mechanism was used to distribute the cargo among national shipowners according to the tonnage of their fleets. Restrictions on the consumption of



certain products as well as regulations regarding the supply and export of raw materials and farming products were established in order to isolate the domestic markets from the fluctuations of international prices. Investment control schemes, subsidized loans, and tax exemptions, were tools used in an attempt to accelerate the development of industries considered to be important in some way for the country during the fifties and sixties. Furthermore, regulations trying to avoid oversupply of regional agricultural products coexisted with norms posed to protect markets and incomes of different sectors.

In summary, during the thirties regulations were mainly oriented to control supply and export of raw materials and farming products. During the period from the post-war to the sixties regulations were biased to the exchange market, foreign commerce, transport, labour relations, investments and tax exemptions. In the sixties and seventies, regulations were directed to avoid oversupply of agricultural products and restrictions to different commercial markets. Finally, during the eighties in the middle of an external debt explosion, regulations were concerned mainly with external commerce, including taxation, fees, and quantitative as well as qualitative restrictions. Therefore, by that time, there was almost no area out of regulation in the Country.

As a result of all these regulations, Argentina has shown elevated static and dynamic efficiency costs, and poor flexibility for assigning resources. The State was oversized and deficitary, moreover, the combination of high inflation rates, reaching levels of hyperinflation with consequences as grievous as to accelerate the handover of the government to the newly elected authorities in 1989. The closed economy, and excessive regulations, led to a high inefficiency of the markets, cost distortions, and low productivity of the capital. Furthermore, in 1987, studies carried out by the Indec (Instituto Nacional de Estadísticas y Censos), revealed more than 300 State-owned companies, financial institutions, and insurance companies in which the State was total or majority owner, while the National government owned 117 of them. For instance, according to data of the Ministry of Economy, in 1989 the National Public Administration employed 1.000.000 agents, corresponding to 350.000 in State owned companies and official bank institutions, 70.000 in

public academic institutions, 25.000 in the public health system, 100.000 in security forces, whereas all the rest were included in the governmental bureaucracy. Furthermore, according to data provided by the Economic Planning Secretariat, consolidated public sector expenditure reached its highest levels in the periods 1980-1983 and 1984-1988, at 32.4% and 31% of GDP respectively.

In this extremely regulated environment, the Argentine Merchant Marine was no exception to the rule. All aspects regarding shipping activities were highly regulated indeed. The Law 20094 (The Law of Navigation) was the general Legal framework, the *Reginave* (*Regimen de la Navegacion*), a group of administrative, penal, and procedural norms regulating the Law 20094. *Ordenanzas Maritimas* (Maritime Ordinances) are a set of periodical publications updating the contents of the *Reginave*. However, the above mentioned regulations are the usual norms regulating shipping activities.

Moreover, the State was directly or indirectly related to each and every activity within the shipping business, its legal and labour framework and related activities. For instance, the Unions' collective Labour agreements, Contractual Law 20.744, "Ley de Reserva de cargas" and Law 18.250 as amended by Law 19.877 (quota according to the tonnage) applicable to all national shipowners. The Pilots association and work regulations regulated the entire activity and implemented a State monopoly controlled via the Argentine Naval Prefecture. Towage activities were highly regulated, resulting in an expensive, and most of the time inefficient service. Furthermore, certain privileges and subsidies for national vessels were implemented, such as rebates in bunkers and priority entrance to national ports.

The ports were all State owned, and extremely expensive and inefficient. Buenos Aires, the main port, was considered a "dirty Port". In fact, in 1990 a governmental study of port costs at a national level with the view to privatisation estimated the costs at 5% of the total value of exports for that same year. Moreover, the customs were bureaucratic and inefficient. According to data of the General Taxation Directorate, in 1989 contraband, over- or sub-invoicing of imports and exports accounted for losses to the State in the order of 60 % of the total customs resources. The great rate of inflation led to permanent claims for wage

increases being raised from the unions, producing deleterious effects on the activity, due to the continuous discussions between unions and shipowners.

Maintenance and dredging of ports and waterways was a job shared between the MOP (Ministry of Public Works), The Hydrographic Office, and the local authorities of the ports. This approach led to an overlapping of functions resulting in a lack of action that according to the data provided by the “Boletín Fluvial” (official publication updating hydrographic data) led to all other ports having lesser depths than 20 years ago, except for Bahía Blanca and Quequén.

Regarding the Argentine Fleet table 1 shows the evolution of the Argentine Merchant Marine from the year 1979 to 1998 (provisional data). It is implied from the data that there was a tight link between the national fleet, the shipping business, and the State. In fact, the figures for the G.R.T in 1979 were 2,889,000, in 1991 (the year of the deregulation) were 2,798,464 whereas for 1998 they were 1,658,114. This means that although the general trend was to diminish the tonnage, due to the action of the State in a period of 12 years, the reduction was only of 3.13%, whereas, in the period after the deregulation in 7 years time, the reduction was 40.75% in the total G.R.T of the fleet. Moreover, considering the number of units in 1979 there were 200, in 1991 149, and 76 in 1998, meaning a reduction of 25.5% in a period of 12 years, whereas in the following period after the deregulation in 7 years time, the reduction was 48.99%. All these facts contradict themselves with the considerations that led to the deregulation process in the first place. Finally, the methodology applied was mistaken and it didn't work as far as the results are concerned.

SEE TABLE .1 at the end of the chapter.

## 2.2 The general deregulation of the economy

In the highly regulated context of Argentina, there was very little space for change or innovation, if any, and a deregulation process was unthinkable. However, reality found its way, and although the Argentine society as a whole was very reluctant to change due to the fact that in such a regulated environment many privileges and conveniences had evolved for

each and every sector. Nevertheless, the general economic chaos in July 1989 pushed the already high inflation rate to the level of hyperinflation, 197 % /month (4900% yearly).

This hyperinflation induced such an abrupt devaluation that the country's currency almost evaporated and put the country close to the edge of social disintegration. It was necessary to create a new currency to replace the Austral, which had sustained a total inflation of 5.100.000 per cent in 6 years. Moreover, it increased the total lack of confidence of the citizens in the governing party. Therefore, the newly elected government (Peronista Party) had to assume office six months in advance, as the former government in power (Radical Party) led by President Raul Alfonsin, had no credibility whatsoever, and showed themselves incapable of managing the situation.

Thus, since the very beginning of his government the newly elected President, Carlos Saul Menem implemented a very broad and ambitious stabilisation, deregulation, and structural reform plan. It started with the Law 23.696 Reform of the State-Administrative Emergency-Privatisation and Private Capital Participation- Participated Property Program- Labour Protection- Emergency Contracting- Ongoing Contracting- Concessions- Jobs Emergency Plan, of August 17th 1989, followed by the Law 23697 "Economic Emergency" of September the 1st 1989, which complemented and increased the former mainly by eliminating all kinds of subsidies and / or privileges. They both constituted the frame and the tools for the structural reform of the State, restructuring of public finances, redefinition of the role of the public and private sector, and the foundation for the coming legislation.

I. The basic aspects of these two laws can be synthesised as follows:

A) An economic and administrative state of emergency was declared, thus enabling the Executive Power to dispose of any measure necessary to overcome the crisis. On the basis of these faculties, expressly delegated by the Parliament, the government adopted most of the measures of administrative and economic reform, including the deregulation Decree 2284/91.

B) Privatisation of the majority of the State-owned societies and companies, both industrial and commercial (Ports, shipping, defence, steel industry), as well as, the service companies (electricity, water, gas).

C) Subsidies of all kinds to the private sector were eliminated, whether special promotion regimes to industrial activities, or regional promotions based on taxation and customs benefits.

D) Basically these two laws made it possible to set the judicial basis for an open, and competitive economy, dominated by the private sector. The government was empowered to intervene in all public entities, authorising their dissolution or to alter their judicial and/or organisational nature, for example, to turn a State Society into a limited company (SA). In general, almost every measure related to the structural reform relies on the faculties delegated by the Congress to the Executive.

## II. The Reform of the Public National Administration

The Administrative reform program has been one of the main components of the structural change of the economy. The organisation and working of the Public National Administration reached its very bottom, to the point of a quasi paralysis of most of the services and a general corruption. The main problems to solve were the following.

The reduced wages of the public sector were directly linked to the financial crisis of the sector, as there were no means to retain the most qualified personnel.

The administrative organisation showed important signs of disarticulation as a consequence of the multiple decision centres, excessive regulation and control functions, and grievous social and union conflicts.

The essential functions of the Administration suffered due to the degradation of the administrative organisation, which encouraged unusual levels of tax avoidance and customs corruption. During 1989, according to the “Dirección General Impositiva” (taxation collecting authority) VAT avoidance reached 70%, while income tax avoidance reached 85%. Decisions taken by the government lost strength and effectiveness due to the condition of the Public Administration, mainly noticeable in social services, which left the least favoured social classes without the required social safety net.

The entering into force of the administrative reform program required the implementation of a number of successive measures.

The decree No.435 of 1990 froze all vacancies, actual and future in the Public Administration. Moreover, it implemented a strict system for contract control and acquisitions in order to reduce the public expenditure. Simultaneously, a monetary reform was implemented; it exchanged bank deposits for long term bonds (called the BONEX plan). Likewise, secretariats and sub-secretariats were reduced in number, ending up with a total of 36 secretariats and 8 ministries, while centralising as far as possible the decision making capacity.

Four months later, the decree No.1757 constituted the “Comite Ejecutivo de Contralor de la Reforma Administrativa” (Administrative Reform Control Executive Committee) with powers to formulate and apply a deep restructuring Program. However, the decree No. 2476 of November 1990 gave the final profile to the Administrative Reform Program. This Decree clearly defines the objectives for the re-organisation of the Public Administration. Moreover, it declared the caducity of the whole structure of the Public Administration involving 550.000 people, who were technically fired. The actual measures involved the total reorganisation of all the services under the scope of a substantive increment of their efficiency.

The quantitative objectives were the following:

- All transitory personnel and staff under contract were suppressed, meaning 30.000 jobs less, and a reduction by 33% of permanent staff, excluding educational, medical, security, and customs staff.
- Limitation in the number of National Directorates to a number of 3 for each Secretariat.
- To limit the educational staff to match only the real demands.

The institutional strengthening and personnel increment of the taxation organisation.

The qualitative objectives were the following:

- Unification of the services in charge of the technical and financial resources of each Ministry in order to control and make more efficient the public expenditure.
- Limitation in the number of supporting positions to 33% of the total positions within each administrative unit, in order to establish a reasonable proportion in relation to the personnel in substantive positions.
- To avoid overlapping of functions by adoption of the “exclusive responsibility” principle.
- Incrementing the standards for personnel selection, at the same time matching wages with the ones paid in the private sector for similar responsibilities.
- The adoption of a new labour system based on responsibility, evaluation and performance, abolishing the so-called “labour stability”, which in practice meant that it had been impossible to fire an administrative employee.

In conclusion, the Public Administrative Reform was indeed one of the greatest, if not the greatest challenge of the whole deregulation process, mainly because of its magnitude, but partly also due to the historical resistance of the Argentine society to change established structures. Nevertheless, it was a very successful reengineering in terms of achieving its structural objectives.

However, although the objectives were reached, many unexpected consequences and developments prevented the Public Administration from achieving the expected level of performance. As an example, the wages paid were not actually comparable to the ones in the private sector, mainly due to the economic problems and to the different levels of remuneration (layered remuneration), which lacked the flexibility of the private sector. The reduction of the staff, both transitory and permanent, was based on cost reduction rather than on competence. Therefore, the reduction was mainly in young, well trained, and competitive professionals instead of older, unqualified, but more expensive to compensate, staff. Moreover, the Public Administration, although never officially recognised, has long worked

as a concealed unemployment subsidy. Therefore, a massive firing of public employees without a proper social safety net in place was surely to have sour consequences.

### III. The Privatisation Policy

The privatisation of the majority of the State-owned societies and companies, both industrial and commercial, was specifically stated in the “Law for Reform of the State” No. 23696 of August 1989. It introduced a long-range plan to carry out over 200 privatisations and service concessions over 7 years. However, during the years 1990 and 1991 the privatisation process was concentrated to just a few cases.

The most relevant of them all was ENTEL (The National Telecommunications Company) due to its importance and complexity. Moreover, the process developed in a context of great difficulties especially due to the inflation peaks of late 1989 and March 1990. The lack of macroeconomic stability had a bad impact on the quality and quantity of the offers, as the country-risk to cover was very high. Organisational difficulties, such as inventories weighting, financial and operational debt, and regulatory constraints got into the way.

Likewise, substantial matters such as tariff policy were negotiated at the last moment, representing a great negotiation disadvantage. Nevertheless, the privatisation was made according to the time frames established, and for a nominal amount of about 6.000 million US dollars, mainly paid with debt bonds.

Regarding the success of this privatisation, the method to privatise was not the very best as only two companies were allowed to work in the market. Moreover, they didn't compete between themselves because the country was divided in two areas, the north for “France Telecom”, and the south for “Telefonica de España”. Therefore, there was no competition whatsoever, but two different monopolies instead. Another questionable feature was that both the domestic and international services were operated by the same companies, which lead to a dangerous manipulation of tariffs. This resulted in an inflation of domestic tariffs to



compensate reductions in the international ones, in which the competition was fierce, therefore, harming the local users.

From the very beginning, a very significant policy was implemented regarding the state oil company. In fact, the decision to incorporate private capital in the exploration of new productive areas was the prologue to the entire deregulation of the oil market in the first quarter of 1990.

Before the deregulation, the market was very much limited by a complex quota system and fixed prices in distillation and retailing of gasoline. The company had refineries, drilling gear, unused oil pipelines, ships, aircrafts, shipyards, hangars, and even supermarkets, clubs and hospitals. In 1990 the operative losses were over 700 million US dollars. Therefore, the main objectives were focused on turning all its unproductive assets into liquid assets.

Finally, after the deregulation process, a convergence between domestic and international prices was promptly achieved. Moreover, private companies were allowed to opt between selling in the local or international market. Likewise, the deregulation of the oil market allowed, in the second half of 1990, the privatisation of the central areas of the State Company. This meant a great inflow of cash at a moment when it was heartily needed to consolidate the economic stabilisation.

The privatisation of YPF (State Oil Company) was a great success in terms of the process itself, as with the previous experience of the Telecommunications Company, the state was aware of the dangers involved. Therefore, for placing the shares in the market, instead of using the “Dutch Auction” method that proved problematic in the ENTEL case, the “Book building” method was used. The main problem with the former method was that the involvement of speculators and poorly experienced investors rocketed the prices of the shares only to fall down to reasonable market prices soon after the selling. This fact compromised the future privatisations. Therefore, the latter method assured a selling price close to the one advised by traditional analytic methods. Furthermore, in order to avoid speculative oscillations, a second offer was announced for holders of pension bonds.

In conclusion, the relevance of the privatisation of YPF was that it opened the doors of the international capital markets to Argentina. The success of the placing operation of the shares brought about a greater knowledge of the country on the external markets. In fact, since 1993, the inflow of capital from around the world has accelerated. Moreover, in January 1994 the country-risk was reduced to a level where the internal cost of capital became similar to that of the traditionally most stable economies. (Figure.1)

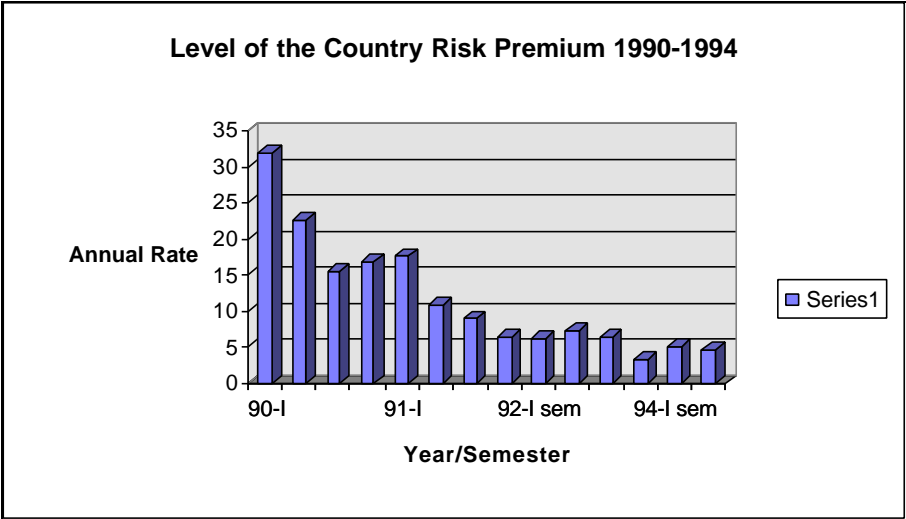


Figure. 1. Country risk is calculated as the spread between the yield on BONEX 1989 and LIBOR  
 Source: Estudio Macroeconomica

Furthermore, the group of local banks involved in the operation, gained experience and professionalism which were later useful, not only in other offers, but in bond emissions and negotiable obligations in external markets as well. Finally, an indirect effect of the privatisation of YPF was to facilitate the financing of the productive restructuring of the country, which otherwise would have turned into a slow and costly road.

It can be said that the privatisation of YPF and ENTEL were the flagships of the privatisations in Argentina. However, many other companies and activities of lesser importance were privatised as well. Iberia of Spain acquired Aerolineas Argentinas, the national airline, and its acquisition was mainly made by capitalisation of external debt. The

television channels numbers 11 and 13, and various minor companies related to the Ministry of Defence were given in concession. One third of the national roads network, almost 9.000 kilometres, were given in concession for its maintenance and development. Moreover, the whole railway system was also given in concession, including the one from the city of Rosario to Bahia Blanca, 5.000 kilometres, which enables transport of up to one third of the wheat production and other crops to the port of Bahia Blanca for its export.

The energy and gas sectors were transferred to the provinces first, and afterwards given in concession under a tariff system. This means that these sectors were originally considered national, whereas lately they became provincial. The tariff system consists of, all other parameters being equal, giving the concession to the company offering the lowest tariff to the customers. There are many more examples of privatised companies. However, enumerating each and every one of them falls outside the scope of this work.

In conclusion, the privatisation plan was a great success in terms of reducing the State participation in every sector. Furthermore, these plans yielded US dollars 21 billion to the State, US dollars 10.672 million in cash, US dollars 3.478 million in debt securities at market value, and US dollars 6.795 million in securities redeemed at par value. Therefore, not only did the privatisation process represent a great financial help at a moment when it was badly needed, but it lifted off the State the great burden of financing a whole lot of loss making companies representing an enormous saving that was formerly financed by monetary emissions. However, there were certain drawbacks, such as the increment of tariffs after the privatisations in order to finance investments. The difficulty and inefficiency of the regulating entities in being able to actually defend the consumer's interests are arising controversy over the process.

#### IV. The Convertibility Law

The adoption of the monetary convertibility system in 1991 under the Law 23.928 was the most important decision towards the stabilisation of the Argentine economy. Under the aforementioned Law, the parity of the peso to the US dollar was fixed to a ratio of one peso

to one dollar. Thus, each Argentine peso in circulation has to be backed by reserves (foreign currency and gold). Moreover, no less than two thirds of the monetary base has to be backed by liquid reserves (foreign currency, gold, and term deposits at fair market value). No indexation is allowed, and a total freedom to enter into contracts in foreign currency has been granted, being enforceable under the Argentine law.

The principle behind the convertibility is that there is no possibility of printing currency, if not properly backed. Hence, there is no possibility of financing with monetary emission and, therefore, no devaluation of the currency occurs, which had far long been the problem in the past. In order to achieve this goal, the Central Bank shall be autonomous and neither finance the Treasury deficit, nor act as guarantor to the central or any other government. The Central Bank shall only be authorised to issue money to purchase dollars, operating as a Compensating Entity. This golden rule has been followed to the letter even during the Mexican Crisis (95/96). Furthermore, the elimination of the fiscal deficit as an inflation-generating factor has been paramount for the system to work properly.

Opening up to foreign capital was a major concern. Therefore, all restrictions and taxes on foreign investments have been eliminated. Actually the system grants that funds can enter and leave the country freely, while foreign and domestic capital is granted equal treatment under the law. Furthermore, there are no exchange rates controls, nor differential exchange rates for import and exports. As no controls apply over foreign currency, there is, therefore, a free market for currency. No prohibitions at all apply to import or export of goods and services, and an important cut has been made in custom duties.

Finally, all markets were deregulated, restrictions were eliminated on interest rates, capital markets, domestic markets for goods, services and state regulatory entities. Moreover, restrictions were eliminated on prices and salary controls, together with subsidies and preferential tax agreements, which hindered the evolution of free markets. In conclusion, all the above mentioned measures were mainly oriented to stabilise the economy, and none of

them would have been possible if it wasn't for the Convertibility Law which made it possible to reduce the inflation rate from 4924 % in 1989 to 0,3 % in 1997. (Figure. 2)

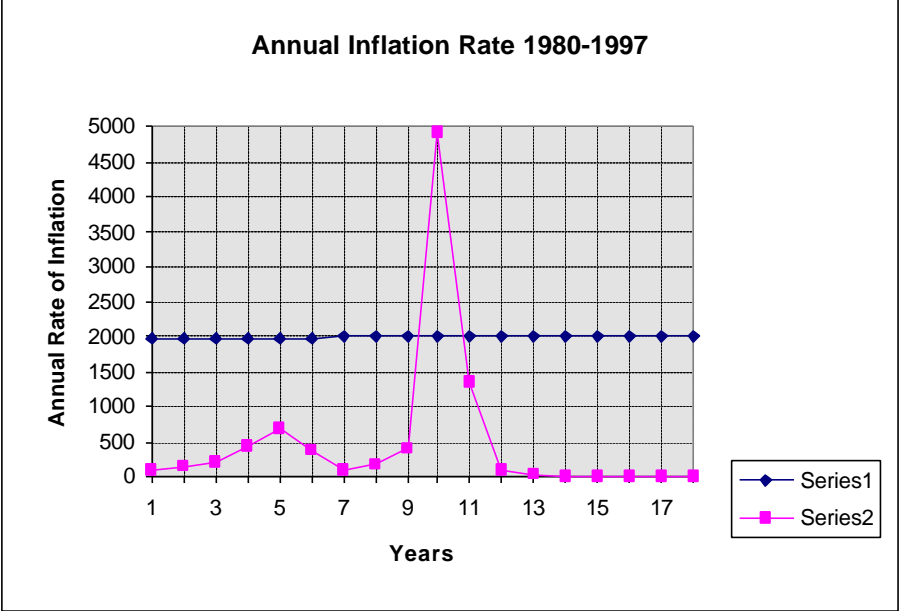


Figure 2. Source: Central Bank of the Argentine Republic

It is important to note that the deregulation plan was able to be implemented due to a number of factors different in nature. The main factor was the economical chaos, which reached the very bottom, and therefore, some immediate measures were required. At the same time mainly due to the economic situation, people's minds changed to accept radical economical and structural changes. Not only did they then accept them, but asked for the changes. Moreover, the parliamentary majority obtained in the 1989 elections enabled the government to pass all the necessary laws to push forward the process. Later on, in 1990 the number of the members of the Supreme Court of Justice was increased from 5 to 9 members. In 1994, the reform of the Constitution of 1853, which allowed a second period in office for the president provided the political continuity required for the strengthening and maturing of the deregulation process.

Finally, although all factors involved were important and contributed to the plan, the main ones were, the support of the people for the plan and the new governing party, due to the

extreme situation, and the increased number of members of the Supreme Court of Justice, as was later proved when different appeals were made against different deregulation decrees. In fact, during the whole deregulation process, many appeals were made against many of the measures implemented specially all those pushed forward by decrees, which were a majority. Just as an example, in the maritime field, all the Unions appealed against the decree 1772/91, and some of them against the decree 817/92. However, although the appeals were successful in the first instance, after going all the way to the Supreme Court they were finally dismissed. It appears evident that the final verdict was political, rather than related to a matter of justice. Finally, each and every claim against the substance or the procedures followed by the government to push forward the deregulation followed the same fate. Hence, the deregulation process was possible due to the historical, political, and economical moment.

Many of the features of the deregulation process are more than questionable, and there is no doubt that they will be questioned regardless of the results, but especially if the final results are not the expected ones. Therefore, although a very necessary and awaited process, the methodology implemented was far from correct or legal. It has not been without harm to the people or the institutions, especially to justice.

Finally, overruling the Law, even with the consent of a partial Supreme Court of Justice, is something that may work for a very short period of time, or for a certain problem. However, it will invariably work against the system in the medium and long term and it will be very difficult to invoke the law to work for us after overruling it. Moreover, other people may feel that is the path to solve their immediate problems and think they have the same right, creating an endemic never-ending institutional problem, which will be a heavy legacy for the coming generations.

## 2.3 The deregulation of the shipping business

In the “Law for Reform of the State” No. 23696 of August 1989, ELMA S.A (the National Liner Fleet) was considered in its Annex I for partial or total privatisation. Moreover, the whole tanker fleet was included in the aforementioned Law for the privatisation of YPF (National Oil Company). YCF (National Coal Company) was also included in the law, but its importance as a fleet was negligible. These facts indicated the final and total withdrawal of the State from the shipping activities, leaving it all to the private sector. This was the beginning of the major crisis of the Argentine merchant marine in its whole history, aggravated by wrong, and/or wrongly implemented policies.

In early September 1991, the Executive Power dictated the decree 1772 / 91, which enabled the flagging out of the Argentine fleet, to flags of convenience, while maintaining the privileges of national ships. In that Decree, the considerations reflected very accurately the reality of the merchant marine. However, the only solution considered was the reduction of crew, as if the labour costs were the one and only problem. In that very same month and as if it was a different story, the Law 23977 was published in the Official Bulletin where the conventions and recommendations of the ILO (International Labour Organisation) No. 163, 164, 165, 166, 173, and 174 regarding the welfare of seafarers at sea and ports, medical assistance, social security and repatriation were adopted, conveying a double message inconsistent with the actual policies.

The policies implemented with the Decree 1772 / 91 were continued in the Decree 817 / 92 regarding ports and maritime deregulation. Invoking the Laws 23696 (Reform of the State) and 23697 (Economic emergency), and overruling constitutional principles (a decree has no pre-eminence over a law), it repealed articles of the Law of Navigation 20094. It suspended all the collective labour agreements in all maritime, port and fishing activities. It defined the Labour Contractual Law as a ceiling for the labour rights of the workers, instead of a floor, going against the essence of labour rights. Moreover, this same Decree, when repealing arts.142 and 143 of the Law of Navigation, enabled foreign seafarers without residence in

the country to sign on in Argentine merchant ships. Furthermore, it allowed the interpretation of Art. 112 of the Law 20094 and its amendments, which established that only Argentine citizens could be employed as masters or officers, as if it was repealed. The Ministry of Economy confirmed such an interpretation in 1994. Furthermore, the decree 817 / 92 is complemented by the decree 1264 / 92, which suspends all collective labour agreements and acts, which are not specified in Annex III of the decree 817 / 92.

In August 1992, the Register for Foreign Ships and Naval Artefacts was created under the decree 1493 / 92, later amended in some of its articles by the decree 2265 / 92, which enabled the access of foreign vessels to coastal sailing traffic and maritime fishing, this feature being almost unique in the world. All these regulations were made with the intention to reduce costs. However, the results were not the expected ones. On the contrary, great harm was done to the State in the loss of taxes due to the fact that tax control on outflagged vessels is almost impossible. In 1994, the Executive Power tried to put forward a law project to create a Special Argentine Register for vessels. However, this latter project had no support from any of the involved sectors and was regarded as being too far from creating any benefit to any of the involved parties.

In conclusion, from the facts presented it is clear that the Argentine merchant marine, as almost every activity in the country, had previously been highly regulated. Although the aim was to develop a healthy merchant marine under the auspices of the State, reality proved otherwise. Therefore, the need for a radical change was there, and the opportunity came about in 1991 based on the Law 23.696 (Reform of the State) and Law 23.697 (Economic Emergency) of 1989.

However, the methodology used to carry out such deregulation is far from orthodox and sometimes illegal. The wish to push forward the process was greater than any other consideration. In fact, the Decree 1772/91 enables flagging out the fleet while at the same time maintaining all privileges of national ships, which is a contradiction in its own terms. The only cost reduction solution considered was the reduction of crew. Consequently, of the



15 articles of the Decree, 6 are related to the crew (arts. 7,8,9,10,12 and 13), whereas all other flag privileges are maintained.

Moreover, invoking necessity and urgency, the Decrees 1772/91 and 817 /92 overruled the National Constitution. In fact, the aforementioned decrees overruled the National Constitution in its Art. 67 inc.12 which gives to the Congress the right to regulate the maritime commerce; arts. 36 and 37, as those Decrees assumed legislative attributions conferred to the National Congress by the Constitution, and was in violation of art. 86 inc.2, which attributes to the Executive Power the functions to instruct and regulate as necessary for the execution of the law, taking care not to alter their spirit with regulatory exceptions. Moreover, a number of laws were violated in the same process.

The Law 20.094 (Navigation Law) was overruled in its articles 55, 56, 71, 73, 104, 142, 143, 144 and 625 mainly establishing facts either not contemplated or against its articles. The Law 18.250 (cargo reservation) as amended by law 19.877, was overruled in its art.1, which established the requirement of being under the national flag to benefit from it. There was also a violation of the decree 19.492 as ratified by law 12.980, which reserves the cabotage traffic for Argentine ships. Finally, the law 20.447 is violated in its art.1, which states that the country reserves for itself the right to transport up to 50% of the total external commerce transported by sea.

From the available facts, it is, therefore, implied that there was a desperate need for change. However, from the aforementioned facts it is also very clear that the willingness to bring it about was greater than any other consideration whatsoever. This deregulation, was the logical consequence of a real need for change, which in time had a great support from the citizens, but the methodology was such that it lacked legitimacy and set the ground for future disputes and controversies. Moreover, if the results of the deregulation are not satisfactory, as they are not, the whole process would be jeopardised because of the way, and the method used for its implementation. In the graphs derived from table 2.1, the evolution of the

Argentine fleet is shown in order to analyse the results and the trends in the light of the available data.

From Figure.3 it is noticeable, that the diminishing size of the fleet has been dramatic from a total of 200 units in 1979, to 149 in 1991, and a total of 76 in 1998 (provisional), being a total reduction of 62% in the total number of units. Although the general tendency was to reduce the number, the gradient of the curve becomes much sharper from 1991 on.

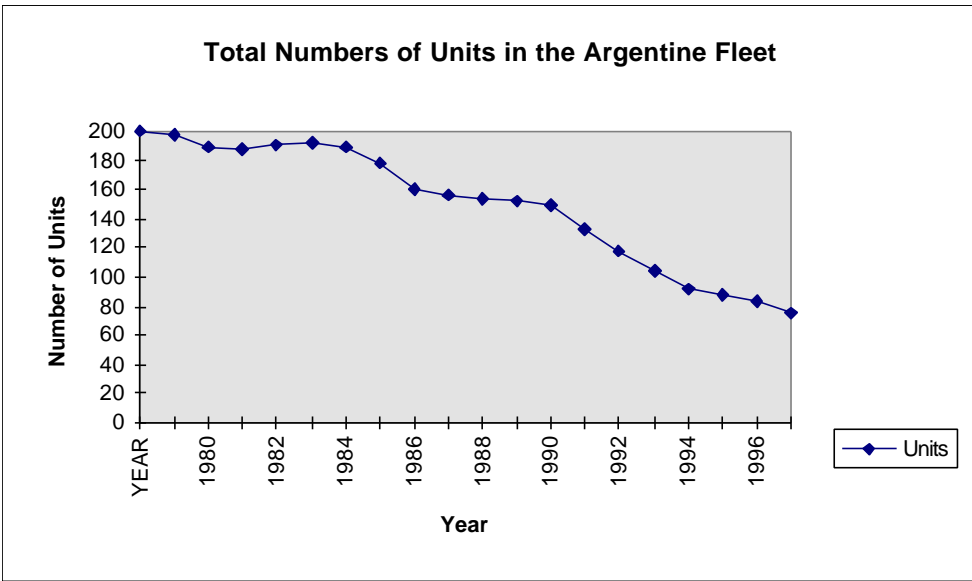


Figure 3. Source table .1

Regarding the age of the vessels, Figure. 4 shows that this has risen from an average of 14,3 years in 1979 to an average of 15,6 years in 1991 and 17,16 years in 1998, being an increase of 2,86 years in the average age, and in percentile values 20%. From the graphs, it is clear that the trends have been consistent, the age and the number have increased and decreased respectively. Nevertheless, the years 1990/91 were the point of inflection of all parameters and where the trends became sharper.

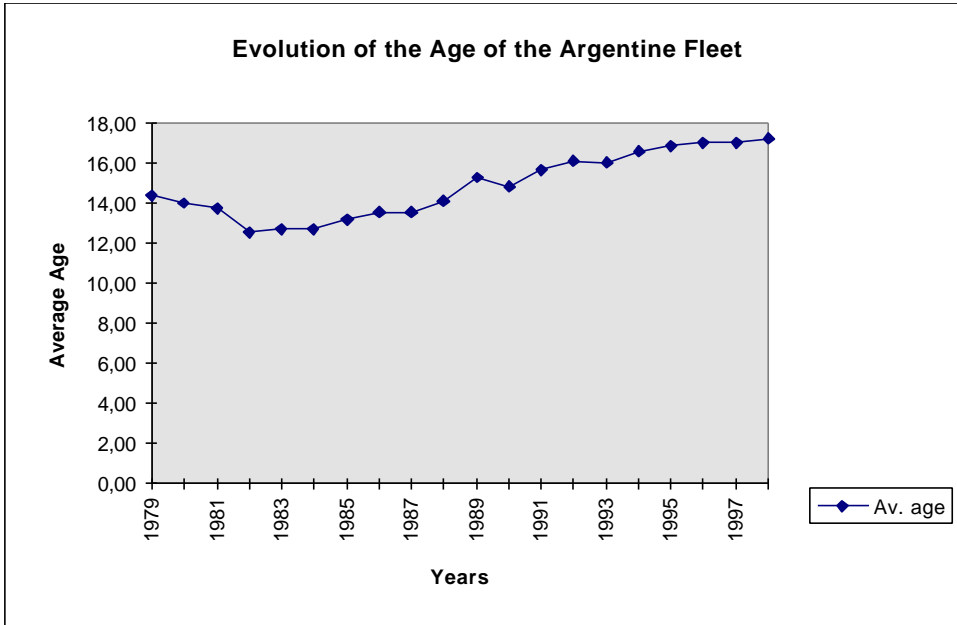


Figure 4. Source table 1

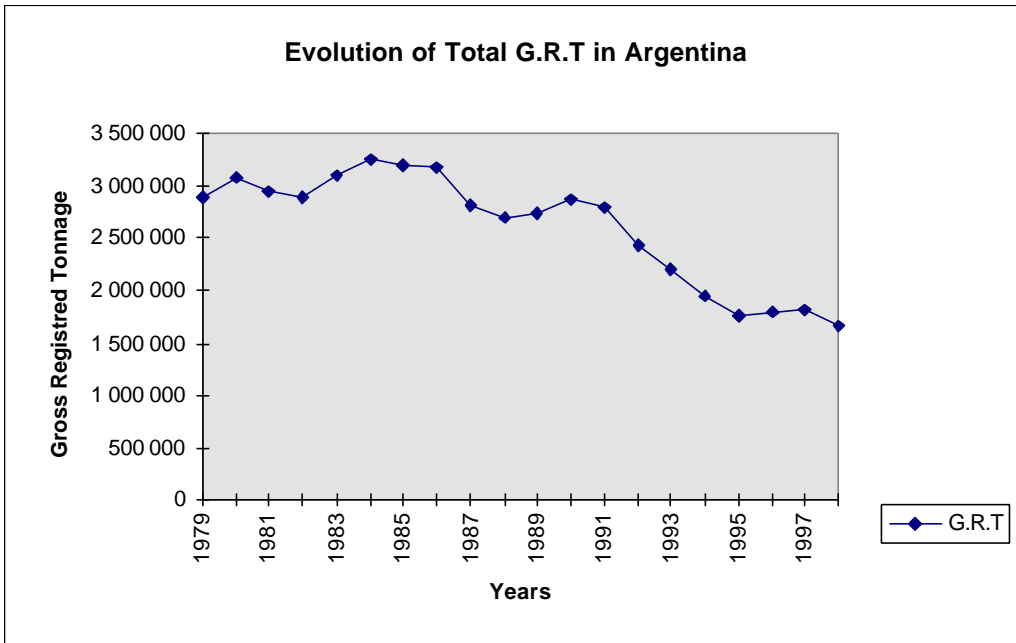


Figure. 5 Source table .1

Moreover, in Figure. 5 it is clear that the G.R.T has been consistently decreasing from 2.889.000 in 1979 to 2.798.464 in 1991, and 1.658.114 in 1998 being a reduction of 42,6% in the total G.R.T. In short, the G.R.T has been irregularly decreasing until 1991 when the fall really sharpened.

### Percentage Variations in the Argentine fleet (79/91- 91/98)

Table 2.

Years	1979-1991	1991-1998	Trend
<b>Units</b>	(-)25.5%	(-)48.99%	Decrease
<b>G.R.T</b>	(-)3.13%	(-)40.75%	Decrease
<b>Av. Age</b>	(+)9.10%	(+)10%	Increase
<b>Period</b>	<b>12 Years</b>	<b>7 Years</b>	

Source table .1

In table 2. the values for Number of Units, Gross Registered Tonnage, and Average Age of the Argentine fleet are indicated for two different periods, the period prior to the deregulation process 79/91 and the period after the deregulation 91/98. The variations are shown as increasing or decreasing percentages of the original values for the period. At a first glance, it is noticeable that the percentage variations before the deregulation are much more moderate in value than after the process. Moreover, a reduction in the number of units by 25.5% in a 12 year period, (prior to deregulation) may seem huge. However, during the same period the reduction in G.R.T was only 3.13%. Therefore, there was a reduction in the number of units, but an increase in the size of the ships, which almost compensates the tonnage. In conclusion, the decreasing values of the units and G.R.T before the deregulation are insignificant when compared to the values after the deregulation. Furthermore, the average age, of the fleet increased by 9.1% for the earlier period and by 10% in the following period. This means that the trend was not interrupted by the deregulation process, but even accelerated. The only real objective achieved by the deregulation and privatisation process was to reduce the State participation in the total Argentine fleet, which was reduced from 40.86 %, to 10.14 % for the period 1991/1998.

In the considerations of the decree 1772 / 91, which enabled the flagging out of the Argentine Fleet, the reality of the merchant marine was accurately reflected. Among other considerations, it stated that the deregulation was a necessity because many national shipowners were requesting deregistration of their vessels, that the tonnage was very low and the trend was to descend. The considerations also stated that the main cause was the lack of competitiveness of the Argentine vessels due to their operational costs, and that “it was necessary to reverse this situation because of the paramount economical and political importance of the National merchant marine for the Country”.

From the considerations it was likely to think that the decree would be the solution to all the problems affecting the Argentine merchant marine. However, what is particularly suspicious, is the fact that at the time of the deregulation, the effects of privatisation and deregulation on Merchant Marines were already known, for instance, by the experiences in Western Europe and Africa. Therefore, there is no excuse for the government to have believed that the deregulation was going to be the solution for the Merchant Marine. Furthermore, what is even harder to understand is the willingness and support the shipping companies, especially the larger companies, gave to the deregulation process of the Argentine Merchant Marine, with the knowledge of prior experiences in the World. There is, therefore, ground to question which was the ultimate goal of the deregulation process. As an example of the knowledge of the possible outcomes of deregulation and the following outflagging, a comparison between the Argentine and the UK Registries is provided.

## 2.5 Comparison of the Argentine and UK Registries

When deregulating the shipping activities in Argentina previous experiences from around the world should have been taken into account. Although there were certain purely Argentinean phenomena, like hyperinflation, the examples would still have been useful as a guide, and especially for getting an idea of the possible outcomes. There are indeed some examples of

the effects of the deregulation and privatisation policies in different Merchant Marines, especially in Western Europe and Africa.

There is not any Registry that exactly matches the occurrences in the Argentine Register. However, the outcomes of other registries that experienced some of the occurrences or similar ones are good for a comparison. In that respect, the UK Registry has gone through some of the same developments that the Argentine Registry has done. Nevertheless, good note should be taken of the big differences between the two registries and developments, the big advantage being that the developments in the UK Registry had taken place some time before the Argentine deregulation, and therefore, was a good precedent to draw conclusions from. Another important feature is the documentation available regarding the developments in the British merchant marine, which makes it more accurate.

It is very interesting to note the concern that the UK has devoted to the consequences in their merchant marine. Moreover, there is a report from the Transport Committee of the House of Commons dated 13 May 1987 and 27 May 1988, which thoroughly analyses and explains many of the features affecting the British merchant marine. It is very interesting to see that many of the features mentioned in the report are the ones affecting the Argentine merchant marine as well.

Basically, the main difference between the Argentine situation and the UK, are the macroeconomic framework and the time of the occurrences. While the first difference is a drawback for the comparison, the second one is an advantage, as it becomes a useful precedent. It is very clear that the main common issue for both Registers is the flagging out of the fleet, and most of the following problems were derived therefrom.

Flagging-out:

Although not a new phenomenon for the UK, the pace was accelerated in the period 1987-1988. In fact, according to data provided by the General Council of British Shipping, at the end of 1982, 86% of the UK-owned fleet was mainland registered, but by August 1987 the

figure had fallen to 35%. The main difference with the Argentine Register is that the flagging-out of the UK fleet was to dependant territories such as the Isle of Man and Channel Islands, whereas the Argentine fleet was flagged-out to flags of convenience. However, the phenomena were very similar regarding the consequences on the Merchant Marine and fleet. The criteria used by the UK shipowners were indeed very similar to those of the Argentine ones, that is, to reduce manning costs either by changing to cheaper crews or by renegotiating terms and conditions with the unions. For example Shell Tankers UK, flagged out to the Isle of Man and now obtains seafarers through a third party manning agency, which has entered into agreements with the British unions. Personnel savings arise from the abolishment of a substantial part of the leave and other side payments.

On the other hand, Shell Tankers UK is able to retain a pool of experienced British seafarers and to maintain links with the recruiting and training facilities in the UK. Therefore, in the present conditions it seems more convenient for UK shipowners to flag out to the Isle of Man, than to Flags of convenience. However, some UK shipowners had taken the opportunity to employ their crews under foreign management. This means, of course, that foreign crews may be employed.

It is interesting to see the correlation that the aforementioned developments have with the ones affecting the Argentine shipowners. Argentina has no second Registry like the Isle of Man, but has set up a special status for the Argentine owned outflagged ships called “transitory cease of flag”. That regime has both the advantages of Flags of convenience and some of the ones granted by the Argentine Registry, which in practice has a similar outcome to the British approach. Furthermore, the approach towards personnel is very similar too. The Argentine shipowners had chosen to maintain the Argentine crews, sometimes through agreements with the unions or by imposing their conditions in a shipowners’ market. Nevertheless, same as the UK shipowners, they have left the door open to the possibility of changing crews.

The main purpose of this comparison is not to make a scientific correlation between the causes and effects of the UK and Argentinean Registries. The purpose is to illustrate the fact that the outcome and effects of the policies implemented in Argentina were already known in the world at the time of implementing them, and that this knowledge must have been taken into account.

The declining of the fleet:

According to the data provided by the Department of Transport Statistics bulletin (87) 50, Table 1.1(ii), the number of UK-registered ships has been declining since the beginning of this century. However, the total tonnage continue to grow, until it reached a peak in 1975. It began to decline from 1980, and for the period 1986-87-88 the decline was dramatic. In fact, in 1975 the dwt was 51,9 millions. It had dropped to less than half by 1984 and halved again between 1984 and 1986 to 11,2 m dwt. The number of units on the UK Register also dropped by half between 1975 and 1984 and then declined by a further 30% between 1984 and 1986.

Regarding the Argentine fleet, the G.R.T has been consistently decreasing from 2.889.000 in 1979 to 2.798.464 in 1991, and 1.658.114 in 1998, being a reduction of 42,6% in the total G.R.T. In short, the G.R.T has been irregularly decreasing until 1991 when the fall really sharpened due to the deregulation process. Therefore it is clear that the tendencies both fleets were to decline, but there is always an inflection point where the decline becomes sharper, that is the outflagging of the two fleets.

Age of the vessels:

According to data provided by Maritime Transport OECD, together with the decline in the UK fleet there has been a lack of investment. The UK fleet changed between 1975-1986 from being substantially below the world average age to being considerably above. As an example, Table shows the trend.



Average age of the world and UK owned and registered fleets (100 grt+)												
Year	1982		1983		1984		1985		1986		1987	
Total	11.0	8.7	10.5		11.4		11.5 10.1		11.6 10.5		11.8 12.1	
	W	UK	W	UK	W	UK	W	UK	W	UK	W	UK

Table Source GCBS statistical briefs, date as at June each year

It is once again noticeable that regardless of the differences, the trend was the same as for the Argentine Fleet, i.e. an increasing age as time went by. However, the Argentine situation was much graver as the fleet was already old before the deregulation process and subsequent flagging-out. The age of the vessels has risen from an average of 14,3 years in 1979 to an average of 15,6 years in 1991 and 17,16 years in 1998, being an increase of 2,86 years in the average age, and in percentile values 20%. It is clear that the trends have been consistent, the age has consistently increased. Nevertheless, the years 1990/91 were the point of inflection of all parameters where the trends became sharper.

#### Employment:

When considering the decline of the fleet and its consequences in the employment among seafarers the similarity of the outcomes between the UK and the developments in the Argentine Merchant Marine is really impressive. In fact, the decline in the UK fleet was mirrored by a contraction of the seafaring workforce. Between 1975 and 1986, the total number of UK seafarers employed on UK-registered ships fell by two thirds, with the largest drop occurring in the second half of that period. In 1975 the total number of UK seafarers employed was 7340, whereas in 1981 it was 5370 and in 1986 2380, according to data provided by GCBS. It is more than a coincidence that the same consequences were registered in two different scenarios at different times.

Considering 1991 as the starting point, the unemployment in the Argentine Merchant Marine was very low and the number of units, although decreasing, still considerable. The tendency in 1992 was very logical, with a decrease in the number of units, the unemployment

increased. From 1992 to 1993 the trend was the same but much softened which was already rather curious. However, in 1994 both tendencies jointly started to decrease. This outcome is very similar to the one in the UK seafarers market.

#### Contribution to the Balance of Payments:

According to the Maritime Charitable Foundation (BCMF) the shipping industry regards its true contribution to the UK balance of payments as the sum of export earnings plus import savings which takes into account the UK owners' revenues on goods imported to the UK. The contribution to the balance of payments defined in this way has been fairly constant in money terms over the last 10 years. In real terms it has fallen about one third from that in 1975, as more overseas freights have gone to foreign shipowners and cross trade revenues have reduced following the reduction in the UK fleet.

In the case of Argentina, data provided by the International accounting Directorate of the Secretary of Economic Planning of the Ministry of Economy indicate that up to 1990 the shipping balance was positive, while in 1991 it was almost break even, with a very small profit. However, since 1992 the shipping balance has shown increasingly negative results which actually signifies that the expenses had increased a lot, because the income, although slightly reduced, has been fairly steady since 1993. Therefore, the main cause for the negative results are freights earned by foreign ships for the transport of Argentine imports, and chartering of foreign ships by national shipowners. In conclusion, the results of the balance of payments differ according to the way that the data is considered. However, although the UK contribution seems better off in spite of the flagging out, the trend indicates that sooner or later the balance of payments will be affected. Nevertheless this issue seems to be the biggest difference between the UK and the Argentine situations.

In conclusion, all the items considered in this comparison will be lately considered in depth for the Argentine Merchant Marine. However, the real goal is to provide the argument that the possible outcomes that affect the Argentine Merchant Marine could have been avoided if the precedents like the one presented, would have been taken into account.

Against the background of the facts presented in this chapter, it is very easy to understand the willingness of the government in deregulating the whole economy and related activities. There was, indeed, a strong need for change and deregulation and privatisation were useful tools in order to overcome all the problems affecting the country. However, it seems that the same approach was applied to all activities in the country without paying attention to their peculiarities. The living proof of the latter fact, is the disastrous effects on the national merchant marine. As was mentioned before, there were previous experiences from deregulation and privatisation of merchant marines around the world, and their effects were already known. So the reasons that lead to implementation of a similar scheme are not very clear and require further analysis and some guessing, as nobody has yet come up with a suitable explanation.

There is no plain answer to the question of why the deregulation was applied to the Argentine Merchant Marine in such a way. Nevertheless, there are two main possibilities on the part of the government. The first one is that the government was trying to get rid of the merchant marine altogether in a concealed way. The second option was a total lack of understanding of, and care for, the shipping activities. This second option, although it may seem very naive at first sight, has historically been the case in Argentina, especially when trying to solve economic problems, it has been very common that policies which have already failed around the world, are applied. The reasons for this has largely been the belief that the Argentine situation was something special and different from other parts of the world, although the results proved them wrong.

On the part of the shipowners, it is hard to believe that there was a lack of knowledge. The problem there, must have been the second cause, the belief that the Argentine situation was different from the ones of Western Europe and Africa, for instance. Besides, the long period during which the Merchant Marine was protected had created a certain kind of confidence in the shipowners and the belief that their market was not interesting for foreign carriers, which was only true because it was highly regulated. However, after the deregulation it became

extremely attractive to global carriers. Therefore, in the opinion of the author, nothing other than a misguided thinking and over-confidence could have lead the Argentine shipowners to support a policy, which induced such deleterious effects on the merchant marine and their own business. Therefore, there are no other suitable explanations for the implementation of the total deregulation of the Argentine Merchant Marine.

Although the considerations of the deregulation decrees were very laudable, the actual facts, figures, and trends are saying something very different to the point that they are contradictory in their own terms. If the considerations of the decree were really honest, which does not seem to be the case, the actual situation is even worse and more complicated than before, as there is no way back. Finally, none of the initial intentions, except for the reduction of State participation, were fulfilled, and in the light of the lack of action, concern, involvement, and support of the government it should be, therefore, correct to imply that there is a great dose of cynicism in it all, if not actual fault, and no interest at all in the fate of the Argentine merchant marine.

In conclusion, from the aforementioned facts, is clear that the deregulation process was a necessity in macroeconomic terms for the country; moreover, it has been successful in many ways. However, when it comes to particular cases, such as the Merchant Marine, special care and attention should have been paid to the particularities of the business and to the antecedents and examples of around the world, before implementing any policy that could affect the business for ever. Therefore, a good tool for controlling the economy became the wrong tool when implemented to the context of the Argentine Merchant Marine. Thus, a good concept like privatisation and deregulation, became a bad concept for the Merchant Marine. Furthermore, is sad to see that the developments after the general deregulation of the economy are not as auspicious as they used to be for the Argentine economy in general, especially due to wrongly implemented policies.

## Chapter 3

### The Consequences and Implications of the deregulation for the Seafarers and Unions

#### 3.1 The economic and labour consequences for the seafarers' market, and new working conditions

As soon as the Argentine ships were outflagged to flags of convenience, in most cases Panama or Liberia, the Argentine personnel had to carry out the option anticipated in the decree 1772/91 in order to continue on board the ships under foreign flags. The option for the crews was to ask for an extraordinary leave, which in practice froze up the labour relationship, or to resign receiving a reduced indemnification of 50%.

The situation created for the Argentine personnel was particularly detrimental, especially for the ones with many years of service in the companies. The application of this norm differed between companies and this can easily be explained by its lack of clarity and manifest legal abuse. The response of the workers to this option was not uniform; it varied depending upon the source of legal and syndicate advice. Initially, between 40% and 50% of the personnel accepted to ask for license to continue on the ships under foreign flag; another 30% to 40% chose to end relations with the companies, and many of them initiated labour demands for a complete indemnification, while the remaining 10% asked for leave from the Argentine flag, and did not sign on again on the ships under the new regime, at least not in the short run. (Figure 6).

Moreover, the second stage of the deregulation process, with even deeper consequences, was the decree 817/92 on port and maritime deregulation. In addition it modified some central aspects of the legislation applicable to ships flying the national flag.

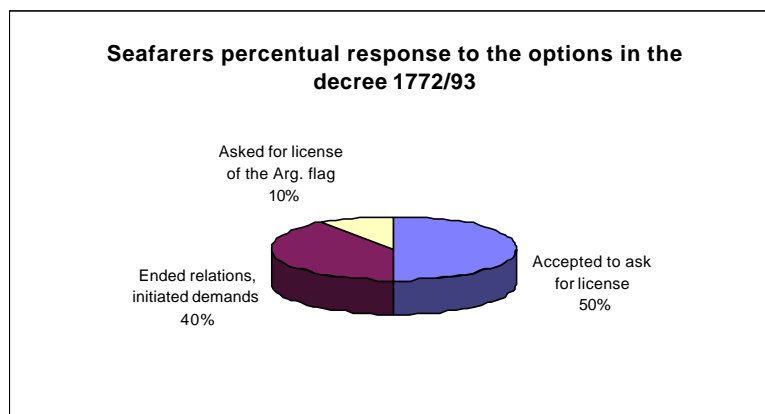


Figure 6 source: Centro de Capitanes de ultramar

The deregulation process and subsequent flagging out of the Argentine fleet had two main effects on the labour market. The first one was the reduction of the fleet, and its consequential reduction in the number of jobs. The second one was the loss of the whole legal framework of the activity, which conveyed detrimental changes in both the life and labour conditions of seafarers (wages, compensatory leaves, social benefits and job stability) and particularly important was the inapplicability under the new deregulated regime of the national pension fund system. In time, these consequences led to a significant lack of seafarers.

It can easily be implied that the deregulation of the maritime industry had, both for the unions and its members, consequences that in every case were extremely negative. As became evident later, the flagging out of the Argentine fleet brought about a level of precarisation and instability in the crews' working conditions never known before.

Moreover, the changes took place so fast that seafarers could hardly believe what was happening and adapting to the new life and labour conditions was almost impossible in such a short period.

The main consequences of the “temporary ceasing of flag” approved by the Decree 1772/91, can be indicated as follows.

- As was mentioned in chapter 1, the decree 1772 / 91, enabled the temporary flagging out of the Argentine fleet to flags of convenience, while maintaining the privileges of national ships. However, in actual terms there was no such “temporary cease of flag”, because it became permanent. Nevertheless, the benefits of being an Argentine ship were still granted for the shipowner. Therefore, under the cover of a “temporary cease of flag” shipping companies got the best of both worlds, the benefits of the Argentine flag, without the obligations. In contrast, none of those benefits, nor any others, were transferred or granted to the crews that had to work under the strict conditions of the flag of the ship (usually Panama or Liberia). The flagging out of the ships from the national register was indeed the main cause for all the following derived problems.

- Loss of a great number of jobs due to the reduction of the fleet and to the reduction in crew number, consequently increased the unemployment.( Figure 7)

Both reductions in units and jobs were consequences of the flagging out of the ships to flags of convenience. Under the new flags, the applicable law was the law of the flag state; therefore, the companies were allowed to reduce the size of their crews, which they did immediately, as this feature was one of the most awaited cost reduction factors. On the other hand, the reduction in the number of units was a consequence of the banning of national support and the wild competition among companies.

The hypotheses sustained by the government was that a totally deregulated market would encourage competitiveness and, therefore, a healthier, stronger and open shipping

market would arise. However, reality proved the hypotheses to be an oversimplification of a much more complicated issue. The real development was that once the market was deregulated, the bigger companies took over the smaller ones, as in a highly competitive market without any regulation is like the law of the jungle, only the fittest can survive.

The deregulation overnight without any norm replacing the former, far from creating a highly competitive market dramatically reduced the number of players, as is shown in Figure 3 (Chapter 1) and Figure 7. This created a situation of a natural oligopoly where the small players were not able to survive, while the big ones were restructured reducing the number of players to a very small number. In some cases the bigger players bought the small companies just to avoid competition, and very soon after they sold out the units to foreign companies. This fact shows in a simple way the developments taking place. The outcome of this was that the unemployment grew very quickly among Argentine crews, and became the biggest problem the seafarers had to face in the first part of the deregulation process.

The unemployment grew sharply from the end of 1991 till the end of 1992. From that moment on, it tended to stabilise between 30% and 40%, depending upon the considered seafarer category. These levels of unemployment started to slowly decrease with certain variations according to the professional rank, by the end of 1994. This last development was a result of a strong expansion in the industrial fishing activities, which in 1992 recruited a big quantity of the personnel formerly working in merchant ships. Since the beginning of 1996 till the end of 1998 the level of unemployment stayed at manageable levels of 12% to 17%, which are the current levels of unemployment. However, the situation is still unstable and there is no possibility to reasonably cope with a new unemployment crisis, especially considering the general employment situation in Argentina.



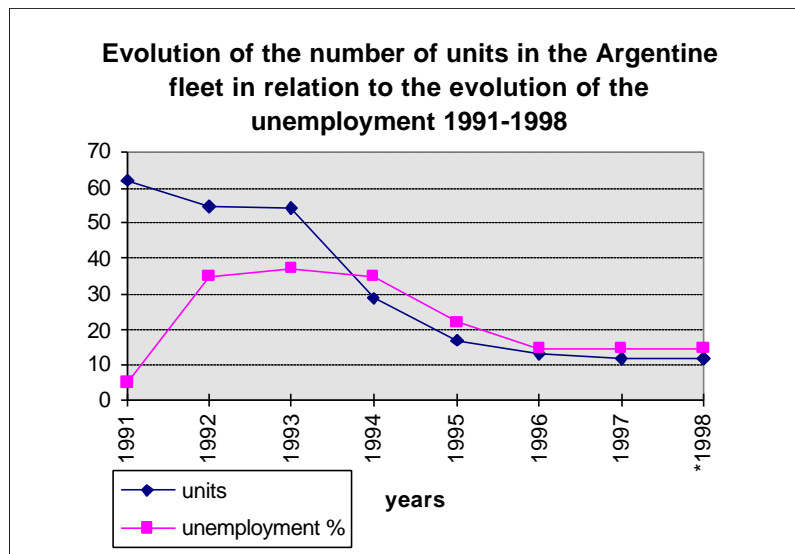


Figure 7 Source: Compendio Estadístico de la Navegación and Centro de Capitanes de Ultramar

It is very interesting to see the correlation between the evolution of the number of units and the unemployment rate (Figure 7). Considering 1991 as the starting point, as can be seen, the unemployment was very low and the number of units although decreasing, still considerable. The tendency for both in 1992 was very logical, with a decrease in the number of units, the unemployment increased. From 1992 to 1993 the trend was the same but much softened which was already rather curious. However, in 1994 something unexpected happened. Both tendencies jointly started to decrease and from that point on, they went hand in hand all the way. This outcome was extremely curious and defies any logic; therefore, it requires further analysis and explanation. The reasonable thing to expect, would have been with a decreasing number of units an increasing unemployment rate. However, the outcome was completely different, in the first place due to alternative sources of employment, mainly industrial fishing, which by that time was seen more and more as an alternative to the merchant marine and was promoted by some unions. On the other hand, a great number of seafarers due to the deregulation developments decided to retire, quit, or start other related or non-related activities. Therefore, the seafarers demonstrated a great capacity to individually react

to the deregulation threats. This line of thought is thoroughly explained later in this chapter in the “sandwich pattern”.

In conclusion, together with the reduction of the job market there was a reduction of the seafarer market, thereby balancing supply and demand. However, the real problem was only starting as, once the decline starts, it is very difficult to stop unless the offered labour conditions change, which is not very likely to happen. At the moment the seafarers’ market is very unstable on both sides, which only adds to the willingness of seafarers to quit the activity.

- Loss of a substantial part of the seafarers’ wages.

In a shipowners’ market, like the one that developed after the deregulation, it was no surprise that the seafarers’ wages were significantly reduced. Moreover, reduction in crew costs was one of the primary objectives of the deregulation pushed forward by the shipping companies as they accounted for up to 50% of the fixed costs. However, the main reductions were not actually in the wages, which were more or less maintained, but in compensatory leave and other fringe benefits.

This latter development had its reason in the fact that due to the convertibility plan, the standard of living was by that time considerably high in Argentina. Therefore, a big reduction in the wages would have pushed the seafarers out of the business. Hence, the idea was to reduce the wages in a concealed way to avoid a negative mass reaction on the part of the seafarers, at least in the short run. Nevertheless, the reduction turned out to be more than significant, in the order of 40% in relation to compensatory leave plus social benefits.

- Loss of the legal and social benefits granted under the labour legislation of the Argentine flag.

Due to the flagging out of the Argentine fleet, all the applicable legislation related to legal labour rights and social security became inapplicable overnight, thus creating a big

legal vacuum which was not filled by the laws of the new flags. Therefore, the Argentine crews were faced with a problem, which was out of their hands to solve. This fact clearly showed that all the following problems had a common origin, which was the flagging out of the fleet.

The main consequences of loosing the legal framework were: 1) Loss of the priority to sign on, based on the Argentine nationality, 2) loss of stability in the jobs on board, and 3) the loss of the social rights. These three consequences were the main concern for seafarers who regarded them as a great threat to their working stability and their lives.

It can be said that with the disappearance of the legal framework, the seafarer's jobs were more a matter of good will on the part of the owners than of any right whatsoever. It is important to understand the enormous economic, labour, and psychological impact on the seafarers who felt defenceless in an hostile environment with a series of developments that would change their lives forever, without any say on them at all. Once again, the willingness to quit the activity prevailed among seafarers as it seemed the only possible way out.

- In many cases, seafarers were excluded from the national social security system. This feature is unique within the Argentine context, and it was the result of an unwise and badly implemented policy. The decree 1772 / 91, while enabling the flagging out of the Argentine fleet, did not consider the minimum rights of the national crews, which were simply ignored.

The outcome of this lack of consideration was an exclusion of all the seamen engaged in Argentine outflagged ships from the national social security and pension system. In fact, according to the Argentine law, people working outside the country are not entitled to the benefits of social security. Therefore, working on board a vessel flying a foreign flag is legally working outside the country; there are no taxes to pay, and no social security or other side benefits granted, not even access to the national pension

fund system. It was, therefore, evident that the seafarers' interests were not taken into consideration in the least. What may be even more significant is the fact that until today, eight years later, the matter is not yet solved and it does not look like it will be solved in the near future in spite of the constant unions' claims.

Finally, it is interesting to see what is the reason for such a lack of diligence, unless it is not actually a lack of diligence but part of a total policy against the crews. The lack of action on the part of the government regarding the seafarers' situation on social benefits and especially the proper access to pension funds is not understandable. Access to those rights is basic and should be granted to all citizens, no matter their profession. It is an unavoidable obligation on the governmental authorities and a matter of equality before the law, and it will surely be a source of disputes and suits against the state once the political situation changes.

- Loss of the benefits granted by the collective agreements as a result of their inapplicability under the new regime.

Under the new flag regime, collective labour agreements and acts became obsolete, thus, all the labour framework and benefits vanished overnight for Argentine crews. The new deregulation regime abolished the whole legal framework ruling the activity up to that time without replacing it or setting the grounds for future agreements. The main consequences for the seafarers was that they lost their terms of reference regarding wages, working hours, over-time, hierarchical responsibility, compensatory leave and all other benefits or agreements. Hence the reference baseline for negotiations and for accomplishing tasks on board was inexistent, which created a great vacuum and a lot of confusion. The crew on board the vessels were subject to the labour law of the flag state, which in practice meant that all the working conditions were imposed by the company. Any consideration for the seafarers was dependent upon the good will of the employer, which created big differences between companies.

As was mentioned before, most of the consequences of the Decree 817/92, “Port and maritime deregulation”, were in fact very similar to those of the Decree 1772/91. However, the main difference resides in the fact that while the latter refers to outflagged ships, the former refers to ships flying the national flag. Extending its consequences to the ships in the national register was more grave and of a greater significance for the industry as a whole, and for the seafarers in particular.

Moreover, it clearly demonstrated that the only goal was to deregulate rather than to reverse the declining of the fleet, which was the main reason for the whole process. Beside the implications derived from the inapplicability of the collective labour agreements, the elimination of the nationality clause had serious consequences for the ships flying the Argentine flag, especially for the fishing vessels. It was only after a serious conflict between the Captain’s Centre and Y.P.F that it was resolved that at least the Captain should hold Argentinean nationality.

The main consequences for the crews of the Decree 817/92, “Port and maritime deregulation” can be indicated as follows:

- Elimination of the priority to sign on in Argentine ships based on nationality.

As seen in Chapter 1, Decree 817/92 enabled foreign seafarers without residence in the country to sign on in Argentine Merchant ships. Furthermore, it allowed an interpretation to avoid Art. 112 of the Law of navigation, to enable non-citizens to be employed as Masters or officers. This issue was hitting directly into the heart of the national crews, because the exemption was being done on vessels flying the Argentine flag, not on outflagged ships. In practical terms it did not have any real consequences in the merchant marine because the shipping companies wanted to maintain the Argentine crews. However, it did have effects on fishing vessels, which were foreign property and were able to incorporate a percentage of foreign seafarers. In conclusion,

in practical terms the consequences were the loss of some jobs due to the inclusion of foreign crew members and the potential threat of replacement of the national crews, thus, another negotiation tool for the shipping companies.

- Elimination of the rights of professional associations of seamen, to discuss the crew number for commercial exploitation of the ships.

One of the former rights of the unions was to discuss with the owners the number of crew members on board the different ships for commercial exploitation. It was implied that the total number would never be less than the minimum safety requirements. However, the final number was a matter to be negotiated between the parties. With the elimination of this right, the unions lost the possibility to negotiate a greater number of jobs for their members. This issue, of course, contributed to the unemployment and the weakening position of seafarers and unions.

- Flexibilisation of the requisites for the validation of foreign permits, to sign on national flag ships.

This feature is no more than an enlargement of the policy of allowing foreign crews, as a method of facilitating the procedure. In actual terms, this feature enabled the use of foreign crew in ships flying the Argentine flag, which greatly increased the pressure on Argentine crews, which until that moment were concerned about the jobs in outflagged ships. The immediate consequence for the seafarers was that the threat of replacement by foreign crews became even more concrete. Therefore, jobs were even more unstable than before, while at the same time the negotiating position of the Argentine crews was weakened even more.

In summary, as a consequence of the deregulation policies, more than sixty collective agreements related to port and maritime activities were suspended. All the labour collective agreements in port, maritime, and fishing activities were suspended. The Labour Law became the ceiling of the labour rights of the workers, instead of the floor. Furthermore, the decree 1264 / 92 suspended all collective agreements and acts not

specified in Annex III of decree 817 / 92, leaving the unions without a reference about their members' rights and drawing all negotiations between unions and owners back to zero.

The above mentioned deregulation norms were complemented and incremented by means of a chartering regime by which foreign vessels were granted national treatment regarding cabotage commerce, while the crews were subject to the law of the vessel's flag.

To conclude, the deregulation process of the activity, did not in any way bring about development, nor modernisation of the merchant marine. Regarding the personnel, the complete flexibilisation of their labour conditions simply meant an income transfer from the labour sector to the companies. In addition, such deregulation did not mean the creation of new jobs. On the contrary, jobs were greatly reduced in number, while the life and labour conditions of seafarers were drastically worsened. Nevertheless, the real achievement was a great reduction of the crew costs and the privatisation of the ports.

### 3.2 The actual lack of seafarers and its future consequences

One of the most notorious and unexpected effects of the deregulation process has been the increasing lack of seafarers, especially officers. Although an international problem, the shortage of officers had never been a problem in Argentina until the deregulation process came about. In fact, the officer population was quite sufficient in number to man the national ships, and it was very seldom that any problem would arise in that respect. Moreover, the National Nautical School used to have a big number of candidates every year from which to make a good selection. Therefore, the quality and training of the Argentine officers has been long recognised at a national and international level.

However, from 1991 on, things started to change, due to the deregulation decrees previously mentioned, which brought about deleterious consequences for the seafarers. Among other consequences, there were loss of jobs due to reduction of the fleet and reduction of the number of crew members, wage reductions, especially the banning of social and labour benefits, and the lack of labour stability, which among other factors contributed to the decision of seafarers to quit the activity.

The process, which the seafarers went through after the deregulation process, has been very interesting to follow, while at the same time it mirrors similar processes in the world, especially in Western Europe. It is important to note that after the convertibility law, (explained in Chapter), the Argentine Peso was put on parity, one to one, with the US dollar. Therefore, the cost of life in Argentina quickly reached the levels of any developed country (Figure 8), becoming as expensive as Sweden or France, for instance, while at the same time, the wages, labour stability, and all other benefits in the maritime industry were being reduced or banned altogether due to the outflagging. Thus, a big gap was opening between the crew expectations and what was being actually offered. The fact that seafarers in Argentina had historically been well remunerated only added to the problem. It is, therefore, interesting to look at the evolution of the consumer price index to understand the developments regarding the living costs in Argentina.

In Figure 8, the consumer price index for the period 1989-1998 is given. The trend of the index shows that the cumulative index grew steadily until 1991, the year in which the Convertibility Law was promulgated. However, the increasing index reflected the great inflation but the increase of prices only covered the real value of the goods and services. From that point on, the index started to stabilise until 1994, the year in which it definitely stabilised.

The fact that the index finally stabilised, only reflects the effect of the convertibility on the consumer prices. Nevertheless, although with a very low gradient, there still is a



tendency towards increase, which is a big problem because it increases the prices at constant currency. However, once the stability was reached, the prices were so high that Argentina was by then, a very expensive country. Therefore, the Argentine crews became very expensive as well.

However, the manpower shortage was not immediately noticeable. Instead, at the very beginning shipowners felt they had the absolute control of the situation. Indeed, they did have control at that time, because the whole deregulation process was so abrupt that nobody had time to react to the changes immediately. Therefore, the population of seafarers as a whole was forced to accept the new labour conditions under the new flag regime.

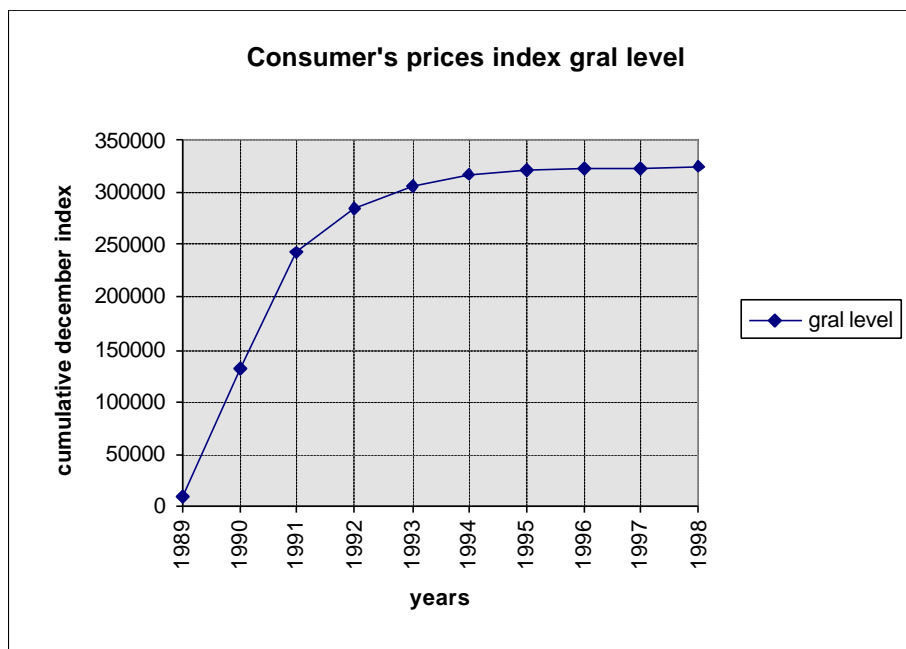


Figure 8. source INDEC

However, this situation was not meant to last. In a short period of time, an unexpected pattern started to develop within the seafarers’ market; a pattern which may be called “the sandwich pattern”.

The “sandwich pattern” explains to a great extent the developments in Figure 7, which defies any logic. Certainly, a reduction in the number of jobs it is not likely to cause a balance of the supply and demand of seafarers. Nevertheless, that was the outcome. Logic would have indicated that the unemployment rate would increase in an inverse proportion to the decrease in the jobs. However, what really happened was that many seafarers suddenly left the market, compensating the lack of jobs.

It is clear that from all the above mentioned facts the goal of each and every seafarer was to quit, to retire, or start a different activity, as this was the one and only handy solution to the problems arising in their works. However, the draining of seafarers from the market took a very singular form.

“The Sandwich Pattern”

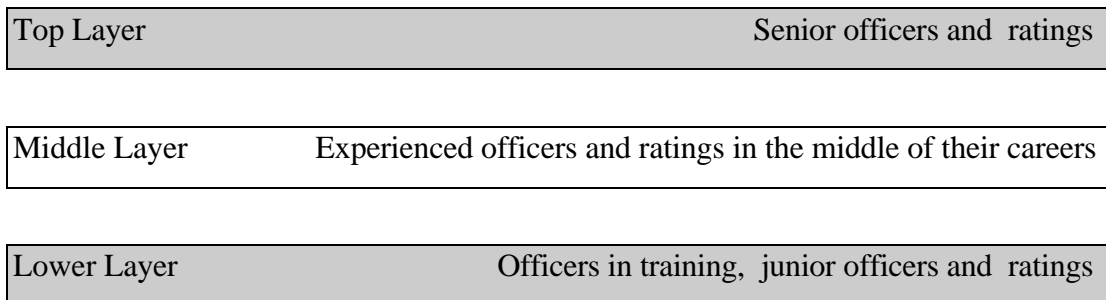


Figure.9

The “sandwich pattern” considers the total population of seafarers distributed in three different layers one on top of the other (that is the reason for the name). The top layer consists of senior officers or ratings, meaning experienced professionals on the top of their careers. This part of the population consists of people who are totally or partially fulfilling the conditions for retirement. Thus, the behaviour of this layer would be very

clear, they would retire right away if possible, or stay to complete the required conditions for retirement. It is evident that this layer is the one which is in a better position to retire from the work, while at the same time it is the most difficult to replace in the short run. Therefore, in spite of the diminishing number of units the massive retirement of this layer would tend to compensate the difference.

The officers in training and junior officers or ratings would constitute the lower layer. This part of the population has usually no or less obligations, family, or commercial constraints that would tie them to their work. Thus, due to the extremely adverse conditions for finding a ship, getting a job, the low wages and poor social and labour conditions would probably make this part of the seafarers population quit after a while and direct their efforts to studying or getting experience in a related or different field. Therefore, whichever the case, they would soon be out of the market, hence, in this layer the proportion of seafarers leaving the maritime field would surely be very high, which would as well contribute to even the difference with the decreasing number of vessels.

Finally, experienced officers and ratings in the middle of their active careers would constitute the middle layer. This part of the population would find themselves trapped in the system without the immediate possibility of quitting or directing their efforts into different works. In fact, the responsibilities assumed in their lives such as families, house mortgages and other obligations would prevent them from leaving seafaring right away, at least in the short run.

This layer was the one that misled the shipowners, making them think that everything was under control. Nevertheless, the demotivation factor would be a very important factor and it will eventually show in their work and performance. Even though their personal obligations would prevent them from quitting right away, it will undoubtedly be in their minds, and they would do so on the first opportunity they have, although the draining would be very slow but constant.

The later developments in this aspect, showed during 1998 that it was impossible to cover all the requirements of the market. However, the lack of seafarers, although generalised, is more notorious in certain companies which had developed a bad reputation among seafarers in the years following the deregulation process. This fact shows that there is a niche in the seafarers' market of people whose personal obligations allowed them to choose which employments to take. All the above mentioned facts indicate that the trend is to a continuous shrinkage of the seafarers market, which is already creating and in time will create an even more important problem for the companies to face.

After the deregulation process, the shipowners had the unique opportunity of gathering the best-qualified crews ever. In fact, due to the reduction in crew number there was a lack of jobs for officers and ratings and a desperate need for work. However, instead of making the most from this opportunity, shipowners were not up to the circumstances, and preferred to take revenge on seafarers for past differences. A policy was implemented which included black lists, interchange of information about seafarers suing companies, and the setting up of a network for avoiding employment of certain people for different reasons, including health problems.

The immediate outcome of this policy was that seafarers felt totally insecure in their jobs, not to mention the fact that many officers were fired without any understandable reason. This environment created a hopeless feeling that no security was available and that the only reasonable thing to do was to leave in order to start something new. All these facts contributed to a constant draining of officers towards other related or non-related activities, in order to escape from the witch hunting. Besides, one of the main factors that actively contributed to this draining, was the suspension of the social and pension benefits for seafarers engaged in outflagged vessels. In fact, this issue is still questioned without any satisfactory response.

One very curious feature of the process was the disregard and carelessness of the employers towards their employees. In fact, most of the shipping companies adopted the policy of not carrying officers in training, considering it a waste of money. This policy is hard to understand, because training officers is not only in the seafarers' interest, but to the companies' benefit as well, in order to have a constant supply of officers to cope with replacements and new demand. Nevertheless, this latter fact was systematically disregarded as if the supply of officers was everlasting. As a matter of fact, it was not, and this policy accelerated the shortage of officers, specially junior ones.

In summary, a badly conceived cost-cutting policy actually accelerated an incipient problem reducing the time of occurrence and increasing its effects leading the way to a reduced seafarers' market, which is already a big concern and one of the biggest problems the industry will face in the near future. Besides, the increasing lack of seafarers, especially officers, has been helped by the labour insecurity, the lack of protective regulations, and non-applicability of social securities under the new flag regime. Therefore, the shortage of seafarers will undoubtedly affect many areas of the industry, especially the needs of the shore-based sector.

The increasing shortage of the seafarer population may have a deep impact on shore based sectors of the Argentine maritime industry, especially in all sectors of the industry that rely upon expertise derived from seafaring careers. The shore based maritime business, technical ship operating companies, classification societies, insurance, ports and government inspection services, will all need to address this problem urgently. Moreover, being a successful marine/maritime nation depends upon the people the industry employs as well as their skills and experience.

The last decade has seen a dramatic decline in the number of vacancies on cargo ships. So what about the future now that the once abundant supply of trained ship officers has been dramatically reduced and is still decreasing ? There are a number of questions to

be answered related to the future. How will the ships be manned in the future if the know-how is vanishing and where will tomorrow's maritime employees originate from? How will they gain practical industry experience?

Moreover, a big dilemma will be presented to the Argentine shipping companies in the near future. How will the industry cope with the lack of experienced senior officers to cover positions on board if there is no availability? The answer of the Argentine companies was that they would use foreign officers as the rest of the industry. The next question was, whether they were going to copy the solutions of the industry. If so, they would inevitably face the same problems. Therefore, how will they cope with the lack of experienced officers to cover the managerial positions usually covered by former captains or chief engineers? Are they willing to include foreign personnel as managers within their companies?

The answer to the latter question was a deep silence. Once more the industry is being reactive and not proactive and will undoubtedly face their postponed debts. The same issues were risen with different first quality companies during field trips to Greece, Denmark, and London, and no absolute answer was given. When directly enquired about that latter fact, they answered that they were talking about it, which in actual facts mean they have done nothing so far. The most peculiar answer was given by a Greek shipowner who said "the industry will find a way".

Therefore, the attitude of talking about it but still doing nothing seems to be not only national but international. The problem is not an easy one, and to solve it, it is necessary to join efforts. People that may contribute to solving this problem range from universities, academies, college staff, personnel managers, employers in the maritime industry in general, as well as managers depending upon maritime expertise.

### 3.3 The consequences for the Unions and their work

During the times of high inflation rates, the hyperinflation and subsequent deregulation process (78-91), the relationship between the unions and shipowners was rather difficult. The reason for these difficulties was the fact that the constantly increasing inflation rate led to a constant devaluation of the currency and, therefore, a steady loss in the purchasing power of the seafarers' salaries. Thus, the constant claiming of the unions for compensating the losses in value of the salaries became chronic. Moreover, it became a great source of discussion and misunderstanding between the two parties.

Although the unions were asking for maintaining the purchasing power of the salaries, this constant claim was regarded by the companies as abusive. Moreover, shipping companies claimed that the increasing crew costs were turning the activity unprofitable. On the other hand, some unions used to abuse their power, specially when negotiating benefits. These facts made the companies eager for a deregulation scheme in order to get rid of the unions' pressure. As become evident later, the flagging out of the Argentine fleet brought about for the Argentine crews a level of uncertainty and insecurity in their working conditions never known before.

At the time of the deregulation process, all the analyses made by the unions concluded that in such a context it was not possible to stop the application of the deregulation norms, not even by adopting extreme industrial measures. Therefore, the unions decided to try the signing of working agreements for application under the new flags of the ships, even though there was no norm in place to persuade the shipping companies to negotiate such agreements.

Therefore, in most of the cases, the negotiations were very difficult or impossible. The main difficulty was the lack of interest of the companies in the negotiations, which was a very logical outcome, as they had nothing to win.

In spite of those difficulties, the unions' perseverance was directed to the establishment in each company of common minimum working conditions, in the conviction that it would benefit the stability of the jobs. It is important to note that in many of the negotiated agreements it was possible to maintain and sometimes even increase, the net incomes of the officers, while reducing the total cost of personnel. Thus, it became evident that the main cause for the extra costs of the crews were the social costs.

- The sudden change in the legislation, produced a logical weakening of the unions' position.

Indeed, the impossibility to put some kind of limit on the abuse and evident lack of legality in the execution of the deregulation process on part of the government contributed to the weakening of the unions in the eyes of their members. The fear of losing jobs, in a context of shrinkage of the activity, acted over the seafarers as a strong brake against any individual or collective intentions to stop or at least modify the deregulation scheme. In conclusion, the unions were really constrained in their acting capacity.

Although the perception of the members was a lack of action on part of the unions, as the deregulation was a political decision, there was no other way to react but through justice. In any case there was not much chance, since the Supreme Court was totally biased to the government. Most of the consequences affecting the unions had the same origin as the ones affecting the seafarers as such; therefore, they share many of their features. However, the main difference resides in the way in which they were affected.

- The loss of the benefits granted by the collective agreements as a result of their inapplicability under the new regime.

As seen in chapter 1, the decrees 1772 / 91, 817 / 92 and 1264 / 92 suspended all the collective labour agreements in all maritime related activities, which enabled the



shipping companies to avoid negotiations with the unions altogether, imposing their own conditions in the market regardless of any former negotiation or agreement whatsoever.

These three decrees can be considered a trilogy enlarging and complementing each other.

As a result of them, more than sixty collective agreements related to port and maritime activities were repealed. Thus, the main consequence for the unions was the loss of all the established framework agreements with the companies, which meant that all negotiations between owners and unions were drawn back to zero. There were no more legal obligations between them and the unions were left without tools. This fact also had a considerable impact on the unions' influence in labour negotiations, as they no longer had a decisive role, losing strength and lobbying capacity.

This was very detrimental to the unions as they lost protagonism and their members lost confidence in their unions' capacity to properly represent their interests. Furthermore, the affiliation rate decreased dramatically in some unions when the respective members perceived that no immediate improvements were to be obtained.

- Elimination of the right of professional associations of seamen to discuss the crew number for commercial exploitation of the ships while enabling foreign seafarers without residence in the country to sign on Argentine Merchant ships.

This feature is almost unique because practically all legislations, except flags of convenience, require at least the master to be of the nationality of the flag. However, this feature went one step further towards the weakening of the unions in their negotiation and representative capacity, eliminating as many requirements as possible to make Argentine crews dispensable. The consequences were such that in practical terms, Argentine companies were able, according to the law, to man their ships without any intervention of the unions whatsoever. However, this was not the case as they continued using national crews, but the unions' capacity to negotiate or to obtain

benefits was not there any more. According to the data provided by the unions, foreign seafarers (not resident in the country) sailing in Argentine vessels, did not in any case surpass the 5% of the total. The fact that, the number of foreign seafarers had not increased even in ships flying flags of convenience or with Argentine flag treatment, is due to two main facts. The first one, has to do with the high professional qualifications of the Argentine crews, which has been widely recognised by the Argentine shipowners themselves. The second fact, is related to the effect the numerous working agreements promoted and signed by the unions during the deregulation and outflagging process with the operators remaining in the national flag.

- Elimination of the priority to sign on ships flying the Argentine flag for national crews.

The effects of the elimination of the priority to sign on based on nationality on the unions, were indeed very similar to the effects mentioned before regarding seafarers. However, the direct outcome was that the unions were heartily weakened in their bargaining power with the owners. Although, the legal framework and collective agreements theoretically still applied under Argentine flag, the fact that Argentine crews could be replaced by foreign crews was a bargaining tool in the hands of the owners to drive negotiations in their own benefit by having the unions under the threat of changing crew, and knowing that once the change is done, it is likely to be permanent. During the first part of the deregulation process this fact was of paramount importance because it conferred the total bargaining power to the shipping companies, which were actually imposing conditions rather than negotiating.

- Flexibilisation of the requisites for the validation of foreign permits to sign on national ships.

The Decree 817/92 enabled foreign seafarers without residence in the country to sign on Argentine Merchant ships. The direct outcome of this was that the unions were weakened in their negotiation power with the owners. Moreover, the flexibilisation of

the requisites was a facilitation of the final purpose of either replacing the crews or imposing the companies conditions on the unions.

- Economic imbalance of the unions due to job reductions.

One of the main consequences of the implementation of the deregulation policy was indeed the reduction in the number of jobs on board. All of a sudden, the main funding source of the unions, the members' percentile contributions from their wages, were dramatically reduced along with the number of employments. Therefore, the income level of the unions followed a pattern mirroring the level of employment of the members. According to the data provided by the unions,

<b>Years</b>	<b>Total number of employments</b>	<b>Reduct %</b>
<b>1/1/91</b>	5424	X
<b>31/12/98</b>	1314	24,2
<b>Difference</b>	4110	75,8

Table3 Source: Centro de Capitanes de Ultramar (approx. values)  
Period (91-98) In the calculation, the effects of the diminished leave regime were weighted

This development was very detrimental for the unions because it threatened their own existence. In addition, their financial and operative capabilities were tremendously reduced. As can be understood, this feature is not a minor one, but at the very beginning required from the unions serious adjustments to the new conditions, and the capacity of the unions was so affected that some of them are still recovering. According to the data provided by the unions, the income reduction due to the deregulation process and its consequences, was about 70% for the rating unions, and 60% for the officers unions, considering the period from 1/1791 to 31/12/98.

- Fluctuation of the affiliation rates in the different unions.

In this sense, a significant difference in the level of the affiliation maintenance rates between unions gathering officers of different specialisation and ratings can be

observed (Table 3). While the officers' unions retained the traditional massive level of affiliation, the rating unions lost many members. In this last case, the great number of activities represented by only one organisation, as well as the perception that no results were to be expected from the union, were the most decisive factors. On the other hand, the unions representing the officers did not suffer as much due to the awareness in that sector that the best possible defence was to maintain the unity awaiting a change in the political conditions.

The unions' activities had after some time tended to achieve stabilisation. However, they were not able to recover the level of participation, political influence and lobbying capacity they used to have before the deregulation process. From the above mentioned facts, it can be inferred that in addition to all the prejudices already mentioned, an increasing fear of losing their jobs was generated among seafarers. In that scenario, the perception that a joint defence of their labour interests through the union organisations may, at least, attenuate the damage to their interests or provide for a better defence, started to break down. In those circumstances, the relative weakness of the unions and seafarers was deepened even more.

Union	Affiliation Level	
	Before deregulation	After deregulation
<b>Ratings</b>	95%	60%
<b>Officers</b>	98%	97%

Table4 Source: Centro de Capitanes de Ultramar (approx. values)  
Period (91-98)

It can also be added, that a substantial number of ships did not change flags immediately for different reasons. Among them, the still important national fleets of ELMA and YPF, as well as other privately-owned units, maintained the national flag for some time. In those cases, the labour cost reduction was promoted via negotiation of new labour agreements, similar to the ones signed for the foreign flags. It also proved that if there had been negotiation with unions and shipowners, it would have been possible to reach solutions different to the ones finally adopted. However, this

last reflection can only be made in the light of the results, as at the time of negotiation there was no will whatsoever to concede anything among the parties, which made any kind of agreement virtually impossible.

In summary, the consequences and implications of the deregulation process for the unions are very much tied to the consequences and implications for the seafarers. Furthermore, it is not possible to talk about one without mentioning the other. Nevertheless, the consequences for the unions can be divided into economical consequences due to the reduction of jobs, and political consequences due to the change in legislation and the loss of lobbying capacity and political influence.

Finally, undermining the members' trust in their own representative institutions can be regarded as the worst of them all. Although this fact varied depending upon each institution, the result was that the unions as institutions were discredited and regarded as incapable of reverting a deleterious situation. This last fact was the main reason for members to leave their unions. Moreover, it was the main strategy against the unions and their work, in order to weaken their position as far as possible and towards their possible disintegration.

## Chapter 4

### The consequences and implications for Shipowners and their business

#### 4.1 The lobby for deregulation of the shipping business

In the deregulatory environment created by the Law for the “Reform of the State” (1989), and the “Economic Emergency” law (1989), which became the tools for the structural reform of the State, shipowners found their long awaited opportunity to obtain the deregulation of the Argentine Merchant Marine in order to reduce their costs. Manning costs in particular have long been an obsession for Argentine shipowners, because they accounted for up to 50% of the running costs. Therefore, some of the more conspicuous shipping companies began to lobby at political levels in order to achieve the deregulation of the activity. Although unions were aware of this fact, at that moment they lacked the required lobbying capacity at the governmental level, to counteract the shipowners actions. Moreover, the shipowners’ lobby for deregulation had the great advantage of being in line with the governmental policies of the time. Thus, the Decree 1772/91 of September 1991, was the end of a strong offensive, initiated by the shipowners, towards the deregulation of the shipping business in the search for improving their competitiveness through cost-reductions.

The profitability of the shipping companies had been largely affected by the implementation of economic policies tending to control the high levels of inflation, all of them implemented to restrict the flotation of the US dollar value in the market. Until the convertibility law was adopted, shipping companies were making profits out of

financial speculation rather than from the shipping business itself. However, after the convertibility law was in place, it was clear for the Argentine shipowners that it was not possible any more to improve their competitiveness via currency devaluation.

As a result of the convertibility law, the internal costs in Argentina greatly increased, which gradually made it evident that the operative and administrative structure of the shipping companies, were both oversized and extremely expensive, therefore, not competitive. Regarding the seafarers, their cost was indeed higher than that of other nationalities, however, this was mainly due to the effect of the social costs on their remuneration. The main argument of the shipowners to explain the crisis of the activity, and to justify the need for its total deregulation was the high incidence of crew labour costs. In fact, in the Decree 1772/91, out of its 15 articles, 6 are related to crew matters (arts.7,8,9,10,12 and 13), showing the importance granted by shipping companies to crew costs.

One specially controversial issue was the compensatory leave regime for seafarers, whose coefficients had progressively increased (42% of the time at sea for general cargo and bulk, and 52% for tankers) due to the negotiations with the unions (agreement acts), in replacement of wages increases, which should have been granted to compensate the loss in purchasing power of the local currency due to inflation. This negotiation scheme tended to be favoured by the unions, due to the fact, that it was the only way to increase the existing number of jobs in a stagnated market. (Castro 1998). It is important to note that from the middle eighties the merchant fleet tended to decrease in number of units, and increase in age (table 1, figures 3 and 4). Moreover, lack of maintenance of the fleet increased its obsolescence. This was an old fact, which started in the seventies with the Decree 52/ 70, which made the former Decree 480/ 68 even more comprehensive, granting entrance into the National Flag of even older units (some of them almost obsolete). This followed an inverse path to the one followed, not only by the traditional Maritime Countries, but by many developing countries as well.

In fact, at a press conference held on the 18th of November 1970 at the Captains and officers Centre of the Merchant Marine, under the topic “ The Merchant Marine and its problems” the Secretary General, highlighting the influence of the implementation of wrong policies and their possible consequences, expressed “While all the traditional Maritime Countries and some developing countries are engaged in a race for modernisation and development of their Merchant Fleets and Naval industries, enlarging their fleets with modern units, many of them made in their own shipyards, we pretend to achieve the same results with old ships, most of them almost obsolete, and only for the sake of a momentary and badly understood economic benefit; specially for the subsidiaries of foreign companies. Perhaps, following this path the Argentine Flag will eventually become a flag of convenience”.

As an additional argument, shipowners raised the point that the medical costs for diseases and accidents of the crews were too heavy a burden to support. Even though, in these aspects, there were indeed questionable behaviours within the Argentine crews, the shipowners themselves were in many cases responsible for not establishing clear guidelines for personnel conduct and for yielding very quickly to certain union pressures. Besides, most of the time, benefits were granted without any obligation or compromise on the other party, being a win-loose negotiating situation.

A clear example of the latter fact, was when the Shipowners’ Maritime Centre granted to most of the unions an important wage increase as well as other improvements in working conditions in July 1989. A few months back, they had negotiated with the Captain’s Centre a similar benefit scheme, which required full time work on part of the officers. However, this time no obligations were required in exchange for the benefits.

It is easy to assume, that this careless attitude on the part of the shipowners, and pressing attitudes on the part of the unions, generated serious distortions in remuneration, (such as the Captain’s wages being the third/fourth salary on the ship) and, therefore, uneasiness and claims to the companies generating a vicious cycle. Besides, it can be said that a historical opportunity was lost to improve the



organisation of the work on board of the ships, as well as to establish a fair and reasonable rewarding system, capable of assuring the maintenance of the relation between wage scales, and establishing fixed parameters for the calculation of crew costs.

To conclude, both the unions and shipowners were at fault in their behaviours, but the political conditions at the time were in favour of the shipping companies. Therefore, the shipowners saw the opportunity to end with a situation that would no longer be sustainable due to the new economic conditions of the country. Furthermore, shipowners thought that a well done lobbying would enable them to recover the competitiveness they used to have under the currency devaluation scheme. Hence they devoted all their best efforts to obtain the industry deregulation via political lobbying. The fact that their request was in line with the policies, which the government was implementing at that moment, was a decisive factor for their success, as the whole governmental machinery was working in their favour, even the Supreme Court of Justice.

#### 4.2 Economical and Political consequences of the deregulation process affecting the Argentine shipowners.

The consequences of the deregulation process for the shipowners can be clearly divided into two stages, first, the short term consequences, and second, the medium and long term. In the short run, the deregulation policies implemented were extremely beneficial for the shipowners because the deregulation process allowed them to drastically reduce their crew costs, by means of a reduction in the benefits granted to seafarers and a reduction in the crew number. Moreover, the flagging out of the fleet, exempted the vessels from national taxes.

Another important feature of the deregulation process was the weakening of the unions. It relieved the shipping companies from the pressure formerly exercised by the unions and placed the shipowners in an advantageous position for negotiation or for simply

imposing conditions in the labour market. Furthermore, the privatisation of the ports dramatically reduced the fares, while increasing their operativeness and efficiency, thereby, helping the shipping companies to become more competitive.

However, in the medium and long run, it looked as if the shipowners became victims of the same system they lobbied for and pushed to implement. Indeed, later it was proved that all that the companies had longed for, was turning against them. For instance, the obsession for reducing the number of crew and their cost, finally produced a shortage of seafarers, the consequences of which are yet to be evaluated. Moreover, it became evident that reducing crew costs was not enough to solve their problem of competitiveness, which in fact was created by an oversize and inefficiency of their structures and obsolescence of the fleet, which all became evident after the convertibility law was in place.

When evaluating the pros and cons of the deregulation measures, it seems that the shipowners were misled. They thought that the change in only one variable (crew costs), would be enough to overcome all their problems. This was, of course, an oversimplification, as many other variables should have been taken into account. It looks as if they were so submerged in their own narrow view of the business that they did not realise there was a hard competitive world out there only awaiting for a chance to slip into a market which Argentine companies thought their own. Neither did they realise that the governmental policy towards deregulation was really comprehensive, thus, the deregulation measures would not only affect the crews but them as well in such a way, that the shipping business would never be the same as before.

The main negative consequences for shipping companies in the medium and long run were:

- The loss of the “Cargo reservation Law”
- The loss of the Merchant Marine fund.

- The loss of the state support on benefits like bunker discounts and priority for entering national ports.
- The entrance of foreign competitors, specially global carriers (Maersk line) into the market, creating a multiplier effect in it, as other carriers were tempted to enter as well when they saw a leading carrier in a new market.

As was discussed in chapter 3, a shortage in manpower supply, specially officers, is one of the biggest problems to solve by national shipowners.

Finally, all the above mentioned facts, lead the way to a scenario where the Argentine Merchant Marine and, therefore, the shipping business, lost its former economic and political relevance, the latter being a consequence of the former. For instance, figure 10 displays the net contribution of the national Merchant Marine to the balance of payments, and shows that the net contribution has been constantly decreasing since 1990, and the trend is to decrease even more. In fact, in 1990 the net contribution was 226,6 millions of dollars, whereas, in 1997 it was only 24,4 million dollars.

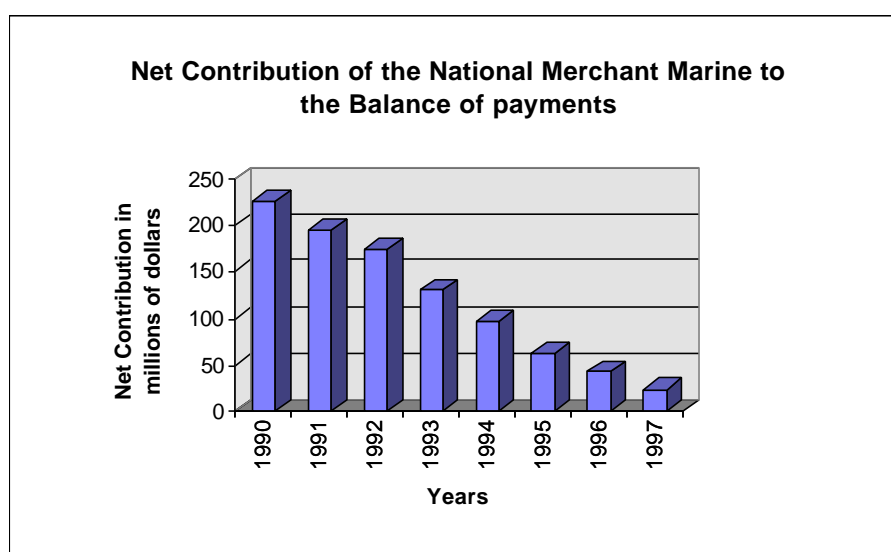


Figure 10 Source: Compendio Estadístico de la Navegación

The logical conclusion of the facts in figure 10 is that the Merchant Marine lost economic importance for the country. As a consequence, politicians regarded the shipping activity as economically irrelevant for the country and therefore, did not hesitate to withdraw all support from and care for the activity.

These facts are directly linked to the ones in figure 11, which displays the value of the freight generated by Argentine ships (including ships with provisional cessation of flag decree 1772/91 and chartered by resident shipowners), in relation to the total freight value generated by all means of transport for the period 1989-1997. When analysing this figure, it becomes evident that the freight value generated by all means of transport was being sharply increasing, especially since 1991 (implementation of the deregulation). However, the freight value earned by Argentine vessels was very small in comparison, and the trend was to diminish even more. In actual fact, to make it show in the graph, it has been necessary to divide the total freight value earned by national ships by ten.

This means that the values are in themselves very small, (not economically relevant), when compared to the total value. Therefore, from a macroeconomic point of view, the shipping business is becoming less and less important in its contribution to the economic activity of the country. All the analysed graphs are showing the same trend, hence, it is correct to deduct that the activity would become dispensable in the view of the politicians. Therefore, shipping companies would probably lose even more economic and political influence, as well as lobbying capacity at the economical, political and governmental levels.

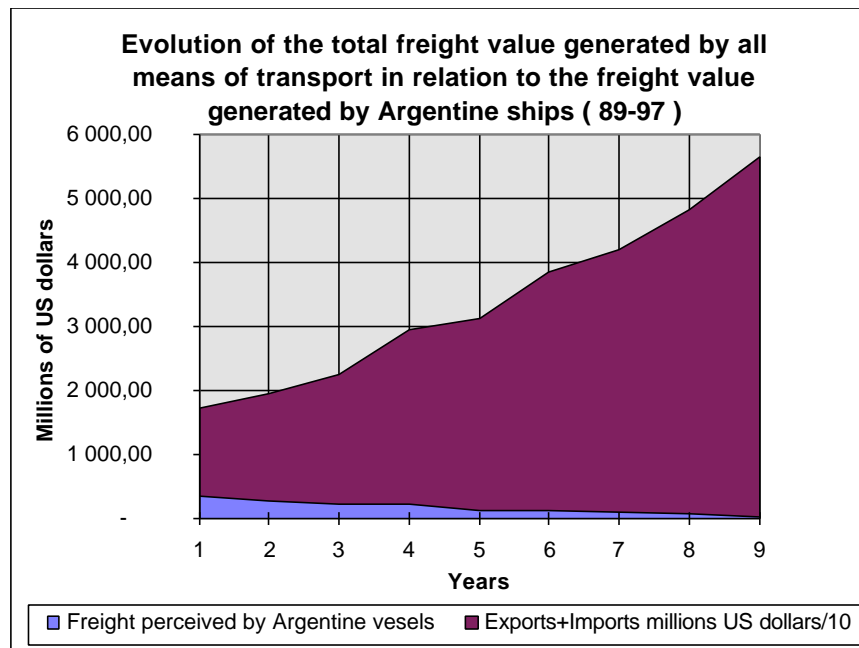


Figure 11 Source Indec and Dcion. Nacional de cuentas Internacionales, de la secretaria de programacion economica, del ministerio de economia y obras publicas.

In 1989 the freight value earned by Argentine vessels was 2,4 % of the total freight value, whereas, in 1997 it was only 0,07 %, which is very significant, in the sense that it is almost nothing. Moreover, the graph in figure 11 shows that the gradient of the curve is definitely decreasing, which means that no recovery is to be expected. On the contrary, it will get even worse, which means zero. In summary, freights earned by Argentine ships are not only decreasing in percentile terms but are disappearing in absolute terms. In actual fact, this outcome means basically two things for the shipowners. Firstly, that the Argentine participation in the national shipping business is shrinking and, therefore, the business is going out of their hands into the hands of foreign companies. Secondly, the importance (contribution) of the business to the national economy is dramatically decreasing with the aforementioned consequences.

**Argentine Freight Value Allocation in relation to Foreign freight Value**

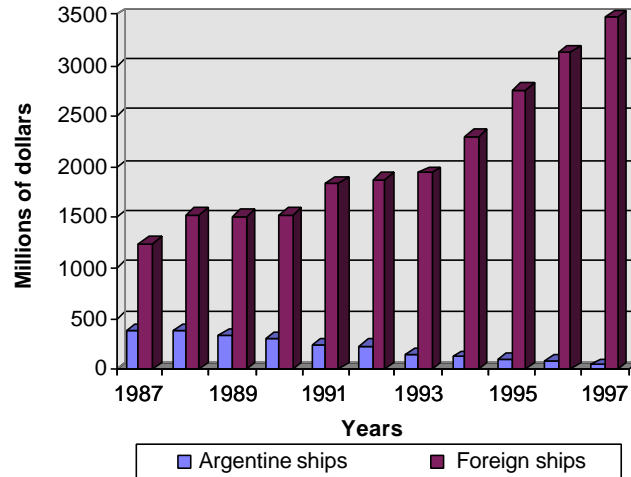


Figure 12 Serie 1: freights earned by Argentine ships (imports plus exports).

Serie 2: freights earned by foreign ships (imports plus exports).

Argentine ships include, ships with temporary suspension of flag (Decree 1772/91), and chartered by resident shipowners. Source: Dcion. Nacional de cuentas Internacionales, de la secretaria de programacion economica, del ministerio de economia y obras publicas.

Along the same line of thought of the facts already described, figure 12, shows the distribution of the total value of the freight earned between Argentine and foreign ships. From the graph it is clear that the freight value earned by Argentine ships has always been small when compared to the one earned by foreign vessels. However, since 1991/92 after the deregulation process was implemented, the gradient of the curve has really sharpened into a dramatic decrease figure 13. In fact, in 1987, the freight value earned by national ships was 30% of the one earned by foreign vessels, whereas, in 1991, it represented 12,6%, and in 1997 only 1,1%. Therefore, the business for the Argentine shipowners (including, ships with provisory suspension of flag, Decree 1772/91, and chartered by resident shipowners) has been constantly and rapidly shrinking since the deregulation of the activity.

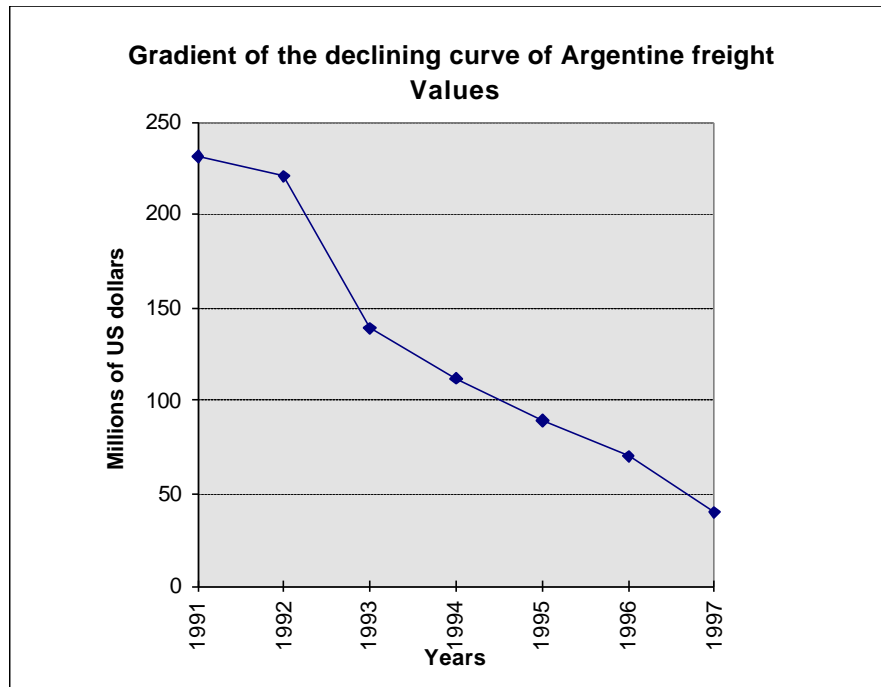


Figure 13 freights perceived by Argentine ships (includes, ships with provisory cease of flag, Decree 1772/91, and chartered by resident shipowners).

Source: Dcion. Nacional de cuentas Internacionales, de la secretaria de programacion economica, del ministerio de economia y obras publicas.

This decrease has been so sharp due to the facts that the value of the freights earned by foreign vessels has been increasing steadily, specially since 1992. Thus, even if the national freight value would have remained constant in absolute terms, it would have decreased in relative terms. In order to maintain its percentage share it would have needed to grow at least at the same rate as the foreign freight value. Instead, it has been constantly decreasing in absolute terms, especially since 1991, which created a double decreasing effect, one being absolute and the other relative This means that the real shipping business has mostly been in the hands of foreign ships, nevertheless, in the period after the deregulation, the Argentine participation has been reduced to almost anecdotic values. This latter fact may very well indicate the near end of the Merchant Marine and with it, the business for Argentine shipowners.

#### 4.3 The consequences on the national shipowner's Fleet

It should be pointed out from the very beginning that when considering the national shipowners' fleets, ships with provisional suspension of flag, Decree 1772/91, and chartered by resident shipowners, are considered as national for the purpose of the analysis. Otherwise, there would be almost no fleet to consider at all.

As seen in chapter 2, the trend for the fleet was to diminish in number, while increasing the age of the ships. This diminishing trend started before the deregulation process, and the main reasons were the obsolescence of the fleet and their high operative costs. In fact, one of the main arguments presented by both the government and shipowners to implement the deregulation of the Merchant Marine was the diminishing trend of the fleet and the actual possibility of its disappearance, due to its lack of competitiveness. The belief of the government was that the deregulation of the activity would on its own solve the problem of the decreasing number of units in the fleet and all its associated problems.

In figure 14, the evolution of the number of units in the national fleet, shows that there was already a trend towards diminishing, however, since 1991 the trend drastically sharpened. Likewise, the average age of the vessels, had slowly been increasing since 1982. However, in the period 1989-1990 the trend produced an inflection point, only to reverse again in 1991 (year of the deregulation).



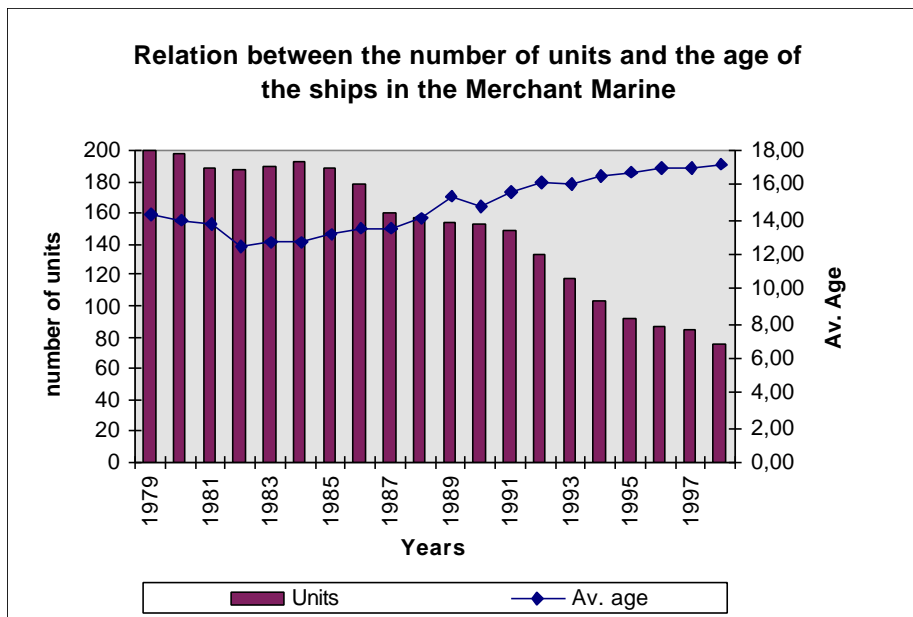


Figure 14 Source: Compendio Estadístico de la Navegación

Argentine ships (includes, ships with provisional suspension of flag, Decree 1772/91, and chartered by resident shipowners).

Therefore, it can easily be implied from the analysis that the deregulation process had no beneficial effect on the number of units in the fleet, nor on the age of the ships. On the contrary, it accelerated and magnified the already negative trends. Moreover, figure 15 compares the evolution of the number of units with the evolution of the Gross Registered Tonnage, and confirms every trend. The data used for the number of units in the fleet are, of course, the same as in figure 14. Nevertheless, the comparison with the G.R.T is very interesting. When comparing both, it can be seen that while the number of units was steadily decreasing since 1979, the G.R.T has, with variations, maintained and sometimes even increased in value. In fact, the horizontal line linking the values for 1979 and 1990, indicates that, although with ups and downs, in 1990 the value was almost the same as in 1979. This indicates, that the number of units was reducing, but at the same time the size of the ships was increasing, compensating the tonnage. However, from 1991 on, both values, the number of units and the G.R.T, drastically dropped.

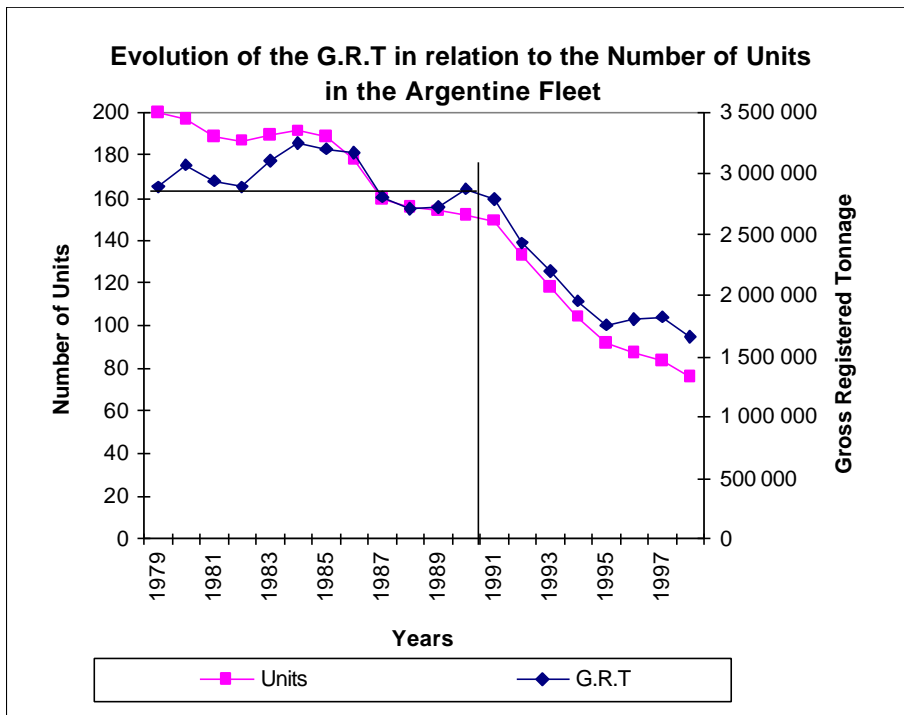


Figure 15 Source: Compendio Estadístico de la Navegación

Consequently, the immediate conclusion is that the deregulation process had no beneficial effect on the national fleet whatsoever. Therefore, the thesis sustained by the government and the shipowners was definitely proved wrong in the real world. Moreover, all the negative effects affecting the fleet until then were tremendously increased and speeded up, which eventually will mean the end of the fleet. That leaves us with the question, whether the real intentions of the deregulation process were the ones stated or not.

#### 4.4 The consequences and implications for the small shipowners

The small shipowners had previously been largely encouraged by the State, as they were regarded as an important source of employment, and many of the bigger

companies had started once as small ones. Therefore, the State supported their activities both through the legal framework and economically as well. Before the deregulation process came about, the smaller companies were an important part of the shipping activities. They were usually concentrated in niches in the national and international markets, mainly complementing the activities of the bigger ones. Through the “Cargo reservation Law” their subsistence was granted, and the Merchant Marine fund provided for acquisitions and newbuildings.

However, when the deregulation process came about, the small shipowners were not able to isolate themselves from the new environment. Thus, they were affected in the same way as the rest of the industry, but the effect the deregulation measures had on them was much more grave and immediate. In fact, the first problem they had to face was the abolition of all the protective economic and legal framework. Moreover, in a totally deregulated market without any protection they were not able to survive for long. Therefore, in the fear of being pushed out of business by the bigger players, they sold their units to the big companies. There were, however, a few small companies, very well established in certain niches of the market, who decided to battle, and were able to survive.

The greater benefits were for the bigger players who were able to renew and increase their fleets in advantageous conditions. Many a time, big companies bought smaller ones just for the sake of eliminating potential competitors and to avoid the landing of outsiders through those small companies. Furthermore, they were interested in the domestic niche markets and this was the best opportunity to get into them.

As a natural outcome of the aforementioned facts, the great majority of the small shipowners went out of business, as they were all of a sudden exposed to a situation they were not prepared to cope with because they have never planned to face such a situation in the first place. In addition to the naturally hostile environment of a deregulated market, they had to face the pressure of the larger national and international players on themselves. Finally, the disappearance of the small

shipowners greatly reduced the number of players in the market moving towards a natural oligopoly with a few big players only.

#### 4.5 The National shipping balance

<b>Concepts</b>
<b>Income</b> Freight earned for exports in national flag ships Freight earned between foreign ports in national flag ships Transport of non-resident people in national flag ships Expenditures in national ports by national flag ships
<b>Expenditure</b> Freight earned by foreign flag ships, for Argentine imports Transport of resident people in foreign flag ships Expenditures in foreign ports by national flag ships Chartering of foreign vessels by national shipowners
<b>Shipping Balance</b>

Table 3 national shipping balance concepts

As a bottom line, it is interesting to see the economic status of the shipping business. The concepts involved in calculating the national shipping balance are according to table 3. As a way to evaluate how successful the shipping activity is today, a glance at the national shipping balance gives a fairly accurate picture of how the business is performing. The concepts involved within the shipping balance are total income, and total expenditure, and the values are shown in figure 16.

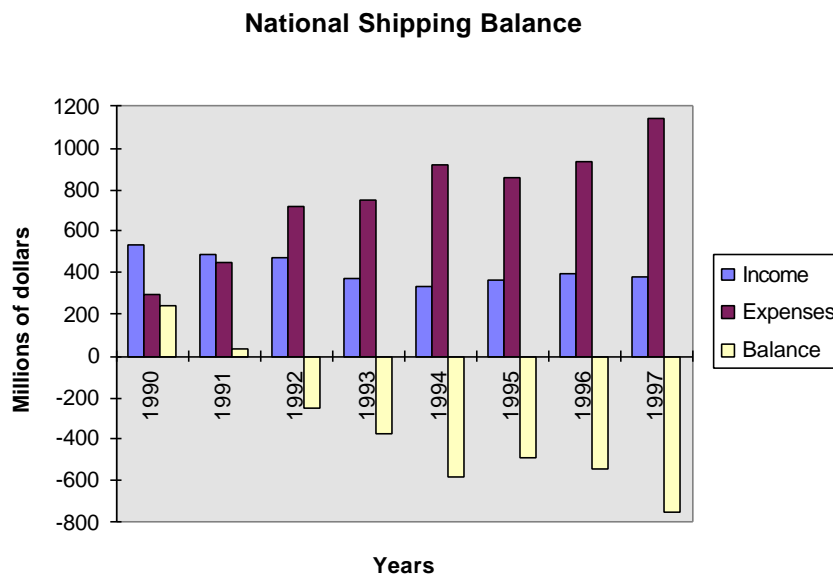


Figure 16 Source: Dcion. Nacional de cuentas Internacionales, de la secretaria de programacion economica, del ministerio de economia y obras publicas.

The data shown in figure 16 indicate that up to 1990 the shipping balance was positive, while in 1991 it was almost break even, with a very small profit. However, since 1992 the shipping balance has shown increasingly negative results which actually signifies that the expenses had increased a lot, because the income, although slightly reduced, has been fairly steady since 1993. Therefore, the main cause for the negative results are freights earned by foreign ships for the transport of Argentine imports, and chartering of foreign ships by national shipowners.

In conclusion, it is clear that since the deregulation process was implemented the whole shipping business went into a chaos, from which it will be very difficult, if not impossible, to return. The main consequence that shipowners should care about is nothing more and nothing less than the whole shipping business. What is in play is their very existence. After understanding that, maybe they would take the right steps in amending whatever is left of the fading Merchant Marine.

## Chapter Five

### Summary Conclusions and Recommendations

It is clear to see that as a result of all the regulations applied Argentina has shown every symptom of a highly regulated economy. The state was oversized, deficitary, and showed elevated efficiency costs. Moreover, the high levels of inflation, reaching the levels of hyperinflation in 1989, induced such devaluation that the currency almost disappeared, putting the country at the limit of social disintegration.

The shipping activities as every other activity in the country, were indeed highly regulated, expensive and very often inefficient. Therefore, there was a real and urgent need for change. After experiencing hyperinflation, almost every citizen in the country was conscious that it was time for a real change, and that remedies were to be sought to the problems affecting the economy and economic activities. Thus, the deregulation process came about sustained by three pillars, the structural reform of the state, the privatisation policy, and the financial reform.

It can be said that the structural reform of the state was very successful in achieving its structural objectives, however, the national public administration never reached the expected level of performance mainly due to its lack of flexibility and deficient management.

The privatisation policy was very successful in reducing the state participation in all areas not related to its core function, and represented a great financial help to push the model forward. At the same time it lifted off the heavy burden of financing with monetary emissions, the losses of the state owned companies, which was one of the major sources of inflation. It can be concluded that privatisation opened the doors of the international capital markets to Argentina, and facilitated the productive restructuring of the country. It brought knowledge of the country to the external markets, while accelerating the inflow of capital from around the world, which reduced the necessity of monetary emission. The country risk was reduced to minimum international levels.

However, the drawbacks were the lack of transparency in the privatisation processes, the increasing tariffs after the privatisation to finance investments, and that the regulating entities were not up to the task of defending the consumer's interests. These latter facts are raising great controversy and are potential sources for filing of claims.

The financial reform included opening up to the capital markets, and the adoption of the convertibility law in 1991. It can be concluded that the adoption of the convertibility law was the most successful issue, as it eliminated the possibility of monetary emission for deficit financing or for any other reason whatsoever, thereby eliminating inflation all at once. Opening the country to foreign markets, made possible by the elimination of all restrictions and taxes on foreign investments.

In addition, foreign and domestic capitals were granted equal treatment under the law, there were no prohibitions, or control over foreign currency, imports or exports of goods and services, and an important cut in custom duties was made. In conclusion, the financial reform was very complete and reached every objective. Moreover, it successfully controlled the hyperinflation, which was the most difficult and problematic matter.

From the research, it is easy to deduct that the deregulation process was indeed a necessity. However, the methodology used to push it forward became its main drawback. In fact, it is clear that the willingness to implement the process was greater than the attention paid to the way to do it. As a result, the methodology can be categorised as far from correct and sometimes illegal. It has not been without harm to the people and institutions specially the justice. Overruling the law, and endorsing it by a partial Supreme Court of Justice was a very bad idea with unpredictable consequences in the future. Therefore, although a necessary and awaited process, its methodology lacked legitimacy and set the ground for future disputes.

The national merchant fleet, was slowly decreasing in number of units, gross tonnage, and increasing in average age, while shipowners were more and more requesting deregistration of the vessels from the national register. This fact was one of the main arguments stated by shipowners, and national authorities as well, to press for the deregulation of the activity. However, after the deregulation process, the problems were not solved, but aggravated and accelerated instead. This indicates that regarding the specific problems of the national fleet; the deregulation was not in the least the solution of them.

However, in light of the results, nothing has been done so far to counteract the effects of the deregulation over the fleet. If the statements made in the deregulation decrees would have been true, the results were opposite to the objectives, but due to the lack of action is correct to assume that the statements were just justifications, the deregulation process being itself the one and only aim.

From the research it becomes evident that most of the consequences for the seafarers were derived from the flagging out of the fleet to flags of convenience. The two main problems were the reduction in the number of jobs increasing the unemployment among crews, and the loss of the agreed labour and legal framework. It is also evident that all the consequences were extremely negative for seafarers. The most detrimental were



the inapplicability of all labour benefits, even the access to the very basic working benefits, such as exclusion of the social security and pension fund system. Thus, working conditions were not a matter of rights any more, but of good will on the part of the shipowners.

What may be very significant, is the fact that the so-called " temporary cease of flag", which was supposed to last for two years as a temporary measure, became permanent. This measure granted many of the privileges of the national flag to outflagged ships, however, none of those benefits, nor any other were granted to the Argentine crews. It is evident on its own, that there was a bias in favour of the shipping companies and against the seafarers in the whole process. For some reason, the government thought that was the way to go, although it is not understandable or logical, except from the point of view of the lobbying capacity exercised by the shipping companies.

Due to the sudden change and worsening in the working conditions, lack of jobs and the policy implemented by shipping companies related to black listing of seafarers, with law suits against shipping companies, there was a big number of seafarers that quit the activity in order to retire or start different activities. Thus, the only seafarers remaining would be those whose obligations would not allow them to quit right away. In conclusion, the lack of jobs was balanced by a decreasing number of available seafarers in the market. Moreover, the lack of seafarers is increasing to the point that it has already become a problem the industry is facing.

The lack of seafarers, specially officers, will cause a loss of the know-how, while at the same time getting people with the required technical knowledge for managerial positions ashore will become an almost impossible task.

It became evident, that one of the main reasons of the shipping companies to pursue the deregulation of the business was to get rid of the pressure exercised by the unions. Thus, the deregulation was regarded by the shipowners as the most effective way to

neutralise the union's power. The outcome confirmed their thoughts, as the unions were really and badly weakened in their bargaining position.

Moreover, from the facts it is clear that most of the problems affecting the unions were the same ones affecting the seafarers, as they are directly linked. The main outcome was that the unions were badly weakened, specially by the loss of the whole framework of labour agreements. The policy towards making Argentinean crew dispensable, by means of enabling and facilitating its replacement by foreign crews stated in the deregulation decrees, had a terrible effect, as it reduced the union's capacity to negotiate to zero. Furthermore, it translated its effects to the ships still in the national register. The latter demonstrated that the real aim was to weaken the seafarers and unions' position as it is not understandable otherwise.

In conclusion, the policy of the government and the shipping companies towards the unions was clear. They should be weakened as far as possible. In order to achieve that objective they devoted their whole effort, the idea was to make unions dispensable. In certain respects, they succeeded as, directly or indirectly, they reduced their bargaining power and induced them an economic imbalance by means of reducing the number of jobs, therefore reducing the unions' percentile income from their members' wages. Moreover, they significantly reduced the affiliation rate in the ratings' unions, although they were not able to do so in the officers' unions. The major political outcome in this sense was the weakening of the unions' political and lobbying capacity. However, the greatest harm done to the unions was undermining their members' trust in their unions, being specially critical for ratings' unions. This fact may very well be the preamble to their disintegration.

Finally shipowners thought that a scenario without the unions' pressure on them, with a great reduction in manning costs, in a totally deregulated market would be the answer to all their problems of competitiveness; however, reality proved otherwise. From the results it is evident that the hypothesis sustained by government and shipowners, that a

totally deregulated market would encourage competitiveness and that a healthier merchant marine would arise from it, proved wrong in the real world.

The real facts were that the big companies took over the smaller ones, while at the same time reducing their own structures. Hence, the number of players was drastically reduced to a small amount, creating a situation of a natural oligopoly. Furthermore, after the entrance to the market of global carriers such as Maersk line, the pattern is repeating itself. This time the victims are the remaining big companies, therefore, the trend is that the whole business would be in the hands of two or three foreign players, while, the few remaining national shipowners, if any, would only be able to expect to work in small niches in the market. It is obvious that the aforementioned facts are the antithesis of the objectives established for the deregulation process.

It is interesting to see how mislead the national shipowners were when evaluating the pros and cons of the deregulation process. In the short run, there were almost all benefits. However, in the medium and long run their obsession for reducing crew costs finally induced a shortage of seafarers, the consequences of which are yet to be evaluated. The loss of the “cargo reservation law” meant that no certain business was there for them anymore and that companies had to compete for the cargo. The loss of the merchant marine fund, meant that no soft credits were available for newbuildings or purchases. In summary, the loss of the state support and the entrance of global competitors in a market they thought their own, made life extremely difficult for national shipowners. Therefore, in the balance of what they gained and what they lost, there were definitely more losses, but by the time they realised this, it was too late.

When analysing the case of the small shipowners, it is very sad to see that the segment of the industry which was producing many jobs was driven altogether from the business into the hands of the bigger players, which were eager to eliminate competitors. However, the smaller units were sold out to foreign shipowners soon

after the purchases, which meant that the only goal was to eliminate competitors and reduce the market for the benefit of the bigger companies.

In conclusion, in the light of the trends and the figures, it can be said without hesitation that, except for the reduction of state participation and the privatisations of the ports, which were indeed successful, none of the other goals of the deregulation of the merchant marine were achieved. Moreover, the Argentinean participation in the national shipping business is constantly shrinking, while the business is going out of the hands of the national shipowners and into the hands of only a few foreign companies, thereby creating a great concentration and a dangerous dependence for the country. Likewise, the net contribution of the shipping business to the balance of payments is getting smaller year after year. Consequently, the shipping business is becoming economically irrelevant for the country, due to its decreasing contribution to the general economy. Moreover, it is not creating any jobs, on the contrary, it is reducing employment. Therefore, politicians are regarding the activity as unimportant and withdraw support and care from it, with the natural consequence that the shipping business has lost its economical, political and strategic importance. Thus, all the actors involved in the industry have become unimportant as well.

Finally, it is very clear that the power behind the deregulation of the Argentine merchant marine has been the same political will that pushed forward the whole deregulation process in Argentina. It is true that the Argentinean shipowners had lobbied towards the deregulation of the merchant marine, however, they would have got nothing if it was not for the fact that there was a strong political will in place at that time. It can be implied in the light of the results that, if the arguments used to support the deregulation decrees were really sincere, something should have been urgently done to remedy the deleterious outcomes. However, nothing has been done so far, and it does not look as if anything is going to be done. Therefore, it is correct to imply that the government is not concerned about the fate of the Argentine merchant marine. On the other hand, the shipowners themselves were the ones who asked for the

deregulation. Therefore, they realise they have no moral right to ask for a change. In conclusion, each and every argument supporting the deregulation as the solution to all the problems formerly affecting the merchant marine, have crashed against reality. Unless there is a real political interest to support the Argentinean merchant marine, the only possible expectation is to assist in its funeral.

In the opinion of the author, the Argentine Merchant Marine as such, has passed its point of non-return. In objective terms, there is almost no tonnage left. The few remaining units are obsolete and the few nationally based companies still working are unable to compete against the global carriers, and sooner or later they will be taken over by them. Only certain niche markets have some prospect of surviving, such as the coastal oil transport and inland waterway oil and sand transport. However, not even these markets can be taken for granted, as there are no legal constraints for foreign companies to enter these markets if they wish to, and they will certainly do so, if they consider them commercially viable. On the other hand, it is evident, that there is no political will to recover the Argentine Merchant Marine, and this fact is probably the decisive one. Therefore, no matter how optimistic anyone may be, the real outcome is clearly stating that the Argentine Merchant Marine is gone as such.

### Recommendations

According to the statements of the deregulation decrees, it is in the interest of the country to have a national Merchant Marine, thus, the actions taken were supposedly oriented to improve its condition. The results are extremely negative, but still no corrective action has been taken. There is a dichotomy between the words and the actions taken. Therefore, decisions should be taken at the highest political levels in order to decide whether it is in the interest of the country, or not, to have a national Merchant Marine.

If the decision taken is that the country must have a national Merchant Marine, it is strongly recommended that urgent measures should be taken in order to reverse or ameliorate the situation of the Argentine Merchant Marine after the deregulation process.

The legal background of the deregulation process, needs a deep revision, because the legal abuses committed during its implementation will be a great source of claims and filing of suits in the near future, specially in the light of the results, and they may jeopardise the whole process.

In implementing the revision of the legal framework, it is recommended that all interested parties are included in such a revision, and that every party gives its own point of view on the situation and contributes to reach a necessary consensus.

It is of paramount importance that a good revision is done to the good results, in order to improve even further, and to the bad ones, in order to take corrective actions, with the aim to achieve the original goals of the deregulation process.

Regarding the national fleet, urgent measures are required in order to enlarge its GRT., the number of units, and to include modern units. Special policies will be required to implement it, whether using the old Merchant Marine fund, or some other instrument. The legal framework will require special attention, in order not to over regulate or create inequities. In order to promote the recovery of the tonnage, a tax reduction or exemption benefits, instead of subsidies, is recommended. This has proved much more efficient in countries like Greece. Moreover, this tax reduction/exemption has the additional advantage of facilitating new ways for financing, such as leasing, which is mainly based on taxation benefits.

It is evident that ships flying the national flag would require a different regime from those of flags of convenience. Therefore, minimum regulations should be drafted and

put in place, taking advantage of the knowledge gained from the problems before and after the whole process.

Regarding the seafarers, if the national fleet recovers, the number of jobs would increase by itself. Many of the seafarers who left will return. However, if the time of recovery is too long, many of them may never return. Thus actions are required immediately. Nevertheless, in the case of a sudden recovery of the tonnage, it would indeed create a big manning problem, specially for getting senior officers and ratings with adequate sea experience.

Therefore, in order to recover the lost seafarers for the activity, a new and modern legal framework and labour agreements should be put in place. Once again, the former experience should be included in the building of the new legal and labour framework.

As was mentioned before, in the opinion of the author, the Argentine Merchant Marine as such, has passed away. Moreover, it would probably be an error to try to resurrect it under the present conditions. On the other hand, to overcome the Decree 1772/91 would require a political influence and lobbying capacity which is totally out of the question in the present situation. Likewise, to make shipowners sign agreements with the unions in the present shipowners market is impossible. Hence, these two aims are not achievable through political or union pressure. Even if unions take advantage of the shortage of seafarers in the present market and use it as a pressing tool, it is dangerous due to the possibility of a shift to foreign crews.

Therefore, if the unions and shipowners are still interested in doing whatever they can to recover the Argentine Merchant Marine, it is important that the industry gets rid of the Decree 1772/91 and enables the signing of agreements between unions and shipowners. However, these goals will not be attained exercising any type of pressure between the parties, but being creative. From the past experience it is clear that the real engines of the industry have been the small companies. They were the ones

creating more employment, job opportunities, and career prospects while at the same time they proved to be the most pushy companies in the whole industry, not to mention the fact that all large companies originally started as small ones. Therefore, the way to go would be that the government should focus its efforts on supporting the activities of the small companies. The key to restarting the Argentine Merchant Marine, is to create a special legal framework for small companies parallel to the one currently in force, not in contradiction but in addition to the existing one, in order to by-pass the deregulation decrees. Moreover, under the new legal regime and the auspices of the state, new working agreements should be signed between shipowners and unions. It is clear that the state would have a significant role in making things happen; however, it is in the interest of the state to have a healthy Merchant Marine and without the former requisites nothing would pass the test of time.

A new national register for small shipowners should be created with the full support of the state in terms of financing facilities, legal framework and export credits (or similar), in order to enable newbuildings and acquisitions. If sufficiently supported the small companies could rapidly boom and get control of all the niche markets, enhancing and even enlarging them. In fact, quite a lot transportation that is done by truck may be done by means of inland waterway transport, which may provide a really cheap transport substitute, while at the same time creating new niche markets. To conclude, the idea is not to fight a lost battle trying to get things back to the former state of affairs, but to create something new that would enable the development of a brand new and healthy Merchant Marine, to create new business for the shipowners and at the same time a source of high quality jobs for the seafarers. Nevertheless, nothing would be achieved if there is no will on the part of the government, shipowners and unions.

Both shipowners and unions should radically change their attitudes towards each other. It is of utmost importance that they see each other as necessary and complementary, the perception of enemies to defeat should be something of the past. It



would require from both a mature and professional attitude towards the business, looking for original solutions to common problems. A better and constant communication between companies and unions is essential to achieve optimum results. The attitude towards the future will require co-operation and understanding as it has been proved during the recent past, that no matter who is exercising the pressure on the other, the business is finally suffering, and sooner or later both parties suffer the consequences. Therefore, erasing the wounds of the past may be difficult, but it is absolutely necessary for the sake of the Argentine Merchant Marine, which at the end of the day is the cause of both parties.

Moreover, the trends and the figures are clearly saying that the Argentine Merchant Marine is fading away and with it, the business for the shipowners, and the jobs for the seafarers. Therefore, it is very important that all the actors in the shipping business, unions and shipowners in the first place, work together to find solutions. Lobbying should be done at all possible levels to obtain the necessary tools and support to help the national Merchant Marine to recover from the deregulation consequences while there is still time.

The bottom line would be that, although necessary in macroeconomic terms, the deregulation was no panacea for all the problems in different areas. The total and absolute deregulation of the national Merchant Marine did not bring any good, on the contrary, it was the cause for all the coming problems. Therefore, the final recommendation would be that a certain amount of regulation is necessary, however, it must be kept to a minimum. On the other hand, all the accumulated experience during the period before and after the deregulation should be wisely used in order to avoid the same problems and obtain good results. Nevertheless, nothing will be achieved if there is no political involvement, will, and support behind.

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### Annex 1. Fleet data

YEAR	State Owned				Private Shipowners				Total		
	Units	G.R.T	% of Total	Av. age	Units	G.R.T	% of Total	Av. age	Units	G.R.T	Av. age
1979	101	1,248,000	43.20	11.40	99	1,641,000	56.80	17.10	200	2,889,000	14.30
1980	95	1,295,076	42.18	9.80	102	1,775,158	57.82	17.50	197	3,070,234	14.00
1981	89	1,305,170	44.26	8.70	100	1,643,451	55.74	17.90	189	2,948,621	13.70
1982	92	1,389,064	47.96	9.10	95	1,507,528	52.04	15.90	187	2,896,592	12.50
1983	89	1,423,245	45.87	8.30	101	1,679,433	54.13	16.70	190	3,102,678	12.70
1984	84	1,427,844	43.84	8.50	108	1,828,849	56.16	16.30	192	3,256,693	12.70
1985	81	1,366,399	42.70	8.90	108	1,833,787	57.30	16.70	189	3,200,186	13.20
1986	76	1,256,255	39.64	8.70	102	1,912,570	60.36	16.90	178	3,168,825	13.50
1987	68	1,174,864	41.74	9.30	92	1,640,184	58.26	15.90	160	2,815,048	13.50
1988	65	1,157,569	42.78	9.80	91	1,548,255	57.22	17.60	156	2,705,824	14.10
1989	62	1,127,539	41.31	10.70	92	1,601,988	58.69	18.30	154	2,729,527	15.30
1990	62	1,141,984	39.30	11.30	90	1,733,409	60.70	17.10	152	2,875,393	14.80
1991	62	1,143,328	40.86	12.30	87	1,655,136	59.14	18.10	149	2,798,464	15.60
1992	55	1,051,302	43.35	13.20	78	1,373,770	56.65	18.00	133	2,425,072	16.10
1993	54	1,058,012	48.06	14.00	64	1,143,450	51.94	17.80	118	2,201,462	16.00
1994	29	468,254	24.05	14.79	75	1,479,043	75.95	17.08	104	1,947,297	16.50
1995	17	241,504	13.79	14.46	75	1,509,693	86.21	17.20	92	1,751,197	16.78
1996	13	175,410	9.72	14.75	74	1,628,379	90.28	17.31	87	1,803,789	17.01
1997	12	168,050	9.24	14.99	72	1,649,789	90.76	17.23	84	1,817,839	16.99
*1998	12	168,050	10.14	15.99	64	1,490,064	89.86	17.32	76	1,658,114	17.16