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**Re-thinking Argentina's Labour and Social Security Reform in the 1990s: Agreement on Competitive Corporatism**

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**Abstract**

This paper will analyze the Menem administration's social policy reforms during the 1990s. Neo-liberal reforms in Argentina are well-known both in the economy and in the social arena, but in the latter we can discern the presence of tripartite negotiations. The form of such negotiations, the type of agreements reached as a result, and the background to those agreements will be discussed. We also pay attention to the concept of competitive corporatism, which was established under the increase in market competition brought about by globalization.

**Keywords:** Argentina, Neo-liberal Reform, Competitive Corporatism, Social Policy

**JEL classification:** H55, I18, I30, J38, J68

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# Re-thinking Argentina's Labour and Social Security Reform in the 1990s: Agreement on Competitive Corporatism<sup>1</sup>

Koichi USAMI

## Introduction

Argentina experienced an economic crisis of unprecedented proportions during the 1980s, "the lost decade". This contrasted with the nature of her transition from an authoritarian regime to a democracy in 1983. Carlos Menem, from the Peronist Party, was elected president in 1989 when the inflation rate reached almost 5000%. To restore the economy, he adopted neo-liberal economic policies and carried out social reforms such as the deregulation of the labour market. These policies were adopted to cope with an increase in market competition brought about by globalization and to mitigate high levels of unemployment through making the labour market more flexible. Social security reforms were required to deal with the transformation in industrial relations, the high unemployment rate, and a huge financial deficit.

Neo-liberal reform was dramatic in the economy, but with regard to the social arena, tripartite negotiations occurred between the state, labor and employers before reforms were introduced, and certain measures were taken to mitigate the effects of the market-oriented social policies. This paper will pay attention to these negotiations and their agreements concerning social policy reform. We assume the formation of a certain type of corporatism in a situation of increased market competition and that labour and social security reforms were achieved through agreement. The aim of this paper is to prove this hypothesis.

### 1. Political Economy around Neo-liberal Reform

Many scholars noticed the peculiarity of the democracy under which neo-liberal reforms were realized during the 1990s in Latin America. O'Donnell called it a delegative democracy which consists of "constituting, through clean elections, a majority that empowers one to become, for a given number of years, the embodiment and interpreter of the high interests of the nation" and to be given an authority

independent of other organizations(O'Donnell 1999: 164). Argentine Menem administration is the representative example of this type of democracy as well as Peruvian Fujimori administration.

Panizza criticized delegative democracy as it focuses only on the peculiarity of a neo-populist type of leader, and he insisted on the need to understand the context in which such leaders acted. He pointed to the formation of an alliance between the Peronists' traditional support groups, on the one hand, and the group which encouraged neo-liberal reforms, on the other, and claimed that this alliance was behind the success of the neo-liberal reforms (Panizza 2001: 164-166). Levistky paid attention to the institution, especially to the Peronist Party's flexibility. He argued that the flexible organization of the Peronist Party made it possible for the party to change from one that was labour-based to one that was clientelist. To establish this political clientelism, the Menem administration used various kinds of government resources. This is how it was able to achieve its neo-liberal reforms (Levistky 2003).

Panizza and Levistky looked beyond Menem's character to identify institutional factors behind the success of the government's neo-liberal reforms. The study of welfare states in developed countries, and new institutionalist theories, such as path dependency, were applied in an analysis of the retrenchment of the welfare state (Pierson 1994, Pierson 2001: 414-419). However, we know that in Argentina, negotiations between the state, labour and industry all continued to negotiate social reforms, even in the 1990s. Labour and social reforms were also realized after the three reached certain agreements. As we can clearly detect these tripartite and corporatist negotiations and agreements, we need, in the case of Argentina, to examine them when analyzing labour and social security reform.

When analyzing labour and social security reforms in this way, we need to reconfirm the concept of corporatism. Schmitter's definition is widely accepted. Corporatism is "a system of representation in which the constituent units are organized into a limited number of singular, compulsory, non-competitive, hierarchically ordered and functionally differentiated categories, recognized or licensed (if not created) by state and granted a deliberate representational monopoly within their respective categories in exchange for observation of certain controls on their selection of leaders and articulation of demands and support (Schmitter 1979 13)". The concept of corporatism

can be divided into the following two sub-concepts: state corporatism and social corporatism (Schmitter 1979 20-22). I have argued that the formation of the Argentine welfare state under the Peron government is related to state corporatism (Usami 2001).

The situation around tripartite negotiation in Latin America changed radically during the 1990s. With the increase in international and domestic competition in the market, tripartite negotiations on the issues became increasingly common. We assume that competitiveness and productivity must have been considered in the agreements reached in this way. This type of negotiation may be different from that of the social or state corporatism that Schmitter mentions. To analyze this new type of corporatism, which looks at competitiveness and productivity in the midst of globalization, the concept of “competitive corporatism”, which Rodes has proposed, will be useful.

Grote and Schmitter identified the resurrection of corporatism on macro-issues at the national level during the 1990s in western European countries rather than focusing on globalization and the structure of the E.U. (Grote and Schmitter 2003). Rodes observed that it began to be more difficult to solve the problems of employment and social security during globalization. Referring to Southern Europe, the Netherlands and Ireland, he insists that this does not entail a decline in the influence of corporative processes on socio-economic reforms (Rodes 2001 176). He named this new type of tripartite negotiation “competitive corporatism”. The structures of competitive corporatism are less routine, the partners weaker institutionally, exit costs lower, and the presence of the state is much more strongly felt (Rodes 2001 177). The new social pacts involved new coalitions over the nature of distribution and productivity. The former required policies such as the “redesign of social security systems to prevent implicit or explicit disentanglement in relation to two particular groups: women workers and those not in permanent employment”, and the latter includes the policies like “a shift away from legislated or rule-governed labour market regulation to negotiated labour market regulation” (Rodes, 1998 180-181).

So what produces this new type of corporatism? Labour unions seem weaker these days, but Rodes says that it is unions who have the networks in the workplace and are embedded organizationally. These unions can thus form social pacts, because they can place restrictions and allocate resources on social issues. ‘Restrictions’ here means a union veto on certain policies, while ‘resources’ means support for certain policies. It is

also necessary to point out that the absence of well-organized unions makes it difficult for employers to handle fragmented workers (Rodes 1998 195-196).

## 2. The Menem Administration and Competitive Corporatism

### 2-1 Neo-liberal Reform by the Menem Administration

In 1989, Carlos Menem of the Peronist Party won the presidential election and formed his government in the midst of an unprecedented economic crisis. In this situation, the most urgent political aim of the Menem administration was to restore the collapsed economy. Although labour unions constituted the largest organized support group for the Peronist Party, the Menem government adopted neo-liberal policies to stabilize the economy.

Neo-liberal economic reforms were introduced extensively when Domingo Cavallo, who had had no political relationship with the Peronist Party, became Minister of the Economy in 1991. He simplified the customs system and lowered tariffs dramatically. Almost all state-owned enterprises were privatized, which meant that the state did not compensate for these entities' losses, while it was also able to obtain special revenues from their sale. At the same time, this privatization, through debt equity swaps, helped solve the problem of Argentina's massive external debt.

Through these policies, the Argentine economy was liberalized and the fiscal deficit reduced, and this slowed down the inflation rate. As a result of these neo-liberal economic reforms, measures to protect industry, which were installed under import substitution policies, were abolished, and many industries were exposed to severe market competition. This meant that many formal sector workers suffered from both a loss of job and wages security.

The legal framework to promote neo-liberal economic reform was the National Reform Law and the Economic Emergency Law, which were passed by Congress in 1989. The former stipulated the deregulation of the domestic market and promoted privatization, while the latter stipulated the abolition of laws to protect industry, which were at the core of the ISI economic model. The second also aimed to reform the pension and medical insurance systems. To achieve neo-liberal economic reform, it is well known that Menem administration used emergency presidential decrees when necessary.

President Menem promulgated 336 presidential decrees between July 1989 and April 1994 (Rubio y Goretti 1996 451). This style of Menem's formed the background to O'Donnell's view on delegative democracy theory (O'Donnell 1997). However, concerning labour and social security reform, sometimes the government intended to carry out reforms through presidential decrees but could not do so because of labour union opposition. In these circumstances, the Menem administration tended to achieve its goals through tripartite negotiations.

## 2.2 The Major Component of New Corporatism

Now we can identify the major components of the new corporatism in the Menem administration. First, as the leading labour union organization, there is the General Confederation of Labour (CGT: Confederación General de Trabajo) which until now has been the major support group for the Peronist Party. The CGT is the only national center of labour unions that is certified by the Ministry of Labour to be a legal entity as a labour union. Labour unions opposed to the Menem government, such as the teachers' unions and the government employees' unions formed a major new organization, the Center of Argentine Workers (CTA: Central de los Trabajadores Argentinos). They have relations with unemployed and poor people's social movements, but are not legal labour entities like the CGT.

The CGT divided into two groups in the 1989 presidential elections. One group supported Carlos Menem as the presidential candidate of the Peronist Party, and the other supported Antonio Cafiero, who was the governor of the province of Buenos Aires. This division continued until their unification in 1992 under the leadership of the pro-Menem unions. This unification enhanced the CGT's power to negotiate, so the Menem administration changed its style of policy making from one that was delegative democracy style to one that was based on negotiation, at least concerning social policy.

Nevertheless, many indicators still show a decline in the labour unions' political power. Many scholars point out that the division of the CGT reduced its political influence (Senén González y Bosoer 1999 29-31; Levistky 2004). Levistky also referred to the decline in the number of national congress deputies from labour unions from 29 in 1983 to 3 in 2001 (Levistky 2004 20). Marshall, too, referred to the fall in the union's organizational rate from 49% in 1990 to 42% in 2001 (Marshall y Groisman 2005 12).

Second, we can note eight major industrial organizations during the Menem administration. (1) ADEBA: The Association of Banks of Argentina (Asociación de Bancos de la Argentina); (2) ABRA: The Association of Banks of the Republic of Argentina (Asociación de Bancos de la República Argentina); (3) The Stock Exchange of Buenos Aires (Bolsa de Comercio de Buenos Aires); (4) The Argentine Chamber of Commerce (Cámara Argentina de Comercio); (5) The Argentine Rural Society (Sociedad Rural Argentina); (6) The UIA: Argentine Industrial Union (Unión Industrial Argentina); (7) The Argentine Chamber of Construction (Cámara Argentina de la Construcción); and, (8) The Argentine Union of Construction (Unión Argentina de la Construcción).

The UIA, ADEBA, and Sociedad Rural were the three major industrial organizations among the eight. The UIA, especially, founded in 1887, has, in practice, represented manufacturing, so it was used to represent the opinions of industry in the tripartite negotiations. Unlike the CGT, the UIA has not maintained a formal partnership with traditional political parties, such as the Radical Civic Union (Unión Cívica Radical) or the Peronist Party.

Third, in terms of the state, technocrats who were political appointees and who did not have political relations with the Peronist Party were the people who actually realized the neo-liberal reforms. Domingo Cavallo was judged solely on the basis of his talent and he was invited to join the cabinet as Minister of the Economy. He executed the main neo-liberal economic reforms in the Menem administration from 1991 to 1994, when he resigned. He had a Ph.D. from Harvard University and had no political background with the Peronist Party.<sup>1</sup> Also representative, Jose Armando Caro Figueroa was another technocrat who worked as Labour Minister and carried out labour and social security reforms from 1994 to 1997. He was a labour lawyer and worked in the government of the Radical Party in Argentina and in the Ministry of Labour in Spain. After these experiences, he was brought into the Menem government as a specialist on labour reform (Caro Figueroa 1997). There were numerous other technocrats who worked in the Menem administration to achieve neo-liberal reforms. However, they did not have political bases or relations with industrial and labour organizations, such as the CGT. So we need to research how they could carry out their

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<sup>1</sup> Retrieved from <http://www.cavallo.com.ar> on October 30 2006.



policies with no political base or relationship with such organizations.

### 2.3 Competitive Corporatism in Argentina

This section will review the kinds of negotiations and agreements that were reached. At the beginning of the Menem administration, anti-government labour unions protested against the Menem government which was intending to push for neo-liberal economic reform. Still, President Menem did call for the formation of a tripartite agreement as early as December 1989.<sup>2</sup> Tripartite negotiations had frequently been held before this, especially on labour and social security reform. Usually it was the administration who called for these negotiations, so such corporatism can be characterised as being carried out under the leadership of the state.<sup>3</sup>

Concerning labour reform, the state, the Group of Eight representing industry as mentioned above, and the pro-Menem labour unions began to negotiate over legislating on “employment law” in a way that would help make industrial relations more flexible. Although they could not agree on the details, they formed a consensus to pass legislation in Congress.<sup>4</sup>

In terms of social reform, medical insurance reform and pension reform were major objectives of the Menem government, but pension reform took precedence over medical insurance reform. A new director of the social security department in the Ministry of Labour was appointed as someone who intended to promote pension reform, and 20 staffs of that department were hired with subsidies from the World Bank in January 1991 (Coelho 2002 51). In June 1992, President Menem addressed the need for pension reform in a television address.<sup>5</sup> At that time, changes to the pension system were being presented to the Lower House. These intended to reform the existing pay-as-you-go pension system into basically a two-pillar system, composed of a common basic pay-as-you-go pension for all and a mandatory capitalization system for employees under 45 years old (Isuani y San Martino 1993 47-50).

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<sup>2</sup> *El Bimestre*, Noviembre-Diciembre de 1980, p.40.

<sup>3</sup> Interview with Funes de Rioja, president of the department of social policy of the UIA, held on September 19, 2006.

<sup>4</sup> *La Nación*, 2 y 9 de agosto de 1990.

<sup>5</sup> *La Nación*, 3 de julio de 1992.

Pensioner organizations opposed this proposal immediately and marched in the street to express their opposition.<sup>6</sup> The reason for the pensioners' opposition was clear. They feared that the existing pay-as-you-go system under which they received pensions would be unsustainable with the introduction of capitalization, because the premiums existing workers would pay would go into their own accounts and the state would have to compensate and provide monies to fund current pensions. But the organization rate of the pensioners was low, around 10% according to their own figures, and they were divided into minor organizations, so their influence on policy may not have been significant (Alonso 1998 613-614). The unified national center of labour unions also opposed the pension reform.<sup>7</sup> However, the UIA justified the government's new policy by saying that the existing pension system was bankrupt, and it agreed to the government's proposals.<sup>8</sup>

Under these circumstances, tripartite negotiations began on pension reform on the initiative of the Minister of the Economy, Domingo Cavallo, in an advisory committee on production, investment, and growth (Consejo de producción, inversión y crecimiento). In these negotiations, the government, in May 1992, accepted the demands of the labour unions, which, one, required that the union be able to manage their own private pension companies, and, two, stipulated the foundation of a supervisory body on the privatized pension system.<sup>9</sup> The deputies from the labour unions and the other deputies who sympathized with them, had the deciding votes in the Lower House, so the final amendment approved by the Lower House stated that an employee could select as a second pillar either the pay-as-you-go system or the capitalization system.

Labour unions, though, also recognized the problems in the existing pay-as-you-go system,<sup>10</sup> so they did not strongly oppose pension reform per se. Thus, the focus of the negotiation was on how to combine the capitalization system, which was more market-oriented, with the pay-as-you-go system, which guaranteed existing pensioners' living standards. The pension reform at the end of 1992 must be regarded as a

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<sup>6</sup> *La Nación*, 3 y 4 de junio de 1992.

<sup>7</sup> *La Nación*, 2 de mayo de 1992.

<sup>8</sup> Interview with Funes de Rioja, president of the department of social policy of the UIA held on September 19, 2006.

<sup>9</sup> *La Nación*, 27 de noviembre de 1992.

<sup>10</sup> Interview with Rubén Cortina, one of the leaders of the Union of Commercial Workers held on September 25, 2006.

compromise between the demands of the unions and those of the technocrats who wanted market-oriented reform in the social arena.

The most notable agreement reached through tripartite negotiation during the Menem administration was the “Macro-Agreement on Employment, Productivity, and Social Equity” (*Acuerdo marco para el empleo, la productividad y la equidad social*), which was signed at the presidential residence. Caro Figueroa, the Minister of Labour, promoted this agreement from the beginning of July and it was signed on July 25, 1994. This agreement consisted of 17 clauses but can be summarized under the following six points (Ministerio de Trabajo 1994). (1) Promote flexible industrial relations to create employment, and, at the same time, introduce compensatory policies for the problems caused by flexibility, such as re-employment of the jobless and medical programs for the unemployed; (2) Promote access to information on management and participation in management by the labour unions; (3) Decide the ratio of social security contributions to family assignment between labor and the employers, and privatize industrial accident insurance; (4) Recognize the importance of collective bargaining and introduce policies against unfair labour profits or corporate bankruptcy; (5) Review industrial relations to increase competitiveness and productivity according to changes in circumstances, reform collective bargaining, and regulate immigration during globalization; and, (6) Set up a committee and an agenda to realize this agreement.

Based on this agreement, many laws were established in 1995. The most important was the Labour Liberalization law. This law permitted, for the first time, part-time labour contracts in order to promote flexibility in industrial relations. At the same time, this law aimed to increase the employment of women, disabled persons, and the elderly. Other laws passed in 1995 included the Small and Medium-Sized Companies Law, which was established to promote these companies, the Industrial Accident Law, which included private insurance, the Bankruptcy Law, which regulated asset management and collective bargaining when a company went bankrupt. In 1996, Congress passed two laws. One stipulated compulsory arbitration in labour disputes and the other reformed the family assignment creating a new system that included private insurance (Gioradano y Torres 1997 236-244; Ediciones del País 2006).

These laws, based on the tripartite agreement in 1994, are compromises between labour, the state, and industry. On the one hand, labour unions accepted institutional reforms

to increase competitiveness and productivity in accordance with transformations in the market. On the other hand, the state and enterprises compensated for the new risks brought about by these institutional reforms. In this sense, the style of this agreement is in line with competitive corporatism.

There are the following three characteristics in this agreement. First, it certainly contributed to increased competitiveness and productivity, but it offered weak compensatory policies to mitigate the negative effects of the reforms. Second, the ideal type of negotiation, according to competitive corporatism, is de-centralized. However,, in Argentina, there were centralized negotiations, instead of negotiations on the issues, in which the state, the national center of labour and companies all participated. Third, competitive corporatism in Argentina continued for only seven years under the Menem administration. It began with a provisional agreement on employment law in 1990, reached its peak with the Macro-Agreement on Employment, Productivity, and Social Equity in 1994, and collapsed with the resignation of the Labour Minister, Caro Figueroa, in 1997.

#### 2.4 What Created Argentine Competitive Corporatism?

Although many scholars point to a decrease in the influence of the labour unions, we should ask why tripartite negotiations and agreements were signed in Argentina? First, it is important to understand Argentine's labour union and collective bargaining laws. Both only permit a labour union that is a legal labour entity as certified by the Ministry of Labour to sign a collective bargaining agreement (Fernandez Madrid y Caubet 1996 274-276), and only the CGT has such a certification as the national center of labour unions. This legal framework, instead of changes in external circumstances, contributed to the continuation of the corporatist type of tripartite negotiation in Argentina.

Second, the behavior of the three actors also contributed to the formation of corporatist negotiations. Labour unions opposed the neo-liberal reforms of the Menem government from the first, because they thought these reforms would reduce wages and damage working conditions. Though the unions opposed the reforms, they had different positions on them. Some unions intended to participate in the negotiations to reduce

the disadvantages arising from the reforms.<sup>11</sup> The key point concerning government participation in the negotiations is that the persons who realized the reforms were politically appointed technocrats. They had no relation with labour unions and no political background. The Labour Minister Caro Figuroa himself testified that he felt this weakness of not having a political background. So he needed to participate in the tripartite negotiations and persuade the unions and industry to realize social reforms.<sup>12</sup> The person in charge of social policy at the UIA also said it was desirable to participate in the tripartite negotiations on labour and social security reforms.<sup>13</sup> So all three actors thought it necessary to negotiate labour and social security reforms in a situation of socio-economic transformation, such as globalization and increased market competition.

Murillos also analyzed the achievements of corporatism by the government and labour unions in her analysis of the neo-liberal economic reforms in the 1990s. She applied institutionalist rational choice theory to the inter-action between the labour unions and the union-based political parties. Given the objective of union leaders to maintain their position, when there was no competition among political parties concerning the unions or among the unions concerning the political party in power, corporative action between the union and the government could be achieved. After the unification of the CGT in 1992, there was corporative action and the unions obtained certain concessions (Murillo 2000 148-19). However, although her argument can explain corporative actions between the government and the unions during the Menem administration after 1992, it cannot sufficiently explain why these actions were market-oriented. For this, again need to consider the effects of globalization and the decline in union influence.

### 3. Labor and Social Security Reforms

#### 3.1. Flexibility in Industrial Relations

In this section, the contents of the labour and social security reforms in the agreements based on competitive corporatism in Argentina will be discussed. The liberalization policies of the Menem administration produced domestic and external market

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<sup>11</sup> Interview with Rubén Cortina, one of the leaders of the Union of Commercial Workers held on September 25, 2006.

<sup>12</sup> Interview with Caro Figuroa, Minister of Labour, on September 25, 2006.

<sup>13</sup> Interview with Funes de Rioja, president of the department of social policy of the UIA held on September 19, 2006.

competition. Industry demanded labour policy reforms in line with this situation. The president of the social policy department at the UIA, Funes de Rioja, insisted that deregulation of the labour market was required to reduce labour costs and create new industrial technology in the new economic situation.<sup>14</sup> The Menem government also stated the need for the deregulation of the labour market because it increased jobs (Senén González y Bosoer 1999 51; Caro Figueroa 1993 30-47). Under these circumstances, employment and labour liberalization laws were enacted in 1991 and 1995 respectively.

Table 1 Flexible Labour Contracts established by Employment Law

| New labour contract  | Targeted person   | Period   | Social security  |
|--|---|--|--|
| Definite term labour contract to promote employment              | Registered unemployed and unemployed people through administrative reform | From 6 months to 18 months   | 50 % reduction in pension, family allowance and unemployment insurance contributions by the employer |
| Definite labour contract for the establishment of a new business | Employment for new production lines                                       | From 6 months to 24 months within 4 years of the establishment of a business | 50 % reduction in pension, family allowance and unemployment insurance contributions by the employer |
| Probation contract for young people                              | Young people under 24 years old who experienced job training              | One year certification of acquirement of a skill                             | Exemption from pension and family allowance contributions by the employer                            |
| Definite labour contract for the acquirement of a skill          | Young people under 24 years old who have not experienced job training     | From 4 months to two years<br>Wages to be paid out of unemployment insurance | Exemption from pension and family allowance contributions by the employer                            |

Source: Font, 1997.

The three principal changes which labour liberalization law stipulated in 1995 are as follows: (1) Prolonging the period of the probation contract from 3 months to 6 months by collective agreement; (2) Stipulation of the part time labour contract; and, (3) Stipulation of a definite-term contract from 3 months to 2 years for women, disabled persons, and veterans of the Malvinas War. The government's original plan for this law intended to decentralize negotiations on working hours, paid vacations, and lay-offs, but these were deleted in the final plan after strong opposition from the unions (Ferario

<sup>14</sup> Interview with Daniel Funes de Rioja, 1994, *ERGO*, vol.1 no.1, p.26.

1994).

Employment law established four new definite-term labour contracts with exemptions or reductions in social insurance contributions (see Table 1). This flexibility in industrial relations was expected to reduce labour costs, make it possible for young people and the unemployed to enter the labour market, and offer opportunities for young people to obtain job skills. Employment law also established compensation for unregistered workers and integrated legislation so that workers with definite-term contracts had to register their contracts and join social security. In this way, there was expected to be a reduction in the number of workers without labour contracts and a guarantee of social insurance for them. At the same time, this law created a full-dress unemployment insurance system in Argentina for the first time. In this sense, this law aimed at a deregulation of the labour market as well as protection for workers with a flexible labour contract.

This deregulation of the labour laws introduced flexible industrial relations, such as a definite-term labour contract, the prolonging of the probation period, and part-time contracts which seem to be suitable in a situation of increased competition. On the one hand, the persons targeted in these laws are limited to socially vulnerable people, such as young people and unemployed persons, and on the other hand, these laws established an unemployment insurance system and stipulated that young people could obtain skills through these new job contracts, so that the negative side of the deregulation of the labour market would be mitigated by these measures. In this sense, these two laws for the deregulation of the labour market were formed along the lines of an agreement arising out of competitive corporatism. As far as wages are concerned, it was decided, by presidential decree 1334/91 enacted in 1991, to base wages on increases in productivity. Thus, productivity and competitiveness more directly affected the issue of wages.

### 3.2. Social Security Reforms

This section will discuss the contents of the social security reforms. The principal social security reforms during the Menem administration were the establishment of unemployment insurance by employment law, pension reform, and medical insurance reform. First, we will look at pension reform in Argentina. As described in section 2, a compromise was achieved in the Advisory Committee on Production, Investment and

Development under the Ministry of Economy in 1992. The new pension system consisted of the following three pillars: (1) a basic, common pay-as-you-go pension for all; (2) a compensatory pay-as-you-go pension for certain people, the contributor can choose between (3) an additional pay-as-you-go pension, or (4) a capitalization system from a private company.

We can see that the advantage of pension privatization is to foster a capital market and to contribute to economic development (Banco Mundial: 1994 242). At the same time, pension privatization makes clear the relationship between contributions paid and pensions received so one can expect a reduction in non-payments. In this way, the private pension system was to increase the coverage of the pension system. What is more, all contributors to the private pension system would have their own accounts at a private company and this was appropriate for the new labour market situation where a worker's chances to change jobs would increase. On the other hand, a pay-as-you-go system guarantees existing pensioners' interests. To sum up, the new pension system which combined a pay-as-you-go system and a private system can be classified as an agreement in line with competitive corporatism.

On the other hand, in terms of medical insurance reforms, a compromise based on competitive corporatism could not be reached. The existing social medical insurance system originated in the government of Peron (1946-1955) and was expanded in 1970 when the Onganía military government obliged employed workers to participate in the medical insurance system and allowed labour unions to manage their own medical insurance. After 1970, social medical insurance expanded in Argentina, but it began to be criticized for its inefficiency and bad service. Also, its management by the unions was criticized for their opaque accounts processing. Panadeiros proposed a reform plan which intended to introduce market mechanisms to social medical insurance to improve its service and efficiency. She suggested a free choice in medical insurance by contributors to increase competition (Panadeiros: 1991 13-27).

The government reform, announced in January 1992, was created by technocrats at the Ministry of Health and Economy. It proposed a free choice in medical insurance, including that of a private medical insurance company.<sup>15</sup> Free choice was expected to

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<sup>15</sup> *La Nación*, 3 de enero de 1992.



increase efficiency through competition and cut the relationship between contributors and their jobs. In this sense, the proposal of a free choice in social medical insurance is convenient for the new flexible labour market situation.

Labour unions strongly opposed the proposal of a free choice in social medical insurance. The General Secretary of the pro-government CGT, Raul Amin, insisted that the medical insurance managed by labour unions must achieve financial stability through their own efforts, and labour unions must continue the management of their medical insurance.<sup>16</sup> The General Secretary of the anti-government CGT, Saul Ubaldini, also insisted that it was necessary to maintain the current system.<sup>17</sup> One labour union leader stated that labour unions were concerned about the background to the free choice proposal in which some of its advocates might think that some of the unions' power came from their management of medical insurance, and this is why it was better to change the situation.<sup>18</sup>

The conflict between advocates of a free choice and the labour unions continued for a while, then in May 1997 the Minister of Labour, Caro Figueroa, and representatives of the unified CGT reached an agreement in which private medical insurance companies would be excluded from the free choice in social medical insurance reform<sup>19</sup>. The UIA rejected this agreement and criticized it.<sup>20</sup> This agreement was in line with labour union demands, which included a decrease in unstable employment and the maintenance of the existing centralized negotiation system. Here we can see the decline of competitive corporatism in Argentina, which we will discuss later in more detail.

#### 4. Result of the Reforms

##### 4.1 Significance of Labour and Social Security Reform

This section will analyze the significance of labour and social security reform based on agreements reached through competitive corporatism in Argentina, especially with concern to its institutional aspects and results. The key point of competitive

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<sup>16</sup> *La Nación*, 15 de enero de 1992.

<sup>17</sup> *La Nación*, 21 de enero de 1992.

<sup>18</sup> Interview with Rubén Cortina, one of the leaders of the Union of Commercial Workers held on September 25, 2006.

<sup>19</sup> *Clarín*, 9 y 10 de mayo de 1997.

<sup>20</sup> *Clarín*, 13 de mayo de 1997.

corporatism is that labour unions will cooperate to increase productivity and competitiveness in an increasingly competitive market, and enterprises and the state will compensate for the new risks that arise from deregulation. First, we will see how this agreement and the policies based on this agreement contributed to an increase in productivity and competitiveness.

With regard to the deregulation of the labour market, we need to pay attention to what kind of flexibility was achieved. Many scholars give various definitions of flexibility in industrial relations, but it is convenient to use Regini's classification, which seems to be very clear. He classified flexibility in industrial relations into four categories: (1) Quantitative flexibility: adjusting the amount of labour in correspondence with fluctuations in demand and technological change; (2) Organizational flexibility: transferring jobs easily and making workers multi-task according to fluctuations and changes in demand; (3) Wage flexibility: adjusting wages with ease and in correspondence with changes in the labour market and competitive circumstances; and, (4) Temporal flexibility: employing workers with ease under different kinds of labour contract and being able to adjust the number of workers in line with fluctuations in demand (Esping-Andersen and Regini 2000).

The main deregulation of the labour market during the Menem administration was the establishment of the definite-term contract, the prolonging of the term of probation, and the establishment of the part-time contract. These corresponded to what Regini calls quantitative flexibility, wage flexibility, and temporal flexibility. These types of flexibility are defined as being 'external'. They react to increased domestic and external competition in the market and globalization. On the other hand, organizational flexibility could not be achieved during the Menem government, contrary to the desires of both the government and industry. For this to have happened, negotiations would have had to have been decentralized, but strong union opposition stopped this.

We now need to see what social security institutions were established to attend to the risks generated by the transformation in industrial relations. As shown in the introduction of this book, Taylor-Gooby has indicated three new risks for paid work in the post-industrial world: (1) problems entering the labour market; (2) problems in maintaining stable, secure and reasonable paid employment, together with associated social security entitlements; and, (3) problems in gaining adequate training in a more

flexible labour market (Taylor-Gooby: 2004 19). In Argentina, there existed problems for young people entering the labour market and problems for informal sector workers entering the formal labour market. What is more, the deregulation of the labour market caused problems of instability arising from the new flexible working environment. How that instability is dealt with by the social security system must now be examined. Also, we will look carefully at whether workers with flexible labour contracts had a chance to improve their skills. In this sense, the problems Taylor-Gooby has pointed out existed in Argentina.

The laws establishing a flexible work system were aimed at young people, unemployed people, women, and disabled persons and were intended to get them to enter the labour market, but definite-term contracts or the prolonged probation term worsened job security, so labour unions criticized these flexible contracts and called them “contrato basura (contract sweepings)”. If a worker on a flexible contract could obtain skills during their working term, and then could obtain stable employment, the problems would not get worse. But the reality in Argentina is that two different kinds of labour markets have formed in formal sector. This is made very clear by Labour Minister Caro Figueroa’s next words. He said that making the labour market more flexible was intended to create a second labour market for young and unemployed people without touching the existing formal labour market.<sup>21</sup>

We will now move on to see whether the social security systems which were established along with the flexibility in industrial relations precisely matched the new risks. The establishment of full-dress unemployment insurance in Argentina through employment law was a measure to address a situation where there was an increase in the possibility of becoming unemployed and job insecurity, but the probation contract is exempted from unemployment insurance and pension contributions, so workers were not covered by unemployment insurance and their future pensions were affected. Employment law also intended to reduce the number of non-contract workers through an integrated system of registration for labour contracts and social security, but, as will be seen in the next section, the number of informal workers has never fallen. The partial privatization of pensions was expected to increase pension coverage through the establishment of a clear relationship between contributions and future pensions. Also, private pensions are

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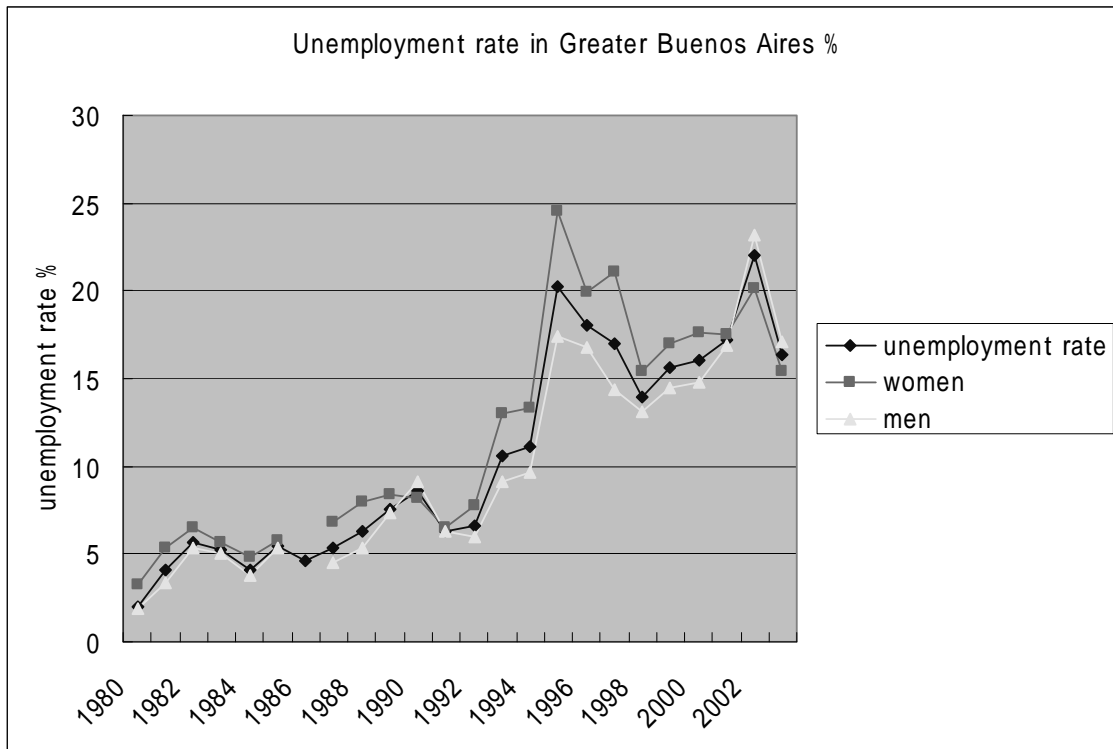
<sup>21</sup> Interview with Caro Figueroa, Minister of Labour, on September 25, 2006.

considered appropriate in a flexible labour market, but here again this goal could not be achieved, as will be seen in the next section.

#### 4.2 The Employment Situation

In this section, we will gain a more precise picture of how deregulation affected the labour market. First, the unemployment rate in Greater Buenos Aires increased from 6.3% in 1991 to 20.5% in 1995 when the Mexican economic crisis influenced all Latin American economies. After 1995, the unemployment rate fluctuated around 15% while the rate of growth in the GDP was relatively high until 1998 (see Graph 1). This unemployment rate is higher than the average for the 1980s, which were called “the lost decade”. In considering these points, one characteristic of the economy during the 1990s can be labelled “growth without employment”.

Graph 1 Unemployment Rate in Greater Buenos Aires (1980 ~ 2003)



Source: INDEC: 2001, INDEC: 2003.

Two factors behind this increase in unemployment during the 1990s are an increase in women’s participation in the labour market, and the massive number of dismissals from the privatization of state owned enterprises. We now need to see whether

deregulation of the labour market during the Menem administration contributed to an increase in employment and to a solution of the problems of unemployment. The unemployment rate continued to increase after the deregulation of the labour market. It slowed down from 20% in 1995 to around 15% in the following years. However this reduction can be explained by the economic recovery after the crisis and it is not clear whether deregulation made any contribution to the recovery.

We now turn to the effect of two deregulation laws on the increase in employment. Table 2 shows the variation in labour contracts by type for one year from November 1995 when the two deregulation laws were in effect. It is true that total employment increased a little but indefinite term contracts decreased and flexible contracts increased at a very high rate (see Table 2). The decrease in agency contracts can be attributed to a decrease in the need for them because of the establishment of these two laws. Table 2 suggests that the decline in indefinite term contracts was compensated for by an increase in flexible labour contracts. In this sense, flexibility in industrial relations fulfils one of the conditions for an increase in competitiveness and productivity. At the same time, this deregulation reduced the amount of “formal work” and destabilized the employment situation as a whole.

Table 2 The variation in labour contracts by different type of contract in Greater Buenos Aires (November 1995 ~ November 1996)

| Type of labour contract  | Index |
|--------------------------|-------|
| Indefinite term contract | 94.4  |
| Definite term contract   | 178.9 |
| Probation contract       | 386.5 |
| Agency contract          | 68.1  |
| Total employment         | 101.2 |

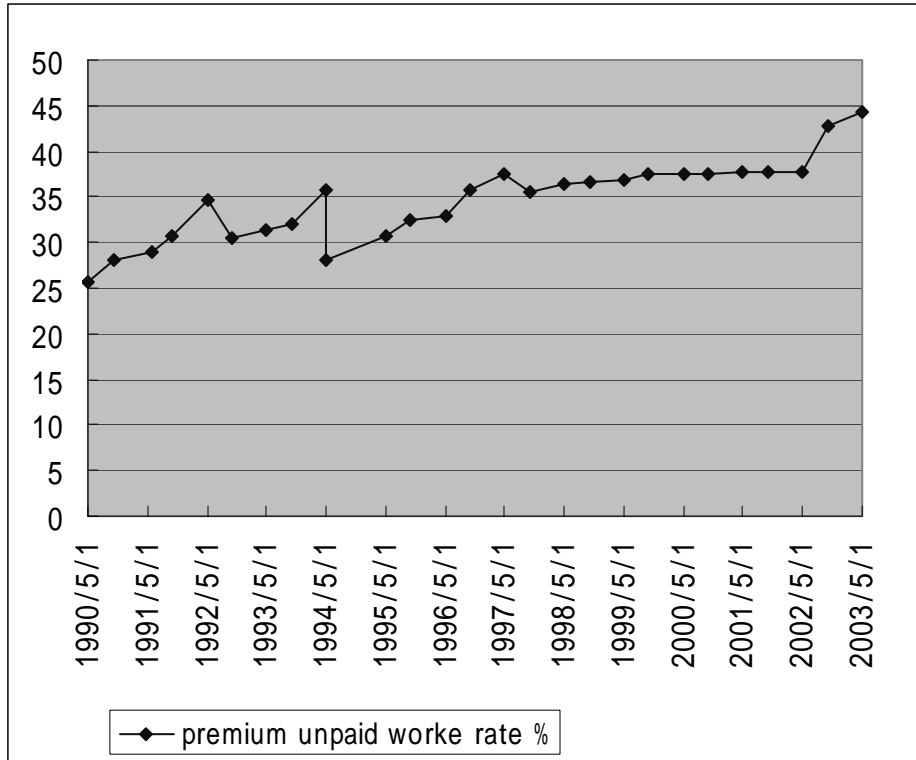
Source: *La Nación*, 8 de enero de 1998.

November 1995 = 100

Employment law in 1991 not only deregulated the labour market, it was also intended to protect the entitlement of workers on flexible contracts to social security, as stated above. Graph 2 shows the percentage of workers with pension premiums from 1990 to 2003. If a worker has unpaid pension contributions, it means that they are not covered by social insurance. In this sense, they are practically informal sector workers. This

shows that employment law could not reduce the informal sector.

Graph 2 Unpaid pension premium rate in the main cities



Source: Retrieved from <http://www.trabajo.gov.ar/> on November 11, 2006.

#### 4.3 Evaluation of Social Security Reform

This section will examine whether social security reform cover the new risks brought about by the transformation in industrial relations. Employment law established full dress unemployment insurance in Argentina for the first time. The establishment of unemployment insurance was a key element of competitive corporatism in Argentina, and it was expected to compensate for the negative effects of the deregulation of the labour market. The point is whether this new institution for the new risk was successful. The number of unemployed people in 1992 was estimated at around 920,000, and only 1.4 % of them, around 12,800 persons, received unemployment insurance (see Table 3). It increased to only 3% in 2004, 13 years after the establishment of unemployment insurance. This means that the unemployment insurance established by employment law could not guarantee the living standards of those dismissed during the 1990s (INDEC: 1997 181, Ministerio de Trabajo: 2006 252).

Table 3 Unemployment rate and the ratio of unemployed people who received unemployment insurance from 1992 to 1998

| Year                                     | 1992   | 1993   | 1994   | 1995    | 1996    | 1997   | 1998   |
|--|--------|--------|--------|---------|---------|--------|--------|
| Unemployed people who received insurance | 12,808 | 73,376 | 98,516 | 122,349 | 128,673 | 95,379 | 90,712 |
| Unemployment rate %                      | 7.0%   | 9.3%   | 12.1%  | 16.6%   | 17.3%   | 13.3%  | 12.4%  |

Source: INDEC [1999, 296], INDEC [1997, 294], Retrieved from <http://www.indec.mecon.gov.ar/>, in November 14, 2006.

The reasons why the rate of unemployed people who were covered by unemployment insurance was so low must be attributed to the conditions concerning their benefits. Unemployment insurance is targeted at workers who have formal labour contracts, so informal sector workers who do not have labour contracts are not the focus of this insurance. Workers are required to pay premiums for at least 3 months during the year before their dismissal, and the terms under which they can receive benefits differ according to how long contributions have been paid on a scale from 4 months to one year. In this way, the long-term unemployed are also excluded from unemployment insurance. What is more, workers on probation contracts and definite-term contracts are excluded from this insurance. Therefore, the new unemployment insurance system does not actually work as an institution that protects the large number of those dismissed in the 1990s.

There were 13 programs for unemployed and poor people under the Employment Foundation that was established by employment law. Some of them are programs like subsidies to small and medium-sized enterprises which hire unemployed persons, employment on public works in the community, which targets the heads of indigent families, the employment in community service of the female heads of low income families, subsidies to small and medium-sized enterprises to increase the number of people they employ, and subsidies to unskilled workers to improve their skills. The beneficiaries of these programs numbered 745,000 persons in 1996 (Ministerio de Trabajo: 1997 107-112). In this sense, these non-contributory social programs were more important in mitigating the effects of the massive unemployment of the 1990s. Although the 1996 unemployment rate, at 17.3%, was so high that these measures could not reach half the number of unemployed.

One reason for the introduction of the private sector into the pension system was to clarify the relationship between contributions paid and benefits so as to reduce non-payments. A personal account also seemed to be appropriate for a deregulated labour market where workers have more opportunities to change jobs. However, it is hard to say whether pension coverage increased as expected. Only 45.3% of those joining the private pension system paid their contributions in June 1996 (Superintendencia: 1999 58). As far as social security reform is concerned, it is difficult to confirm that it worked to compensate for the negative effects of the deregulation of the labour market as anticipated by those involved in the agreement that was reached on the grounds of competitive corporatism.

#### 4.4 The End of Competitive Corporatism in Argentina

Competitive corporatism in Argentina reached its peak with the Macro-Agreement in 1994, but this tendency was reversed after 1997. The problem of Menem's re-reelection was the main reason for this reversal. Menem was elected under the constitution of 1853, which fixes a six-year presidential term and prohibits consecutive re-election. He amended this constitution, and the new constitution of 1994 reduces the six-year term to four and permits a one time consecutive re-election. Menem was re-elected under this amendment in the election of 1995. However, he then went for re-reelection and began his presidential campaign in 1997. The logic for the re-reelection was that the second term was to be counted as a first term under the amended constitution, so it was not unconstitutional to re-elect the existing president. The governor of Buenos Aires Province, Eduardo Duhalde, who wanted to be the presidential candidate of the Peronist Party, strongly resisted this manoeuvre and the conflict between the two men became very apparent.

For his re-reelection, Menem needed labour union support to build his political base in the Peronist Party. Caro Figueroa stated that he felt a decline in the president's desire for labour and social security reform as well as in Menem's political support for him, so he decided to resign<sup>22</sup>. Menem named his aide Erman González to succeed Figueroa. González and the CGT established a new agreement in which González accepted the CGT's previous demands. This agreement included the abolition of major flexible

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<sup>22</sup> Interview with Caro Figueroa, Minister of Labour, on September 25, 2006.



labour contracts, which the unions opposed, maintained a clause in the labour law which stipulated the continuing validity of collective bargaining agreements until there is a new agreement, and maintained the centralized collective bargaining system.<sup>23</sup>

Industry strongly opposed this reversal in the trend of labour reform and proposed their own reforms.<sup>24</sup> However, the new labour “reform law” of 1998 abolished the main flexible labour contracts which employment law and labour liberalization law had established, and the union demands mentioned above became law. In this way, President Menem met union demands in order to gain their support, and industry left the tripartite agreement. As a result, the Menem administration dropped the idea of labour deregulation and the old system returned. Thus a new agreement based on the idea of competitive corporatism was never reached. We may therefore say that competitive corporatism in Argentina ended here.

The emergence of an influential political rival to Menem within the Peronist Party strengthened the unions’ political influence and Menem had to change his stance toward the unions. As Murillo has stated, opposition to reform could succeed when there was no competition among the labour unions around a political party and there was competition among the political parties around the unions (Murillo: 2000 151-152). When the Menem administration promoted neo-liberal reforms, the Peronist Party was very strong and Menem had no rival in the party, but Menem’s attempt to seek re-election reversed the political situation and two Peronist Party politicians were fighting to obtaining the CGT’s support. This is the type of situation where, according to Murillo, reform cannot be achieved.

#### Final Remarks

Economic liberalization made great advances with the Menem administration’s neo-liberal policies during the 1990s. Reductions in labour costs were required by industry when there was an increase in domestic and external competition in the market. On the other hand, massive numbers of unemployed people were a common sight, the deregulation of the labour market was discussed from the point of view of an increase in employment. At the same time, disputes over social security reform became

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<sup>23</sup> *La Nación*, 12 de marzo de 1998.

<sup>24</sup> *Clarín*, 24 de abril de 1998.

a core issue for the Menem administration. It is important to recognize that economic liberalization was realized by technocrats who were political appointees as a result of presidential decrees, but labour and social security reforms were realized through tripartite collective negotiation although each particular project was originally drafted by the technocrats. Also, such agreements were enacted in Congress after certain agreements were reached.

The most important agreement was the Macro-Agreement on Employment, Productivity, and Social Equity, which was signed in 1994. In this agreement, the labour unions cooperated to increase productivity and competitiveness, and accepted the deregulation of the labour market after considering the changes in the market, whereas industry tried to compensate for the negative effects of the deregulated labour market and maintain social equity. These agreements, including the Macro-Agreement, possessed almost the same concept of competitive corporatism that Rodes has insisted on. Pension reform in 1993 could also be considered a result of this type of corporatism. The characteristics of the agreement based on competitive corporatism in Argentina set productivity and competitiveness above compensation and social equity. There was, for example, a high unemployment rate, especially for women, an increase in the number of workers with unpaid pension premiums, an expansion of the informal sector, and low coverage for unemployment insurance.

Competitive corporatism in Argentina was dismantled due to political factors after 1997 and the main labour deregulation contracts were abolished in 1998. However, with the De la Rúa coalition government, the successor in 2000 to the Menem administration, labour reform law deregulated the clause which stipulated the continuing validity of a collective bargaining agreement until a new agreement is reached, and it decentralized collective negotiations (Stefanescu et. al. 2000). This coalition government collapsed in the economic crisis of 2001 and the deregulation of the validity of collective bargaining agreements was changed back to the old system by the Peronist government of Kirchner in 2004. As a result, the current labour market consists of two long-existing sectors: a formal sector, which is covered by labour law and social security, and an informal sector, which is not covered. The benefits of social security reform also do not reach the informal sector. In this situation, non-contributory social assistance is becoming more important in mitigating the problems of unemployment and poverty.

Panizza and Levitsky have cited the transformation of the Peronist party as being behind the neo-liberal reforms of the 1990s, but it is also important to notice the existence of tripartite negotiations on social policy. This paper has shown how each element in this tripartite negotiation needed a place where their demands would be discussed and could in part be realized. The formation and collapse of competitive corporatism in Argentina can be explained by examining institutions and the behaviour of the actors. After the collapse of this competitive type of corporatism, tripartite negotiations did not disappear. They continue. A future object of research will be to analyze what kind of collective negotiations are being held, what kinds of agreements will be reached, and how those agreements can be realized.

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