INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT DISPUTES

Abaclat and Others

Claimants

v.

The Argentine Republic

Respondent

ICSID Case No. ARB/07/5

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EXPERT OPINION OF

PROFESSOR ARTURO C. PORZECANSKI

*** * * ***

November 11, 2013

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I. INTRODUCTION AND QUALIFICATIONS

1. Counsel for Claimants in the above-referenced arbitration have requested that I prepare an expert opinion on certain matters pertaining to the economic, financial and social situation in Argentina, and to various economic policy decisions made, especially during the period 1997-2005, relevant to this phase of the arbitration.

2. I am a United States naturalized citizen and a full-time member of the international economics faculty at American University in Washington, DC, with the academic title of Distinguished Economist in Residence. I am also Director of the Master's Degree Program in International Economic Relations and Co-Director of the Master's Degree Program in International Economics at American University.

3. I was born and raised in Uruguay, South America, and came to the United States in 1968 at age eighteen to study international economics, obtaining B.A., M.A. and Ph.D. degrees in that field, the last two at the University of Pittsburgh, with a regional specialization in Latin America. Following a two-year period dedicated to applied research on Latin American financial issues at a think-tank in Mexico City, I relocated to New York City, and in the 28 years from early 1977 until early 2005, I worked as an international economist on Wall Street. I first served as a junior economic and financial analyst at JP Morgan Bank, and in the subsequent twelve years rose to become their senior economic advisor on Latin America. In 1989, I was appointed the chief economist of a major New York bank (Republic National Bank of New York, since merged into HSBC), and then went on to serve as the chief economist for emerging markets at three large investment-banking institutions headquartered, or with a presence, in New York City: Kidder, Peabody & Co. (now part of UBS), ING Barings Bank, and ABN AMRO (now part of Bank of America). In my various capacities, I advised my superiors and the managers of multinational companies, as well as institutional stock and bond funds, on the risks and opportunities of operating and investing in the emerging markets generally – and in countries like Argentina, specifically.

4. During my nearly three decades on Wall Street, I gained considerable first-hand experience in the macroeconomic and political analysis of governments and countries, mainly for the purpose of assessing their creditworthiness and investment climate. I followed foreign economic and political events closely and travel to countries like

Argentina at least once a year, mainly to research and locate essential economic statistics and financial data, which in the past were often not disclosed to the public, or even to analysts. During the course of my career, I met and interviewed many government officials, private-sector business people, diplomats and representatives of civil society (labor unions, chambers of commerce, universities, think tanks, private consultancies, and the like), in order to obtain a thorough understanding of what was the context, and what stood behind, the figures that I had managed to collect and the estimates and forecasts I would be making. Finally, I developed views as to the economic, financial and political risks and opportunities that a country like Argentina presented, which I detailed in reports circulated internally and to the institutional investors who were clients of the financial institutions that I served.

5. I was particularly focused on the situation in Argentina between 1997-2005, paying special attention to how domestic and foreign investors were treated – be they owners of stocks or bonds, or of real estate or companies. I also participated in numerous analyst meetings with the authorities of Argentina, and witnessed the changing relationship between the authorities and international lenders and investors – during good times as well as bad. Since my early retirement from Wall Street, I have continued to research and analyze events in the leading emerging markets, particularly Argentina, for teaching, research, publishing and consulting purposes.

6. In the past decade, I have published numerous scholarly articles on sovereign and corporate debt issues, focusing on the intersection of international finance and international financial law, including in leading law journals and in law books and monographs. These articles include: "From Rogue Creditors to Rogue Debtors: Implications of Argentina's Default," "When Bad Things Happen to Good Sovereign Debt Contracts: The Case of Ecuador," "Corporate Workouts in Mexico: The Good, the Bad and the Ugly," "Should Argentina be Welcomed Back by Investors?", "Behind the 2012 Greek Default and Restructuring," and "Borrowing and Debt: How Do Sovereigns Get into Trouble?" My full *curriculum vitae*, including a complete list of publications, is attached to this opinion as Appendix 2.

7. Finally, I disclose that I have no, and have never had any, financial ties to Argentina. Specifically, I have never bought or sold any Argentine government securities (whether for my own account or those of others) and I have never made any investments

of any other kind in that country. The expert opinions expressed here are based on facts, and my independent assessment of them, derived from my own research and long professional experience.

II. EXECUTIVE SUMMARY OF CONCLUSIONS

8. The conclusions that I have reached while preparing this expert report can be summarized as follows:

i. The argument that Argentina's economic difficulties during 1999-2001 were caused mainly by adverse external shocks is not accurate. The government had no trouble borrowing on a large scale in the international capital markets in 1999 and again in 2000, or refinancing many of its obligations in 2001, and the country's exports dipped only temporarily in 1999. The underlying problems were that Argentina had drifted away from constructive, business-friendly market reforms instituted in the first half of the 1990s, and that exchange rate, debt-management and other economic policies were increasingly bungled during the second half of the 1990s.

ii. The breakdown of domestic political consensus throughout 2001 made the situation progressively worse by generating uncertainty, a deepening loss of consumer and investor confidence, and eventually major financial, social and political instability. In 2001, Argentina had four different presidents, six economy ministers, and two central bank presidents. After a chaotic December, the political situation stabilized somewhat during 2002 (one new president, two new economy ministers, and three new central bank presidents), but a series of highly disruptive economic measures (mainly a freeze on bank deposits, a moratorium on public-debt payments, and a massive currency depreciation) plunged the economy into an economic depression. As a result, unemployment and poverty levels soared in Argentina in 2002 before declining rapidly in 2003-2005. The government's default was not a consequence of the explosion of a "social bomb," but rather it was one of the economic policies which caused great economic and social devastation in its wake – especially given its unilateral nature.

iii. The default need not have been as protracted, punishing or coercive as it was. By 2003, the economy was on the mend, and in the wake of a vigorous, export-led economic recovery throughout 2003-2005, Argentina could have sought – and obtained – a modest amount of debt, and debt-service relief from its creditors. Instead, the authorities justified their demand for massive forgiveness of past and future obligations on the basis of economic forecasts that were completely wrong. These forecasts were the result of a simulation model that was never part of a negotiation process with Argentina's creditors, and which was not validated – never mind –endorsed –by the IMF, World Bank or any other authoritative outside party, as has been customary in other sovereign debt restructurings. In the past dozen years, although successive governments in Argentina have had the financial wherewithal to meet their outstanding financial obligations to creditors entitled to payment, they have instead chosen to follow a path of denial and confrontation for domestic political reasons.

III. ARGENTINA'S ECONOMIC POLICIES EXACERBATED THE CRISIS AND IMPAIRED THE INTERESTS OF BONDHOLDERS.

A. Argentina's economic difficulties in 1999-2001 were largely home-grown.

9. Respondent's Counter-Memorial of 26 December 2012 echoes a repetitive narrative about the root causes of Argentina's economic and financial crisis of 2001:

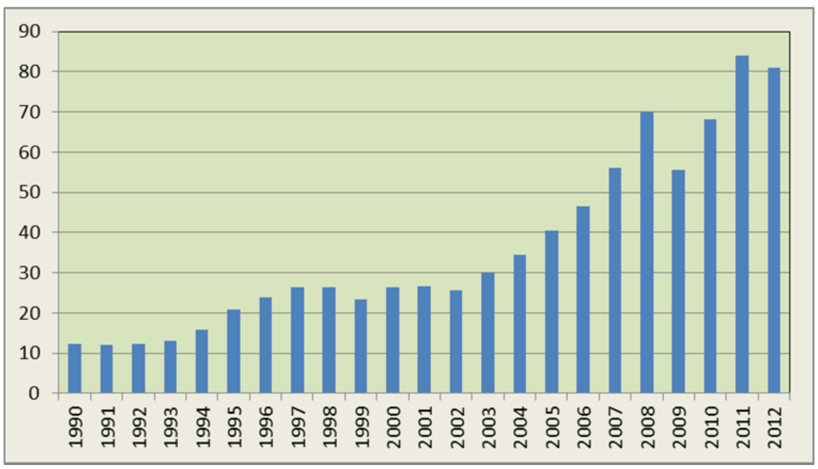
> Argentina was especially hard hit by a sudden halt to capital inflows after the East Asian crisis of 1997 and the Russian default in August 1998. In addition, demand from its primary trading partner, Brazil, fell sharply after Brazil devalued its currency in 1999; additionally, the sudden reduction in the prices of the commodities exported by Argentina caused a considerable fall in foreign currency inflows. Interest rate increases by the U.S. Federal Reserve beginning in mid-1999, designed to slow down the United States' economy, also had a drastic impact on Argentina and its dollar-pegged currency at a fixed exchange rate

when Argentina's economy was contracting.[1]

10. This is not based on facts or primary sources but rather almost entirely on Expert Reports by Barry Eichengreen,[2] Jan Kregel,[3] Nouriel Roubini,[4] and Joseph Stiglitz.[5] These reports feature opinions based largely on secondary academic and other sources, if any,[6] and for the most part are not supported by factual evidence.

11. In reality, Argentina's economic difficulties in 1999-2001 were largely home-grown. As shown in Figure 1, Argentina's export earnings suffered only a slight dip in 1999 and then recuperated the very next year, with significant year-over-year increases starting in 2003. Even on a constant-prices (net volume) basis, the national-income accounts of Argentina document a sharp, growth-supportive improvement in the country's foreign trade balance during 1998-2001, from a sizeable deficit in 1998 to the first of many surpluses in 2001.[7]

Figure 1: Argentina's Merchandise Exports (US$ billions)

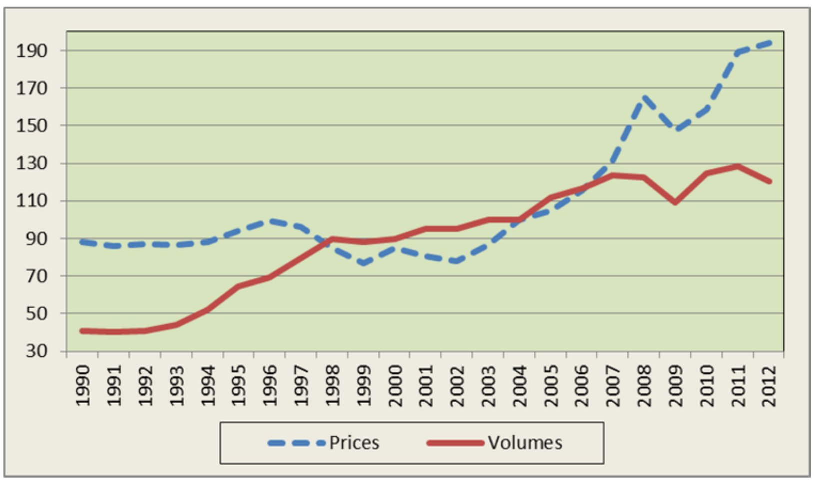


Source: Instituto Nacional de Estadísticas y Censos (INDEC).

[1] Respondent's Counter-Memorial of 26 December 2012, ¶ 97.
[2] Respondent's Second Supplementary Expert Report of Prof. Barry Eichengreen of 19 December 2012 ("Eichengreen III"), ¶¶ 19-23.
[3] Respondent's Expert Report of Prof. Jan Kregel of 20 December 2012 ("Kregel"), ¶¶ 41-43.
[4] Respondent's Supplementary Expert Report of Prof. Nouriel Roubini of 24 December 2012 ("Roubini II"), ¶¶ 4-7, 12.
[5] Respondent's Expert Report of Prof. Joseph E. Stiglitz of 18 December 2012 ("Stiglitz"), ¶¶ 18-23.
[6] Kregel wrote more than 13,000 words citing hardly any sources for his opinions.
[7] *See* Ministerio de Economía y Finanzas Públicas, Secretaría de Política Económica y Planificación del Desarrollo, Dirección Nacional de Política Macroeconómica, Nivel de Actividad, Cuadro 1.1: Oferta y Demanda Globales a precios de 1993: Valores Anuales y Trimestrales (2013), *available at* http://www.mecon.gov.ar/download/infoeco/actividad_ied.xls (accessed 3 Nov. 2013). In addition, the value of merchandise exports has more than tripled relative to the annual average of $25.5 billion in 1996-2002, to over $80 billion per year in 2011-2012.

12. A breakdown of the export figures between prices obtained and volumes shipped shows that, while the export prices fetched by Argentina declined in dollar terms by 23 percent between 1996 and 1999, export volumes grew by an offsetting 27 percent during that period.[8] As shown in Figure 2, this was followed by a prolonged expansion in export shipments amounting to a doubling between the mid-1990s and through 2011-2012. Moreover, the export volume boom was reinforced by a major increase in world commodity prices that favored Argentina. This record-breaking growth in export earnings started during the time in which Argentina complains that it was suffering a severe export contraction that crippled its ability to service its debt obligations.[9]

Figure 2: Argentina's Merchandise Export Prices and Volumes (Index, 2004 = 100)



Source: Instituto Nacional de Estadísticas y Censos (INDEC).

13. The tale of how the government of Argentina allegedly lost its access to the international capital markets in 1997-2000, because of various crises and adverse events around the world, is likewise contradicted by the evidence. The government's own figures document how it was able to keep placing a record number of bond issues until

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[8] *See* Ministerio de Economía y Finanzas Públicas, Secretaría de Política Económica y Planificación del Desarrollo, Dirección Nacional de Política Macroeconómica, Sector Externo, Cuadro 7: Índices de valor, precios y cantidad de las exportaciones de bienes (2013), *available at* http://www.mecon.gov.ar/download/infoeco/apendice5.xls (accessed 3 Nov. 2013).

[9] Respondent's Counter-Memorial of 26 December 2012, ¶¶ 147, 956. As part of an attempt to claim *force majeure*, Respondent implies that it met the following condition: "the failure to provide the debt service must result from circumstances beyond the control of the debtor State, such as a collapse in the prices of its major exports, and must not be the result of mismanagement or bad faith in managing the debt."

early 2001, with minimal changes in the maturity structure and pricing (as measured by coupons, yields or spreads over U.S. Treasuries) attached to those new issues. Moreover, data in Figure 3, showing capital raisings exceeding $55½ billion during 1997-2000, versus about $20½ billion in the prior four years, exclude nearly $6 billion in purely voluntary refinancings that the authorities carried out in those years to improve the terms of their earlier funding.[10]

Figure 3: New Issuance of Argentine Government Bonds*

	Number of Issues	Amount Raised (US$ bill.)	Weighted Average Life (years)	Weighted Average Yields (%)	Weighted Spreads Above UST (bp)	Weighted Average Coupon (%)
1991	2	0.5	2.0	10.4	452	10.4
1992	1	0.3	5.0	8.3	300	8.3
1993	6	2.1	6.9	8.1	278	8.1
1994	19	2.6	3.3	8.9	238	8.5
1995	16	4.7	3.6	10.0	365	8.2
1996	31	10.9	7.9	9.3	369	9.3
1997	21	10.5	9.1	8.8	265	9.1
1998	32	14.7	10.9	8.6	423	9.1
1999	57	14.7	7.3	10.4	588	10.0
2000	42	15.7	7.9	11.0	546	10.7
2001	20	7.5	8.3	13.6	899	13.6
1991-2001	**247**	**84.2**	**8.1**	**10.0**	**477**	**9.9**

* Excludes maturities under one year and all bond refinancing and exchange operations.
Source: Secretaría de Finanzas, Ministerio de Economía y Finanzas Públicas.

14. In 2001, the government's priority turned to re-profiling its sovereign debt to postpone principal repayments, and this was accomplished via two major operations. In May of that year, government bonds with a face value of nearly $30 billion in the hands of foreign and domestic investors were exchanged for longer-term instruments – the so-called *megacanje* or megaswap. In November of 2001 and thereafter, additional government bonds with a face value of nearly $42 billion – almost all the bonded debt in the hands of banks, pension funds and retail investors resident in Argentina – were

[10] *See* MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARÍA DE FINANZAS, Resumen de las Operaciones entre 1991 y 2001, Cuadro 1: Total Colocaciones (2013), *available at* http://www.mecon.gov.ar/finanzas/sfinan/documentos/resumen_colocaciones_1991_a_2001.xls (accessed 3 Nov. 2013).

tendered in exchange for loan participation notes that were guaranteed by the revenue collected through a tax on financial transactions.[11]

15. These major bond exchanges in 2001 succeeded in improving the maturity structure of Argentina's public debt. By the end of that year, and on the eve of a default declaration, bond maturities falling due in 2002 had been cut to $7½ billion from $9½ billion as of end-1999, and bond redemptions coming due during the 3-year window 2002-2004 had been reduced to a combined total of $22½ billion from nearly $28 billion previously.[12] The resulting amounts were manageable given appropriate economic policies, and a constructive attitude on the part of the Argentine government; they did not justify a unilateral default and the eventual imposition of huge, arbitrary losses on bondholders.

B. Argentina's political instability and economic mismanagement provoked the crisis of December 2001.

16. By early 2001, the economy had been in a recession for almost three years: peak-to-trough, real GDP (seasonally adjusted) had dropped 5.5 percent from 1998Q2 through 2001Q1, led by a 25 percent collapse in investment spending (including construction). Government expenditure was the only major economic variable that had risen (cumulatively by 3¾ percent), while export volumes were largely flat during the aforementioned period.[13] By Argentine standards, a 5.5 percent retrenchment in GDP was not an infrequent or extraordinary economic contraction, because that country has had a notoriously volatile history of economic cycles where all the key variables tend to swing from boom to bust – because neither economic policies nor the political situation tend to remain stable for long. For instance, real GDP had previously contracted 8¾

[11] This second swap became known as "Phase 1" because the authorities planned another stage ("Phase 2"), to take place in early 2002, that would involve restructuring bonds owned by foreign investors. *See* Federico Sturzenegger and Jeromin Zettelmeyer, Debt Defaults and Lessons from a Decade of Crises (Cambridge, MA: The MIT Press, 2007), pp. 173-178.

[12] *See* MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARIA DE HACIENDA, OFICINA NACIONAL DE PRESUPUESTO, Boletín Fiscal: Cuadro 30: Perfil de Vencimientos de Capital de la Deuda del Sector Público Nacional (2001), *available at* http://www.mecon.gov.ar/onp/html/boletin/4totrim01/pdf/fisc30.pdf (accessed 3 Nov. 2013); *see also* Boletín Fiscal: Cuadro 31: Perfil de Vencimientos de Capital de la Deuda del Sector Público Nacional (1999), *available at* http://www.mecon.gov.ar/boletin/4totrim99/cuadro31.htm (accessed 3 Nov. 2013).

[13] *See* MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARÍA DE POLÍTICA ECONÓMICA Y PLANIFICACIÓN DEL DESARROLLO, DIRECCIÓN NACIONAL DE POLÍTICA MACROECONÓMICA, NIVEL DE ACTIVIDAD, Cuadro 1.2: Oferta y Demanda Globales a Valores Constantes – Datos Desestacionalizados (1) (2013), *available at* http://www.mecon.gov.ar/download/infoeco/actividad_ied.xls (accessed 3 Nov. 2013).

percent between 1980 and 1982, and it also had retrenched 10 percent between 1987 and 1990.[14]

17. Professor John B. Taylor of Stanford University, one of the world's most respected experts in monetary economics and international finance, was Under Secretary of the U.S. Treasury for International Affairs from 2001 until 2005. In that capacity, he was deeply involved in Washington's financial-support negotiations with Argentina, directly and indirectly via the International Monetary Fund (IMF), and this is how he has recalled assessing the situation in Argentina as of mid-2001:

> The story of the Argentina crisis is as complicated as a Dostoyevsky novel. Different people hold different views about what happened and why. … The problem, in my view and that of the Treasury team [consisting of 21 experts at the time], was that Argentina had drifted away from the beneficial pro-market reforms instituted in the early 1990s.[15]

18. In early 2001, in sum, circumstances called for confidence-boosting, market-friendly measures combined with either a serious tightening in fiscal policy – reminiscent of how Bulgaria and the Baltic nations have defended their inflexible currency regimes in the midst of the recent European financial crisis, or of how Hong Kong defended its fixed exchange rate during the Asian financial crisis in 1997-1998 – or else a constructive exit of the one-to-one exchange rate, accompanied by a credibly restrictive monetary policy to anchor inflation expectations and the currency. After all, by 2001, several other countries in Latin America had already made their own transition from artificially regulated exchange rates to floating rates, subsequently guided by an independent central bank with a mandate to control inflation and thus the purchasing power of their money: Brazil, Chile, Colombia, Peru and Mexico, in particular.

19. The difference is that an exit from the fixed exchange-rate regime in Argentina was bound to be perilous because of the prevalence of dollar-denominated and other foreign-currency indebtedness, a vulnerability that the authorities created. Between 1992 and the end of 2001, the Argentine government's issuance of bonds payable in foreign currencies had multiplied nearly four-fold from $12 billion in 1992 to $82 billion by end-

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[14] *See* World Economic Outlook Database, International Monetary Fund, April 2013, *available at* http://www.imf.org/external/pubs/ft/weo/2013/01/weodata/index.aspx (accessed 3 Nov. 2013).

[15] John B. Taylor, Global Financial Warriors: The Untold Story of International Finance in the Post 9/11 World (New York: Norton, 2007), pp. 73-75.

2001.[16] Indeed, on the eve of the eventual default in December 2001, 98 percent of outstanding government bonds were denominated in currencies other than the Argentine peso, and 97 percent of the entire stock of public-sector debt ($144 billion) was likewise payable in U.S. dollars (72 percent of total), euros (18 percent), yen (5 percent) and assorted other foreign currencies.[17] This was a vulnerability brought about by fiscal deficit-financing decisions made in Argentina over many years.

20. The absence of domestic political consensus prevented a constructive exit from the country's lingering recession. The administration of President Fernando de la Rúa, in office since December 1999, was an uneasy coalition of the centrist Radical party (to which he belonged) and the center-left FREPASO party (which Vice President Carlos Álvarez represented). It enjoyed a working majority in the lower chamber of congress, but the senate and the majority of the provinces, including the three largest ones, remained under the control of the Peronist opposition. The political situation became still more fragile when policy disagreements led to the resignation of Vice President Álvarez in October 2000. In March 2001, just when courageous decisions most needed to be made, the Minister of Economy José Luis Machinea tendered his resignation, and within 20 days so did his successor, Ricardo López Murphy, because neither was supported by the congressional leadership of the Radical and FREPASO parties in their quest for meaningful fiscal austerity and structural reforms.[18]

21. The political weakness of the De la Rúa administration was rooted in the fact that the Radical and FREPASO parties had not embraced the reform process of the 1990s – the era of liberalization, privatization, deregulation, low inflation and a strong currency. President De la Rúa was called upon to guide the economy out of an economic recession while preserving the stability of the currency, and while he was in favor of the reforms of the 1990s, most members of his alliance strongly opposed them. They remained

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[16] *See* MINISTERIO DE ECONOMÍA Y PRODUCCIÓN, SECRETARIA DE HACIENDA, OFICINA NACIONAL DE PRESUPUESTO, *Compendio Fiscal 1993 – 2006*, 41, Table IV.1, (2006) *available at* http://www.mecon.gov.ar/onp/html/ejectexto/compendio/compendio93-06.pdf (accessed 3 Nov. 2013).

[17] See *id.; see also* MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARIA DE HACIENDA, Boletín Fiscal: Cuadro 28: Composición por Moneda: Deuda Bruta del Sector Público Nacional al 31/12/01 (2001), *available at* http://www.mecon.gov.ar/onp/html/boletin/4totrim01/pdf/fisc28.pdf (accessed 2 Nov. 2013).

[18] In fact, the FREPASO members of the cabinet resigned in protest over the proposed fiscal austerity program, and the coalition between the FREPASO and the Radical party was effectively dissolved. *See* IMF Independent Evaluation Office, The IMF and Argentina, 1991-2001 (Washington, DC: IMF, 2004), pp. 15-16, 100.

convinced of the benefits of the old model of state-directed industrialization, and they saw the one-to-one exchange rate as a stifling constraint on macroeconomic policy. While reformists were visible in De la Rúa's cabinet, that was not true in the legislature or at the provincial and local levels, where anti-reform troops were plotting a major course correction.[19]

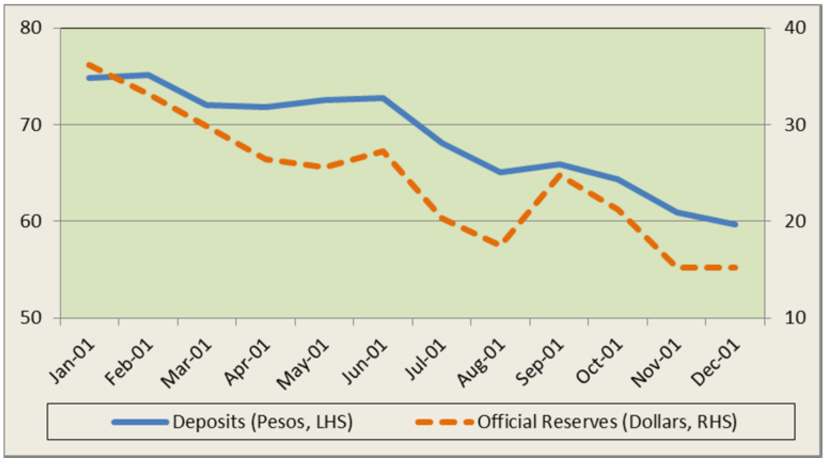
22. President de la Rúa then appointed Domingo Cavallo, who had served as the all-powerful Minister of Economy during 1991-1996, to that same post. The government soon took a number of policy initiatives to revive confidence and boost Argentina's economy, but every new announcement seemed to generate more rather than less uncertainty about what the future would hold. Particularly counterproductive were decisions to alter the convertibility regime (but only marginally), and to seek the ousting of Pedro Pou, the president of the central bank who had been a good steward since 1996.[20] (See Appendix 1: 2001-2002 Event Chronology.) Increased uncertainty generated a loss of confidence which, in turn, fed a run on bank deposits and a collapse in official international reserves throughout 2001.[21]

[19] See Marcos A. Buscaglia, "The Political Economy of Argentina's Debacle," Journal of Policy Reform, Vol. 7(1), March 2004, pp. 43-65; Shinji Takagi, "The Political Economy of Currency Crises: The Case of Argentina, 1991-2002," Osaka Economic Papers, Vol. 54(3), December 2004, pp. 465-487; Juliana Bambaci, Tamara Saront, & Mariano Tommasi, "The Political Economy of Economic Reforms in Argentina," Journal of Policy Reform, Vol. 5(2), June 2002, pp. 75-88.

[20] In April 2001, Cavallo proposed a modification of the one-to-one exchange rate between pesos and dollars, with the replacement of the dollar by an equally weighted basket of the dollar and the euro – a meaningless difference given that Argentina was lacking competitiveness mainly vis-à-vis its neighbors, all of whom had devalued their currencies substantially. As concerns the confrontation with Pou, it was rooted in Minister Cavallo's suggestion that Pou cut bank reserve requirements in order to boost liquidity, one that the central banker refused to honor.

[21] From January to December 2001, the former dropped 20 percent (from 75 to 60 billion pesos, the equivalent of $15 billion at the then-prevailing exchange rate) and the latter experienced a free-fall of nearly 60 percent (from $36 to $15 billion, a $16 billion difference).

Figure 4: Argentine Bank Deposits and International Reserves (Billions)



Source: Banco Central de la República Argentina (BCRA).

23. The domestic political context grew more threatening to stability in the final months of 2001. The Radical and FREPASO parties were both defeated in congressional elections which took place in mid-October, and the Peronists took control of the two congressional chambers. More than 40 percent of those who voted abstained from marking their ballots or else purposely nullified their ballots – a telling sign of the extent of voter dissatisfaction with the political class.[22] The election results contributed a breakup of the Radical-FREPASO coalition and to the perception that the days of the De la Rúa administration were numbered.

24. At the start of December, and in the wake of the aforementioned year-long run on deposits and dollar reserves, Minister Cavallo imposed wide-ranging controls on banking and foreign exchange transactions, including a limit on cash withdrawals of 250 pesos per week which proved to be hugely unpopular.[23] The worsening economic situation and the restrictions on bank withdrawals led to spontaneous, pot-banging demonstrations in the capital city and also to organized strikes, road closures, riots and supermarket lootings, especially in outlying areas of the Province of Buenos Aires under Peronist control.[24]

[22] Buscaglia, p. 44.

[23] Three local banks (Banco de Galicia, and two state-owned banks, Banco de la Nación Argentina and Banco de la Provincia de Buenos Aires) were particularly affected by the run on deposits, because customers had not only withdrawn cash from them and other banks, but had transferred deposits to foreign-owned banks operating in Argentina in the belief that their money – and especially their dollars – would be safer there.

[24] It is not known to what extent the riots and supermarket lootings were under the direct or indirect control of Peronist party bosses, who had cultivated patronage relationships with the *piqueteros*, slum dwellers who could be counted upon to stage violent incidents and to disrupt transit through avenues, bridges and highways, but the suspicion lingers that certain Peronist leaders sought to hasten De la Rúa's

The peaceful protests and violent mobs spelled the end of De la Rúa's government: congressional leaders demanded the cabinet's resignation on 19 December. On the next day, President De la Rúa tendered his own resignation after a huge demonstration that triggered a violent official response in defense of the presidential palace. Shortly thereafter, a default, devaluation, and many other highly disruptive economic measures were adopted by various interim administrations, and soon the economic promise and political stability that had attracted bondholders from all over the world to Argentina during the 1990s and through 2001 came to a sudden end.

C. Argentina adopted counterproductive and unreasonable economic measures in 2002.

25. The resignation of President de la Rúa ushered in a chaotic period. First, there was a confidence-destroying political succession process. Initially, the two chambers of congress met together to accept President De la Rúa's resignation, and since the vice-presidency was vacant (due to the resignation of Carlos Álvarez in October 2000, see above ¶ 20), they followed the proper protocol and appointed the interim president of the senate, the Peronist Ramón Puerta, as the acting head of state. Within a day, however, the legislature backtracked and held a new vote, because various factions within the Peronist party wanted a more experienced leader who could take charge until new elections were held. Therefore, the legislature met again and the then (Peronist) governor of the mid-western province of San Luis, Adolfo Rodríguez Saá, was chosen as interim president until the holding and conclusion of elections that were set for March 2002. Within a few days, however, Rodríguez Saá started to lose the support of various Peronist factions – fellow provincial governors, in particular – when he insisted on getting a much longer mandate. When his ambitions were refused he resigned, doing so after barely more than a week in office, and following his declaration of default on all of Argentina's external sovereign debt.[25]

26. The legislature then turned to the president of the chamber of deputies, naming Eduardo Camaño as the new interim president, but he was also removed after mere days,

departure and their party's return to power by encouraging protests. *See* Francisco E. González, Creative Destruction? Economic Crises and Democracy in Latin America (Baltimore: Johns Hopkins Univ. Press, 2012), pp. 173-176.

[25] *See* Appendix 1: 2001-2002 Event Chronology.

this time in favor of a Peronist heavyweight: Eduardo Duhalde, who had served as Vice President during 1989-1991, then as two-term governor of the province of Buenos Aires (1991-1999), and who subsequently had run for the presidency against Fernando de la Rúa in the 1999 elections. On New Year's Day, Duhalde was awarded the expanded mandate to complete De la Rúa's term, namely, he was given two years and was sworn-in the following day, on 2 January 2002.[26] In the end, Argentina had five interim presidents within the span of two weeks at the close of 2001.[27]

27. The social situation, probably as a result of this political upheaval, was tense throughout the final days of 2001 and the beginning of 2002, and the economy went into a dive, especially with the banks on an imposed holiday for nearly a week (21-26 December) – and withdrawals still strictly rationed even when the banks were open for business. There were protests and demonstrations in various provinces on 21 December, then on 28-29 December mainly in downtown Buenos Aires, as well as in the capital city and elsewhere on several occasions during January.[28]

28. In a likely attempt to respond to the popular discontent that had played out for several weeks already, Acting President Rodríguez Saá had announced on 23 December, in an address immediately after his swearing-in ceremony, that his administration would aim to create one million new jobs, the equivalent of one-third the number who were unemployed at the time, and that he would distribute emergency food supplies to the needy. Those promises elicited applause from the assembled legislators and the public in the galleries. He then went on to declare that he would be suspending payments on the foreign debt and dedicating all sums budgeted for that purpose to fund, instead, an emergency jobs program and increased social spending. That announcement was greeted with an enthusiastic, standing ovation – the only thunderous applause during the ceremony. In contrast, there was no applause when Rodríguez Saá went on to say that he would neither devalue the national currency nor end its peg to the dollar but, rather, that his government would start issuing a mysterious "third" currency in order to stimulate the

[26] In the event, President Duhalde's term was shortened and he stepped down in May rather than December 2003.
[27] *See* Appendix 1: 2001-2002 Event Chronology.
[28] *See* Centro de Estudios Legales y Sociales, "La Protesta Social en la Argentina Durante Diciembre de 2001," March 2002, *available at* http://www.cels.org.ar/common/documentos/protesta_social_en_argentina_mar2002.pdf (accessed 3 Nov. 2013).

economy.[29]

29. However, Acting President Rodríguez Saá would make it clear in the days that followed that he had no intention of freezing Argentina out of the international payments system – never mind to turn the country into the rogue debtor nation it has since become. His economic team was preparing to fly to Washington to discuss an economic reform package with the IMF and the U.S. Treasury, and his government planned to start talks with foreign creditors over the debt restructuring in short order. Rodriguez Saá actually predicted a warm international response to his plans.[30] And no important doors were slammed shut in Argentina's face, either. President George W. Bush had sent a message wishing the new president every success and had assured him that excellent relations between the two countries would continue.[31] Moreover, the IMF's staff in Washington had rolled up its sleeves and had begun outlining in some detail the main elements of a stabilization program that they could support via a new, three-year lending arrangement.[32] This illustrates that Argentina's interruption of debt-service payments, at least as envisioned by Acting President Rodríguez Saá, need not have proceeded in the unilateral, unreasonable and counterproductive way in which it eventually unfolded.

30. In any event, Rodriguez Saá never got the chance to be the president when the first debt payment was skipped, because the next one that fell due did so on 3 January 2002. By then he had long since returned to San Luis, and Eduardo Duhalde was the person in charge. The legacy of Rodriguez Saá's short-lived administration was a worsening of economic confidence – private-sector economic forecasts were promptly revised downward after his initial announcements[33] – and the proposition that budgetary allocations for debt service should henceforth be redirected for populist purposes. It would prove to be a tempting idea.

31. Argentina's official default actually took place under President Duhalde's administration, when a $28 million payment due on his second day in office was missed –

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[29] *See* Asamblea Legislativa, República Argentina, Versión Taquigráfica, Sesión 22/23 de diciembre de 2001, *available at* http://www1.hcdn.gov.ar/dependencias/dip/documentos/asuncion/22.12.01.RodriguezSaa.pdf (accessed 3 Nov. 2013).

[30] "Argentina Prepares for Talks with U.S.," BBC News, 24 December 2001, *available at* http://news.bbc.co.uk/2/hi/americas/1726195.stm (accessed Nov. 2013).

[31] *Id.*

[32] IMF Independent Evaluation Office, p. 57.

[33] *See* "Prevén una Recesión Más Profunda," La Nación, 22 December 2001, *available at* http://www.lanacion.com.ar/361249-preven-una-recesion-mas-profunda (accessed 2 Nov. 2013).

and it was a default on a Republic of Argentina Eurobond issued in Italian liras.[34] In his inaugural address the day prior, President Duhalde stated to the legislature that "[w]e need international understanding and cooperation. We have had to suspend the payment of interest on our public debt because we are not in a position to pay in these critical circumstances. … We do not have access to foreign or domestic credit. … Nowadays we do not have a single peso with which to meet our obligations on salaries, pensions and year-end bonuses." He reported that the deepening recession had had a very adverse impact on tax revenues, which he said had dropped by one-third in December 2001 on a year-on-year basis.[35]

32. President Duhalde did not disclose the full picture, however. While it is true that the constant turmoil in economic policies, the civil unrest, the extended political instability, and above all the December freeze on bank deposits had demoralized investors and dried up any appetite for government bonds, the public purse he inherited was far from empty. The government deficit had reached $8.7 billion in 2001, up from $6.8 billion in 2000 and $4.8 billion in 1999. Still, the 2001 red ink was only equivalent to 3.2 percent of a diminished GDP, so it was not the type of gaping fiscal hole two or even three times larger relative to GDP that Argentina had recorded in earlier fiscal crises, such as in the mid-1970s, the early 1980s, or in 1987-1989.[36]

33. Moreover, the government closed 2002 with nearly $10 billion in financial assets, including $4 billion deposited with banks,[37] so President Duhalde's administration had both pesos and dollars with which to pay its debts – certainly more than enough to pay

[34] *See* "El país ingresó formalmente en default," La Nación, 3 January 2002, *available at* http://www.lanacion.com.ar/363865-el-pais-ingreso-formalmente-en-default (accessed 3 Nov. 2013); see also "Argentina Defaults on External Debt, Devaluation Imminent," Fox News, 3 January 2002, *available at* http://www.foxnews.com/story/2002/01/03/argentina-defaults-on-external-debt-devaluation-imminent/ (accessed 3 Nov. 2013).

[35] *See* Asamblea Legislativa, República Argentina, Versión Taquigráfica, Sesión 1 de enero de 2002, *available at* http://www.presidenciaduhalde.com.ar/includes/downloads.php?down=../contenido/objetos/20020101_asamblea_legislativa.pdf&titulo=20020101_asamblea_legislativa.pdf (accessed 3 Nov. 2013).

[36] *See* Ministerio de Economía y Finanzas Públicas, Secretaría de Política Económica y Planificación del Desarrollo, Dirección Nacional de Política Macroeconómica, Finanzas Públicas, Cuadro A6.1: Sector Público Nacional no Financiero – Base Caja (Anual), *available at* http://www.mecon.gov.ar/download/infoeco/actividad_ied.xls (accessed 3 Nov. 2013); *see also* Ministerio de Economía y Producción, Secretaria de Hacienda, Subsecretaría de Presupuesto, Oficina Nacional de Presupuesto, Sector Público Argentina No Financiero: Cuenta Ahorro-Inversión-Financiamiento 1961-2004 (2004), *available at* http://www.mecon.gov.ar/onp/html/boletin/4totrim01/pdf/fisc28.pdf (accessed 2 Nov. 2013).

[37] *See* Ministerio de Economía y Finanzas Públicas, Secretaría de Hacienda, Boletín Fiscal: Cuadro 29: Administración Pública Nacional: Activos Financieros Acumulados al Cuarto Trimestre de 2001 (2001), *available at* http://www.mecon.gov.ar/onp/html/boletin/4totrim01/pdf/fisc28.pdf (accessed 2 Nov. 2013).

the $28 million coupon due to Italian investors. The central bank of Argentina had endured a major loss of international reserves, as previously mentioned (¶ 22), but it still had over $14½ billion.[38] If President Duhalde had used his mandate and strong political backing early on to put together a sensible economic stabilization and reform plan, with the financial support that was his for the asking from official lenders starting with the IMF, any disruption in debt-service payments could have been minimized and contained to simply a delay in interest payments, with no impact on the outstanding principal. It need not have degenerated into what quickly became, at the time, the largest sovereign default ever recorded.[39]

34. In addition, upon Duhalde's initiative and that of his incoming Minister of Economy, Jorge Remes Lenicov, on 6 January the legislature abolished the convertibility regime, authorizing the government to replace it however it saw fit. More generally, the legislature authorized the President to carry out economic policy without having to obtain congressional approval, given the economic emergency.

35. First the government instituted a dual exchange rate system based on an official exchange rate of 1.4 pesos per dollar – amounting to a 29 percent devaluation – for most trade-related transactions, with the notable exception of "luxury" imports. All other transactions would take place at prevailing market rates. However, on 11 February, the barely five-week-old dual exchange rate system was discarded, and the market opened for the first time under a unified regime, with the price of dollars jumping to 1.8 pesos immediately. It subsequently rocketed to 2.5 pesos one month later (mid-March) and peaked at around 3.85 pesos – a 74 percent depreciation – in late June.[40] That steep slide, of course, reflected the extent of the collapse of public confidence in the steps taken by the Duhalde administration.

36. The Public Emergency and Exchange Rate Reform Law #25.561 also decreed the compulsory switch from dollars into pesos, at the old exchange rate of one-to-one, in the denomination of all existing loan contracts with financial intermediaries of up to $100,000 – the vast majority of which were dollar contracts, including credit-card debt

[38] *See* BANCO CENTRAL DE LA REPÚBLICA ARGENTINA (BCRA), Boletín Estadístico Vol. XLIII(1), January 2002, Cuadro V, *available at* http://www.bcra.gov.ar/pdfs/estadistica/boldat200201.pdf (accessed 9 Nov. 2013).

[39] Moody's Investors Service, "Narrowing the Gap: A Clarification of Moody's Approach to Local Versus Foreign Currency Government Bond Ratings," February 2010, p. 13. Argentina's 2002 default has since been exceeded in size by that of Greece in March 2012.

[40] The currency subsequently regained some strength and closed the year at 3.4 pesos per dollar.

and mortgages; all contracts entered into by the public sector in connection with the delivery of public services; and also all contracts entered into in Argentina among private parties. This became known as the "pesification" (*pesificación*) of contracts. To delay the likely increase in unemployment, the law also banned all layoffs for 90 days, except for cause.[41]

37. In the days and weeks that followed, many other arbitrary economic measures were adopted by the Duhalde administration. The monthly withdrawal limit from bank demand deposits (known in Argentina as the *corralito*, or small stockyard) was raised to 1,500 pesos, but this was more than offset by the temporary freezing of term deposits (the *corralón*, or large stockyard), because term deposits accounted for the bulk of total bank deposits. Dollar-denominated deposits, for their part, which represented three-quarters of total deposits as of end-2001, were ordered frozen until at least 2003. To dampen inflationary pressures, rates charged by privately owned utilities (e.g., gas, electricity, telephones and water) were frozen indefinitely at their new peso equivalents. (These rates had been pegged to the dollar and indexed to U.S. inflation in contracts entered into by the government in order to attract and reassure the foreign investors who were purchasing the utility companies from the state during the 1990s.) Congress also approved an emergency law that severely curtailed creditors' rights, in order to forestall a potential wave of liquidations.

38. Many of the initial measures, which were undertaken without consulting the IMF to ensure that they made economic sense and could be supported, and without reaching out to disadvantaged investors and defaulted creditors, not only failed to stabilize the economic situation, but complicated any eventual resolution of the outstanding issues and negatively affected the economy.[42]

39. Especially damaging was the government's announcement on 3 February that banks' assets and liabilities would be subject to an asymmetric "pesification." Their existing stock of dollar-denominated assets and liabilities would be forcibly converted at the old, one-to-one exchange rate in the case of loans to the private sector but at a

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[41] *See* "Ley de Emergencia Económica y de Reforma del Régimen Cambiario No. 25.561" (2002), *available at* http://infoleg.mecon.gov.ar/infolegInternet/anexos/70000-74999/71477/texact.htm (accessed 3 Nov. 2013).

[42] *See* Christina Daseking, Atish Ghosh, Timothy Lane, and Alun Thomas, "Lessons from the Crisis in Argentina," IMF Occasional Paper #236, 2004, p. 38.

different, 1.4-to-one rate for loans to the government and for dollar deposits, which henceforth were also indexed to inflation.[43] The measure was intended to cushion firms and households with foreign-currency denominated debt to banks, and also the government, thereby shifting the burden of the devaluation to the banking system. But since the banking system would be left insolvent as a result, the burden was ultimately passed on to taxpayers and to the government's creditors, because banks were promised reimbursement for their losses through "compensation bonds" to be issued by the government. The difficulties of the banking sector were exacerbated by the asymmetric inflation-correction of bank balance sheets, and by the continued withdrawal of customer deposits because of court-ordered injunctions, which required banks to pay out dollar-denominated deposits at prevailing market exchange rates – rather than the 1.40 per dollar at which they were converted into pesos and then indexed.[44]

40. The authorities also decreed the forcible conversion of all government debt subject to Argentine law from foreign currencies into pesos at an exchange rate of 1.4 pesos per dollar – this at a time when the currency was free-falling toward two pesos per dollar, and several weeks before it touched bottom at nearly four pesos. This measure minimized the impact of currency devaluation on a portion of the stock of public debt, and also lowered the burden of future debt-service payments, because the new peso-denominated bonds carried coupons of as low as two percent per annum (although principal was subject to adjustments for future inflation). These measures primarily affected Argentine bondholders, who were mostly domestic pension and mutual funds, and insurance companies and banks, which had purposely hedged themselves by investing in what they thought were dollar-denominated securities. Many of these investors subsequently commenced litigation in Argentina against the government, but it was fruitless.[45]

41. Another major decision by the Duhalde administration involved the government's takeover of liabilities incurred – including in the currencies issued by provincial governments in prior years. This aimed to cement President Duhalde's political support

[43] *See* "Se pesifican todas las deudas uno a uno," La Nación, 3 February 2002, *available at* http://www.lanacion.com.ar/371402-se-pesifican-todas-las-deudas-uno-a-uno (accessed 2 Nov. 2013); Sturzenegger and Zettelmeyer, pp. 182-186.

[44] Daseking et al., p. 38.

[45] *See* Arturo C. Porzecanski, "From Rogue Creditors to Rogue Debtors: Implications of Argentina's Default," Chicago Journal of International Law, Vol. 6(1), Summer 2005, pp. 311-332.

among provincial governors, but the decision led to a substantial post-default increase in the sovereign debt, though with an offsetting long-term asset because the provinces agreed to reimburse the central government over time. In a related move, government bonds were also issued in 2002-2003 to settle previously contingent liabilities with pensioners, civil servants, victims of human rights abuses, and others. In addition, a hefty amount of government bonds were issued to compensate domestic depositors for the freezing and subsequent rescheduling of their deposits, although at least these bonds generated an offsetting contingent asset for the government, because banks were obligated to gradually reimburse the government in lieu of meeting customer withdrawals.[46]

42. The result of these government decisions was that the stock of performing public debt, which could have fallen by $22.1 billion during 2002-2003 in the wake of the forced currency redenomination, actually increased by $14.2 billion – a $36.3 billion difference equivalent to about half of the post-default performing public debt, and to 31 percent of the 2002-2003 average GDP.[47] In partial compensation, the government would accumulate $11 billion in financial assets by the end of 2003, derived from illiquid claims on banks and provincial governments on whose behalf the new debt had been issued. The banks and provincial governments gradually reimbursed the federal government for these liabilities, and the provincial obligations were secured by a pledge of tax revenues that the provinces received from the central government as part of a revenue-sharing scheme.[48]

43. Relatively quickly, the government's financial assets would reach $21 billion by late 2004, and come to include more than $6 billion in cash (in foreign currencies) held by the National Treasury. However, the authorities would never offer to mobilize these assets, via their liquidation or securitization, for the purpose of improving the treatment of defaulted debt.[49]

44. In sum, it was the Argentine government's policy decisions from December 2001 forward – to freeze access to bank deposits, default on the public debt, devalue the currency absent supportive fiscal and monetary policies, forcibly convert bank foreign-

[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*

currency assets and liabilities into pesos at different exchange rates, abrogate many types of contracts, and other disruptive measures – that truly impaired the Argentine economy and the interests of Argentina's bondholders

IV. ARGENTINA'S DETERIORATED SOCIO-ECONOMIC SITUATION IN 2001-2002 WAS DUE TO BAD POLICY DECISIONS MADE BY THE GOVERNMENT; THE SUBSEQUENT ECONOMIC REBOUND DID NOT JUSTIFY THE LOSSES IMPOSED ON BONDHOLDERS.

A. The default declaration in December 2001 cannot be justified by the plunge in living standards that occurred mainly afterwards.

45. Respondent's Counter-Memorial claims that the extremely deteriorated economic and social situation in Argentina justified the government's default:

> "On December 24, 2001, Argentina *had* to defer the interest and principal payments on all of its external bond debt."[50] (Emphasis added.)

46. This claim is made making no reference to the size, composition and maturity profile of the liquid assets, financial liabilities, and relevant cash flows of the government of Argentina at the time. In addition, it is based on no demonstration of an incapacity on the part Argentina to keep meeting its financial commitments by utilizing the government's still-sizable liquid assets (see above ¶ 33), or to reach out for transitional financial support from an amenable IMF (see above ¶ 29). Argentina's claim is also made absent an acknowledgment that the government's debt service commitments had been substantially reduced by various liability-management operations (see above ¶ 14). Finally, no comparative reference is made to the many governments in Latin America and elsewhere that have avoided a unilateral default by negotiating with their creditors for debt relief without skipping a single payment of interest or principal. Rather, the problems faced by Argentina following its default were predicated by the political turmoil that had been provoked by the government's own actions and inactions during 2001 (see above ¶ 24), and by a flawed interpretation of the economic and social deterioration discussed in the Expert Report by Dr. Bernardo Kliksberg.[51]

47. Dr. Kliksberg wrote that Argentina became a "social bomb" on the verge of

[50] Respondent's Counter-Memorial of 26 December 2012, ¶ 156.

[51] Respondent's Expert Report of Dr. Bernardo Kliksberg of 29 November 2012 ("Kliksberg").

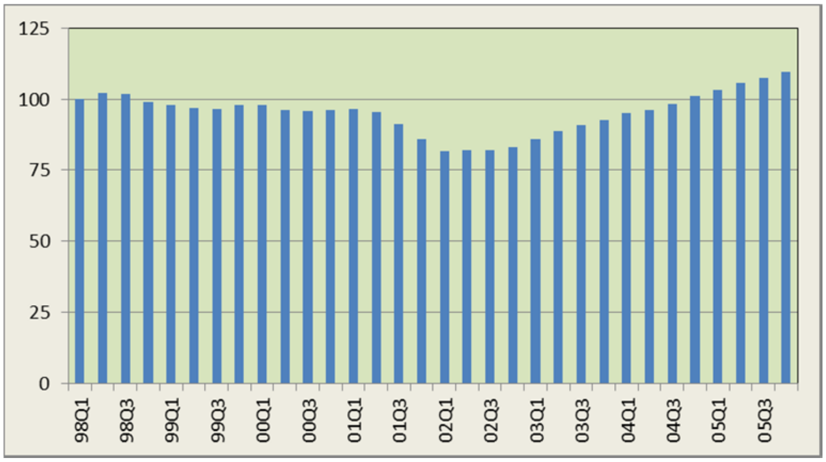
exploding in the run-up to the default,[52] and asked (rhetorically) "what would have happened if Argentina had not defaulted?"[53] He provides no answer, perhaps because no social scientist can possibly quantify with any certainty what might have happened under different historical circumstances. What we do know is what did happen: in the wake of increasingly interventionist, arbitrary, counterproductive, and unreasonable economic policies, Argentina's "social bomb" did explode following the government's declaration of default, and as detailed below, the leading economic and social indicators worsened immediately and significantly.

48. Dr. Kliksberg also cites considerable survey and other data to illustrate how badly the economic and social situation became in 2002.[54] Presumably this is to justify the default that was declared even before the year began, but Dr. Kliksberg confuses cause and effect. The survey and other cited data actually reveal the devastating impact of policy decisions taken by the government in 2001-2002 – e.g., the freezing of access to bank deposits, the reckless devaluation of the currency, the abrogation of contracts, and the unilateral default on the public debt – had on Argentine society through early 2003.

49. The main economic and social indicators show that Argentina endured an economic contraction from mid-1998 until early 2001, but it was in 2002 that the economy shrank significantly further and the social situation worsened sharply. A plotting of the seasonally adjusted quarterly real GDP data (see Figure 5) shows that a peak in income and production was reached in 1998Q2 and that a recession began after that. It was a mild one by Argentine standards (see above ¶ 16) until 2001Q1: the pre-crisis peak to trough contraction was 5.5 percent. However, the economy actually plummeted when news of social and political unrest, and then a default and devaluation, pulled the rug from under consumer and investor confidence. By the time the economy hit a bottom in 2002Q1, the peak-to-trough contraction had become 19.9 percent.

[52] Kliksberg ¶ 26.
[53] *Id.* ¶ 42.
[54] *Id.* § VI.

Figure 5: Argentina's Quarterly Real GDP (Seasonally Adjusted, 1998Q1=100)



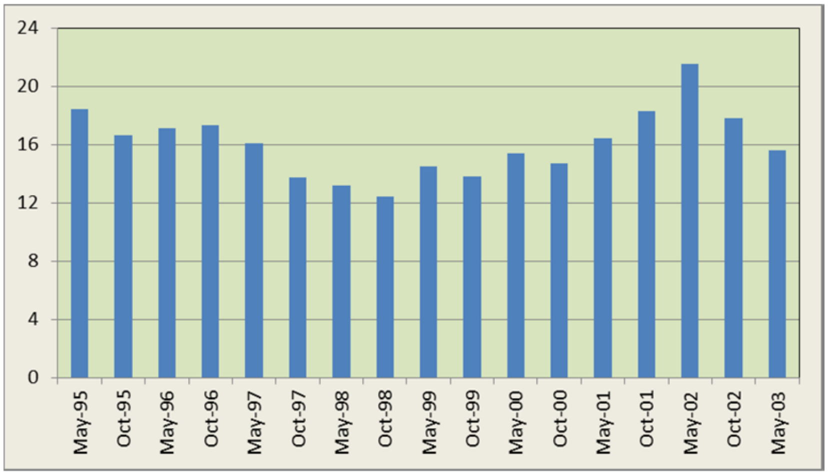
Source: Instituto Nacional de Estadísticas y Censos (INDEC).

50. According to a monthly index of seasonally-adjusted economic activity which recorded a pre-crisis high in June 1998 and a crisis low in March 2002, the intervening shrinkage was actually 21.2 percent, whereas it had been a much more modest 6.6 percent in the period from June 1998 until February 2001. The return to the pre-crisis high took place in February 2005.[55]

51. The unemployment rate as measured in Argentina through May 2003 – the methodology changed after that – shows a gradual rise from a low of 12.4 percent in October 1998 to 14.7 percent two years later, or an increase of 2¼ percentage points (see Figure 6). However, it climbed steeply after that to a full-crisis peak of 21.5 percent as of May 2002, or a total of over 9 percentage points, with three-quarters of the increase taking place during the crisis period. It is estimated that the unemployment rate returned to its 1998 low at some point in late 2004.

[55] *See* MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARÍA DE POLÍTICA ECONÓMICA Y PLANIFICACIÓN DEL DESARROLLO, DIRECCIÓN NACIONAL DE POLÍTICA MACROECONÓMICA, NIVEL DE ACTIVIDAD, Cuadro 1.4: Estimador Mensual de Actividad Económica (2013), *available at* http://www.mecon.gov.ar/download/infoeco/actividad_ied.xls (accessed 3 Nov. 2013).

Figure 6: Argentina's Unemployment Rate (% as of May and October)



Source: Instituto Nacional de Estadísticas y Censos (INDEC).

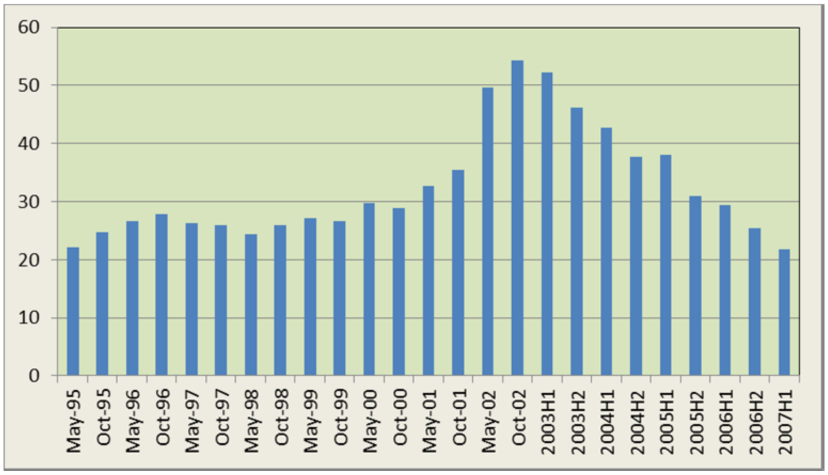
52. The historical figures on the share of the population living below an estimated line of poverty in Argentina show great fluctuations. This is probably because poverty is related not just to the extent of unemployment, but also to the pace of inflation, which was close to zero or even negative during 1993-2001 and then jumped to 41 percent in 2002, after the default and devaluation. When inflation ran very high in the late 1980s and the economy was in a steep recession, the poverty rate shot up to a peak of nearly 50 percent (October 1989). It subsequently came down very far to a low of 16 percent of the population (May 1994), after inflation had been subdued and economic growth had restarted.[56]

53. As can be seen in Figure 7, in the run-up to the crisis of 2001-2002, the poverty rate stood at 24.3 percent in May 1998 and it rose gradually to 28.9 percent as of October 2000. It then grew to 35.4 percent one year later (October 2001) and went to a peak of 54.3 percent one year after that (October 2002). This means that while the poverty rate rose by not even 5 percentage points during the recession in the two-and-a-half years to late 2000, it soared more than 25 percentage points in the period following the default

[56] *See* MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARÍA DE POLÍTICA ECONÓMICA Y PLANIFICACIÓN DEL DESARROLLO, DIRECCIÓN NACIONAL DE POLÍTICA MACROECONÓMICA, EMPLEO E INGRESOS Cuadro 18: Evolución de los Hogares y la Población Que Habita Con Ingresos Por Debajo de la Línea de Pobreza e Indigencia, mayo 1988-mayo 2003 (2013), *available at* http://www.mecon.gov.ar/download/infoeco/apendice3a.xls (accessed 9 Nov. 2013); and "Ingreso por debajo de linea de pobreza en la Argentina 1988-2003, La Nación, based on Encuesta Permanente de Hogares, INDEC, *available at* http://data.lanacion.com.ar/datastreams/64943/ingreso-por-debajo-de-linea-de-pobreza-ingresos-en-la-argentina-1988-2003/ (accessed 9 Nov. 2013).

and devaluation. After October 2002, however, the poverty rate began a steady drop that brought it back down to pre-default levels during the course of 2005.

Figure 7: Argentina's Population Below the Poverty Line (% of total)



Source: Instituto Nacional de Estadísticas y Censos (INDEC).

54. In sum, the leading indicators of economic activity, unemployment and the incidence of poverty all confirm the devastating impact of the government's own policy decisions taken in 2001 and 2002, including the freezing of access to bank deposits, the reckless devaluation of the currency, the abrogation of contracts, and last but not least the default on the public debt. The statistical evidence does not support Argentina's claims that the deteriorated economic and social situation in Argentina justified the government's default; rather, the default was one of several disruptive and mistaken policy decisions that plunged Argentina into a deep crisis of its own making. Starting in 2003, nearly all the macroeconomic indicators improved – and quite rapidly, in fact.

B. A proposal to bondholders that would have been viewed as fair in early 2005 would have attracted nearly universal acceptance. Just as the economic and social depression of 2002 was self-inflicted, the ongoing litigation and arbitration proceedings against Argentina, and the country's isolation from international capital markets, are self-inflicted.

55. In its Counter-Memorial, Respondent claims that Argentina's take-it-or-leave-it demand for massive debt forgiveness from its bondholders was reasonable:

> "Argentina admitted the need to restructure its external debt, pursuant to accepted international practice, by reducing said debt to levels consistent with its payment capacity. Claimants object to

> the terms of the Argentine debt restructuring as they consider such process was unilateral and not sufficiently generous, but these objections are not accurate as to the facts or convincing in terms of the law. Expert witness Guidotti himself, presented in this case by Claimants, pointed out in 2002 that the haircut to be carried [out] by Argentina should amount approximately to 70%."[57] (Citations omitted.)

In fact, as discussed further below, Argentina's demand was quite unreasonable, and Professor Pablo Guidotti was misquoted by Respondent on the matter. He never stated that "the haircut to be carried [out] by Argentina *should* amount approximately to 70%." (Emphasis added.) The correct translation of his remarks in Spanish to a local newspaper provides: "We face a very complex restructuring, where the expected haircuts to principal are very high (they could reach up to 70%)."[58] That is quite different from Dr. Guidotti having advocated such a steep loss in mid-2002, as implied by Respondent's mistranslation – never mind Guidotti having endorsed such a steep haircut in early 2005, by which time the economy had already rebounded to its prior peak (see above ¶¶ 49-51).

56. Respondent's Counter-Memorial goes on to cite its own experts on this matter:

> "As expert witness Eichengreen explains, if Argentina had extended a significantly more generous offer, this would have raised debt service to more than 3 per cent of GDP, a standard cut-off in debt-sustainability exercises."[59] "Expert witness Nouriel Roubini shares this view: '… I evaluated the terms of the Exchange Offer at the time of its release, determined that it was the best possible offer that bondholders would receive, and publicly opined that it was in bondholders' best interest to accept it …'."[60] (Citations omitted.)

57. Unfortunately, Professors Eichengreen and Roubini do not provide any evidence to defend their conclusions on this issue, undermining Respondent's reliance on them to support Argentina's argument that the punishing take-it-or-leave-it offer to creditors was reasonable. Professor Eichengreen's statement that "if Argentina had extended a

[57] Respondent's Counter-Memorial of 26 December 2012, ¶ 288.

[58] "Estamos frente a una reestructuración muy complicada, donde las quitas esperadas de capital son muy altas (pueden rondar hasta el 70%) . . . ." "Meca de Negociadores," Clarín, 2 June 2002, *available at* http://edant.clarin.com/suplementos/economico/2002/06/02/n-00402.htm (accessed 3 Nov. 2013).

[59] Respondent's Counter-Memorial of 26 December 2012, ¶ 298.

[60] Respondent's Counter-Memorial of 26 December 2012, ¶ 299.

significantly more generous offer" is a vague statement which sheds no light on which alternate debt exchange fits his description of "significantly more generous." It is not at all clear why such an unspecified, substitute offer would have raised debt service to more than 3 per cent of GDP. It is, in fact, actually not the case that debt service in excess of the equivalent of 3 percent of GDP is "a standard cut-off in debt-sustainability exercises" – because no such cut-off exists.[61]

58. Professor Roubini provides no explanation for how he determined that Argentina's offer "was the best possible offer that bondholders would receive" or why "it was in bondholders' best interest to accept it" at the time. Such unsupported evaluations, which do not rely on evidence, cannot be analyzed, reproduced, or challenged. They are entirely impressionistic and should be disregarded.

59. A good contrast to the opinionated content of Respondent's experts is provided by a recent scholarly study of sovereign defaults, which provides the first comprehensive and systematic assessment of debtor-government behavior during financial crises. The published authors developed an objective index of government coerciveness, capturing confrontational debtor policies vis-à-vis private external creditors in times of debt distress, drawing on criteria suggested by the International Monetary Fund and the Institute of International Finance.[62] According to the study's results, "the well-known case of Argentina from 2001 to 2005 displays an exceptional degree of coerciveness, as the government officially declares a default, sticks to the proclaimed moratorium by stopping all payments to its bondholders for four years, freezes foreign assets, and rejects any meaningful negotiations.[63] The case of Argentina is contrasted with its neighbor Uruguay, which encountered debt-servicing difficulties at around the same time. In marked contrast, the authorities in Uruguay avoided any missed payments, engaged in

[61] There is no mention of the existence or relevance of a debt-service ratio threshold of 3 percent of GDP in the economic literature. *See, e.g.*, IMF, "Assessing Sustainability," 28 May 2002, *available at* http://www.imf.org/external/np/pdr/sus/2002/eng/052802.pdf (accessed 3 Nov. 2013); IMF, "Modernizing the Framework for Fiscal Policy and Public Debt Sustainability Analysis," 5 August 2011, *available at* http://www.imf.org/external/np/pp/eng/2011/080511.pdf (accessed 3 Nov. 2013); Paolo Manasse and Nouriel Roubini, "'Rules of Thumb' for Sovereign Debt Crises," Journal of International Economics, Vol. 78(2), July 2009, pp. 192-205; and Barry Eichengreen, "Restructuring Sovereign Debt," Journal of Economic Perspectives, Vol. 1(4), Fall 2003, pp. 75-98.

[62] Henrik Enderlein, Christoph Trebesch and Laura von Daniels, "Sovereign Debt Disputes: A Database on Government Coerciveness during Debt Crises," Journal of International Money and Finance, Vol. 31(2), March 2012, pp. 250-266. The index consists of 9 sub-indicators grouped into two broad categories capturing payment and negotiation behaviors (including patterns and rhetoric employed).

[63] *Id.* at 261.

close creditor talks, and arranged for a voluntary debt exchange within just three months, earning the top spot in the least-coercive category of sovereign debt restructurings.[64]

60. Moreover, it was actually possible in 2005, and it is certainly feasible even now, to explore the implications of debt-exchange scenarios that would have been less punitive. For example, as part of its debt restructuring, Argentina's government allowed for the possibility of investors' tendering previously issued bonds (in default) for new Par bonds at no discount to face value. However, their amount was capped arbitrarily and the coupon the new bonds would pay was set extremely low, at 1.33 percent per annum (on US dollar Par bonds) for the first six years, rising to 2.5 percent during 2009-2019. The Par bonds would also have an extremely long grace period (26 years) on any amortization payments – and of course an even longer final maturity (35 years).[65] This alternative of receiving Par bonds with no haircut on principal was aimed at retail investors such as those in Italy, which is why priority was given in their allocation to individual tenders of up to $50,000 (face value) of defaulted bonds.[66] In any event, nearly $8 billion of Par bonds were issued to such small-scale investors, and a total of $15 billion were issued overall.[67]

61. What would have been the cost to Argentina of sweetening this debt-exchange alternative by offering to pay a coupon that was, say, twice as high (2.66 percent) or possibly thrice higher (3.99 percent) from the outset? The cost of paying a coupon of 1.33 percent on the capped issuance of $15 billion was $200 million per annum; that of paying 2.66 percent, $400 million; and that of paying 3.99 percent, $600 million. At the time, each $200 million additional spent on higher coupons was equivalent to 0.11 percent of Argentina's GDP (in 2005), such that a coupon of 2.66 percent would have entailed an expenditure equivalent to 0.22 percent of GDP, and that of a 3.99 percent coupon an expenditure of 0.33 percent of GDP.[68] However, given the growth of the

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[64] *Id.* at 250-251.

[65] *See* The Republic of Argentina, "Prospectus Supplement (to Prospectus Dated 27 December 2004)," 10 January 2005, pp. S-17-22, *available at* http://www.mecon.gob.ar/finanzas/sfinan/english/download/us_prospectus_and_prospectus_supplement.pdf (accessed 3 Nov. 2013).

[66] *See id.* at S-6-7. Investors choosing bonds payable in euros would receive an initial coupon of 1.2 percent.

[67] *See* República Argentina, "Oferta de Canje – Anuncio Final," 18 March 2005, *available at* http://www.mecon.gob.ar/finanzas/sfinan/documentos/180305_anuncio_resultados.pdf (accessed 3 Nov. 2013).

[68] *See* MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARÍA DE POLÍTICA ECONÓMICA Y PLANIFICACIÓN DEL DESARROLLO, DIRECCIÓN NACIONAL DE POLÍTICA MACROECONÓMICA, NIVEL DE ACTIVIDAD, Cuadro 1.5: Oferta y Demanda Globales a Precios Corrientes: Valores Anuales y Trimestrales (2013), *available at*

economy and tax revenues that the government anticipated for future years, which did take place quite vigorously, the fiscal cost of a more acceptable coupon on Par bonds would have fallen to still more insignificant proportions over time (e.g., each $200 million additional spent on higher coupons would be the equivalent to a mere 0.06 percent of Argentina's GDP by 2008).

62. As this simple, hypothetical example illustrates, it would have been possible for Argentina to have made a significantly more generous offer, at least to small-scale bondholders such as the Claimants, without raising the government's debt-service bill by more than an insignificant, and shrinking, fraction of one percent of GDP.

63. More generally, Argentina was positioned by early 2005 to request only a modest amount of debt and debt-service relief from its creditors. There was no longer any objective need to insist on the kind of massive forgiveness of claims which was unprecedented even by Argentina's own history of sovereign debt difficulties. Still, in 2005, Argentina attempted to justify its demand for large-scale debt relief by referencing a proprietary debt-sustainability model, which claimed to quantify the country's ability to pay over a long period on the basis of multiple economic assumptions. However, the simulation model was never allowed to become the object of a negotiation process with Argentina's creditors. It was never validated – never mind endorsed – by the IMF, World Bank or some other authoritative outside party, as has been customary in other sovereign debt restructurings. It was never updated to reflect the unexpectedly strong rebound of GDP, fiscal revenues, and other crucial economic parameters in 2003-2005. And it never incorporated into its debt-sustainability calculations the government's bulging financial assets, both at the National Treasury and at the Central Bank of Argentina, which could have been marshaled for debt-servicing purposes.[69]

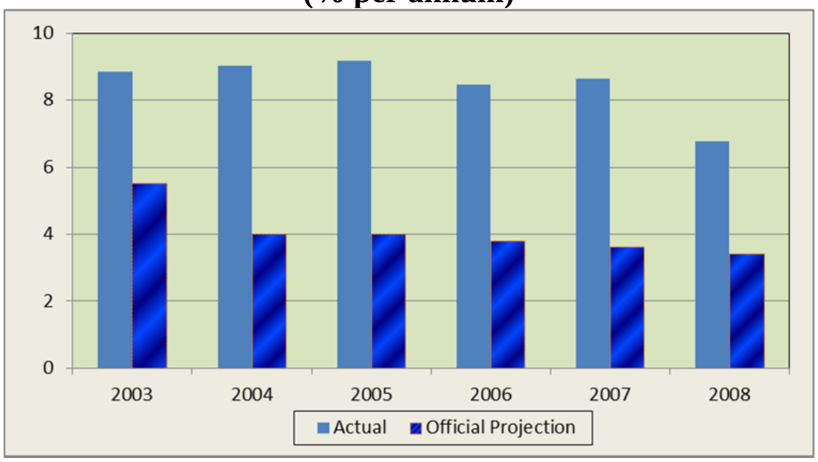
64. Argentina's debt-sustainability model was outdated from the start and it was crammed with pessimistic assumptions as to what the future would bring. It consistently underestimated the large economic gains recorded in 2003 and which lasted through

http://www.mecon.gov.ar/download/infoeco/actividad_ied.xls (accessed 3 Nov. 2013) (author's calculations).

[69] Porzecanski, p. 324. For example, Argentina's official international reserves had doubled from early 2003 to early 2005, from under $10 billion to over $20 billion; see MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARÍA DE POLÍTICA ECONÓMICA Y PLANIFICACIÓN DEL DESARROLLO, DIRECCIÓN NACIONAL DE POLÍTICA MACROECONÓMICA, DINERO Y BANCOS, Cuadro 8.4: Reservas Internacionales y Pasivos Financieros del BCRA (2013)s, *available at* http://www.mecon.gov.ar/download/infoeco/apendice8.xls (accessed 9 Nov. 2013).

2008, as can be seen in Figure 8. In late 2002, the government projected for budgetary – including debt-service – purposes that real GDP would grow 5.5 percent in 2003; in fact, it climbed 8.8 percent. In late 2003, the government budget forecast that real GDP would expand by a subdued 4.0 percent in 2004, but in reality it soared 9.0 percent. And in late 2004, the budget for 2005 anticipated the economy to grow by a modest 4.0 percent; in the event, it rocketed 9.2 percent. Similarly large forecast errors were made by Argentina in 2005-2008.

Figure 8: Argentina's Projected Versus Actual Real GDP Growth (% per annum)



Source: INDEC, International Monetary Fund and Republic of Argentina.

65. In fact, the simulation model that was utilized by Argentina to plead poverty to its bondholders forecast that real GDP growth would decelerate during 2006-2012 to an average annual rate of 3.3 percent. Instead, the actual, officially recorded economic growth rate was 6.4 percent – nearly twice as fast as factored into the government's calculations at the time of the coercive debt exchange in early 2005.[70]

66. Argentina's pessimistic forecasts are precisely what prompted the authorities to offer GDP-linked securities (warrants) as a consolation prize to bondholders who would agree to the very harsh debt exchange: the government did not expect to have to pay

[70] Real GDP projections for 2003-2005 as part of the government's budgetary cycle from Republic of Argentina, "Prospectus Supplement (to Prospectus Dated 27 December 2004)," pp. 149-150; real GDP projections for 2006-2012 debt-sustainability purposes prepared by Argentina from IMF, "Argentina: Staff Report for the 2005 Article IV Consultation," 31 May 2005, p. 50; and actual real GDP data from MINISTERIO DE ECONOMÍA Y FINANZAS PÚBLICAS, SECRETARÍA DE POLÍTICA ECONÓMICA Y PLANIFICACIÓN DEL DESARROLLO, DIRECCIÓN NACIONAL DE POLÍTICA MACROECONÓMICA, NIVEL DE ACTIVIDAD, Cuadro 1.1: Oferta y Demanda Globales a Precios de 1993: Valores Anuales y Trimestrales (2013), *available at* http://www.mecon.gov.ar/download/infoeco/actividad_ied.xls (accessed 3 Nov. 2013).

them.[71] And this is why most bondholders contemplating whether to participate in the 2005 debt exchange did not value the warrants on offer, reasoning that if the government was itself so pessimistic about Argentina's economic prospects, they should not bet otherwise.[72]

67. The result of this systematic underestimation of future economic growth in Argentina – the country's inflation-adjusted GDP ended up expanding by an impressive 68 percent during 2004-2012, rather than the officially forecast 33 percent – was compounded by a similarly pessimistic expectation as to the likely path of government revenues. This was a consideration directly relevant to how the authorities in Argentina saw their evolving ability to pay the government's outstanding indebtedness. Here too, systematic underestimation on Argentina's part skewed the projections to the detriment of the country's creditors.

68. For instance, at the time when the 2005 debt exchange offer was finalized, the Argentine authorities expected that government revenues would rise in line with (supposedly slow-growing) GDP, and thus they anticipated the ratio of revenues to GDP to remain flat. This was an indefensible, prejudicial assumption at the time, since revenues had outpaced GDP in 2003 and again in 2004, in reflection of the fact that in 2002 taxes had been imposed on commodity exports, delivering a major boost to revenues especially given rapidly rising export volumes and prices (see above ¶¶ 11-12).[73] And yet, this is the forecast that the authorities adhered to, which as shown in Figure 9 bears no relation to reality in 2005-2007 – especially so in the many years since then. Whereas government revenues were the equivalent of 29 percent of GDP on the eve of the debt exchange, they soared to represent 40 percent of GDP by 2012, thereby greatly enhancing through time Argentina's capacity to pay its original obligations.[74]

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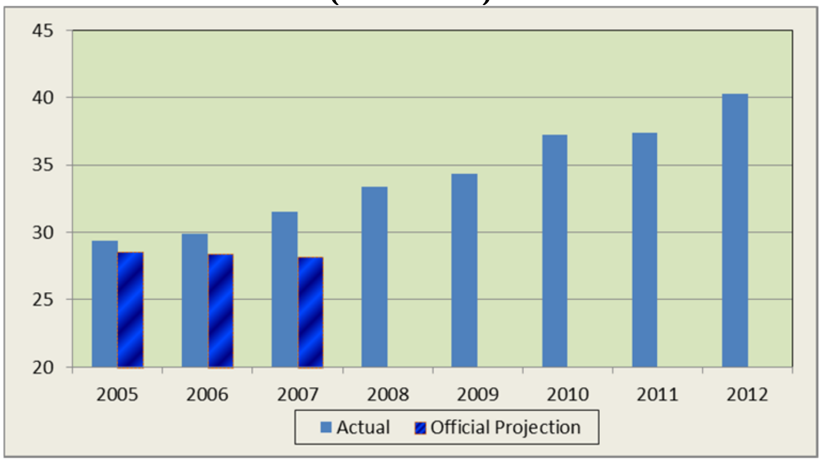
[71] The GDP-linked warrants were structured such that a payment would be made if GDP growth exceeded a sliding scale starting at 3.55% for 2006 and flattening out at 3% in 2015 and thereafter. *See* Republic of Argentina, "Prospectus Supplement (to Prospectus Dated 27 December 2004)," p. S-26-27.

[72] "The [Argentina] warrants were undervalued by both investors and the government officials who created them," quoting Daniel Marx, a former Argentina finance ministry official. *See* Drew Benson, "Greece Sweetener Proved $10 Billion Hangover: Argentina Credit," Bloomberg News, 1 February 2012.

[73] Taxes on exports, which yielded a mere 50 million pesos in 2001 (equivalent to $0.05 billion), generated more than 10 billion pesos by 2004 ($3.5 billion). See Porzecanski, p. 320.

[74] Data for 2004 and projected by the Argentine authorities for 2005-2007 from IMF, "Argentina: Staff Report for the 2005 Article IV Consultation," p. 43; data for 2005-2008 and projected through 2010 from IMF, "Regional Economic Outlook: Western Hemisphere," October 2009, p. 32; data for 2006-2012 from IMF, "Fiscal Monitor," April 2013, p. 65.

Figure 9: Argentina's Projected Versus Actual General Government Revenues (% of GDP)



Source: International Monetary Fund.

69. The extremely strong performance of Argentine tax revenues in 2003-2004 meant that the government's ability to meet its obligations to bondholders was well on its way to being restored by the time the government presented its unilateral exchange offer in 2005. An IMF document prepared in March 2004 – many months before the government's debt restructuring plan was finalized and filed – highlighted that economic growth in Argentina kept outpacing expectations, and that on the heels of the government having met by wide margins its fiscal targets for 2003, fiscal performance in 2004 was continuing to exceed forecasts owing to buoyant tax revenues.[75] The good news about Argentina's economic and fiscal recovery began to circulate around the international investor community, and thus the credibility of the government's plea to be treated as if the country was still practically bankrupt – as it had been in 2002 – started to erode.[76]

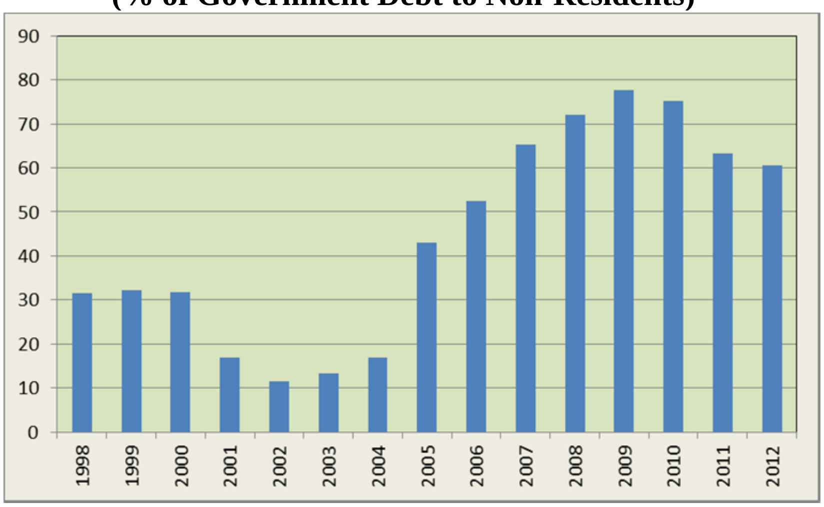
70. The excessive nature of Argentina's drastic debt-reduction process can also be judged with the benefit of hindsight from the following optic. As previously explained

[75] IMF, "Argentina: Second Review Under the Stand-By Arrangement and Requests for Modification and Waiver of Performance Criteria," 12 March 2004.

[76] *See* "Grinding Them Down: Brutal Tactics May Pay Off—For Now," The Economist, 13 January 2005, *available at* http://www.economist.com/node/3564904 ("Many bondholders are furious. They say Argentina, whose economy is growing strongly, could pay more;")(internal parenthetical omitted) (accessed 3 Nov. 2013); *see also* Andrew J. Barden, "UBS, an Adviser to Argentina, Tells Clients Debt Offer Is Low," Bloomberg News, 21 January 2005, *available at* http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aIUVIh1osg14&refer=news_index (quoting Zurich-based Oussama Himani, head of emerging market research at UBS Wealth Management, as having published that "Argentina's offer to repay bondholders 25 cents per dollar of defaulted debt is below the country's capacity to pay.") (accessed 3 Nov. 2013).

(see above ¶¶ 11-12), Argentina was the beneficiary of a huge export boom that began in 2004 and reached a peak in 2011-2012, at which point annual export earnings had tripled from less than $30 billion in the early 2000s to more than $80 billion. Throughout 2004 and into 2005, while the government of Argentina was pleading poverty to its creditors, the central bank was intervening in the foreign exchange market and accumulating more and more international reserves. This policy continued unabated through the end of 2010, at which point Argentina's international reserves peaked at over $50 billion. As can be observed in Figure 10, this build-up in hard-currency reserves greatly diminished the country's imbalance vis-à-vis its liabilities to non-residents, such that reserves came to represent the equivalent of more than 75 percent of the stock of public debt in the hands of foreigners. In sum, this indicator suggests that the massive debt reduction Argentina insisted on in 2005 was excessive, because it overshot what should have been its objective – to return this and other creditworthiness ratios back to their pre-2001 levels.

Figure 10: Argentina's Official International Reserves (% of Government Debt to Non-Residents)*



* Includes past-due principal and contractual interest payments but not penalty interest.
Source: Author's calculations based on INDEC and Banco Central de la República Argentina (BCRA).

71. In sum, we can conclude that Argentina's take-it-or-leave-it demand for massive debt forgiveness from its bondholders in early 2005 was unreasonable given the performance of economic growth, fiscal revenues, international reserves, and other pertinent indicators. This was already evident by early 2005, prompting one-fourth of bondholders to refuse to enter into the debt exchange then on offer, and it is blindingly

obvious with the passage of time and thus benefit of hindsight. The government had the financial wherewithal to put forth a proposal to bondholders that would have been viewed as realistic and thus fair, because it captured the strong economic recovery and the favorable winds that were blowing in Argentina's direction at the time. However, the authorities chose a confrontational path which has haunted Argentina and its creditors ever since. Just as the economic and social depression of 2002 was self-inflicted, the ongoing litigation and arbitration proceedings against Argentina, and the country's isolation from international capital markets, are likewise self-inflicted.

Submitted this 11 day of November 2013:
Washington, D.C.

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DR. ARTURO C. PORZECANSKI

Appendix 1: 2001-2002 Event Chronology

02 Mar 01 Economy Minister José Luis Machinea resigns, and Ricardo López Murphy is subsequently named his successor.

16 Mar 01 FREPASO members of the cabinet resign in protest over a proposed fiscal austerity program; the Alliance between the FREPASO and the Radical party is frayed.

19 Mar 01 Economy Minister Ricardo López Murphy resigns, and Domingo Cavallo is subsequently named his successor.

29 Mar 01 Minister Cavallo secures emergency powers from Congress, and subsequently announces various tax and subsidy programs.

14 Mar 01 Minister Cavallo announces a draft bill to modify the Convertibility Law, replacing the link to the U.S. dollar by an equally weighted basket of the dollar and the euro; it is subsequently passed by Congress on 21 Jun 01 to go into effect once the euro reaches parity with the dollar.

16 Apr 01 Minister Cavallo requests that major corporations purchase "patriotic bonds" for $1 billion.

24 Apr 01 Central Bank President Pedro Pou, in office since 05 Aug 96, is removed from his post by a congressional committee on charges of improper behavior in connection with a money laundering investigation; he is subsequently replaced by Roque Maccarone.

21 May 01 IMF completes 3rd review of Stand-By Arrangement, re-profiling the 2001 path for the federal government deficit target to accommodate deviations observed.

03 Jun 01 Authorities announce the completion of a "mega-swap" whereby government bonds with a face value of US$29.5 billion are voluntarily exchanged for longer-term instruments with higher coupons.

15 Jun 01 Minister Cavallo announces package of tax and trade measures, including a mechanism to compensate exporters and importers of non-energy goods.

11 Jul 01 Minister Cavallo announces a draft bill to balance the budget immediately through mandatory spending cuts; it is subsequently passed by Congress on 30 Jul 01.

21 Aug 01 IMF announces planned augmentation of Stand-By Arrangement by $8 billion; it subsequently approves said augmentation and the 4th review on 07 Sep 01, and goes on to disburse $5 billion immediately.

05 Sep 01 Press reports that the FREPASO is proposing an end of the convertibility regime.

20 Sep 01 The Central Bank activates a contingent repo facility with foreign banks, boosting gross reserves by about $1.2 billion, with $500 million disbursed in October.

14 Oct 01 The ruling "coalition" obtains less than 25 percent of the votes in mid-term congressional elections; the Peronist party gains control of both houses of Congress.

28 Oct 01 Minister Cavallo announces that he will seek a "voluntary" restructuring of all the government debt.

30 Oct 01 The FREPASO breaks away from its coalition with the Radicals in the Lower House.

01 Nov 01 Minister Cavallo announces a package of fiscal measures, including competitiveness plans, the rebate of VAT payments on debit-card transactions, a temporary reduction in employee pension contributions, and a tax amnesty.

30 Nov 01 The authorities announce completion of a restructuring of public debt held domestically ("Phase 1"); bonds with a face value of $41 billion issued by the federal government, plus $10 billion by provinces, are "voluntarily" exchanged for bonds with lower coupons and extended maturities.

01 Dec 01 The government introduces wide-ranging controls on banking and foreign exchange transactions, including a cash withdrawal limit of 250 pesos on demand deposits (the *corralito*).

08 Dec 01 Private pension funds are forced to purchase government bonds.

12 Dec 01 A national strike is called, setting off a series of demonstrations against the government's economic policies.

19 Dec 01 A State of Emergency is declared to stop street protests and supermarket looting; the lower house of Congress repeals Minister Cavallo's special powers, and he resigns, as does the remainder of the Cabinet.

20 Dec 01 President Fernando De La Rúa resigns after death of demonstrators; Ramón Puerta, President of the Senate, becomes interim President; a bank holiday is declared for 21 Dec 01, extended through 26 Dec 01. Nicolas Gallo is appointed Economy Minister on 20 Dec 01 but resigns the next day; he is replaced by Jorge Capitanich, but he too resigns one day later.

23 Dec 01 Adolfo Rodríguez Saá is appointed President by the Legislative Assembly, and announces a moratorium on the foreign debt. Rodolfo Frigeri becomes his Economy Minister.

30 Dec 01 President Rodríguez Saá resigns; Eduardo Camaño, head of the Lower House, is appointed Interim President by the Legislative Assembly.

01 Jan 02 Eduardo Duhalde is elected President by the Legislative Assembly, to serve until end-2003; he defaults on an Italian lira-denominated Eurobond on 03 Jan 02 and announces the end of the one-to-one exchange rate and the introduction of a dual foreign exchange regime, which goes into effect on 06 Jan 02, after passage of the Law of Public Emergency and Reform of the Exchange Rate Regime, which gives Duhalde extraordinary powers. The law also mandates the conversion of many dollar-denominated contracts into pesos.

07 Jan 02 Economy Minister Rodolfo Frigeri resigns and President Duhalde appoints Jorge Remes Lenicov as Frigeri's successor.

10 Jan 02 The monthly withdrawal limit from bank demand deposits is raised to 1,500 pesos,

with the remainder, and all term deposits in pesos, frozen and payable in monthly installments during 2002-2003; demand and term deposits in dollars are frozen, with exceptions for small amounts, to be repaid mainly during 2003-2005. Later on (as of 01 Jun 02), balances in most dollar-denominated accounts are exchanged for dollar- and/or peso-denominated bonds. These restrictions on peso and dollar term deposits become known as the *corralón*.

18 Jan 02 Central Bank President Roque Maccarone, in office since 25 Apr 01, resigns; he is replaced by Mario Blejer on 28 Jan 02.

24 Jan 02 Utility rates (e.g., gas, electricity, telephones and water) are frozen indefinitely.

30 Jan 02 An emergency law curtailing creditors' rights is approved by Congress.

02 Feb 02 The government backtracks and decrees the unification of the exchange rate regime, but also the asymmetric conversion of bank balance sheets from dollars into pesos.

11 Feb 02 The foreign exchange market opens under the unified regime; the peso depreciates to 1.8 to the dollar.

05 Mar 02 Taxes on exports (mainly of commodities) are imposed at initially low rates (5-10 percent).

08 Mar 02 The government decrees the conversion into pesos of all dollar-denominated government debt issued under Argentine law.

25 Mar 02 The exchange rate reaches almost 3 pesos per dollar; it would peak at 3.85 in late June.

09 Apr 02 Taxes on exports (mainly of commodities) are raised to at least 20 percent.

19 Apr 02 A bank holiday is declared until Congress approves a solution to the problem of judicial injunctions (*amparos*) releasing bank deposits; Economy Minister Jorge Remes Lenicov drafts a plan (the so-called BONEX II Plan) to convert rescheduled time deposits into government bonds.

20 Apr 02 Congress rejects the BONEX II plan and draft law; Economy Minister Remes Lenicov resigns, and he is replaced by Roberto Lavagna on 26 Apr 2002.

25 Apr 02 Congress approves an alternative law commonly known as the *Ley Tapón* to ease pressure from the injunctions, whereby depositors can only access funds once the judicial process is over.

15 May 02 Congress passes legislation reversing some (harmful) provisions of the January emergency law and makes limited improvements to the bankruptcy law.

31 May 02 In a tightening of capital controls, the central bank decides that export revenues in excess of $1 million will have be sold directly to the central bank; the limit is cut further to $500,000 on 18 Jun 2002, and to $200,000 on 03 Sep 2002.

01 Jun 02 President Duhalde signs Decree 905/2002 on reprogramed deposits, a revised version of the BONEX II Plan, giving depositors the option to exchange dollar-denominated

deposits into dollar bonds maturing in 2012, and peso depositors into peso bonds maturing in 2007. Elderly depositors are given a dollar bond maturing in 2005.

25 Jun 02 Central Bank President Mario Blejer, in office since 28 Jan 2002, resigns; he is replaced by his deputy, Aldo Pignanelli.

26 Jun 02 Riots in Buenos Aires; two demonstrators are shot dead by the police.

29 Jul 02 A panel of monetary policy experts make public several proposals to resolve the country's financial crisis, including establishing an independent central bank, ending government deficit-financing through peso printing, allowing the peso to float freely, and stopping the issuance of quasi-currencies by some provincial governments.

15 Aug 02 Congress passes a law extending for 90 days the provision that suspends certain kinds of creditor-initiated, non-bankruptcy enforcement actions.

26 Aug 02 The government decrees that government bonds be issued to compensate banks for the forced conversion (in January) of their assets and liabilities at different exchange rates.

20 Sep 02 The government launches a second swap of bonds for frozen deposits and announces the easing of restrictions on small-scale time deposits (up to 7,000 pesos).

31 Oct 02 The monthly cash withdrawal limit on the *corralito* is raised to 2,000 pesos.

11 Nov 02 After discussions with the government, the banks announce a "voluntary" 75-day stay on foreclosures.

14 Nov 02 The government does not fully meet an $809 million debt payment to the World Bank; only a $79 million interest payment was made.

22 Nov 02 The government announces the lifting of remaining *corralito* restrictions on sight accounts, effective 02 Dec 02.

27 Nov 02 A decree is issued authorizing court-imposed stays on foreclosures for up to 30 business days, to allow for a mandatory mediation process.

11 Dec 02 Central Bank President Aldo Pignanelli, resigns; he is replaced by Alfonso Prat Gay.

Source: Author's compilation based mainly on Christina Daseking, Atish Ghosh, Timothy Lane, and Alun Thomas, Lessons from the Crisis in Argentina, IMF Occasional Paper #236, 2004, pp. 48-51, and IMF Independent Evaluation Office, The IMF and Argentina, 1991-2001 (Washington, DC: IMF, 2004), p. 100, supplemented by review of laws and decrees compiled by the Ministerio de Economía y Finanzas Públicas, available at http://infoleg.mecon.gov.ar/ (accessed 2 August 2013) and lists of economy ministers and central bank presidents compiled by the Ministerio de Economía y Finanzas Públicas, available at http://cdi.mecon.gov.ar/contenido/MINIS.htm and the Banco Central de la República Argentina, available at http://www.bcra.gov.ar/index.asp, respectively (both accessed 26 October 2013).

Appendix 2: Curriculum Vitae

Prof. ARTURO C. PORZECANSKI, Ph.D.

PROFESSIONAL EXPERIENCE

Jun 2012-now *Director, International Economic Relations Program and Co-Director, International Economics Program*
Aug 2007-now *Distinguished Economist-in-Residence, American University*
2005-2007 *Scholar in Residence, American University*

I have taught four different courses ("International Economics," "International Economic Organizations," "Emerging-Markets Finance," and "Financial Issues in Latin America") mostly for graduate students enrolled either in the School of International Service or the Department of Economics. I also carry out publishable research in international finance and provide consulting services to financial, law and public-relations firms, as well as to U.S. government agencies and multilateral institutions, such as the Inter-American Development Bank and the United Nations. In addition, I serve as a Dispute Resolution Arbitrator for the Financial Industry Regulatory Authority (FINRA), and have been a Senior Associate (Non-Resident), in the Americas Program of the Center for Strategic and International Studies (CSIS) during 2006-2013.

Jan 2002-Dec 2006 *Adjunct Professor of International Affairs, Columbia University*

I developed and taught every Fall term a very popular graduate-level course on "Financial Issues in Latin America" at the School of International and Public Affairs, and previously taught a seminar on "Globalization: Causes and Consequences."

Jun 2004-May 2005 *Adjunct Professor of Economics, New York University*

I taught every spring term a course in international business to undergraduate students in the Stern School of Business, and also the class "Financial Issues in Latin America" to graduate students in the Economics Department of the Faculty of Arts and Science.

Jan-May 2005 *Visiting Professor of Economics, Williams College*

I taught two Oxford-style tutorials in international finance and economic development to mid-career graduate students from developing countries at the Center for Development Economics.

Jul 2000-Feb 2005 *Managing Director and Head of Emerging Markets Sovereign Research, ABN AMRO Inc.*

Advised the Bank, its bond and equity investor clients, as well as corporate, bank and government treasurers, on financial market and credit risks and opportunities, especially in the emerging markets of Asia, Emerging Europe and Latin America; published economic research reports on a regular basis; conducted seminars and spoke out publicly in numerous venues; visited clients around the globe to advise them personally; granted interviews to the media on virtually a daily basis; advised U.S. government and international agencies located in Washington and beyond; and managed a team of nearly 20 applied-research economists scattered around the globe.

1994-Jun 2000 *Managing Director and Chief Economist for the Americas, ING Barings*

Founded and managed the firm's top-ranked economics and corporate-debt research effort in the Americas, and helped to set it up in Europe and Asia; advised the firm and its fixed-income and equity clients on global economic and political prospects with special concentration on Latin America and the region's trade and financial interactions with the U.S.; was the managing editor of (and regular contributor to) the firm's flagship fixed-income publication; and was often ranked by investor surveys as one of the top economic advisors, receiving an award for accuracy in economic forecasting.

1992-1993 *Senior Vice President and Chief Emerging Markets Economist, Kidder Peabody & Co. Inc.*

Advised the trading desk and institutional clients on market risks and opportunities mostly in Latin America but also in other emerging markets; visited the countries covered, producing a variety of written research reports; made presentations to clients and handled relations with the media; was a member of the firm's Investment Policy Committee; and managed a small team of economic analysts.

1989-1992 *Senior Vice President and Chief Economist, Republic National Bank of New York*

Advised management and clients on financial-market developments, government policies, and economic and political trends in the New York area, the U.S. and abroad; produced a biweekly research report on current national and international issues, a quarterly international country risk report and numerous other topical memoranda as circumstances warranted; and was a member of the firm's International Credit Policy Committee.

1977-1989 *Vice President and Senior Economist, JP Morgan, New York*

Advised management and clients on lending and investment risks and opportunities in emerging markets, primarily Latin America; after the onset of the 1982 LDC debt crisis, helped to represent Morgan in country debt negotiations; and wrote numerous research papers appearing in the Bank's flagship publication and in various other country and currency reports.

1975-1976 *Research Economist, Center for Latin American Monetary Studies, Mexico City*

Taught Master's-level courses in macroeconomics to Latin American central bank officials, and carried out empirical research on monetary policy problems in Latin America, later published in refereed journals or in books on fiscal and monetary affairs.

1973 *Visiting Economist, International Monetary Fund*

Developed and completed a research project, later published in a refereed journal, on the feasibility of using general indirect taxes as instruments of anti-inflation policy.

1981	*Adjunct Assistant Professor of Economics, Barnard College*

Taught an honors undergraduate course in international finance.

1976	*Adjunct Assistant Professor of Economics, Instituto Tecnológico Autónomo de México (ITAM), Mexico City*

Taught an undergraduate course on theories of economic growth.

1971-1975	*Teaching Assistant, University of Pittsburgh*

Helped to teach undergraduate macroeconomics and international finance courses while pursuing my Ph.D. degree.

EDUCATIONAL BACKGROUND

1975	Ph.D. in Economics, University of Pittsburgh, with specialization in international, development and Latin American economics, and Graduate Certificate in Latin American Studies; doctoral dissertation chair: Prof. Marina von N. Whitman.
1974	M.A. in Economics, University of Pittsburgh, with specialization in international and development economics.
1971	B.A. in Economics and Certificate in Latin American Studies, Whittier College, CA.
	Elementary and secondary education in Montevideo, Uruguay.

PROFESSIONAL MEMBERSHIPS

Council on Foreign Relations
American Economic Association

DIRECTORSHIPS

2007-now	Tinker Foundation
2005-2007	Washington Office for Latin America

LANGUAGES

Fluent in Spanish, Italian and Portuguese.

PUBLICATIONS

While in Graduate School:

Articles:

“Price-Level and Income-Redistributing Effects of Devaluation in LDCs,” in *Rivista Int. Di Sc. Economiche,* September 1972.

“Uruguay’s Continuing Dilemma,” in *Current History*, January 1974.

“The ‘Natural’ Trade Balance,” in *Rivista Int. Di Sc. Economiche*, March 1974.

“General Indirect Taxation as a Macroeconomic Policy Instrument,” in *National Tax Journal*, December 1974.

“The Inflationary Aspect of Repetitive Devaluation,” in *Journal of Development Studies*, July 1975.

Book:

Uruguay’s Tupamaros: The Urban Guerrilla (New York: Praeger Publishers, 1973).

Soon After Graduate School:

Articles:

“Authoritarian Uruguay,” in *Current History*, February 1977.

“A Comparative Study of Exchange Rate Policy under Inflation,” in *Journal of Developing Areas*, January 1978.

“An Analysis of the Economic Determinants of Legal and Illegal Mexican Migration to the US,” with Mario I. Blejer and Harry G. Johnson, in *Research in Population Economics*, ed. by Julian L. Simon (Greenwich, CT: JAI Press, 1978).

“The Case of Uruguay,” in *Social Security in Latin America*, ed. by Carmelo Mesa-Lago (Pittsburgh: Univ. of Pittsburgh Press, 1978).

“Patterns of Monetary Policy in Latin America,” in *Journal of Money, Credit and Banking*, November 1979.

“The International Financial Role of US Commercial Banks,” in *Journal of Banking and Finance*, March 1981.

“The Assessment of Country Risk: Lessons From The Latin American Experience,” in *Financing Development in Latin America*, ed. by Juan C. Garcia-Zamor and Stewart E. Sutin (New York: Praeger Publishers, 1980).

“The Monetary Approach to the Balance of Payments as Applied To Uruguay (In Spanish),” in *Central Bank of Uruguay 1980 Prize* (Montevideo: BCU, 1981).

“Some Thoughts on Risk in International Bank Lending,” in *Crises in the Economic and Financial*

Structure, ed. by Paul Wachtel (Lexington, MA: DC Heath, 1982).

"Profitability of International Banking," in *International Banking: Principles and Practices*, ed. by Emmanuel N. Roussakis (New York: Praeger Publishers, 1983).

"The Limited Role of the IMF," with Rimmer de Vries, in *IMF Conditionality*, ed. by John Williamson (Washington: IIE, 1983).

Books:
Fiscal Policy in Latin America (in Spanish), a book of essays (Mexico City: CEMLA, 1977).

Monetary Economics (in Spanish), a book of essays co-edited with Mario I. Blejer (Mexico City: CEMLA, 1977).

While on Wall Street:

Articles:

"Achieving Stability in Latin American Financial Markets: A Comment," in *Volatile Capital Flows*, ed. by Ricardo Hausmann and Liliana Rojas-Suárez (Washington, DC: IADB, 1996).

"Confronting Fiscal Imbalances Via Intertemporal Economics: A Comment," in *Sustainable Public Sector Finance in Latin America* (Atlanta: Federal Reserve Bank of Atlanta, 1999).

"Killing The Golden Goose," in *Emerging Markets Investor*, November 1999.

"Argentina y la Nueva Arquitectura del Sistema Financiero Internacional," in Banco Central del Uruguay *Revista De Economía*, May 2001.

"The Past and Future of Domestic Financial Markets in Latin America: A Comment," in *Domestic Finance and Global Capital in Latin America* (Atlanta: Federal Reserve Bank of Atlanta, 2001).

"Bankruptcy Lite," in *The International Economy*, Summer 2002.

"A Critique of Sovereign Bankruptcy Initiatives," in *Business Economics*, January 2003.

"The Constructive Role of Private Creditors" in *Ethics & International Affairs*, September 2003.

While in Academia:

Articles:

"From Rogue Creditors to Rogue Debtors: Implications of Argentina's Default," *Chicago Journal of International Law*, Summer 2005.

"Dealing with Sovereign Debt: Trends and Implications," in *Sovereign Debt at the Crossroads*, ed. by Chris Jochnick and Fraser Preston (New York: Oxford Univ. Press, 2006).

"El Mercado de Renta Fija en Uruguay," in Banco Central del Uruguay *Revista De Economía*, May 2007.

"Debt Relief by Private and Official Creditors: The Record Speaks," *International Finance*, Summer 2007.

"The Constructive Role of Private Creditors," expanded and updated version, in *Dealing Fairly with Developing Country Debt*, ed. by Christian Barry, Barry Herman and Lydia Tomitova (Malden, MA: Blackwell, 2007).

"The Fixed-Income Market in Uruguay," with Julio De Brun, Néstor Gandelman and Herman Kamil, in *Bond Markets in Latin America*, ed. by Eduardo Borensztein, Kevin Cowan, Barry Eichengreen and Ugo Panizza (Cambridge, MA: MIT Press, 2008).

"U.S.-Latin America Relations: A New Direction for a New Reality," *Council on Foreign Relations Independent Task Force Report*, No. 60, Brookings Institution Press, May 2008, contributor.

"Latin America: The Missing Financial Crisis," *ECLAC Washington Office Studies and Perspectives Series #6* (Santiago, Chile and Washington, DC: United Nations ECLAC, October 2009).

"Should Argentina Be Welcomed Back by the Capital Markets?," University of Miami Center for Hemispheric Policy *Perspectives on the Americas*, December 2010.

"When Bad Things Happen to Good Sovereign Debt Contracts: The Case of Ecuador," *Law & Contemporary Problems*, Duke Law School, Fall 2010.

"Corporate Workouts in Mexico: The Good, the Bad and the Ugly," Center for Strategic and International Studies *Issues in International Political Economy*, April 2011; reprinted in *North American Free Trade & Investment Report*, April 15, 2011.

"Should Argentina be Welcomed Back by Investors?," *World Economics*, September-December 2011.

"Mexico's Retrogression: Implications of a Bankruptcy Reorganization Gone Wrong," Center for Strategic and International Studies *Americas Program Hemisphere Focus*, November 2011.

"Buenos Aires to Athens: The Road to Perdition," *CSIS Americas Program Hemisphere Focus*, April 2012.

"Recommendations for a New Administration: Prosperity through Rule of Law and Sound Economics," Center for Strategic and International Studies *Americas Program Hemisphere Focus*, December 11, 2012; reprinted in *Latin American Law & Business Report*, December 2012.

"Behind the 2012 Greek Default and Restructuring," in *Sovereign Debt Restructuring: Legal, Financial and Regulatory Aspects*, ed. by Eugenio A. Bruno (London: Globe Law and Business, 2013).

"Borrowing and Debt: How Do Sovereigns Get Into Trouble?," in *Sovereign Debt Management*, ed. by Rosa Lastra and Lee Buchheit (Oxford: Oxford Univ. Press, 2014).