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Pension System Reforms in Argentina

Why the U-Turn?

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Abstract

The 2008 Argentine pension reform represented a new change of paradigm in the country's pension policy. It encompassed the elimination of the fully funded, defined contribution (DC), private tier of the so-called Integrated Retirement and Pensions System (SIJP) – a two-tiered arrangement implemented in 1994 and inspired by the World Bank's recommendations contained in the work *Averting the Old Age Crisis* (World Bank 1994). And the shift back to a publicly managed, single-tiered pension system provided in a pay-as-you-go defined benefit (PAYG-DB) basis: the Argentine Integrated Retirement System (SIPA).

In order to finally explain these events, in this thesis I present a detailed account of the events that took place in 2008, divided into six chapters. The first chapter introduces the topic, its background and the research question: *Why did Argentina change its pension system back to a one-tiered, pay as you go DB system in 2008?* The second explains the appropriateness of the research strategy and the design chosen for this study. In the third chapter, the reader is introduced to the events under analysis and the possible explanations or “suspects” to be explored upon. The fourth chapter provides the framework and settings to understand Argentina's policy making process. Chapter five brings in with detail the sequence of decisions that resulted in the shift back to a pay-as-you-go DB public pension design in Argentina, connecting them with that group of “suspects” (11 hypotheses) that may explain why it happened. Finally, chapter six rounds up and analyses the findings and closes with the final conclusions and recommendation for further investigation.

To briefly summarize some of the findings that made possible this shift back to pay-as-you-go: (a) the effect that changes in public representations of social problems have over the sustainability of their associated social arrangements. (b) The transformations in the private-public mix that have been happening in Argentine society since 2003, and the development of a different understanding of role of the State. (c) The multidimensional feature of social policy – and in particular pension policy – and the way the various dimensions are prioritized and discussed upon during the policy formulation process, leading to a certain “consensual” understanding of what the problem is and how it should be solved. (d) The impact that certain aspects of political cultures – such as the presence of machine politics or ideology – may have over policy and the process of policy change, influencing arguments and final outcomes. (e) The shaping role of institutions and electoral results in the whole policy making process. (f) The new map of international relationships, in particular with the IMF and the World

Bank. (g) And how local and international contexts create certain settings that can affect the views of all actors involved.

Key words: Argentina, pension policy, reform, pay-as-you-go, fully funded, World Bank, Argentine Integrated Retirement System (SIPA), Integrated Retirement and Pensions System (SIJP), defined contributions, defined benefits, policy process.

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Acknowledgments

This thesis represents the end of an exciting, but not less challenging, journey that started three years ago when I was invited to come to Oslo for a short stay of around three months. That stay has now become two and a half years. I look behind. I see my personal and academic development and how much I have changed and grown as a person during this time, and I smile. The accomplishments are simply invaluable. The Master Programme in International Social Welfare and Health Policy has given me the opportunity to experience and understand the world from a different perspective, and to meet people who have taught me a different way. For this I am grateful.

I would like to start by thanking Oslo and Akershus University College of Applied Sciences and those who made it possible for me to come to Oslo, Ivar Lødemel, Stuart Arthur Deakin and Anne M. Møgster. And thanks to Einar Øverbye, my supervisor, for his intellectual, academic and professional guidance, and his support and motivation during this path.

With all my heart I thank my parents, Ernesto I. Reyna Morgan and Silvia I. Rickert, and all my family for their love and constant support. This thesis is dedicated to you! And to my friends in Argentina, in Norway and around the world, thank you for being there for me in the ways you knew the best. This experience would not have been so fruitful if it had not been for each and every one of you.

To all of you I would like to offer these lines of a song I like really much and that so well express my inspiration when executing this paper:

Pero no cambia mi amor (But my love doesn't change)
Por más lejos que me encuentre (no matter how far away I find myself)
Ni el recuerdo ni el dolor (neither the memory nor the pain)
De mi pueblo y de mi gente (of my country and my people)
Lo que cambió ayer (What changed yesterday)
Tendrá que cambiar mañana (will have to change tomorrow)
Así como cambio yo (Just as I change)
En esta tierra lejana (in this foreign land)
Cambia, todo cambia (Changes, everything changes)

Artist: Mercedes Sosa
Song: Todo cambia (Everything changes)

Oslo, September 15, 2012

Silvia I. Reyna Rickert

1 Introduction

1.1 Background

The discussion around old age care often refers to the economic sustainability of the pension system that provides it. However, endurance is not the only important concern. Various authors are also worried about the existence of persistent old age poverty together with already high levels of pension expenditure that are further increasing. Simultaneously, governments have to deal with the pressures of economic globalization that may constraint a country's freedom to design its social security institutions (N. Barr 2006, 1-4; CISS 2010, 77-80). Pension systems are the largest single welfare arrangement and their redistributive potential is very high, making pension policy particularly relevant to different political actors (Bonoli 2000, 8-9).

It does not come as a surprise that as a consequence of this scenario the way pension schemes are designed has become a central subject to many during the past years. However, regardless of the existence of the multiple variables involved, the main supporting argument for reforms has remained as the increase in the number of elderly people consequence of the rise in life expectancy and falling birth rates (Andersson 2006, 388). This increased demand of a system that can cover the needs of the old while being sustainable in the long run has resulted in a vast offer of academic papers and a series of pension system reforms focused on technical issues such as whether private pensions should be mandatory or voluntary, should have defined contributions or defined benefits, or should be funded or pay-as-you-go (N. Barr 2006; N. Barr 2009; Palacios and Pallarès-Miralles 2000; World Bank 1994).

Up until today, it has been almost always assumed that a reform would be carried out just because of technical issues. There is a predominant economic approach that tends to explain pension system reforms based on design problems that operate within the arrangement – or mix of arrangements – in place. And do not account for the reasons why a particular reform – and the definition of the social problem that needs to be solved by the reform – reaches a leading position in the political agenda. Under these considerations, the way design problems are interpreted and advocated for by the different political actors need to be studied to fully understand dramatic changes such as pension system reforms (Goul Andersen 2001, 123-129). Because political priorities are defined and redefined across time and countries and “[...] the policies effectively applied in each country, and the aims underpinning design

features, are the result of political compromises and reflect the ideas that prevail at a given moment of time as well as the balance of power in the political process” (Arza 2008, 2696).

Thus, this would mean driving attention away from that pure technical debate and towards the study of the system’s political sustainability. Looking into the policy process in its context and searching for those tradeoffs willing to be accepted and those political constituencies willing to accept them in terms of their relative power in that decision making process, would provide a more thorough explanation of pension system reforms, their implications and the circumstances under which dramatic shifts in social security systems are likely to take place.

The Argentine pension system was first put in place in 1904. Its structure was fully funded by wage contributions, it provided earnings-related benefits, and it covered public workers - being extended from 1920 onwards to the private sector. Despite its original surplus, in 1968 the system was reformed for the first time into a so called Pay-as-you-go scheme, a scheme where benefits were paid out of the current contributions and taxes; in contrast to fully funded schemes where payments are done out of funds that would be previously accumulated (Gillion, et al. 2000, 710). Due to prominent financial imbalances later once again – in 1980 – the scheme began to require extra support from the state through general taxes and other government funding. At that time, the system was a publicly managed, defined-benefit (DB) scheme, where benefits were calculated upon the “worker’s history of pensionable earnings”. Defined-contribution (DC) pension benefits, as an alternative arrangement, are determined by the accumulated funds in individual accounts (Barr and Diamond 2009, 8). That PAYG-DB scheme that covered formal workers against retirement, disability and death of a provider, continued in place until 1994 when the first fundamental shift was performed (Asociación de Administradoras Privadas (ASAP) 1998, 89-97).

In 1994 – one and a half years after the first project draft was presented to the congress – Argentina replaced the existing scheme with the so-called Integrated Retirement and Pensions System (SIJP) (Law 24.241). This was a mixed pension system¹ that consisted of two tiers: (a) a basic PAYG-DB pension provided through a reformed public tier limited to reducing old age poverty. (b) A privately managed tier that would provide an earnings-

¹ Figure 1 shows how the two-tiered system was organized. See appendix 1 for additional information about how the Public/Private mix was organized.

related, mandatory, fully funded, defined-contribution scheme, aimed at becoming the bulk of the system.

The introduction of this new scheme had a double purpose: provide fiscal, financial and economic stability and development, while addressing the pension system’s sustainability problems (Arza 2008, 2697). This public-private mix suffered a number of modifications throughout its 14 years of existence (Arza 2009, 2), and ended in 2008 when the country made what can be labelled as a “U-turn” in pension design, removed the private tier and returned to the previous pension model: a single-tiered, public, pay-as-you-go, defined benefits pension system.

Institutional division of responsibility – Argentina’s pension system 1994-2008
Public/Private mix

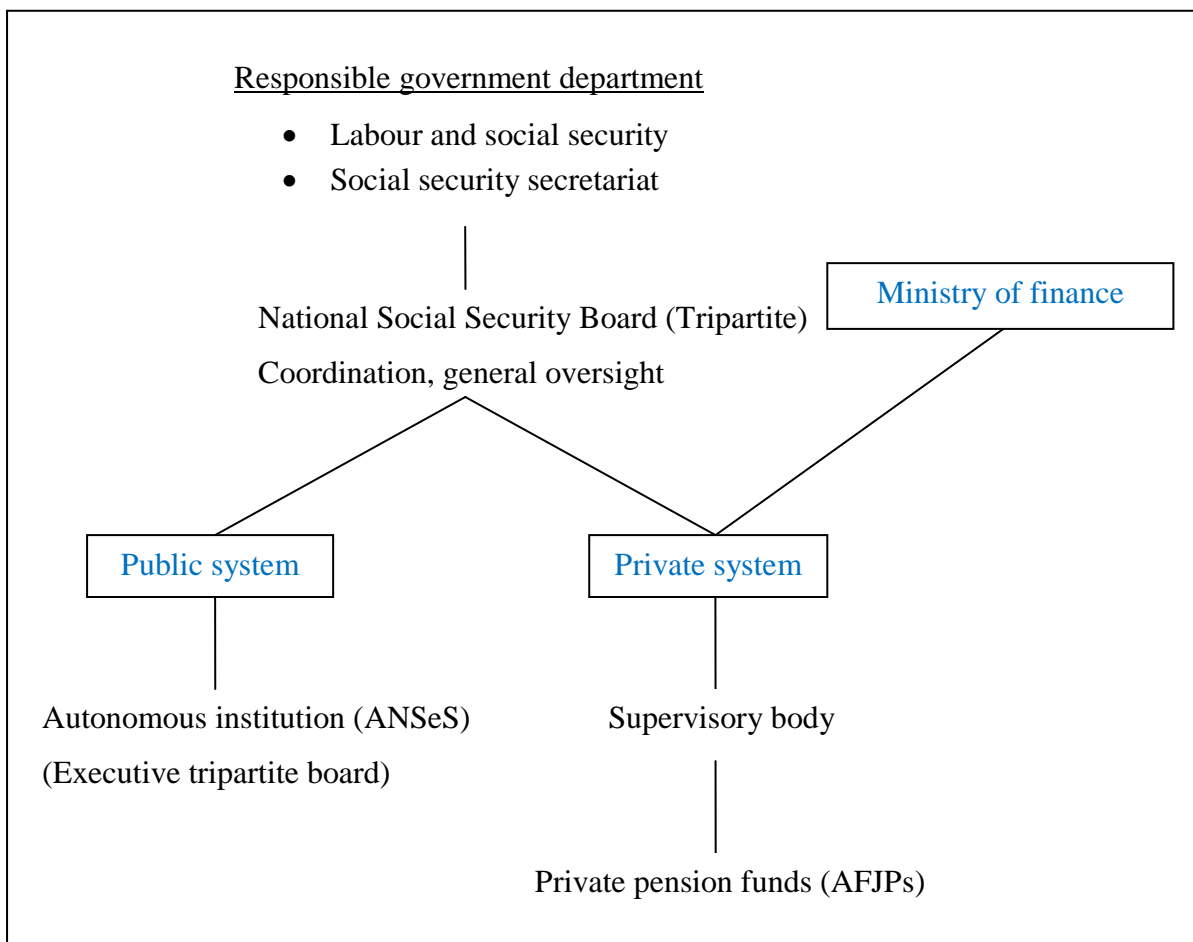


Figure 1

Source: (Ginneken 2003, 225)

1.2 Research Focus and Questions

What can explain the 2008 U-turn in Argentine pension policy? What are the elements and dynamics of Argentina's policy process that allowed the occurrence of this return to a pay-as-you-go DB pension system? Argentina's path could be summarized as from PAYG-DB – to fully funded-DC – and back to PAYG-DB, showing a clear U-turn figure completed when the Argentine Congress passed the bill that would eliminate – and transfer its administration to the State – the fully funded-DC tier of the pension system which was put in place in 1994.

The ambition of the study is to *understand* and *explain* why this dramatic change took place by carefully breaking down the various stages of this policy formulation process. The purpose is to *explore* and *identify* the possible causes for this peculiar event. In so doing, one may hopefully also locate keys to a broader and more general understanding of Argentine social policy: how it is conducted and what are crucial factors in understanding the periodic occurrence of dramatic social policy changes. Therefore, although meant also to be of general relevance in the study of Argentine politics, the research question can be summed up as: *Why did Argentina change its pension system back to a one-tiered, pay as you go DB system in 2008?*

In addition to throwing light on Argentine policy processes more generally, an answer to this question is potentially highly interesting to other countries which – like Argentina – changed to privately managed funded pension systems in the 1990s or 2000s, many Latin American as well as European countries and some Asian and African countries (Øverbye 2006; Brooks 2005, 274; Palacios and Pallarès-Miralles 2000; 19). Hence the Argentine experience is not only relevant for Argentines, but of interest in a large number of countries that share the Argentine experience of shifting to funded pensions in the near past.

2 Methodology

In this chapter I present the methodology of my study which includes the research design of this dissertation, the methods of data collection and data sources, and ends with the assumptions and limitations of the study.

2.1 Design

In an inductive fashion, the research strategy (Yin 1981, 58-59) chosen – *a single qualitative case study* – aims to present first a detailed account of what happened and how it happened.

And then, from that starting point, I round up a group of “suspects” (11 hypotheses) that arose during the research process and may explain why it happened. Throughout the analysis, the arguments concerning the contribution of each hypothesis are investigated in order to explain why the process started, how it ran its particular course and to which particular outcome (the replacement of mandatory funded pensions with public pay-as-you-go financed pensions). Thus, in order to unveil the answer to the research question I systematically go over the sequence of events that took place, trying to decide the relative importance of the various hypotheses in explaining what went on, how and why. In this way, the question of “why the U-turn took place” is simultaneously addressed at various theoretical levels; in terms of the stated and inferred aims of the various actors who drove the process (both the proponents and the opponents), as well as contextual factors (such as the structure of the Argentine decision-making system) and situational factors (such as the financial crisis) that surrounded their actions. These are presented as two major groups: (1) factors weakening those opposing the reform and (2) factors strengthening those advocating for the reform; which ultimately resulted in the victory of those who wanted to replace the 1994 funded-type system with a redesigned version of the (previous) pay-as-you-go system.

2.2 Data Sources and Data Collection

The analysis of the events has been based on a combination of primary and secondary sources. The first group includes a series of Governmental documents and newspaper articles that provided most of the data regarding what and how it happened. The second group – mainly scholar articles on the topic – complemented the first in filling in some information gaps while providing perspectives and arguments discussed upon to further explain why it happened.

From the House of Representatives and Senate websites (www.diputados.gov.ar/ and www.senado.gov.ar/), I obtained and analysed the original text to the *Bill 26.425* (the proposal presented to the Congress), transcripts of the committees meetings and their reports, transcripts of the debates and voting held in both chambers of the Argentine Congress, and pertinent presentations done to the legislators by various involved actors. In addition, I consulted diverse relevant documentation such as the chambers’ rules and regulations, articles about the Congress operating guidelines, and the Polylingual Parliamentary Glossary developed by the Argentine Congress. From www.infoleg.gov.ar – the Legislative Information and Documentation Area (a division of the Documentation and Information

Centre of the Ministry of Economy of Argentina) – I obtained the resultant enacted *Law 26.425 – the 2008 Pension System Reform: creation of the Argentine Integrated Retirement System (SIPA)* – and all related Laws in this paper cited and/or analysed. Finally, from the official website of the Argentine Government (www.argentina.gob.ar/) I obtained the Constitution of the Argentine Nation in its English version.

In the analysis I have also included a series of articles from three important Argentine newspapers with different political alignment and level of circulation: *Clarín* (centre/highest circulation in the country), *La Nación* (conservative-right/medium circulation) and *Página 12* (social democrat/low circulation). The search was done reviewing the online versions of these newspapers chronologically during the period in which the legislative debate on the pension system reform in 2008 took place. While many articles were found and studied in order to assess the events free from biases, the list was narrowed down in order to avoid data repetition and excessive citation. The main contribution of this source was the illustration of the context outside the Congress during the political debate under analysis.

Finally, the literature review included scholar books and journal articles which were, in the beginning, selected following a systematic search by topic and core concepts, circumscribed to the time and place such as *pension reform + Argentina + 2008*, and its alternative variations using synonyms or associated words such as *old age schemes*, *Pay-as-you-go (PAYG) pensions*, *fully funded*, *defined-benefit schemes/define-contribution schemes*, *return to PAYG*, *pension politics in Latinamerica*, *reforms of Bismarkian pension systems*. Along this search, recommended literature and renown authors on such topics (e.g. Gillion/Mesa Lago when it applied to pensions) and the review of most cited authors in the literature found (e.g. Levitsky in topics related to Argentine politics) or the abstracts of books and article reviews led the process be complemented by a more non-systematic search. The resources chosen in this case were websites of specialized organizations like World Bank and CISS, online databases and search engines such as Jstor, ISI, E-brary, and Google scholar; and generic references as the International Encyclopaedia of Social Policy. In addition, in order to increase the available documentation and my own understanding of the concepts and events, I performed the same search in Spanish.

2.3 Limitations and Assumptions

The policy making process is usually presented as a simplified process consisting of three discrete stages: policy formulation, implementation and evaluation. Likewise, each stage could be seen as a system in itself where different actors perform and interact; organized by rules and institutions. Ideas emerge, they are negotiated upon, operationalized, implemented and finally contrasted against their initial concept, however in a much more fuzzy fashion (Bochel and Bochel 2006, 1014). The analysis here is limited to the *formulation phase*, where the ideas are developed into policies. This paper focuses on the series of events that led to the approval of the pension reform in Argentina in 2008, starting from its proposal and finishing with the legislative process outcome: Law 26.425.

The study is also partially limited by the research strategy chosen. A case study is an in depth exploration of one happening. Therefore the results will not be generalizable in its generally accepted definition (Chambliss and Schutt 2010, 13), that is, they will not directly apply neither to the larger population of Argentine social policies nor to the population of private pension system in place in other countries (or other related policies such as the policy mix² chosen in other countries). However, it does set a precedent in terms of Argentine social policy and/or the political sustainability of fully funded, defined-contribution, private pension systems, and this should not be disregarded. This thesis is the study of a *critical case* (*Ibid*, 230) that identifies a variety of factors – or combinations of factors – that may potentially help explain other political decisions in Argentina’s social policy and similar decisions regarding other fully funded, defined-contribution, private pension schemes in other countries. Moreover, the case is presented here as a falsification of the understanding that private pension schemes are isolated from political manipulation, as it will be discussed shortly (section 3.1). Thus suggesting that it is plausible that this happening were repeated in other countries that – like Argentina – have changed their systems to a fully funded, defined-contribution, private pension system (Flybjerg 2006, 224-228). Summing up, this dissertation brings in elements that may apply to other happenings but lets the receiver of the information determine whether the findings here stated do apply to the new situation under study (Kennedy 1979, 672). Luckily, it will also allow the readers to anticipate the possibility – and

² A policy mix refers to the combined use of fiscal and monetary policies in a country. With regards to pension design it is important to highlight the policy mix will be a variable affecting the financial sustainability of the pension system while the design will affect the level of pension spending, the level of savings a country has and who has the control over those funds.

hence its probability – of similar events happening in other areas of Argentine social policy or in other countries.

As regards the data collected, (1) due to limits of time and location, the primary sources assessed were only digital documents published online. In the cases in which the data was incomplete or inaccurate – and thus not completely reliable – secondary data was used to fill in the gaps. (2) Given that much of the information examined was in Spanish, this required my interpretation and translation. (3) When dealing with the information gathered from newspapers, relevant findings were triangulated with other sources and among the three of them selected. This was done in order to avoid biases, lack of validity and incorrect information. This triangulation was also performed with regard to some secondary sources that had a very explicit biased political discourse.

Finally, the main assumption in this dissertation is that of considering old age care as a social problem, in general, and a constitutional social right, in particular to the case of Argentina (Sales 2008, 71-74). These conceptions frame the research question and the findings since they imply that the reform was an event that took place provided that there was a legitimate right that had to be sheltered and a social problem that had to be addressed through the appropriate system design. Given that the ultimate goal of the Argentine Constitution is to – by all means – provide old age care³ (Constitution of the Argentine Nation, Section 14bis, 2), the reform is here regarded in terms of this goal. From that point forward, this study analyses the positions of the different actors involved in terms of how they operationalize that goal.

3 What Happened? Searching for possible explanations

3.1 Pension Reforms and Risks

A risk refers to a known or estimable probability of future outcomes (N. A. Barr 2002, 2-3). In terms of pensions, Gillion et.al (2000) refers to five major sources of risk: (i) Demographic risks, including changes in birth rates and post-retirement mortality; (ii) Economic risks related to labour market developments, wage growth and investment rate of return and inflation; (iii) Political risks associated with the political process involved in pension debate; (iv) Institutional risks arising from failure to preserve financial assets, collection problems and ineffective administration; and (v) Individual risks consequence of the particular

³ The topic of the role of the Constitution will be discussed later on.

characteristics of each worker's career path (301-327). Depending on the system's design, the risk sharing outcome will be different, that is, the dual alternatives private vs. public, pay-as-you-go vs. funded, mandatory vs. voluntary and defined benefit vs. defined contribution categories could be seen as the independent variable determining inter- and intra-generation risk allocation (World Bank 1994, 83-87). The issue I will focus in this section refers to the degree in which pension system designs can define the level of political risk

Some examples of political risks presented by the World Bank (1994) included: (1) governments not fulfilling the promises made to beneficiaries and/or changing the arrangements made by previous administrations. Although usually risk reduction or neutralization can be achieved through pooling, diversification or it could be shifted to those more willing to bear it; in these cases political risk cannot be reduced through risk pooling because they are correlated across individuals and subject to moral hazard, but it can be neutralized through managerial and financing diversification (84-87). (2) Temptations to increase deficit spending without citizens and policymakers being aware of it, given the access governments have to larger, cheaper and more flexible reserves than those found in the private market (*Ibid*, 94). (3) Another problem that arises with public systems is that they enable influential groups to pressure for designs that benefit them or that are inefficient over other groups or future generations (*Ibid*, 162-163).

The importance of highlighting these examples as a way of defining political risk refers to the role of the World Bank behind the promotion of fully funded, defined-contribution, private pension systems. Estelle James, author and leader of the World Bank research team that wrote the influential report "Averting the Old Age Crisis" assumed that such a system would be well isolated from political manipulation. She believed that privately and competitively managed funds would reduce the scope for political interference in the future. In her own words:

Private management of pension reserves minimizes opportunities for appropriation by the government. To be sure, no system is completely immune to the dangers described above⁴, and every system will function better if government behaves. But the structure we have recommended [mandatory, fully funded-DC pensions managed by private institutions] contains checks and balances that place limits on each actor. We believe such a system is less susceptible to distortions and more sustainable (James 1996, 4, 12-13).

⁴ She refers to similar examples of political risks as mentioned in the previous paragraph.

Nonetheless, not all scholars have shared James's view of the virtues of mandatory, funded, defined-contribution, private pension systems. Orszag and Stiglitz (2001) claim there is no difference regarding exposure to political risk in either of the systems. The regulatory role over private schemes provides governments with the same potential ability to interfere in comparison with direct public management. Thus, the assumption that inefficient governments provide a rationale for switching to funded, defined contribution, private pension plans is weakened once one contemplates the possibility that there might be similar inefficiencies in how a government regulates and oversees the mandatory private pension sector (37). According to Barr (2002) private pension systems are also dependent on well-functioning governments. In the first place, macroeconomic and fiscal stability is required for any pension system – be it public or private – to be sustainable across time. If the government's behaviour is not fiscally prudent, the consequent inflation could de-capitalize the private system. Secondly, private systems may create temptations for politicians to influence fund managers to hold public debt, with lower rates of return on capital rather than other possible investments. Finally, governments may also affect the real return on pension funds by withdrawing or reducing tax privileges (17-18). Barr suggests that “political risks affect all pension schemes because all depend critically – albeit in different ways – on effective government” (N. A. Barr 2002, 3).

Indeed, Estelle James and her colleagues did not account for the possibility of political interference by future dramatic re-designs. The 2008 U-turn back from a funded to a pay-as-you-go based pension system illustrates that mandatory, fully funded, defined-contribution, private pensions do not place such “checks and balances” on political actors to the extent that they would never interfere to dramatically change pension design again. The questions asked here are: Why not? Why has dramatic pension reform been possible also after 1994?

In this regard, Orszag, Stiglitz and Barr's suggestions represent a starting point in this study. The ambition of this dissertation is to understand and explain the dramatic shift in 2008 away from a funded and back to pay-as-you-go based system again. Part of the explanation may lie in the functioning – and hence level of popularity – of the funded system since its introduction in 1994. However the system's ability to function well was not only dependent on which government regulations prevailed in the period 1994-2008, but also on several other factors. Furthermore, the shift in 2008 did not necessarily have to do only – or even mainly – with the functioning of the 1994 system, but may have been driven by very different factors;

including factors related to the critical situation of the Argentine economy at the time the switch back to a pay-as-you-go system took place. It is to these many factors we now turn to. Through this analysis, the ambition is to throw light not only on why the switch back to a pay-as-you-go system took place in Argentina in 2008, but also – hopefully – to approach an understanding of under which circumstances dramatic shifts in social security systems are likely to take place.

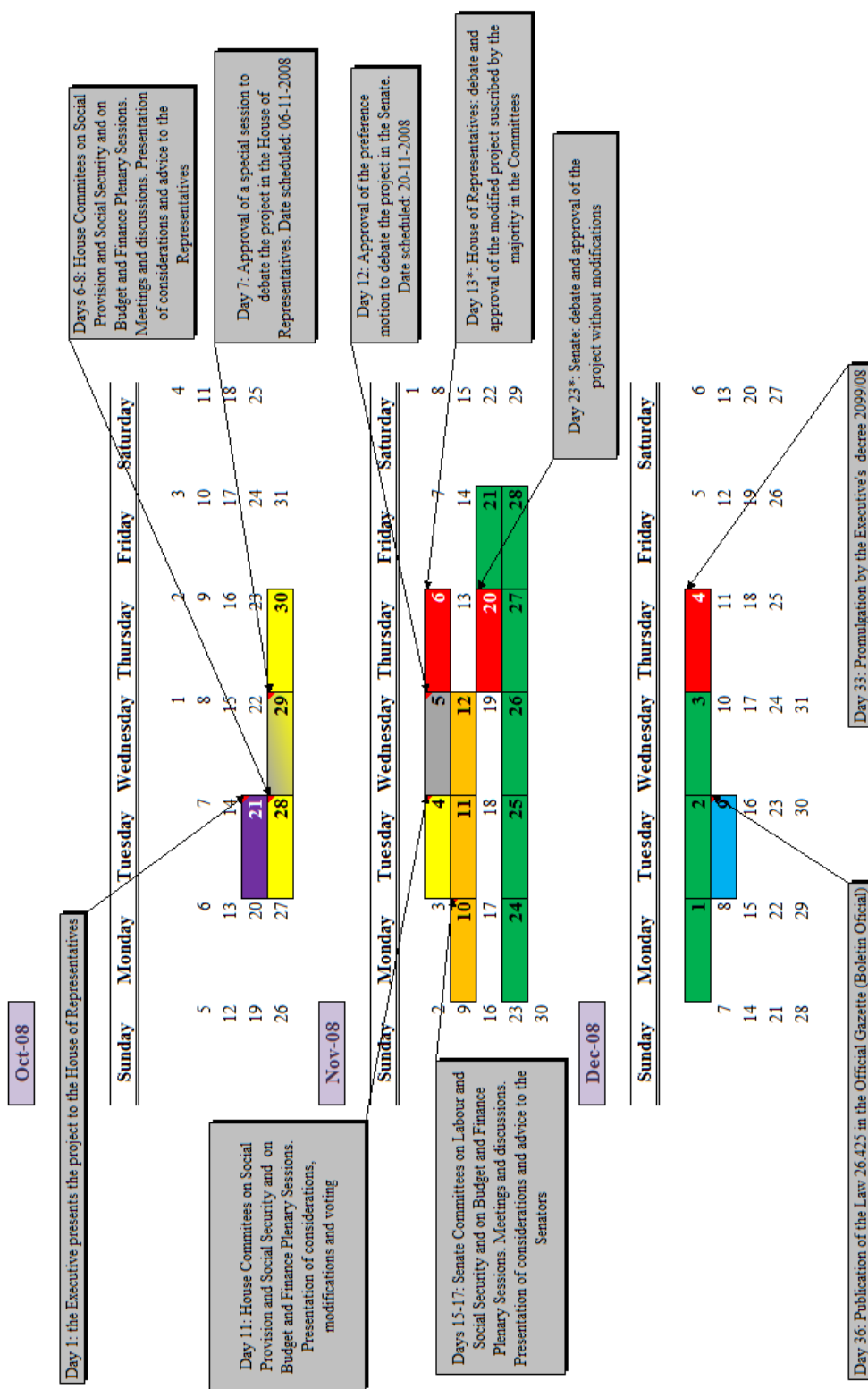
3.2 Outline of the Events

The U-turn took place during a short period of time. On 21 October 2008, Argentina's Executive Power presented to the National Congress a piece of legislation to eliminate the privately managed, fully funded, defined-contribution pension scheme and unify the multi-pillar pension system in one only public scheme named Argentine Integrated Retirement System (SIPA), and which would be provided on a PAYG-DB basis. This initiated the formal process.

Figure 2 below shows – in chronological order – the series of events that took place in 2008. The entire legislative process took only 36 days from its presentation day on 21 October until it was published in the Official Gazette. By the end of this period the privately managed funded tier of the Argentine two-tier pension system was required to be transferred to the State. Which were then the circumstances that allowed this dramatic government interference, or rather abolishment of a system that – according to Estelle James (above quoted) – was supposed to operate within a market economy, isolated from further dramatic political interventions?

This dissertation focuses the analysis on the events that occurred during those hectic 36 days of legislative process that led to the dramatic U-turn in Argentine pension policy. The following section presents a set of 11 hypotheses that may explain this occurrence. These will be later on analyzed in-depth (in chapters 5 and section 6.1) in order to address what happened, how and why, looking for clues as to which of those hypotheses, and combinations thereof, can answer the research question posed in the introduction (“Why did Argentina change its pension system back to a one-tiered, pay-as-you-go DB system in 2008?”).

Chronological display of the events



* Opposition's opportunity to veto the reform

Figure 2

Source: Own elaboration

The analysis goes through the sequence of decisions that resulted in the U-turn – during the House of Representatives Committees, House of Representatives floor debate, Senate Committees and Senate floor debate –, and the institutional and broader context that surrounded those decisions. In order to do so chapter 4 first provides an overview of the how the legislative process works in Argentina and the situation of the political parties at the time of the reform, framing the events regarding local law and political context. Finally, section 6.2 closes and concludes remarking recommendations for future research.

3.3 Why Did The Shift Back Take Place?

3.3.1 Factors weakening those opposing the U-turn

Perceived Weaknesses of the Previous System – Hypothesis 1

Together with many other countries in Latin America, Argentina's reform in 1994 was part of a “process in which new policy ideas emerged, gained force among political elites, and were advocated as better policy tools” (Arza 2008, 2697). However, these new ideas were so new that only little empirical evidence (the Chilean case) was available at that time. The debate was therefore carried out mostly at the theoretical level. After fourteen years of its implementation, the Argentine society started to realize what the system meant in practice while the first set of technical evaluations began to appear, all which gave politicians new arguments on the pension debate. Already in 2001 Myles and Pierson stated “Should capital markets fail to meet expectations and the living standards of the elderly fall substantially, new pressures will emerge for yet another round of reform reminiscent of the 1950s and 1960s” (331) and yet it could be hypothesized the Argentine U-turn falls into this conception. To what extent were those perceptions and new arguments negative and how did those affect the continuity of the scheme? A system that is perceived to be working well would not be attacked on that basis but defended by those who had an interest on it. Its good reputation would be a strong counterforce to stop its reform. By the same token, a bad reputation would help those who would like to take it down by weakening the arguments of those opposing the reform.

Weak Material Interest Groups – Hypothesis 2

The beneficiaries of a pension system are the main interest group in the fulfilment of the promises made to them during their active life. With the 1994 reform, those “promises” transformed from implicit to explicit for those who shifted to the private tier. Pension contributions acquired the status of “property right” and the benefits began to depend on each

person's payments to the system (Arza 2008, 2698). Seemingly, the workers – who would eventually become beneficiaries – and those who represent them would be expected to resist any changes that could jeopardize their interests. Understanding the elimination of the private scheme as an indicator of their lack of advocacy and/or representation inside and outside the Congress, the hypothesis here states that the affiliates⁵ did not put much effort in trying to keep the funded scheme. How much of this is true?

The second material interest group, the Retirement and Pension Funds Administrators (AFJPs)⁶, would be expected to advocate for the continuance of the scheme regarding the capability of the system to satisfy their economic interests. On these grounds, the degree to which these actors would lobby for the design in place – or would even be able to manifest their position – should have been of importance in determining the reform's outcomes. This understanding leads to the questions on how strong the private administrators were in the political arena, how much they fought back and how they affected the course of the debate.

Weak Political Prestige Stakeholders – Hypothesis 3

The legislators and political parties that supported reform during the 1993⁷ sessions of the Congress would be on the spotlight in 2008. They were the ones who bet on the new paradigm and, on that basis, it should be expected some level of consistency in their discourses as well as interest in their political reputation regarding the outcomes of the funded system. Because even when in the Argentine experience of the multi-pillar arrangement, it was the affiliates who were in charge of the decision of actually switching schemes⁸ providing they were willing to (Mesa-Lago and Müller 2002, 694-695), the accountability to those who believed in that new system would in any case be expected to influence the legislators' standpoints in 2008. Accordingly, we should ask how much political prestige they had invested back in 1993/1994 and how this had affected the decisions made in 2008, underpinned by the idea that political reputation would be of importance to the careers of these legislators and their political parties.

⁵ This term includes both current contributors and beneficiaries

⁶ The private social security institutions created by the new system were the operative/executive actors in charge of identifying insured people and employers and of the management of contributions, benefits and funds.

⁷ The 1994 reform was approved during the 1993 legislative period.

⁸ For political considerations, a voluntary individual decision brings major support to the reform (Holzmann 1999, 141),

Weak Formal Veto Players – Hypothesis 4

According to veto points or veto players theory⁹, the legislative process is explained as a series of decisions in different areas where the likelihood that a piece of legislation is approved or vetoed is framed by the formal constitutional rules and the electoral results (Tsebelis 1995, 301-302). This theory considers the institutional setting as one independent variable that determines policy outcomes. Any piece of legislation that aims to change the status quo will need the agreement of all veto players that the prevailing institutions encompass (Tsebelis 2001, 33). A veto player then refers to that actor – individual or collective – that has the power (i.e. holds a veto point) to block a project in the decision making process. There are two kinds of *formal veto players*: institutional and partisan. The first refers to those actors whose power to veto a bill emerges from the Constitution, while the second refers to the parties that are members of a government coalition.

To evaluate the likelihood of approving a change to the status quo, it is necessary to look at the level of policy stability¹⁰ of a country. The latter increases: (a) when the number of players a system has increases, thus the higher the number of players the more difficult to change the status quo is; (b) when the distance between the policy positions of the players increases (i.e. upon the presence of low congruence between the players who need to agree); (c) when the collective players are internally cohesive to be able to use their veto point to block a change in the status quo (Tsebelis 1995, 305-313). The theory then becomes particularly relevant upon the existence of minorities – with veto power and strongly opposed to the change of status quo – that need to be overcome. Following the framework of the veto players theory this hypothesis states that the U-turn was able to defeat the veto power of the opposition facilitated by a low level of policy stability in Argentina's policy making process in 2008. To what extent is this statement correct?

Weak De Facto Veto Points – Hypothesis 5

In addition to the formal veto players, it is also relevant to this analysis to look at the influence that other groups – informal players – have over the outcomes of the decision making process. Adding to the perspective presented in the previous hypothesis, Bonoli (2000) highlights the importance of understanding the politics of pension reform as the

⁹ I will use here both concepts as synonyms.

¹⁰ Policy stability refers to “the impossibility for significant departures from the status quo” (Tsebelis 2001, 13) or the absence of the potential for policy change (Tsebelis 1995, 292-293). Thus the level of policy stability refers to the likelihood that a piece of legislation that changes the status quo is approved

aggregated instance of different interests in society. Attached to this idea, he identifies that the “permission” given to nongovernmental actors to influence policy making is a central variable in the analysis (29), suggesting that informal veto points could be as crucial as the formal ones in determining the success or failure of a project of law. Considering the aforementioned, this hypothesis questions whether there were informal veto players in place at the time of the 2008 reform that were not interested in or not strong enough to block it. In this regard it is of importance to follow the actions of the employees of the AFJPs – as well as the national labour unions – who can be expected to be interested in the preservation of their sources of labour. The project presented by the Executive already addressed the future situation of these actors, yet this would not necessarily mean they would agree with the measures decided upon them. In this sense, considering that labour insecurity – or trying to avoid it – is a recognizable source for activism that has proven to stop projects in the past, this possibility should be addressed.

Declining Influence from External Stakeholders – Hypothesis 6

Although the general understanding of the influential power that the World Bank (WB) and the International Monetary Fund (IMF) have over the local political decisions might not be supported by quantitative research, qualitative studies do agree with the fact that these institutions have been significant in the diffusion of certain ideas like the case of the World Bank regarding pension privatization. This “dramatic shift in the paradigm of social protection” (Brooks 2005, 277) was actively promoted by the institution through an aggressive campaign that combined both financial resources destined to both lending and coaching. “(...) following the publication of its 1994 report, the World Bank’s social protection team launched a multi-year dissemination project, sponsoring conferences and training workshops on structural pension reform around the world” (Brooks 2005, 278-279). Ultimately, the goal of the World Bank during the 1980-1990 decade, together with the International Monetary Fund, was to “induce developing country governments to swallow the “bitter pill” of macroeconomic stabilization” (Brooks 2005, 279), and for that to happen extreme measures had to be introduced. Therefore, from an ideological perspective these actors should have had some level of interest in a successful and sustainable implementation of the private pillar in Argentina.

Still, particularly in the Argentine experience, the 1994 reform was early influenced by the IMF when the country committed¹¹ to it as part of the three-year USD 40 billion Extended Fund Facility agreement, signed by both parties in 1992. The World Bank's participation began in 1997 and was accomplished through financial and technical support regarding the administrative reform of the public pillar that was managed by the National Social Security Administration (ANSeS) and the merging of all provincial funds into the national system (Brooks 2004, 85-86). In this way, both the World Bank and IMF could be considered to have done some "investing" in the new scheme and thus the question to pose is to what extent has the relationship with these two affected the 2008 reform?

3.3.2 Factors strengthening those advocating for the U-turn

Crisis: a Window of Opportunity – Hypothesis 7

On September 2008 the subprime mortgage crisis reached a critical stage with the sale of Merrill Lynch, the bankruptcy of Lehman Brothers and AIG's unstable situation, and with its international spread into the well known Global Financial Crisis (Sorkin 2008). Locally speaking, if we translated these occurrences into the perceptions regarding the private pension system's performance, we could expect an increase in scepticism, uproar and lack of support. The crisis then had the potential to leverage the project. Timing is important in politics, and during economic crisis voters may prefer politicians who show initiative and ability to do dramatic reforms. This would be more likely if the international crisis could be presented as a potential threat to the pension system, making it too risky to continue having it attached to market fluctuations. The hypothesis here therefore questions the extent to which the crisis may be considered thus as a *situational factor* behind the U-turn.

Financial Struggles – Hypothesis 8

In the beginning of 2008, after losing the battle to turn into law a new frame for mobile export tariffs, the government decided to revoke the tax increases on grain exports and gave up "the USD 3 billion to USD 4 billion in additional revenues a year that the higher taxes [had been] (...) reaping for the treasury" (Barrionuevo 2008; Sreeharsha and Barrionuevo 2008)¹². Later that year, as The Economist (2008) explained the "government [was] (is)

¹¹ This agreement helped in the negotiations to gain support in the Congress

¹² During several months, the country was immersed in a battle between the farmers and the government. The Reason: the government wanted to convert the soybeans fixed export tariffs (35%) into a floated rate tied to global prices that could rise above 44%. In addition to this, the sector was already struggling with increasing costs of materials. The land workers' reaction resulted in a four-month period of strikes and rallies which ended

strapped for cash”. With the soybeans price depression of over 44% in three months, tax revenues fell by USD 2.7 billion; amid a USD 23 billion of public debt falling due during the following two years. So in September, when the government’s move to “charm” foreign investors by promising a payoff of USD 7 billion using the Central Bank’s reserves “failed to reduce interest rates on Argentine debt” (The Economist 2008) the situation appeared to have been reaching its limits. In this regard and considering that critical stances make people become creative and look for solutions in the most unexpected places the question to ask is how much of the reform can be therefore explained as a solution to the money shortage the country was going through?

Financial Temptations – Hypothesis 9

By the end of September 2008, the total number of affiliates (beneficiaries and contributors) of the fully funded pillar was 9.5 million people, the accumulated funds ARS 94.5 billion¹³ and the contributions collected were of ARS 1 billion monthly and ARS 15 billion annually (Bermudez 2008; Arza 2009, 18). The reform implied a transfer to the State of the accumulated privately managed funds together with all workers – and derived cash flows – being relocated under the umbrella of the pay-as-you-go, defined-benefit, public scheme (Kay 2009, 8). Furthermore, 10% of the accumulated amount had been invested in private company shares, which consequently, with the transfer, would give the State some influence over those private companies AFJPs had invested on. All these implications lead to the question about how much of the return to the pay-as-you-go DB scheme could also be related to the issue of who should have the control over the allocation of national capital in Argentine society.

Cultural Specificities in the Political Decision-Making Process - Hypothesis 10

Complementing the veto player theory that aims to explain policy change by analysing the political system in place (Tsebelis 1995, 289), in order to understand a specific policy outcome, it is necessary to extend that analysis to the political culture that characterizes the system, that is, “the matrix of meanings embodied in expressive symbols, practices, and beliefs that constitute ordinary politics in a bounded collectivity” (Berezin 1997, 364). In relation to this case study, Kay (2009) claims that the pension system reform carried out in

in July 2008 when the bill was finally vetoed in the Senate 37-36 votes, being the vice President who broke the tie in favour the agriculture producers (Barrionuevo 2008).

¹³ This represented USD 30.2 billion (Arza 2009, 18). According to ANSeS director, this amount reduced to ARS 78.7 billion by 23 October (Boudou 2008). See appendix 3 figure 6 for further documentation.

Argentina in 2008 presented “[...] no public debate or any hint that a core social programme would be reformed before the legislation was introduced and quickly approved” (10). The author’s statement suggests that there were some particular conditions in the Argentine political culture that made this last reform possible. Likely, these conditions could also explain how the same party¹⁴ was able to present and pass two opposite projects of law in a short period time. The argument suggested in this hypothesis is that there might be a cultural acceptance for interference – surrendering to temptations – in the Argentine political culture and/or a pre-existing culture of fast legislative action that would enable the U-turn.

A Viable Alternative – Hypothesis 11

In order for a policy change to take place, it is not sufficient if there is lack of satisfaction with the existing order of things. Someone must also be able to put forward a convincing (superior) alternative, preferably in a way that does not provoke those who have some stake in the existing system. In this context it is important to notice that the Constitution at the top of the legal pyramid delegates to the State the obligation of granting old age care in Argentine society (Constitution of the Argentine Nation, section 14 bis) while at the same time it demands that “Property may not be violated, [...]. Expropriation for reasons of public interest must be authorized by law and previously compensated. [...] The confiscation of property is hereby abolished forever from the Argentine Criminal Code [...]” (Constitution of the Argentine Nation, section 17). Therefore, if a return to PAYG-DB could be presented in a way that would not deprive people of their rights gained in the funded system, or even better as an alternative where existing pension rights would be supported by credible non-market based mechanisms and therefore presented as even more secure than funded benefits, then opposition to the U-turn might be minimized. How was then the government able to present the U-turn as a viable alternative considering the aforementioned?

Having in mind the premises and arguments presented, what follows is a map of the policy making process in Argentina and an in-depth analysis of the events that took place and facilitated the approval of the new reform in 2008. The final objective of the following sections will be to grasp into the deeds and search for evidence that could support any, if not

¹⁴ The first project presented in 27 August, 1992 was signed by former President Carlos S. Menem who belonged to Justicialist Party (PJ), Domingo F. Cavallo (former Minister of Economy from 1991 until 1996) and Rodolfo A. Díaz (former Minister of Labour and Social Security from 1991 until 1992) (Ministry of Economy and Public Finances official website; Ministry of Labour and Social Security official website; Law 24.241 - Transcriptions of the Legislative Process)

all, hypotheses presented in order to dig into the reasons why in 2008 the Argentine Government undid the 14 years of path of the funded system

4 A Closer Look into Argentina's Policy Making Process

The U-turn in Argentina's pension policy implied a decision made at the national level. Therefore, in order to fully understand why that particular decision was made, it is necessary to get into the details concerning how political decisions are generally made in Argentina and what were the conditions – resulting from the political culture and the electoral results – that also shaped that process at the time of the reform. In addition to presenting the particular characteristics of Argentina's policy making process, the following sections will help illustrate the level of policy stability – in terms of the veto player theory which is further analyzed under section 6.1 – and the outline of the sequence of decisions that resulted in the U-turn already introduced in section 3.2 and further analysed in chapter 5.

4.1 The Argentine Legislative Process

The Argentine legislative process is the legal framework for making and enacting national law. Its ground rules are covered by sections 77 to 84 of the Argentine Constitution, while the more specific elements of the process are framed by further procedural rules¹⁵.

The Argentine Congress has a bicameral composition and the Constitution allows projects to be presented by the legislators or the Executive in either of the houses¹⁶ – the House of Representatives or the Senate – determining for each process a chamber of origin and a revising chamber. During the legislative process, both chambers have one possibility to veto the project or to modify it, which can lead to multiple approval (or veto) scenarios¹⁷. If it is

¹⁵ I will not cover here those other documents given that the Constitutional framework provides enough information to the objective of this section.

¹⁶ However, there are certain matters that commonly require being treated first in one of the chambers (Constitution of the Argentine Nation, Section 77, 13)

¹⁷ (1) The simplest scenario tells us that once approved by the chamber in which it was originated, the bill shall be debated in the second. Once approved by both houses, it should be sent to the Executive for its assessment and approval, becoming law. (2) The second possibility is that the bill gets totally vetoed by either of the houses. In this case the project cannot be reintroduced in the same year's sessions. (3) The third option refers to the project being approved by absolute majority in the originating chamber and subjected to additions and amendments by the revising one, with absolute majority (or two thirds of its members). Consequently, the project shall be treated again in the originating house with three possible results: (a) acceptance of the modification in the originating house, approval of the bill in the revising chamber and subsequent presentation to the Executive for its assessment; (b) Insistence on the original text by the same amount or more votes than those the revising house had for the modifications and amendments (at least absolute majority or two thirds of its members), approval in the originating House and presentation to the Executive; or (c) Impossibility of the originating House to impose the original text by absolute majority (or two thirds of its members), approval in the

not vetoed by either of the houses, the resultant approved bill is to be presented to the Executive, who owns the third veto point. The Executive receives the (modified) project once approved by the Congress to be examined with the options of promulgating and publicizing it or rejecting (vetoing) it, partially or totally. A vetoed bill by the Executive then returns to the Congress where it has to be retreated with the observations performed. Two thirds of the votes are required in each chamber for the project to become approved and enforced to the Executive as it was passed by the Congress; otherwise the project cannot be retreated during the same year's sessions (Constitution of the Argentine Nation; House of Representatives official website - Argentina's Policy Making Process).

4.2 Political Institutions and Parties

To complete the picture, it is necessary to portray the actors who were involved in the decision making process that resulted in the shift back to the pay-as-you-go DB public pension system in Argentina in 2008.

Argentina's political regime is organized on the basis of separation of powers into an executive (President), a legislature (Congress) and a judiciary (Supreme Court). It has a federal structure which separates the National Government from the 23 autonomous Provinces and the federal capital¹⁸, and has a bicameral Congress consisting of a House of Representatives and a Senate.

The House of Representatives consists of 257 seats, half of which is renewed every two years, thus corresponding with a renewal of one-half (or its closest equivalent) of each electoral district delegation. Seats are allocated to each multi-member district on the basis of its population¹⁹, while representatives compete in the elections in close party lists and are assigned a bench following a proportional representation system²⁰. The Senate consists of 72 seats. Each province has three seats, corresponding two of them to the plurality party and one to the first runner-up. Senators are directly elected by the voters from closed party lists and

revising chamber and presentation to the Executive (Constitution of the Argentine Nation; House of Representatives official website - Argentina's Policy Making Process).

¹⁸ For the purpose of this paper the federal capital will be considered as one more "Province", thus referring to all as the 24 electoral districts.

¹⁹ Following 1980 census (Jones 2004, 1) and with the additional rules that establish that no Province can receive less than 5 seats or less than those it had in 1973-76 democratic period (Jones 2002, 148).

²⁰ Voters cannot influence those lists, instead they vote for a party as a whole. Each party will get in number of seats, the proportional to the votes obtained (Jones 2004, 1).

elections are carried out every two years when one-third of the Senate is renewed²¹. Finally, in order to run for elections, both chambers members need to fulfil resident criteria at the district they represent and be part of a registered political party, for which the law establishes relatively “flexible” rules admitting the existence of many small independent parties (Jones 2008, 1-2).

Once elected, legislators – coming from different districts – can organize themselves in parliamentary groups²² representing the party their members belong to²³. They act as internal political groups with an agreed position as regards particular matters. The objective of this arrangement is to simplify legislative work provided that the blocs will keep coherent criteria and strategy upon certain matters. These parliamentary groups have administrative recognition and organization²⁴ when their number of members is higher than 3, which entitle them to its own budget and assigned resources^{25,26}. Their authorities represent the entire group in front of the chambers’ authorities and the parties’ national authorities. It is also in terms of the parliamentary groups that party discipline is determined in the chambers. Each group meets before each session to discuss and agree on the standpoint their members will all work upon and which will be reflected in their votes. If a legislator expresses a contrary position than that agreed on, it is said there is lack of party discipline, leading to a possible fracture of the group. Historically, these fractures have resulted in the creation of new political parties (Wernicke 2007, 69-71; Argentine Senate official website).

²¹ Districts are divided into three groups for the renewal of their seats, therefore each Senator lasts six years in his/her position (Jones 2004, 1-2)

²² A parliamentary group is here defined as a group of elected legislators (belonging to the same party) that are formally and organically organized (Polylingual Parliamentary Glossary 2005, 5). In a direct translation from Argentine political linguistics the term used is “blocs”. In some other literature – especially European – these maybe called party factions or even party fractions (Brady and Bullock 1983, 600-601). The concepts found in the literature are pretty much blurry. Thus, for purpose of simplification, I will just refer to them as bare parliamentary groups or blocs as an alternative synonym.

²³ These groups not necessarily need to consist of all the elected members of a party. In this way the same party may have several parliamentary groups.

²⁴ There is a president in all cases and vice-president and secretary in the majoritarian ones (Wernicke 2007, 70)

²⁵ Politically, unipersonal blocs are also recognized (Wernicke 2007, 69)

²⁶ Majoritarian groups tend to be more independent from the parties they are representing than the minoritarians and unipersonal ones. However these can also ally with other parliamentary groups – belonging to the same or another party – in order to increase the number of members and therefore increase their assigned budget and resources. These are called inter-blocs which – when belonging to different parties – might resemble what Brady and Bullock (1983:600-601) and Sartori (2005) call cross-party groups and other authors define as party coalitions. Again the literature does not agree in one way of defining these concepts. Here I define them simply as alliances between two or more parliamentary groups (from the same or different party) as mentioned earlier. To be accepted as such, they should have the same political affinity and interests but they are not mandated to have the same position or vote in the same direction as regards the issues debated, thus not creating a potential conflict with the concept of party discipline as explained in the running text (Wernicke 2007, 69).

Since its return to democracy in 1983 Argentina's political arena has been mostly steered by two parties: Justicialist Party (PJ) – a.k.a. “peronists” – and Radical Civic Union (UCR) – a.k.a. “radicals”. Both parties have national presence and are organized as a replicate of the federal political division, where each provincial unit holds considerable autonomy from their national organization level. As regards representation, given their heterogeneity they could be considered as catch-all parties²⁷, however their targeting strategies differ along several aspects. UCR has shown a rather higher level of institutionalization, support for liberal democracy, and a more formalized selection and recruitment procedures that has given the party a contrasting profile from its competitor (De Luca 2008, 4).

The Justicialist Party, founded in 1947, had been historically known for its link with the labour movement with a strong collective identity, and a more informal organization and leader and candidate's selection and recruitment. The union dominance within the party comprised three areas: financing, mobilization and representation within different party leadership levels. However, by the end of the 1980s, this party-union linkage was said to have been rapidly destroyed when PJ went through a deep change in its internal distribution of power and preferences, leading to the establishment of a machine party²⁸ (Levitsky 2003, 4-5). Likewise, many scholars agree upon the emergence of new intra-party dynamics present in the Argentine party system since the return to democracy: machine politics, characterized by patron-client relationships where particularistic exchanges²⁹ began to co-exist with – and sometimes displace – former intra-party mechanisms of power and discipline, such as rank and file commitment to principles and values (Scherlis 2008, 579-590; Levitsky 2003, 25-30). Considering these new practices within the Argentine political culture one can appreciate that there has been a change in the party identity of PJ – from labour-based to a more client-

²⁷ As defined by Richard Gunther (2005) – revisiting Otto Kirchheimer's model – the main characteristics of catch-all parties are their superficial organization and ideology, a strong electoral orientation, and the presence of powerful national candidates both in terms of their party leadership and electoral roles. They are mainly focused on electoral vote-maximization in order to win elections by catching diverse social interests under their umbrella (259).

²⁸ Machine parties use their resources to create clientelist linkages. They mobilize individuals and groups by distributing selective incentives in exchange for votes, loyalty and political support. The objective is to strengthen the patron-client relationship: intra-party and between the party and the electorate. One important manifestation of this relationship is thus the level of electoral support (Jones 2004, 7; Scherlis 2008, 582). In this way, the concepts of machine parties and catch-all parties share that focus on gaining electoral support and their ideological ambiguity. Thus not being exclusive concepts. The former, however, specifically refers to the strategies used to achieve that support (See over comment on catch-all party definition). Consequently a party can be both at the same time.

²⁹ These include “patronage” or “clientelism” (generally used as synonyms) regarding the distribution of material help or services to gain political support. And “pork barrel” mechanisms, used when the government assigns public fund to specific projects that benefit a determined group (Scherlis 2008, 583-584).

based – that allowed party ideology to operate within more flexible platforms and organizations, providing more pragmatic and effective instruments for policy change without jeopardizing the internal party stability.

The role of national minorities and provincial parties has been, since 1983, very marginal in comparison with the former two. The latter refers to those parties that could only successfully compete in one province³⁰ as either the dominant party or its main opposition, for example Neuquén People's Movement (MPN – Movimiento Popular Neuquino) and Salta Renewal Party (PRS – Partido Renovador de Salta). The former had since 1983 until 2008 several exemplars that arrived to the national scene, yet very few were able to consolidate outside their original scope: Greater Buenos Aires³¹ and the federal capital (De Luca 2008, 5; Jones 2008, 2). However, for some of them the situation changed given the impact of the 2001 political-economical crisis over UCR's image³².

The 2007 elections were a reflection of this situation as it showed a still very weak and divided “radical” party and a divided opposition among UCR, other minority parties and dissident peronists³³. The electoral alliance Front for Victory (FPV)³⁴ made a successful election and with 45 percent of the votes, Cristina Kirchner (FPV-PJ) was elected president, supported by three-quarters of the country's 23 governors, 160 of 257 seats in the House of Representatives, and 47 of 74 Senate seats³⁵. The dissident peronists were able to send 10 representatives and 5 senators to the Congress, and the non-peronist opposition had the rest of the seats, among these UCR, Civic Coalition-Support for an Egalitarian Republic³⁶ (CC-ARI – Coalición Cívica-Afirmación para una República Igualitaria), and Republican Proposal³⁷ (PRO – Propuesta Republicana) were the most salient (Levitsky and Murillo 2008, 16-17).

³⁰ It refers here to those Provinces belonging to what is commonly known as the “Interior region”. The concept encompasses those districts other than Buenos Aires and the federal capital (De Luca 2004, 5).

³¹ Greater Buenos Aires is the name given to the municipalities (part of the Province of Buenos Aires) adjacent to the federal capital that emerged as the conurbation of the city.

³² Argentina was going through a very deep economic turndown and the radical President Fernando de la Rúa, who was ruling at that time, was not able to finish his mandate, resigning and leaving the steering of the country in the hands of the Congress since his Vice-President had resigned some time before him.

³³ Those who were not aligned with Front for Victory and who kept themselves independent from the incumbent President.

³⁴ A coalition among pro-Kirchner (the incumbent President in 2007) candidates from the Justicialist Party and other parties – including UCR – that targeted the hard core of the peronist votes (low income families) and the most progressive oriented members of the urban middle classes. This alliance later translated into a parliamentary group and an inter-bloc in the chambers (Bonvecchi and Giraudy 2008, 38).

³⁵ The numbers include the pro-Kirchner politicians belonging to non-PJ parties.

³⁶ Social liberal political party.

³⁷ Right-wing political party.

As I will refer to in section 6.1, this lack of cohesion in the opposition side will imply – in terms of the veto players theory – an advantage for the government to change policy status quo.

Moving along in the analysis, I go over now the composition of the chambers in order to address the level of congruence (relevant to the veto player theory) between them, that is, how similar/dissimilar they are. In general terms, one could say that party affiliation is more stable than bloc participation. However, given the dynamics of the Argentine party system as I have already presented it, bloc structure would provide a better overview of the real political positions in the chambers at the time of the pension system reform in 2008. The review of the parliamentary groups here presented was elaborated upon information collected from the transcripts of the debate in 2008 (House Session 06/11/2008 Voting; Senate Session 20/11/2008 Transcript), information on the Senate blocs in place previous that year which was developed by TELAM³⁸ and published by a local newspaper (Télam 2008), information from the online Senate archive (Senators History), and the list of recognized political parties (Argentine Judiciary official website). The snapshot showed that in both chambers the majoritarian bloc was that of Front for Victory (FPV-PJ)³⁹ with 127 (49,61%) representatives and 32 senators (44,44%). The first House minority was UCR with 24 deputies (9,38%), followed by Civic Coalition-ARI-GEN-UPT with 18 (7,03%), the Socialist Party with 10 (3,91%), and Republican Proposal and Solidarity and Equality-ARI (T.D.F) with 9 deputies each (3,52%). The next 7 blocs had 32 representatives (12,50%) and the last 27 seats (10,55%) were divided among 23 parliamentary groups. The Senate presented a slightly different structure. The first minority was formed by the so called dissident peronists bloc with 12 senators (16,67%), followed by UCR who had 10 senators (13,89%), Civic and Social Front with 4 seats (5,56%) and Support for an Egalitarian Republic (ARI – *Afirmación por una República de Iguales*) and Civic Coalition with 2 seats each (2,78%). The remaining 10 seats (13,89%) were divided among the rest of parliamentary groups⁴⁰.

In this way, both chambers show highly analogous compositions. Front for Victory had the plurality in both chambers, but it still needed allies from other groups to get legislation approved. This extra support was presumably expected to come from the many legislators

³⁸ Télam is the Argentine national news agency (Télam official website)

³⁹ This refers only to the pro-administration PJ legislators

⁴⁰ For further detail on the composition of the parliamentary groups during the 2008 refer to tables 2 and 3 in Chapter 5 (sections 5.1 and 5.2 – voting results of the 2008 pension system reform)

from other political parties who, during the 2007 elections, had joined the FPV electoral alliance. Still this did not necessarily mean unconditional support.

The findings presented in these last two sections (4.1 and 4.2) are particularly relevant in order to analyse how the Constitutional framework and the electoral results influenced the level of policy stability in terms of the veto player theory, particularly for determining the number of veto players and evaluating the level of congruence and cohesion of the veto player(s) as we shall see in section 6.1 when all hypotheses are discussed.

5 The Sequence of Decisions that Resulted in the U-Turn

5.1 The Proposal and the Constitutional Arguments

The formal legislative process started on 21 October 2008, when the Executive presented to the House of Representatives the project of law to eliminate the fully funded-DC private scheme and replace it with a PAYG-DB public one. The argument supporting the proposal was based in section 14bis of the Constitution of the Argentine Nation, which states that “The State shall grant the benefits of social security, which shall be of an integral nature and may not be waived” (Constitution of the Argentine Nation, 2), and concepts of solidarity, inclusiveness and redistribution “following the policies developed by the Executive since 2003” (Bill 26425 (proposed law)).

The document expressed the Executive’s understanding of pensions as the instrument aimed to provide certainty to citizens once they are no longer active, subscribing – in consequence – to the criticism of the introduction of 1994’s fully funded, defined-contribution, private scheme which had tied contributions to market risks and which – by 2008 – had low and declining coverage, high associated litigation levels, “frozen” benefits, inequality between public and private coexisting provisions and deficient management. For these reasons the Executive explained this reform was put forward as the way to take a more active role in the reconstruction of the pay-as-you-go system and to acknowledge its Constitutional duty in the protection of individuals, families and society regarding the quality of the Institutions needed to achieve Social Justice within the economic growth model (*Ibid*; Mesa-Lago 2009, 18).

Simultaneously, on the other side, the Constitution was the argument used by those opposing the reform project as it was presented by the Executive. They considered that the accumulated funds were private property and, in that regard, the Constitution of the

Argentine Nation states in its section 17 that “Property may not be violated, [...]. Expropriation for reasons of public interest must be authorized by law and previously compensated. [...] The confiscation of property is hereby abolished forever from the Argentine Criminal Code [...]” (Constitution of the Argentine Nation, section 17). Thus, the Constitution worked both ways in the discussion: as a factor that would strengthen those defending the reform and as one strengthening the opposition.

Still, for both arguments the Constitution left room for interpretation and counterarguments. In the first case, it let the debate go around the positions of the different actors involved in terms of how they operationalized that goal of granting pension benefits. In the second case, the Constitution mandated that if expropriation for reason of public interest – which consequently would have had to be proven – should be carried out, it should be authorized by law and compensated. And this last was what the Executive was trying to accomplish with the presentation of the project of reform. Thus, that argument of unconstitutionality of the reform was weaker and able to be easily jumped over given the support gained by the Executive, as it will be presented in the following sections. This matter is particularly relevant in relation with determining the veto power of the opposition. If the reform had implied a real change in the Constitutional rules or a real unconstitutional law, the role of the opposition could have been much stronger.

In the following titles I present the sequence of events that are summarized in table 1 below.

Summary of the Legislative process

Table 1

| Chamber of Origin | Revising Chamber | Promulgation and Publication |
|--|--|---|
| HOUSE OF REPRESENTATIVES | SENATE | |
| <p>Original Project Date of entry: 21/10/2008 File: 27-PE-08 Authors: the Executive Power (Cristina Fernández de Kirchner, Sergio Massa and Carlos Tomada)</p> <p>Committees Committee on Social Provision and Social Security Committee on Budget and Finance Date of the report: 04/11/2008 Committee report no 1167/2008</p> <p>Session Debate date: 06/11/2008</p> <p>Approval Date: 06/11/2008</p> | <p>Approved text by the House Date of entry: 07/11/2008 File: 70-CD-08</p> <p>Committees Committee on Labour and Social Provision Committee on Budget and Finance Date of the report: 12/11/2008 Committee report no 1168/2008</p> <p>Session Debate date: 20/11/2008</p> <p>Final approval Date: 20/11/2008</p> | <p>Promulgation Decree: 2099/08 Date: 04/12/2008 Official Gazette publication date: 09/12/2008</p> <p>Publication of Law 26.425 Official Gazette publication date: 09/12/2008</p> |

Source: (Bill 26425 (proposed law); Decree 2099/08; House Committees Report No 1167 2008; House Session 06/11/2008 Transcript; House Session 06/11/2008 Voting; Legislative Process - Bill 26.425; Official Publication of the ratified Law 24.425 2008; Polylingual Parliamentary Glossary 2005; Senate Committees Report No1168 2008; Senate Session 20/11/2008 Transcript; Wernicke 2009, 2)

5.2 House of Representatives

Committees⁴¹

Following the Congress's procedures, the proposed bill was first debated in the House of Representatives. The House Committees on Budget and Finance⁴² and on Social Provision and Social Security⁴³ were in charge of reporting on the project presented by the government (House of Representatives Rules and Regulations 2010 Sections 65 and 70, 11-12). After five days of deliberations, on 5 November, their members voted on what would be passed to and debated on the House floor.

The majority (36 out of 57)⁴⁴ advised the proposal should be approved with a series of adjustments, the most significant being: (1) the addition of a section to regulate the system's resource management (Section 8 of the final law), (2) the creation of the System's Sustainability Guarantee Fund Council that would overview the system's resources⁴⁵ – section 12 of the final law –, (3) the removal of the Executive's task to elaborate an amended text of the Law 24.241 (1994 Reform), which would have also given the Executive discretionary power to eliminate content that was considered conflicting with or out-of date regarding the new legislation (House Committees Report No 1167/2008, 1-4.)

The first minority⁴⁶ consisted of 8 UCR Representatives who expressed their disagreement to the bill suggesting rejecting the form but not the substance. They proposed to replace the fully funded, defined-contribution, private system in a more systematic and comprehensive fashion, reaching for exhaustive legislative debate, criteria and consensus. Therefore, they intended to declare a 180-day transitional period for the National Congress – the competent

⁴¹ The Committees are specialized groups constituted by legislators whose main task is to study a particular subject intensely – analyzing, filtering and adding value to it – and to advise the chambers in order to reach a more sensible and efficient decision (House of Representatives Rules and Regulations. Commented version 1996, 212)

⁴² Competent on issues of national budget, tax law or any public income related policies (House of Representatives Rules and Regulations 2010 Sections 65, 11).

⁴³ Committee qualified to report on projects regarding social security, retirement benefits and pensions (House of Representatives Rules and Regulations 2010 Sections 70, 12).

⁴⁴ 30 (52%) of the total members of the committee belonged to the ruling party and 28 of them subscribed the reform (House Committees Report No 1167 2008; House Session 06/11/2008 Voting)

⁴⁵ The Sustainability Guaranty Fund was a reserve fund created in 2007 to manage the surpluses of the pension system. The aims of the fund were (1) smoothing the negative financial impact of economic and social variables on public retirement provision, (2) act as a reserve fund to be invested accordingly to its nature, (3) contribute to maintain the system resources' value and profitability, and (4) compensate for financial shortages to guarantee pension provision (Decree 897/07 Section 1, 2-3)

⁴⁶ The minority reports and the partial dissidences with the majority report are to be treated during the debate in particular (House of Representatives Rules and Regulations 2010 Section 113, 19). In the case the majority report is vetoed, the minority reports are to be voted upon regarding their order (Alemán 2003, 11)

milieu and actor – to develop the applicable legislation. The four other minority reports stated their opposition to the majority presenting different arguments, yet converging upon the idea that the system needed a more thorough reform. Still, out of the five reports, the second (coalition of right winged parties) and fifth minority (FPV-PJ) were the only advocating for the affiliates of the private scheme. This illustrates the relevance of hypothesis 2 in explaining the U-turn due to the presence of weak material interested groups. They claimed the new bill would damage the property rights gained by those who had chosen the private over the public system⁴⁷. And, as an alternative, the latter proposed the introduction of a publicly managed, notional defined contribution scheme for these affiliates (*Ibid*, 4-19) .

However, all reports considered, none advocated for a continuance of the fully funded system as it was in place as of 2008. Their propositions, to different extents, claimed the entire pension system needed a review for improvement, illustrating how – as presumed in hypotheses 1 and 11 – the funded, defined-contribution, private scheme was neither positively perceived in terms of its accomplishments nor as a better alternative to the public scheme as it was expected to be when it was introduced in 1994. The arguments were more oriented toward avoiding the destruction of rights created instead of actively defending the benefits of such a structure.

Debate

On 29 October, the necessary minimum number of representatives⁴⁸ requested the bill were debated in a special session of the House of Representatives on 6 November 2008. The debate lasted 14 hours. The opening statement on the floor was made by Juan Carlos Díaz Roig (FPV-PJ) who presented the majority report that defended the project and counter argued the one and strongest argument the opposition had in order to be able to veto the project: the property rights the affiliates had over the funds accumulated by the private tier. To this pro-administration deputy the argument about property rights being jeopardized was mistaken in that the concept of private property – within pension systems and pension rights – is not that of “real property”, i.e. which could be disposed or trade. On the contrary, he argued, property rights with regards to pension funds have a much more ample meaning. A

⁴⁷ Law 26.222 granted the capability to transfer one’s funds from one scheme to another once every five years (Law 26.222 Section 30, 13)

⁴⁸ Section 35 of the House rules and regulations establishes that when requested by the Executive or ten or more members of the chamber a special session may be called which need not to comply with the seven-business-day requirement (counted from the committees reports) stated in section 113 of the same document (House of Representatives Rules and Regulations 2010, Section 35, 5).

person would not be entitled to a benefit, but until he/she had fulfilled the required years contributing to the system and had turned the determined age for a person to retire. This would mean that the right to a pension benefit would not be deprived by a change in the design. And it gave support to the reform as a viable alternative as stated in hypothesis 11 when claiming that the question of whether the system should be privately or publicly managed was at a different argument level than whether the reform would implicate a violation of the affiliates' property rights (House Session 06/11/2008 Transcript, 6-24)

Likewise, the different minorities had their opportunity to present their reports as well as the – shared by almost all – interpretation of this bill being only an instrument for the Executive to get control over the funds (*Ibid*). At this point in the process the government was not explicitly recognizing any financial interest in transferring the funds, though this was still alleged by those against the reform. They believed the reform was underpinned by the objective of getting control over national capital in order to allow the government counteract the economic slowdown – stressed by the international crisis – Argentina was going through and the unsuccessful governmental measures to solve the financial shortages (House Session 06/11/2008 Transcript, 127-129). And so, the chamber's open floor debate that followed was dominated by supporters and detractors of the project in terms of whether this control should have been in the hands of the State or the market and why; exposing hypotheses 7 (crisis), 8 (financial struggles) and 9 (financial temptations) as arguments in the discussion. Some were for and some were against the State regaining the control over that part of the National Capital.

For those in favour of reforming the pension system, two rationales were prevalent: (1) one of full agreement and belief in the active role of the State regarding social protection, considering this bill was both the only way to guarantee a quality old age provision and, concurring with the Executive's arguments, one more of the measures directed to dismantle the model established during the 1990s; (2) a more pragmatic line of reasoning that acknowledged the intrinsic flaws of this piece of legislation but considered it a “window of opportunity”, a starting point for the reconstruction of the public system. As the State would regain full control over the administration of the funds it would become enabled to start working on a more comprehensive system, while avoiding the uncertainty and increased legal insecurity that would arise due to a delayed decision.

Among other similar statements during the debate, this was one example of how market fluctuations can be conceptualized as very volatile with regard to political decisions – especially during the decision making process – and of how having a pension system that relies on them can be considered an unbearable risk for society in terms of social security. Thus, as previously mentioned, in the naissence of an international crisis, scepticism, uproar and lack of support became the drivers that led to fast manoeuvring, illustrating how the crisis was conceptualized as a window of opportunity as stated in hypothesis 7. It therefore seems that it was then believed that the longer the system was left “unprotected” from the financial events happening worldwide, the deeper the damage that would have to be nonetheless repaired.

Opposition groups additionally argued the statement that poses the State is the only one responsible for the provision of social security was erred in that, according to jurisprudence, the responsibility established by the Constitution refers to the way social security should be legislated, and that the State’s scope of action may be reduced to organizer and controller. The project was mainly criticized for lacking technique, not solving the accountability problems that the private administrators were accused of, not guaranteeing a good transition management of the funds, violating property rights, deepening distrust, law insecurity and political risk, and not having been discussed by the Constitutional matters committee, among others (House Session 06/11/2008 Transcript, 10-11). Grounds were mainly presented around the flaws of the proposal without anyone advocating for any goodness of the private scheme and therefore displaying the lack of political support towards the 1994 reform and exemplifying the assumptions presented in hypotheses 1 (perceived weaknesses of the private scheme), 2 (weak material interest groups) and 3 (weak political prestige stakeholders). Their discourse seems to unveil the fact that neither parties – as organizations – nor the legislators personally had much political prestige invested in the funded system. That they had not real ownership over it and that, in consequence their reputation would not be threatened by neither the lack of support nor their explicitly expressed perception of a malfunctioning private scheme. What adds explanation to this case is the lack of continuance of those deputies who voted for the 1994 reform. Only 2 of the deputies seating and voting in 2008 had been present in the sessions in 1993 when the previous reform was debated and both of

them were supporting the shift back to pay-as-you-go⁴⁹ (Law 24.241 - Transcripts of the Legislative Process; House Session 06/11/2008 Voting).

Looking at the dynamics that took place on the floor debate we start noticing how, when trying to explain the 2008 events, we cannot reduce our understanding to just one static variable. Indeed several factors were simultaneously interacting and influencing each other, which, at that point, were also enabling the defeat of the first veto point: the approval of the bill in the House of Representatives.

Voting

From the 257 members⁵⁰ of the House, the government needed only more than half the presents – absolute majority of the members present – to get the reform approved. This represented 120 of the 238 representatives that attended that day sessions (House of Representatives official website - Argentina's Policy Making Process). At the end of the debate, the House passed the bill with 162 positive against 75 negative votes as FPV-PJ (115 positive votes) got supported by the Socialist Party (10 positive votes) and Solidarity and Equality-ARI (T.D.F.) (7 positive votes). The remaining minorities, UCR (22 negative votes), Civic Coalition-ARI-GEN-UPT (17 negative votes) and PRO (9 negative votes) voted against. The rest of the representatives⁵¹ were divided 30 for and 22 against the bill (House Session 06/11/2008 Voting).

⁴⁹ I did not have access to the detail account of votes in 1993.

⁵⁰This includes the President of the House who only votes in cases of draw, when he/she has asked permission to participate on the debate by having someone replace his chair, or in cases of absolute or special majorities required by the Constitution (House of Representatives Rules and Regulations 2010 Section 41, 6).

⁵¹ Most belonging to parties with one seat

House voting

Table 2

| | POSITIVE VOTES | | NEGATIVE VOTES | | TOTAL PRESENT | | ABSENT | TOTAL | |
|---------------------------------------|----------------|-------------------------|----------------|-------------------------|---------------|-------------------------|-----------|------------|-----------------------|
| Parliamentary Group | Amount | Percentage over present | Amount | Percentage over present | Amount | Percentage over present | Amount | Amount | Percentage over total |
| Front for Victory | 115 | 48,52% | 5 | 2,11% | 120 | 50,63% | 7 | 127 | 49,61% |
| Radical Civic Union | 0 | 0,00% | 22 | 9,28% | 22 | 9,28% | 2 | 24 | 9,38% |
| Civic Coalition - ARI - GEN – UPT | 0 | 0,00% | 17 | 7,17% | 17 | 7,17% | 1 | 18 | 7,03% |
| Socialist Party | 10 | 4,22% | 0 | 0,00% | 10 | 4,22% | 0 | 10 | 3,91% |
| Republican Proposal | 0 | 0,00% | 9 | 3,80% | 9 | 3,80% | 0 | 9 | 3,52% |
| Solidarity and Equality - ARI (T.D.F) | 7 | 2,95% | 0 | 0,00% | 7 | 2,95% | 2 | 9 | 3,52% |
| Civic Front for Santiago | 6 | 2,53% | 0 | 0,00% | 6 | 2,53% | 0 | 6 | 2,34% |
| Union, Justice and Freedom Front | 0 | 0,00% | 4 | 1,69% | 4 | 1,69% | 2 | 6 | 2,34% |
| Bloc of the Concertation | 5 | 2,11% | 0 | 0,00% | 5 | 2,11% | 0 | 5 | 1,95% |
| Federal Consensus | 2 | 0,84% | 1 | 0,42% | 3 | 1,27% | 1 | 4 | 1,56% |
| Popular and Social Encounter | 3 | 1,27% | 0 | 0,00% | 3 | 1,27% | 1 | 4 | 1,56% |
| Union Blue and White | 0 | 0,00% | 4 | 1,69% | 4 | 1,69% | 0 | 4 | 1,56% |
| Neuquén People's Movement | 3 | 1,27% | 0 | 0,00% | 3 | 1,27% | 0 | 3 | 1,17% |
| Front for Everyone | 2 | 0,84% | 0 | 0,00% | 2 | 0,84% | 0 | 2 | 0,78% |
| Salta Renewal Party | 1 | 0,42% | 1 | 0,42% | 2 | 0,84% | 0 | 2 | 0,78% |
| Civic and Social Front | 1 | 0,42% | 1 | 0,42% | 2 | 0,84% | 0 | 2 | 0,78% |
| New Party Against Corruption | 1 | 0,42% | 1 | 0,42% | 2 | 0,84% | 0 | 2 | 0,78% |
| Front for Citizens' Rights | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Recreate for Growth | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Entre Rios Consensus | 1 | 0,42% | 0 | 0,00% | 1 | 0,42% | 0 | 1 | 0,39% |
| NA | 0 | 0,00% | 0 | 0,00% | 0 | 0,00% | 1 | 1 | 0,39% |
| Federalist Union Party | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| National Justicialist | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Peronist Guard | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| National Union | 0 | 0,00% | 0 | 0,00% | 0 | 0,00% | 1 | 1 | 0,39% |
| Buenos Aires for all in South Project | 1 | 0,42% | 0 | 0,00% | 1 | 0,42% | 0 | 1 | 0,39% |
| Front of Production and Labour | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Republican Justicialism | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Independent Movement | 1 | 0,42% | 0 | 0,00% | 1 | 0,42% | 0 | 1 | 0,39% |
| Democrat from Mendoza | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Party of the Concertation – FORJA | 1 | 0,42% | 0 | 0,00% | 1 | 0,42% | 0 | 1 | 0,39% |
| Dialogue for Buenos Aires | 1 | 0,42% | 0 | 0,00% | 1 | 0,42% | 0 | 1 | 0,39% |
| Peronist Dignity | 1 | 0,42% | 0 | 0,00% | 1 | 0,42% | 0 | 1 | 0,39% |
| Liberal Party of Corrientes | 0 | 0,00% | 0 | 0,00% | 0 | 0,00% | 1 | 1 | 0,39% |
| Bloc for the truth | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Memory and Democracy | 0 | 0,00% | 1 | 0,42% | 1 | 0,42% | 0 | 1 | 0,39% |
| Total | 162 | 68,35% | 75 | 31,65% | 237 | 100,00% | 19 | 256 | 100,00% |

Source: Own elaboration based on data from House Session 06/11/2008 Voting⁵².

⁵² See appendix 2 for the names in Spanish

5.3 Senate

According to section 78 of the Argentine Constitution once a bill is approved by the chamber in which it was presented, it passes on to the other one for its treatment, in this case the Senate (Constitution of the Argentine Nation). This characteristic of bicameral systems allows the second chamber to become a potential seat for veto power, making the process more difficult to overcome.

Committees⁵³

Day 1:

During the first committee sessions in the Senate, the Minister of Labour, Employment and Social Security, Carlos Tomada, and the Director of ANSeS, Amado Boudou, presented the project to the committee on Labour and Social Security and the committee on Budget and Finance. The central points of their presentation were related to the poor performance of the private scheme, providing to the relevance of hypothesis 1 in explaining the U-turn: (a) the high costs derived from the high level of administration fees⁵⁴; (b) the impact of the financial crisis over the system's returns⁵⁵; (c) the low level of diversity in the investments, mostly reduced to public bonds with low level of return⁵⁶; (d) the inability of the private scheme to boost the local stock market as it was expected when it was put in place⁵⁷; (e) the increased level of public expenditure on pensions to complement the funded benefits⁵⁸; and (f) the inability of the private scheme to increase coverage, which was only possible after the State increased its participation in pension provision with the reforms of 2006 and 2007, which were aimed at promoting inclusion⁵⁹ (Boudou 2008; Senate plenary sessions Day 1).

The senators reviewed some unclear points about the modified project passed by the House of Representatives but no changes were requested. The only contestant position was that of the President of the Committee on Labour and Social Security. Belonging to UCR, he defended their counter project and criticized the discretionary power the bill was giving the Government,

⁵³ In the case of the Senate committees, in addition to the reports, I had also access to the transcripts of the sessions and the presentations of the different speakers. According to the newspapers, these same presentations were also done in the House committees (Cufre 2008; Jorquera 2008). However, since I did not have access to the official transcripts of the session in the House committees these presentations are only analyzed under the Senate committees' section.

⁵⁴ See appendix 3 figure 3 for further documentation.

⁵⁵ See appendix 3 figures 4, 5 and 6 for further documentation.

⁵⁶ See appendix 3 figures 5 and 7 for further documentation.

⁵⁷ See appendix 3 figures 9 for further documentation.

⁵⁸ See appendix 3 figures 10 and 12 for further documentation.

⁵⁹ See appendix 3 figures 11 for further documentation

the lack of proper controls over the use of the funds, the need for a proper transitional plan and, once again, stated the system required a much more comprehensive reform (Senate plenary sessions Day 1)

Day 2:

The second day was divided between two presentations. It was first opened by the president of the AFJP Union, Sebastián Palla, who tried to minimize the grounds presented against the private scheme. As stated in hypothesis 2 one would expect the AFJPs to strongly advocate for the continuance of the scheme given their economic interests in the system. However his presentation was mainly directed to defending the scheme from the “attacks” rather than trying to convince the audience of its goodness, displaying the weakness of the AFJPs as advocates of the private scheme. He focused great part of his presentation on the myths that had been spreading around about the Argentine fully funded system⁶⁰, while trying to explain that the greatest problems regarding the implementation and evaluation of this system were inevitable to the shift from PAYG to fully funded, and not due to poor management. The public scheme became unfunded during the transition period creating imbalances in the public tier. And since this period was still ongoing the systems had never been able to be comparable as regards the level of benefits, which limited the analysis that was being presented in 2008⁶¹.

To the end of his presentation, the president of the AFJP Union closed arguing that the elimination of the AFJPs would bring down one of the most important institutional investors in Argentina (Senate plenary sessions Day 2, 2, 5-6, 11-12). However, while simultaneously trying to defend it, he made evident a latent concern about the weaknesses of the funded scheme, especially regarding the international crisis. Illustrating the arguments stated in hypotheses 1 (perceived weaknesses of the funded scheme) and 7 (international crisis), the AFJPs’ representative highlighted that, for more than six months, there had been a project,

⁶⁰ (1) *The State was subsidizing the private system with ARS 4 billion.* This was in fact the part of the benefits the State had to cover for the years that the beneficiaries had contributed to the public system. (2) *The fully funded system was not based on solidarity.* The employers’ contributions related to those affiliated to the private system were destined to finance the public system. (3) *Funds mismanagement.* All investments were done according to law and supervised by the bodies created to that matter. (4) *High levels of investment in public bonds.* This was a consequence of the regulations established by the State. (5) *High fees.* They had been always according to international standards and, if at any point they were exceedingly high, they had been lowered to 1% in 2007. (6) *Investment losses reduced* the capital accumulated in the accounts. The accumulation of funds absorbed both positive and negative impacts (Senate plenary sessions Day 2, 2; Decree 1572/2001, Section 4)

⁶¹ Those who were retiring through the private system in 2008 could have only contributed to it during 14 years; the rest had been paid to the State, who had no records of the individual contributions.

consented by both the government and the AFJPs, to modify the fully funded system by creating a second fund that shielded those members at the last stage or already retired in order to reduce the possible effect of market shocks (*Ibid*, 14).

In addition to his presentation, he was asked to provide an overview of the funds with respect to the AFJPs stock portfolios and the potential control the State would gain over local companies as a consequence of the reform. This revealed there was concern among the legislators about the government's intentions and the temptation the accumulated funds represented, illustrating the relevance of hypothesis 9 in explaining the U-turn. Palla explained that according to the regulations, each AFJP could not have more than 5% of a company's equity, but in the accumulation of all investments, it was possible for the State to obtain some degree of control/participation⁶² (*Ibid*, 9)

The second speaker was Guillermo J. Jáuregui, an expert lawyer in pension and retirement issues who was invited to present the situation concerning old age care in Argentina. The results he presented reveal themselves now relevant in terms of hypothesis 1 that stated that the perceived weaknesses the system had at that time were a significant factor weakening those opposed to the reform. According to Jáuregui the failure of the funded system could be seen in its unfulfilled promises and the root for this to happen was found in its intrinsic defects. The former consisted of: (1) the unimproved level of coverage⁶³; (2) the unveiled "lie" regarding reduction of evasion and informal employment⁶⁴; (3) the not reduced administration costs given that fees and executives salaries were argued to be extraordinarily high; and (4) the lack of success in providing better level of benefits than the public system (*Ibid*, 21).

The system's intrinsic defects highlighted in the presentation, that is, the main cause for its failure, are now certainly a good example of why the scheme was perceived as weak. In the first place, the lawyer referred to the incompatibility of the objectives of a social security scheme with regards to market risks and its rationale. Attaching social risks to market risks is a direct consequence of a fully funded private pension design; still this is not desired when

⁶² For a detail account of ANSeS's potential shareholding see appendix 3 figure 8.

⁶³ Figure 13 in appendix 4 shows that since both the amount of contributors and the number of employed people increased, the gap of uncovered workers stayed unchanged. See appendix 4 figure 14 and 16 for further documentation on the evolution of the coverage rate (Jáuregui 2008, 3-4)

⁶⁴ According to Jáuregui, the total amount of workers in the informal market was of 6 million at the time of the debate in 2008. See appendix 4 figure 15 and 17 for further documentation (Jáuregui 2008, 5)

the objective is to provide more security. Secondly he argued that the fully funded system would have worked better within job stability and formality, that is, the high levels of work informality in Argentina constrained the affiliates, and the economical struggle reduced their coverage. Finally, Jauregui stated the fully funded system discriminated against women, who tend to have longer life expectancy, and against married men who have to provide for a wife or disabled children (*Ibid*, 21).

Apart from perceiving the system as weak, to him it was also the AFJPs who had proven to be weak actors themselves. Jauregui thought these institutions had not been able to perform independently when the State forced them to buy public bonds, creating a private system where 65% of the investments consisted of these financial instruments (*Ibid*, 22). This adds to the understanding – as stated in hypothesis 2 – that the AFJPs were weak stakeholders who lack interest in advocating for the continuance of a scheme that would neither let them act “freely”⁶⁵ nor satisfy their economic interests.

The contradiction presented by the situation seemed to be that – as Jauregui pointed it out himself – the composition of the AFJPs portfolios created a scheme that was not that far away from a public one⁶⁶, and so he questioned one more time the viability or significance of a private scheme with such low levels of diversification mostly investing on public bonds. Returning to the arguments of Orszag and Stiglitz (2001) and Barr (2002) presented in section 3.1, we can see here how the exposure to political risk was there even before the reform took place in the ways the government was regulating the private pension sector (Orszag and Stiglitz 2001, 37; N. A. Barr 2002, 3). Still, regardless of the negative characteristics of the funded system, Jauregui warned the senators that going back to the public system would still represent an old age care scheme subjected to demographic changes, and that should not be left unconsidered (Senate plenary sessions Day 2, 22)

Day 3:

The presentations held during the last day of the plenary sessions of the Senate committees provided more evidence about the fact that the 1994 scheme did not have many “fans” who would advocate for it. The old age care ombudsman of Buenos Aires openly expressed his

⁶⁵ Here I refer to the concept of a funded pension system run under the rules of a free market, which was supposed to be the feature to provide best outcomes – in terms of profits – to the covered population.

⁶⁶ See appendix 3 figure 7 for further documentation on the composition of the fund as of 23/10/2008.

support to the reform and its objectives, so he encouraged the senators to vote positively. However he considered it as a just transitional measure which should pay attention to the high litigation levels the system already had (Plenary of Senate Committees Day 3 - Morning, 2-12).

The second speaker of that morning, the National Ombudsman⁶⁷, superficially mentioned he acknowledged the private system was flawed, but especially called for the attention of the role of its supervisory body as responsible of looking after the system. Then he mostly focused his speech on raising awareness among the senators regarding the lack of structure ANSeS had in order to handle the magnitude of the system that was going to be transferred upon the approval of the bill. Therefore, he presented a suggestion to improve the proposed new pay-as-you-go DB scheme by creating of a special bank, comprehensively supervised, in charge of preserving the resources and paying the benefits (*Ibid*, 10-17).

The afternoon sessions include the speech of three economists – Carlos Heller, Javier González Fraga and Oscar Cetrangolo – who were invited to present their opinions on the reform. All of them agreed the funded scheme had not been appropriate for Argentina, but that the way the new system was trying to be put in place was unfortunately not the correct one to get out of it. For example, Gonzalez Fraga – with some scepticism – explained that the “new” PAYG-DB system would create in the long term fiscal pressure due to the demographic trends and warned the congressmen the reform should have been more comprehensively planned (Bridger and Cado 2008). An interesting position, though, was that belonging to Carlos Heller who at the time was President of Banco Credicoop⁶⁸, the principal shareholder of Previsol⁶⁹ AFJP. He explained to the Senators that the organization he

⁶⁷ The Ombudsman is an independent authority, operating with full autonomy and without receiving instructions from any other authority. Its mission is the defense, protection and promotion of human and other rights, guarantees and interests sheltered under the Constitution of the Argentine Nation and the laws, in the face of deeds, acts or omissions of the Administration or other public services providers (Constitution of the Argentine Nation, section 86; Constitution of the City of Buenos Aires, Section 137)

⁶⁸ Credicoop Bank is the largest cooperatively-owned bank in Argentina (Credicoop Bank website).

⁶⁹ “On December 9, 2008, Law 26425 and the pertinent regulation decrees 2103, 2104 and 2105 were published. Such rules put an end to the “Sistema Integrado de Jubilaciones y Pensiones” (Argentine Integrated Social Security System) and thus, the unique and exclusive subject matter of the pension funds administrator agencies (A.F.J.P) came to an end as well. The law commanded the transfer by operation of law of the managed funds in favor of the “Administración Nacional de la Seguridad Social” (Social Security National Agency) (A.N.Se.S). The national agency subrogated all the rights and liabilities the A.F.J.P. had. Consequently, from the law enactment onwards, any social security application or claim regarding thereto must be addressed to the ANSeS, the only administrator organism of the so called “Sistema Integrado Previsional Argentino” (S.I.P.A). In this frame, the company underwent a loss amounting to AR\$40,067,206.68 pesos as a result or the economic impact the mentioned Social Security Reform caused. Anyhow, the Law 26425 that creates the “Sistema Integrado

represented had been against the 1994 reform from the beginning, but since its approval, they decided to create an AFJP that would be driven by their same cooperative principles (Plenary of Senate Committees Day 3 - Afternoon). Giving support to the statements in hypotheses 1 and 2, these three speakers continue to illustrate how the funded scheme was very negatively perceived, to the extent that even some of its material interest stakeholders – who would have also invested some degree of prestige – were likely to express their support to a new reform in 2008.

Committees' reports

From a total of 21 Senators participating of the committees sessions, the majority report was subscribed by 15 of them (14 belonging to FPV-PJ), with no modifications to the text approved in the House⁷⁰.

The alternatives to be debated upon in the Senate were three minority reports. The Socialist Party proposed to reject the project but replace it with an amended text with the same objective of eliminating the fully funded, defined-contribution, private system with a PAYG-DB public one but with modifications in its operationalization. A little more conservative position was that of Civic Coalition and UCR who suggested vetoing (at least partially) the bill advising to create some body that would be in charge of starting a comprehensive process to reform the pension system (Senate Committees Report No1168 2008). The former proposal supported the idea in the project and the timing at which it should be done, but it disagreed with much of its content which, in terms of the legislative process, could not be considered a complete veto of the bill but a move that, if it gained supporters, would delay its approval and could modify its outcome. The latter proposal, even though it was for vetoing the bill, it did not defend the funded system either, it acknowledged the need for a deep reform but not the kind the Government was suggesting. Again, all reports were showing that lack of political support and advocacy towards the 1994 scheme that hypotheses 2 and 3 were claiming, especially motivated by its bad reputation as stated in hypothesis 1.

Previsional Argentino” (SIPA), under article 13, stipulates a regime intended to compensate those losses resulting from the Government decision, which has not been regulated yet by the Executive Power. The General Meeting passed the absorption of losses with AR\$ 11,998,200 pesos of irrevocable capital contributions from shareholders which added to the remaining AR\$259.38 pesos of capital adjustment. For that reason, the net loss shown in our Financial Statements amounted to AR\$28,069,367.26 pesos. As of December 5th 2008, when the State took on the system, the Net Equity of the Pension and Retirement Fund, managed by Previsol AFJP, amounted to AR\$ 2,063,891,205.17 pesos, corresponding to 370,625 accounts balances, Mutual Contribution Funds, and other contributions pending crediting” (Credicoop Bank 2009, 46-47)

⁷⁰ The majority had one partial dissident that suggested some minor changes

Debate

With the presentation of a preference motion⁷¹ on 5 November, the debate of the project in the Senate was scheduled for 20 November (Senate Bulletin No 18/08, 10). The session lasted 12 hours and was opened by the heads of the two committees advising the Senate. In first place spoke FPV-PJ Senator Miranda⁷² who, by referring to former President Nestor Kirchner's platform, introduced the idea that since 2003 the government's actions had been directed to achieve what the former Head of State had promised: the creation of a pension system based on solidarity, universalism, plurality, equity and sustainability (Senate Session 20/11/2008 Transcript, 7).

In this way his say provides some evidence to hypothesis 7 and the understanding of the international context that surrounded this process as explanation of the U-turn. Since if this was correct – and let's assume it was – and the idea had been in the minds of the members of the Executive since 2003, it suggests it was just about the timing in which to present the project. In other circumstances it would not have been so effortless to pass the bill.

Immediately after that, FPV-PJ Senator Rios⁷³, representing those subscribing the majority report, stated their approach to the project had taken into account the large support obtained in the House of Representatives. For this reason, they were advocating for the approval of the bill with no modifications, in order to show the high level of consensus that was also present in the Senate. In addition, he pointed out the fact that even those who spoke during the committees' sessions in opposition to the bill were either against or at least were not able to defend the 1994 scheme. Providing evidence of the lack of political support the private system had and illustrating the relative weight of hypothesis 1, 2 and 3 in explaining the reform. According to the Senator the private system had not only been unable to fulfil its goals in Argentina but in all Latin America. Because the conditions presented in these countries had been opposite to the ones required for the system to succeed: high income, stability and a developed economy (Senate Session 20/11/2008 Transcript, 7-9).

⁷¹ A preference motion is aimed at determining or anticipating the debate of a project in the Senate or in the House of Representatives. The proposition is presented and subjected to voting during ordinary sessions. In case of approval, the bill has preferred treatment to other issues (Senate Rules and Regulations Section 143, 92; House of Representatives Rules and Regulations, Section 130, 22; Senate Rules and Regulations: Motions.)

⁷² Vice President of the Committee on Labour and Social Security

⁷³ President of the Committee on Budget and Finance

To close his argument, he went over three issues about the reform: (1) he explained the system was being reversed in that moment because the conditions were the accurate to do so due to the negative impact the crisis had had on market trends. Because according to him sometimes decisions need to be taken in the worst possible moments so that the cost and pressure of undoing something are the lowest. Illustrating how the concept of a window of opportunity presented in hypothesis 7 was of relevance to obtain support to the project, he expressed that if the reform had been presented one year before, the counter forces would have been higher, and therefore it would have been harder to get the reform approved. (2) He explained the reason why the process had to be so fast was linked to the speculative reactions upon the proposal which were dumping the value of the fund, providing an alternative perspective to the political culture argument in hypothesis 10. In this way he presented the politics of the pension reform as only a circumstantial happening and not the normal way of doing things. (3) Finally, he left opened the question about whether it was incorrect that the State recovered control over the funds and shielded itself against the international crisis. Still he insinuated that part of the reason why the Government was presenting the project was related to the acquisition of the funds and the financial struggles the country was about to face the following year, bringing some light onto the statements in hypotheses 8 and 9 (Senate Session 20/11/2008 Transcript , 11-13).

The open debate that followed had a similar dynamic as the one held at the House of Representatives: a weak opposition mostly arguing about the tempestuous manner this reform was being done, no defenders of the 1994 scheme, and a majority advocating for a PAYG-DB scheme as superior to the flawed funded one and as a reasonable source of funding for the State. This resulted in no changes to the bill and led to its direct approval (Senate Session 20/11/2008 Transcript, 14-156)

Voting

After 12 hours of debate, the Senate approved the pension reform Law 26.425 with no modifications made to the bill passed by the House of Representatives. Having plurality in the chamber⁷⁴, FPV-PJ was able to gather the minimum required votes helped by some of the dissident peronists. In addition, other opposition parties supported the reform adding to a total of 46 positive votes. Eighteen negatives were counted, to which UCR contributed with 7. The

⁷⁴ FPV-PJ counted with 32 Senators – See table 3 to review the Senate composition and voting

Senate has a total of 72 members and the project needed the absolute majority of the members present to be approved, i.e. 33 out of the 65 present that day. Two of the senators seating and voting in 2008 had been present in the sessions in 1993. One of them was supporting the shift back to pay-as-you-go and the other was against it⁷⁵ (Law 24.241 - Transcripts of the Legislative Process; Senate Session 20/11/2008 Transcript, 140-156).

Senate voting

Table 3

| Parliamentary Group | POSITIVE VOTES | | NEGATIVE VOTES | | ABSTENTION | TOTAL PRESENT | | ABSENT | TOTAL | |
|--|----------------|-------------------------|----------------|-------------------------|------------|---------------|-------------------------|----------|-----------|-----------------------|
| | Amount | Percentage over present | Amount | Percentage over present | | Amount | Percentage over present | | Amount | Percentage over total |
| Front for Victory | 31 | 47,69% | | 0,00% | | 31 | 47,69% | 1 | 32 | 44,44% |
| Justicialist Party | 6 | 9,23% | 4 | 6,15% | | 10 | 15,38% | 2 | 12 | 16,67% |
| Radical Civic Union | 1 | 1,54% | 7 | 10,77% | 1 | 9 | 13,85% | 1 | 10 | 13,89% |
| Civic and Social Front | 1 | 1,54% | 2 | 3,08% | | 3 | 4,62% | 1 | 4 | 5,56% |
| Support for an Egalitarian Republic | 2 | 3,08% | | 0,00% | | 2 | 3,08% | | 2 | 2,78% |
| Civic Coalition | | 0,00% | 2 | 3,08% | | 2 | 3,08% | | 2 | 2,78% |
| Renewal Party | | 0,00% | 1 | 1,54% | | 1 | 1,54% | | 1 | 1,39% |
| Partido Socialista | 1 | 1,54% | | 0,00% | | 1 | 1,54% | | 1 | 1,39% |
| Justicialist Front for National Liberation | | 0,00% | | 0,00% | | 0 | 0,00% | 1 | 1 | 1,39% |
| Federalist Union Party | 1 | 1,54% | | 0,00% | | 1 | 1,54% | | 1 | 1,39% |
| Fuerza Republicana | | 0,00% | | 0,00% | | 0 | 0,00% | 1 | 1 | 1,39% |
| Viable Santiago Movement | 1 | 1,54% | | 0,00% | | 1 | 1,54% | | 1 | 1,39% |
| Republican Force | | 0,00% | 1 | 1,54% | | 1 | 1,54% | | 1 | 1,39% |
| New Party | 1 | 1,54% | | 0,00% | | 1 | 1,54% | | 1 | 1,39% |
| Partido Nuevo | | 0,00% | 1 | 1,54% | | 1 | 1,54% | | 1 | 1,39% |
| Neuquén People's Movement | 1 | 1,54% | | 0,00% | | 1 | 1,54% | | 1 | 1,39% |
| Total | 46 | 70,77% | 18 | 27,69% | 1 | 65 | 100,00% | 7 | 72 | 100,00% |

Source: Own elaboration based on data from Senate Session 20/11/2008 Transcript, Télam 2008, the Senators history from the Senate official website, and the Argentine Judiciary official website⁷⁶.

5.4 Executive's Promulgation and Publication in the Official Gazette

Completing the legislative process, on 4 December, 2008 the Executive promulgated the Law 26.245 as passed by the Senate. Both the Decree 2099/08 from the Executive and the approved text were published in the Official Gazette on 9 December, 2008, date in which the

⁷⁵ I did not have access to the detail account of votes in 1993.

⁷⁶ See appendix 2 for the names in Spanish

law started ruling (Decree 2099/08; Official Publication of the ratified Law 24.425 2008; Law 26.425 Section 21, 4)

5.5 In The Meantime in The Outside

Throughout this presentation of the sequence of decisions that resulted in the U-turn some indicators of the relative weight of the hypotheses came along. However, there are some other facts that need to be considered in order to complete the description of the events, thus I will now turn to what was happening outside the Congress.

Support and Opposition from Other Groups

Although not previously mentioned given their lack of incumbency in the formal legislative process, other groups made their public statements, for and against, the reform. The appearance of these groups in the public scope is considered under this title to help determine the level of informal veto points (hypothesis 5) and the level of public support (hypotheses 1 and 2) to this particular decision making process.

The most salient was the support the main labour unions gave to the government's initiative from the very beginning (Mindez 2008; Clarín (1) 2008). As a de facto veto player, Argentine unions had suffer a strong deterioration during the 1980s and 1990s given the de-unionization of the PJ party (Levitsky and Murillo 2008), however since 2001/2002 social mobilization had begun to grow again thanks to “the end of the long economic depression, the increase of production and economic activity, the decline of unemployment, and the political and economic project of the Government” (Atzeni and Ghigliani 2008) and by 2008 Unions showed to be a relevant political ally, not to say a very important non-enemy. In this way, the idea stated in hypothesis 5 loses some of its explanation power. That “permission” given to these nongovernmental actors in the policy making process was indeed not used as a threat to the success of the reform, but as a reinforcement.

On the side of the opposing forces, the AFJP employees – with only little back up from independent people who were against the reform – demonstrated for several days during the Congress sessions, driven by the fear of not knowing what was going to happen with their employment stability once the AFJPs had disappeared (Página12 (1) 2008; Clarín (6) 2008; Bulrich 2008). Other attempts included meeting the vice President to express their concerns and insecurity about being employed by the State (La Nación (6) 2008) or publicly

threatening they would appeal against the reform (La Nación (8) 2008). However, none of their actions made a substantial impact. Already on 27 October – even before the bill had been approved – the Government called in the Unions and the AFJPs for a meeting to arrange the transfer and future of the workers (La Nación (7) 2008), showing how weak they were as stakeholders of the funded system and illustrating the relevance of hypothesis 2 in explaining the success of the U-turn.

Another concerned group were the representatives of the rural producers who previously that year had vetoed another proposal from the Government. Although they lobbied against the reform they were not powerful enough to represent a veto threat (La Nación (9) 2008). The general public opinion, in contrast, seemed to have been slightly more in favour of the reform. A survey carried out by a local consulting firm (Analogías) determined that 66,5% thought the public system was more secure than the private and that 53,7% agreed with the transfer to the public system⁷⁷ (Página12 (2) 2008; Página 12 (3) 2008). Finally, as for regional reaction, it is important to highlight the Brazilian Minister of Social Security praised the Argentine reform to be and expressed they would start bringing this issue to the rest of the MERCOSUR countries⁷⁸ in order to converge in similar ways of pension provision (La Nación (10) 2008) . This support was given even when during the reform the AFJPs were required to repatriate the funds invested in Brazil (Stang 2008).

AFJPs and the Reform

The public reaction of the AFJPs should be described as rather divergent which indeed did not help defend the fully funded, defined-contribution, private system. Right after the project was announced the President of the AFJP Union stated that they would protect the ones enrolled under the private scheme (Clarín (2) 2008), and in order to express their disagreement with the reform the Union published a letter in the main Sunday newspapers. In reaction to this, NACIÓN AFJP (the State owned administrator) left the Union while two other AFJPs, PREVISOL⁷⁹ and FUTURA, publicly stated they agreed at least partially with the reform (La Nación (1) 2008).

⁷⁷ The survey was done on 300 people between 25 and 74 years old living in Buenos Aires, and used CATI methodology. The sample covered an equal number of men and women; however up to 60% of the interviewed were not making any contributions and 17.7% were already pensioners.

⁷⁸ The Mercosur countries are Argentina, Brazil, Paraguay and Uruguay. Bolivia, Chile, Colombia, Ecuador and Peru are associate members (MERCOSUR official website)

⁷⁹ Previsol's principal shareholder was Banco Credicoop whose President, Carlos Heller, was one of the speakers at the plenary of the Senate committees on 12 November, 2012

In addition to the letter, on 3 November the AFJP Union presented to the Executive an alternative proposal to modify the pension system without nationalizing it (Obarrio (1) 2008). However, this was immediately dismissed by the Government with strong critics (Clarín (3) 2008), showing again – as claimed in hypothesis 2 – that the capacity of the AFJPs to stand by the funded system was almost none, both inside and outside the Congress.

Still, the private administrators had to deal with multiple measures taken against them. Starting 21 October, given the presumption of fraud, the AFJPs were forbidden to operate in the stock market for a week⁸⁰ (La Nación (2) 2008). During the following days they were repeatedly raided in order to determine whether funds had been mismanaged (Clarín (4) 2008; Hauser 2008; La Nación (4) 2008; La Nación (5) 2008). And they were required to repatriate the funds (ARS 1.8 billion) invested in Brazil (Stang 2008) and in Mercosur (Clarín (5) 2008). Additionally, they had to deal with the actions taken by New York Federal Judge Thomas Griesa, who admitted the petitions presented by several U.S. investment funds on 30 and 31 October to seize AFJPs funds, to freeze investments held by Argentine pension funds in the U.S. – in reaction to the move to nationalize the system⁸¹ (Clarín (7) 2008; Laudonia 2008).

Rumour Has It: the Government's Intentions

Since its presentation, the project was framed under the argument that old age care was a responsibility of – and therefore should be carried out by – the State. However, as time went by during the legislative process, some signs of other intentions began to show up. Already two days after the announcement was made and even though it was not officially disclosed, in Casa Rosada (Government House) there were some who admitted that the transferred funds would not remain frozen. Yet, they would be used to cover up the following year's deficit and avoid defaulting (La Nación (11) 2008). However, official versions of the destiny of the funds stated they would be allocated in public works planned for the following year (Obarrio (2) 2008) and invested in long term labour intensive projects that would help sustain Argentina's economy during the global crisis (La Nación (12) 2008).

⁸⁰ The legal actions pursued against AFJPs to forbid the companies of operating in the stock market for a week were withdrawn on 24 October, allowing the administrators to restart operations the following Monday (La Nación (3) 2008).

⁸¹ This issue would not have been resolved but until after the pension system had been nationalized.

Other rumours talked about the participation that the State was going to gain in the boards of some important companies. Examples of these were Edenor⁸², Gas Natural Ban⁸³, Banco Macro⁸⁴, Siderar⁸⁵, Telecom⁸⁶, BBVA Banco Francés⁸⁷, Galicia⁸⁸ and IRSA⁸⁹, among others. According to the official reports⁹⁰ some of the companies were going to have the State as the first minority shareholder (La Nación (11) 2008). In response to this, some companies expanded their share buyback program (La Nación (14) 2008) showing their unwillingness in having the Government interfering in their operations.

The rumours presented here suggest that, regardless of the efforts on emphasising the objective of the reform was to enhance solidarity, inclusiveness and redistribution, material interests on gaining control over capital was perceived as a real temptation by many of the actors involved.

6 Discussion, Conclusions and Recommendations

6.1 Discussion: Analyzing the Clues

Up until now, I have presented what happened inside and outside the Congress during those 36 hectic days of the policy formulation process that led Argentina to shift back to a pay-as-you-go pension system. Now it is the time to evaluate whether the clues found are consistent enough to confirm or deny the hypotheses presented in section 3.3. Thus, in order to address the research question – *Why did Argentina change its pension system back to a one-tiered pay as you go DB system in 2008?* – I have to return to the hypotheses to be able to determine their relative importance in explaining what went on, how and why.

At the beginning of this paper, I presented the statement of Estelle James which I would like to quote one more time:

Private management of pension reserves minimizes opportunities for appropriation by the government. To be sure, no system is completely immune to the dangers described above, and every system will function better if government behaves. But the structure we have recommended [mandatory, fully funded-DC pensions managed

⁸² Largest distributor of electricity in Argentina (Edenor official website).

⁸³ Second largest distributor of gas in Argentina (Gas Natural Ban official website).

⁸⁴ Largest domestically-owned private bank in Argentina (Banco Macro official website).

⁸⁵ Largest steel manufacturer in Argentina (Siderar official website).

⁸⁶ One of the major local telecommunications companies in Argentina (Telecom official website).

⁸⁷ One of the leaders in the Argentine Financial market (Banco Francés official website).

⁸⁸ One of the leaders in the Argentine Financial market (Banco Galicia official website).

⁸⁹ One of Argentina's leading real estate companies in terms of total assets (IRSA official website).

⁹⁰ See appendix 3 figure 8 for further documentation.

by private institutions] contains checks and balances that place limits on each actor. We believe such a system is less susceptible to distortions and more sustainable (James 1996, 4, 12-13).

The questions asked in relation to this statement and Argentina's U-turn in pension politics were: (a) why did the mandatory, fully funded, defined-contribution, private pension system in Argentina not place such "checks and balances" on political actors to the extent that they would never interfere to dramatically change pension design again? And (b) why has dramatic pension reform been possible also after 1994? The answer to these questions is also the answer to my research question, as follows.

Throughout the body of this dissertation we have witnessed how different actors on the basis of different premises or frameworks *perceived the funded scheme as flawed (H1)*. Likely, those could be summarized as Arza (2008) presented them in an evaluation of the results of the multi-pillar system done shortly before the reform took place: (1) the private pension system's viability became more uncertain – compared to what it had been initially defined – due to the pressure the transition period was creating. In addition, doubts about its sustainability began to appear. Although the system was no longer being affected by demographic changes because benefits could be well adjusted to the accumulated funds, the benefits were more strongly attached to market performance and "the ability of governments to contain the political and social costs of crises on benefit levels" (Arza 2008, 2699-2700). (2) Preventing old age poverty and providing universal coverage had not been successful. Given the high levels of informal work (i.e. contribution evasion) and the low level of non-contributory benefits many people remained uncovered and poverty alleviation had not been properly addressed (*Ibid*, 2700-2701). (3) Old age income security was expected to increase, while administrative costs were to reduce, however this was not the case. In terms of the former, the new set of risks – management, investment and annuity risks – and the prevalence of macroeconomic risks – particularly inflation and the country's instability – seemed not to have reduced insecurity but to change its nature. With reference to the latter, the reform resulted in a higher total cost derived from (a) a more expensive private tier in comparison with the public one due to reduced economies of scale and the increase in marketing costs, and (b) the transition costs (*Ibid*, 2701-2703). (4) Although at first sight contribution returns increased in comparison with PAYG's theoretical performance, if the former were to be corrected by transition costs, new risks and administrative costs, the results would have shown a worse off situation for the private scheme (*Ibid*, 2703-2705). (5) "Perverse"

redistribution was expected to be eliminated but, on the contrary, the system created new inequality problems mostly related to the predominance of work informality, financial fluctuations and the double burden⁹¹ of the transition (*Ibid*, 2705-2706). (6) Boosting individual choice and competition remained a desired aim. The rigidity and limitations of the system plus the underdeveloped legal framework prevented these two objectives from being achieved (*Ibid*, 2706-2708). (7) Finally, reduction of political risk appeared to be unlikely even before the system was dismantled in 2008 (*Ibid*, 2705).

The facts presented by the author showed a latent hazard to the continuity of the funded scheme and that was very well illustrated by the fact that (a) all committees' reports stated the private tier needed reviewing; (b) during debates, none of the legislators defended the private tier and almost all legislators had a negative perception of the way it was operating; (c) the Executive presented its argument by proposing the new reform and criticising the old scheme throughout the whole legislative process inside and outside the Congress; (d) the public opinion – pictured in the survey – showed generalized dislike over the private scheme; (e) the different experts that assessed the legislators presented the dimensions in which the scheme was malfunctioning; and (f) even some AFJPs believed that there were adjustments needed to the current system or that the proposed reform was appropriate. Distrust in the funded system was generalized, and that attempted against it, because if there had been an interest actually jeopardized by the 2008 reform, there would have also been an interest in keeping the private scheme.

The *affiliates(H2)* had mainly three mechanisms available for indirect participation in the process: through their representatives in the House – who are directly elected by the people –, the Ombudsmen – representing the interests of the public – and the labour Unions – who have proven to promote legislation or undertake lobbying favourable to the interests of their members or workers as a whole. Looking at the first actors we find that the affiliates of the funded scheme were partly represented by just a small number of legislators, whose line of argument was based on the reform being unconstitutional. Still, the violation of property rights as an argument to advocate for the affiliates was easily jumped over as we have seen earlier in section 5.1. The positions of the Ombudsmen were divided. While one was openly

⁹¹ The double burden refers to the fact that during the transition time the current workers have to pay twice to maintain the system running. The first payment corresponds to financing their individual account. The second is given by the increase in taxes in order to finance the remaining PAYG tier (Barr and Diamond 2009, 20)

supporting the reform, the other – although not supporting it – was mainly focused on its better implementation. Finally, the labour unions did not have a very active role in this particular debate; rather they just expressed their support to the Executive's proposal from the very beginning. Indeed, there was not much resistance to the reform from this group.

The *AFJPs(H2)* on the other hand were a little more active in trying to keep the funded scheme, but still did not seem to make a substantial pressure to gain supporters. They were the target of several negative actions that most probably weakened their position. They were even perceived as weak by some of the actors involved in the decision making process. They were given time to expose their case before the legislators during the committees meetings. However, the presentations seemed mostly a formality and a way for the legislators to dig into the state of the funds in order to address improvements for the new policy. Their public defence was even erratic, divided and disorganized, different voices did speak up, however in opposite directions, even in favour of the reform. Unsuccessfully, some of them tried to act as advocates of the beneficiaries, but their already damaged image did not help convince any legislators, probably because of the conflict of interests that was contained in that manifestation. Other representation bodies, presumably less biased, had already promoted a different approach towards the defence of the beneficiaries, prioritizing social over individual values⁹².

Given the link of hypothesis 3 with some of the findings related to hypothesis 6, I will present it afterwards and will now jump over to hypothesis 4.

As introduced in hypothesis 4, the *veto player theory* considers three aspects to determine the level of policy stability of a country: the number of players the system has, the level of congruence of the players and the level of cohesion of collective players (Tsebelis 1995, 301-302, 308-313). In general terms, the relevance of this theory in explaining the U-turn should have been related with the presence of minority actors strongly opposed to the reform, as well as with the way these minorities would have been able to use their veto power to block the project and keep the status quo. As already presented in the previous paragraphs, this was not the case during the debate in 2008. Leaving this theory with less explanatory power regarding

⁹² For example, the positions of the old age ombudsman of Buenos Aires and the unions.

the events here analyzed. Still, the theory enables us to do a – rather superficial⁹³ – analysis of *the level of policy stability (H4)* in Argentina’s policy making process.

Argentina’s policy making process has – in terms of this theory – only *three institutional veto players*⁹⁴: The House of Representatives, The Senate and the Executive. However, provided that a veto point that is able to be overridden should not be counted, only the 2 veto points belonging to the chambers remain (Tsebelis 1995, 305-306). The *level of congruence* between these two players – i.e. the distance between their policy positions – is determined by the composition of the House of Representatives and the Senate as described in section 4.2. The more similar they are in their composition, the higher the level of congruence. This is clearly the case of the Argentine Congress in 2008. Furthermore, given the high level of resemblance, I will argue here that the absorption rule⁹⁵ applies, thus having to count both players as one (Ibid, 309-310). Finally, the *level of cohesion* of the opposition groups was rather low provided their division and weakness. This situation was described in section 4.2 and was also illustrated in the standpoints presented during the debate of this particular matter. The arguments exposed by the legislators – and the parliamentary groups they represented – showed a rather high level of cohesion of those supporting the reform. The opposition instead, could not find a strong argument that would let them act jointly. They were disorganized and weak.

In terms of *informal veto points (H5)*, we find very weak players. Although the AFJPs’ employees mobilized against the reform, their marginal power was not supported by national trade unions, who instead expressed their support to a shift back to the previous scheme, while other potential informal veto players were also very weak as shown in section 5.5. In this way, veto players theory – both formal and informal – only provides a limited understanding of the events in 2008. Yet, one could say that the low level of policy stability

⁹³ For reasons of space and relevance to this paper I will not present an in-depth analysis of Argentina’s level of policy stability considering all the propositions made by Tsebelis in his book (Tsebelis 2001).

⁹⁴ In terms of partisan veto players, one could say that the Front for Victory electoral alliance and the fact that Cristina Kirchner’s Vice-President belonged to UCR gave birth to a government coalition. Yet, this coalition was non-enforceable: the parties participating in government could not prevent their own legislators from defecting when the bill was treated in Congress, thus not creating any partisan veto players (Tsebelis 1995, 302).

⁹⁵ The absorption rule states that when the composition of two chambers is identical, the players are identical and thus should be counted as one. Moreover, in the cases of federal states like the case of Argentina, legislatures should not be counted as two players when the electoral results had created identical majorities in both chambers (Tsebelis 1995, 309-310). If we go back to title 4.2 we can see that in both chambers the bloc with the highest number of legislators was that of Front for Victory with 127 (49,61%) representatives and 32 senators (44,44%) together with the presence of allies in other parties that resulted from the electoral alliance.

– founded on the presence of just one non-cohesive institutional (or two with high level of congruence) veto player and the absence of any strong informal veto players – facilitated the reform were passed easily in 36 days.

The sixth proposition puts the IMF and the World Bank as possible interested actors in a successful and sustainable experience of the Argentine fully-funded, defined-contribution, private scheme regarding their role in its implementation. Nonetheless, the relationship the country had with those said to be *external stakeholders (H6)* of this design had indeed changed in the years previous to the 2008 shift back to pay-as-you-go. Probably the most significant event happened in 2005 when the IMF was paid off in full by Argentina (Balch 2005). At that time the Government argued the move would provide “greater degree of freedom in three areas: management of public accounts, macroeconomic strategy and income redistribution” (Katz 2005, 1). In this regard, one could say that this move away from these institutions’ recommendations – the shift back to pay-as-you-go – could be interpreted as evidence of that statement. However, I shall be a bit more conservative and simply state that the story of the U-turn in 2008 would not have been the same if Argentina had still been tied to loan conditionalities from the IMF.

Moving away from the financial perspective, in the case of the World Bank one could think that the prestige invested by the agency in Argentina’s pension design would have created sufficient interest to, at least, try to influence the new policy. However, along the reviewed facts no involvement from the bank was revealed. The hypothesis presented here was formulated under the premise that the agency’s influence to shift to a funded system would have been proactively pursued taking into consideration the recommendation made by Estelle James as previously cited. However, according to Brooks (2004) during the design and approval phases in Argentina the World Bank had little control over the chosen outcomes. This was because the Bank’s objective was “to ensure an efficient and effective institutional reform” and not “to compel governments to adopt a more private model for social security than they desired” (75-76). The role of the IMF on the contrary was more of a catalyser of the reform as an instrument of political negotiation in the legislature providing the bidding nature of its fulfilment. Bearing in mind the overall scenario, the author’s conclusion about the Argentine case is that these institutions “had a less active role than the domestic government actors in shaping the specific design of the Argentine reform, and only contributed to the adoption of a multi-pillared pension system through indirect support of the government’s

broad neoliberal economic strategy” (*Ibid*, 86-87). So, if we now consider the new local scenario of economic recovery, stabilization and the systematic compliance with both the IMF and the World Bank⁹⁶, it would not seem outrageous not to find any evidence of their participation in the reform in 2008. It is however not clear whether their lack of participation was directly caused by the financial compliance or by their lack of prestige investment in 1993/1994. Still, in either case, it could not be incorrect to assume that one of the reasons the U-turn was possible in such a straightforward fashion was thanks to the non-interference of these institutions.

In order to identify the existence of the *political prestige (H3)* invested in the funded scheme by the *legislators* in the 1994 reform, I need to refer to the discussion on the influence that external stakeholders had on it. The results found about the roles of the IMF and the World Bank in the Argentine experience show that the reform encompassed two concepts, divisions of a dichotomy: the design chosen vs. the political decision made, that is, the act of reforming in itself. According to Brooks (2004), the design chosen had local ownership, while the decision of reforming was more externally influenced since there is little evidence that the support to a particular pension design had been dependent to loans and their conditionalities (75). However, this was not the way it was perceived locally. In 2008, the case – reflected in the discourses of many legislators – was presented as if the country had not had a real choice in 1993/1994, as if they had not had real ownership. This situation was reinforced by the fact that the members of the Congress had almost completely changed from one reform to another; showing that, as it will be discussed later, there might be something in the political culture and the internal dynamics of the parties that enabled this radical change; because ownership, neither perceived nor real – from either internal or external actors – had created much prestige so as to stop the U-turn.

The argument based on the *impact of the global crisis (H7)* over the fully funded, defined-contribution, private pension scheme was certainly a relevant and influential one that helped gain much political support in favour of the reform in 2008. According to its advocates the environment was conditioning the survival of the social security arrangement, and therefore it had to be reformed, showing also how perception regarding policy making is one element of relevance in defining what the problem is (Halvorsen 2006, 1288-1289). The way the

⁹⁶ By 2005, besides paying off the IMF, Argentina had been also cancelling its debt with IADB and the World Bank, making it a total disbursement of 25 billion dollars (Katz 2005, 3)

international crisis was perceived is for this matter – the understanding of the reasons for the shift back to a pay-as-you-go design – more significant than whether the crisis was indeed objectively a threat. Many legislators claimed the future of the private funds was exposed to a risk that could and should be avoided and this statement was stressed by the fact that the funded scheme was already malfunctioning and too vulnerable. The evidence found through this research cannot really determine what would have happened with the funded scheme if it had not been reformed and that should be left to further investigation. But it does bring light into the fact that the international crisis – as a situational factor – was an important driver in the debate that led to the U-turn of the pension system in Argentina.

The key in determining whether the return to the pay-as-you-go design could also be related to the issue of who should *control national capital (H9)* in Argentine society, as well perceived as a solution to the *money shortage (H8)* the country was going through, refers to how the role of the State was defined – by the Government and the legislators – generally, regarding the economic management of the country, and particularly, regarding pension management. The project was supported by the argument that the State is who should provide old age care and that the system should enhance the concepts of solidarity, inclusiveness and redistribution. Still, inside and outside the Congress, rumours about additional interests started to grow. During the committees and floor debates the issue started to be talked about and it began to show itself as a reason for adherence to the reform from some members of the opposition. For them it was a better choice to deposit trust and funds in the hands of the Government rather than in the hands of the profit-driven corporations that were just looking to take advantage of them and that had created a system that had excessive costs and low levels of risk diversification. Two concepts that in the beginning were not very well perceived started to change their course. Members of the government began to openly display the future projects and allocations for the funds, and those derived objectives gained legitimacy, in part helped by the financial shortages forecasted for the following years. In this way, financial temptations and financial struggles became the “combo” that helped gain supporters at the time of the voting.

Apart from the level of policy stability, there also seems to be something in the *political culture (H10)* of the policy making process that shapes it and further helps explain why it was possible for the Justicialist Party to pass this bill so rapidly, dismantle the system that the same party had put in place and still avoid problems inside the party. The hypothesis

questioned whether there was a cultural acceptance for interference and fast manoeuvring that allowed for this to happen, and – to a certain extent – the answer is affirmative. Considering Scherlis's (2008) conception presented in section 4.2 regarding that new way of doing politics – the political machinery born during the late 1980s and 1990s, that was further consolidated during 2000s – the circumstances were such that politicians were allowed to be more flexible in their strategies. This was making it possible to “adapt to changing conditions, modifying programmatic commitments and switching policy programmes [...] without risking internal crisis” (579-583). According to the author, the key for such unquestioning political support was the control over the access to material resources. Whether or not the Executive had been able to enhance this political machine or even use it in order to engage legislators in supporting the 2008 reform, is not quite explicit in the findings. Hence, the political culture hypothesis here only helps explain how these types of practices create a certain environment that facilitates the approval of governmental projects but does not directly explain the U-turn.

Still, despite the creation of a more flexible – and less institutionalized – party system (Scherlis 2008, 580), this transformation in the Argentine political culture does account for other matters that ultimately also help explain the U-turn: (a) the fact that party discipline can still be very high in Argentine politics provided that the legislators' engagement in political entrepreneurship is partly determined by how party leaders in congress are able to allocate resources (Jones 2002, 158-159) and (b) why the level of reputation within PJ – regarding the fully funded, defined-contribution, private pension scheme – was so low, as discussed above. Moreover, when analysing the discourses presented by many legislators, one could see real concerns about the funded system and therefore a genuine agreement with the Executive's standpoint. The circumstances (in particular the international crisis) and the state of the private system were such that there was more openly expressed ownership about dismantling it than what it seemed to have been when it was put in place. For that reason, the pro-administration legislators' position would not just be about accepting interference and fast manoeuvring but embracing it, agreeing with it and taking it to a level where party discipline would play a secondary role.

But it would have not been enough that the system was not working properly if there had not been a *viable alternative (H11)*. Many speakers talked about having doubts about the ANSeS being able to manage the new PAYG-DB scheme, being able to provide the benefits that the

Government was promising. Many opposed to the project on the basis that the proposed bill was not comprehensive enough. There were also those who claimed the new bill damaged the property rights gained by those who had chosen the funded over the public arrangement. And many made alternative proposals. But, to different extents the majority – those who voted in favour of the reform – agreed the fully funded, defined-contribution, private scheme needed to be replaced, and in that sense some definitions needed to be reconsidered and some sacrifices needed to be made. It was in that sense that many agreed on an ample conceptualization of property right when referring to pension benefits and many other took a pragmatic viewpoint that understood the reform as a first step forward into a better pension system. Here it seemed that, in general, participants – in and outside the decision making process – were more willing to cope with political risk than with market risks. That was what made the proposal more viable than the system in place.

6.2 Conclusions and Recommendations

Two sets of factors enabled the U-turn in Argentine pension policy: (a) factors weakening those opposing the U-turn and (b) factors strengthening those advocating for the U-turn. These were explored and identified throughout this dissertation, arriving to the conclusion that ultimately explains the happening. It was the combination of these factors and the different degrees to which they influenced the outcome what created the circumstances under which this dramatic shift took place.

To a large extent, the U-turn is explained by the fact that the fully funded, defined-contribution, private pillar of the Argentine pension system was negatively perceived by almost all actors. This was a major weakening factor for the opposition, who were not able to fully subscribe for a continuance of the status quo due to the fact that they were too dissatisfied with it. And those who could have been expected to be potential opponents/veto players of the reform – material interest groups, political prestige stakeholders or influential groups – were either weak, not interested or absent in advocating for the funded scheme and therefore presenting a low level of resistance. This situation was also helped by the low level of policy stability that the Constitution and electoral results had created. And by the fact that, externally speaking, by 2008 the “prestige/investing” ties with the IMF and the World Bank – due to financial help or technical assistance – were not there, and that provided the government with a clear path to work on a shift back to a pay-as-you-go DB public scheme without any external interference.

The main argument that allowed the Executive gain supporters was the constitutional delegation to the State of the obligation of granting old age care in Argentine society, and the ideas and values underpinning a redistributive and solidaristic pay-as-you-go pension design. Also, because the alternative proposed bill was presented in a way that defeated the argument about the violation of property rights. And it was regarded by both the government and the majority in the legislature as a good strategy towards a better management of the national capital and a pragmatic solution for the financial shortages the country was about to face. Contextually, the idea of a potential threat that could destroy the funds accumulated in the individual accounts leveraged all arguments, twisting the debate and accelerating it. Finally, even if not proven as a direct cause, the reform could not but have been helped by the presence of a culture that is said to allow rapid and dramatic policy changes without jeopardizing the integrity of the organizations that comprise the system.

The research question – *Why did Argentina change its pension system back to a one-tiered pay as you go DB system in 2008?* – is finally answered by multiple factors that coexisted and interacted allowing the occurrence of a U-turn in Argentine pension politics. By exploring and testing a series of 11 hypotheses I have not only reached an understanding and explanation for the dramatic shift in pension design that took place in 2008, but also I was able to locate key aspects towards the understanding of Argentine social policy and the drivers and dynamics of the different political actors involved in this particular field: (a) the effect that changes in public representations of social problems have over the sustainability of their associated social arrangements. (b) The transformations in the private-public mix that have been happening in Argentine society since 2003, and the development of a different understanding of role of the State. (c) The multidimensional feature of social policy – and in particular old age care – and the way the various dimensions are prioritized and discussed upon during the policy formulation process, leading to a certain “consensual” understanding of what the problem is and how it should be solved. (d) The impact that certain aspects of political cultures – such as the presence of machine politics or ideology – may have over policy and the process of policy change, influencing arguments and final outcomes. (e) The shaping role of institutions and electoral results in the whole policy making process. (f) The new map of international relationships, in particular with the IMF and the World Bank. (g) And how local and international contexts create certain settings that can affect the views of all actors involved.

The approach used in this case study, assenting with Schludi (2005), is underpinned by the understanding that the analysis of such an intricate happening – such dramatic shift – requires the fusion of several perspectives (65), hopefully contributing to the academic field regarding the challenges of social theory when explaining policy change. In this way, by addressing the research question at various theoretical levels and combining political, economical, social and cultural perspectives the case shows its multidimensional complexity that cannot be reduced to one explanatory theory of policy change. Yet, the analysis of how the findings in this dissertation may allow improvements in already established theories is though left to future investigation.

Closing up, I would like to refer to the argument that states that pension systems should not be reformed or that even any attempt to change pension programs is synonym of political suicide (Buchanan 1983, 340). The Justicialist Party in Argentina did it two times in a very short period of time: once in 1993/1994 and the second in 2008. Whether the last change was the correct move or not should be left for further research. Still, the sustainability of the new pay-as-you-go scheme and the renown consequences related to future demographic changes will not show up for several years and that would be a challenge to be faced by another Government.

In any case, the Argentine experience shows that pension reforms can be carried out and that the implementation of private systems does not minimize opportunities for appropriation by the government as it was alleged by the World Bank. The question is now whether there could be other countries encouraged to follow the same lead and/or waiting for the right opportunity to do so. The likelihood that this event could be replicated in other countries given the constraints the global economic crisis has created is an interesting case to be addressed in the future. And hopefully this dissertation could help provide the initial data to carry out a comparative analysis with other countries that had been part of the same privatization process during the 1990s and 2000s.

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Appendices

Appendix 1: Overview of the Multipillar Pension System

The system's principal financial resources were provided by employees (11 % of their gross salary)⁹⁷; employers (12% of the gross salaries); and the self-employed who had an overall contribution of 27%. For each insured person who had shift to the private tier 11% was the amount capitalized in its individual account managed by a Retirement and Pension Funds Administrator (AFJP), while the remaining amount and the contributions of those who chose to stay in the old (but reformed) public system was destined to support the public tier which was still administered by the National Social Security Administration (ANSeS)⁹⁸.

Benefits were, by the same token, of two kinds: (1) a minimum pension benefit (Basic Universal Pension – PBU), together with a complementary compensation (Compensatory Pension – PC), for the years contributed to the public system prior to the reform, and an additional benefit (Additional Pension for Permanence – PAP) – for the years contributed to the public system after the reform – were granted by the State. This was calculated based on the average of the last 10 years of work salaries. (2) The funded tier's benefits consisted of the PBU and the PC granted by the State and a pension based on the amounts contributed (the compulsory 11% and the additional voluntary contributions) plus the resulting investment earnings. Alternatively, pensioners could choose the accumulated assets to be provided as an annuity (where death risk was assumed by the insurance company hired by the pensioner), a programmed retirement (a monthly amount, annually pre-arranged with the AFJP, on the basis of the accumulated assets and the life expectancy of the retiree and the family group. In this case the risk of death was assumed by the retiree, therefore any remaining balances would have been considered part of the deceased property) or a “fractionary retirement” (in which the beneficiary and AFJP settled an amount to be perceived only when the retiree reached a benefit of 50% – or lower – of the maximum PBU. The funded fraction of his/her pension became, in consequence, equal to that percentage until the account was consumed) (Deloitte Argentina 2006).

⁹⁷ This percentage was temporarily reduced to 5% and 7% due to economic constraints and later returned to 11% (Deloitte Argentina 2006; FIEL 2005, 103)

⁹⁸ Figure 1 in section 1.1 presents the structure of the two-tiered pension system.

Appendix 2: Definitions, acronyms, translations and abbreviations

Political Parties and Parliamentary groups⁹⁹

Bloc for the truth = *Bloque por la Verdad*

Bloc of the Concertation = *De la Concertación*

Buenos Aires for all in South Project = *Bs. As. para Todos en Proyecto Sur*

Civic and Social Front = *Frente Cívico y Social de Catamarca*

Civic Coalition = *Coalición Cívica*

Civic Coalition-ARI-GEN-UPT = *Coalición Cívica-ARI-GEN-UPT* (House Inter-bloc among deputies of three parties: CC-ARI, GEN and UPT)

Civic Coalition-Support for an Egalitarian Republic = *Coalición Cívica-Afirmación para una República Igualitaria* (CC-ARI)**

Civic Front for Santiago = *Frente Cívico por Santiago*

Democrat from Mendoza = *Demócrata de Mendoza*

Dialogue for Buenos Aires = *Diálogo por Buenos Aires*

Entre Rios Consensus = *Concertación Entrerriana*

Federal Consensus = *Consenso Federal*

Federalist Union Party = *Partido Unidad Federalista**

Front for Citizens' Rights = *Frente por los Derechos Ciudadanos*

Front for Everyone = *Frente de Todos*

Front for Victory = *Frente para la Victoria* (FPV-PJ) (Pro-administration parliamentary group representing the Justicialist Party).

Front of Production and Labour = *Frente Producción y Trabajo*

Independent Movement = *Movimiento Independiente*

Justicialist Front for National Liberation = *Frejuli*

Justicialist Party = *Partido Justicialista* (PJ) (ruling party)*

Liberal Party of Corrientes = *Partido Liberal de Corrientes**

Memory and Democracy = *Memoria y Democracia*

National Justicialist = *Justicialista Nacional*

National Union = *Nacional Sindical*

Neuquén People's Movement = *Movimiento Popular Neuquino* (MPN)*

⁹⁹ The two kinds are considered here under the same title to avoid repetition when party and parliamentary groups have the same name. The cases that the name corresponds to both a political party and a parliamentary group are indicated as such, the rest are only parliamentary groups. The translations are of my own elaboration based on some accepted translations found in different sources.

New Party = *Partido Nuevo**

New Party against Corruption = *Nuevo Contra la Corrupción**

Party of the Concertation-FORJA = *Partido de la Concertación-FORJA*

Peronist Dignity = *Dignidad Peronista*

Peronist Guard = *Guardia Peronista*

Popular and Social Encounter = *Encuentro Popular y Social*

Radical Civic Union = *Unión Cívica Radical (UCR)* (main opposition party)*

Recreate for Growth = *Recrear para el Crecimiento*

Renewal Party = *Partido Renovador**

Republican Force = *Fuerza Republicana**

Republican Justicialism = *Justicialismo Republicano*

Republican Proposal = *Propuesta Republicana (PRO)**

Salta Renewal Party = *Partido Renovador de Salta (PRS)**

Socialist Party = *Partido Socialista**

Solidarity and Equality-ARI (T.D.F.) = *Solidaridad e Igualdad (SI)**

Support for an Egalitarian Republic = *Afirmación por una República Igualitaria (ARI)*

Union Blue and White = *Unión Celeste y Blanco**

Union, Justice and Freedom Front = *Frente Justicia Unión y Libertad*

Viable Santiago Movement = *Movimiento Santiago Viable**

*Bloc and political party.

**Here only presented as political party

Pension related terms

Additional Pension for Permanence (PAP – Prestación Adicional por Permanencia): An additional benefit – provided to the PAYG beneficiaries – for the years contributed to the public system after the 1994 reform (Deloitte Argentina 2006).

Argentine Integrated Retirement System (SIPA – Sistema Integrado Previsional Argentino): pension system created by the 2008 Argentine pension reform. It is a publicly managed, single-tiered pension system provided in a pay-as-you-go defined benefits fashion (Law 26.425).

Argentine National Social Security Administration (ANSeS – Administración Nacional de la Seguridad Social)

Basic Universal Pension (PBU – Prestación Básica Universal): Minimum pension benefit provided by the PAYG public system (Deloitte Argentina 2006).

Compensatory Pension (PC – Prestación compensatoria): A complementary compensation – provided to the PAYG beneficiaries – for the years contributed to the public system prior to the 1994 reform (Deloitte Argentina 2006).

Defined benefits (DB) pension: where benefits were calculated upon the “worker’s history of pensionable earnings” (Barr and Diamond 2009, 8).

Defined contribution (DC) pension: a pension arrangement where the benefits are determined by the value of the accumulated funds in individual accounts (Barr and Diamond 2009, 8).

Fully funded pension: a pension arrangement where payments are done out of funds that are previously accumulated (Gillion, et al. 2000, 710).

Integrated Retirement and Pensions System (SIJP – Sistema Integrador de Jubilaciones y Pensiones): The two-tiered arrangement implemented in Argentina 1994 and inspired by the World Bank’s recommendations contained in the work *Averting the Old Age Crisis* (World Bank 1994)

Pay-as-you-go (PAYG) pension: a pension scheme where benefits are paid out of current contributions and taxes (Gillion, et al. 2000, 710)

Retirement and Pension Funds Administrators (AFJPs – Administradoras de Fondos de Jubilaciones y Pensiones): The private social security institutions created by the 1994 system reform were the operative/executive actors in charge of identifying insured people and employers and of the management of contributions, benefits and funds (Law 24.241)

Other terms

Argentina Peso (ARS): Argentina’s national currency

Argentine national news agency (TELAM)

International Monetary Fund (IMF)

Southern Common Market (MERCOSUR – Mercado Común del Sur)

United States Dollar (USD)

World Bank (WB)

Appendix 3: Data presented by the director of ANSeS during the Senate committees

Source: Boudou 2008

AFJPs' fees: evolution September 1994-2008

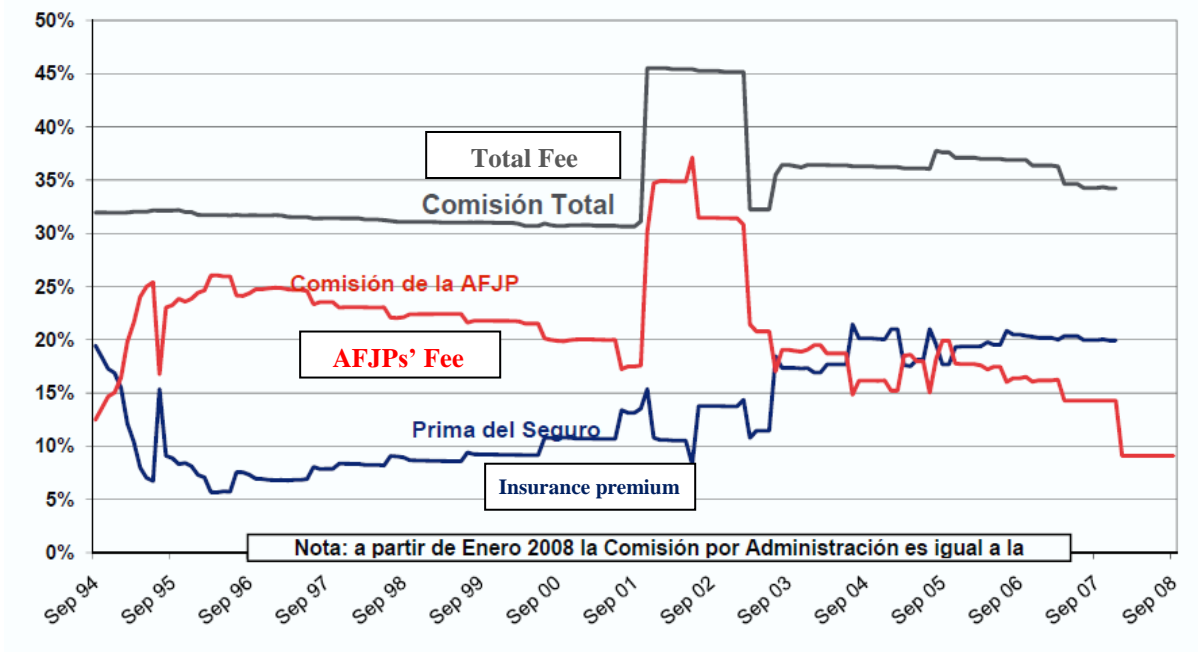


Figure 3

Private system's funds - average annual return: monthly evolution

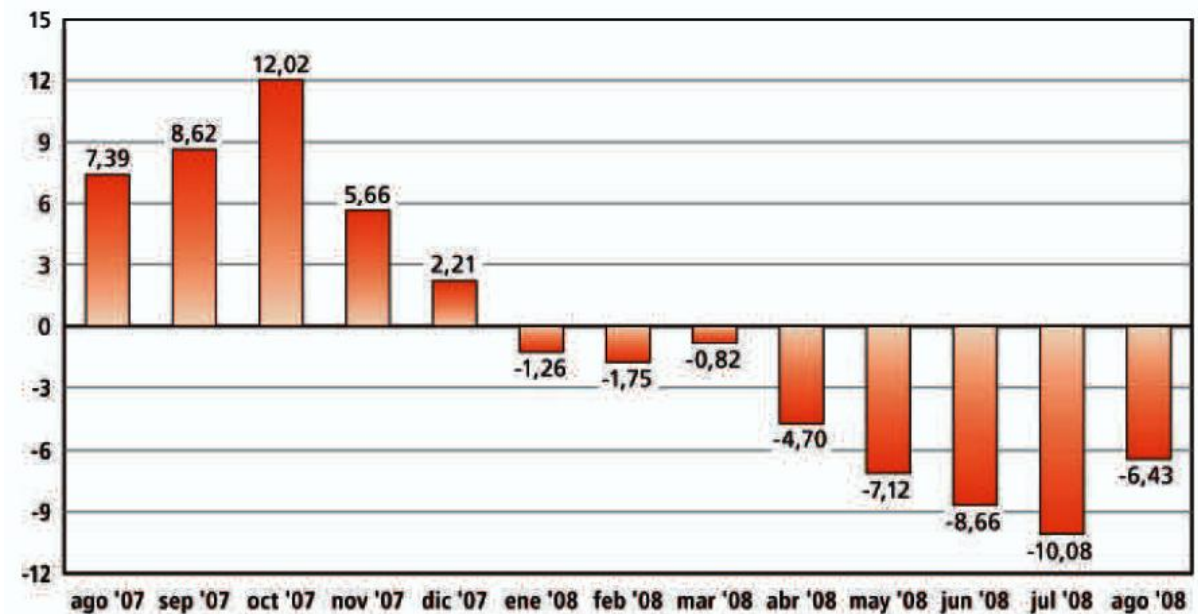


Figure 4

According to the explanation provided by the director of ANSeS, the figure shows how the fund return went negative due to the impact of the financial crisis. The data for September 2008 was -10.07% (Senate plenary sessions Day 1 2008, 9)

Private System's return October 2008 – Contribution by type of investment

| Pension Fund Performance | | October 2008 | | |
|--|--------------------------------------|-----------------------|---------------|------------------------------------|
| | Total return (in millions of ARS) | Return by category | Participation | Contribution to total return |
| | (10.741,49) | | 100,00% | -11,38% |
| Listed shares from Limited Companies | (1.891,87) | -18,39% | 10,89% | -2,00% |
| Non guaranteed Public bonds | (4.679,59) | -24,65% | 20,10% | -4,95% |
| Futures and options | (185,53) | -4,95% | 3,97% | -0,20% |
| Structured Trusts | (1.455,20) | -27,97% | 5,51% | -1,54% |
| Garanteed Public bonds | (819,11) | -35,02% | 2,48% | -0,87% |
| Shares from Privatized Companies | (10,88) | -3,38% | 0,34% | -0,01% |
| Collective investment schemes | 0,35 | 0,02% | 1,64% | 0,00% |
| Other trusts | 9,80 | 0,87% | 1,20% | 0,01% |
| Time deposits - CER | 0,90 | 0,44% | 0,22% | 0,00% |
| Foreign collective investment schemes | (169,43) | -13,99% | 1,28% | -0,18% |
| Time deposits | 51,26 | 0,72% | 7,52% | 0,05% |
| Garanteed loans to the National Government | 20,23 | 0,60% | 3,59% | 0,02% |
| Mercosur collective investment schemes | (780,47) | -26,99% | 3,06% | -0,83% |
| Cuasipar bonds | 157,51 | 0,58% | 28,86% | 0,17% |
| Foreign shares | (984,37) | -20,61% | 5,06% | -1,04% |
| Provincial bonds | (4,37) | -1,57% | 0,30% | 0,00% |
| Other | (0,73) | -0,23% | 3,99% | -0,01% |
| Monthly Contributions Fund | | | | -0,17% |
| Variation of quota value | | | | -11,55% |

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Figure 5

Value of the Private System between October 2007 and October 2008(in ARS)

| AS OF | VALUE |
|------------|----------------|
| 28/09/2007 | 92,310,395,562 |
| 31/10/2007 | 96,601,045,855 |
| 30/11/2007 | 94,141,196,792 |
| 28/12/2007 | 94,197,967,424 |
| 31/01/2008 | 94,756,718,846 |
| 29/02/2008 | 97,415,960,160 |
| 31/03/2008 | 97,131,916,640 |
| 30/04/2008 | 96,532,170,763 |
| 30/05/2008 | 99,702,816,952 |
| 30/06/2008 | 98,807,581,143 |
| 31/07/2008 | 98,422,223,643 |
| 29/08/2008 | 97,919,977,863 |
| 30/09/2008 | 94,442,628,956 |
| 23/10/2008 | 78,721,280,729 |

Figure 6

¹⁰⁰ The quota is the unit of unit of measurement of the accumulated funds. Each affiliate will have a certain number of quotas and the variation of its value is determined by the investments return.

Private system's funds – Composition as of 23/10/2008

| Pension Fund Composition | | October 2008 | | | |
|---|--------------------------|---------------------|--------------------------|----------------|--|
| | Historical values | | Market values | | |
| | Amount in ARS | Participation | Amount in ARS | Participation | |
| Cash | 1.523.908.764,00 | 2% | 1.523.908.764,00 | 2% | |
| Quasipar bonds | 27.424.439.950,00 | 35% | 17.999.407.010,00 | 26% | |
| Guaranteed loans to the National Government | 3.411.601.670,00 | 4% | 3.411.601.670,00 | 5% | |
| Guaranteed Public bonds | 1.120.682.693,00 | 1% | 1.120.682.693,00 | 2% | |
| Non guaranteed Public bonds | 11.827.415.582,00 | 15% | 11.827.415.582,00 | 17% | |
| Provincial bonds | 269.118.731,00 | 0% | 269.118.731,00 | 0% | |
| Municipal bonds | 295.247.278,00 | 0% | 295.247.278,00 | 0% | |
| Long term convertible bonds | 1.535.578.660,00 | 2% | 1.535.578.660,00 | 2% | |
| Short term convertible bonds | 5.554.268,00 | 0% | 5.554.268,00 | 0% | |
| Time deposits | 7.005.987.682,00 | 9% | 7.005.987.682,00 | 10% | |
| Time deposits - CER | 207.545.408,00 | 0% | 207.545.408,00 | 0% | |
| Time deposits - variable rate | 149.864.078,00 | 0% | 149.864.078,00 | 0% | |
| Listed shares from Limited Companies | 6.828.957.809,00 | 9% | 6.828.957.809,00 | 10% | |
| Shares from Privatized Companies | 297.280.905,00 | 0% | 297.280.905,00 | 0% | |
| Collective investment schemes | 2.099.193.664,00 | 3% | 2.099.193.664,00 | 3% | |
| Mercosur collective investment schemes | 1.763.713.895,00 | 2% | 1.763.713.895,00 | 3% | |
| Foreign shares | 3.208.816.275,00 | 4% | 3.208.816.275,00 | 5% | |
| Foreign collective investment schemes | 1.089.486.398,00 | 1% | 1.089.486.398,00 | 2% | |
| Futures and options | 2.857.070.603,00 | 4% | 2.857.070.603,00 | 4% | |
| Structured Trusts | 3.720.206.739,00 | 5% | 3.720.206.739,00 | 5% | |
| Other trusts | 1.190.534.144,00 | 2% | 1.190.534.144,00 | 2% | |
| Projects in production and infrastructure | 491.479.891,00 | 1% | 491.479.891,00 | 1% | |
| Other | 397.595.650,00 | 1% | 397.595.650,00 | 1% | |
| Total | 78.721.280.737,00 | 100% | 69.296.247.797,00 | 100,00% | |

Figure 7

Sustainability Guarantee Fund's potential shareholding

| COMPANY | ANSeS's potential shareholding |
|--|--------------------------------|
| Gas Natural BAN | 32,66% |
| S.A. San Miguel | 30,31% |
| Consultatio S.A. 1 voto | 28,77% |
| Distribuidora de Gas Cuyana | 26,63% |
| Edenor S.A. Acciones Ordinarias Clase B | 25,48% |
| Banco Macro Bansud | 23,70% |
| Siderar S.A. | 23,21% |
| Telecom Arg.Stet-France Telecom S.A. | 23,01% |
| Transportadora de Gas del Sur S.A. | 21,05% |
| Imp. y Exp. de La Patagonia S.A. | 18,71% |
| Molinos Río de La Plata S.A. | 18,28% |
| Pampa Holding S.A. | 18,10% |
| Grupo Consesionario del Oeste | 18,04% |
| Socotherm Americas S.A. | 16,98% |
| Solvay Indupa S.A. | 16,89% |
| Grupo Financiero Galicia S.A. | 16,78% |
| Transener S.A. | 16,40% |
| Petrobrás Energía Participaciones S.A. | 13,47% |
| Juan Minetti S.A. | 12,76% |
| Central Costanera S.A. | 12,48% |
| Banco Patagonia S.A. Ordinarias Clase B | 11,39% |
| Camuzzi Gas Pampeana S.A. | 11,20% |
| Aluar Aluminio Argentino S.A.I.C. | 11,17% |
| Capex S.A. | 9,87% |
| Metrovías S.A. | 8,55% |
| Grupo Clarín S.A. Ordinarias Clase B | 8,24% |
| Emdersa S.A | 6,88% |
| BBVA Banco Francés S.A. | 6,61% |
| IRSA Inversiones y Representaciones S.A. | 4,21% |
| Euromayor S.A. | 4,11% |
| Central Puerto S.A. | 4,09% |
| Banco Hipotecario Nac. S.A. | 3,68% |
| Cresud S.A. | 3,15% |
| Quickfood S.A. Ordinarias Clase B | 2,99% |
| Alto Palermo S.A. | 2,34% |
| Pecom Energía S.A. | 0,92% |
| Transportadora de Gas del Norte S.A. | 0,79% |
| Y.P.F. S.A. | 0,14% |
| Alpargatas S.A.I.C. | 0,01% |
| Average | 13,18% |

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Figure 8

¹⁰¹ The acronym S.A. refers to Sociedad Anónima which refers to a Limited Company

Argentine stock market: total traded shares vs. shares invested in by AFJPs

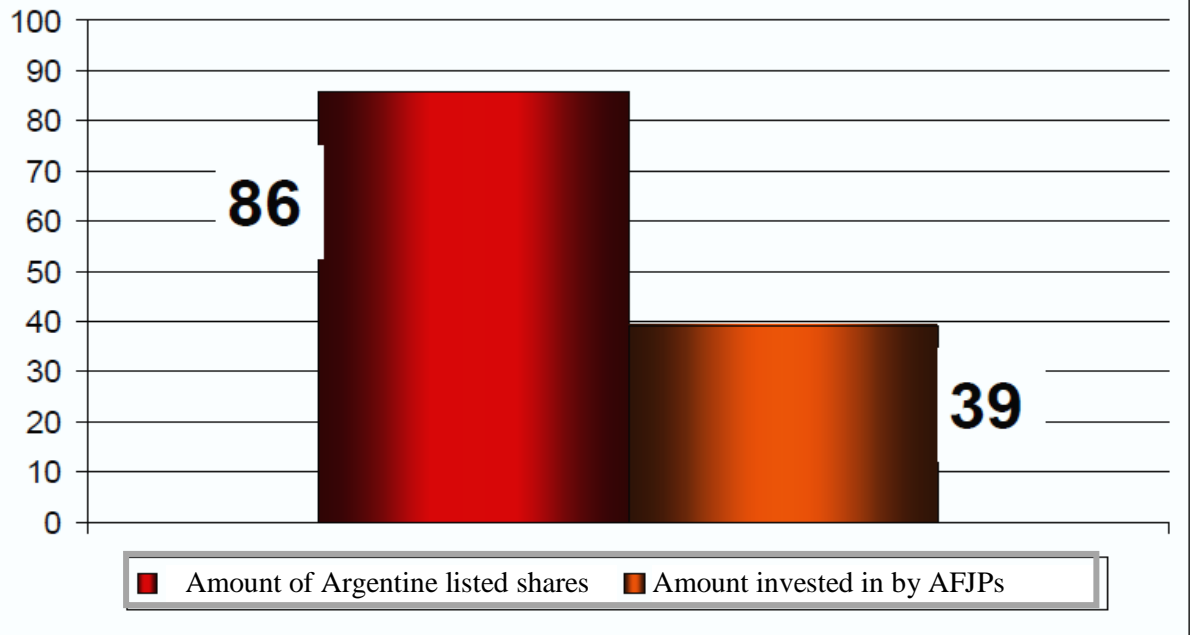


Figure 9

AFJPs had invested in only 39 out of the 86 Argentine listed shares, showing how the private system had not helped boost the local stock market (Senate plenary sessions Day 1, 8)

Public Expenditure on Pensions as % of GDP

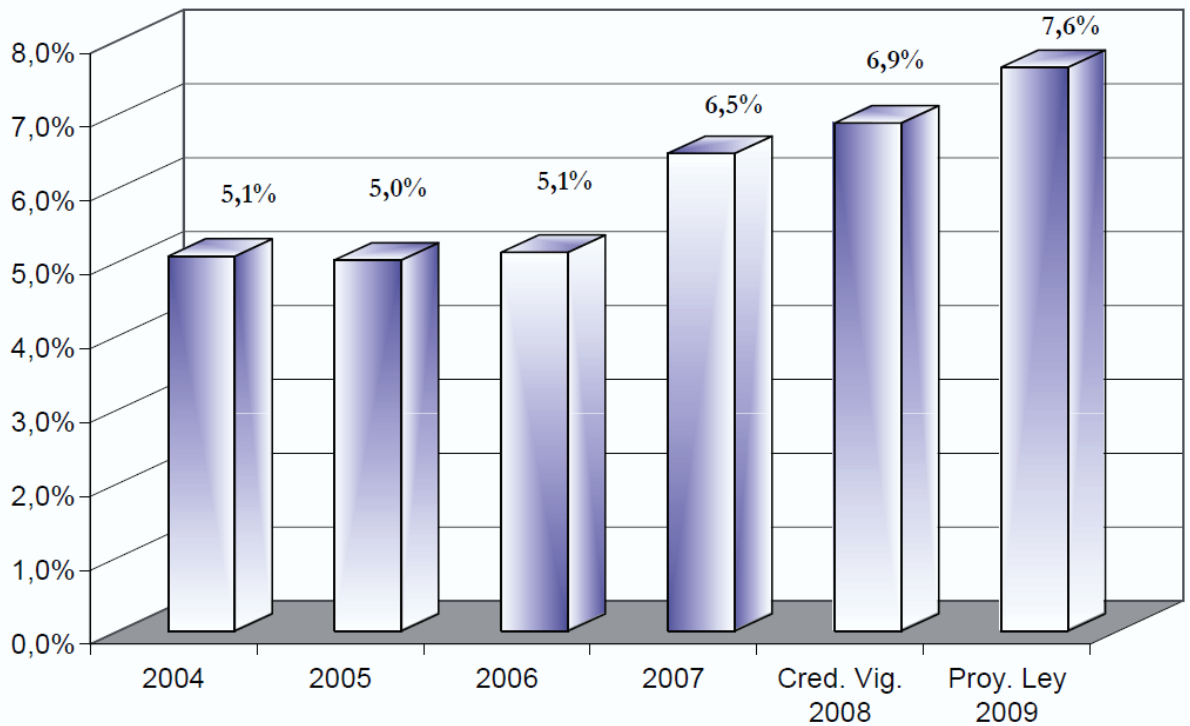


Figure 10

Mixed Pension System's Coverage

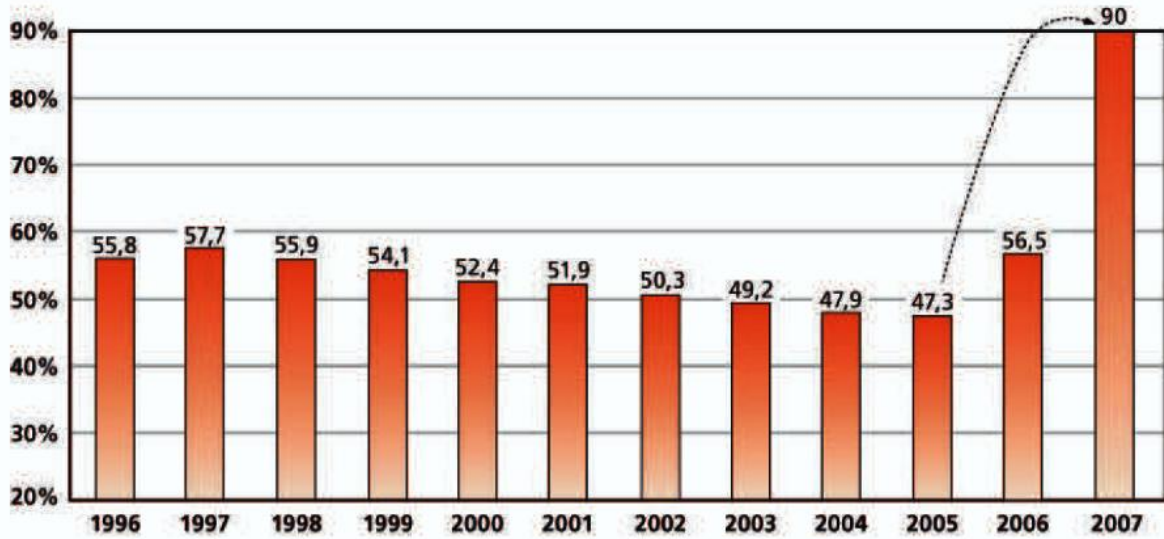


Figure 11

The director of ANSeS explained with this figure that the coverage after the pension system's privatization the coverage had been declining. With the reforms performed in 2006 and 2007 aimed to promote more inclusion, that trend changed (Senate plenary sessions Day 1 2008, 7)

Benefits Provided by the Private System

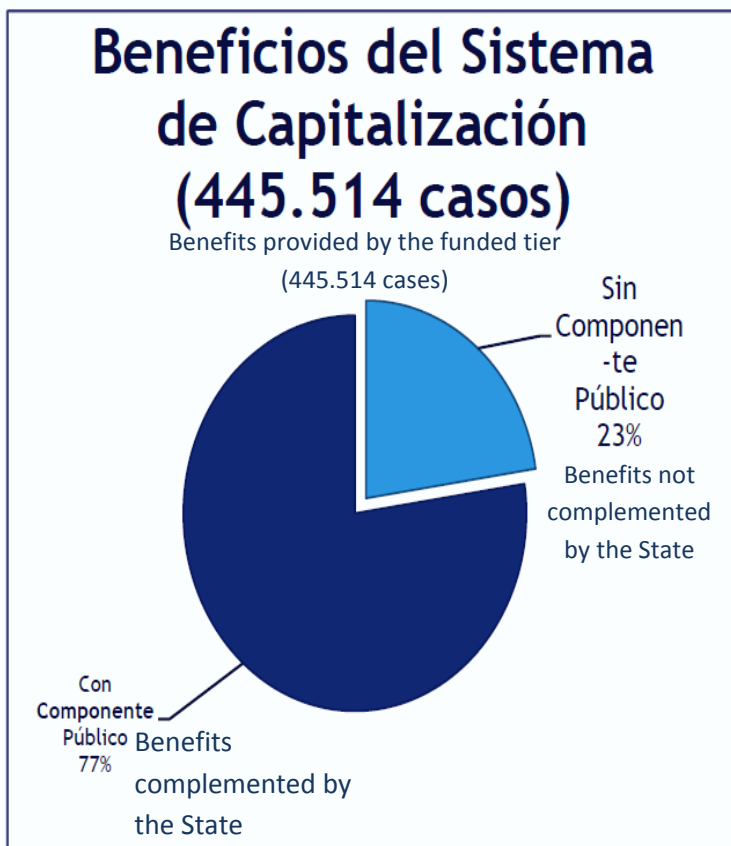


Figure 12

Appendix 4: Data presented during the committees by G.J. Jáuregui

Source: Jáuregui 2008

Evolution of the Labour Force, Employed Population and the Covered/Contributing Population (Fully Funded System + PAYG): 1994-2007

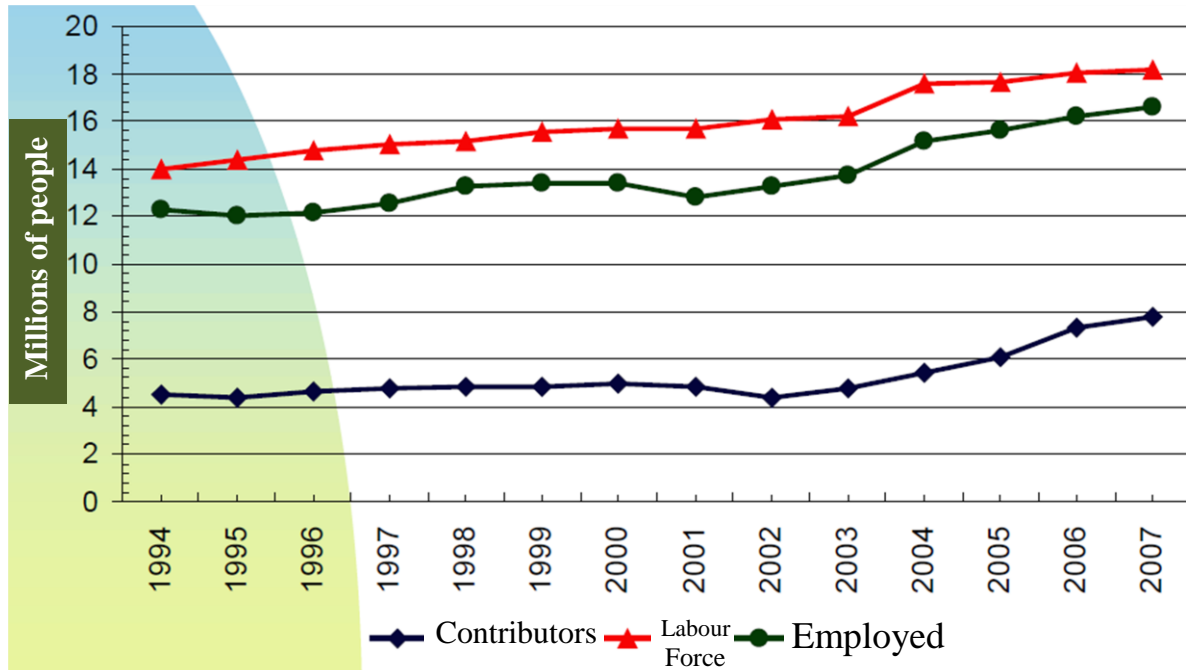


Figure 13

Coverage Rate (Total Contributors/Labour Force): December 1994-2007

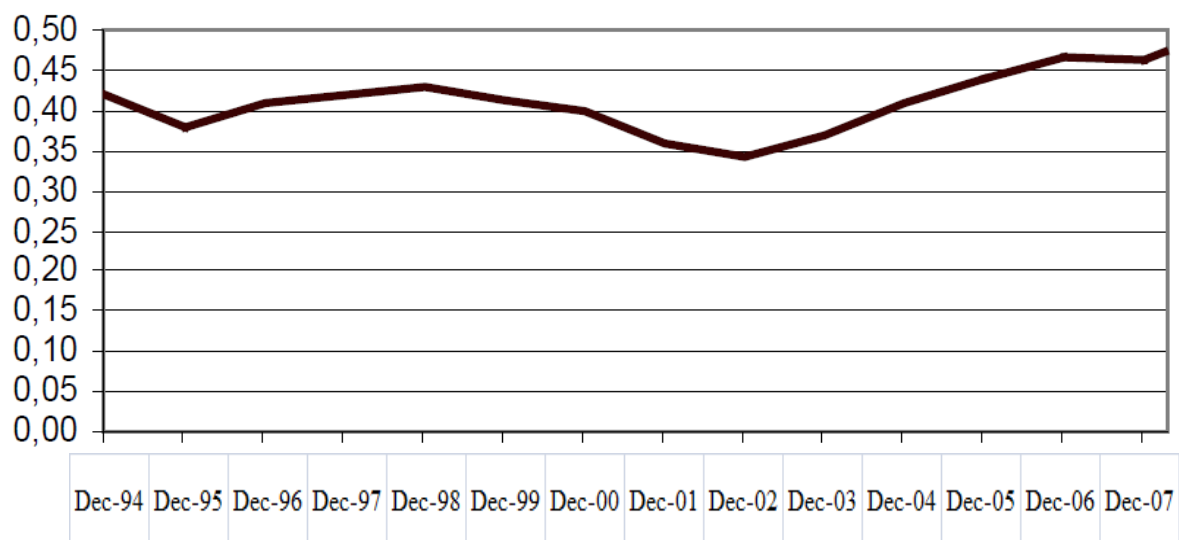


Figure 14

Informal Employment Rate: 1990-2003

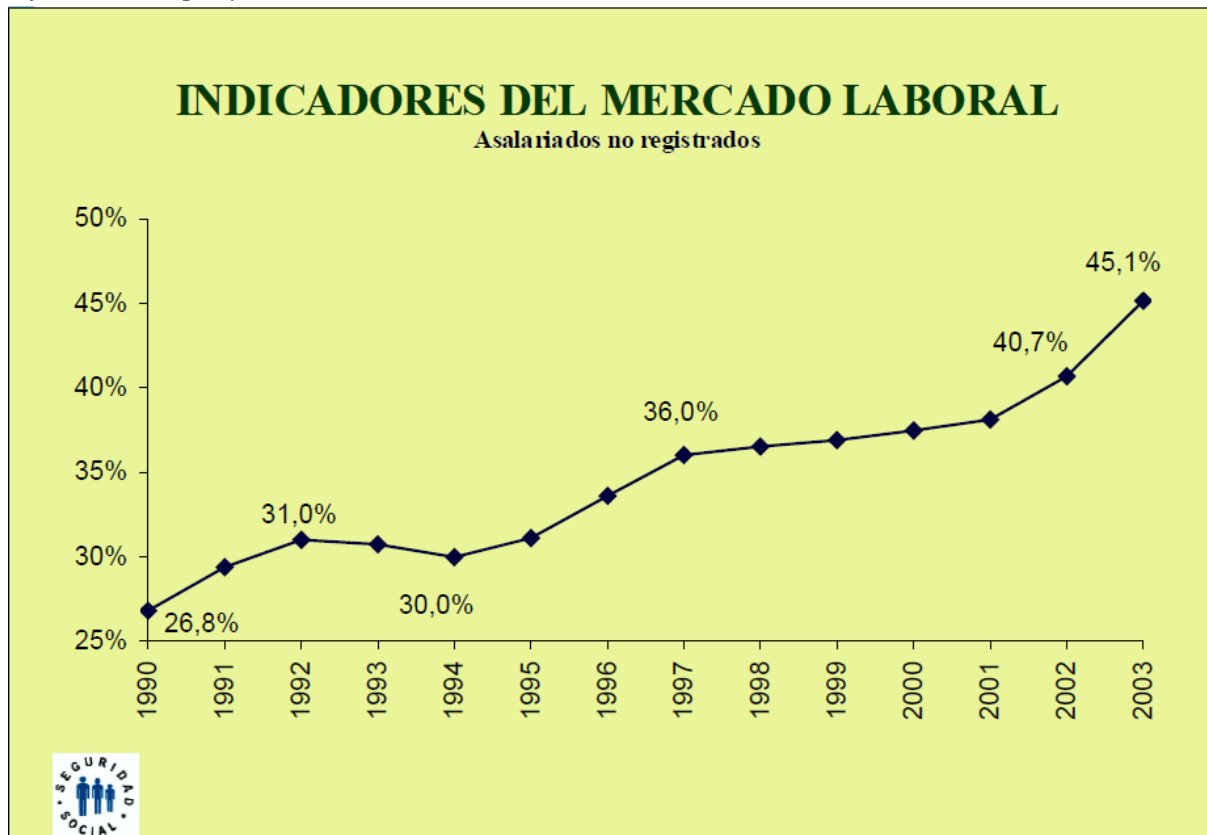


Figure 15

Evolution of the Amount of Contributors per tier: December 1994-2007

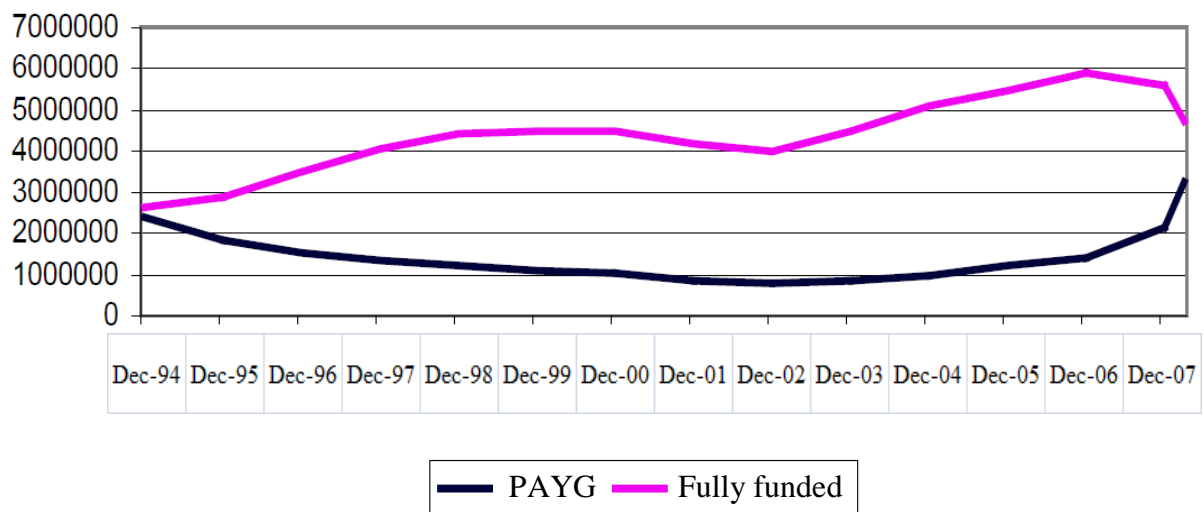


Figure 16

Evolution of Affiliates vs. Contributors to the Fully Funded tier: January 1995-2008 – September 2008

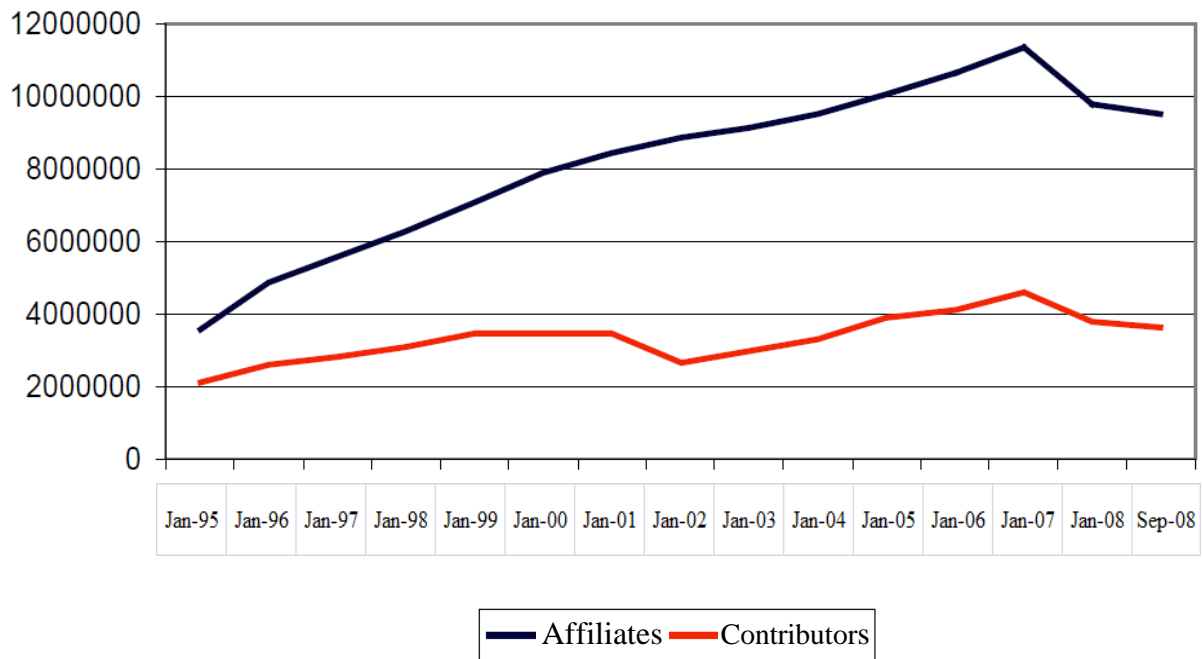


Figure 17