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International Science and Technology Institute, Inc.

Headquarters: 1129 20th Street, N.W., Washington, D.C. 20036  
202/785-0831 • Telex: 272785 ISTI UR • FAX: 202/223-3865

**PRIVATIZATION TRAINING NEEDS ASSESSMENT  
FOR ARGENTINA**

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Prepared by:

Joan M. Goodin & Joseph J. Borgatti

International Science and Technology Institute  
Washington, D.C.

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## **I. EXECUTIVE SUMMARY**

Due to the acute economic crisis facing the country when the peronist government took office on July 8 of this year, the new President, Carlos Saúl Menem, took immediate measures to deal with the desperate situation facing Argentina. As a result of these measures, inflation, which had risen to approximately 200% per month in July, dropped to around 9% in September. President Menem has put Argentina on the path to profound economic and structural change, surrounding himself with key experts from the various parties to achieve this goal.

As part of the plan for economic restructuring, Congress adopted two laws proposed by the Executive Branch. These laws represent the legal basis of the swift and sweeping economic reforms already underway. They are the State Emergency Law and the State Reform Law which, among other things, authorize the Executive Branch to privatize about 35 state owned enterprises that are the main cause of the growing deficit which afflicts the country. In essence, privatization is one of the main pillars of the new government's economic plan.

Through its Ambassador in Buenos Aires, Terrence Todman, the U.S. government has officially expressed its deep desire to support the privatization process in Argentina in any way possible. An analysis of the mechanisms available for providing such support revealed that assistance could be provided by the Agency for International Development (A.I.D.) in a limited manner, that is, only in the area of training.

The assessment made in Buenos Aires during the period from September 24 to October 7, 1989 was undertaken through the USAID Latin America and the Caribbean/Private Sector Initiatives contract with the International Science and Technology Institute of Washington, D.C. The assessment showed that, in fact, there are various areas where training is needed in order for the privatization plan to achieve maximum results. The current status of the privatization plan and the potential training areas are described in this report.

This assessment, which was possible thanks to the cooperation of key officials from the Ministry of Public Works and Services (MPWS), as well as others in the public and private sector, resulted in a series of recommendations directed to A.I.D. and related to a possible training program in support of the privatization effort.

Realizing that time is of the essence, the recommended program envisions two main stages. The first, to take place in early December, would include a half-day conference and roundtable discussion to which a large number of persons involved or interested in privatization would be invited. The objective of this event would be to analyze the worldwide economic framework and the great changes now underway or predicted for the future, placing the Argentine privatization process in the context within which it will have to operate. This analysis would be made by a foreign expert, widely recognized as an authority on the subject. Immediately following the conference, a luncheon would be held to which the foreign expert and some 40 others would be invited. This group of 40 would be made up of key persons in the privatization process, and would form the nucleus of the second stage of the program. The next day, about ten persons from among those most directly involved in the process would meet as an "Organizing Committee" to evaluate the training program to date and to plan the next steps to be taken. The Organizing Committee would be responsible for follow-up plans, that all concerned believe to be vital for the maximum success of this training program.

The second stage would begin with a seminar in April 1990, that would be attended by the nucleus group of 40. This would be a participatory workshop based on the case-study method (the cases having been developed in the interim). This group would include Secretaries, Subsecretaries, and Advisors from the three ministries involved in privatization (MPWS, Defense, and Economy), managers of state enterprises, union leaders, managers of important private companies, and others. The idea would be to formulate a "strategic framework" for privatization which could be broadly applied within, and possibly outside, Argentina.

The seminar would seek to facilitate intercommunication among interested parties to break down the isolation which marks current efforts. It is anticipated that some of the participants in the April seminar will serve as trainers in similar sessions to be held at a later date. There was also mention of having the original group of 40 continue to meet with some specified frequency (every month, every two months, etc.) in order to keep one another informed and to exchange on-going experiences.

## II. SCOPE OF WORK

This report is the result of work carried out from September 24 to October 7, 1989 in Buenos Aires, Argentina by a team of two persons, Joseph J. Borgatti and Joan M. Goodin. This team was contracted by the International Science and Technology Institute, Inc. (ISTI) of Washington, D.C., through their contract with the Private Sector Office for Latin America and the Caribbean of A.I.D., to meet with officials of the Ministry of Public Works and Services, as well as other key persons within the public and private sector involved or interested in the privatization process recently initiated by the Argentine Government. Through these meetings, the team was "to specify to A.I.D. areas in which training is needed, the type of training called for, the most appropriate means of its provision, and, if possible, identify the individuals who would have to be trained in the SOEs, the private sector and the Ministry of Public Works and Services."

During its stay in Buenos Aires, the team worked intensively, meeting with some 30 key persons within the Ministry of Public Works and Services (MPWS), the Ministry of Defense, the National Grain Board, the business sector, the banking sector, Congress, important research and training institutes, and other relevant parties. Meetings were also held with U.S. Ambassador, Terrence Todman; Second Secretary of the U.S. Embassy, William Grant; the Regional A.I.D. Director, Peter Orr, and his assistant, Julia <sup>Abella</sup> ~~Ceballos~~ (both of whom came from Montevideo, Uruguay for the meeting). (See Annex 1 for a complete list of the persons contacted.)

### **III. TRAINING NEEDS ASSESSMENT**

#### **A. Background**

##### **I. Status of Privatization Program**

For reasons specified in Law No. 23.696, entitled "Reform of the State" and promulgated on August 18, 1989, the Executive Branch of the Republic of Argentina has been authorized to initiate a sweeping process to privatize many of the state owned enterprises (SOEs), including, among others, Yacimientos Petrolíferos Fiscales (YPF, the national oil company), ENTEL (the national telephone company), two television channels, radio stations, the Argentine railway, the National Highway Office, certain units of the National Grain Board, Aerolíneas Argentinas (the national airline), the state-run gas company, and SEGBA (the national electric company). The Law also specifies the type of measure permitted (i.e., full or partial privatization or licensing), as well as other details related to worker participation (Program of Participative Ownership), and national and foreign private capital.

This process of privatization represents one of the fundamental pillars of the economic policy adopted by the recently-installed government of Dr. Carlos Saúl Menem, who took office on July 8 of this year. Due to the premature resignation of former President Raúl Alfonsín, Dr. Menem took office five months earlier than the previously established date of December 10, 1989. This rapid transfer of power was due to the acute economic crisis and the hyperinflation spiral which was unleashed after the May 14 presidential election, resulting in a situation some have called "disgovernment." For these reasons, and in spite of not having had the time envisioned for a normal transition, the new government assigned highest priority to the economic measures necessary to control the crisis. Therefore, a plan for sweeping economic changes was immediately put in motion.

Argentina, ever the pendular state, was swinging again, this time from an interventionist, inflationary, welfare state toward economic and political reforms with a market oriented flavor. Deregulation and privatization were key steps in the process. This was reflected in two basic laws: one curtailing subsidies to SOEs (Reform of the State), the other empowering the government to privatize its state-owned enterprises (Economic Emergency). To implement these laws, President Menem appointed key business leaders to run the economy.

##### **2. Political Economic Situation**

Under the Radical Party administration of President Alfonsín, Argentina's economy had plunged into deep depression. The situation was further worsened by soaring inflation attributed to the huge deficits of SOEs.

The 1985 Plan Austral, a harsh wage-and-price freeze program to balance the budget through more efficient tax collection, had failed. The fiscal deficit was nearly out of control. Payment had been stopped for over a year on the \$62.5 billion foreign debt, the third largest among the developing countries. There were months of hyperinflation, culminating at almost 200% in July 1989, the very same month that Dr. Menem succeeded Alfonsín.

On the political front, the ruling Radical Party, which had suffered a heavy defeat to the Justicialistas in the late 1987 mid-term election, had lost again in the May 1989 presidential elections. As a result, the Radical Party was in a state of disarray and a post-election crisis ensued. The wave of hyperinflation from May to July led to the premature taking of office by the Menem administration, and the structural reforms and speedy means to curb inflation were soon to follow.

New legislation was enacted, based on a strategy of deregulation and privatization, to stop the hemorrhaging of SOEs (see Annex 2). This was done not for ideological reasons, but because of necessity -- to deal with the disastrous economic situation evidenced by hyperinflation, an unbalanced budget, and a public-sector deficit swollen to more than 10% of GDP.

The new U.S. Ambassador to Argentina, Terrence Todman, who arrived in Buenos Aires some three months ago, told us of the deep desire of the U.S. to support the privatization process in any way possible. For that reason, he had requested an analysis of the manner in which A.I.D. support could be made available. A legal analysis showed that regional A.I.D. funds could be used, provided that the activities funded were limited to training. Therefore, based on an existing contract between A.I.D. and ISTI, the team which is hereby submitting this report was sent to Argentina to assess privatization training needs.

### 3. The Privatization Plan

The President's economic program is based on deregulation, privatization, and an influx of foreign investment capital. This plan, enacted by Congress into Law No. 23.696 (Reform of the State) states that the various ministries are to negotiate the privatization of roughly 35 SOEs. The deadline for this process to take place is set at 180 days, renewable for 180 more, if necessary. The responsibility for the administration of this program is placed in the hands of the individual ministries. Of the companies already designated in Annex 1 of the privatization law as being "subject to privatization," most fall under the MPWS, but others of considerable importance come under the Ministry of Defense and the Ministry of Economy.

### 4. A Perspective on Privatization in Argentina

This is now Argentina's fourth attempt to privatize in thirty years. In 1959, President Frondizi initiated the first effort by creating the "Empresa Liquidadora de las Empresas del Estado." José Agusti, the former owner of the newspaper Noticias Gráficas, was placed in charge of the company. Even though government-owned companies were few at the time, nothing was accomplished.

The second attempt came ten years later, in 1969-70, when President Onganía and his Minister of Economy, Krieger-Vasena, decided to privatize Argentine industries. Once again, a separate corporation was set up to implement the plan, this time under Armando Ulled. This endeavor resulted in failure as well.

The third attempt came under President Alfonsín with the creation of the "Secretaría de Promoción del Crecimiento" and its subordinate office, "Subsecretaría de Privatizaciones" under the direction of Ing. Manuel Tanoira. The law of privatization became stalled in

Congress, in part due to its exclusion of the eleven "sacred cows" (state monopolies) which owed \$11.7 billion and accounted for 80% of the nation's fiscal deficit. This attempt at privatization was doomed to failure as even the sale of only 25% of the Argentine airline raised public outcry.

The present government did not run on a privatization ticket. On the contrary, the campaign had rather populist overtones. Moreover, a number of the policies adopted, such as the rent law, seemed to some to be typically peronist. Nevertheless, Dr. Menem's administration is proving to be a very pragmatic one that is supported by Argentine public opinion.

## **B. Findings**

### **1. Legal Framework**

An overview of the legal process in Argentina suggests that this is a very legalistic country. It is important, nevertheless, that the process of privatization follow strict adherence to the law. The two laws most central to privatization include the Economic Emergency Law and the State Reform Law.

The Economic Emergency Law provides the government with flexibility in curtailing subsidies to SOEs. Also contained in this law is a clause providing for the reform of the Central Bank which could, if put into effect, lead to more deregulation and privatization. The State Reform Law empowers the government to sell, deregulate and license SOEs. Of the thirty-five companies listed under this law, ENTel, the telecommunications company, is probably the largest and most complex.

In addition to the Economic Emergency Law and the State Reform Law, three decrees have been issued that allow for the privatization of the railroads, telecommunications and roadways. Within the MPWS, further decrees covering the privatization of the oil company (YPF) and the electric company (SEGBA) are still under discussion. Decrees for entities under the direction of the other ministries remain to be issued. These decrees offer a constitutional means for the President to express his plans for the implementation of the privatization process. The ENTel decree, for example, fixed general rules and a deadline of December 31, 1989 for delivering tendering offers for the licensing of its privatization.

The numerous laws and regulations are perceived by many to actually hinder the progress of the country. ENTel, for example, may legally be unable to pay the necessary consultants' fees out of its cash flow. Fortunately, not all privatizations require legal measures. Government shareholdings in a corporation, when in the minority, can be disposed of without consent of Congress. There appear to be many cases in the Ministry of Defense, and possibly in the national oil company, where there exist minority shareholdings which could be divested under presidential or even ministerial decree. All other cases, however, require enactment of law by Congress. The significance of this legal framework is that it provides sound legal underpinnings for the administration's privatization program.

The key to Argentina's privatization law is that it enables the Executive Branch to issue a decree for each case of privatization rather than having Congress pass a new law. A second major feature of the law is that it forces a time frame on the implementers. As it was already mentioned, the deadline in the first year is 180 days, renewable for another 180 days.

The law has almost eliminated the Legislative Branch of the government from participating in the process. Congress' involvement is limited to its participation in the Bicameral Commission, that would oversee the privatization process. Prudence should dictate that the Bicameral Commission be kept abreast of all activities since the Executive Branch would still need consent of Congress for the privatization of companies not covered by Annex 1. It would then be up to Congress to declare the company eligible for privatization, and only then could the Executive Branch issue a decree of execution or plan to be implemented by the appropriate ministry.

It may be argued that too much emphasis has been placed on the law and that the program is complicated by an excess of legal baggage, with the privatization law alone containing 69 articles and even more regulations. But, all in all, the program has been given a sound legal base which permits considerable flexibility for the implementers.

## **2. Institutional Framework**

As has been mentioned, the privatization of an entity is to be undertaken by the ministry under which it is administered. The Bicameral Commission, made up of six senators and six deputies, serves as the liaison body between the respective "Authorities of Application" (Ministries) and Congress. Up to the time of our departure from Argentina, only the Senate had named its members, with the identification of deputies still to come.

The institutional framework can best be viewed through the Ministry of Public Works and Services, which is responsible for the major privatizations. The MPWS has created a specific structure for the task of privatization.

Reporting directly to the Minister, the MPWS has created the following organs:

- o Honorary Advisory Council for Administrative Matters (MPWS Resolution No. 53/89).
- o MPWS Resolution No. 88/89 creates:
  - Consultative Council, with 12 members: six representatives from the business sector and six from the labor sector.
  - Committee for Relations and Institutional Conflicts, with six members: one representative of the business sector, one from the labor sector, and four from the political parties.

- Legal Committee, made up of members of the Honorary Advisory Council for Administrative Matters and others to be designated by the Minister.
- Executive Committee, with three members: a lawyer (Oswaldo Pritz), an accountant (Alberto Anta), and an engineer (Mario Guaragna).
- Committee on Individual Conflicts, with three members.
- Committee on Registry Studies, made up of specialists to be named by the Minister.

The responsibilities and functions of these Committees are detailed in Resolution No. 88/89, which was issued the last day of our stay in Buenos Aires (see Annex 3).

In addition to these Committees, each unit to be privatized has a designated coordinator, as well as an intervenor. In the case of ENTel, the intervenor, María Julia Alsogaray, also acts as coordinator. Ing. Guaragna coordinates the privatization of the railroads, and Dr. Barra serves as coordinator for the highway program. The coordinator for YPF (the oil company) had not yet been named.

Having both a coordinator and an intervenor adds to an already highly complex superstructure. It reflects the uncertainty at the ministerial and secretarial level as to how to go about privatizing, and the concern that the people in the units to be privatized will not have the will or ability to carry it through without strict guidance.

Overall coordination originally was to be provided by the Consultative Council which was to be presided over by President Menem himself, but it was later decided that it should be an organ within the MPWS and is no longer formalized. This means that each Ministry is pursuing its own course, with the different sectors under the same Ministry following different plans. Since Cabinet and Ministry meetings are the only mechanisms for overall coordination, it seems to us there is a need for horizontal communication among sectors and between Ministries.

### 3. Technical Framework

The fundamentals of successful privatization include: (a) having a legal framework, (b) having people in the government willing and able to privatize; and (c) having viable plans. Since successful privatization has not yet occurred in Argentina, there is no local expertise to draw upon. Therefore, there is a basic need for knowledge of how to actually do privatizations. Those in charge need to be trained in the functions of their positions. This also includes understanding how to apply deregulation and the "Programa de Propiedad Participada" (Program of Participative Ownership), which are major components of the effort.

There is a need to know what works and what does not work. The ideal would be to examine comparable situations like those found in Chile, Spain and Mexico, as opposed to the experiences of smaller countries like Honduras, or large industrialized countries such as Great Britain. There is also a need for more preparation and consensus on what the problems are and how to solve them. For example, should an enterprise be sold "as is" or should it be "reorganized?" "Reorganization" seems to be the favorite catchword of intervenors that want to preserve their jobs.

All of this suggests a global need among those responsible for achieving privatization, to develop and use a standard methodology, specific to their country, which can be applied (with modifications) across the various sectors. This would provide the advantage of utilizing a standard approach as opposed to ad hoc improvisation in each case. Moreover, the various parties could then send consistent and not conflicting signals to the various affected group. Right now, there are differing ideas not only as to methods but also as to priorities. In one sector, the idea is to privatize the largest and the most complex cases first. In another sector a two step approach is planned: rapidly undertaking the easier cases, especially those already classified in Annex 1 of the law, while preparing the harder cases for the second stage of privatizations.

There are certain needs particular to each sector or unit:

- o Each of the major units to be privatized (the telephones, railroads, light company, oil sector, roads & harbors, etc.) has its own particularities due to dimension, condition, complexity, etc., and thus requires privatization training in applying the methodology best suited to each specific case.
- o There is a need to know how to frame the employee stock ownership plans, in order to implement the Program of Participatory Ownership.
- o As the MPWS shifts in function from an executing to a controlling entity, its new "Secretariat of Public Services" will need to train staff to structure regulation on prices, and provision of services. One of the sections within this Secretariat will also need to train 10-15 persons to establish relations with the users and to develop the accountability of both providers of service and user groups.
- o Some Secretariats need training in how to handle bids and prepare contracts for public services, etc. The railroads, in particular, have a series of 6-8 bid packages. The highway program may have several more for contracting out the maintenance and operation of toll roads.
- o Not all Secretaries have the same understanding of the role of debt swaps in the privatization process. Some are opposed because they do not understand how they can be used as an attraction for harder to sell cases and to bring back flight capital. Some do not understand the important role that the Administration has assigned to this mechanism.

- o There is a need to understand how to bring capital markets into play so that a secondary market for shares is developed. The oil sector, with 37% of its production already in private hands, may need to tap this market to raise that figure to 50% or higher. Likewise, the Defense Ministry has a host of companies, many partly private, which might best be disposed of through the secondary market.
- o There is a need for training in valuation methods, especially within the Banco Nacional de Desarrollo (BANADE), which appears to be officially charged with setting valuations for all SOEs. BANADE may also have special needs of its own in approaching the liquidation of its large, distressed portfolio.
- o Finally, in employee administration, there is a need to know how to reassign employees, and how to manage severance programs.

#### 4. Sociopolitical Framework

In the sociopolitical framework there are three main problem areas:

- a) Resistance to privatization, which comes mainly from labor leaders of the government unions. Support from labor is crucial and the workers in the entities being privatized must be encouraged to advocate the privatization efforts. Resistance also comes from the private sector, primarily from companies that contract with or provide services to the State. Likewise, resistance can be noted at the level of the intervenors and in various parts of the Ministry of Defense.
- b) Lack of comprehension. This is evident within labor, government and the private sector. The top level representatives from the different sectors appear to be committed to obtaining positive results. It is not clear that this is also the case among middle level employees. There is a need both for greater understanding of the process as a development tool and of its political nature. While the great majority of the public (including the workers) appears to support the process, there is still a need to educate the population at large.
- c) Insufficient communication. The level of communication among all parties involved in the privatization efforts is insufficient. The Consultative Council might have provided the vehicle for intercommunication, at least within the government, but this function will no longer be provided since the Council now falls under the direction of the MPWS and not the President.

Training could be used to address these problems by instructing a group of key people about the overall process of privatization and their particular functions. Training could also be used to educate the general public about the likely benefits they would receive from the process, and about the absolute necessity for the government to follow through with the plan.

### C. Conclusions

The conclusions which can be drawn from these findings are that, even while recognizing the limits of A.I.D.'s support, there are important needs that can be addressed through training. Training is needed to develop methodologies that would facilitate the successful implementation of the privatization program. There is a need to develop a strategic framework for action. There is both need and opportunity to develop a model to be applied repeatedly at all levels of the bureaucracy and beyond. Also needed is direction, coordination and intercommunication. The various committees need a clear sense of the overall process. They also need to clearly define their respective roles.

All parties involved in the decision-making, from both the private and the public sector, are those most in need of training. These people include government Secretaries and Sub-secretaries, SOEs managers and intervenors, as well as private sector managers, labor leaders, and others such as key academics and journalists. Assuming very limited A.I.D. funding, these needs can best be attended to by bringing together a cross section of key people in a participatory training format. In order to deal with the limited time frame, the program should commence immediately.

Our conclusion is that these objectives can be accomplished through a two-phase seminar/workshop program. The first phase, starting as soon as possible, would be primarily to impart information about the different privatization efforts underway in Argentina. In addition, the Argentine experience would be placed within the context of the global economy. Another goal of this phase would be to develop a common understanding of the program and its implications. Furthermore, the session would be used for planning the second phase of the program. The second phase would be mainly participatory, in a workshop environment, utilizing the case study method to discuss real situations that explore obstacles encountered in the various privatization efforts.

We have identified two leading institutions capable of developing the case studies material, and that are willing to collaborate. The Institute of Senior Management Studies (IAE), affiliated with Harvard Business School, already has privatization cases on file, and is currently working on three studies for the oil sector. The Foundation for Latin American Economic Research (FIEL) is the premier name in economic research in Argentina and has particular expertise in deregulation. Also, we have identified a third institution, the Center for University Studies (CUDES) that has suitable facilities for the seminars.

The training programs would facilitate the development of a strategic framework for the privatization plan. This would include a pragmatic step-by-step format that could be broadly applied. The trainees could become the trainers in future sessions, thus, disseminating the elements of the strategic framework to the various entities involved in the process.

We have also identified specific areas where Ambassador Todman, as well as his staff, and USIS, could be particularly helpful. In his regular meetings with local and foreign leaders, the Ambassador can introduce key officials to business leaders to familiarize them with the program and at the same time clarify doubts about it. USIS can assist by sending technical experts to Argentina, and offering training seminars in the U.S. for Argentine officials.

#### **D. Recommendations**

As a result of our discussions with the different parties, we recommend a training program divided in two phases: an initial seminar/roundtable in early December of this year (during our final meeting in Buenos Aires, December 5, 6, or 7 were mentioned as possible dates), and a seminar/workshop in April 1990. The first event would be more theoretical, while the second would be more practical, utilizing the case study method. The strategic framework developed at the April seminar would then be applied to an Argentine case in progress as a practical task during the workshop.

As a starting point, we recommend that the first event be a half-day conference aimed at analyzing the current world environment and the growing trend toward free market economies. It will also place Argentina's privatization process within that context. The proceedings would be led by a known international figure, who would lecture and participate in a roundtable or general discussion. A large group of persons interested in privatization would be invited, and there might also be talks by one or more Ministers or, better still, by President Menem himself. (The event proposed here would be different from, and would complement, the privatization conference to be sponsored by the Institute for a Social Market Economy on November 14 to 17.)

After the morning session, there would be a luncheon with the visiting lecturer and approximately 40 key persons from the three Ministries already involved in privatization (i.e., the Ministers themselves, Secretaries, Subsecretaries, and Advisors), intervenors, managers of SOEs, leaders of public service unions, high-ranking executives from the private sector, etc. This luncheon would be the first gathering of those who are to be invited to participate in the April seminar-workshop. The day after the initial conference, a smaller group would meet to evaluate the program to date and to plan the next steps to be taken. This group would become the "Organizing Committee" for the April seminar workshop.

It was proposed that the international speaker be someone such as Paul Volker. Ambassador Todman was to inquire if Mr. Volker or some other major figure might be available. If not, the speaker might be an academic such as Mark Lindenberg of Harvard Business School.

The month of April was chosen for the seminar workshop to allow time for the preparation of the case studies to be used as the basis of the course. This would also allow time to identify and commit the professors who would participate in the seminar. The idea is to compile all available material on cases already underway, in Argentina, as well as Chile, Spain and Mexico. It is possible that by April a significant body of data on the ENTel experience, may be available. Dr. Zinn, the Advisor for ENTel's privatization, expressed his interest in the seminar and assured us of his full cooperation in providing all available information.

It is recommended that maximum use be made of local facilities, people and institutions, and that FIEL and IAE work together to develop the program. We also recommend utilization of CÚDES' physical facilities. In addition, we recommend the establishment

of a follow-up mechanism so that seminar participants can continue to meet and conduct cross-sector workshops similar to the one to be held in April. In this way, the group could be expanded to include other key participants in the privatization process.

We take this opportunity to express our appreciation for the enormous help provided by key representatives of the MPWS, especially Dr. Emilio Fluixa, Senior Privatization Advisor; Dr. Rodolfo Barra, Secretary of Public Works; and Ing. Mario Guaragna, member of the Executive Committee and Advisor for the privatization of the railroads. In spite of their multiple responsibilities and busy work schedules, they provided maximum cooperation. The information which they shared and their help in identifying and providing access to many of the persons interviewed greatly facilitated the success of our mission.

**NOTE:** The debriefing meeting in Buenos Aires was attended by Dr. Fluixa, Dr. Barra and Ing. Guaragna from MPWS, as well as Bill Grant from the U.S. Embassy, and Peter Orr and Julia Ceballos from the Regional AID office. It was agreed that, within about two weeks after receiving this report, Peter Orr would see that the afore-mentioned recommendations be converted into a proposal, making the necessary administrative arrangements (probably through the Center for Privatization) to get this training program underway.

**ANNEX 1**

**PERSONS INTERVIEWED IN BUENOS AIRES**

## ANNEX 1

### PERSONS INTERVIEWED IN BUENOS AIRES

#### **PUBLIC SECTOR**

Dr. Emilio Flaixa, Senior Privatization Advisor, MPWS  
Dr. Rodolfo Carlos Barra, Secretary of Public Works, MPWS  
Dr. Julio César Aráoz, Secretary of Energy, MPWS  
Ing. Eduardo R. Cevallo, Secretary of Public Services, MPWS  
Ing. Nestor E. Fernández, Subsecretary of Transport, MPWS  
Ing. Mario J. Guaragna, Privatization Advisor, MPWS  
Marcelo Matellanes, Advisor to the Sec. of Pub. Ser., MPWS

Dr. Rodolfo Alejandro Díaz, Secretary of Labor, Ministry of Labor and Social Security

Dr. Miguel José Cucchielli, Secretary for Defense Production, Ministry of Defense

Rubén A. Ciani, Section Chief, National Grain Board

Dr. Ricardo Zinn, Advisor, ENTel

#### **CONGRESS**

Senator Eduardo Menem

#### **PRIVATE SECTOR**

Ing. Alfredo Alberto Román, President, Román Ingeniería S.A.

Dr. Jorge Fernando Zapata, Vice Pres. & Gen. Manager, Román Ingeniería S.A.

Ing. Oscar Aníbal Vicente, Vice President, Pérez Companc; President, PETROSUR S.A.;  
President, Argentine Chamber of Petroleum Companies

Steven Darch, General Manager, Argentine Branch, The Morgan Bank

Ing. Vittorio Orsi, SADE and Business Advisory Council

Dr. Roberto Aleman, economist and entrepreneur

Arnaldo T. Musich, Director SIDERCA S.A.I.C.; President, Foundation for Latin American  
Economic Research (FIEL)

Fernando J. Fragueiro, Deputy Director, Instituto for Senior Business Studies (IAE)

Marcelo Paladino, DBA, Study Director, IAE

Dr. Carlos H. Pujadas, Director, CUDES Institute for Research and Postgraduate  
Studies

**Ing. Alvaro Luís Alsogaray, Vice Pres. & Director General, Institute for a Social Market Economy**

**Sam Sommers, IESC Representative, Argentina**

**Dr. Osvaldo V. Bernardi, President, Defense of Public Service Users**

**AMERICAN EMBASSY & A.I.D.**

**Ambassador Terrence Todman  
William K. Grant, Second Secretary**

**Peter R. Orr, Regional Representative, A.I.D.  
~~Julia Ceballos~~, Assistant to the Regional Representative, A.I.D.  
Juliana Abella**

**ANNEX 2**

**OPERATING DEFICITS OF THE LARGEST ARGENTINE SOEs (U.S.\$)**

**ANNEX 2**

**OPERATING DEFICITS OF THE LARGEST ARGENTINE SOEs (U.S.\$)**

(annualized from June 1989 figures)

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YPF - petroleum	\$1.03 billion
RAILROADS	\$500 million
SEGBA - electricity	\$430 million
GAS DEL ESTADO - gas distributor	\$410 million
ENTEL - telephone service	\$395 million
WATER & ELECTRICITY	\$330 million
HIDRONOR - hydroelectricity	\$110 million
ENCOTEL - postal service	\$77 million

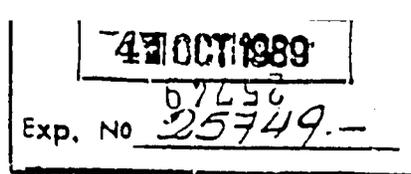
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Source: New York Times, Monday, September 11, 1989

**ANNEX 3**  
**MPWS RESOLUTION NO. 88/89**



*Ministerio de Obras y Servicios Públicos*



BUENOS AIRES, 4 OCT 1989

VISTO, y

CONSIDERANDO:

Que, de conformidad con lo dispuesto en el artículo 13 de la Ley 23.696, la Autoridad de Aplicación, a todos sus efectos, es el Ministro en cuya jurisdicción se encuentra cada una de las entidades comprendidas en la ley.

Que corresponde precisar la estructura funcional mediante la cual se ejecutará, en las entidades dependientes del Ministerio, la normativa legal referida, en cuanto dispone la Reforma del Estado.

Que corresponde afectar los órganos del Ministerio, que ocuparán los distintos Comités y Comisiones de Trabajo para la Reforma del Estado, y proponer la participación de entidades no estatales sindicales y empresarias, a través de sus genuinos representantes.

Que es conveniente la creación de los Comités específicos para la transformación del Estado, cuyos miembros son nombrados y removidos, en su caso, por el Ministro como Autoridad de Aplicación.

Que debe conformarse un Comité encargado de las Relaciones y Conflictos Institucionales, dado que el procedimiento de aplicación de la ley debe hacerse coordinadamente con órganos estatales de alta jerarquía política e institucional, como lo son la Comisión Bicameral, creada por el artículo 14 de la Ley 23.696, el Tribunal de Cuentas de la Nación, la Sindicatura General de Empresas Públicas, los Ministerios de Economía y de Trabajo y Seguridad Social, los Gobiernos Provinciales y Municipales y otras entidades intermedias legalmente constituidas, como así también deben resolverse los conflictos pecuniarios, administrativos, tarifarios o de otra naturaleza, que puedan producirse en virtud de la aplicación de la mencionada ley.

Que deben idearse mecanismos para instrumentar el Pacto Social, con la participación organizada de instituciones legítimas de la sociedad, que apuntalen la Revolución Productiva a través del compromiso concertado entre trabajadores, empresarios y el Estado, controlando la ejecución de la ley en el área del Ministerio, para garantizar el cumplimiento de los objetivos perseguidos.

Que para ello se instrumenta un Consejo Consultivo, canal adecuado para sumar propuestas, compromisos y esfuerzos, alternativa institucional que permitirá el diseño, legitimación, ejecución y control de las políticas.



## Ministerio de Obras y Servicios Públicos

Que la concertación tripartita entre trabajadores, empresarios y el Estado permitirá acordar compromisos que precisen metas y conductas.

Que dentro de sus atribuciones, tendrá especial relevancia la fijación de políticas y definiciones en la aplicación del Programa de Propiedad Participada, método que posibilita el acceso de los trabajadores a la propiedad de sus fuentes de trabajo, garantizando la consistencia con el proceso de Reforma del Estado, entendido como democratización, permitiendo los profundos cambios socio-económicos que persigue la Revolución Productiva.

Que mediante Resolución Nº 53/89 de este Ministerio se creó el Consejo Asesor Honorario de Asuntos Administrativos, cuya función original debe ser ampliada, insértandose dicho organismo dentro de la estructura funcional creada por la presente Resolución.

Que el Comité Jurídico, además de elaborar proyectos generales, debe ejercer un control sobre la legitimidad de los procedimientos de ejecución de la ley.

Que la ejecución de todas las políticas debe estar a cargo de un Comité Ejecutivo, que elabore los proyectos de actos administrativos de alcance general y particular conducentes al logro de las privatizaciones dispuestas por la ley 23.696, en los plazos legales y reglamentarios.

Que el Comité de Conflictos Individuales, tendrá carácter consultivo respecto de los órganos decisorios que surgen de la Reglamentación de la precitada ley.

Que la complejidad de la situación registral de los bienes cuyo dominio, uso o gestión corresponde a este Ministerio, organismos y entidades dependientes, genera la necesidad de constituir el Comité de Estudios Registrales, que analizará y elevará un dictamen sobre su situación, desde el punto de vista notarial.

Que finalmente la ejecución de las concesiones de obra pública por este Ministerio exige la determinación de los órganos competentes, para ejercer las atribuciones exigidas por las distintas fases del procedimiento que se explicitan en la Resolución.

Que el suscripto se encuentra facultado para dictar el presente acto en virtud de lo dispuesto en la ley 23.696 de Reforma del Estado y Privatizaciones.

Por ello,

EL MINISTRO DE OBRAS Y SERVICIOS PÚBLICOS

RESUELVE:

 ARTICULO 1º: Dispónese la ejecución de la Reforma del Estado, dispuesta por la Ley





## Ministerio de Obras y Servicios Públicos

23.696 en el ámbito de las entidades dependientes de este Ministerio, a través de la Organización Funcional que se establecerá mediante la presente Resolución, para las áreas de competencia que en cada caso indicará el Ministerio de Obras y Servicios Públicos.

ARTICULO 2º: Créase con dependencia directa del Ministro, los siguientes órganos colegiados:

- a) Consejo Consultivo;
- b) Comité de Relaciones y Conflictos Institucionales;
- c) Comité Jurídico;
- d) Comité Ejecutivo;
- e) Comité de Conflictos Individuales y
- f) Comité de Estudios Registrales.

El Ministro, en su carácter de Autoridad de Aplicación, a todos los efectos de la Ley 23.696, designa y remueve en su caso los miembros de los mencionados Comités. Asimismo podrá delegar, en los términos de las leyes 19.549 y 23.696, en los Secretarios de Estado las competencias y atribuciones conferidas por la Ley para la Reconversión del Estado.

ARTICULO 3º: Consejo Consultivo: Será presidido por el Ministro e integrado por otros doce miembros, a saber: seis (6) representantes del sector empresario y seis (6) representantes del sector sindical. Este Consejo será asistido por dos (2) Secretarios Permanentes que reemplazarán al Ministro en la Presidencia del mismo.

El Consejo Consultivo tendrá las siguientes atribuciones:

- a) Ejercer competencia consultiva en la fijación de políticas, prioridades e inversiones para los procesos de reforma del Estado previstos en la ley.
- b) Entablar relación con empresarios productores de bienes y servicios para asegurar su participación en los procesos de reforma del Estado.
- c) Proponer los tipos de sujetos adquirentes y proporción de capital accionario en cada Programa de Propiedad Participada;
- d) Dictaminar sobre las políticas de protección del empleo y situación laboral, amparo de instituciones legales, convencionales y administrativas del derecho de trabajo, encuadramiento sindical, derechos y obligaciones en materia previsional y de Obra Social, conforme lo dispuesto en los artículos 41 y siguientes de la Ley 23.696;
- e) Asesorar sobre los requerimientos de Consultoras u otros servicios de terceros necesarios para asegurar el cumplimiento de la Ley 23.696, su decreto reglamentario y los decretos planes específicos;
- f) Difundir en el exterior los procesos de privatización en los que se recurra

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## Ministerio de Obras y Servicios Públicos

a licitación o concurso internacional;

g) Observar la marcha concreta de cada uno de los procesos de privatización y emitir informe mensual de evaluación técnica sobre la misma;

h) Requerir toda información que estime necesaria al Comité Ejecutivo.

ARTICULO 4º: Comité de Relaciones y Conflictos Institucionales: Será presidido por el Ministro de Obras y Servicios Públicos e integrado por otros seis (6) miembros, a saber: un (1) representante del sector empresario y un (1) representante del sector sindical, y cuatro (4) representantes de los partidos políticos. Este Comité será asistido por dos Secretarios Permanentes.

El Comité de Relaciones y Conflictos Institucionales tendrá las siguientes atribuciones:

a) Informar permanentemente a la Comisión Bicameral creada por el artículo 14 de la ley 23.696 sobre los avances de los procedimientos de privatización, evacuando sus requerimientos y facilitando su labor en lo concerniente al ámbito de este Ministerio;

b) Propiciar la realización de deliberaciones conjuntas de la Comisión Bicameral mencionada, con los demás Comités;

c) Informar al Tribunal de Cuentas de la Nación y a la Sindicatura de Empresas Públicas, asegurando su intervención previa a la formalización de las contrataciones previstas en los artículos 17, 18 y 19 de la Ley 23.696;

d) Requerir al Ministerio de Economía las pautas a aplicar en cada tasación previa, conforme al artículo 19 de la Ley 23.696;

e) Solicitar al Ministerio de Economía las adecuaciones presupuestarias que sea menester efectuar en los casos de: transformación y creación de entes, empresas y sociedades;

f) Dar intervención al Ministerio de Trabajo y Seguridad Social en los casos en que se aplique el Programa de Propiedad Participada, previsto en el Capítulo III de la Ley 23.696;

g) Consultar con la Secretaría Legal y Técnica de la Presidencia de la Nación los anteproyectos y proyectos que elabore el Comité Ejecutivo;

h) Dar intervención a los gobiernos provinciales, invitándolos a designar un representante, en los casos en que la empresa sujeta a privatización tuviera su principal asentamiento y área de influencia en territorio provincial, representante que actuará frente a todos los órganos creados en esta Resolución;

i) Coordinar y concertar con los gobiernos provinciales, municipales, y cooperativas de usuarios, consorcios, asociaciones vecinales u otras entidades

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## Ministerio de Obras y Servicios Públicos

intermedias legalmente constituidas, los convenios de transferencia para la explotación de obras y servicios públicos;

j) Asesorar a los órganos decisorios para la resolución de los conflictos pecuniarios, administrativos, tarifarios o de otra naturaleza que puedan producirse en virtud de la aplicación de la Ley 23.696, entre este Ministerio o las entidades de él dependientes con otras dependencias Nacionales, las provincias y/o los municipios afectadas por las disposiciones legales. A tal fin estudiará los temas sometidos a dictamen bajo los aspectos jurídicos, económicos y técnicos produciendo un informe que elevará al Ministro, previa intervención del Secretario competente.

ARTICULO 5º: Comité Jurídico: Estará integrado por los miembros del Consejo Asesor Honorario de Asuntos Administrativos creado por Resolución MOSP Nº 53/89 y demás miembros que a ese fin específico designe el Ministro. Será presidido por el Asesor que designe la Autoridad de Aplicación.

El Comité Jurídico tendrá las siguientes atribuciones:

a) Proyectar el régimen normativo que deba elaborarse para llevar adelante la más pronta ejecución, en el ámbito de este Ministerio, de la Reforma del Estado, dispuesta por Ley 23.696;

b) Evacuar los informes que en cada caso solicite la Autoridad de Aplicación, sobre los proyectos elaborados por las distintas Comisiones concretas de Trabajo, indicando en su caso las modificaciones pertinentes;

c) Proyectar en el término de noventa (90) días los nuevos regímenes legales de Contrataciones Públicas y de Empresas Públicas, con el apoyo de la Secretaría de Obras Públicas y la Subsecretaría de Políticas y Legislación;

d) Proyectar los Estatutos y Reglamentos tipos de las Empresas Públicas.

ARTICULO 6º: Comité Ejecutivo: Estará integrado por tres (3) miembros y será asistido por dos (2) secretarios permanentes.

Tendrá las siguientes atribuciones:

a) Elaborar los anteproyectos de Decreto de Declaración de "sujeta a privatización" de nuevas entidades;

b) Elaborar los anteproyectos de Decreto Plan a aplicar en cada uno de los procesos de privatización;

c) Proyectar la transformación de la tipicidad jurídica de Entes, Empresas y Sociedades, la creación de nuevas Empresas y sus estatutos orgánicos;

d) Realizar los estudios relativos al mantenimiento, eliminación o modificación de privilegios y/o cláusulas monopólicas, conforme al artículo 10 de la Ley 23.696;



## Ministerio de Obras y Servicios Públicos

e) Propiciar las alternativas de procedimiento de entre las previstas en el artículo 15 de la Ley 23.696 que se aplicarán en cada proceso de privatización;

f) Impulsar de inmediato y de oficio todos los procedimientos de privatización en el área del Ministerio de Obras y Servicios Públicos;

g) Proponer la modalidad mediante la cual se materializará la privatización de entre las legisladas en el artículo 17 de la Ley 23.696;

h) Proponer el procedimiento de selección y contratación que se seguirá en cada trámite de privatización, conforme con lo establecido en el artículo 18 de la Ley 23.696;

i) Coordinar la redacción de los pliegos de bases y condiciones generales y particulares y tramitar el procedimiento de selección, proponiendo la adjudicación en el mismo;

j) Dirigir y coordinar la labor de las Comisiones de Trabajo en cada proceso de privatización;

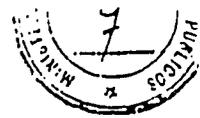
k) Proponer al Ministro la designación de las Comisiones de Trabajo respectivas, como así también la contratación de los asesores, especialistas, consultores y expertos;

l) Coordinar y supervisar los procesos de privatización de la medición, liquidación, facturación y cobro de los servicios prestados por Servicios Eléctricos del Gran Buenos Aires, Gas del Estado S.E., Obras Sanitarias de la Nación S.E., venta de pasajes de Ferrocarriles Argentinos y venta de lubricantes por Yacimientos Petrolíferos Fiscales S.E.;

ARTICULO 7º: Comité de Conflictos Individuales: Sin perjuicio de lo que establezca la reglamentación de la Ley 23.696 y a los fines de asesorar a los órganos decisorios, créase el Comité de Conflictos Individuales, compuesto por tres (3) miembros asistidos por un Secretario Permanente, con competencia consultiva, para la resolución de los conflictos judiciales y/o administrativos que puedan producirse en virtud de la aplicación de la mencionada ley, entre este Ministerio o las entidades de él dependientes y cualquier persona física o jurídica afectada por las disposiciones legales. A tal fin, estudiará los temas sometidos a su dictamen, bajo los aspectos jurídicos, económicos y técnicos, produciendo un informe que elevará al Ministro, por conducto del Secretario competente.

ARTICULO 8º: Comité de Estudios Registrales: El mismo estará integrado por los especialistas que designe el Ministro y tendrá como función el estudio desde el punto de vista notarial, de la situación de los inmuebles de este Ministerio, sus organismos y entidades dependientes, a los fines de la privatización en los términos del

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## Ministerio de Obras y Servicios Públicos

artículo 61 de la Ley 23.697.

ARTICULO 9º: Organización funcional para las concesiones: El procedimiento para el otorgamiento de concesiones de obra pública será establecido a continuación, con la intervención de los órganos que en cada caso se indican:

a) La Secretaría de Obras Públicas propondrá a la aprobación del Ministro, el pliego de condiciones generales para la licitación de obras públicas por concesión, con excepción del previsto en el Decreto Nº 823/89, el que se tramitará según los términos del mencionado decreto.

b) La Secretaría de Obras Públicas aprobará los pliegos de condiciones particulares y demás documentación técnica y legal relativa a cada contratación en concreto. A tal fin, podrá requerir información que estime menester.

c) La Secretaría de Obras Públicas decidirá, de oficio o por iniciativa del órgano o ente concedente, el llamado para la presentación de ofertas en cualquiera de los procedimientos previstos en la Ley 17.520, con las modificaciones introducidas por su similar 23.696, con intervención de la Secretaría de Coordinación y Planificación y de la Secretaría en cuya jurisdicción se encuentre la obra a conceder. Asimismo, decidirá la convocatoria o mejora de ofertas prevista en el inciso c) del artículo 4º de la Ley 17.520, modificado por la Ley 23.696.

d) En todos los casos, los procedimientos de selección tramitarán -hasta la preadjudicación inclusive- ante el órgano o ente concedente.

e) La Secretaría de Obras Públicas preadjudicará/adjudicará las concesiones de obra pública, ad referendum del Ministro, quien en su caso, solicitará al Poder Ejecutivo su aprobación mediante Decreto, conforme a lo dispuesto en el Artículo 1º de la Ley 17.520, modificado por el Artículo 58 de la Ley 23.696.

f) La Secretaría de Obras Públicas tomará intervención en los procedimientos para la concesión de obras públicas originados por iniciativa privada a los efectos de su calificación de interés público, conjuntamente con la Secretaría de Coordinación y Planificación y la Secretaría en cuya jurisdicción se encuentre la obra a conceder. Las iniciativas privadas se presentarán ante la Secretaría de Obras Públicas y tramitarán conforme a las normas precedentemente establecidas.

ARTICULO 10º: La presente organización funcional para la Reforma del Estado no demandará aumento alguno de la planta de personal. Todas las designaciones recaerán en funcionarios públicos de las plantas de personal aprobadas para el Ministerio, a los que se les encomendarán estas competencias como extensión de sus servicios o en sustitución temporaria de las competencias que estén cumpliendo actualmente. Los miembros designados en representación de los sectores empresarios y sindicales, lo

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*Ministerio de Obras y Servicios Públicos*

serán con carácter ad honorem.

ARTICULO 11º: Comuníquese a la Comisión Bicameral creada por el artículo 14 de la Ley 23.696.

ARTICULO 12º: Regístrese, comuníquese y archívese.

Resolución MOSP Nº 88-89.-

DR. JOSE ROBERTO DROMI  
MINISTRO DE OBRAS Y SERVICIOS PUBLICOS