

COMMERCE REGULATION AND THE BICENTENARY*

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If we want to understand the Argentine economy and society as it is today during this lead up to the bicentenary celebrations next week, what we actually need to do is to understand the leading place that regulation of commerce has had in Argentine history from the last two hundred years. It would not be fair to celebrate this bicentenary without remembering the legal pillars that allowed the development of Argentina's productive potential to the leading position that the country reached until the middle of the 20th century.

In order to do this we must consider three fundamental economic eras in Argentine history: the monopoly trade with Spain, the changes introduced by the Bourbon kings, and the conversion of Argentina into a single market with a modern commercial legislation.

The Monopoly and The System of Fleets and Galleons

In the middle of the 16th century, following the economic ideas of the time, the Spanish monarch established a monopoly trade with his possessions in the Americas. In addition, and due to constant attacks by privateers and pirates, a system of "fleets and galleons" was organized. According to this, the *Casa de Contratación* (House of Trade) in Seville was obliged to send two fleets to Latin America, each sent twice a year, with goods protected by the Spanish Navy. One was sent to Portobelo (currently Panamá) and the other to Veracruz (Mexico). In Portobelo a fair took place and there the goods were sold to merchants who took them by land through the Isthmus of Panama to the Pacific coast, where they were shipped again to Peru. From there the goods came down to Upper Peru (nowadays Bolivia) and, through what is now modern day Argentina, Cuyo, Salta, Córdoba del Tucumán and the River Plate. In turn, the fleets were sent back to Spain with products from the Americas. Any other commercial exchange was banned, no merchant ships could arrive or leave directly from Buenos Aires, except under exceptional licenses that only the King of Spain could grant.

Thus, Buenos Aires, a remote village surrounded by the rustic Pampas, was forbidden from using its port for import or export and only received imported goods twice a year, by land, from Peru, wildly overpriced as a result of such impractical scheme. The situation meant that Buenos Aires became a centre for smuggling and the black market of imported goods. Smuggling acquired such a fundamental role in the region's life that in 1623 a customs office was established in the city of Córdoba later moving to Jujuy in 1696. Eventually, transport of imported goods any further North than Salta and Jujuy was banned, as was the delivery of goods from Peru to the provinces of Tucumán and Paraguay and the River Plate. This resulted in the current Argentine territory becoming an economically enclosed region.

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The Changes Introduced by the Bourbon Kings and the Growth of Buenos Aires

The House of Bourbon came to the throne in Spain in 1700 bringing with it the ideas of the Enlightenment, and introduced fundamental changes in the government of the Spanish State and of the Spanish crown's possessions. These changes included the creation in 1776 of the Viceroyalty of the River Plate and the gradual liberalisation of the trade with the Spanish Americas through several measures (*inter alia*, the opening of the port of Buenos Aires in February of 1778 for the overseas trade). All of this allowed the arrival of goods from Spain (and even from other neutral nations) directly to the port of Buenos Aires at a much lower cost than before.

This liberalisation of trade was the beginning of the process of change in the commercial axis of the current Argentine territory – with deep consequences for the economic and social lives of these regions: provinces such as Salta, Tucumán and Córdoba, traditionally with more wealth and lineage than the parvenu Buenos Aires, and which had benefited immensely from the trade route from Peru to the River Plate during the monopoly trade era, slowly started to lose their prominence in favour of the Pampas. The sudden change in status of Buenos Aires to a bustling port city with important customs revenues is one reason why this fertile agricultural region surrounding Buenos Aires would see its golden age at the end of the 19th century with the introduction of barbed wire fencing and slaughterhouses with refrigeration devices, and the start of agriculture and cattle raising in big scale, in itself providing a rich source of products for market and export from Buenos Aires.

Trade became so important in the River Plate that in 1794 the *Consulado de Comercio de Buenos Aires* (Commercial Consulate of Buenos Aires) was created. The Consulate was a collegiate body which, as the medieval merchant guilds, acted as a court to adjudicate disputes between merchants and carried out actions to promote commerce (and had as its secretary Manuel Belgrano, creator of the Argentine flag).

This is how, gradually, Buenos Aires started to become more prominent in the region, and was able to take the lead in the events of May 1810, which we celebrate this bicentenary.

The Building of a Single Market with Modern Commercial Legislation

Nevertheless, two very important steps were still pending to have the legal framework necessary for the development of the Argentine economy: to make Argentina into a single market and to give it a commercial legislation in tone with the commercial practices of the time.

The national Constitution of 1853 (with the amendments of 1860) posed in its preamble the national union (of the previously independent provinces) as one of its main objectives. In order to make that national union effective, it was not enough to create a Federal government; it was also necessary to prevent the provinces from creating barriers to economic exchange with the others. It was necessary that all the Argentine Territory became a single and sole market. To that end, the national Constitution of 1853-60

included clauses aimed at banning the existence of provincial customs, or the charging of provincial duties on the circulation of goods (Sections 9 through 12).

Having established that important framework, the second important step was made when Congress adopted in 1862 the Commercial Code that in 1859 had been enacted by the State of Buenos Aires (i.e., before Buenos Aires joined the Argentine Confederation). Until then commercial matters were still governed by the Royal Decree that created the Consulate of Buenos Aires, the Ordinances of Bilbao of 1737, and the Laws of the Indies and of Castile, a legal framework that was totally inadequate for the trade practices of the time. The newly self governing Argentina was in dire need of modern commercial legislation, in order to set free its tremendous productive potential.

And so finally, by 1862, having started with a system of fleets and galleons which kept Buenos Aires as an economic backwater but brought wealth to the northern provinces, through the liberalisation of the Bourbon kings and the single Argentine market enshrined in the national Constitution and the adoption of modern commercial legislation, Argentina had finally acquired the fundamental legal framework that made possible the incredible production of wealth that placed the country among the leading nations of the world at the end of the 19th and beginnings of the 20th century, and the foundation of modern Argentina that we celebrate this week.