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Argentina to debate two pro-gov't merchant navy, ship-building bills

The minimum 51% local ownership proposed by Deputy Harispe as a condition to enjoy naval leasing benefits is 'Utopian,' Argentine Naval League VP says

BY GUILLERMO HÁSKEL
HERALD STAFF

When the late President Néstor

Kirchner came to power in 2003 in the aftermath of Argentina's worst-ever economic meltdown, he was resolved to rebuild the flourishing merchant navy and ship-building industry to which three-time President Juan Domingo Perón had given a great impulse and which were dismantled by neo-conservative President Carlos Menem (1989-1999), who belongs to Perón's and Kirchner's Justicialist Party.

By means of Decree 1772 Menem deregulated maritime activity and through Decree 817 he deregulated the port sector, driving the last nail into the coffin of state-run fleets such as those of ELMA (merchant ships), YPF oil monopoly (tankers), YCF coal monopoly (bulk carriers), and the riverside merchant fleet.

In 2004 Kirchner issued Decree 1010 adopting a transitory merchant navy regime, a decree intended to expire in two years or once a definitive law regulating those sectors was passed.

After a decade of transitory regime, legislators from the ruling victory Front of Peronist President Cristina Fernández de Kirchner — Kirchner's widow and successor — are pushing not just one but two competing initiatives in Congress in the hope of having a law passed before the October 25 election in which the President is not allowed to run for a third straight term after she was elected in 2007 and re-elected in 2011.

The first of the initiatives is fostered by Gastón Harispe, a deputy from the province of Buenos Aires, who is the vice-chairman of the Lower House's Maritime, Fluvial, Ports and Fishing Affairs Committee, with the blessing of its architect, Horacio Tettamanti, the Undersecretary for Ports and Navigable Ways.

Harispe's bill was first presented in Congress in July last year and relaunched a few months later with great fanfare despite which, however, it lost Parliamentary status due to the lack of debate, and had to be relaunched once again this month. His bill is being backed by a number of business lobbies — mainly from Buenos Aires province — and by a group of unions.

Now, Victory Front fellow-deputy from Chaco Gustavo Martínez Campos, who is the Sec-



A welder at the Buenos Aires Province state-run Río Santiago shipyard. Picture taken on July 12, 2013.

retary of the same Maritime, Fluvial, Ports and Fishing Affairs Committee, is planning to launch his own bill in Congress on August 18. The *Herald* obtained a copy of his draft, which has the backing of industrial and union sectors different from those supporting Harispe's bill. Martínez Campos belongs to another "faction" of the committee and is an ally of the Committee's Chairman, Entre Ríos Victory Front Deputy Julio Solanas.

The *Herald* asked Fernando Morales, the Vice-President of the Argentine Naval League, to trace a parallel between the initiatives presented by the two deputies.

The Naval League represents a large sector of Argentina's maritime and river navigation community. It aims at raising maritime and fluvial awareness. Although it is an NGO, it has as honorary presidents Coast Guard Chief Luis Alberto Heiler and Navy Chief, Admiral Gastón Fernando Erice. The League's Executive President is Coast Guard Commander Pedro

Cuesta, and one of its directors is Tettamanti himself, not in his capacity as Undersecretary for Ports and Navigable Ways but as a private entrepreneur. Tettamanti owns the SPI shipyards in Mar del Plata, one of Argentina's leading builder of smaller vessels and their repairs.

Pending the passing of a definitive law, Decree 1010 issued by President Kirchner in 2004 continues to be in force. What are its main implications?

Decree 1010 was presented as heralding the return of vessels to the Argentine flag. But far from having developed, the merchant navy continued to vanish over these past years. The only thing that has been done is to replace ships we no longer have with foreign ships chartered under the bare-boat modality with a status as Argentine-flagged under the so called "waivers." But Argentina has no new own ships with the national flag.

Decree 1010 fell short of its aims because the shipping sector is capital-intensive. A standard ship costs between US\$80 million and US\$100 million and building one takes between 18 months to three years. A new fleet cannot be built overnight. There is no possible rebuilding without opening up to importing vessels. Decree 1010 served as a kick-off and was also good for people to regain a job. The foreign vessels brought in under the waivers need repair, which is done by Argentine workers. The Decree also was good to stop a flurry of foreign-flagged ships which mushroomed in Argentine waters. But at the end of the day it is a transitory norm which must eventually disappear. However, the Martínez Campos bill to a large extent is based on Decree 1010.

How feasible do you see rebuilding a merchant fleet such as the one Argentina had in the past?

We are paying very dearly the lack of knowledge of the political

class regarding the need and advantages of having a merchant navy, not now a state-run one, because that would be unthinkable, but Argentine-flagged private fleets.

Then, we could never go directly to returning to a state-run seafaring merchant navy without going through first a regional merchant navy. We should talk with Brazil, Paraguay and Uruguay. We are in no condition to go out to the world with tankers or bulk carriers.

Why?

Very simple. We lack scale. We don't control the freight business. If we send a grain bulk carrier from here to Rotterdam, what cargo would it bring back? Because if it comes back empty, there is no possible business. Should anyone present Argentina with five portacainers, we should start considering with what cargo we could load them.

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'Deputy Martínez Campos' bill is less ambitious, more realistic'

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What are the broad lines of the bills sponsored by Deputies Harispe and Martínez Campos?

In my view, the main positive issue regarding Harispe's bill is that it has sparked interest and raised awareness and that it has been a clear signal that a sector of the ruling party caucus in Congress is committed to a merchant navy and ship-building bill. Besides, although the visible face is that of Harispe, the leading driving-force behind the bill is a government official, Tettamanti.

A negative feature is that Harispe's draft entails a conceptual mistake by including the merchant navy and ship-building industry together in a single bill when they are actually complementary activities which, however, often have opposed interests. Martínez Campos is fixing that mistake by having split the bill into two.

Another negative feature of Harispe's bill is Article 42, which states that national ship-owners willing to apply for the naval leasing system must be registered in Argentina and own at least 51 percent of the corporate capital. But after decades of dismantling, no local shipping companies have that scale, mostly considering that the last two large fleets were state-run, ELMA and YPF. This 51 percent requirement is an Utopia. It seems to be oriented to a very small sector.

Also, in Article 67, Harispe proposes that 70 percent of the payroll tax contributed by ship-owners, shipyards and naval workshops will be eligible to be considered as a fiscal credit in monthly IVA/VAT renderings, and also as a payment on account of income tax. But no activity in the country enjoys such a benefit. In this sense, Harispe's proposal seems to be on a collision course with the national government's tax policies. Besides, rather than subsidies, tax benefits or credit facilities, what ship-owners demand is to be put on an equal footing with their competitors, the elimination of tax, labour and technical asymmetries. For instance, regarding fuel taxes, a foreign ship loading fuel in Argentina does not pay IVA/VAT or any other domestic tax whereas an Argentine ship, even with a destination abroad, has to pay all taxes, when it actually is exporting a service. Also, it is very hard to compete with a country such as Paraguay, where labour regulations are much laxer than those of Argentina. It is for these reasons that 90 percent of the navigation along the Hidrovía Paraná-Paraguay is done with the Paraguayan flag while Argentina is in charge of the maintenance of two-thirds of that waterway.

You have mentioned some contradictory interests between the merchant navy and the naval industry. Can you elaborate?



A barge is launched onto the River Paraná by the private Ultrapetrol shipyard on September 27, 2013, in Punta Alvear, Santa Fe Province. (Photo courtesy Willy Donzelli).

Ship-owners will always give priority to purchasing the best possible vessel at the cheapest possible price, either in the local or in the foreign market, whereas ship-builders will necessarily tend to prevent anything from coming from abroad, and to have the monopoly of the ship-building activity.

What are other pros and cons do you see?

A very interesting proposal in Harispe's bill is Article 20, which offers ship-owners who are currently operating chartered foreign ships with a status of Argentine-flagged vessels under Decree 1010, the possibility to import those ships with zero tariff. This is a way to start having an initial stock.

What would be the main advantage of such a clause?

The repairs of those ships would create an incipient source of ship-building jobs. Nowadays there are no ships to be repaired.

What about the formation of merchant navigators?

This is a key issue. Both deputies address, although with very different degree of intensity, the issue of personnel formation, something that had not been addressed before in any bill.

Harispe, in Article 28, includes a very interesting clause whereby ship-owners who embark at least 15 merchant marine cadets per ship and give them accommodation and facilities for technical practice will be allowed to charter bare-boat vessels — and request

their treatment as Argentine-flagged ships — with up to 200 percent tonnage, or hatch capacity, or propulsion power, of the training ship. For example, a ship-owner managing a 30,000-ton vessel and embarking 15 cadets will be able to charter two vessels with a joint capacity of 60,000 tons without the need to actually build them. This is an interesting "carrot" to lure ship-owners into contributing towards training merchant navigators. Training ships enjoy the so called postal pack privilege to enter ports first and this is very important for ship-owners.

Martínez Campos, for his part, does not mention the possibility of chartering up to 200 percent of hold capacity but rather addresses training in itself in the brief Article 40 of his merchant navy draft. This article smacks of too little and in my personal view I don't know whether it is wise to mix such a clause in this bill, because issues regarding personnel training are complex and, besides, there are some three REFOCAPEMM regulations for the training of navigating personnel about to be presented in Congress to upgrade norms which have been outdated over the past 20 years and which threaten to leave Argentina out of the world system regarding grade awards (titulación).

Martínez Campos, with some wishful thinking, says that not only the state can train merchant navigators, but also unions and private universities which — beyond his saying that they should be subject to due regulations — is dangerous because he also proposes that degrees be awarded either by

the Coast Guard and/or the Navy, and this "and/or" could potentially be the source of some conflicts.

Then, for my taste, Martínez Campos makes too many references to Decree 1010, a norm that should be phased out, not "incorporated" once a definitive law is adopted. His bill also makes reference to Argentina's international treaties but at the end of the day this is somewhat of a way of failing to properly address real issues. All this about merchant navigators training should be included in a separate norm, although, I repeat, Harispe's initiative about the 200 percent "carrot" for ship-owners embarking 15 cadets is good.

How do you see Article 37 of Harispe's bill which proposes the creation of a National Directorate of the Naval Industry reporting to the national government?

This article responds to pressures exerted by shipbuilders for many years. The creation of a National Directorate is not bad in itself but all attempts in that direction have failed because there is already an Industry Ministry. A Naval Industry National Directorate could never work outside the orbit of that ministry.

This said, this article falls short of addressing what Argentina really needs, which is a Merchant Navy State Secretariat overseeing all the sector's activities. Argentina should go back to that kind of agency which it used to have in the past. Harispe's bill continues to refer to the Undersecretariat of Ports and Navigable Ways, but ports and navigable ways are one issue and

the merchant navy is a different one.

What about sport and entertainment vessels?

I think that Harispe makes a mistake when he fails to include luxury and entertainment vessels in his bill. Counting the very small ones, there are about 150,000 sport vessels in the country. The sector is a good source of jobs in the building and repair industries, and boat houses, and also pays high taxes. Martínez Campos does include them.

Are there any other comments you would like to make about the bills?

Yes. Martínez Campos, who has had a whole year to study Harispe's bill to present his own, makes no mention of the minimum 51 percent national ownership requirement to be eligible for naval leasing. His proposals are less ambitious but more realistic than those of Harispe. However, we are in an electoral year and the campaign is in full gear. It has yet to be seen whether after a whole decade of "transitory" regime, any of the initiatives finally makes it into law.

Following is the link to the bill Deputy Harispe has presented in Congress.

http://www1.hcdn.gov.ar/proyxml/expediente.asp?fundamentos=si&n_umexp=3349-D-2015

The draft drawn by Deputy Martínez Campos has not yet been presented or uploaded.