

Argentine

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DEPARTMENT OF STATE
BRIEFING MEMORANDUM

S/S

March 24, 1979

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TO: The Secretary
THROUGH: P - Mr. David P. Newsom
FROM: HA - Patricia M. Derian *P.M.D.*

Ambassador Aja Espil's Appeal for More Time
to Document Argentine Human Rights Improvements

In view of Mr. Bushnell's memorandum (TAB A), sent subsequent to the Action Memorandum on the Argentine Railroads vote, I thought it important that you have HA's views on Aja Espil's appeal.

-- Our decision to vote no was conveyed to the Argentine Ambassador a month ago. It is fully justified by the careful and balanced INR study which was completed at your direction. Coupled with the forthcoming visit of the IAHRG it may spur the human rights improvements we anticipated but which did not materialize when we switched from no votes to abstention in December 1977.

-- To reverse ourselves now primarily on the basis of a personal and apparently uninstructed appeal from Aja Espil (whose record on past promises is not encouraging) would suggest to the GOA a bewildering lack of resolution on our part. Our willingness to do an about-face will encourage the hard liners in Buenos Aires who contend our human rights posture is inconstant and can be disregarded. It will weaken those in the Argentine government who argue that the US is serious about its human rights policy and that therefore genuine improvements are essential.

-- The argument that the no vote would immediately become a major issue in the Argentine press is not persuasive. Votes in the bank are confidential. Should the Argentine government choose to make our no vote the

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focus of a press campaign, this would suggest Argentina is not serious about human rights improvements but wishes to engage in a polemical dialogue.

-- Recent promises to the President of Allis Chalmers seem no different from similar promises of improvement we have heard so often at all levels of this government from Argentine officials over the past year.

Drafted: HA:SB Cohen/CBSalmon, Jr.
3/24/79 x21384

cc: JBushnell, ARA



DEPARTMENT OF STATE
BRIEFING MEMORANDUM

S/S

23 MAR 1979

DJA -
Room 502
CS
MS
PL

SECRET (Entire Text)

TO: The Secretary
THROUGH: P - Mr. David P. Newsom
FROM: ARA - John A. Bushnell, *JB* Acting
SUBJECT: Ambassador Aja Espil Appeals for More Time to Document Argentine Human Rights Improvements

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On March 21 our Executive Director in the World Bank told the Argentina representative that we plan to vote no on the railroad loan coming up next Tuesday. On February 28 Assistant Secretary Vaky told Argentine Ambassador Aja Espil that we would vote no on the next loan unless there are human rights improvements. Within a couple of hours Aja Espil asked for a meeting with me to review the situation.

Aja Espil made five points:

-- He is returning to Argentina this weekend and will be meeting with President Videla and many other senior officials to stress the importance of additional movement on human rights; a switch to a no vote will greatly complicate his mission;

Although the movement from abstain to no has no economic significance, it will immediately be a major issue in the Argentine press which, perhaps unfortunately, has been playing US-Argentine relations as greatly improved since the Mondale/Videla meeting; it will also be a big issue among the key civilian and military decision-makers in Buenos Aires, some of whom continue to argue that Videla made a major mistake in inviting the Inter-American Human Rights Commission and are looking for a peg on which to attack Videla and block needed additional movement on human rights;

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GDS - 3/23/85 - Brayshaw, Charles

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-- Such a signal when the situation in Argentina is improving rapidly will play into the hands of those opposing human rights improvements and cooperation with the US on such issues as nuclear policy; it would greatly support the argument made by some in influential positions that improving relations with the US -- Videla's objective -- cannot be achieved; the US objective should be to support Videla who is committed to the changes the US wants to see;

-- The human rights situation is improving rapidly (see list of evidence he cited below); there has been less than a month since Vaky informed the Argentine Government that improvements are needed to avoid a shift to no votes; he would expect to bring back more evidence of improvement when he returns in a couple of weeks; there must be basic institutional improvement such as strengthening the role of the courts and Videla's strengthening his position as precondition for improvements; it is on these preconditions that the most movement has been made recently;

-- After I warned him to be prepared for a no vote on Tuesday although a final decision has not yet been made, he argued that the US should at least give him and Videla a little more time by continuing to abstain until the more important hydroelectric loan (Yacireta) comes up in another month.

The Ambassador stressed the following points as improvements which justify maintaining the abstention position:

-- There have been no new disappearances reported for the months of February and March and the level for January was low.

-- The Supreme Court has taken a number of decisions recently to reassert its authority and President Videla has personally pledged to encourage the return to the rule of law.

-- In one decision, the Supreme Court ordered the military to return to judicial jurisdiction a

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warrant officer who had been accused of abuse of power. Army Commander Viola ordered that this ruling be respected. The Buenos Aires Herald, a long-time fearless defender of human rights, has reacted enthusiastically to these moves and said that Argentina is fast "returning to normal." The editorial is attached.

- Susana Panero, a high interest case for us, has been set free and should presently be on her way to the U.S.
- Foreign Minister Pastor told the press (reported on March 18) that Jacobo Timmerman could be freed soon. (The Embassy reported today by cable that the Foreign Ministry had explored what the U.S. reaction to this move would be. Cable is attached.)

The Ambassador particularly stressed the stopping of disappearances as a major improvement. I confirmed that we had no reports of disappearances since January. He said that should we receive any reports we should let him or his government know immediately as they want to investigate. He referred to an earlier conversation with me in which he had claimed that some disappearances are invented by opponents to the Government. He also said Videla would take action if a security force arranged disappearances against his orders.

On March 23 President Scott of Allis Chalmers called on me to report on his visit to Argentina and Paraguay earlier this month. I had suggested he raise the concern of the U.S. people with the Argentine human rights situation. He said he did so directly and received the most unqualified assurances of improvement. Economics Czar Martinez de Hoz told him categorically that disappearance by the security forces have been stopped.

Attachments:

- 1. Buenos Aires 2277
- 2. Buenos Aires Herald article

Drafted:ARA/ECA:CBrayshaw:mch
3/23/79 X29166

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Department of State

INCUMBING TELEGRAM 3/23
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E.O. 12958: GDS 3/22/85 (H-LLMAN, WILLIAM H.) OR-P
1450: SHUN AR.
SUBJ: MFA PROBL ON U.S. RESPONSE TO TIERMAN RELEASE

OF OPINION OUTSIDE ARGENTINA -- ALL INSISTENT TIERMAN
BE FREED. FOREIGN MINISTRY APPEARS TO BE FIGHTING FOR
ARGUMENTS TO FAVOR TIERMAN'S RELEASE, AMONG WHICH
SOME NOTABLE (PREFERABLE EVEN TANGIBLE) U.S. ACT OF
PRAISE WOULD WEIGH HEAVILY.

8. ACTION REQUESTED. WE RECOMMEND NO "PRICE" BE
OFFERED FOR TIERMAN'S RELEASE, BUT -- ASSUMING HIS
RELEASE IS UNCONDITIONAL -- IT SEEMS APPROPRIATE TO
US THAT THE DEPARTMENT SPOKESMAN NOTE THE RELEASE
AS "ENCOURAGING" AND "CREATING OPTIMISM ABOUT THE
ARGENTINE GOVERNMENT'S INTENTIONS TOWARD HUMAN RIGHTS
VIOLATIONS WHICH HAVE TAKEN PLACE IN THAT COUNTRY."
DEPARTMENT'S VIEWS REQUESTED.

9. SEPTEL RESPONSE TO STATE 69331 CONCERNING
POSSIBILITY OF A TIERMAN HUNGER STRIKE.
CASTRO

1. (C - ENTIRE TEXT).

2. FOLLOWING UP AN INFORMAL APPROACH MADE AT SOCIAL
OCCASION BY US NORTH AMERICAN AFFAIRS DIRECTOR AT
FOREIGN AFFAIRS MINISTRY (ESPESCHE GIL) ASKED POLOFF
TODAY 3-23 TO COME TO MINISTRY AS SOON AS POSSIBLE TO
DISCUSS THE JACCO TIERMAN CASE.

3. ESPESCHE GIL RAISED THIS QUESTION: WHAT WOULD BE
THE ATTITUDE OF THE UNITED STATES TO TIERMAN'S RELEASE --
AND, MORE SPECIFICALLY, HOW WOULD ELEMENTS OF THE U.S.G.
RESPOND TO THIS EVENT? PRESS ATTITUDES ARE IMPORTANT,
ESPESCHE GIL SAID, BUT HE NEEDS TO KNOW MORE ABOUT WHAT
MIGHT HAPPEN IN THE DEPARTMENT OF STATE, OTHER OFFICES
OF THE EXECUTIVE BRANCH OF GOVERNMENT AND IN THE CONGRESS
AS RESPONSE TO TIERMAN'S RELEASE.

4. EMPROFF REPLIED THAT TIERMAN'S RELEASE WOULD
REMOVE AN IRRITANT AND CREATE OPTIMISM ABOUT THE
ARGENTINE GOVERNMENT'S INTENTIONS BUT THAT IT ALSO
MIGHT PASS AS A STEP THE GOVERNMENT SHOULD HAVE
TAKEN LONGER AGO AS AN ACT OF ELEMENTAL FAIRNESS.
EMPROFF SAID ALSO THAT TERMS OF HIS RELEASE WOULD BE
IMPORTANT, WITH COMPLETE FREEDOM TO COME AND GO AS
HE PLEASED -- TO TRAVEL ABROAD AS WOULD ANY ARGENTINE
CITIZEN -- BEING THE ONLY COURSE THAT WOULD GET HIM
RECOGNIZED. TIERMAN'S EMPULSION -- ANOTHER COURSE
WHICH ESPESCHE GIL ADMITTED WAS POSSIBLE -- WOULD
BE CONSIDERED AN UNSATISFACTORY ADJUSTMENT OF A
LARGE INJUSTICE.

5. ESPESCHE GIL ASKED SPECIFICALLY ABOUT EFFECTS OF
TIERMAN'S ACCEPTING COLUMBIA UNIVERSITY INVITATION
TO VISIT NEW YORK AND BUENOS AIRES. EMPROFF SAID
TIERMAN'S ACCEPTANCE AND TRAVEL TO NEW YORK WOULD
BE SOME SURE EVIDENCE OF HIS UNCONDITIONAL LIBERTY --
PROVING OF COURSE HE WAS ABLE TO RETURN TO ARGENTINA
WHEN HE CHOICE. CONVERSATION THEN WENT ALONG LINES
OF WHAT TIERMAN HIMSELF MIGHT WANT OR DO UPON HIS
RELEASE -- ABOUT WHICH IT WAS USELESS TO SPECULATE.
ONLY TIERMAN HIMSELF COULD ANSWER QUESTIONS ABOUT
ACTIVITIES HE WOULD PROPOSE, PRESUMABLY ONLY AFTER
THE TERMS OF HIS RELEASE HAD BEEN DISCUSSED IN DETAIL
WITH GOA AUTHORITIES.

6. CONVERSATION ENDED WITH AGREEMENT TO MEET AGAIN
ONCE EMPROFF HAD CLEARER PICTURE OF "THE U.S. RESPONSE."

7. COMMENT. FROM SEVERAL SOURCES WE HEARD THAT TIERMAN'S
RELEASE IS BEING SERIOUSLY DISCUSSED WITHIN GOA. TIERMAN'S
BROTHER HERE HAS TOLD US HE IS ENCOURAGED REGARDING
PROBABILITY OF JACCO'S RELEASE. FOREIGN MINISTER
PACTOR IS REPORTED TO HAVE BEEN ASKED ABOUT TIERMAN
DURING HIS VISIT TO VENEZUELA AND BRAZIL, AND IN ANY
EVENT IT IS THE FOREIGN MINISTRY THAT FEELS THE BLAST

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BUENOS AIRES HERALD - 14 de marzo 1979

Returning to normal

ONE of the most encouraging signs of the country's slow return to "normal" is the increasing assertiveness of the Supreme Court. For many years the highest tribunal in the land systematically refused to make rulings that could bring it into conflict with the government. During the last twelve months, however, it has abandoned these extra-legal inhibitions and is now concerning itself more with its principal task, which is to do everything it can to ensure that the law is properly interpreted and obeyed. The Court's ability to make its rulings prevail are, naturally, limited — like the Pope the Supreme Court has few battalions at its disposal — and where its will runs counter to that of the government, the government will win. But in this constant tug-of-war the Supreme Court's moral force can be expected to prevail in the end.

In every country of the world where governments accept legal restrictions to their actions, conflicts between the executive and the courts are a permanent fact of life. When a court's rulings displease it, a government can appeal, and usually is able to call on lawyers with a formidable knowledge of the arguments for the government's case that are provided by the law. But if in the end the Supreme Court decides that the government must cease or desist in its course, then the government must obey. There is no particular humiliation in this, it is simply the way some problems are decided in any democratic, law-abiding state.

The Argentine government has not yet accepted the Supreme Court's right to tell it how the law should be applied. This is not surprising. The armed forces took power in a country where the broken-backed condition of the judiciary was one of the most dramatic characteristics of the crisis destroying it. But now, almost three years after National Reorganization began, the Supreme Court is getting to its feet once again. This is a matter of historic importance for Argentina, and it is thanks to the selfless actions of the armed services that it is happening.

The cases pitting the Supreme Court and others against the government or certain branches of it are not in themselves of fundamental importance. The way they are resolved will not affect constitutional procedure in Argentina. What they will affect, however, is the speed and effectiveness with which an important phase of National Reorganization is traversed. If Argentina is ever to return to the "normality" it has so rarely known in recent decades, the final decisions of the Supreme Court will prevail over the government's interpretations of its own interests as a matter of course.

The reassertion of the Supreme Court is the reassertion of an ethical approach to the conflicts arising in Argentine society. One of the principal reasons for the military's assumption of power was the distrust and despair of many senior officers at the way corrupt influence and brute violence had ousted legal and moral considerations in Argentine life. Now, their efforts are bearing fruit in the form of a Supreme Court that is no longer afraid to speak for justice.

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