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DEPARTMENT OF STATE
BRIEFING MEMORANDUM

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CONFIDENTIAL

January 22, 1980

TO: The Secretary

FROM: L - Roberts B. Owen *RBO*

Security Assistance to Argentina

We understand that the question of legal constraints on security assistance to Argentina has been raised in connection with imminent bilateral consultations. This memorandum describes the current law as well as possible modifications which might be considered.

Section 620B of the Foreign Assistance Act of 1961 (Tab 1) prohibits virtually any form of security assistance to Argentina. Specific prohibitions in this statute preclude all of the following:

- grant military assistance (chapter 2 of part II of the FAA);
- economic support fund assistance (chapter 4 of part II of the FAA);
- international military education and training (chapter 5 of part II of the FAA);
- peacekeeping operations (chapter 6 of part II of the FAA);
- credits or loan guaranties to finance military sales (sections 23 and 24 of the Arms Export Control Act);
- sales of defense articles and services under FMS procedures (sections 21 and 22 of the AECA);

Department of State, A/GIS/IPS/SRP

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MEMORANDUM
BY: [Signature]

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"if the President determines that significant human rights improvements have taken place in Argentina and reports such determination to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate."

After further discussion, Senator Humphrey agreed to delete the above-quoted waiver provision and the amendment was agreed to. The record of the Senate debate indicates that because the prohibition would not become effective until after a year had passed, Congress would have a further opportunity to consider the matter in the 1978 security assistance legislation.

Consideration could be given to an amendment to this year's security assistance authorization that would restore the Humphrey waiver language. It would seem desirable to consult with Senator Church on such a proposal, since he was a cosponsor of the Kennedy Amendment.

A comparison of the State Department's 1977 human rights report which was before the Congress when section 620B was enacted and the draft 1980 report (copies at Tab 2) shows a trend toward improving human rights conditions in Argentina. However, it is clear that fundamental problems remain. Therefore, a determination by the President that substantial improvement had occurred could be highly controversial. A legislative proposal keyed to human rights performance could provoke a confrontation between those wishing to recognize the progress that has been made and those wishing to keep up the pressure.

An alternative approach would be to seek broader waiver authority for the President based squarely on national security grounds. A proposal to broaden the President's existing waiver authority under section 614 (a) of the FAA was forwarded to you on January 11 (copy at Tab 3). If adopted, this proposal would enable the President to waive all of the prohibitions in section 620B except the one relating to grant military assistance. (Argentina would not seem a likely candidate for such

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assistance in any event.) A Presidential waiver on national security grounds under an expanded section 614(a) would also remove the prohibitory effect of section 3(a) of the Arms Export Control Act with respect to third party transfers to Argentina.

Attachments:

- Tab 1 - Section 620B, Foreign Assistance Act of 1961
- Tab 2 - Human Rights Reports on Argentina, 1977 and 1980
- Tab 3 - Proposed Amendment to Section 614(a), Foreign Assistance Act of 1961

cc: D - Mr. Christopher
P - Amb. Newsom
H - Mr. Atwood
ARA - Mr. Bushnell
PM - Mr. Bartholomew
HA - Ms. Derian

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Sec. 620B.⁴⁷⁴ Prohibition Against Assistance and Sales to Argentina.—After September 30, 1978—

(1) no assistance may be furnished under chapter 2, 4, 5, or 6 of part II of this Act to Argentina;⁴⁷⁵

(2) no credits (including participation in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to Argentina;

(3) no sales of defense articles or services may be made under the Arms Export Control Act to Argentina; and

(4) no export licenses may be issued under section 38 of the Arms Export Control Act to or for the Government of Argentina.^{475a}

ARGENTINA 1977

I. POLITICAL SITUATION

Argentina is a federal republic headed by President Jorge Rafael Videla, who came to power on March 24, 1976, overthrowing Isabel de Peron, after a period of serious political and economic instability. The Consumer Price Index was increasing at a 56% annual rate. There was deepening recession, and an external payments crisis threatened default on foreign debts. Violence was rampant. Over 2,000 Argentines died in three years as a result of terrorism between the People's Revolutionary Army (ERP) and the Montoneros on the left and rightist counter-terrorist organizations, some sponsored by Peron's confidant, Lopez Rega.

The military government has set as its two primary goals the elimination of terrorism and the recovery of the national economy. The campaign against terrorism has focused on the political left. Although the urban guerrilla organizations of the extreme left have evidently been weakened, violence continues. About 1,250 people have died as a result of political violence since March.

II. LEGAL SITUATION

The Argentine Constitution of 1853 is in effect. In practice, however, the decrees and laws promulgated by the military government take precedence in case of conflict. This principle has been consistently upheld by the Argentine Supreme Court.

The Argentine Constitution is closely patterned after the United States Constitution and provides most of the same legal guarantees. The major exception is a "State of Siege" provision contained in Articles 23, 87 and 88 of the Constitution. These articles provide for the suspension of habeas corpus temporarily, the detention of suspects indefinitely and the moving of accused persons from place to place within the country. The State of Siege was invoked by the Peronist government and has been in effect since November 6, 1974.

III. OBSERVANCE OF INTERNATIONALLY-RECOGNIZED HUMAN RIGHTS

A. Integrity of the Person

Article 3: The rights of life, liberty and security of person are violated regularly by terrorists at both ends of the political spectrum. Both the current and predecessor administrations have evidently looked the other way with regard to violations attributable to persons

in Argentina on September 28, before the Subcommittee on International Organizations of the Committee on International Relations of the House of Representatives. Father Weeks said "most...atrocities are carried out by right-wing extremist groups made up of police and para-military personnel." Amnesty International's 1976 Testimonies on Persons, Torture and Detention in Argentina, describes several cases of reported torture.)

Article 8: Legal redress for governmental abuse of basic rights is normally available in Argentina but is frequently denied in cases involving charges of subversion.

Article 9: The security forces have detained numerous persons for investigation and questioning under the provisions of the State of Siege or other laws, e.g., arms control laws. Some are held indefinitely, others are freed after a short time, and still others are passed on to the regular courts or to military courts as prescribed by law. The Argentine government has not published a comprehensive list of those under detention by executive order, and families often cannot learn the whereabouts of next of kin. An accurate estimate of persons detained under the State of Siege is impossible to calculate. At the time of the March coup, the Amnesty International Report 1975-76 estimated that over 4,000 people were under detention without trial for unlimited periods. The figure is probably lower at present. In October 1976, the Argentine government published a list of 541 detainees no longer held by the Executive. According to the Argentine press, this brought the number of detainees released by the Executive since March 24 to 1,423. Some of those released by the Executive remained in jail, however, on criminal charges.

Article 10: In Argentina, preliminary investigations are conducted by judges. The right of habeas corpus is not honored in cases arising under the State of Siege.

Article 11: Argentine courts function normally in most cases. The exception relates to individuals held under the State of Siege who, according to an Argentine Supreme Court decision, are subject to the military justice system in subversion and arms control cases when the offense is actually linked to the security of the nation. Right and left-wing intimidation of lawyers and judges has made it difficult to ensure fair trial in cases of alleged subversion and/or terrorism. (The Amnesty International Report 1975-76 states that lawyers formed one of the largest categories of prisoners

associated with the government. Right-wing terrorism or counter-terrorism has been carried out by vigilante squads operating with apparent impunity. Active duty and retired military and police personnel are reportedly members of such squads. Their victims have included a wide variety of individuals, suspected terrorists, other leftists, priests and foreign political exiles. There are no reliable statistics on the number of victims of these groups but a reasonable estimate would be in the hundreds. The most notorious episode took place on August 30, when 30 leftist prisoners were allegedly "executed" in Pilar, in part as retaliation for the murder of a retired general, and in part apparently as a warning to leftist extremists. (The Amnesty International Report 1975-76 attributes 2,000 political assassinations since 1973 to the AAA, Argentine Anti-Communist Alliance, a vigilante organization initially associated with the Peron government.) It should be noted that reported instances of rightist violence declined toward the latter half of 1976, but it is too early to draw any conclusions at this time.

Leftist terrorism continues and has been responsible for hundreds of political assassinations and kidnappings. Many policemen, military personnel and businessmen are being murdered. On December 15, 1976, in the sixth and latest terrorist bomb explosion since the coup in top military security premises 14 people were killed and 30 injured in the auditorium of the Defense Ministry's planning department in downtown Buenos Aires. Argentine executives of American business firms have been frequent victims in 1976. Most foreign executives had already left Argentina to escape kidnapping and/or murder. The number of American executives, for example, fell from an estimated 1,270 in 1972 to under 100 at present. In 1975, the American Consular Agent in Cordoba, John Patrick Egan, was murdered by the Montoneros, while a USIA officer, Alfred Lamm, was kidnapped and narrowly escaped death in the same city.

Article 5: While torture, cruel, inhuman and degrading treatment or punishment have not been a general practice in Argentina, such methods are used by the security forces to extract information from some prisoners, particularly suspected or proven terrorists. After initial questioning, prisoners of this type apparently receive more or less normal treatment. Digo Falamante, an American released shortly after the March coup, has said that she was tortured; the same charge was made by American Guenda Mae Loken Lopez, who was held from April to September 1976. (Father James Weeks, who was imprisoned in Argentina, from August 3-17, testified about the mistreatment of prisoners

held under the State of Siege in 1975 because they defied political prisoners.) The Report notes accurately that lawyers are refusing to defend political prisoners.

B. Other Freedoms

The Constitution requires equal treatment before the law regardless of race or religion. Freedom to leave the country and return is the general rule. Freedom of thought and religion are generally respected in Argentina. The Jehovah's Witnesses, however, are encountering problems, as they have elsewhere in Latin America, because of their refusal to serve in the armed forces or salute the flag. In August 1976, the Argentine government banned the Witnesses. This ban is being appealed in Argentine courts by the Witnesses.

Anti-Semitism has been a recurrent phenomenon in Argentina's modern history. In mid-1976, there was a series of bombings of synagogues and machine gun attacks against store fronts. This was accompanied by the appearance on Argentine newsstands of numerous anti-Semitic publications. The government responded by closing down the publishing house responsible for most of this material. On September 29, President Videla met with a leader of the Jewish community in Buenos Aires, as well as with leading Christian figures. After the meeting, the rabbi who attended reportedly stated that he hoped that "the peace and understanding we found at the President's table are a reflection of what is to come for Argentina." On October 7, Foreign Minister Gazzetti met with representatives of the American Jewish Committee in New York. The Committee said that the Foreign Minister gave strong assurances that anti-Semitism would not be allowed to become a problem, and, indeed, acts of harassment against Jewish establishments have ceased. The Committee also reported, however, that some of the suppressed anti-Semitic publications have reappeared under different press names.

Freedom of expression and opinion in Argentina has been somewhat restricted by the banning of some right-wing and left-wing publications. The Argentine press is required to exercise self-censorship, and is specifically prohibited from mentioning terrorist and anti-terrorist operations unless officially authorized by the government. There is, nevertheless, criticism of human rights abuses in the Argentine press. Few journalists have suffered arrest and only for short periods. Foreign correspondents file stories freely. On August 21, the Argentine Newspapers Owners Association, representing over 100 editors and

publishers, complained to President Videla about press restrictions.

Upon taking power in March, the military junta dissolved the parliament and banned political and labor activity. Some labor unions were taken over temporarily by the government and, on September 8, a law was passed providing for up to ten years in prison for strike organizers.

IV. OTHER HUMAN RIGHTS REPORTING

Many organizations, including Amnesty International, have reported and censured human rights violations in Argentina. Some of Amnesty's reports and comments are included elsewhere in this paper. The Amnesty International Report 1975-1976 notes that, at the time of its preparation, it is difficult to assess the effects of the 1976 coup on the human rights situation in Argentina, but the initial moves of the new government are far from reassuring. The report states that Amnesty is beginning a large-scale adoption program in Argentina. Comprehensive reviews of the situation in Argentina since March 24 are not yet available.

Freedom House lists Argentina as "not free".

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Over the past twenty-five years Argentina has passed through several cycles of alternating civilian and military rule; since 1955, there have been six military and six civilian presidents. Beginning in 1969, violence mounted progressively from the left and the right as groups with widely different political objectives and conceptions struggled for power. To deal with this violence and the resulting disorder, civilian and military governments have maintained a "state of siege" for some nine of the past ten years. At the height of this violence in 1975-1976, terrorism had taken on broad dimensions: bombings, robberies, kidnappings and assassinations for political reasons were common occurrences.

In 1976, the Armed forces again assumed control of the state. Conditions in Argentina had deteriorated sharply. Courts and political leaders were being intimidated; inflation approached 800 percent; and many essential services had been disrupted. Fighting what they perceived as an imminent threat to the social order, the Armed Forces maintained the state-of-siege imposed in 1974 by President Maria Estela Peron, closed Congress, and replaced the President and the Supreme Court. Military officers assumed key positions in state and many local governments; trade union and political activities were severely restricted.

The authorities also spread a wide net against terrorism and groups considered subversive. Many persons disappeared without explanation, others were detained under the Executive's "state of siege" powers. While many known or suspected terrorists were apprehended, also caught in the net were many persons with no known or apparent connection with violence.

While serious human rights violations clearly still exist in Argentina, the trend in 1979 was one of improvement. The incidence of disappearances has declined sharply to low levels, and the number of prisoners held without charge under Executive detention has been substantially reduced. A presidential decree in April regularizing prison rules led to significant improvements in many prison facilities. The Government has promulgated controversial new trade union legislation and a political plan which sets forth guidelines for an eventual return to civilian rule. There is increasing evidence of judicial independence and, at the invitation of the Argentine Government, the Inter-American Human Rights Commission visited Argentina to investigate human rights abuses.

In early 1978, Government spokesmen declared the war on terrorism to have been won, and terrorist activities in Argentina have largely ceased. There are reports that small numbers of terrorists are being trained in third countries and are returning to Argentina. In three separate instances, terrorists attempted

to murder high officials in late 1979. The GOA has declared that the incidents of the past year are isolated events which do not signal a major resurgence of terrorism.

Argentine human rights groups are active and well organized, although their leadership has been subject to harassment and arrest.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Torture

There is evidence, primarily the statements of former detainees, that torture has been widely used by the security forces. Reportedly, it has been most frequent during the first days of interrogation and, according to numerous reports, includes severe physical and psychological abuse. There are also credible allegations that such practices continued in 1979, although apparently on a much-reduced scale parallel to the sharp decline in the number of new disappearances. The national Government has publicly stated that it has never authorized the use of torture.

b. Cruel, Inhuman or Degrading Treatment or Punishment

There are reports indicating that summary execution was a common practice during the years when large numbers of people were being detained by the security forces.

Before early 1979, conditions of imprisonment were poor, and medical services rudimentary. In April 1979, the government decreed uniform prison regulations which have led to a general improvement in prison conditions. There are some reports of continued abuse, but in general over-crowding has been reduced, medical care is better, and visits by family and legal counsel assured, as is the receipt of educational and writing material. The International Committee of the Red Cross maintains a regular program of prison visits.

c. Arbitrary Arrest and Imprisonment

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The Argentine Constitution, in Article 23, establishes the power of the Executive Branch to detain and hold prisoners under a "state of siege" (which has been in effect since 1974). The constitutional provisions are referred to as the National Executive Power ("PEN" for the Spanish words Poder Ejecutivo Nacional). The Executive has interpreted the Constitution, which places no explicit time limit on the duration of the PEN detention, as meaning it can hold prisoners under the PEN powers indefinitely. The Supreme Court, overruling a number of lower court decisions, has upheld this view, accepting broad and unsubstantiated charges of association with subversion as sufficient grounds for detention. Some PEN prisoners have been in jail without charge for several years -- including a significant number detained before 1976.

R (2) In 1979, a limited number of persons, probably less than 50 have disappeared under circumstances suggesting that they were taken by security forces; most of these disappearances occurred in the first half of the year. There have also been charges that persons are being held clandestinely by the security forces. While there is no evidence that large numbers of persons are thus being held, hopes have been nourished by the experience of some prisoners who "disappeared", were presumed to be dead, and later -- in some cases months or years later -- reappeared as officially acknowledged prisoners held under the "PEN". Reports of the alleged existence of clandestine camps have diminished in the last several months.

AG In September 1979 the Government approved a law shortening the period required for a court finding of presumptive death; it gives the Government as well as relatives the right to initiate proceedings. The law has alleviated some personal hardships in legal and financial matters; however, it has drawn sharp criticism from Argentine human rights organizations, relatives, and the European Parliament because they feared the Government would use the law to arbitrarily close the cases of the disappeared.

H (3) In 1979 the Government reduced the number of prisoners being held under the "PEN" from 3,400 to about 1,300, freeing some, bringing some to trial, expelling others and allowing still others to leave the country. Perhaps another 1,000 are serving sentences after trial and conviction on charges of terrorism, or "subversive" political activity and association. About 500 more are still in trial status.

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d. Denial of Fair Public Trial

The trial of those accused of subversion or terrorism may be held in civilian or military court. Civilian courts must follow the customary legal provisions regarding open and fair trials. Argentine law, however, requires written rather than oral testimony, so that "open" has a different meaning and different consequences from those in other legal systems. The civilian courts are by law independent, but the pressures accompanying trials involving subversion and terrorism make it difficult for the courts to maintain independence. Military tribunals, before which civilians may be tried, conduct their proceedings in secret. The defendants have access only to a military defense counsel who is usually not a lawyer. Defendants legally may be kept unaware of the evidence against them, in both military and civilian proceedings.

An adequate defense in cases of terrorism or subversion is also difficult to arrange because many attorneys are reluctant to assume cases of this nature for fear of harassment and reprisals. The New York City Bar Association, in its report on the visit of its mission of lawyers to Argentina, states that some lawyers disappeared or were detained as the result of defending unpopular clients and causes.

while the courts are constitutionally independent,

in 1976 the Junta replaced all members of the Supreme Court; it also removed a number of judges in lower courts, though most judges were retained. The courts have often upheld Government interpretations of laws and the Constitution. There have been instances, however, when the courts challenged Government actions and interpretations of its powers. The most celebrated of these cases revolved around detained newspaper publisher Jacobo Timerman -- who was ordered released by the Supreme Court. ~~[In an opinion upheld by the Junta.]~~

The Bar Association's report also highlights other problems associated with the lack of due process, but does state that "the ingredients for progress are present" in Argentina. In its report the Association cited the decline in abductions, the Government's commitment to expand procedural safeguards, and certain Supreme Court efforts to exert pressure in the direction of due process. The report recommends the removal of all detainees from executive detention, new trials for those convicted in military courts, an accounting for the disappeared, the termination of restrictions on the exercise of the right of option (see Section 3b) and the reestablishment of the rule of law and constitutional guarantees.

e. Invasion of the Home

The sanctity of the home is protected by Argentine law, custom and practice. The security forces, however, often violated such sanctity during their anti-terrorist and anti-subversive operations. Though the number of intrusions dropped off during 1979, information available suggests that violations of the home's sanctity in the form of raids and unauthorized searches remains a practice of these forces.

2. Government Policies Toward the Fulfillment of Such Vital Needs as Food, Shelter, Health Care and Education:

Argentina is one of the most advanced of the newly industrialized nations. Indices of Argentina's standard of living are high in comparison with averages for this group of countries. In 1978 per capita income in current dollars was \$2,331 and Argentine governments have -- within the economic constraints of recent years -- sought to confront social needs.

Unemployment in Argentina was only 1.8 percent in 1978; the distribution of income has, however, become less equal in recent years, in part as a result of government policies designed to reduce inflation and increase productivity. The Government has sought to open the economy to greater competition from abroad by reducing subsidies and tariff protection. It also is seeking to reduce the state's involvement in the economy. Inflation, however, is still high, running at about 160 percent for the year.

The tax system is progressively and tax collection is increasingly effective, though compliance remains a problem.

Education has been free and is widely available. The Government is now moving to require tuition for university level education. Illiteracy is virtually non-existent. Health care programs account for a major share of the Government's budget. Government, private, and trade union medical care programs make treatment available and affordable to most of the population.

There is a serious housing deficit in Argentina, much of it attributable to now defunct legislation that sustained rent control guidelines. Corruption in the public sector has declined significantly under the current government.

3. Respect for Civil and Political Liberties, Including:

a. Freedom of Speech, Religion, and Assembly

The Argentine Constitution provides for these freedoms, but under both civilian and military governments they have been circumscribed, most recently since the imposition of the "state of siege" in November 1974. The climate of violence and repression in Argentina in recent years has made many Argentines fearful of exercising freedom of speech.

Since 1976 the Government has intervened or confiscated a number of newspapers, [notably the reputable] La Opinion, edited by Jacobo Timerman. Journalists have been among the Argentines who "disappeared". Although the press is not subject to prior official censorship, Government-imposed guidelines result in self-censorship. Newspapers, however, actively criticize the Government on economic policy and have discussed political issues including, especially in recent months, human rights. Most foreign publications enter Argentina without censorship although occasionally some issues are censored. ~~[for political and sexual content.]~~

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The Argentine Constitution requires that the President be a member of the Catholic Church, and the majority of Argentines profess this faith. Other religions are required to register with the Government; all but one are permitted to function, and there are substantial minority religious groups, including a 450,000 member Jewish community. There are reports of anti-Semitic attitudes and behaviour among some elements in the security forces. The Government publicly condemns religious prejudice and maintains officially correct relations with the Jewish community. The Government has refused to permit the legal registration of the Jehovah's Witnesses who number approximately 30,000 in Argentina. Their properties and meeting places have been closed, and Witness children have been expelled from provincial school systems for refusing to salute the flag and sing the national anthem. Although the Supreme Court has now ruled in one case that primary school children should be allowed to return to school, the Witnesses still report instances at the local level where children are expelled from school for failure to respect national symbols.

Several human rights organizations, uniting activities and relatives of the disappeared, have played a significant role in Argentina over the past several years. Some leaders of these groups were harrassed and threatened during 1979, and a police raid on the headquarters of three of the organizations in August raised questions about the future. The police action was ordered by a federal judge. The files of the organizations seized during the raids have not been returned to them by December, the time this report was prepared. The "Mothers of the Plaza de Mayo" -- a group of relatives of disappeared persons -- who used to assemble in front of the Ministry of the Interior Plaza de Mayo, were forcibly prevented from using the Plaza late in 1978 and early 1979. Some of the "Mothers" themselves disappeared, including at least one during 1979.

b. Freedom of Movement Within the Country, Foreign Travel and Emigration

Argentines are free to travel without restriction within the country and abroad. They are free to emigrate. Furthermore, the Argentine Constitution permits persons held under executive detention (PEN) to choose self-exile. Exercise of this "right of option" was denied by the current government until 1978 and is still restricted through the use of an extensive screening process for all applicants. Many applications were denied during 1979, even though the applicants held documents authorizing them to enter other countries.

c. Freedom to Participate in the Political Process

After the March 1976 coup d'etat, the Government restricted or suspended most elements of the democratic political process. It has expressed its intention of moving the country back toward normal constitutional, democratic processes but has not established a timetable for reaching this goal. In December 1979, the Government promulgated a "political plan" containing broad guidelines and a commitment for an eventual return to civilian government. The plan promises implementing legislation in the second half of 1980 following a dialogue between military leaders and diverse civilian groups.

The right of assembly by political groups has been suspended since March of 1976. In practice, the Government has tolerated a low level of organized political activity by established political parties. Party leaders meet, spokesmen criticize a variety of government policies and actions, and proclamations are issued in the names of specific parties. Some informal meetings of party leaders have, however, been disrupted by the police, and the leaders detained for brief periods.

Argentine women enjoy equal juridical status with men. Women's rights are not a contentious issue in Argentina, as jobs and educational opportunities, along with support systems that facilitate the simultaneous handling of job and family, are readily available. Sex discrimination is prohibited in education, politics and employment. Tradition and social customs still dictate that a woman's primary responsibility is to husband and home and limits women's participation

in the work force.

The government has intervened, ⁱⁿ major trade unions, replacing high level union officials with military personnel. In 1976, and again in mid-1979, the Government detained a number of important labor leaders (almost all have since been released). Strikes have been prohibited. Strikes for wage increases have nevertheless occurred and nearly all have been settled without violence. On November 15, after more than three years of study, the government issued a new Trade Union law which sets the guidelines for Trade Union organization and lays the basis for lifting the restriction on union activities which have been in effect since the Armed Forces took power in 1976. It is not clear when the Government will lift the suspension of the right to strike and to bargain collectively. ~~From~~ The Government ~~is of the view~~ the new law is designed to introduce more grass roots democracy and freedom of association than existed in the past; labor leaders, on the other hand, see it as an emasculation of union power, as it proscribes all political activity and greatly restricts control over social funds. The procedural steps for the implementation of the new law will not be clarified until the Ministry of Labor issues detailed regulations, which may take up to another 120 days to be drafted. The ICFTU has condemned the law as a violation of union rights.

In September 1979, two major groups of union leaders merged to form the United Leadership of Argentine Workers (CUTA), a provisional committee which purports to speak in the name of the organized Argentine trade union movement in the absence of an officially functioning national central (CGT). Although enjoying no official standing or recognition by the Government, CUTA is active in making its views known. For example, CUTA opposes the recent trade union law on grounds that it restricts freedom of association and the right to organize as defined in conventions 87 and 98 of the International Labor Organization as ratified by the Argentine Government. It also opposes the new law's prohibition against political action by trade unions.

4. Government Attitude and Record Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights:

In late 1978, the Argentine Government invited the Inter-American Human Rights Commission to visit Argentina. That visit took place from September 6 to 20, 1979. The Commission met with President Videla and other high-level government, human rights, religious, political, and labor officials, took testimony from family members of disappeared persons and from former prisoners, and visited several prisons and detention centers. The Commission will submit its formal report to the OAS in 1980. Argentina has not signed the American Convention on Human Rights.

The International Committee of the Red Cross (ICRC) maintains an active program in Argentina, with government

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approval, on behalf of imprisoned persons. The ICRC also monitors prison conditions. The Government has usually received and facilitated the efforts of various groups and individuals seeking to investigate allegations of human rights abuse. Foreign observers have generally corroborated allegations that abuses have taken place.

Declassified Case: 17W 87067 Date: 06-06-2013

PROPOSAL:

To expand the general waiver authority of section 614(a) of the Foreign Assistance Act of 1961, as amended (the FAA) to permit the President to furnish assistance under both the FAA and the Arms Export Control Act (AECA) without regard to any provision of either the FAA or the AECA, or of any annual act authorizing or appropriating funds to carry out either of those acts.

EXPLANATION:

The present section 614(a) of the FAA authorizes the furnishing of assistance under the FAA without regard to the requirements of that act or of any act appropriating funds for assistance under the FAA if the President determines that the authorization of such assistance is "important to the security of the United States". This important general waiver authority does not, however, apply to activities under the AECA and does not permit the waiver of so-called "free-standing" limitations that may be contained in the annual economic and security assistance authorization acts. In addition, section 614(a) has been construed to apply only to limitations on the use of funds under the FAA and not to enable the waiver of substantive requirements, e.g. conditions of eligibility, set forth the FAA.

The resulting anomaly has operated to obstruct the President's ability to fashion appropriate responses to unforeseen emergencies. The proposal would resolve much of this problem by permitting section 614(a) to be used to waive a broad variety of restrictions under both the FAA and the AECA and under annual authorizing and appropriations acts.

LEGISLATIVE CHANGE: (Deletions struck; additions underscored)

Section 614(a) of the FAA:

(a) The President may authorize ~~in each fiscal year the use of funds made available for the~~ furnishing of assistance under this Act and the ~~furnishing of assistance under section 506 in a~~ total amount not to exceed \$250,000,000 and the ~~use of not to exceed \$100,000,000 for foreign~~ currencies accruing under this Act or any other ~~law and may make sales, extend credit, and issue~~ guaranties under the Arms Export Control Act, ~~without regard to the requirements any provision~~ of this Act, the Arms Export Control Act, any ~~law relating to receipts and credits accruing to~~ the United States, and any Act authorizing or ~~appropriating funds for use under this Act or~~ the Arms Export Control Act, or the Mutual De- ~~ense Assistance Control Act of 1951 (22-U.S.C.~~

~~1611-et-seq-}~~ in furtherance of any of the purposes of such Acts, when the President determines that such authorization to do so is important to the security of the United States. The authority of this subsection may not be used to authorize the use of more than \$250,000,000 of funds made available for use under this Act, or the use of more than \$100,000,000 of foreign currencies accruing under this Act or any other law, in any fiscal year. Not more than \$50,000,000 of the funds available under this subsection for use under this Act may be allocated to any one country in any fiscal year. ~~The limitation contained in the preceding sentence shall not apply to any~~ , unless such country which is a victim of active Communist or Communist-supported aggression. The authority of this section shall not be used to waive the limitations of transfers contained in section 610(a) of this Act.

P 800028-1917