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Summary of Argentine Law and Practice on Terrorism

I. Statutes and Regulations on Terrorism with Primary Applicability within Argentina

The intensity of political violence in Argentina in recent years (political assassinations now at a rate of one per day in a country with a population of 25 million) has put Argentina somewhere on that thin line which separates terrorist violence from civil war.

The two major urban guerrilla organizations in Argentina are the People's Revolutionary Army (Marxist-Leninist - "ERP") and the nominally "Peronist" Montoneros. The two groups are estimated to have approximately 2,500 combatants each, and they each attract the active support of some 12,000 sympathizers. Both groups have demonstrated a high degree of coordination in the kidnapping of business executives and commando raids on small towns and military garrisons. Occasionally, they engage in actions with combined forces.

The Government has issued various laws outlawing the guerrilla groups,<sup>1)</sup> however the most serious effort seems to be the Argentine Anti-Communist Alliance ("AAA") which was organized by the then Social Welfare Minister José Lopez Rega (Juan Peron's former secretary) in August 1974, which superseded the right-wing action squads which had begun to liquidate leftists after the assassination of CGT Secretary General Rucci, Sept. 25, 1973. The AAA engages in the same kind of terrorist activity as the guerrilla groups but without any resultant publicity and the tacit concurrence of the police.

On Jan. 25, 1974, the (Juan) Peronist-controlled Congress passed a controversial terrorism bill virtually doubling prison sentences for kidnappers,<sup>2)</sup> conspirators and armed extremists and turning over internal security functions to the federal police rather than local law enforcement officers. The legislation did not provide the death penalty for any crimes. Its provisions covering

1) Decree No. 1454 (1973) declared the ERP illegal. It also provided the prohibition on the press that the press may not publish the name ERP nor the name Montoneros. The former is always referred to as "the outlawed organization" and the latter as the "organization which went underground".  
 2) On Dec. 6, 1973, ESSO executive Samuelson was kidnapped by the ERP from a company restaurant. He was not released until April 29, 1974, reportedly for a 14.2 million dollar ransom. In 1973 there were reported at least 190 "political kidnappings".

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"illicit associations" and "incitement to violence" were defined so ambiguously as to stifle legitimate political dissent as well as left-wing terrorism.

The Argentine Congress acted only eight months after repealing similar measures that had been imposed by the previous regime, yet the Peronist law was even harsher than the previous decrees. Those measures had been denounced as repressive by Juan Peron and his followers before they assumed control of the government. Mr. Peron welcomed guerrilla support in his struggle in exile but repudiated all the guerrilla groups once in power.

On April 6, 1974, President Juan Peron requested that the Ministry of Defense produce a realistic plan to deal with the continuing terrorist problem, which was to include a psychological warfare program to eradicate the terrorist threat. Terrorist related crimes were made federal crimes subject to federal prosecution.

In late March 1974, Peron authorized the Argentine federal police and the Argentine intelligence to cooperate with Chilean intelligence in apprehending Chilean left-wing extremists in exile in Argentina. Similar arrangements had also been made with the security services of Bolivia, Uruguay and Brazil. This cooperation among security forces apparently includes permission for foreign officials to operate within Argentina, against their exiled nationals, using that country as a base for insurgent operations. This authority allegedly includes arrest of such exiles and transfer to the home country without recourse to Argentine legal procedures.

In Rome, April 1974, Livio Maitan, Secretary General of the Fourth International Conference stated that the ERP was seeking to coordinate its movements with the Chilean MIR, the Uruguayan MLN/Tupamaros and the Bolivian FLN, as well as organizations in Mexico and Venezuela.

In May 1974 a new intelligence commission was formed by Pres. Peron to centralize intelligence on terrorism. President Peron also authorized the formation of paramilitary groups to act extra legally against the terrorists, including utilization of abduction, interrogation and execution of terrorists.

In June 1974 President Peron expressed his displeasure with the lack of response to his orders to eliminate terrorism in Argentina and announced his intention to form a new security council. The Decree (NO. 1732) creating the security organization was issued June 6, 1974, and its composition and jurisdiction was the following:

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Article 1: "A Security Committee is created which will be headed by the President of the Nation and composed of the interior, defense and justice ministers and the commanding generals of the armed forces. The President of the nation will, in all cases, decide when there is reason to call the committee into session.

Article 2: It falls within the Security Committee's jurisdiction to:

- A. Manage the planning and control of national efforts for domestic security.
- B. Lead domestic security operations.
- C. Carry out any other task which the President of the nation may recommend."

This organization was suspended by June 28, 1974, primarily due to opposition from Lopez Rega, who reportedly had been supervising extra-legal paramilitary operations against the terrorists. Lacking a political base of his own, Lopez Rega would have lost strength under this latest innovation - which placed the counter-terrorist activities under the control of the security committee. Lopez Rega exercised major responsibility during Peron's illness, and Peron died shortly thereafter on July 1.

After Peron's death the isolated acts became more frequent and the climate of "war" developed.

On August 19, 1974, the first major effort was made to eradicate the terrorist threat in Argentina, with the ERP as central target. The entire 5th infantry brigade was mobilized in Tucuman (the major ERP stronghold) in search of terrorist bands. In August Lopez Rega's Argentine Anti-Fascist Alliance was "officially" organized under the supervision of Police Chief Alberto Villar.

In September the leader of the ("Peronist") Montoneros declared war on the Government (which was still "Peronist" under Juan Peron's widow Isabel as President). The Montoneros declared that the Government's repression had forced them to return to the strategy of armed resistance it followed when the movement was launched in 1970 (and which it had abandoned when Juan Peron took over). The Montoneros kidnapped Juan and Jorge Born on September 19 and did not release them until June 20, 1975, reportedly for a ransom of \$60 million. If this ransom figure is correct, it is equal to a third of Argentina's military budget.

On Sept. 27, 1974, a new anti-terrorist law was passed which stiffened sentences for subversive acts and in a number of ways made it easier for the government

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to move against suspected terrorists. The most important feature of the law was that it imposed blackouts of news coverage of terrorist acts. The news media was already prohibited from printing communiques of subversive groups or even from mentioning names of organizations. The new measures prohibited them from even reporting assassinations, kidnappings or other terrorist acts.

In October 1974, the Argentine Government organized a clandestine security committee within the Defense Ministry. The AAA carries out its actions on the basis of recommendations from this Committee. The Penal Code was also amended to afford the security forces with the necessary legal backing with which to operate. The Argentine security forces complained that they were hampered by legal red tape. The new Penal Code fills this gap.

On November 1, 1974, the Montoneros killed the police chief of Buenos Aires, Alberto Villar, one of the most heavily guarded public officials (also a head of the AAA), and his wife, in an explosion as they boarded a yacht.

On November 6, 1974, following the assassination of Villar. President Isabel Peron, pursuant to Article 23 of the Argentine Constitution, placed Argentina under a state of siege.

In Feb. 1975, presidential efforts began to bring the army into a major role in the counter-terrorist campaign. Army Commander General Anaya began a 5,000-man sweep against the ERP in Tucuman province. The extremists responded to the campaign by stepping up terrorist acts in Buenos Aires and in a move to attract international attention and embarrass the Government, the guerrilla group declared a 1,500 square mile area of Tucuman province a "liberated area" and have called for international protection in accordance with the Geneva Convention. By the end of May, the army claimed that it had killed, captured or wounded 350 members of the ERP since February, and some 30 guerrilla camps had been discovered.

On April 2, 1975, the executive branch amended the right of option to leave the country, provided for in Article 23 of the Constitution, for persons arrested and being held for disposition by the executive branch for the duration of the state of siege. Decree No. 807 establishes that requests to leave the country shall be submitted to the Ministry of the Interior which will have days to gather the background material. The decree

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establishes that if no decision has been made on the request within 60 working days from the term just mentioned, the request shall automatically be granted. The refusal of the request to leave the country can be appealed at the national and federal criminal and correctional courts at the federal capital or at federal courts located in the provinces or in Tierra del Fuego National Territory, the Antarctic and the South Atlantic islands.

In Dec. 1975, the ERP lost 55 members while attempting to seize Domingo Viejo Bueno arsenal battalion in Buenos Aires province. The wife and niece of Santucho (the leader of the ERP) were killed.

Presently, there is a bill in the Argentine Congress on the Law of the National Defense which, in 52 articles, establishes the creation of four organs which will have responsibility for anti-subversive operations: the Council of National Security and the Council of Internal Security (which will consist of commanding generals of the Armed Forces and Cabinet Ministers under the direction of the President), the Military Committee (which will be composed of the Minister of Defense and generals) and the National Center for Intelligence. This bill is still pending.

II. Statutes and Regulations Implementing Existing International Conventions on Terrorism

Argentina ratified both the Hague (Sept. 11, 1972 Washington, Sept. 21, 1972 London, Sept. 20, 1972 Moscow) and Montreal (Nov. 26, 1973) Conventions. It acceded to the Tokyo Convention July 23, 1971. It is not a party to the UN or the OAS Conventions. There is no implementing legislation available.

III. Texts of Judicial or Administrative Decisions Dealing With Individual Cases of Terrorism. Not available.

IV. Data on Prosecution Policy and Practice; Penalty Imposition and Execution; Clemency Ruling and Practice

Due to the prohibitions on the press (see I above) and many extra-legal activities there is not much public information on this subject. There is some knowledge about defense problems, however, from an ICJ report.

In March, 1975, Dr. Heleno Claudio Fragoso of Brazil went to Argentina at the request of the International Committee of Jurists to inquire into reports that defense lawyers are unable to carry on their practice in political cases. Dr. Fragoso received the full cooperation of the

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Argentine Ministries of Foreign Affairs and Justice and presented a 20-page report giving details of the violence of the AAA directed against defense lawyers of left-wing militants.

Dr. Fragoso lists 32 lawyers held in preventive detention under the state of siege at the time of his inquiry in March. The report gives details of 6 defense lawyers who have been murdered since November 1973, and another 26 defense lawyers who have been threatened with murder by the AAA. Eight others have left the country as a result of such threats. Sixteen lawyers are named whose offices or homes have been broken into and in some cases bombed. Threats have also been made against judges who are considered to have acted leniently in cases of subversion, and in one case an attempt was made on the life of a judge who had sentenced 13 policemen for illegal killings.

The result of these events has been that advocates are refusing to defend political prisoners. At Bahia Blanca, the Bar Association has decided to designate defense counsel by drawing lots. Those whose names were drawn had their homes bombed, and were subsequently arrested. The headquarters of the Bahia Blanca Bar was also bombed.

Dr. Fragoso's report also gives information about restrictions on freedom of the press and about other arrests under the state of siege, conditions of detention and cases of torture of political prisoners. He reports that cases of proven torture of political prisoners are common. He names 9 prisoners whose torture has been judicially proved, and cites many others where the allegations have been established by medical experts, including torture by drugs, electric shocks and long privation of water and food. He quotes a statement by former President Frondizi which was published in the press while Dr. Fragoso was in Buenos Aires: "It will not have escaped anyone's notice that torture is almost becoming an institution in our country. If on the one hand the terrible degradation of torture is not fought against, no attempt can be made at extirpating that other terrible degradation consisting of the death of innocent people in guerrilla warfare."

At the end of Dr. Fragoso's mission he saw the Minister of Justice. Dr. Antonio Benitez stated that judges were being intimidated by subversive organizations and often resorted to claiming lack of jurisdiction over the matter as a delaying tactic in order to avoid having to hand down a decision. Some judges, interviewed on this matter, stated that the legislation on procedure, as respects jurisdiction, is in chaos.

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Dr. Fragoso concludes: "As a result of these events, the lawyers who were working on political trials and who were still at large, began to refuse systematically this sort of case, alleging that they were given no protection. Political prisoners began to be defended by public defenders who only provided a totally ineffective pro forma defense."

V. Texts of Official Pronouncements on Terrorism

On Jan. 20, 1974, the ERP attacked an army garrison, which was the first extremist action against the army since Juan Peron returned to power. Peron gave a speech following this attack which was typical of the posture he was to maintain until he died.

With this speech Peron shifted gears on the problem of terrorism. In the uniform of a lieutenant general he identified himself with the armed forces, through his criticism of the handling of events in Buenos Aires province he forced the resignation of the left sympathizing governor of the province, and finally, in what clearly was an exhortation to the Argentine people, and most especially to Peronists and workers, to get behind him or otherwise, Peron said, he would not remain in office one day if it appeared that the people did not support him. It was now time to stop shouting "Peron" and to begin defending him, he concluded. There were no ambiguities, there was an air of finality, and Peron's patience appeared to be completely exhausted.

VI. Evaluation of the Government's Attitudes and Practices Toward Terrorism

It can be expected that President Isabel Peron's government will continue to be as hardline as those previously. It is difficult to predict whether her government will survive, but it is probable that a military takeover would only be more of the same.

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