

435. Action Memorandum From the Assistant Secretary of State for Inter-American Affairs (Motley) to Secretary of State Shultz¹

Washington, November 22, 1983

SUBJECT

Presidential Certification of Argentina

ISSUE FOR DECISION

When to certify to Congress that Argentina has made significant improvements in human rights and that certification is in our national interest, thereby making possible the resumption of arms sales. The issue is urgent since the Vice President is considering heading our delegation to the Argentine inauguration on December 10. A decision needs to be made on what steps we are to take before he arrives.

ESSENTIAL FACTORS

—*Certification Requirement*

The International Security and Development Cooperation Act of 1981 permits resumption of arms transfers and security assistance to Argentina only if the President certifies that Argentina has made significant human rights progress and that such action is in the national interest of the US. In making this determination, consideration must be given to Argentina's efforts to provide information on "disappeared" persons and to release political (PEN) prisoners.

—*Human Rights Progress*

Argentina has made very significant human rights progress. The October 30 elections were fair, open and honest. President-elect Alfonsín will take office on December 10. There have been no permanent

¹ Source: Department of State, Executive Secretariat, S/S Special Handling Restrictions Memos 1979–1983, Lot 96D262, ES Sensitive November 24–30 1983. Secret. Drafted by D. Jett (ARA/SC) on November 18; cleared by Kilday, Morley, Howard, P.M. Olson (L/ARA), R. Perry (P), R. Snyder (HA), J. Gravette (DOD/ISA), and F. Lee (ARA/RPP) and in substance by J. Gravette (DOD/ISA). Sent through Eagleburger. A stamped notation at the top of the memorandum indicates that Shultz saw it. A typewritten notation at the top of the memorandum reads: "Sec/Pres sent 11/28 advance LDX and via courier. CDJ." Motley sent the memorandum to Shultz under a November 22 covering note, indicating that "ARA and EUR have settled all date differences save one: the Certification and pre-briefing of the Argentines. EUR may address their thoughts in a separate memo to you. ARA believes we should put the issue behind us before the Vice President arrives for the inauguration." (Ibid.) The memorandum was also found attached to Document 436. For the November 28 memorandum from Shultz to Reagan, see Tab A to Document 438.

“disappearances” in the last three years. The “PEN” prisoners have been released or remanded to the courts for trial. The military government has made virtually no effort to provide a full accounting for the disappeared, but Alfonsín ran on a strong human rights platform and has pledged to address this problem.

—*Relations with the Argentine Military*

Certification will help to restore a constructive relationship with one of the most important institutions in Argentina. It will also undercut those in Argentina who argue for a closer relationship with the Soviets. The military will, at a minimum, still influence national security decisions in the future. Since the Argentines have replaced most of the arms lost during the war and given that Alfonsín is committed to slashing the military budget, major arms purchases requests are not expected in the near future. Certification is more important to the Argentine military as a symbolic gesture than as a grant of access to US sources of supply.

—*The Chile and UK Dimensions*

Certification, regardless of the timing, will have serious implications for our relations with Chile and the UK. British public opinion also views certification as synonymous with arms sales which would endanger British troops in the Falklands. The Pinochet regime will require careful handling, regardless of the timing of certification, in light of the difficult internal political situation in Chile and the traditional rivalry between the two countries. A similar certification law now prevents arms sales and military assistance to Chile. Unlike Argentina, however, Chile does not now meet the statutory criteria.

Prime Minister Margaret Thatcher has repeatedly expressed her concern about certification and arms sales, insisting that US arms for Argentina would be “the single most difficult thing for me.” Despite our careful explanations, in the minds of some British officials and much of the British public, certification is confused with arms sales creating an emotional political issue. Thatcher has requested the US to delay certification at least until the inauguration, and to not permit sales until the GOA declares an end to hostilities over the Falklands. In addition, with INF deployments underway in the UK, this is a time of increased sensitivity in US/UK relations. We need to be sensitive to the fact that in the post-Grenada atmosphere certification will present considerable political problems for Thatcher. We have explained to both Chile and the UK that as Argentina successfully completes the transition to an elected government, USG failure to certify would be a negative political act. The USG has promised HMG that we will stay in close touch on the timing and contents of any certification

announcement. We have agreed to consult on major arms requests but have not accepted the linkage of such arms sales with a GOA declaration on a formal end to hostilities.

—*Glenn/Symington Amendment Problem*

There are intelligence reports which indicate the GOA may have received nuclear reprocessing technology from an Italian firm. In addition Argentina announced on November 18 that it had constructed a gaseous diffusion nuclear enrichment facility. We have not reached a firm conclusion whether Argentina has acquired reprocessing or enrichment technology, materials or equipment from another country. If it were found to have done so, under the Glenn or Symington amendments economic and certain security assistance is prohibited. This would prevent an IMET program (budgeted at \$50,000 for FY-84), as well as credits for military sales. We have no plans for any other military or economic assistance covered by the Glenn or Symington amendments. Foreign Military Sales on a cash basis and approval of munitions control export licenses, after certification, are not precluded by either amendment.

—*Congressional Considerations*

Certification will not create significant controversy on the Hill. Most remaining Congressional opposition to certification was disarmed by the election of Alfonsin whose human rights credentials are first rate. There is a strongly held view by some on the House Foreign Affairs Committee that the "benefit" of certification should be granted to an elected government. Some members regard this issue as a test of credibility for the Administration's policy of support for democracy.

ANALYSIS OF OPTIONS

The question becomes what is the best timing for the three steps involved: (1) private contacts with HMG, the GOC, the GOA and Congress; (2) public announcement, and (3) certification itself.

Certification, significantly before or after the Alfonsin government is installed, poses several problems. Certification during the last days of the military government would antagonize the UK. It might also be interpreted in Argentina as a move by the US to bolster the prestige of the military at a time when the Alfonsin government sees as its top priority bringing the military under control. In addition, key congressmen have indicated their opposition to certification before the transition to democracy has culminated in the installation of an elected government.

We could put off certification until some time after the inauguration. We could even attempt to extract commitments from Alfonsin on

human rights, the Beagle Channel, and the Falklands. But Alfonsín would resent any such delay, believing that Argentina deserves certification because of the dramatic changes in that country. Any attempt to use certification as a bargaining tool would be viewed as a political act and become an issue with the new government where none exists now. Even Argentina's severest critics admit that certification should not be delayed beyond inauguration, and that Argentina has met the human rights criteria set forth in the law.

We conclude, therefore, that a scenario culminating in announcement of the President's decision to certify Argentina in the week before the inauguration with actual certification, effective upon installation of the new government, is the compromise that best serves our interests. It:

- puts the issue behind us before the Vice President goes to Argentina and avoids having it cloud his trip;

- emphasizes our commitment to democracy;

- has the most positive effect on our relations with the new government;

- minimizes opposition from the Hill and human rights groups;

- constitutes a gesture to the outgoing government which promised and delivered a return to democracy, and

- will provide time for the necessary consultations.

Announcement of our decision to certify before the inauguration is not without its costs, however, especially in terms of our relationship with the UK.

—*Next Steps*

A proposed scenario for diplomatic and congressional discussions is outlined at Tab B.² It calls for careful consultations with all parties and a special emissary and Presidential letter to Chile. In addition, as a first step we suggest that the President immediately send a letter to Mrs. Thatcher to inform her of the decision.³

Recommendation:

That you sign the memorandum to the President at Tab A,⁴ which calls for immediate contact with HMG, the remaining private contacts December 6, and public announcement December 7.

² Attached but not printed.

³ Attached but not printed at Tab C is a draft letter from Reagan to Thatcher, informing her of the U.S. decision. For the letter as sent, see Tab B to Document 437.

⁴ Attached but not printed. For the memorandum as approved, see Tab A to Document 437.