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Buenos Aires, February 13, 1947

No. 1850

Subject: Argentine Performance to Date Under its Inter-American Commitments in the Field of Enemy Aliens Who Committed Acts Against the State or the United Nations

The Honorable  
The Secretary of State,  
Washington, D. C.

Sir:

I have the honor to refer to top secret telegram no. 134 of February 7, 4 p.m., 1947, in which are reviewed briefly the performance of the Argentine in meeting its inter-American commitments in the fields of Axis schools, institutions, and propaganda; enemy property; and enemy aliens who have committed acts against the Argentine or the United Nations. In this telegram, I made reference to the action taken by the Argentine in the field of Axis schools, institutions, and propaganda which the Department and this Embassy have recognized as satisfactory and adequate; and also to the action in the field of enemy property which has been recognized by the Department and this Embassy as adequate and meeting the obligations of the Argentine under its inter-American commitments.

Further, in this telegram, I made brief reference to the situation with regard to enemy aliens. For full background in this connection, I would respectfully refer to the despatches of this Embassy reporting specifically on action with respect to enemy aliens and the problems of the Argentine Government in connection therewith.

For the further information of the Department, and for its convenience, I am transmitting herewith a summary of action which has been taken by the Argentine Government to date, and of that action which is pending with reference to enemy aliens against whom there is adequate evidence for action by the Argentine Government. It will be noted that the appended summary and enclosures include the names of those listed in the decree of November 18, 1946, of the Argentine Government which has also been fully reported to the Department. Since the issuance of that decree, 13 of the aliens listed therein have been deported on an Argentine vessel and should be arriving at a German port shortly if they are not already there.

I have, since I arrived at this post and took charge, been in constant contact with the highest officials of the

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Argentine Government with respect to these matters of compliance and the appropriate officers of the Embassy have been in constant touch with the appropriate officers of the Argentine Government specifically occupied with these matters. I have to report that the Argentine Government considers that the persons listed in the decree of November 18, 1946, cover the only other known Axis agents in the Argentine against whom there is adequate evidence to take any action in the way of deportation or otherwise. The British Embassy and this Embassy which have collaborated closely during recent years in this matter are in accord, as the Department has been informed, that this decree covers all of the aliens not already deported, or whose cases are not closed for one reason or another, in connection with whom adequate information is available for the Argentine Government to take action against them.

As the Department will have noted from my telegram no. 134 of February 7, 4 p.m., 1947, the British Ambassador in Buenos Aires, under instructions of his Government, has already informed the Argentine Foreign Minister that the British Government considers that in the matter of property, aliens, schools and institutions, the Argentine Government has taken, and is continuing to take under its own initiative, all appropriate steps and it is my understanding that the British Government intends to take no further action with regard to this matter, considering its interest in this situation closed. The British Ambassador has also informed me that the British Ambassador in Washington informed the Department some time ago during a call on Under Secretary Acheson of this attitude of the British Government.

Entirely independent of any conclusions reached by the British Government in this matter, I may say that it is my opinion and that of the officers of this Embassy who have closely followed this matter of compliance, that in the matter of enemy aliens who have committed acts against the state or the United Nations, the Argentine Government has since the present constitutional government took office in June 1946 showed good faith in the carrying through of its obligations in this respect. It has labored under serious disadvantages and obstacles in dealing with enemy aliens, as the courts have continued to issue writs of habeas corpus in favor of many of these Axis agents whom the Government has been endeavoring to deport when acts against the state had been established by the Argentine Government and deportation decrees issued. As this situation has been fully covered in previous despatches to the Department I desire only to make reference thereto and mention that just a few days ago a federal court again declared valid writs of habeas corpus for certain aliens who are on the Pampa en route to Germany. The court even went so far as to direct the Minister of Marine to instruct the captain of the Pampa that these aliens would have to be returned to Argentine territory and not disembarked in Germany. The Foreign Minister

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has informed me that the Argentine Government finds itself under the necessity of not taking into account these writs of habeas corpus on the ground that the action of the courts does not take into account primary obligations of the Argentine Government.

In the conversations which I have had with the President and the Foreign Minister since my return, they have again made it clear that the Argentine Government is determined to effect the deportation of all aliens against whom acts against the Argentine or the United Nations are established. The Argentine Government is of the opinion that the list on the November 18th decree covers all of the remaining persons in the Argentine against whom deportation action is justified. It has given the most careful consideration to the evidence presented by the British and by ourselves and had undertaken independent investigations and considers, therefore, that with the action which it has already taken in deporting 13 of these whom it has been possible to apprehend, and with the steps which it is taking to locate and deport the remainder listed in this decree, it will have loyally fulfilled its obligations with respect to enemy aliens.

During my recent stay in Washington, I made reference to the higher officers of the Department of the extraordinary steps which the Argentine Government has been taking to locate the individuals listed in the November 18, 1946, decree. Since my return, the President and Foreign Minister have informed me of developments in the situation and of the really extraordinary measures which are being taken in various parts of the country to locate the individuals listed in the November 18, 1946, decree whom it was not possible to detain and deport for departure on the Pampa. I am informed that a certain number have already been apprehended but the names and place of detention of these are being kept secret for the time being in order to prevent writs of habeas corpus being issued by the courts before they can be placed on board a vessel and sent to Germany. The President and the Foreign Minister have told me that they expect to get all of the remaining persons listed in the decree who are still in Argentine territory and that all possible steps have been taken to prevent departure from the Argentine to neighboring countries.

I had a further conversation with the President and the Foreign Minister on February 10, and their preoccupation over this matter is very great. In spite of many occupations, this matter of enemy aliens which remains pending in the matter of compliance is receiving their daily attention. The President and the Foreign Minister are personally following the extraordinary measures which are being taken to apprehend these persons. Concerning the desire of the Argentine Government to place its relationships with the United States on a completely normal basis

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there is no doubt. The Government has taken and is taking these energetic measures with respect to enemy agents as it is the desire of the Government to comply in the most complete measure with its obligations under the Act of México City and to normalize its relations with us and the other American republics.

I am not able to state any more than the Argentine Government is in a position to state today how many of the persons listed in the November 18th decree it will be able to locate and deport. It is probable that within the next few weeks the Argentine Government will send out those agents whom it has already in custody even though it may not have been able to locate and detain all of them. It does hope, however, that when this second group is deported to Germany our Government will recognize the good faith that the Argentine Government <sup>has</sup> in this matter and the extraordinary steps which it has been and is taking; and that our Government will no longer delay its recognition of the action of the Argentine Government with regard to aliens who have committed acts against the state and the United Nations. It hopes that recognizing this good faith and action already taken by the Argentine Government, our Government will issue a statement referring back to the statement of former Secretary Byrnes of April 8, 1946, and supplementing the Department's release of January 25, 1947, and thus clear up the whole matter of compliance; taking it for granted as the Argentine Government believes the circumstances fully warrant, that so far as these aliens not already arrested or deported are concerned, the Argentine Government will proceed loyally with the further steps to apprehend them until the last one has been arrested and deported or it is definitely established that he is outside the jurisdiction of the Argentine Government.

The November 18, 1946, decree as has already been stated really covered all persons against whom definite action had not yet been taken and concerning whom the British Embassy and this Embassy and the Argentine Government had any adequate information on the basis of which action could be taken by the Argentine Government. It seems to me, therefore, that with the departure of the agents to be included in the second group who are now being detained as rapidly as they can be located, we should be in a position to proceed with the liquidation of the whole matter; I am of the opinion that the performance of the Argentine Government has been such that we are amply justified in recognizing its good faith in this matter, and it is, therefore, my considered opinion that failure to do so will infinitely harm our interests and those of inter-American collaboration, and that failure to do so will make all of our problems and relationships more difficult. In this matter of enemy aliens the question of good faith is of as much importance if not greater than actual performance because under the very best of circumstances and with the most energetic effort some of these people against whom deportation decrees have been issued may elude arrest and detention indefinitely in the Argentine

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as they would in our country or in others of the American republics. The heads of the diplomatic missions of the other American republics in the Argentine have taken a keen interest in this matter of Argentine compliance with respect to property, schools, and institutions, and aliens. They are familiar with the steps which the Argentine Government has taken and is taking. They may not be familiar with the details to the degree that this Embassy is informed concerning them. I believe that we can take it for granted that these heads of diplomatic missions of the other American countries have not failed to inform their Government of the performance of the Argentine Government and I do not know of one who does not consider that the Argentine Government has shown complete good faith in this matter and has proceeded unusually effectively in view of all the difficulties and obstacles to be overcome.

No one could feel more strongly than I do about these matters of compliance; no one could have pressed these matters more strongly, more consistently, and more persistently to the Argentine Government than I have done. I have done this not only because of the instructions to this Embassy but also because of the strong convictions which I have with regard to these matters. It is my duty, however, to state, in all justice to the Argentine authorities and to our own interests, that so far as the Argentine Government is concerned since the present constitutional government came into office in June 1946 it has shown consistently all good faith and extraordinary activity in carrying through its obligations in all fields of compliance which at times have seemed insuperable, especially when they have come from the courts.

It is the hope of the Embassy shortly to be able to forward to the Department the list of those included in the second group sent to Germany for delivery to our authorities. There is reason to believe that the Argentine Government already has in custody and is almost daily taking into custody further persons mentioned in the list of 45 on page 2 of the appended summary. I have reason to believe that they have already been able to locate and arrest and detain Harnisch.

To prolong the existing situation, I believe, will not be helpful in any respect and will serve no useful purpose. In view of the performance of the Argentine Government in the three fields of compliance and in view of the complete good faith that the present constitutional government has shown, we would, I believe, not only be lacking in understanding but in justice and equity if we do not shortly proceed with the liquidation of the situation. We have adequate evidence of the good faith of the Argentine Government because of its acts and deeds in the three fields and to fail to recognize that good

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faith and performance for which there is now every adequate basis, would, I believe, not be helpful in our relationships with the Argentine, or in our relationships with the other American states which are following this whole matter with such keen interest.

Respectfully yours,

George S. Messersmith

Enclosures:

1. Summary of Argentine action to date.
2. List of persons involved. (German agents)
3. List of persons involved. (Japanese agents)

To the Department in quintuplicate  
Copy, Chief, Division of River Plate Affairs  
File No.: 820.02  
GSMessersmith:clp

A true copy of  
the signed original.  
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