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Congressional Correspondence

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Dear Mr. Chairman:

On September 27, the State Department accepted the congressional conditions on the disbursement of counternarcotics-related assistance to Peru. Since that date, the Government of Peru and its military forces have taken a number of steps to improve their human rights and counternarcotics performance. In cooperation with the Peruvian government, the Administration has also initiated several projects to enhance the capabilities of the public prosecutors and to set up a national registry of detainees.

The House Foreign Affairs Committee required that military assistance for Peru be tranch ed in the same manner as non-project Economic Support Funds. We plan to disburse 40 percent of the FY 1991 FMF to the Government of Peru in recognition of the progress that it has made in meeting the congressional conditions for human rights performance. The remainder of the FMF will be disbursed in second and third tranches only when the Peruvian government has taken additional steps to improve its counternarcotics and human rights performance.

The conditions imposed by the House Foreign Affairs Committee, the Senate Foreign Relations Committee, the House Subcommittee on Foreign Operations, and the Senate Subcommittee on Foreign Operations have been fulfilled in the following manner:

Military Assistance through Civilian Authorities

President Fujimori has given us a firm commitment that the military assistance will be provided directly to the Peruvian military services by him.

The Honorable
David Obey,
Chairman, Subcommittee on Foreign Operations,
Committee on Appropriations,
House of Representatives.

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Access by the ICRC to Military Detention Centers

The International Committee of the Red Cross received permission to visit all military detention facilities on September 28. The ICRC has since been visiting military and police facilities throughout Peru on a regular basis. (The ICRC has thirty-five Swiss delegates in Peru, its largest operation in Latin America.) Between October 28 and December 8, ICRC delegates made 57 visits to 54 military installations, always without hindrance. They also made 96 visits to 66 police stations outside of Lima between September 18 and November 8. The ICRC representative encountered minor difficulties in only one or two cases. All visits were made without prior notification, and prisoners were interviewed privately, in accordance with ICRC guidelines.

Access by Local Prosecutors to Detention Centers

The prosecutors of the Public Ministry, an autonomous entity headed by the Attorney General, have had access by law to military facilities in the emergency zones since September 3. (Prosecutors have always had access to all non-military detention centers in Peru.) As a practical matter, this understaffed and underequipped ministry follows a policy of responding only to specific requests, generally from family members, to investigate identified cases. We know of no case where a prosecutor has sought to visit a military or police facility, and not gained access.

In recognition of the critical role the prosecutors play in investigating human rights abuses, the Agency for International Development (AID), through the International Criminal Investigative Training Assistance Program (ICITAP) of the Department of Justice, is assisting the Ministry as well as the courts and the police in improving investigative techniques. We are providing \$500,000 in FY 91 funds for this project. This program will enable the Public Ministry to play a more active role in the protection of human rights.

National Registry of Detainees

Acting on its own initiative and with its own resources, the Government of Peru has made considerable progress in developing a registry of detainees. There is now in place a system to track military prisoners. The registry in its present form has been in existence since August. Every day, outlying military installations call the Joint Chiefs of Staff in Lima to provide an update on detainees. This information is used to compile a daily, national list of prisoners held in military installations. A delegate from the International

Committee of the Red Cross reviews this list every morning in the office of the Undersecretary for Military Operations in the Ministry of Defense. The ICRC then follows up on specific cases, or double checks the presence of detainees in outlying areas in its unannounced visits to detention facilities.

While the military portion of the list is further along, initial steps have also been taken toward developing a police registry. The ICRC reviews every day the list of detainees at DIRCOTE, the national police anti-terrorism center where most individuals accused of terrorism are incarcerated. The public prosecutors also have access to the list of detainees at this facility. The DIRCOTE list shall be one of the first pieces of information to be entered into the national registry as soon as the Public Ministry, with our help, can get it started.

The compilation of a complete national listing of detainees, including those held by the police for terrorism and other security crimes, will require about six months for an initial start up and about twelve months for full implementation. We are providing \$355,000 to support the development of a national registry of detainees by providing communications equipment and other support to prosecutors and the police. AID is on the verge of signing with the Ministry of the Interior and the Public Ministry a memorandum of understanding covering USG assistance in setting up this national registry. By this summer, AID will provide funding for a central computer within the office of the Special Human Rights prosecutor in Lima to integrate the two separate registries, from the police and from the Ministry of Defense. When the project is completed, all security detainees in Peru will be in a computer data base under the control of the civilian Public Ministry.

Additional computer links will not only aid the establishment of a national registry but also enhance the ability of prosecutors in rural areas to follow up on cases. We will provide a radio communications link for the Ministry in Lima, a computer system to automate all case referrals, and an expanded radio communications network which would connect all the prosecutors in the emergency zones to the Public Ministry in Lima. This would affect roughly 60 provincial prosecutors. Technical assistance for this effort is being provided by ILANUD, the UN's regional Crime Prevention and Criminal Justice Institute, which has broad experience with Latin justice and penal systems. The ILANUD co-director who will collaborate closely on the project is a former Supreme Court Justice from Uruguay.

We believe the Congressional request for publication of the registry will have been met by providing full access to the

list by the ICRC and by the public prosecutors to check on the presence of detainees. Both the ICRC and ILANUD, organizations which have assisted in the creation of human rights registries in other countries, have advised against the printing of the list of detainees in the national media. Widespread distribution of names stigmatizes individuals before trial. Protection of detainees will be assured by placing primary control of the registry in the hands of the Public Ministry, which has statutory authority for prosecuting human rights abuses as well as institutional independence.

While much more must be done to improve respect for human rights in Peru, we believe changes over the last six months have already given practical content to President Fujimori's commitment to human rights. Both the special Human Rights Prosecutor and the Coordinadora for Human Rights have reported a decline in disappearances for the second half of 1991. (Based on statistics provided by the Coordinadora, there was an average of 9 disappearances a month from August-November compared to 36 a month for January-July.)

Specific Human Rights Cases

You also raised with us a number of individual human rights cases. There has been significant progress on two of these cases.

Santa Barbara/Huancavelica Murder

In response to the July 1991 massacre of farmers at Santa Barbara/Huancavelica, a military investigation has brought charges against a lieutenant and five non-commissioned officers. The lieutenant and five non-commissioned officers are variously accused of homicide, theft, and sexual assault, as well as the military crimes of abuse of authority and negligence. The prosecutor is seeking a sentence of fifteen years. When a military court tries criminal cases, normal penal code sentences are applied. There is no maximum three-year sentence in this case as has been alleged by some observers.

Clodomiro Chavez, the Special Prosecutor for Human Rights, has assured us that there was no intimidation of the public prosecutor involved in the case. Reports to the contrary, we are told, are false.

Callao Cases

There have also been indictments in the case of three young men killed in June after security officials were videotaped

forcing them into a car trunk. There have been groups of policemen arrested or sanctioned in this case: those accused of the murders, their direct commanding officers, and those in charge, such as the Callao Chief of Police.

Five policemen now in detention have been dismissed from the police force and have been charged in the civil courts with homicide, crimes against due process, and perjury. In the case of medical student Rodriguez Pighi, there are murder charges pending against three policemen. In the case of the two Paquiyauri brothers, murder charges are pending against two other policemen.

Two of their commanding officers have been charged with homicide, and three others have been charged with perjury. According to the public prosecutor involved in the case, these individuals are only conditionally released and remain under orders to appear before the court. They are normally restricted to their residences or assigned to the police hospital. They are not allowed to leave their residences or the police hospital without the permission of the Director of Personnel for the Police.

The defendants sought to have this case tried in a military court; that request was denied by the Supreme Court. There is now no pending ruling for the Supreme Court to make.

Narcotics Performance

Although there are no specific counter-narcotics conditions attached to the first tranche of military assistance, the Government of Peru is increasing its efforts to disrupt trafficking operations. Peruvian Air Force interceptors, with U.S. radar assistance, have interdicted five narcotics aircraft flying through Peruvian airspace en route to Colombia. There is evidence that these air interdiction efforts have had a deterrent effect on narcotics aircraft traffic as well as a degree of disruption of trafficking activities in Peru and Colombia. The first of several planned raids on major trafficking centers was conducted by the Peruvian national police at Palma Pampa in November. These operations benefitted from Peruvian army logistical support--a trend that we hope will continue. The police also have plans to deny key airstrips to drug traffickers in the Upper Huallaga Valley. Denial of these airstrips is an essential condition for the second tranche of military assistance.

Our counternarcotics assistance to Peru is sorely needed to reduce cocaine shipments to the United States. The Government of Peru has been engaged in interdiction efforts solely with

its own resources. Our first tranche of military assistance will contain civic action equipment to assist in rehabilitating a road with other infrastructure projects, spare parts for the few flyable aircraft (now used in the aerial interdiction effort), and training for the police. This first tranche of FMF will also include ground support equipment for the Peruvian Air Force, helicopter spare parts, and funds for the training and equipping of one marine company.

Sincerely,

Janet G. Mullins
Assistant Secretary
Legislative Affairs