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Minister for Foreign Affairs
Dr. Carlos Ruckauf
Ministry for Foreign Affairs
Esmeralda 1212
1003 Buenos Aires
Argentina

22 April 2003

Dear Minister,

Amnesty International is writing to you in order to once again present its concern about the validity of the Full Stop Law, Law No. 23.492 and the Due Obedience Law, Law No. 23.521, of 12 December 1986 and of 4 June 1987 respectively, and their incompatibility with international law.

Amnesty International is enclosing for your information and relevant action the document *Argentina: The Laws of Full Stop and Due Obedience and International Law*, AI Index AMR 13/04/2003 of April 2003. These laws have for many years obstructed the legitimate search for truth and justice by thousands of relatives and victims of torture, extrajudicial executions and forced "disappearances".

The document sets out the Argentine Republic's international obligations as regards the trial and punishment of those responsible for gross violations of human rights committed during the period of military government (1976-1983) and the incompatibility of these laws with international law. These laws also undermine the obligations undertaken by the Argentine Republic during the years of civil government with the ratification of international instruments such as the International Covenant on Civil and Political Rights, the American Convention on Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Inter-American Convention to Prevent and Punish Torture and the Inter-American Convention on Forced Disappearance of Persons.

It is also important to point out that article 75 (22) of the Argentine National Constitution establishes that "treaties [...] are hierarchically superior to laws" and that according to the same article "they have constitutional hierarchy". In the same way, the jurisprudence developed by human rights protection bodies is in agreement in qualifying torture, extrajudicial executions and forced disappearance as gross violations of human rights. The enclosed document provides information on the jurisprudence developed by human rights protection bodies which have repeatedly established the obligation of States to try and punish the perpetrators of serious human rights violations and the incompatibility of amnesties for human rights violators with international law.

In the enclosed document Amnesty International records the decisions by Argentine judges and courts from the last three years that have declared these laws null and unconstitutional, "for being contrary to the national constitution" as the Federal Judge Claudio Bonadio established in September 2002, and as Federal Judge Carlos Skidelsky ruled, more recently, in March 2003: "these laws leave the deaths of thousands of Argentine citizens and foreigners over a specific period of time - from 1976 to 1983 - without any punishment whatsoever [...] In other words, they allow abnormal inequality to be enshrined in law". It is important to point out that as the Attorney-General, Nicolás Becerra emphasized in a declaration from 29 August 2002, confirming rulings made by federal judges with regard to the invalidity and unconstitutionality of the Full Stop and Due Obedience Laws, that "...the

duty not to impede the investigation and punishment of gross human rights violations, like all obligations derived from international treaties and other sources of international law, is incumbent not only on the legislative authority but on all the State authorities and therefore also obliges the Public Prosecutor's Office and the Judiciary not to ratify the actions of other authorities who may be infringing them".

Amnesty International has favourably received the decision of the National Chamber of Appeals for Federal Criminal and Correctional Matters for Buenos Aires of November 2001, unanimously upholding the legal ruling by Federal Judge Gabriel Cavallo from March of the same year, in the case of the disappearance of José Liborio Poblete Roa, his wife and their daughter. The organization would like to remind the Minister of this important ruling of the Chamber of Appeals that confirmed the international obligations of the Argentine State and established that "invalidating laws 23,492 and 23,521 and declaring them to be unconstitutional is not a choice. It is an obligation".

Amnesty International considers it to be of vital importance that the Argentine State fulfils its international obligations with regards to grave human rights violations committed during the period of military government and that these laws, which have obstructed the search for truth and justice by thousand of Argentines, be made null and void and left without legal effect. The organs of the judiciary certainly have the obligation within their realm of jurisdiction to investigate, bring to justice and punish the perpetrators of serious human rights violations and consequently courts should not only refrain from enforcing amnesty laws which are incompatible with international State obligations and in breach of internationally-protected human rights but should also declare them to be completely null and void and take steps to investigate, bring to justice and punish the perpetrators of gross violations of human rights.

Amnesty International would like to thank the Minister for his attention to this letter and the enclosed document and would like to inform him that a copy is being sent to his Excellency the President of the Argentine Republic, Dr. Eduardo Duhalde, to the Minister of National Defence, the Minister of Justice, Security and Human Rights, the Minister of the Interior and the Attorney General.

The organization would also like to inform you that it has decided to make the text of this letter public.

Yours sincerely,

Susan Lee
Directora
Programa Regional para América