

Message Text

CONFIDENTIAL

PAGE 01 LA PAZ 02914 072056Z

64

ACTION ARA-20

INFO OCT-01 ISO-00 OPIC-12 L-03 AID-20 EB-11 COME-00 INT-08

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FM AMEMBASSY LA PAZ
TO SECSTATE WASHDC 3014

C O N F I D E N T I A L LA PAZ 2914

E.O. 11652: GDS

TAGS: BDIS BL

SUBJECT: IMPC/EMBOSA PROBLEM

REF: STATE 083632

FROM AMBASSADOR

1. IN ACCORDANCE WITH INSTRUCTIONS IN REFTEL, I RAISED WITH MINISTER MINES LEMA ON MAY 6 THE SUGGESTION THAT GOB ARRANGE FOR ARBITRATION, THIRD PARTY PROCEEDINGS, NEGOTIATION, OR OTHER ACCEPTABLE MEANS TO SETTLE DIFFERENCES BETWEEN FRANK TYE AND THE GOB ABOUT IMPC/EMBOSA. I POINTED OUT TO MINISTER LEMA THAT USG DOES NOT TAKE ANY POSITION ON THE MERITS OF THE CASE. I NOTED THAT USG DOES NOT WISH TO BECOME DIRECTLY INVOLVED IN PROCEEDINGS BETWEEN THE PARTIES. I TOLD THE MINISTER THAT TYE HAD PRESENTED HIS ARGUMENTS TO THE DEPARTMENT WHICH HAD MADE A REVIEW OF THE CASE TO DETERMINE HOW WE COULD HELP RESOLVE THE PROBLEM. I STRESSED THAT THE DEPARTMENT BELIEVES THAT THE APPROACH WE ARE SUGGESTING SEEMS TO US TO OFFER BEST PROSPECT FOR SOLUTION.

2. MINISTER LEMA RESPONDED THAT BOLIVIAN AUTHORITIES, PRIOR TO EMBOSA LIQUIDATION, HAD CONSIDERED ARBITRATION PURSUANT TO ARTICLE 41 OF THE STATUTES BUT IDEA WAS DISCARDED AS NOT FEASIBLE WAY OF SETTLING DISAGREEMENT WITH TYE. COMPANY WAS THEN LIQUIDATED IN ACCORDANCE WITH STATUTES. GOB BELIEVES LIQUIDATION AND ALL

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 LA PAZ 02914 072056Z

MATTERS PERTAINING THERETO WERE CORRECTLY HANDLED, LEGALLY AND

TECHNICALLY. FURTHERMORE, GOB BELIEVES FRANK TYE ADEQUATELY COMPENSATED BY PRESENT BOLIVIAN REGIME BY CASH PAYMENT US\$1.4 MILLION FOR IMPC EXPROPRIATION. IN VIEW OF FOREGOING, MINISTER SAID IT WOULD NOT BE POLITICALLY ACCEPTABLE NOR LEGALLY APPROPRIATE FOR GOB TO ORGANIZE NOW AN ARBITRATION OR OTHER PROCEEDINGS FOR MATTER WHICH IT FEELS HAS BEEN FAIRLY AND CORRECTLY HANDLED. MINISTER THEN SAID GOB IS ABOUT TO PRESENT "DENUNCIA" AGAINST TYE FOR US\$400,000 WHICH GOB ASSERTS TYE OWES COMIBOL FOR OPERATING COSTS IN THE PERIOD OF MARCH TO NOVEMBER 1973. MINISTER LEMA ALSO SAID THAT HE HAD HEARD THROUGH FRIENDS THAT FRANK TYE HAD SAID HE WOULD TAKE CERTAIN LEGAL ACTIONS IN US AGAINST BOLIVIA. MINISTER OBSERVED THAT FOR GOB TO ENTER INTO SOME FORM OF ARBITRATION AFTER REPORTED THREATS OF ACTION AGAINST GOB WOULD BE IMPOSSIBLE TO EXPLAIN SATISFACTORILY IN BOLIVIA. HE ALSO SAID THAT HE ALSO BELIEVES THAT IT WOULD NOT BE IN US INTEREST FOR THE GOB TO ARRANGE FOR ARBITRATION BECAUSE MOST BOLIVIANS WOULD ASSUME THAT PROCEEDINGS OPENED UNDER PRESSURE BY USG AND WOULD REACT NEGATIVELY. THE MINISTER CONCLUDED BY STATING THAT SINCE IT GENERALLY BELIEVED THAT TYE ONLY WISHES TO EXTRACT MORE MONEY FROM BOLIVIA AND SINCE GOVERNMENT ABOUT TO PRESENT CLAIM AGAINST HIM, ARBITRATION NOT ACCEPTABLE TO GOB.

3. I CHOSE TO RAISE MATTER WITH MINISTER OF MINES BECAUSE HE IS THE RESPONSIBLE OFFICIAL IN THE MINING SECTOR AND TO HAVE GONE AROUND HIM ON SUCH A SENSITIVE MATTER WOULD HAVE BEEN DETRIMENTAL TO OUR OTHER INTERESTS IN THE MINING FIELD. FURTHERMORE, RECENT RUMORS ARE THAT LEMA MIGHT BECOME MINISTER OF ENERGY AND HYDRO-CARBONS, A SECTOR OF INCREASING IMPORTANCE TO US. ALSO I DO NOT BELIEVE THAT LEMA HOLDS DIFFERENT VIEWS ABOUT TYE AND IMPC THAN, ACCORDING TO REPORTS, ARE HELD BY PRESIDENT BANZER, EX-MANAGER OF COMIBOL GENERAL MIRANDA, EX-PRESIDENT EMBOSA BOARD MANUEL MERCADO (NOW PRESIDENT OF CENTRAL BANK), MINISTER FINANCE QUIROGA, AND EX-MINISTER SECRETARY GENERAL OF PRESIDENCY GUIDO VALLE.

4. IN PRELIMINARY PLEASANTRIES WITH THE MINISTER, I MENTIONED THAT I PLANNED TRIP TO US SOON AND HOPED TO HAVE CONSULTATIONS IN DEPARTMENT OF STATE. AS I WAS DEPARTING FROM HIS OFFICE, MINISTER LEMA SUGGESTED THAT I TAKE ADVANTAGE OF CONSULTATIONS TO EXPLAIN TO SENIOR US OFFICIALS THE REALITIES OF THE PRESENT

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 LA PAZ 02914 072056Z

BOLIVIAN SITUATION WHICH MAKE ARBITRATION OF THIS MATTER UN-ACCEPTABLE. HE NOTED THAT BANZER REGIME RECORD OF AMIACABLE RESOLUTION OF INVESTMENT DISPUTES SHOULD BE BORNE IN MIND.

5. I DID NOT REQUEST, NOR DID THE MINISTER OFFER, ANY INFORMATION ABOUT QUID PRO QUOS IN FORM OF TAX CREDIT RELATING GIBRALTAR HUARI-HUARI VENTURE WITH IMPC/EMBOSA CLAIM. I WOULD LIKETO NOTE THOUGH THAT IN PARAGRAPH 4, THE FYI SECTION, OF REFTEL, IT IS

STATED THAT "TYE INDICATED HE MIGHT BE WILLING TO DROP IMPC/EMBOSA CLAIM IF GOB WOULD NOT EXERCISE ITS STOCK OPTION ON GIBRALTAR HUARI-HUARI MINING VENTURE WHICH EXPIRED MARCH 1." WE HAVE COPY OF TYE'S LETTER DATED JANUARY 21, 1974, ADDRESSED TO MARSHALL WRIGHT, THEN ASSISTANT SECRETARY OF STATE OF CONGRESSIONAL RELATIONS, IN WHICH TYE WROTE "WE WOULD BE WILLING TO ACQUIESCE IN SUCH (COMIBOL) OWNERSHIP AND RELINQUISH OUR CLAIM WITH RESPECT THERETO IF THE BOLIVIAN GOVERNMENT WILL RELINQUISH ITS OPTION, GRANTED TO IT IN THE NATIONALIZATION SETTLEMENT, TO ACQUIRE 51 PERCENT OF GIBRALTAR HUARI-HUARI MINE CORPORATION." SINCE GOB HAS DROPPED ITS OPTION, I HAD THOUGHT TYE WOULD, ACCORDING TO HIS OWN LETTER, DROP EMBOSA CLAIM.

6. I HOPE THAT THERE WILL BE AN OPPORTUNITY TO DISCUSS THIS MATTER FURTHER IN WASHINGTON DURING MY CONSULTATION.
STEDMAN

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