

## Message Text

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ACTION ARA-20

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TAGS: BDIS BL

SUBJ: IMPC/EMBOSA PROBLEM

REF: (A) LA PAZ 3396; (B) STATE 83632

BEGIN

SUMMARY: AT REQUEST OF MINCOORDINATION, CHARGE AND ADCM CALLED ON MINMINING ON JUNE 4, PRESENTING POINTS PREVIOUSLY SUBMITTED TO MINCOORDINATPON CONTAINED REF (B) AND REQUESTED ARBITRATION OR SIMILAR PROCEEDING. AFTER REVIEWING CASE MINMINING STATED THAT THERE WAS NO BASIS FOR ANY CONCEIVABLE CLAIM OR DEMAND TYE MIGHT HAVE IN MIND OR FOR ARBITRATION. END SUMMARY.

1. CHARGE AND ADCM CALLED ON MINMINES LEMA JUNE 4 AT REQUEST OF MINCOORDINATION CAPRILES. CHARGE EXPLAINED TO MINMINES THAT FOLLOWING AMBASSADOR'S CALL ON MINMINES, EMBASSY HAD BEEN INSTRUCTED RAISE MATTER WITH MINISTER CAPRILES (SEE REF A) WHO, AFTER CONSULTING AND CONSIDERING FOR FEW DAYS HAD INFORMED CHARGE THAT HE SHOULD SEEK MEETING WITH LEMA. CHARGE AGAIN PRESENTED POINTS CONTAINED REF (B) AS HE HAD DONE IN MEETING WITH CAPRILES.

2. LEMA RESPONDED BY RHETORICALLY ASKING WHAT TYE WAS CLAIMING AND WHAT HE WANTED. LEMA SAID HE HAD BEEN PAID MORE THAN HE SHOULD HAVE BEEN PAID SO HE COULD NOT BE SEEKING MORE MONEY. SAID MINISTRY OF MINES INITIALLY RECOMMENDED PAYMENT OF ONLY \$US 700,000 AS VALUE OF EQUIPMENT, ETC., BUT, IN VIEW OF NEWNESS AND FRA-

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GILITY OF BANZER GOVERNMENT AND "PRESSURE" FROM JOHN CONNOLLY ON

PRESIDENT BANZER, MORE LIBERAL INTER-MINISTERIAL ASSESSMENT ESTABLISHED ABOUT \$US 1,350,000 AS VALUE WHICH WAS SUBSEQUENTLY INCREASED (PRESUMABLY BY FINAL CABINET ACTION) TO ABOUT \$US 1,450,000. TYE HAD THEN SIGNED QUIT CLAIM.

3. MINISTER SAID TYE COULD NOT WANT RESTORATION OF MIXED ENTERPRISE BECAUSE NEITHER COMIBOL NOR GOB WANTED TO HAVE ANYTHING TO DO WITH TYE. MINISTER SAID TYE WAS BADLY BEHAVED (MAL CRIADO) INDIVIDUAL WHO SO INCENSED SUBSECRETARY IN MINISTRY OF MINES THAT TYE WAS SUBSEQUENTLY FORBIDDEN ENTRY TO THAT OFFICE.

4. LEMA SAID THERE WAS NO POINT TO ARBITRATION BECAUSE THERE WAS NOTHING FOR TYE TO GAIN OUT OF IT. BESIDES, HE SAID, ARBITRATION WAS POLITICALLY DANGEROUS FOR HIM AS MINISTER, FOR GOB AND FOR U.S. --BOLIVIAN RELATIONS. SAID MIXED COMPANY HAD BEEN LEGALLY DISSOLVED AFTER COMIBOL PAID ABOUT \$US 23,000. IN REGISTRATION TAXES TYE SHOULD HAVE PAID TO ESTABLISH MIXED COMPANY IN FIRST PLACE. TYE FAILED TO PRESENT HIMSELF AT ANY OF EMBOSA BOARD MEETINGS PRECEDING DISSOLUTION. ADCM ASKED WHETHER TYE'S LAWYER REQUESTED ARBITRATION BEFORE DISSOLUTION. MINISTER SAID HE DID NOT KNOW, BUT THAT AS MAJORITY STOCKHOLDER COMIBOL HAD RIGHT TO DISSOLVE COMPANY ON PERFORMANCE GROUNDS SPECIFIED IN CONTRACT.

MINISTER NOTED THAT TYE FAILED BEAR HIS SHARE OPERATING LOSSES RUNNING ABOUT \$US 70,000 PER MONTH AND THAT HIS MINISTRY HAD PREPARED \$US 270,000 CLAIM AGAINST TYE WHICH INCLUDED TYE'S SHARE OF REGISTRATION TAXES AND OPERATING LOSSES.

5. CHARGE SAID ARBITRATION NEED NOT BE PUBLIC AFFAIR BUT COULD SERVE USEFUL PURPOSE OF CLEARING AIR. ASKED ADCM TO GIVE HIS IMPRESSION OF WHAT TYE CLAIMED OR WANTED. ADCM SAID HE UNDERSTOOD TYE HAD WANTED MINISTRY OF DEFENSE TO NOT EXERCISE ITS OPTION TO TAKE 51 PERCENT OF SHARES IN GIBRALTAR HUARI-HUARI IN RETURN FOR ASSUMPTION OF VARIOUS TYE DEBTS. SAID TYE MIGHT ALSO WANT SOME SORT OF TAX BREAK IN CONNECTION WITH HIS NEW ARRANGEMENT WITH NEW JERSEY ZINC. FINALLY, ALTHOUGH TYE HAD NOT CLEARLY PRESSED FOR IT, HE MIGHT WANT 45 PERCENT SHARE (BASED ON HIS SHARE OF EMBOSA STOCK) OF ANY NET ASSETS.

6. MINISTER SAID EMBOSA CHARTER CLEARLY STATES COMIBOL OWNS ALL EQUIPMENT OF FIRM SO NOTHING TO SHARE. TYE WAS TO HAVE 45 PERCENT SHARE OF EQUITY IN RETURN FOR CONTRIBUTING FINANCING. HIS PATENTED PROCESS WAS TO BECOME COMIBOL'S AFTER ONE YEAR.

7. MINISTER THEN SAID IMPC CONTRACT HAD BAD ODER FROM VERY BEGINNING. CONTRACT HAD BEEN APPROVED DURING BARRIENTOS REGIME WHEN LIMITED OFFICIAL USE

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PARLIAMENT WAS FUNCTIONING. TYE HAD GOTTEN CONTRACT APPROVED WITH HELP OF INTERNAL AND EXTERNAL ALLIES. TORRES REGIME HAD NATIONALIZED EXTERPRISE AND BANZER REGIME HAD MADE GENEROUS SETTLEMENT. TYE HAD BEEN UNABLE TO MEET REQUIREMENTS OF EMBOSA CHARTER, NOT BECAUSE MANAGEMENT CONTRACT WAS NOT SIGNED, BUT BECAUSE TYE WAS IN POOR FINANCIAL CONDITION. IBRD HAD BEEN READY AT ONE TIME TO LEND UP TO \$US 9 MILLION TO EMBOSA BUT TYE COULD NOT PUT UP HIS PORTION OF FINANCING. TYE, IN FACT, OWED \$US 1 MILLION TO PHILLIP

BROS. (\$US 500,000 OF WHICH WAS REALLY OWED THROUGH PHILLIP BROS. TO MITSUBISHI) AND HE STILL OWED SOME AMOUNT TO COMIGRA, ORIGINAL OWNERS OF HUARI-HUARI. REPAYMENT OF TYE'S \$US 200,000 DEBT TO BANCO MINERO HAD BEEN POSTPONED FOR TWO YEARS BY MINDEFENSE OPTION CONTRACT. THIS POSTPONEMENT WAS CONTRARY TO LAW, INJURED BANCO MINERO, AND WAS ANOTHER GENEROUS FEATURE OF SETTLEMENT WITH TYE WHEN HE WAS PAID \$US 1,450,000. FINALLY, TYE HAD ARRANGED WITH NEW JERSEY ZINC TO PAY DEBT TO BANCO MINERO FEW DAYS BEFORE EX-PIRATION OF OPTION CONTRACT. MINISTER LEMA CLAIMED HE DID NOT KNOW DETAILS OF TYE'S ARRANGEMENTS WITH NEW JERSEY ZINC OR LATTER'S EFFORTS FORM MIXED COMPANY WITH PRIVATE BOLIVIAN COMPANIES TO EXPLOIT HUARI-HUARI MINE. LEMA WRYLY COMMENTED THAT OF \$US 200,000 TYE BORROWED FROM BANCO MINERO ONLY \$US 30,000 TO \$US 40,000 HAD BEEN INVESTED IN DEVELOPMENT OF HUARI-HUARI WHICH WAS FAR RICHER MINE THAN MINA MATILDE.

8. MINISTER NOTED THAT BOLIVIAN LAW REQUIRED THAT MINES OR MINERAL DEPOSITS NOT BEING EXPLOITED OR WITHOUT DEVELOPMENT PLANS MUST REVERT TO GOVERNMENT.

9. ADCM STATED THAT BESIDES CLEARING AIR, ARBITRATION MIGHT SERVE TO AVOID ACTION MINISTER LEMA HAD MENTIONED IN EARLIER MEETING WHICH TYE HAD THREATENED, I.E., TO BLOCKADE OR HOLD BOLIVIAN TIN SHIP-MENT TO TEXAS SMELTER. MINISTER RESPONDED THAT TYE WAS NO BETTER REGARDED IN U.S. THAN BOLIVIA DUE TO HIS ASSOCIATION WITH FIRMS BROUGHT INTO BANKRUPTCY PROCEEDINGS. MINISTER SAID TYE WAS AN ADVENTURER WHO HAD USED CONTACTS TO ACCOMPLISH HIS PURPOSES.

10. MINISTER CONCLUDED DISCUSSION BY REPEATING THAT HE SAW NO BASIS FOR ARBITRATION OR SIMILAR PROCEEDINGS.

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