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E.O. 12958, as amended, Sect 3.5

NSC/Soubers to Smith 09/06/2002

By AK Date 02/13/07

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

January 4, 1972

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National Security Decision Memorandum 147

TO:           The Secretary of State  
              The Secretary of Defense  
              The Secretary of Commerce

SUBJECT:     Fisheries Dispute with Ecuador, Peru and Chile

The President has read Under Secretary Irwin's memorandum of December 24 on the fisheries dispute with Ecuador, Peru and Chile. He has decided that we should continue our efforts to achieve a modus vivendi which would end our fisheries confrontation with the West Coast Latin American states, while at the same time protecting our juridical and negotiating position for the coming Law of the Sea Conference. He has, therefore, approved submission of the amendment to the Fishermen's Protective Act proposed in Under Secretary Irwin's memorandum, in accordance with the scenario set forth below.

The President has directed that a high-level team to be headed by a representative of the Department of State, and to include a representative of the Department of Defense, return to Ecuador to present a position as follows:

- (1) The President is seriously concerned, as he has been for some time, that harmonious relations with Ecuador and Peru have been seriously hampered by our differences over fisheries.
- (2) We understand how strongly the Ecuadoreans feel. They in turn must understand that our position involves vital national security interests which we cannot jeopardize.
- (3) The choice before us is either to seek a mutually acceptable compromise, with which we both can live, or to expect one party to yield completely. We do not believe the latter offers any prospect of success.

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(4) The U. S. is prepared to make substantial concessions to meet Ecuador's prime requirements. It is our hope that this forthcoming approach will be reciprocated, permitting us to renew our traditional warm relations. Specifically, we are prepared to accept the Foreign Minister's suggestion that we submit legislation to Congress providing for reimbursement to U. S. fishermen for purchase of licenses under protest in advance where it is determined there is danger of seizures. We will propose that such legislation be retroactive to January 1, 1972.

(5) In return, we will need the following specific quid pro quo:

(a) A public statement of Ecuadorean support for the freedom of transit through international straits position supported by the United States. This statement need not be specifically linked with resolution of the fisheries dispute (although we will privately tell Congressmen and others that this link exists). The statement should be made within the next four months, the precise form and date to be at Ecuadorean discretion.

(b) Public Ecuadorean support for freedom of navigation and over-flight beyond 12 miles. The qualifications about linking and timing in sub-paragraph (a) above apply here as well.

(c) No seizures during the interim period before the new legislation takes effect (as well, of course, as afterwards). In return for private assurances on this point, we would lift the FMS suspension.

(6) If a satisfactory modus vivendi on this basis can be agreed, we would expect reasonable assurances of no further seizures after our legislation enters into effect. On this basis, the President will be prepared to lift the Foreign Military Sales sanctions. At that point, or earlier if the Ecuadorean Government will simultaneously put into effect a provisional licensing system or otherwise give reasonable assurances against seizures in the interim period (sub-paragraph 5(c)), the U. S. Government will be prepared to send a State/Defense team immediately to consider Ecuador's military equipment requirements.

In presenting our position, the President considers sub-paragraph 5(a) is essential. Sub-paragraphs 5(b) and (c) are very important and should only be surrendered if and when it becomes clear that the negotiations cannot otherwise succeed.

The President desires that the negotiating team leave as soon as possible. The team is authorized to speak with appropriate GOE officials including the Minister of Defense. The precise modalities for these talks will be left to the team's discretion.

The President also wishes the Peruvian Government to be fully informed of the team's discussions with the Ecuadoreans. The Peruvians should be informed that the President would be prepared at any time to make the same arrangements for lifting the FMS suspension to Peru as he is prepared to make with Ecuador.

  
Henry A. Kissinger