

ACTION

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9:45 p. m., Thursday - April 3, 1969

MEMORANDUM FOR THE PRESIDENT

FROM: Henry A. Kissinger

SUBJECT: Peru - Application of Hickenlooper Amendment

The Irwin discussions have not produced any significant movement by the Peruvian Government on the IPC issue. The Peruvians have rejected our proposal for impartial international adjudication or arbitration processes. They have pressed for local judicial procedures which we cannot accept as impartial. They have not accepted our proposal to enter into good faith government-to-government negotiations on the substance of compensation. The Peruvians have left open the possibility of an administrative process, but they will not give any assurance that the outcome of the process would result in net compensation to IPC.

In retrospect, it is apparent that State lacked a clear program for the Irwin negotiations. We have played along with the Peruvians to see if the talks might produce a proposal which could be considered an "appropriate step" to defer application of the Hickenlooper Amendment. I have tried for weeks to get the State Department to define what they mean by "appropriate steps." I am attaching at Tab A a memorandum I sent to you last week which discusses the problem in some detail.

The Issue

We are now at the point where a decision must be made whether to

- apply Hickenlooper on April 9 because we do not have any real "appropriate step," or
- defer (temporarily) application of Hickenlooper on the basis of a "fig leaf," while putting an economic squeeze on Peru to induce a real settlement.

*NSC 195  
Crawley Files  
for the President  
Peru - IPC -  
Hickenlooper Amendment  
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There are two general problems we face in applying the Hickenlooper Amendment:

- (1) We have not made adequate political preparation for application of Hickenlooper. All indications are that application of sanctions would produce widespread anti-U.S. reaction in Latin America. Other governments are likely to be drawn into the conflict on Peru's side. Velasco could mobilize the hemisphere against us.
- (2) Application of Hickenlooper would tempt other Latin American governments, which are narrowly based on the power of the oligarchies or the military (e. g., Brazil) to imitate Velasco's anti-U.S., Nasser-type role. They would have an opportunity to become popular by taking a strong stand against U.S. "economic aggression" or imperialism.

Our objective, therefore, is to find a way to avoid becoming isolated ourselves while bringing pressure to bear on Peru for a satisfactory settlement. Thus, for our own interests, my feeling is that we ought to avoid applying the sanctions if we have any credible basis for doing so.

#### Options for Deferring Hickenlooper

There are two possible options which could constitute a credible fig leaf for deferring Hickenlooper:

- an administrative process
- a direct government-to-government negotiation process.

Irwin recommends the administrative process to buy time (until August 6 when administrative processes must be complete) for economic and political pressures to build up which might lead Velasco to back down or others to bring about changes which produce a favorable settlement.

[REDACTED] The precise nature of the administrative procedures to be followed is not clear, but a brief description of the concept is at Tab B.

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The State Department does not believe the administrative process would be an acceptable fig leaf because

- we are likely to be stuck with an unsatisfactory result at the end of the process,
- it will require heavy persuasion to get IPC to submit itself to such a process.

State believes that direct government-to-government negotiations on the substance of compensation would be more credible as an "appropriate step." The problem here is that the Peruvian Government has given no indication that it would accept a good faith negotiation. Velasco has implied that he would view this process as a way to "educate" the U.S. Government. The Peruvians have said that their negotiating team would not have any authority to settle anything. However, State feels a way out may be found by using an ad referendum procedure; i. e., let the negotiators refer the matter back to Lima.

My own feeling is that we face the following problems:

- (a) simply not applying Hickenlooper would depreciate its effectiveness as a threat throughout Latin America.
- (b) to defer applying it with too transparent a "fig leaf" makes us look weak and indecisive.

I am therefore inclined to believe that we should face the issue head-on. As April 9 approaches, we might announce that

- The six-month deadline of Hickenlooper did not really run because of special conditions such as the U.S. elections. Actual negotiations have been taking place for only two and a half weeks.
- There has not been sufficient time to test the good faith of the Velasco regime.
- The U.S. Government is therefore continuing the Irwin discussions as an "appropriate step" and extending the application of the Hickenlooper amendment for 45 days. In the meantime, there would be intensive efforts to find an equitable solution.

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This would buy time for us to

- create a political framework to protect our position in the hemisphere by taking a conciliatory public stance (Frank Shakespeare, for instance, has suggested we offer to place the issue before a panel of five Latin American jurists), and
- maximize pressure on Peru to induce a satisfactory settlement. We have the capability of putting a tight economic squeeze on Peru even without Hickenlooper sanctions. A list of possible low-visibility actions we could take is at Tab C.

RECOMMENDATIONS

1. That you defer application of the Hickenlooper Amendment on April 9 but maintain other economic pressures on Peru to induce a subsequent settlement.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

2. That you authorize me to tell Irwin that you have received his recommendation and agree in principle.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

Attachments

Tab A - My memorandum of March 29 on where we stand on Peru.

Tab B - Description of Peruvian administrative procedures concept.

Tab C - List of possible U. S. actions

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Possible Economic Pressures

US Could Apply to Peru While Hickenlooper Sanctions are Deferred

If application of the Hickenlooper Amendment is deferred, the Peruvian economy would be subjected to about the same level of economic pressures it is now experiencing without any further U.S. actions. There would be a continual slow-down of economic activity, increasing unemployment, price increases, and balance of payments pressures. However, there are several specific actions we could take to maximize the economic pressures on Peru. We could:

- provide no new AID loans, military assistance grants or sales, or PL 480;
- delay Export-Import Bank financing for planned large-scale mining investments. (This would be a clear cautionary signal to other potential foreign investors.);
- encourage delay in any new U.S. private investment;
- discourage renewal of U.S. commercial bank credits;
- continue to stall loans from the IBRD and IDB (ordinary capital);
- stall, or if necessary veto, IDB loans from the Fund for Special Operations.