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Telegram From the Embassy in Chile to the Department of State

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1. Chargé and Weintraub transmitted points reftel to President Frei today. Frei received us alone for about one hour.

2. Main point Frei made in response to our presentation was that alternatives he believes he faces are not between doing nothing or taking some action in respect to copper companies, but rather extent to which action regarding copper can be delimited in its severity. Frei said for past four years he has regularly defended Chileanization arrangements, and it is this type of accord (a Kennecott type) that he would like to reach with Anaconda. The alternative he sees is expropriation.

3. Frei stated that sentiment in Congress for outright expropriation included, as one might expect, Socialists and Communists, but also the bulk of the Nationals and probably the Radicals. (Frei stated that PDC Deputy and Senator-elect Irureta received call from Patricio Phillips, a National Deputy, which implied that Jorge Alessandri supported Irureta's earlier proposal to nationalize Anaconda holdings, especially Chuquicamata.) Frei also argued that the bulk of his own party, not only those who recently left PDC, but also who have remained, support nationalization. His conclusion, therefore, was that unless he submitted or had in hand an alternative proposal, he would be faced with nationalization legislation within a few days after Congress convened, and that he could not control this process if this were to be the scenario. It was this kind of irrevocable process which he hoped to avoid.

4. Frei said he had the impression from his conversation with them that Parkinson and Brinkerhof of Anaconda appreciated this political pressure. He also said he had the impression from Brinkerhof that if the issue were merely some alteration of the tax arrangement, such as the GOC has proposed, this would not present insuperable problems. Frei said, however, he is convinced that only altering tax arrangements no longer sufficient and that he needs some general acceptance from Anaconda of the Chileanization scheme similar to that with Kennecott, under which GOC would own percentage of Anaconda mines, to head off outright expropriation and nationalization. Frei said he has asked for a response from Anaconda by May 21, at latest.

5. With regard to present tax arrangements (Santiago 1891) Frei emphasized that agreements were signed on the basis of copper at 29 cents per pound, even though the price had gone up to about 36 cents by the time agreements were concluded. He noted that company tax positions would be no different than now under his proposed formula at a price fairly close to 45 cents per pound (assuming cost of production would be about 30 cents per pound). He therefore did not believe that what was being proposed was confiscatory. If prices dropped back to 40–45 cents per pound, surtax would not apply. Frei recognized that there was some perverse incentive to increase production costs as long as surtax was based on some

percentage of these costs of production, but he said formula was sought which would be equitable to companies and government alike, both when prices were high and when they dropped. Frei also made clear that his precise tax proposal not unchangeable, but the best they were able to come up with to meet the situation. He said they would consider any better formula if one could be found, but time was of the essence. Frei said that he did not believe that this tax aspect alone frightened Anaconda but rather it was the combination of taxation plus equity changes.

6. Frei also gave some categoric assurances:

A. He said that as long as he is President, no matter what the Congress might vote, he would never consent to any retroactivity.

B. Any compensation would fall within internationally accepted standards, and he emphasized that Chilean law was in confromity with these. He explicitly made the point that an acceptable standard was not thirty year bonds (a point he probably made because of rumors floating in Santiago that the copper companies should be recompensed in the same way that land owners are being compensated under agrarian reform, i. e. with as little as 1 percent down and bonds for as long as 30 years).

C. He wishes the entire matter to proceed in such a way as to not damage US-Chilean relations. He said his preferred formula is a negotiated Chileanization. But even if the issue came to expropriation, which he hoped it would not, he understands that the US would accept this as long as compensation is just and adequate, and if other internationally accepted standards are followed, and he said he absolutely intends to follow these in the event it came to expropriation.

7. Frei told us that he has ordered that Finance Minister Zaldivar be included in negotiations with the copper companies along with Minister of Mines Hales since he knew that copper companies had a certain resistance to Hales. He said that if a third person were needed, he would probably nominate Carlos Massad, President of the Central Bank.

8. Frei commented that the worst thing he thought the companies could do, in response to the GOC’s proposal was to cease the expansion program, since he was sure this would inevitably lead to expropriation which he hoped to avoid. When he was reminded that the companies might not wish to continue the program when faced by an expropriation threat by the Congress, he said this was the reason he wished to have something in hand before the Congress beat him to the draw.

9. Comment: Frei’s perception of reaction of the Anaconda officials may or may not be accurate. The reaction of the local Anaconda representative, Richard Sims, in private conversation with Chargé tended to be negative on all points, although he did not speak for Parkinson or Brinkerhof. With respect to Kennecott, Frei said that what was involved in the surtax, based on present prices, might involve only an additional $5 million from the company. The picture we have from the local Kennecott representative, Robert Haldeman, is less reassuring, at least as it might affect the operations of El Teniente. These are points which we will follow up on.

10. Our reaction is that we are well down an irreversible path to some major changes in the relations between Anaconda and Chile which could involve as a minimum Anaconda’s tax structure, as a maximum complete expropriation, and possibly something between the two.