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Briefing Memorandum From the Acting Assistant Secretary of State for Inter-American Affairs (Crimmins) to the Deputy Under Secretary of State for Economic Affairs (Samuels)

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Possible Meeting with Kennecott

The Kennecott Copper Corporation is calling on various U.S. Government officials in connection with its filing of an OPIC claim and its stated desire to enlist official U.S. Government support to obtain just compensation for its properties in Chile. Kennecott President Frank Milliken and two other Kennecott officials (Michaelson and McCreary) called on Assistant Secretary Meyer on July 23 and left with him a letter addressed to the Secretary. A copy of the letter and of the telegram reporting the meeting are attached at Tabs A and B respectively. Milliken also left with us a copy of a 64-page legal brief prepared by Covington and Burling which concludes that “Any award by Chile . . . of less than $176 million would fall below the accepted international legal standard of compensation for expropriation.”

Kennecott’s Situation

In 1915 Kennecott bought 96% and subsequently all of the Braden Copper Company, owners of the El Teniente mine. On December 3, 1964, the Chilean Government reached agreement with Kennecott to purchase 51% of the Braden Copper Company for $80 million. As part of the agreement the Chilean Government permitted the physical assets of El Teniente to be revalued to their market value as determined by an appraisal carried out by an American appraisal company. The revaluation raised the net worth from approximately $75 million to approximately $288 million. The agreement provided that the successor company would increase capacity from 180,000 tons to 250,000 tons per year. Kennecott agreed to re-lend to El Teniente the payments on the notes representing the purchase price and to assist in obtaining bank loans of approximately $100 million. The management of the firm was delegated to Kennecott for 15 years and various tax and convertibility advantages were given by the Chilean Government.

The Allende government’s copper-nationalization constitutional amendment became law on July 16, 1971, and shortly thereafter the Chilean Government took over complete management of the affected mines. Teniente manager Robert Haldeman, under vituperative attack from the government-leaning press, had left the country shortly before.

U.S. Government Position

The U.S. Government has from the outset made clear to the new Chilean Government the importance it attaches to equitable treatment of U.S. investment. We share many, at least, of Kennecott’s reservations about the terms of the

constitutional amendment, and we are deeply concerned that equitable treatment, especially for Anaconda and Kennecott, may not be provided. The Chilean Government is fully aware of the intensity of our concern in this regard, which we are continuing to convey in every appropriate way. Our desire from the beginning has been to help bring about an atmosphere conducive to positive and serious negotiations as free as possible of rancor and emotional charges of exploitation and economic aggression. We remain (and I recommend that you convey this to Kennecott) dedicated to this goal and desirous of maintaining our continuing contact with company officials both here and in Santiago. I also recommend that you attempt to draw Kennecott out on what specifically it hopes to obtain from us in the way of support.