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E.O. 12958, as amended, Sect 3.5

Nsc/Soubers to Smith 09/06/2002

By Date 02/13/07

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

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October 8, 1971

National Security Decision Memorandum 136

TO: The Secretary of State
 The Secretary of the Treasury

SUBJECT: Policy in Cases of Expropriation

The President has reviewed the response to NSSM 131 and the views expressed during the Senior Review Group meeting on August 4, 1971, concerning U. S. policy with regard to expropriations by foreign governments of property owned by U. S. citizens. The President has decided that:

- In each case of an expropriation of a significant U. S. interest there will be the presumption that the U. S. will suspend new bilateral economic benefits to the expropriating country unless and until it is determined that the country is taking reasonable steps to provide compensation or that there are major factors which require continuance of all or part of these benefits. The presumption will not apply to humanitarian assistance, PL-480 humanitarian food aid, quasi-commercial CCC and Export-Import Bank operations, and small scale technical assistance within FY 1971 country funding levels.
- A mechanism should be established under the Council for International Economic Policy to coordinate interagency policies on expropriation questions and recommend to the President appropriate measures for dealing with specific problems.
- The U. S. should take the lead in promoting the use of international mechanisms for settling investment disputes. The Secretary of the Treasury in coordination with the Secretary of State should work to strengthen and promote greater use of the International Center for the Settlement of Investment Disputes and increase efforts to bring about early establishment of the International Investment Insurance Agency.

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- The Secretary of State in coordination with the Secretary of the Treasury should initiate consultations with other developed countries to explore the possibilities for improving coordination of positions and developing a common strategy on expropriation questions, particularly in the international agencies.
- Further measures should be taken by the Departments of State, Treasury and Commerce to improve communication with the business community to ensure that it is aware of the actions taken by the Administration to assist business and to facilitate the exchange of views on this subject.

The President also has directed that the Assistant to the President for International Economic Affairs, in coordination with the Secretaries of State and Treasury, draft for his consideration a public statement announcing the foregoing policy on expropriation.

A separate NSDM will be issued conveying the President's decision covering the position which the United States will take in multilateral institutions in cases of expropriation.


Henry A. Kissinger

cc: The Secretary of Defense
The Secretary of Commerce
The Director of Central Intelligence
The Director, Office of Management
and Budget
The Chairman, Joint Chiefs of Staff
The Assistant to the President for
International Economic Affairs