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Memorandum From William J. Jorden of the National Security Council Staff to the President's Assistant for National Security Affairs (Kissinger)

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US/Chilean Bilateral Talks

Bilateral talks between the U.S. and Chile are to be held at the Department of State beginning December 20. The U.S. delegation will be headed by Assistant Secretary of State for Inter-American AffairsCharles A. Meyer.

Background: Following a unilateral moratorium on its external debt payments by Chile in November 1971, Chile's 12 major creditor nations met in Paris in April 1972 and agreed to reschedule approximately $160 million of debt owed them by Chile from November 1971 through December 1972.

After strenuous negotiations the U.S. succeeded at Paris in having the multilateral agreement include clauses in which the Government of Chile agreed to recognize and pay its debts, "to carry out direct negotiations for the purpose of finding a prompt solution" to problems involving compensation for expropriated properties, and "to grant just compensation in accordance with Chilean legislation and international law."

The refusal of the special Chilean Copper Tribunal to review President Allende's findings against Kennecott and Anaconda's alleged excess profits effectively foreclosed any local Chilean resolution of the problem of compensation for the major copper investments. Following this, the USG in a note of September 15 asked the Government of Chile to enter into direct negotiations with the companies on copper compensation in accordance with its Paris Club commitment. The Chilean reply of October 18 was polemical in tone and indicated that the GOC considered that its domestic legal processes conformed with international law. Nevertheless, the Government of Chile offered to enter into "wide ranging discussions in Washington, through its Ambassador, on the questions affecting relations between the two countries." In our response of November 22 we proposed that such talks begin during the week of December 11. These are the talks which are now to begin on December 20. Our note outlined, in a firm but unpolemical tone, the U.S. position on obligations under international law on compensation for expropriated investment and made it plain that we intend to discuss the copper expropriation in the proposed talks. In reply, Chilean Foreign Minister Almeyda told Ambassador Davis that the GOC is prepared to make a "strong effort to achieve an understanding" at these meetings.

The USG Purpose and Objectives in the Upcoming Talks: Our purpose in these talks is to establish a forum for frank discussions on the implementation of Article 4 of the Paris Club Agreement calling for direct negotiation in regard to payment of compensation and to keep the door open to dialogue, while the cumulative effect of various pressures on the Government of Chile has a chance to influence Chilean actions. We will deal with the larger questions of expropriation and

compensation while recognizing that these relate to the question of bilateral debt rescheduling which is being dealt with in other channels.

In pursuit of our objectives, we intend to indicate our willingness to discuss any issue that the Chileans might raise in these talks without compromising our basic principles or allowing the talks to bog down in matters not related to the central issues of debt and compensation. We plan to emphasize the need for progress on concrete issues which the USG cannot ignore or abandon: (a) acknowledgement of all contractual debt obligations, including the balance of $8.1 million owed Kennecott and the $150 million in CODELCO notes owed Anaconda; (b) some formula for arriving at a positive compensation figure for the expropriated equity in the three larger mines.