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Memorandum From the Executive Secretary of the Department of State (Pickering) to the President's Deputy Assistant for National Security Affairs (Scowcroft)

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Nota de Archivo: *Summary: This memorandum transmitted a Department of State paper that summarized the U.S. Government's efforts to gain compensation for U.S. businesses that lost properties to Chilean expropriation. Source: National Archives, RG 59, Central Files 1970–73, POL 15 CHILE. Secret. The attachment was drafted by the Chile Task Force and cleared by Kubisch. Blackwill signed the covering memorandum for Pickering above Pickering's typed signature.*

Transition: Fact Sheet on Chile

As requested we attach a memorandum which describes the status of negotiations with Chile on expropriation.

CHILE

Status of Negotiations on Expropriation

Our Embassy has made numerous representations to the GOC concerning American firms nationalized or intervened under the Allende government. Many of these firms have also engaged in direct negotiation with the GOC or its entities.

Since December 1972, we have engaged in formal negotiations aimed at reaching a settlement to the dispute arising out of the 1971 copper nationalizations. Other nationalized American firms have been mentioned only marginally in the course of these conversations. Four bilateral sessions have been held, the latest in Washington August 16–17. We have sought Chilean agreement either to submit the dispute to an expeditious binding third party arbitration or to utilize some other means which would permit the GOC to pay compensation to the copper companies. The constitutional amendment expropriating the companies and the decision of the Special Copper Tribunal refusing to review Allende's determination that the companies owed excess profits exceeding book value are legal obstacles for the Chileans.

The GOC has said in effect that it could not pay compensation to the companies without additional legislation and/or constitutional amendment, and has refused to accept binding arbitration on the ground that such acceptance would also require Congressional approval. Chile has asked that the dispute be submitted to non-binding conciliation procedures under a 1914 bilateral treaty, but has been vague about how the results of such procedure would be implemented internally. At the August meeting Chile suggested a procedure by which (a) an international panel would find that the proceedings of the Special Copper Tribunal amounted to a denial of justice, and (b) the Tribunal would reopen excess profits and other key issues, with the Chilean executive committed to pay compensation if such a finding were rendered by the Tribunal. The United States indicated its dissatisfaction with this procedure, but it was agreed that prior to the next meeting we would submit to Chile a list of questions concerning various aspects.

How We Have Dealt With Other Latin American Expropriations

We have for the most part avoided formal involvement in negotiations. However, our Embassies in Panama, Bolivia, Ecuador and Peru have assisted various U.S. corporations in attempting to reach settlements of expropriations or other takings of those governments. In one instance, Bolivia, several American mining firms were able to reach settlement agreements on nationalizations with the assistance of the Embassy in 1972 after the Torres Government was succeeded by the more moderate Banzer regime. In Peru, President Nixon's Special Representative Jim Greene has undertaken direct negotiations with the Peruvian Government in an effort to resolve a number of outstanding investment disputes there.

U.S. Economic Assistance Under Allende

Bilateral

No new A.I.D. loans were authorized; two approved but unsigned loans amounting to $25 million were de-authorized. Some disbursements were continued under signed loans, but all such loans had expired as of June 31, 1973. The current pipeline is $15 million.

P.L. 480 Title II assistance, mainly to schoolchildren, continued; it was phased down from about $6 million in FY 1971 to $2.5 million in FY 1973.

A.I.D. grant projects were phased out except for two people-to-people activities in training and community development, and narcotics control assistance.

Ex-Im Bank ceased new lending and insurance coverage and suspended all disbursements in December 1971 after Chile announced a moratorium on repayments to the U.S. and other creditors.

Multilateral

Two IDB loans amounting to $11.6 million were approved in January 1971. The U.S. voted for the loans.

No other loans have been presented to the IDB or IBRD Executive Boards. In August, 1973, at the request of the U.S. and other creditor countries, the IBRD agreed to put off consideration of two loan rollovers.