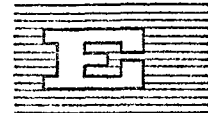


UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/412 (vol. IV)
3 August 1978

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Thirty-first session
Item 13 of the provisional agenda

STUDY OF THE IMPACT OF FOREIGN ECONOMIC AID
AND ASSISTANCE ON RESPECT FOR HUMAN RIGHTS IN CHILE

Report prepared by Mr. Antonio Cassese, Rapporteur*

Chapter IV. Concluding observations

Annex I. Methods of work

Annex II. Letter dated 5 December 1977 from the Permanent
Representative of Chile to the International
Organizations in Geneva addressed to the
Secretary-General

* For technical reasons, the report will be distributed in four volumes. Volume I contains the table of contents and the introduction; volume II contains chapter I; volume III contains chapters II and III; volume IV contains chapter IV and the annexes.

GE.78-8189

IV. CONCLUDING OBSERVATIONS

447. For the reasons set forth in the introduction (*supra*, paras. 75-86), in order to pin-point the possible impact of foreign economic assistance on human rights in Chile, the Rapporteur has considered it necessary to take a global approach to the matter. Therefore, before trying to see what kind of impact each specific instance of foreign economic assistance has had on human rights, he has endeavoured to establish whether an over-all correlation can be drawn between the general situation of human rights in Chile (i.e. between its improvement or deterioration), on the one hand, and foreign economic assistance, on the other. For the purpose of drawing such a correlation, the Rapporteur set out to investigate the general economic and social situation of Chile. He has tried to determine what kind of repercussion the economic policy carried out by the present Government has had on the economic, social and cultural rights of the population, i.e. whether that policy has turned out to promote the effective implementation of those human rights of the Chileans, or whether it has instead proved detrimental to the realization of human rights. To undertake this research, it has proved necessary to indicate first the main trends of the economic policy pursued by the Chilean authorities. The Rapporteur has then considered how this policy affects the Chilean population in general and the rights to work, to food, to health, to housing and to education, in particular.

448. The Rapporteur then considered the various instances of foreign economic assistance granted to Chile. They have been grouped according to their source (governmental, intergovernmental, private) and to their type (loans, investments, debt rescheduling, etc.). In examining each instance of economic aid, care has been taken to ascertain, to the extent possible, whether it - considered per se, namely in its intrinsic characteristics and potential impact - has had a beneficial influence, directly or indirectly, on the human rights situation in Chile. However, because of the lack of adequate means of verification, and also because it is difficult to assess the impact that each specific instance of foreign economic assistance can have on human rights without considering the over-all socio-economic setting in which that assistance is utilized, it has often proved arduous to proceed to such specific evaluation. The focus of the research has therefore been placed on the impact on human rights which the various forms of foreign economic assistance have, or are likely to have, if considered in the light of the general socio-economic context of Chile within which those forms of assistance operate. In other words, assessment of the various instances of foreign economic assistance has been primarily made by determining the possible interplay between each specific form of foreign economic assistance and the general policy, as well as the specific measures, adopted by the Chilean authorities in the area covered by that form of foreign assistance.

449. This examination has primarily hinged on the extent to which foreign economic assistance can help promote economic, social and cultural rights. It has then been considered appropriate to deal with the correlations between foreign assistance and civil and political rights, and on the possible interplay between these two categories of phenomena.

450. After thus briefly indicating the outline of this report, it may be fitting to summarize the main results of it and point to the conclusions which can be drawn from the research.

A. The consequences for economic, social and cultural rights of the economic policy implemented by the Chilean Government

451. The first area of problems which have been dealt with is that of the repercussions of the economic policy drawn up and implemented by the Chilean authorities after September 1973 on the social situation of the Chilean population, and more specifically on their basic economic, social and cultural rights.

452. Indisputably the economic policy of the new Government has pursued three basic objectives: to force down inflation, to improve the balance of payments and "to provide incentives to reactivate the Chilean economy".^{1/} There is also common agreement on the modalities by which this policy has been carried out: restoration of a free market economy; drastic cutting of public expenditure on social services; freezing of wages and salaries; restoration to private ownership of enterprises previously belonging to the State and redistribution of land previously assigned to farmers' co-operatives; lifting of price controls; lowering of trade barriers and opening up of the Chilean market to foreign goods and capital. According to the Chilean authorities, this policy is capable of "healing the economy", making Chilean enterprises competitive, and attracting foreign investment, with the result, inter alia, of decreasing the huge foreign debt.

453. The Chilean Government has consistently maintained that the above economic policy has produced positive effects on the economic and financial plane. In 1978, the rate of inflation will be reduced, according to the Government's figures, to 30 per cent^{2/}; the balance of payments may have in 1978 a surplus of about \$256 million. Furthermore, according to the Government, Chile's foreign debt has been lowered^{3/} and non-traditional exports have increased.^{4/}

454. The Government has contended that its policy has also been beneficial in the social area. Thus, unemployment has fallen, according to the Chilean authorities, to about 12 per cent in 1978^{5/} and the purchasing power of the workers and employees has risen by about 20 per cent.^{6/} Other areas "in which by government action there is notable progress" are nutrition, infant mortality, and the general death rate.^{7/} In particular, the Government is insistent on its

^{1/} See, inter alia, the statement made by the President of the Republic on 11 September 1977, E/CN.4/1266, annex V, p.7.

^{2/} Le Monde diplomatique, June 1978, p.7.

^{3/} E/CN.4/1247/Add.1, p.69.

^{4/} A/C.3/32/6, p.59

^{5/} Ibid.

^{6/} Ibid., p.60.

^{7/} Ibid., p.59.

achievements in the decrease of infant mortality^{8/} and in the distribution of milk to children.^{9/} It also stresses its ability to provide "adequate housing for the most deprived sectors of the population"^{10/} and to develop "unprecedented programmes for the elderly".^{11/}

455. It is apparent from the sources available to the Rapporteur that, on the whole, the economic and social situation in Chile has steadily deteriorated from September 1973; this deterioration reached its peak in late 1974 and early 1975 (see supra, paras. 106-112). Since then, the economic situation has been recovering. Among the main aspects of this economic recovery are the decrease of the rate of inflation (which, according to the Government's target, should not exceed 30 per cent in 1978) and the improvement of the balance of payments.

456. To make a correct assessment of this economic achievement of the present Government, three factors should be taken into account. First, the economic recovery has not taken place to the extent claimed by the Government. Thus, for instance, certain achievements consistently emphasized by the Chilean authorities are not indicative of a real improvement in the economic situation.^{12/} Furthermore, there is a decrease in productive investments (see supra, paras. 102-105). The external debt and the debt servicing ratio are increasing (see supra, paras. 116-120). The rate of borrowing from abroad

^{8/} E/CN.4/Sub.2/398, p.8.

^{9/} A/C.3/32/6, p.66.

^{10/} Ibid., p.60.

^{11/} Ibid.

^{12/} According to W. Goodfellow "Chile's chronic economic crisis", cit., p.19:

"One of the few economic success stories coming out of Chile today involves the doubling of non-copper exports in 1974 over the previous year. In 1975 non-copper exports rose another 36 per cent (20 per cent in real terms) although copper remains Chile's primary foreign exchange earner. Significant about the growth of non-copper exports is the fact that in almost all cases the increases are accompanied by declines in absolute output. The increased exports represent a change in the marketing structure for Chilean firms involved. Domestic demand is so low that producers were faced with the choice of either exporting or closing their doors". (Emphasis added in the last sentence.)

is at a level considered by the Director of the International Monetary Fund as "unsustainable".^{13/} This high borrowing inter alia contributes to explaining why the balance of payments has improved (see supra, para.114).

457. Furthermore, it must be stressed that the policy pursued by the Chilean authorities has proved incompatible with international co-operative schemes to which Chile had adhered in the past and has therefore led Chile to discontinue such co-operation. Thus, Chilean foreign investment policy has become inconsistent with the Andean Integration Principles; Chile therefore withdrew from the Cartagena Agreement as well as from the Corporación Andina de Fomento. Chile also dissociated itself from the Association of Iron Ore Exporting Countries and appears to stand isolated within the International Council of Copper Producing Countries (CIPEC).

458. A second factor that must be taken into account is that economic recovery has not been accompanied by a corresponding improvement in the social field. In fact, one of the main consequences of the economic policy of the Chilean authorities has been the reduction of the income level of the majority of the

^{13/} At a meeting of the Administrative Committee on Co-ordination held at United Nations Headquarters, New York, on 31 October 1977, Mr. Witteveen, Managing Director of the IMF, observed inter alia that "One of the few benefits of world inflation was that the increase in world prices had generated increased export earnings for the developing countries, thereby easing the debt burden. The main problem involved a number of developing countries that had over-accelerated their economies and were, as a result, borrowing up to 12 per cent of their national income. Such a rate of borrowing was unsustainable, and urgent adjustments were called for in order to avert major debt-servicing difficulties which would have serious repercussions on the entire international financial system" (CO-ORDINATION/SR.71/Rev.1, p.10; emphasis added). According to some sources the rate of borrowing in Chile is about 15 per cent of the national income.

Chilean population, especially of the wage earners (see supra, paras.121-124).^{14/} Furthermore, the wage earners have suffered a marked decrease of their purchasing power (see supra, paras.125-136). In addition, employment, nutrition, health, housing and education have either remained in the very bad conditions which took shape between the end of 1973 and 1975 or have only slightly improved. Some achievements, consistently stressed by the Chilean Government, such as the decrease in infant mortality, are not indicative - for the reasons set out above (supra, paras.207-211) - of a general amelioration of the social conditions.

^{14/} In addition to table 15 (supra, para. 123), the following table clearly shows the decrease of the income of salary and wage earners:

Table 71

Distribution of domestic income
by kind of compensation
(Percentage of total per year)

Year	Salaries and wages	Employer Social Security contribution	Remuneration on work of employeecs and labourers	Other payments to factors	Domestic income
1960	44.4	7.2	51.6	48.4	100.0
1961	43.1	7.2	50.3	49.7	100.0
1962	42.3	6.8	49.1	50.9	100.0
1963	39.4	6.3	45.7	54.3	100.0
1964	38.3	6.5	44.8	55.2	100.0
1965	40.6	7.2	47.8	52.2	100.0
1966	40.6	7.7	48.3	51.7	100.0
1967	40.8	7.3	48.1	51.9	100.0
1968	42.2	7.4	49.6	50.4	100.0
1969	41.1	7.5	48.6	51.4	100.0
1970	44.3	8.0	52.3	47.7	100.0
1971	52.1	9.6	61.7	38.3	100.0
1972	53.2	9.6	62.8	37.2	100.0
1973	41.1	6.1	47.2	52.8	100.0
1974	34.6	7.6	42.2	57.8	100.0
1975	34.7	7.2	41.9	58.1	100.0
1976	34.7	6.4	41.1	58.9	100.0

Source: Economic and Financial Survey, Chile News, vol. 14, No. 700, 12 June 1978, p.5 (see ibid., p.4, for the caveat concerning the significance of this table, which however, despite certain deficiencies point out there, "reveals at least an order of magnitude").

459. The basic reason why social advance has not gone along with economic recovery lies, in the opinion of the Rapporteur, in the economic policy chosen and in the basic attitude of gross disregard of civil and political rights. The economic policy adopted by the Government, by its very nature, tends to sacrifice the needs and aspirations of the vast majority of the population, in particular of the underprivileged strata, while it favours the interests of a small élite of big landowners, financiers and industrialists (especially those dealing with export of manufactured goods) as well as the military ruling groups with which they are connected. In fact, the basic philosophy behind that policy is the concept of a free market and free competition and of minimal State intervention in the social sphere. In a society like that of Chile, where there exist deep social inequalities, this philosophy cannot but lead to enhancing the position of the upper classes and disregarding the needs of the underprivileged.

460. In assessing the present situation of economic, social and cultural rights in Chile a third factor should be borne in mind. In other developing countries which follow the same economic policy as that of the present Chilean Government or a similar one, the starting-point has often been a situation of extreme poverty, of lack of social services, of poor health and education conditions, of the absence of trade union tradition and of the consequent absence of collective bargaining. In the case of Chile there was instead a solid tradition of great respect both for economic, social and cultural rights, and for civil and political rights. Social services, especially in the fields of health, nutrition and education, were very advanced. In addition, there was a deep-rooted tradition of trade-unionism and the participation of the unions in the determination of labour conditions was not hampered. These achievements have been cancelled by the present Government. The current deterioration of economic, social and cultural rights can be perceived in all its magnitude only if it is contrasted with the previous situation of respect for them. Therefore, when it is claimed that there is a slight improvement in some areas (e.g. in employment or nutrition), these improvements - assuming that they have actually occurred to the extent claimed by the Government - should always be seen against the background of the pre-1973 situation and evaluated accordingly.

461. As a detailed analysis of both the principal causes and the manifestations of the deterioration of the basic economic, social and cultural rights has already been made above (supra, paras. 147-249) the Rapporteur will here confine himself to drawing attention to one of the measures of the Chilean Government which best illustrates why and to what extent those human rights are not fully implemented.

462. Among the striking features of the economic policy adopted by the present Chilean Government is the slashing of public expenditures in social areas. Table 2 is repeated here, as it gives a clear idea of the magnitude of this measure:

Percentage of public expenditure accounted for by certain Ministries

	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Public Works	16.1	15.6	14.1	10.1	13.5	8.5	n.a.	5.9	5.3
Education	20.2	19.4	20.1	18.3	14.2	15.7	"	15.5	17.7
Agriculture	4.7	4.1	5.5	4.6	2.7	1.3	"	1.8	1.8
Health	8.0	8.0	9.4	8.7	6.6	6.5	"	5.9	6.6
Housing	4.3	6.4	5.7	7.2	6.6	3.5	"	3.8	3.1
Defence	9.9	8.3	9.5	10.3	13.1	19.7	"	19.9	21.9

Sources: 1970-1975 OIT, Programa regional del empleo para América Latina y el Caribe (PREALC), Monografía 5, Junio 1977, "Políticas de estabilización y empleo. El caso de Chile 1973-1975", p.42, table 6.

1977-1978 Comentarios sobre la situación económica, Taller de coyuntura, Universidad de Chile, II Sem.1977, p.60.

It is apparent from this table that there has been a marked decline in the expenditure on public works, agriculture, health and housing, as well as a decrease in the spending for education, while there has been a remarkable increase in defence spending. This decline has occurred despite the fact that: (a) wages for particular sectors, which formerly were charged in part to the budget of the Ministry of the Economy, are now covered directly and in full by the Ministry concerned; (b) there has been an over-all real reduction^{15/} in the budget (for example, in 1975 it declined by 34 per cent in relation to 1972). This reduction is to a large extent continuing.

463. The sharp decrease in public expenditure in social services helps to explain why even in those areas, such as primary education or child nutrition, where the Government claims to have achieved remarkable results, the progress is not adequate, owing to a series of factors: thus the contraction of public expenditures for education implies the dismissal of hundreds of specialized personnel; the reduction in expenditure on health and the consequent privatization of medical care, and the reduction of expenditure for free medicaments to poor people all result in inadequate health care.

^{15/} By "real" reduction it is meant that the effects of inflation have been excluded.

464. To justify the fact that the economic, social and cultural rights of Chileans are grossly disregarded, the Chilean authorities have sometimes pointed out that the economic advance of the country has a high "social cost" but that this would be compensated by the over-all economic recovery, from which in the long run benefits would accrue to the whole population. As has been emphasized above (supra, paras.101-105), this argument cannot appear convincing without entering into the merits of the view whereby it is proper and equitable to sacrifice the needs of the present generation to the advantage of the future ones. Suffice it to make two points. First, it is apparent that the present social burdens are not shared equally by all strata of society but are mainly borne by the underprivileged (in terms of unemployment or underemployment, bad housing conditions, lack of medical care, financial inability to have access to all levels of education, etc.). Second, it appears from the available sources that the current economic policy of the Government is not able to create an improvement in the economic conditions of such magnitude as to affect social conditions in the future.

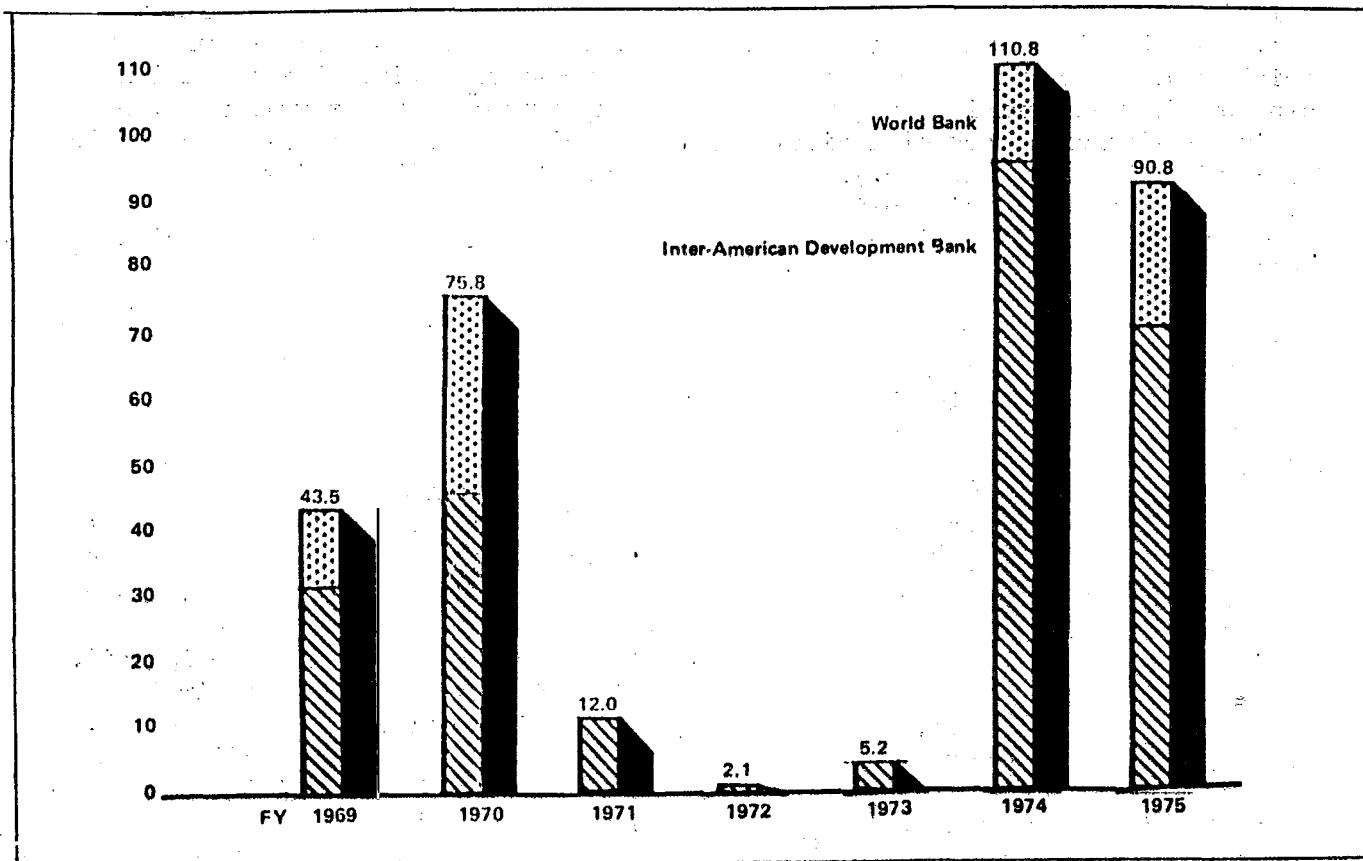
465. In the opinion of the Rapporteur, the Chilean experience cannot be compared with that of other countries where the "social cost" has been paid to increase investments through national savings (often in heavy industry) and these investments produce a better standard of living for future generations. In Chile, on the contrary, the rate of investment has decreased from an average of about 12 per cent of the gross national product in 1971-1973 to less than 10 per cent in 1975-1977, one of the lowest rates of investment in Latin America. These figures mean that the consumption - especially the conspicuous consumption - has increased from 88 per cent of GNP to more than 90 per cent. The conspicuous consumption consists to a great extent of imported goods paid for with the foreign exchange that the country is receiving from abroad through foreign aid. It seems therefore that the dominant groups in Chile are not using their resources for investments, to increase the productive capacity of the country. Instead, they are improving their present standard of living. In addition, as has already been pointed out, the external debt and the debt servicing payments are increasing enormously (see supra, paras. 116-120). This means that the Chilean authorities are mortgaging the future of the Chilean people.

B. Foreign economic assistance to Chile: its magnitude and the shift from public to private sources

466. The huge debt and the high ratio of debt servicing payments to export receipts, as well as the decision of the Government to attract foreign capital and investments, have led Chile to rely very heavily on foreign economic assistance. Soon after September 1973 the inflow of loans and credits from the World Bank, the International Monetary Fund and the United States of America skyrocketed as compared to previous years. The following table shows very clearly the magnitude of this economic help:

Table 72

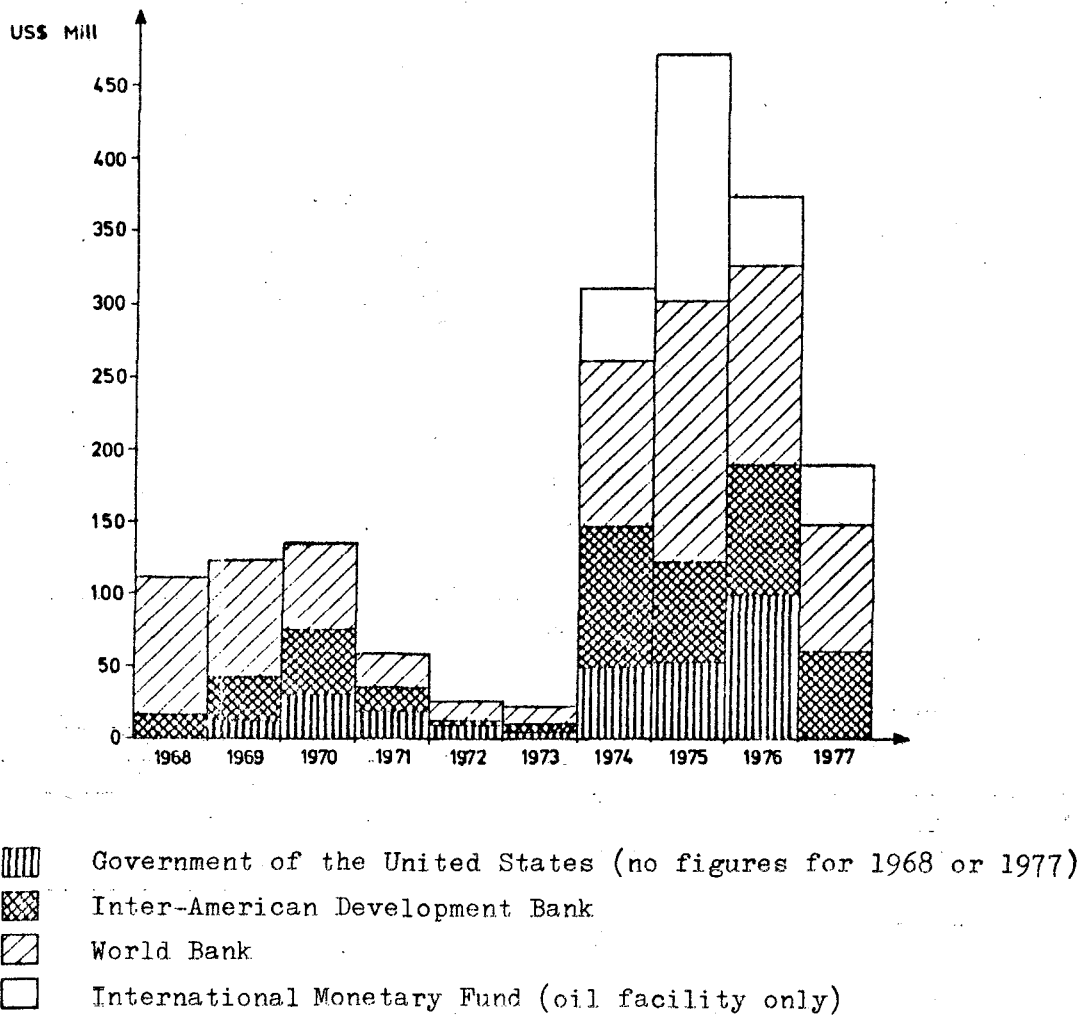
World Bank and Inter-American Development Bank
loans to Chile, 1968-1975



Source: W. Goodfellow, "Chile's chronic economic crisis: 1976 and beyond", International Policy Report (Center for International Policy, Washington, D.C.), vol. II, No. 2, September 1976, p.3, based on data from the World Bank and the Inter-American Development Bank.

467. Table 45, which covers also the economic help granted by the United States of America, is reproduced again here:

Economic aid to Chile
(World Bank, Inter-American Development Bank, United States
Government, International Monetary Fund - 1968-1977)



Source: M. Dias-David, V. Millán and A. Vial, "Asistencia financiera externa a la Junta Militar de Chile, 1973-1977", Institute of Latin American Studies, Stockholm, 1978 (report submitted to the Rapporteur), p. 20.

468. After 1976, however, increasing pressure was put on Governments and intergovernmental institutions to stop or greatly diminish economic aid to Chile because of the gross violations of human rights occurring in that country. Following the passing of the Harkin Amendment in the United States Congress (see supra, para. 267) the United States greatly reduced its assistance. Also other public sources increasingly attached human rights criteria to their economic assistance projects. Because of the new United States legislation in October 1976, the Chilean Government communicated to the United States Government "its desire not be considered for the purposes of the economic assistance legislation to be approved for fiscal year 1978" and also renounced other specific forms of United States assistance. 16/

469. The aid flowing from public sources was however replaced by aid from private sources such as banks and multinational corporations. The following table (reproduced above as table 48) shows very clearly how these private loans increased steeply after 1976, to achieve the record amount of \$800 million in 1977. According to a report submitted to the Rapporteur, "official estimates indicate that, by 1978, private sector loans will account for more than 90 per cent of Chile total foreign borrowing". 17/

470. On the whole, it appears that loans of private banks and suppliers' credits have to a great extent replaced the external financing previously flowing from Governments or intergovernmental institutions. Furthermore, this new influx of loans has greatly surpassed the previous external financing from public sources.

C. The composition of foreign economic assistance and its impact on economic, social and cultural rights

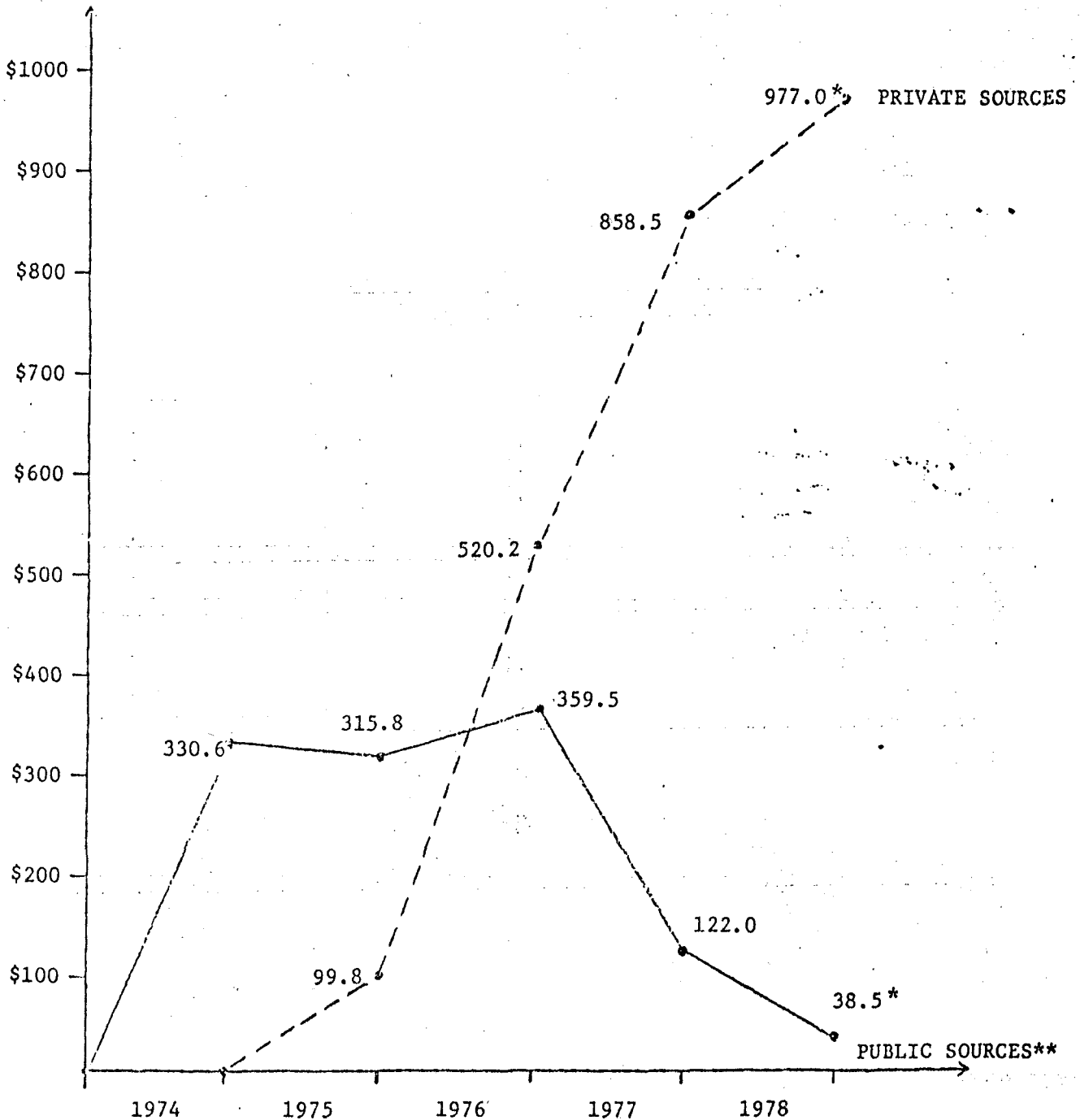
471. Everything considered, it can be said that the economic assistance flowing from public sources has been to a minimum extent human rights-related, while the greatest part of it has been geared to development or not directly concerned either with human rights or with development (for these categories, see supra, paras. 62-74). By contrast, the aid currently flowing from private sources is almost exclusively based on commercial criteria: foreign private banks or multinational corporations are mostly interested in maximizing profits and eliminating risks and do not attach great importance to human rights criteria nor are they directly concerned with development criteria.

472. As has just been pointed out, only a very small proportion of total foreign economic assistance to Chile has gone for purposes directly related to improving the situation of economic, social and cultural rights in that country. Mention has already been made, in the different sections of chapter II of this report, of the various instances where it can safely be said that a given loan or credit

16/ For more details see E/CN.4/Sub.2:398 and supra, para. 274.

17/ I. Letelier and M. Hoffitt, op.cit., p.19.

Chile's foreign borrowing, 1974-1978
(Millions of US dollars)



Source: I. Letelier and M. Moffitt, "Human rights, economic aid and private banks - the case of Chile" (Washington, D.C., April 1978), p. 14.

* Projected.

** Public Sources include only United States bilateral aid, multilateral development assistance, and drawings on the resources of the IMF. Does not include non-U.S. bilateral assistance.

is designed to be directly beneficial to human rights (see, for instance, paras. 269 and 296, concerning United States food assistance; paras. 331 and 337-338, concerning economic assistance from the World Bank; paras. 345-347, concerning assistance provided by ILO and WHO; paras. 362 and 363-368, concerning assistance granted by the Inter-American Development Bank). An attempt to quantify the amount of this form of assistance has been made by the London-based institute Contemporary Archive for Latin America (CALA). In a report submitted in 1978, they say the following:

"While no good breakdowns, according to these criteria, exist for total financial flows, the great majority of those with a positive impact are included in the following table, drawing on a very extensive itemisation and classification of loans by the World Bank:

<u>Loans directly benefiting economic, social and cultural rights</u>			
(Millions of US dollars)			
	<u>1974</u>	<u>1975</u>	<u>1976</u>
Education	1.6	0.0	0.0
Housing	0.0	27.6	30.0
Health	3.9	5.0	1.8
Social Infrastructure	0.0	0.0	12.9
Food Aid	15.7	17.2	0.0
Needy Agric. Sectors	0.0	35.0	0.0
TOTAL	21.1*	84.8	44.7
<hr/>			
Loans individually classified by World Bank	482.7	242.6	488.0
All loans	361.6	706.6	615.2

* not equal to sum of entries due to rounding.

These loans account for only 12.4% of the loans itemised by the World Bank, and a mere 6.9% of total figures for loans to Chile; 9% would be a generous compromise to take sampling omissions into account. Governmental and intergovernmental sources provided some two thirds of the rights-related total, and as these sources have been declining sharply in their share of total assistance the proportion of such assistance which is rights-related has doubtless had the same tendency." 18/

18/ Contemporary Archive for Latin America, Report on foreign economic assistance to Chile, London, May 1978, p. D.5, 1 (emphasis added).

473. It appears from available sources that an increasingly small proportion of total economic assistance has been of a sort which, by its nature, could be expected to be directly concerned with developmental criteria. The following table shows the amount of this category of aid:

Table 73
Assistance categories with developmental criteria
(Millions of US dollars)

	<u>Bilateral government assistance</u>	<u>Multilateral Development assistance</u>	<u>Total loan assistance</u>
1974	231.2 (26.8%)	115.6 (13.4%)	861.6
1975	119.1 (16.9%)	106.2 (15.0%)	706.6
1976	109.6 (17.8%)	114.9 (18.7%)	615.2
1977	40.0 (4.7%)	89.5 (10.4%)	859.7

Source: Contemporary Archive for Latin America, op. cit., p. D.I, 1.

474. Especially after the shift from public to private sources referred to above (supra, paras. 466-470), the vast majority of foreign economic assistance appears to be geared neither to human rights nor to development.

475. As was pointed out above, to assess the impact of the three categories of foreign economic assistance on human rights in Chile it is necessary to consider how this assistance is used, what measures the recipient Government takes in the area covered by the assistance, and, more generally, what kind of economic and social policy it implements. In principle, all of the three categories of assistance can turn out to have direct positive consequences for the economic, social and cultural rights of the population. All depends on the way the recipient Government allocates its own resources, as well as on the general context within which it utilizes the inflow of foreign resources.

476. Let us first assess the assistance directly related to human rights. It must be pointed out that, although - as the Rapporteur has already indicated (see supra, para. 472) - there are various cases where such assistance indisputably goes to the poor segments of the population, the amounts granted, already in themselves minimal, are largely insignificant in relation to the total social spending required in these sectors, and often fall far short of the amounts by which the Chilean Government has cut back its own spending. Further, particularly in the case of suppliers' credits (see supra, paras. 394-397), a significant part of these funds seems to help finance the Chilean Government's resource allocation priorities, rather than helping to shape them along more beneficial lines. In other words, often the funds supplied for specific purposes (housing, nutrition, small farmers, etc.) do not, in practice, achieve their objective of helping to improve the situation in those sectors, since in many cases the Chilean authorities have proceeded to reduce, by even greater amounts, the funds which were formerly provided for such purposes.

477. One of the sectors which serves to illustrate this conclusion is housing. In January 1976 the Agency for International Development provided the Central Bank of Chile with a credit of \$US 30 million to be used for the construction of new housing. In February 1977 this amount was increased by a further \$US 25 million. 19/ Statistics indicate that this credit is not being reflected in an increase in housing construction or in a lowering of the housing shortage growth rate, since the funds provided by the State for these purposes have been greatly reduced. 20/ It is thus apparent that the funds raised abroad are serving only as a partial palliative for this reduction. In 1977 the construction of housing in the public and private sectors fell in relation to the previous year, indicating that the same situation has recurred.

478. Mention can also be made, by way of example, of the \$7.5 million IDB loan, approved in December 1976, for potable water in 150 rural communities. As pointed out above (see supra, para. 368) official cutbacks in such areas are on a scale which means that foreign assistance is probably doing little more than helping to cover some of the growing inadequacies in Chilean government provisions.

479. The loans granted by the Inter-American Development Bank (IDB) to "improve the health services of the neediest populations in the rural sectors of the country" lend themselves to the same considerations. As was stressed above (supra, paras. 365-368), the potential impact of the IDB projects is considerably curtailed as a result of the Chilean Government's health policy and of the drastic contraction of resources allocated to health (see supra, paras. 195-213).

480. Equally indicative is what has happened with the system of savings and loan associations. This system has received credits from international financial institutions such as the United States Agency for International Development (AID) and the Inter-American Savings and Loan Bank. However, the volume of activity of the associations, far from increasing, has fallen, owing to the fact that they are faced with a policy which is leading to their virtual extinction. This is so much so that the biannual report for the period July-December 1977, prepared by the Economic Analysis Unit of the Department of Economics at the University of Chile, points out that in the present circumstances the existence of the savings and loan system cannot be justified and that it ought to become a department of the Central Bank. Its operations have fallen off sharply. 21/

19/ El Mercurio, 23 February 1977.

20/ While in the three-year period 1971-1973 new starts were made on 5,653,115 m³ of housing in the public sector, in the following three-year period (1974-1976) only 1,661,361 m³ were started. Public construction of housing fell by more than 70 per cent (see, inter alia, Economic and Financial Statistics, Chile News, vol.14, No. 701, 19 June 1976, p.10).

21/ In 1974 SINAP granted 23,732 loans, which fell to 8,472 in 1975 and to 5,804 in 1976. As a result of the general economic situation, there has also been a sharp drop in the number of new depositors in the system, which fell from 157,851 to 37,844 between 1974 and 1976.

481. A similar conclusion can be drawn, for example, for the credits for small farmers granted by financial agencies of the United States Government (see supra, paras. 272-273 and 275) or by the World Bank (see supra, paras 331 and 337-338). It is apparent that the loans or aid received by small farmers in Chile have actually fallen in volume. An example of this is the position of the new owners who have received plots in the reformed sector. 22/

482. The conclusion is warranted that the funds from foreign sources provided for specific purposes are not having the desired effect because the total funds for the sectors concerned are reduced by the Chilean authorities.

483. As for economic assistance geared to development or that unrelated to any human rights or development criteria, it is apparent from the documentation available that these resources have not benefited the majority of the Chilean population. In fact, despite the steep increase in the inflow of foreign loans, credits and investments, the standard of living and the level of consumption of the large majority of Chileans have on the whole deteriorated, though this is not the case for a small percentage of Chileans with large incomes (see chap. I above). In spite of the slight recovery which started in 1976, the situation of economic, social and cultural rights remains very serious. One can infer from the comparison between this situation and the growing influx of foreign capital that the foreign resources have not had the effect of promoting the implementation of human rights.

484. It must be added that, according to available statistics, foreign resources have not been directed in relevant volume to increase investments. On the contrary, these have been maintained over the years at very low levels. 23/

22/ On 5 March 1978 the newspaper El Mercurio, after covering more than 4,000 kilometres in order to report on their situation, arrived at the following conclusions: "shortage of capital for working the land due to the high cost of agricultural credit; virtually no technical assistance; use of poor-quality seeds; reduced use of fertilizers and pesticides; leasing, sale or surrender to share cropping of a high percentage of the 36,000 plots allotted...". The Confederation of Farmers of the Reformed Sector has declared: "The financial position of most allottees is bad; the sale of their produce will not bring in enough money to pay off their loans and arrears of debt, both of which are increased tremendously by the inflated rates of interest. This problem has assumed dramatic proportions for the farmers of the reformed sector. The fact that they cannot pay their debts on time means that those debts are increased by the interest which continues to be charged on them, and, what is even more serious, that they have no possibility of obtaining credit to enable them to meet the new agricultural year" (El Mercurio, 13 March 1978). The smallholders are also in a very difficult situation.

23/ According to figures of the Chilean National Accounts drawn up by ODEPLAN, the gross national investment in fixed capital decreased in 1975 to levels which the country had not known since 1960. In 1975 it was 2,325,000 pesos, whereas in 1971 it was already 2,546,000 in money of the same value. During 1976 the amount was even lower - 2,246,000 pesos. In 1977, according to preliminary estimates, it reached 2,655,000 pesos - an amount that corresponded to the level

of investment in fixed capital during 1962, 15 years earlier. In the three-year period 1975-1977, the total gross national investment reached 7,256,000 pesos, an amount that must be compared with the 9,283,000 pesos invested in the three-year period 1971-1973 and with 9,886,000 pesos invested in the years 1968-1970. (All the figures given in this note are expressed in pesos of 1965.)

Table 74

Account of gross domestic savings and investment

(Millions of 1977 dollars)

<u>Particulars</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
	<u>I. SAVINGS</u>						
<u>Gross National Savings</u>	1 512	1 327	816	997	1 399	508	863
Current Account Deficit of the Nation	136	267	480	297	69	404	-136
<u>Gross Domestic Savings</u>	1 648	1 594	1 296	1 294	1 468	792	727
	<u>II. INVESTMENT</u>						
1. Gross domestic investment in fixed capital:	1 449	1 466	1 241	1 205	1 373	1 002	955
1.1. Building and other works:	824	899	797	667	823	538	424
1.1.1. Buildings:	415	484	421	320	388	220	184
1.1.1.1. Housing:	270	313	262	217	247	146	115
1.1.1.2. Non residential buildings:	145	171	159	103	121	74	69
1.1.2. Other building and works:	409	415	376	347	456	318	240
1.2. Machinery and equipment:	625	567	444	538	550	464	531
1.2.1. Imported:	497	431	306	407	421	380	454
1.2.2. National:	128	136	138	131	129	83	77
2. Increased stocks	199	128	55	88	94	-210	-228
<u>Gross Domestic Investment:</u>	1 648	1 594	1 296	1 204	1 469	792	727
GDI index (1970 = 100):	100.0	96.7	78.6	73.1	89.1	48.1	44.1
GDI as a % of Goods and Services Used	17.1	15.3	12.5	12.0	13.9	8.4	7.4

Source: Economic and Financial Survey, Chile News, vol. 14, No. 699, 5 June 1978, p. 4, on the basis of ODEPLAN estimates in 1965 pesos, converted to 1977 dollar by deflating factor of 2,351.

In other words, the economic scheme followed in Chile not only has had negative consequences in the short term, but also has a regressive projection towards the future. It would seem that this deterioration of the investment level makes it difficult for the country to recover in the short term the economic activity level reached before 1973. This seems even more difficult because - according to some sources - an important part of the country's facilities have been deteriorating during this period. According to the Cámara Chilena de la Construcción, because of the cuts in public spending, the funds allocated have not even covered the maintenance of the existing infrastructure. 24/

24/ According to a report:

"The President of the Cámara Chilena de la Construcción, Modesto Collados, feels that 'from the standpoint of public works, the current situation is seriously deficient' and, unless a serious policy is adopted in this connection, 'within a period of not more than three years, we shall see our economic development critically threatened by the lack of the physical support it essentially requires'. Mr. Collados believes that 'although Chile ought to invest at least 3.3% of its gross domestic product in infrastructure, it only allocates 3.2% to this end', whereas only 'to maintain and replace facilities built by the Bureau of Public Works, after their useful life is reached, 390 million dollars are required every year, excluding work in connection with the Santiago underground railway and energy infrastructure'. In view of this evident situation in his own opinion, Mr. Collados indicated the need to reallocate public spending, inasmuch as while on the one hand investment in infrastructure is minimum, on the other, public outlays in relation to the gross domestic product are 'disproportionately high' and would be revealing the existence of other exaggerated components in public spending, because 'the State not only spends too much, but also spends on functions that are altogether alien to it'. Consequently, he suggests a redistribution of public spending, by means of increasing allocations intended to investment in infrastructure, while pointing out that any additional unemployment as a result of shrinking certain expenditure components, would be more than compensated by higher occupation required to build infrastructure works." (Economic and Financial Survey, Chile News, vol. 14, No. 699, 5 June 1978, pp. 1-2).

485. If the consumption of the majority of the population is not increasing and the investment is kept at low levels, it may be asked what role is played by the copious flow of external resources. It seems that a large volume of external resources has been used to maintain the rate of imports. The direct investment made is usually for the purpose of gaining control of State enterprises, which then pass into the private sector. 25/

486. Foreign resources have also been used, in the last few years, to cover the heavy deficit in the current account of the balance of payments, which had a deficit of \$US 518 million in 1977, according to Central Bank statistics. Estimates made in March by the Central Bank indicate that the deficit is likely to increase in the course of 1978 to \$US 593 million. The magazine Economía y Sociedad believes in the light of those estimates that the deficit may climb to as much as \$US 650 million. 26/ It originates in the trade deficit and, in particular, the deficit on the services account, which is mainly due to the high cost of this external financing.

25/ In 1977, external inflows amounted to \$US 1,361 million, according to official Chilean Central Bank figures. Projections made by the same Bank indicate that in the course of 1978 they will reach the unprecedented figure of \$US 1,650 million (Hoy, 12 April 1978). The publication Economía y Sociedad (March 1978), basing itself on the Central Bank's statistics, concluded that the gross capital inflow would rise to \$US 1,750 million, of which \$US 1,300 million would come from medium-term and long-term credits, \$US 200 million from short-term credits, \$US 170 million from direct foreign investment and \$US 80 million from sales by private persons as through the financial system.

26/ The following projection provides an indication:

Table 75

Projected balance of payments, 1978

(In millions of dollars)

A. Trade balance

1. Exports:	2 400
1.1. Traditional:	1 700
(a) Mining	1 450
- Copper	1 230
- Iron	120
- Saltpetre and iodine	50
- Other	50
(b) Industrial	250
- Fishmeal	70
- Paper, cellulose, paperboard	140
- Finished copper products	40
1.2. Non-traditional	700
(a) Livestock, fish and seafood	205
- Agricultural	160
- Other	45
(b) Industrial	495
- Wood	75
- Other	420

2.	Imports	2 600
2.1.	Consumer goods <u>a/</u>	300
2.2.	Foodstuffs	360
2.3.	Intermediate products	1 320
2.4.	Capital goods	620
3.	<u>Net trade balance</u>	
	(1-2)	-200
B.	<u>Balance of services</u>	
1.	Return on capital	-430
	(a) Interest	-405
	- Medium- and long-term debts	-334
	- Short-term debts	- 43
	- IMF interest payments	- 28
	(b) Profits	- 25
2.	Non-financial services (freight and insurance, net)	- 40
3.	Transfers (net)	+ 20
	<u>Net Balance of services (1 + 2 + 3)</u>	-450
C.	<u>Net balance on current account (A + B)</u>	-650
D.	<u>Capital account</u>	+900
	- Gross capital inflow	<u>1 750</u>
	- Medium- and long-term credits	1 300
	- Short-term credits	200
	- Direct foreign investments	170
	- Private currency sales	80
E.	<u>Net balance of payments</u>	+250

Assumption: price of copper, 63 ¢ per pound.

Source: Economía y Sociedad, March 1978.

a/ 2.1 covers consumer goods other than foodstuffs.

487. As has already been mentioned, the gross loans given are used, in addition to paying off the deficit, for servicing the external debt, which, precisely because of these borrowings, does not diminish. At the end of 1972 it stood at \$US 3,602 million and by the end of 1977 it had reached \$US 5,275 million, and there is every indication that, if the present state of affairs persists, it will continue to expand. Its increase was particularly pronounced in 1974 and 1975, amounting to \$US 1,215 million. The upward trend abated in 1976 owing to the drastic curtailment of imports which accompanied the drop in production and consumption levels in 1975, but in 1977 it began to move up again, although slowly. 27/

488. Several sources also indicate that defence expenditures have increased. It could be inferred from several facts given above (see supra, paras. 88-146) that they benefit largely from the foreign exchange made available by assistance coming from abroad. In the distribution of the fiscal budget for the present year the resources allocated to the Ministry of Defence, in national currency, will amount to 21.9 per cent of the total, as against 19.9 per cent in 1977. In terms of foreign exchange they will, however, remain practically the same, at around 15 per cent. Again in terms of foreign exchange, if the sums earmarked for servicing the public debt are excluded, the budget appropriation for the Ministry of Defence is equivalent to 58.39 per cent of total allocations (see supra, para. 99). It follows from the above observation that the present Chilean Government has benefited over the years from a generous inflow of external resources which has enabled it to keep its economic scheme in operation. It may reasonably be claimed therefore that it is this inflow of capital that has to a great extent permitted the viability of an economic policy which has had the severe repercussions pointed out above (paras. 147-249) on the living conditions of the vast majority of Chileans - in particular on their rights to work, to food, to health, to housing and to education.

27/ It appears from the available sources that another part is to some extent directed to sustaining a high level of consumption for a minority and to obtaining remarkably high profits in financial speculation. In 1976 the real interest on credits given by the banks for short-term operations had an annual accumulated rate of 63.5 per cent, and in 1977, 56.3 per cent. There have been times when the real interest rates of the banks for credits of 30 days have reached monthly levels of 8.3 per cent. The reality of this financial speculation has been publicly recognized by Professor Arnold Harberger, Director of the University of Chicago's Department of Economics, who is one of the economists on whose theories the designers of the Chilean economic scheme based themselves. "The maintenance of such high rates of real interest for so long is a phenomenon unique in the world", he said last November (El Mercurio, 27 November 1977).

The members of the minority that benefits from this policy have at the same time increased their patrimony, having become owners, on very favourable conditions, of enterprises that were previously publicly owned. At the same time, the Government authorities allow a great deal of resources to pass into the hands of foreign investors.

D. The relation between foreign economic assistance and the enjoyment of civil and political rights

489. As pointed out in chapter III, five sorts of relations between foreign economic assistance, on the one hand, and civil and political rights in Chile, on the other hand, may be distinguished.

490. First, the large-scale violations of civil and political rights which have been perpetrated since 1973 in Chile have led many States and, in a few instances, intergovernmental organizations to withhold economic assistance previously granted or scheduled to be granted to the governmental authorities (see supra, paras.404-420). As a consequence, a large flow of foreign aid that could have produced beneficial consequences for the vast majority of the population has been stopped.

491. Secondly, the present Chilean policy of repressing some human rights, in particular trade union rights, has become an important factor for attracting foreign investments, especially of private entities. For the Chilean authorities can offer cheap labour and violently enforced industrial discipline. In addition, thanks to the "creditworthiness" attained by freezing wages, severely cutting public expenditures and reducing inflation, the Government can attract loans from international institutions such as IMF, which attach great merit to "creditworthiness" (see supra, paras.421-424).

492. Thirdly, it seems that the present serious violations of, or restrictions on, civil and political rights, in particular freedom of expression, freedom of association and trade union rights, have an adverse impact on the utilization of foreign economic aid. Thus, for instance, political groups or trade unions cannot participate in the decision-making process concerning the economic policy choices. All decisions on these matters are taken by the small ruling group. Thus, other groups which inter alia could better channel the aspirations and the needs of vast segments of the population are kept outside the decision-making process and cannot propose or contribute to implementing measures designed to use foreign economic assistance in a manner more advantageous to the underprivileged (see supra, paras.425-429).

493. Fourthly, all those Chileans who suffer more directly from the present repressive system, in particular because of the "disappearance" or arbitrary arrest, detention, torture, ill-treatment or harassment of their relatives, do not draw any direct benefit - so far as it has been possible to ascertain on the basis of the available material - from the huge economic assistance flowing from abroad. Even worse is the fate of those who, after being detained for political reasons, look for a job to earn their living. According to Amnesty International, they face all the common problems of the poor segments of the population and undergo extreme hardship. ^{28/} Except for the economic assistance granted by a few Governments to humanitarian bodies operating in Chile for the purpose of helping finance their relief action, no special benefit is drawn by this category of particularly distressed persons from the foreign economic aid channelled to the Chilean authorities (see supra, paras.430-436).

^{28/} See supra, para.431.

494. Fifthly, the Rapporteur has identified another relationship between repression of civil and political rights and foreign economic assistance. The Government's economic policy produces to a great extent harmful consequences for the social condition of the vast majority of the population (suffice it to consider the high rate of unemployment and "concealed" unemployment, the reduction in the purchasing power of wage and salary earners or the worsening of public services following the cuts in public expenditures). Consequently, that policy cannot but give rise to discontent and unrest. In order to keep them under control, the Chilean authorities need a repressive system, based on the denial of the basic civil and political rights. Through this system they prevent the vast majority of the population from expressing freely their dissatisfaction with present living conditions and from bringing about social and political change.

495. As foreign economic assistance largely serves to strengthen and to prop up the economic system adopted by the Chilean authorities, which in its turn needs to be based on the repression of civil and political rights, the conclusion is warranted that the bulk of present economic assistance is instrumental in consolidating and perpetuating the present repression of those rights (see supra, paras. 437-446).

E. The two mutually supporting adverse effects
of foreign economic assistance

496. From what has been stated so far, the following general conclusions can be drawn as concerns the basic relation between foreign economic assistance (or, better, the greatest part of this assistance) and human rights. The present gross violations of human rights in Chile are related to economic assistance in two respects. The first and most apparent is that the bulk of this assistance helps to strengthen and maintain in power a system which pursues a policy of large-scale violations of these rights. It has been stressed above that this applies to some forms of economic assistance concerned with development as well as to most forms of economic assistance that show no concern either with human rights or with development (in the main, this can be said of the financial resources at present flowing in huge quantities from foreign private sources). It must be added that the same holds true for many cases of assistance directly related to human rights (assistance given with the specific aim of improving the situation of the population in the field of housing, sanitation, hospitals, health centres, etc.) Often the Government uses this assistance to replace national resources, which are diverted to other ends, including that of financing the repressive system. In all these cases there arises a relationship in which economic assistance often appears instrumental in perpetuating or at least maintaining the current situation of gross violations of human rights.

497. The second aspect is no less important. In order to obtain the assistance which it seeks abroad, the Government has to ensure a favourable presentation of the indices by which an economy is normally held to be "healthy". It must appear to be "creditworthy" (i.e. it must have a favourable balance of payments, inflation under control and diminishing, a reduction of public expenditure, etc.). This domestic policy does not take into account the human factor involved, and in fact creditworthiness can only be obtained by a redistribution of income which is unfavourable to the vast majority of the population. Furthermore, to the extent that it is not only foreign economic assistance in the form of loans

(bilateral or multilateral), but investment that it is sought to attract, the state of poverty or backwardness of the working sector of the population does not appear as a negative factor. It appears rather as a positive element that may lead foreign enterprises attracted by cheap labour and the low cost of production in the country to take the decision to invest. In this respect a major role is played not only by the drop in wages or purchasing power, but also by a deterioration in the benefits that workers and their families receive in other than monetary form (social services, which generate possibilities and expectations of welfare and progress in the areas of health, construction of low-cost housing, free education, etc.). It appears that sometimes the nearer to poverty the worker appears the better are the conditions for the investor. An added - and a major - advantage for foreign investors is the fact that social unrest, strikes, etc. are forcefully prevented by a repressive system which denies some basic human rights, including trade union rights (in particular those relating to the election of union officials, collective bargaining and the right to strike).

498. If the two aspects of the relationship between economic assistance and the violation of human rights are considered, it can be seen that in the second aspect the "causal" relationship is inverted. Thus, together, they make up a closed circle of cause and effect: economic assistance to a very great extent permits the perpetuation of violations of human rights, and such violations, in their turn, bring about the necessary conditions to obtain economic assistance.

499. It may now prove useful to ask ourselves to which of the two abstract models of correlation between human rights and foreign economic assistance, set forth above (supra, introduction, paras.58-61) the situation of Chile comes closer. On the basis of the research undertaken so far, it is submitted that, all things considered, the situation in Chile does not correspond to either of the two extreme categories identified above. In particular, it does not fully fit in the extreme "negative" category where any form of foreign economic assistance indisputably has an adverse effect on human rights. As noted above (supra, para.472), there are instances of foreign economic aid which effectively benefit some categories of indigent people in Chile. These cases are, however, minimal. By far the greatest portion of foreign assistance does not have any directly beneficial effect on economic, social or cultural rights and instead serves to strengthen and shore up the present economic and political system. It would therefore seem that, in the wide spectrum of possible concrete correlations between human rights and foreign economic assistance, the Chilean situation tends to come very close to the extreme "negative" category.

F. Some considerations which might prove helpful
for any United Nations action

500. The Rapporteur does not believe that he is called upon to make recommendations, much less propose a blueprint for action. In his view, it is up to the competent United Nations bodies to decide what action, if any, they may wish to recommend on the basis of the present study, to Governments, intergovernmental agencies, and private bodies. The Rapporteur believes, however, that it may be useful to set forth a few general observations and recall some views that are based on an approach different from the philosophy currently behind most forms of foreign economic assistance.

1. States

501. It has been stressed in this report that the over-all effect of governmental aid has been to provide considerable general financial support for the Chilean Government at a time when other avenues were closed. The specific impact of such assistance is hard to qualify except on the most general level, but given the kinds of economic and social priorities that have emerged in Chile over the last five years, its role must be viewed critically. It has also been emphasized that one of the most notable points about governmental assistance is that so little of it is conditioned in any way by direct consideration of the economic and social welfare or the human rights of the recipients. Development aid does consider these factors, but attempts to make such aid really effective have led eventually to a reduction of over-all transfers, though there have been interesting and innovative alternative programmes. Decisions on debt rescheduling, however, require no revision of welfare or rights and it would seem essential, if government attitudes to developing countries are to be consistent, that they should take the responsibility of reviewing the developmental effects of inputs as important as these. These remarks would also apply to assistance extended through support to private trade, though here, developmental considerations are present on paper in many cases but require extension and more thorough supervision in practice.

502. It has also been pointed out that since 1976 a growing concern over human rights violations has led to the emergence of policies designed to stop or restrict aid to the Chilean Government, or to ensure that any assistance granted should be conditioned in such a way as to make its human rights impact really beneficial.

503. A range of measures are currently being proposed or implemented by different providers of economic assistance to help bring about a more positive human rights balance. Some of the investment guarantee programmes, for example, already include provisions trying to promote employment through more labour-intensive technology. In some instances, local counterpart funds are called for to help increase the over-all impact of amounts provided. Assistance such as the direct distribution of food under the United States PL480 Title II Programme, is provided in a way ensuring that goods are directly accessible to the destitute, or go to programmes such as soup kitchens and rural health facilities from which the indigent people in particular will benefit. Assistance for such projects as industrial and agricultural co-operatives, beyond ensuring that the poor benefit, seek to promote some control by them of productive resources and greater share in the decision-making which immediately affects their lives. Chilean Government sector policies are reviewed in relation to developmental projects, and some degree of influence would appear to be exercised over such policies by at least some sources.

504. Discontinuance of economic assistance on human rights grounds, conditioning of such assistance to an increasing extent on respect for human rights, or adoption of one or more of the various measures referred to in the previous paragraph, undoubtedly constitute valid responses to the question of how to render foreign economic assistance to Chile beneficial to human rights. The Rapporteur feels, however, that before making a decision on which of the above attitudes should be taken, States ought to become aware of both the basic philosophy behind those possible attitudes and their real impact on the human rights situation in Chile. In this respect, he believes that two fundamental approaches to the question of "human rights and foreign economic aid" can be identified, each showing different features and involving varying consequences. These two approaches - which will be briefly considered in the next paragraphs - could be termed "the Harkin Amendment approach" and "the Netherlands development aid approach".

505. Reference has been made above (para. 267) to the "Harkin Amendment" of 1975, which constitutes Section 116 of the United States International Development and Food Assistance Act of 1961. It reads as follows:

"Sec.116. Human Rights. - (a) No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

"(b) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives may require the Administrator primarily responsible for administering part I of this Act to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 617 of this Act.

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of co-operation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States."

It is the opinion of the Rapporteur that this piece of legislation must be greatly praised, at least in three respects. First, it rightly starts from the assumption that it would be ethically inconsistent and politically counterproductive to grant economic assistance to a foreign Government which behaves in a manner contrary to the basic values with respect to human dignity agreed upon by the international community. Such assistance could not but serve to keep that Government alive, thus helping perpetuate gross disregard of basic human rights. Second, for the assessment of whether a foreign Government misbehaves, the aforementioned United States legislation does not use domestic standards; the yardstick by which foreign governments should be gauged are instead the international standards accepted by the whole community of States and spelled out in United Nations instruments. This can clearly be inferred from the terminology used in the Harkin Amendment ("any country which engages in a consistent pattern of gross violations of internationally recognized human rights"). Thus, the legislation does not project American values abroad but relies upon the basic principles accepted at the international level. Third, the Harkin Amendment shows an awareness of the difficulty of determining soundly whether and to what extent a Government grossly violates human rights, and of the consequent need for international investigation of alleged infringements of human rights. It therefore aptly uses as a criterion for determining whether a foreign Government misbehaves the degree of co-operation of such Government in permitting international inquiry. It follows that, under the Harkin Amendment, whenever a Government refuses to allow an international organization to conduct an independent and objective investigation of its alleged disregard of human rights, there arises a presumption that that Government engages in a consistent pattern of gross violations of human rights.

506. Despite the major merits referred to above, the Harkin Amendment shows, in the opinion of the Rapporteur, two significant flaws. First, it tends to focus primarily on civil and political rights, neglecting to some extent economic, social and cultural rights. Indeed, although the wording of subsection (a) is rather broad and loose, the exemplification used refers only to some basic civil and political rights; it therefore gives the impression that other categories of human rights are regarded as less momentous. The Rapporteur believes that in assessing the behaviour of a foreign Government in the field of human rights, such basic rights as the right to food, to health, to work, to housing and to education cannot but be considered as of equal rank with the right to life, liberty etc. Otherwise, it might be thought that a traditional Western "eighteenth-century" approach to human rights was being taken. The second deficiency of the "Harkin Amendment doctrine" is closely linked with the previous one. The Amendment disregards the general socio-economic context of the prospective recipient State, in that it does not take into account the economic policy carried out by that State and its impact on the conditions of the underprivileged. In fact, in evaluating whether a foreign Government is entitled to obtain economic assistance, the economic and social policy implemented by that Government should be examined, to see to what extent that policy can prove conducive to respect for human rights. In other words, human rights (especially civil and political rights) should not be considered per se but within the general socio-economic setting and against the background of the general living conditions of the population of a given country.

507. This basic deficiency of the Amendment also lies behind the "needy people" exemption clause to be found in subsection (a) ("No assistance may be provided ... unless such assistance will directly benefit the needy people in such country"). The concept of granting economic assistance to the authorities of a country which grossly violate human rights provided that such assistance "will directly benefit the needy people" of that country does not take account of the following fact: such assistance can be used by the recipient authorities in such a manner that the beneficial effect for the "needy people" proves to be very limited, while at the same time having advantageous consequences for the State authorities (e.g., if these authorities use foreign aid to replace domestic resources, which are then diverted to targets that are not socially useful, such as defence). The "needy people" doctrine is in fact a short-term policy which can serve the purpose of meeting the needs of only small segments of the society and only to a very limited extent. Therefore, this doctrine ultimately turns out to be based on a "charity" philosophy. Or, at least, it shows some features in common with that philosophy: it can eventually contribute to healing only the most glaring social ills and only in a limited and superficial manner; it cannot tackle the deep roots of social inequalities nor does it contribute to radically improving the fate of the underprivileged strata of society.

508. The other basic approach to "human rights and foreign economic aid", namely the one taken by the Netherlands legislation on development aid, will now be considered. The criteria for the selection of target countries are set forth in the explanatory memorandum accompanying the 1975 Development Co-operation Budget. It is stated there that Netherlands aid must be guided not only by "the degree of poverty" but also by "the extent to which a social and political structure is present which will make possible a policy truly designed to improve the situation within the country and will provide a guarantee that the aid will benefit the whole community". ^{29/} Furthermore, "particular attention will also be paid to the policy being pursued with regard to human rights". This last makes explicit the aim implied in the previous sentence.

^{29/} Quoted by J.P. Pronk, "Human rights and development aid", Review of the International Commission of Jurists, 1977, p. 37.

509. The philosophy behind the Netherlands legislation was clearly stated by Mr. J.P. Pronk, then Netherlands Minister for Development Co-operation, in an article on "Human rights and development aid". He stated there that

"Development aid means working for fairer social structures - a matter of fundamental importance as regards human rights; it also means giving direct aid to the victims of violations of human rights, among them political prisoners and refugees." 30/

He went on to say:

"It will be clear that I do not believe that development aid can be neutral in character. Development aid must set in motion processes through which the poor and the oppressed can achieve freedom and the right to a say in their own affairs. This means in turn that development aid must benefit people, and not be geared to powerful interests: it must also help reform the world community in the interests of the poor countries and the poor people in those countries. Working for human rights involves people within societies, and may affect the foundations of those societies. Working for human rights very often means encroaching upon vested interests. Development aid is not identical with work for human rights, but the two overlap ..." 31/

He then pointed out:

"Development aid should be concerned with the rights of peoples and individuals, and not with the interests of states. We must try to use channels which reach the people directly, and for this reason we attach great importance in our policies on human rights and development aid to national and international non-governmental organizations active in the promotion of justice and reform. The view is gaining ground, and it is supported by practical experience, that in situations of oppression, exploitation and persecution, the dominant political, economic and military powers are not suitable instruments for bringing about reform. Reform can be brought about primarily by the oppressed and those who are discriminated against themselves. UNESCO statements on racial discrimination and UN resolutions on apartheid and colonialism support this view. The World Council of Churches, meeting recently in Nairobi, put it thus: 'We realize that those who operate the structures of oppression are dependent on the people they oppress and that both are equally in need of liberation and God's forgiving love. In this fallen world, however, it is far more likely that the will and strength to **end** oppression comes from those who bear the brunt of it in their own lives rather than from the privileged persons, groups and nations.'" 32/

30/ J.P. Pronk, loc.cit., p. 36 (emphasis added).

31/ Ibid., p. 37 (emphasis added).

32/ Ibid., p. 38 (emphasis added).

510. The Rapporteur fully endorses these views and the general philosophy behind them. He would like to stress, in particular, the following points in the "Netherlands philosophy" of the link that should exist between economic assistance and respect for human rights. First, emphasis is placed on the situation of economic, social and cultural rights (without neglecting, however, civil and political rights) of the prospective recipient country. Second, the aim which is sought is not an improvement in the lot of some indigent people, but a basic change in the conditions of "the poor and the oppressed", a change which should lead to the creation of "fair social structures". In other words, economic assistance should be designed both to better the living conditions of the underprivileged and to put them in a position to participate in a democratic decision-making process. Third, whenever a decision on granting economic assistance must be made, account must be taken of whether the existing social structures of the prospective recipient State, as well as its economic policy, are likely to render foreign aid truly beneficial to the whole community. In short, the Netherlands philosophy appears to be a long-term policy, which can prove capable of helping to come to grips with the fundamental problems of respect for human rights in countries where these rights are consistently trampled upon.

511. In addition to action by States Members of the United Nations in the field of economic assistance to Chile, action by the Chilean authorities themselves is urgently called for in a number of sectors. In particular, adequate measures are necessary for the improvement of the social and health conditions of political detainees and of their families. In this respect, the Rapporteur shares the suggestions made by the representative of Amnesty International in the Commission on Human Rights on 24 February 1978. He suggested inter alia the following:

"... prisoners should be allowed to carry out useful and remunerative work; ... every effort should be made to find permanent and stable employment for those affected by arbitrary imprisonment and detention and, in the meantime, there should be special welfare arrangements to compensate for the loss of social security benefits; ...

"Until those objectives had been achieved, interim relief was essential. The greatest needs were the provision of a sufficient and balanced diet for prisoners; the establishment of workshops within the prisons and marketing of the goods produced; the rehabilitation of ex-prisoners and ex-detainees, for example by sponsorship of small work projects prepared by the ex-prisoners themselves under the sponsorship of the established Chilean agencies, for no external organization had yet met that need; ... medical assistance for prisoners, their families and the families of missing persons, particularly since Amnesty International had received reports of outbreaks of tuberculosis in prisons without the authorities taking any action; ... food and schooling for all children affected; regular travel for relatives in remote areas to visit prisons; and special care for the relatives of missing persons." 33/

33/ E/CN.4/SR.1456, paras. 17-18.

2. United Nations specialized agencies

512. A striking fact pointed out in the course of the research for the present report is that many United Nations specialized agencies do not base their action on human rights criteria. There is here a clear inconsistency between the principles proclaimed by the principal United Nations organs and the action of intergovernmental organizations linked to the United Nations (particularly the International Monetary Fund and the World Bank). In fact, while United Nations agencies are invited, under General Assembly resolution 31/124 of 16 December 1976, "to take steps which they may consider appropriate as a contribution to the restoration and safeguarding of human rights and fundamental freedoms in Chile", the available evidence shows little direct concern for any criteria beyond the intrinsic merits of many of the projects and programmes in themselves. Particularly in cases where the human rights impact is currently tenuous at best, more active consideration could be given to ways in which project and programme design, and any potential influence on broader sectoral policies, could be used to achieve a more positive impact.

513. The relevant international instruments pertaining to the relationships between the United Nations and the specialized agencies make provision for co-ordination of their respective action. Thus, the Charter of the United Nations provides in Article 58 that "The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies". And Article 64, paragraph 1, provides that "The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly". Furthermore, the Charter provides for mutual consultation ^{34/} and for the participation of representatives of the specialized agencies in the deliberations of United Nations bodies, and vice versa. ^{35/} The Agreements governing the relationship between the United Nations and each specialized agency restate and amplify this co-ordination of their

^{34/} Article 63, paragraph 2, provides that the Economic and Social Council "may co-ordinate the activities of the specialized agencies through consultation with and recommendation to such agencies and through recommendations to the General Assembly and to Members of the United Nations".

^{35/} Article 70 provides: "The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies."

respective action. ^{36/} Therefore there would be, in principle, ample opportunity for the specialized agencies to bring their action into line with the recommendations of the United Nations General Assembly on Chile and constantly take human rights issues into consideration when deciding upon the sort of action to be taken with respect to Chile, within their respective fields of competence.

514. Yet the above considerations tend to remain rather theoretical, because of the following facts. First, the specialized agencies whose actions have the greatest impact on Chile, and for which there consequently arises a greater need for co-ordination with General Assembly recommendations on Chile, are the World Bank and the International Monetary Fund (IMF). These two organizations, however, are precisely those which enjoy the greatest freedom of action and autonomy with respect to the United Nations, as is apparent from the statutes of these organizations and from the Relationship Agreements they concluded with the United Nations. ^{37/} It therefore proves less easy for the United Nations to urge them to adjust their policy - at least as far as Chile is concerned - to the resolutions adopted by the General Assembly on Chile. In addition, at least on one occasion, in 1967, there emerged a clear difference of views between the United Nations and the Bank on the question whether the Bank should comply with the request of the General Assembly to withhold economic assistance to Portugal and South Africa until they renounced their policy of colonial domination and racial discrimination. On that occasion the President of the Bank made the following statement:

"The Bank's articles provide that the Bank and its officers shall not interfere in the political affairs of any Member and that they shall not be influenced in their decisions by the political character of the Member or Members concerned. Only economic considerations are to be relevant to their decisions. Therefore, I propose to continue to treat requests for loans from these countries (Portugal and South Africa) in the same manner as applications from other Members". ^{38/}

Later on, the Bank again pointed out that it interpreted its Articles of Agreement and the Relationship Agreement with the United Nations to the effect that the Bank, in the conduct of its activities, enjoys "a positive independence of the

^{36/} See thereon: A. Malintoppi, "Saggi su aspetti normativi del coordinamento nel sistema delle Nazioni Unite", Annali della Facoltà giuridica dell'Università di Camerino, vol. XXX, 1964, p. 272 ff.; J. Dagory, "Les rapports entre les institutions spécialisées et l'Organisation des Nations Unies", Revue générale de droit international public, 1969, p. 286 ff. (especially 349 ff.).

See also R.J. Dupuy, "Le droit des relations entre les organisations internationales", Recueil des Cours de l'Académie de Droit International de La Haye, 1960-II, vol. 100, p. 575 ff.

^{37/} See A. Malintoppi, loc. cit., pp. 304-306; I. Dagory, loc. cit., p. 349 ff. R. Lavalley, La Banque Mondiale et ses filiales: aspects juridiques et fonctionnement (Paris, 1972), pp. 127-134; E.S. Mason and R.A. Asher, The World Bank since Bretton Woods (Washington, D.C., 1973), pp. 559-570.

^{38/} Statement made on 29 March 1966, A/6825, p. 8, referring to article 1, section 10, of the Articles of Agreement of IBRD.

need to have regard to any considerations other than economic considerations". ^{39/}
The Bank therefore refused to discontinue economic assistance to the two
aforementioned Governments.

515. Despite the above considerations, it seems that there is room for believing
that both the Bank and the IMF could endeavour to take, at least to some extent,
human rights or social development criteria into consideration when considering
economic assistance to Chile.

516. With respect to the World Bank, it is appropriate to recall first that in
1967 it did not rule out consideration of criteria other than economic ones in
determining its policy towards States. It stated:

"The Bank may and does take into consideration, and is influenced in its
lending decisions by, the economic effects which stem from the political
character of a member and from the censures and condemnations of that
member by United Nations organs. However, by virtue of article IV,
section 10, of its Articles of Agreement, the Bank, in exercising its
judgment, must consider such economic effects together with all other
relevant economic factors, in the light of the purposes of the Organization.
What is precluded from considering is the political character of a member
as an independent criterion for decision." ^{40/}

The Bank further pointed out that

"... in creating an organization to which member Governments with different
political characters and aims or interests were about to furnish sizable
but limited resources to be used for economic reconstruction and
development, it was thought necessary to prevent the use of the leverage
that would be provided by the granting or withholding of financial assistance

^{39/} An exchange of communications between the United Nations and the
World Bank is reproduced in United Nations Juridical Yearbook, 1967, pp. 108-132.
See in particular letter of 20 July 1967 from the Legal Counsel of the
United Nations to the General Counsel of IBRD, ibid., p. 131.

On the divergence between the two organizations on the question of economic
assistance to Portugal and South Africa, see S.A. Bleicher, "UN v. IBRD, A dilemma
of functionalism", International Organization, 1970, pp. 31-47; D. Ruzić,
Organisations internationales et sanctions internationales (Paris, 1971),
pp. 140-143; H.G. Schermers, International Institutional Law, vol. II, Functioning
and Legal Order (Leiden, 1972), pp. 684-685; E.S. Mason and R.E. Asher, op.cit.,
pp. 586-591.

^{40/} "Extract from a letter dated 5 May 1967 from the General Counsel of the
International Bank for Reconstruction and Development to the United Nations
Secretariat transmitting a paper containing comments of the Legal Department of
the Bank on the memorandum prepared by the Secretariat", United Nations Juridical
Yearbook, 1967, p. 124.

to a particular member for the furtherance of the political aims of any member or any group of members, no matter how worthwhile such aims might appear to be." 41/

517. Furthermore, it has been rightly pointed out by a great authority that

"The Agreement between the UN and the BANK provides no basis for an obligation on the part of the latter to follow UN resolutions. It may however be a strong ground for permitting the BANK to take the action requested by the UN autonomously. A general obligation to bring its policy into line with that of the UN could be derived from the general principles underlying the functionally decentralized structure of the "UN Family". This general obligation could be a basis for the BANK to act according to the wishes of the UN whenever it is permitted to do so." 42/

518. Apart from the above considerations, it can be pointed out that, as has already been stressed (supra, paras. 330-339), 43/ the World Bank is showing increasing practical concern with social development and not just infrastructure development. However, it seems that there is ample room within its present terms of reference for a more full and consistent application of social considerations in project appraisal. In particular, the consideration of conditions of labour is conspicuously absent in the otherwise extremely detailed country and project assessment. A more careful analysis of possible recommendations and conditioning could ensure a maximization of the positive impact of the projects it finances on economic, social and cultural rights.

519. If the World Bank did not deem it fitting to take greater account of human rights criteria, action on the part of Member States could prove helpful. In this connexion, mention should be made of the clause in the Harkin Amendment adopted in 1977 by the United States House of Representatives which "required the U.S. delegate to each of the international financial institutions to vote against loans to repressive governments unless the loan was directly beneficial to needy people". 44/ Although this amendment incorporates the "needy people exemption

41/ Ibid., p. 131.

42/ H.G. Schermers, op.cit., p. 685.

43/ See also J. Touscoz, "Le Groupe de la Banque Mondiale face aux exigences du développement", Revue belge de droit international, 1970, pp. 15-28.

44/ G.D. Loescher, "U.S. human rights policy and international financial institutions", The World Today, December 1977, p. 462. This author mentions another significant piece of United States legislation: The "Reuss Amendment to the multilateral banks [which] recommended that the Administration encourage the various multilateral lending institutions to channel aid to those countries which are advancing human rights" (ibid.). Loescher points out, however, that "President Carter and the President of the World Bank, Robert McNamara, have expressed their opposition to these developments and argued that the U.S. should not approach the IFIs [international financial institutions] as a means of chastisement rather than as a positive tool for human rights development" (ibid.). On this point see also R. Rosenblatt, "World Bank to reject funds if US links them to rights", International Herald Tribune, 15 July 1977.

clause", which is based on a general approach to human rights that the Rapporteur does not regard as the most appropriate one (see supra, paras. 506-507), adoption of similar legislation by other States might prove useful, at least in some respects.

520. Turning to the International Monetary Fund, it must be stressed again that it has consistently used its very considerable leverage to push for increasingly strong austerity measures, including public spending cuts, strict wage control and restriction of the money supply. Its overriding criterion in this has been the promotion of freer trade and foreign exchange policies, this being the purpose for which the IMF was established. The immediate global impact of such policies on human rights conditions - and particularly on the position of the poorer sectors - has undoubtedly been negative. While the basic economic policies favoured by the Fund and the Chilean military Government have in any case been fundamentally similar, the IMF has if anything tended to aggravate the negative aspects - in human rights terms - of official Chilean policy. Particularly striking has been IMF insistence on the need for a reduction in already minimal wage levels, with the inevitable direct negative impact on human rights such as those to just and favourable remuneration and to an adequate standard of living.

521. As against the clear, immediate negative impact of IMF policies on the position of the poor and the underprivileged and more broadly on various economic, social and cultural human rights, IMF argues that such policies are essential to domestic "stabilization" and the promotion of freer international trade and investment, and that these objectives can best promote longer-term development and social welfare nationally and internationally. While it is not within the scope of this report to evaluate this argument per se, certain observations are relevant with regard to the situation of economic, social and cultural rights and available options which could tend to promote these.

522. Within IMF's existing economic policy framework, there are two ways in which the Fund could seek a more positive role in safeguarding human rights. First, and most directly, at least progress towards the respect for human rights could be made one of the conditions for IMF assistance, becoming more strict - as with other IMF conditions - as the extent of such assistance increases. At least minimal guarantees for rights such as those to social security, to just and favourable conditions of work, to form and join trade unions, and to effectively exercise the right to collective bargaining would be of major importance in helping to offset what is otherwise the tendency for IMF policies to promote negative consequences in these fields.

523. The second way in which the IMF could seek a more positive human rights role, within the framework of its present economic theories, is by more carefully supervising the allocation of scarce resources within the austerity programmes it imposes. In its analysis of Chile's 1974 public investment programme, a World Bank report noted:

"Defence spending historically has constituted no more than 2 per cent of total public investment; in the apparent program it would rise to almost 7 percent." 45/

45/ World Bank, Special Report on the Chilean Economic Outlook (Washington, D.C., 1974), p. 72, para. 164.

Yet IMF showed no apparent concern for Chile's large military spending, requiring only that spending as a whole be cut. By establishing guidelines for a more socially and economically beneficial distribution of spending within its over-all limits, IMF could again help offset tendencies towards negative consequences on economic, social and cultural rights.

524. The often drastic consequences of IMF policies, particularly on Third World countries, has led to increasingly sharp questioning of these policies themselves. Reflecting widespread concern in business and official circles, the Financial Times of London recently wrote in an editorial:

"The present Peruvian crisis and similar difficulties facing the Jamaican authorities raise yet again the question of the appropriateness of the demands that the Fund makes on developing countries as the price for its assistance. Austerity measures which the rich countries such as Britain find burdensome but in the last event tolerable can have devastating effects on the political and economic fabric of poorer countries." 46/

Such "devastating effects" conflict seriously with even IMF's minimal terms of reference of seeking to guarantee a stable international economic order and as certifiers of nations' international "creditworthiness". A shift away from a "bank balance" approach to such problems, placing emphasis instead on strengthening the economic and social fabric of a country, might help overcome this contradiction and would certainly be more favourable to respect for human rights. 47/

46/ "Peru after the IMF", Financial Times, 22 May 1978.

47/ Reference should also be made to a bank which, although it does not belong to the United Nations "family", plays a great rôle with regard to Chile, namely the Inter-American Development Bank (IDB). The use of financial leverage by IDB and others of Chile's creditors to encourage increased allocations for public works, and mainly social infrastructure, would not only be beneficial in terms of the country's economic and social development, but it would help also in the short term to increase employment and thus have a positive impact on the right to work. Given the increasing concern within IDB about the position of economic, social and cultural rights in Chile, it is likely that IDB assistance for the "general development" type of project will tend to diminish. At a minimum, greater consideration can be expected with regard to the social impact of such projects. In relation to projects which do directly benefit economic, social and cultural rights, the main concern must be with their relationship to official Chilean Government policies, to ensure that the potential benefits from intrinsically beneficial projects is not lost and that maximum leverage is exercised in forcing the Government to pursue more progressive policies in related sectors.

3. Private entities

525. It has been stressed above that, while official sources increasingly put human rights criteria at the centre of their lending policies, the overwhelming majority of foreign economic assistance to Chile now comes from private commercial sources with little apparent concern for such criteria. Private multinational banks, by far the most important source of foreign assistance for the Chilean authorities since 1976, have been instrumental in allowing them to by-pass official government assistance which was increasingly conditioned to human rights improvements, and have provided massive financial support.

526. Growing concern at this gulf between official and private policies towards Chile is well exemplified in the Senate statement on 4 May 1978 by Senator Edward Kennedy, calling for the

"... denial of back-door economic support, for example, the private loans of hundreds of millions of dollars to Chile by leading U.S. banks - undercutting the suspension of official assistance - especially Bankers Trust, Chemical Bank, Citicorp, First Chicago, Morgan Guaranty, and Wells Fargo.

"This shocking banking behaviour was recently documented by Isabel Letelier and Michael Moffitt of the Transnational Institute - and should be stopped by the Congress if it is not ended voluntarily by the banks." 48/

A number of moves are now underway to bring the activities of private lenders and investors more into line with the concern of governments throughout the world to help improve the respect for human rights in Chile. As in the case of South Africa, the international community is moving increasingly towards assuming full responsibility for the social and political consequences of all types of economic relations in which its members are engaged, and moving towards a fuller application of human rights criteria to the allocation of both public and private economic resources.

(a) Loans

527. It has been pointed out above (paragraph 385) that in 1978 the question of loans to Chile dominated the annual general meeting of Lloyds Bank in London, when shareholders asked about the effect of the Bank's participation in syndicated loans totalling more than \$US 200 million to Chile in 1977. Sir Jeremy Morse, Lloyds Bank Chairman, admitted that the Chilean régime was repressive, but he said Lloyds would lend to anyone who wanted to borrow if they were credit-worthy, unless it was banned from doing so by the British Government, as in the case of Rhodesia. Lloyds' response to its shareholders illustrates the

48/ United States of America, Congressional Record, Proceedings and Debates of the 95th Congress, second session, vol. 125, No. 64 (4 May 1978).

moral and also the commercial problems faced by the private banking community, forced to confront issues for which it is clearly not adequately equipped, because of the absence of statutory government regulations concerning lending to countries where systematic violations of human rights are being committed. Banking is a competitive activity, and, given the fact that any advantage conceded to competitors will mean condemning oneself to a less advantageous position at the next business opportunity, it is clear that general regulations from governments and the international community will be required if any substantial changes in current practice are to be brought about.

528. In the absence of clear government regulations, private enterprises tend to disregard ethic considerations, arguing that if they do not take advantage of a business opportunity, somebody else will, and thus their abstention will in any case be fruitless in terms of furthering respect for human rights. In at least one case, that of the Netherlands Stevin Group (see supra, para. 338), private entrepreneurs have expressed concern at the lack of clear government guidelines on this matter. Calls for government regulations have come also from a number of other quarters, including churches, trade unions, parliamentarians and human rights bodies, and there are indications that controls for private loans are in preparation. As for foreign investments, regulations such as the one initiated by the United Kingdom in relation to South Africa are starting to be adopted by other countries, and may well be a useful starting-point to control private activities in Chile as well. At the same time, serious doubts have been raised about the relative merits of "constructive engagement" or "economic disengagement" from States which promote the systematic denial of basic economic, social and cultural rights.

529. Given the enormous importance private loans have achieved as a source of Chile's external financing, some steps towards regulation of this activity will have to be taken if the international community is to effectively gear foreign economic assistance towards a restoration of human rights in Chile.

530. Some moves towards proper supervision and regulation of the activities of multinational private banks have already started to emerge, with concern for their human rights impact being reinforced by concern over such matters as tax avoidance and the possibility that too much high-risk lending to Third World countries could result in a disastrous series of bankruptcies and subsequent collapse in the financial system. United States Congressman T. Harkin, author of the human rights amendment to the foreign aid bill which dramatically reduced money to the Chilean Government from the public sector (see above, paragraph 267), is reported by the New York Post to be considering a disclosure-licensing bill. ^{49/} Senator Edward Kennedy of Massachusetts, in the aforementioned Senate floor statement of 4 May 1978, criticized private United States bank loans to Chile, stating that they should be stopped by Congress if they are not ended voluntarily by the banks, and undertaking to "cosponsor legislation to require full bank disclosure of all loans to countries, including Chile, where our foreign aid has

^{49/} "A warning to Chile's US bankers", New York Post, 17 April 1978.

been cut off for human rights reasons". ^{50/} Federal bank regulatory agencies in the United States are reportedly about to introduce for the first time a co-ordinated system for monitoring foreign lending by banks. The Financial Times reports that

"The proposal rejects the establishment of uniform procedures which banks would have to follow in making a foreign loan, and also rejects the setting-up of a system of credit ratings of countries which banks must avoid in making loans.

"Where it would differ from previous approaches, however, is in the emphasis on analysing "country risk", which arises from economic, social, legal and political conditions in a foreign country, as opposed to the traditional "credit risk" analysis which is common to domestic and foreign lending." ^{51/}

At an international level, a United States Senate staff report recently stated:

"... Government banking authorities (have been led) to try to upgrade the quality of data on private bank lending and on international debt, through a joint project under the auspices of the Bank for International Settlements." ^{52/}

531. There are, however, indications that some Governments do not consider it appropriate to place restrictions on private banks' lending to foreign Governments or private institutions of countries with a bad human rights record. Thus, for instance, the President of the United States said at a new conference

^{50/} United States of America, Congressional Record, Proceedings and Debates of the 95th Congress, second session, vol. 124, No. 64 (4 May 1978).

^{51/} "New plan for supervision of banks' foreign lending", Financial Times, 15 May 1978.

^{52/} International Debt, the Banks, and United States Foreign Policy, a Staff Report prepared for the use of the Subcommittee on Foreign Economic Policy of the Committee on Foreign Relations, United States Senate, Washington, 1977, p.2.

held on 30 March 1978 that any such restriction would be against the principles of the free enterprise system. 53/

53/ The following question was put to President Carter: "The American commercial banks are the main Brazilian source of external credit. It seems to some people in Washington that sooner or later a Congressman may try to establish a link between the commercial banking loans and the human rights policy. I'd like to know your opinion about this subject." (Weekly Compilation of Presidential Documents, vol. 14, No. 13, p. 629). The President replied:

"Brazil is a major trading partner of the United States in commercial goods and also in loans and, I might say, timely repayments. The debt of Brazil is very manageable. The loans of the American banks to Brazil are sound. Additional loans are being pursued by the American banks as an excellent advantage for their future investments in Brazil, based on the strength of your country. It would be inconceivable to me that any act of Congress would try to restrict the lending of money by American private banks to Brazil under any circumstances.

"This would violate the principles of our own free enterprise system, and if such an act was passed by Congress, I would not approve it" (Ibid.)

It was then asked: "What comes in the first place for you: the private enterprise and the private system or the human rights policy?" The President replied:

"Well, they're both important to us. And I don't see any incompatibility between a belief in a free enterprise system, where government does not dominate the banks or the production of agricultural products or commercial products on the one hand, and a deep and consistent and permanent and strong belief in enhancing human rights around the world.

"I might say that the American business community, the Congress of the United States, the general populace of the United States supports completely a commitment of our Nation to human rights. It's a basic element of our national consciousness that has no violation at all - or no conflict between human rights on the one hand and the free enterprise system on the other." (Ibid.)

532. Especially in view of those instances where national action designed to place restrictions on private banks or lending institutions proves difficult, international action aimed at urging States to take appropriate steps in this direction could be particularly helpful. In this regard, mention may be made of a precedent which demonstrates that the international community has already considered the question of private institutions and their dealings with Governments that gravely disregard the basic standards of conduct agreed upon at the international level.

533. Following the unilateral declaration of independence of Southern Rhodesia in 1965, the United Nations adopted a series of resolutions designed to put a stop to the Southern Rhodesian illegal régime. On 29 May 1968, the Security Council, after condemning inter alia "all measures of political repression [adopted by the Southern Rhodesian authorities], including arrests, detentions, trials and executions which violate fundamental freedoms and rights of the people of Southern Rhodesia" (paragraph 1), decided among other things that

"all States Members of the United Nations shall not make available to the illegal régime in Southern Rhodesia or to any commercial, industrial or public utility undertaking, including tourist enterprises, in Southern Rhodesia any funds for investment or any other financial or economic resources and shall prevent their nationals and any persons within their territories from making available to the régime or to any such undertaking any such funds or resources and from remitting any other funds to persons or bodies within Southern Rhodesia, except payments exclusively for pensions or for strictly medical, humanitarian or educational purposes or for the provision of news material and in special humanitarian circumstances, foodstuffs" (paragraph 4). 54/

534. Of course, the situation of Southern Rhodesia showed distinct and unique features: it was inter alia characterized by the Security Council as "a threat to international peace and security", and in the above-mentioned resolution the Council explicitly stated that it was acting under Chapter VII of the Charter of the United Nations. This is also why it took decisions and did not merely make recommendations on the matter. It could be argued, however, that, mutatis mutandis, similar measures could be adopted in cases of grave and large-scale violations of human rights.

535. In the opinion of the Rapporteur, if the General Assembly has already made a finding in a resolution to the effect that a State engages in a consistent pattern of gross violations of human rights, it could proceed to recommend inter alia to Member States to adopt the measures referred to above, or similar measures. The requirement that the General Assembly must have made a prior determination that a State grossly and consistently disregards international standards on human rights would appear to provide sovereign States with a guarantee against possible abuses. It should furthermore be stressed that the General Assembly would merely recommend that action be taken by Member States.

55/ See on this resolution R. Zacklin, The United Nations and Rhodesia: A Study in International Law (New York-Washington-London, 1974), pp. 51, 76-88. See also D. Ruzié, op.cit., pp. 78-85, 140-148.

(b) Investments

536. As regards Chile, a problem of major concern is the assistance provided by private banks or multinational corporations in the form of investment. It should be noted that some Governments (including those of the United States, the United Kingdom and the Federal Republic of Germany) establish human rights-related criteria for decisions on whether to grant official insurance for foreign investment projects. The Swedish EKN (Exports Credits Guaranty Board) requires:

"For an investment proposal to be approved for coverage, it must show that it is going to contribute to development of the host country, while the foreign company that receives the investment must conform to specified provisions concerning its labour policy." 55/

The United States Overseas Private Investment Corporation (OPIC) requires, in its application form for insurance, answers to questions such as:

"What effect do you anticipate the project's local employment will have on local salaries and wages scales?

"What relationships do you expect with local trade-unions?

" ...

"Describe briefly other specific constructive development contributions resulting from the project (e.g. any unique transfer of technology, special training program for host country nationals, new facilities such as schools, housing, or medical care planned to be provided for the local community in connexion with the project)." 56/

537. It seems to the Rapporteur that it could prove helpful to recommend to States that do not yet have such legislation the adoption of similar legislative measures.

538. It is worth recalling that, following widespread dissatisfaction with the record of voluntary "constructive engagement" in South Africa, Canada and the European Economic Community (EEC) have adopted codes of conduct guiding the operations of their transnational companies in that country,

55/ The Overseas Private Investment Corporation: A Critical Analysis, prepared for the Committee on Foreign Affairs by the Foreign Affairs Division, Congressional Research Service, Library of Congress (Washington, D.C., United States Government Printing Office, 1973), p.122.

56/ Ibid., p. 156.

while a number of church and other groups have gone much further, calling for a policy of "economic disengagement" as the only way not to participate in and reinforce a system designed to deny basic rights. 57/ In the discussion over investment in Chile, the same arguments and positions have been put forward. 58/ It would therefore seem useful and appropriate to explore means of establishing, at the international or at the national level, a "code of conduct" for private enterprises operating in Chile. Although the elaboration of codes of conduct for transnational corporations has been subject to criticism, 59/ it seems to the Rapporteur that this could constitute one of the possible avenues to be explored for the purpose of achieving restoration of respect for human rights in Chile. It may be useful to recall in this connexion that the "annotated outline of a code of conduct" prepared in 1977 by a working group of the United Nations Commission on Transnational Corporations included "respect for human rights and fundamental freedoms" among the major principles related to the activities of transnational corporations. 60/ Other

57/ For the Canadian Code, see "Ottawa Code for South Africa", Financial Times, 2 May 1978. For the EEC Code of Conduct for firms in South Africa, see infra, para. 539, note 69.

58/ See: Chili Komitee Nederland, "Un caso de boicot económico: El Grupo Stevin de Holanda"; El Mercurio, 19 July 1975; Statement to Shareholders of Noranda Mines Limited (1977) by the Canadian Churches, signed by The Venerable E. Light (General Secretary, Anglican Church of Canada), Bishop Adolphe Prouix (Chairman, Human Rights/Social Affairs Commission, Canadian Catholic Conference of Bishops) and Dr. Donald Ray (Secretary, General Council, United Church of Canada); "GM sees near-record sales of '77s", Detroit Free Press, 22 May 1976; Th. Scheetz, "GM: a case study", America, 6 November 1976, pp. 297-300; 1976 General Motors Public Interest Report, pp.46-48.

59/ (See e.g. F. Francioni, "International control over multinational enterprises: an alternative to Codes of Conduct" The Italian Yearbook of International Law, vol.III, 1978 (forthcoming))

In general, on codes of conduct concerning multinational enterprises, see J. Davidow and L. Chiles, "The United States and the issue of the binding or voluntary nature of international codes of conduct regarding restrictive business practices", American Journal of International Law, 1978, p. 247 ff.

On multinational corporations and human rights, see Th.E. McCarthy, "Transnational corporations and human rights", in A. Cassese (ed.), Modern International Law: Problems and Prospects (Leyden, 1978) (forthcoming).

60/ United Nations Commission on Transnational Corporations, Report of the Intergovernmental Working Group on the Code of Conduct (first and second sessions), E/C.10/31, paras. 4 and 16.

principles to be respected by those corporations included "Adherence to economic goals and development objectives, policies and priorities" and "Adherence to socio-cultural objectives and values". ^{61/} Particularly important also are the principles concerning employment and labour, the annotations to which read as follows:

"Relevance of ILO principles and standards regarding inter alia employment promotion and security, discrimination of employees, training of local employees, replacement of foreign citizens by national citizens in management at all levels, wages, working conditions, safety and health, freedom of association, trade union rights and collective bargaining and measures in case of lay-offs, closures of plants and shifts in production." ^{62/}

539. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policies can also provide useful elements for reflection. ^{63/} Of particular importance appears the "Code of Conduct for Companies with Subsidiaries, Branches or Representation in South Africa", adopted by the Foreign Ministers of the European Economic Communities on

^{61/} Ibid.

^{62/} Ibid.

^{63/} The Declaration inter alia states that all parties concerned "should respect the Universal Declaration of Human Rights and the corresponding International Covenants" as well as "the Constitution of the International Labour Organisation and its principles according to which freedom of expression and association are essential to sustained progress" (ILO, Report of the Reconvened Tripartite Advisory Meeting on the Relationship of Multinational Enterprises and Social Policy, ILO Governing Body doc. GB.203/6/2, appendix II). The declaration also covers the following areas: employment promotion; equality of opportunity and treatment; security of employment; training; wages; benefits and conditions of work; safety and health; freedom of association and the right to organize; collective bargaining; consultation; examination of grievances and settlement of industrial disputes. (ibid., paras. 78-88). See also Th.E.McCarthy, loc. cit.

20 September 1977. Many provisions of this Code could serve as a helpful precedent or could provide significant guidelines 64/ if it were decided to

64/ The Code of conduct includes the following provisions:

"1. Relations within the undertaking

(a) Companies should ensure that all their employees irrespective of racial or other distinction are allowed to choose freely and without any hindrance the type of organisation to represent them.

(b) Employers should regularly and unequivocally inform their employees that consultations and collective bargaining with organisations which are freely elected and representative of employees are part of company policy.

(c) Should black African employees decide that their **representative** body should be in the form of a trade union, the company should accept this decision. Trade unions for black Africans are not illegal, and companies are free to recognize them, and to negotiate and conclude agreements with them.

(d) Consequently, the companies should allow collective bargaining with organisations freely chosen by the workers to develop in accordance with internationally accepted principles.

(e) Employers should do everything possible to ensure that black African employees are free to form or to join a trade union. Steps should be taken in particular to permit trade union officials to explain to employees the aims of trade unions and the advantages of membership, to distribute trade union documentation and display trade union notices on the company's premises, to have reasonable time off to carry out their union duties without loss of pay and to organise meetings.

(f) Where works or liaison committees already operate, trade union officials should have representative status on these bodies if employees so wish. However, the existence of these types of committee should not prejudice the development or status of trade unions or of their representatives.

"...

"3. Pay

Companies should assume a special responsibility as regards the pay and conditions of employment of their black African employees. They should formulate specific policies aimed at improving their terms of employment. Pay based on the absolute minimum necessary for a family to

envisage the possibility of drawing up a code of conduct for multinational corporations operating in Chile (or, more generally, in States with respect

survive cannot be considered as being sufficient. The minimum wage should initially exceed by at least fifty per cent the minimum level required to satisfy the basic needs of an employee and his family.

"...

"5. Fringe benefits

(a) In view of their social responsibilities, undertakings should concern themselves with the living conditions of their employees and families.

(b) For this purpose company funds could be set aside for use

- in the housing of black African personnel and their families;
- in transport from place of residence to place of work and back;
- in providing leisure and health service facilities;
- in providing their employees with assistance in problems they encounter with the authorities over their movement from one place to another, their choice of residence and their employment;
- in pension matters;
- in education matters;
- in improving medical services, in adopting programmes of insurance against industrial accidents and unemployment, and in other measures of social welfare ...

"...

"7. Reports on the implementation of the Code of Conduct

(a) Parent companies to which this Code is addressed should publish each year a detailed and fully documented report on the progress made in applying this Code.

(b) The number of black Africans employed in the undertaking should be specified in the report, and progress in each of the six areas indicated above should be fully covered.

(c) The Governments of the Nine will review annually progress made in implementing this Code. To this end a copy of each company's report should be submitted to their national Government."

to which the General Assembly has declared that they grossly violate basic human rights and fundamental freedoms).

*

*

*

540. The Rapporteur believes that at least some of the above measures might be of help in reorienting foreign economic assistance in such a way as to make it consonant with international standards on human rights, and therefore fully and directly conducive to the effective implementation of such rights.

541. There is, however, a fundamental point which the Rapporteur wishes to emphasize again, in view of its importance. It follows from the extensive research undertaken for the present report that foreign economic assistance must always be looked upon within the general context of the economic and social policy carried out by the recipient State. Consequently, whichever of the aforementioned measures is adopted (by States, intergovernmental organizations or private institutions), one basic fact should always be borne in mind: whenever a recipient State adopts a repressive policy that results in gross disregard of civil and political as well as economic, social and cultural rights, the preliminary condition for making foreign economic assistance truly advantageous to the population of that State is a basic reorientation of the general policy of the Government, and full restoration of all the basic human rights and fundamental freedoms.

Annex I

METHODS OF WORK

1. The Sub-Commission has developed and the Commission on Human Rights has approved a method and procedure for carrying out its studies (resolutions B and G and chapter V of the report of the Sub-Commission on its sixth session (E/CN.4/70 and paras.376-418 of the report of the Commission on its tenth session (E/2573)); since this method and procedure have proved generally acceptable and successful in the preparation of numerous studies, the Rapporteur decided to follow these precedents.
2. The main sources of material for this study have been:
 - (a) Governments of States Members of the United Nations and of States members of the specialized agencies;
 - (b) The specialized agencies;
 - (c) Non-governmental organizations in consultative status with the Economic and Social Council;
 - (d) Governmental departments in Chile;
 - (e) Regional organizations;
 - (f) Independent institutions;
 - (g) Reliable publications.
3. At the request of the Special Rapporteur, the Secretary-General sent a note verbale on 5 October 1977 to the Governments of States Members of the United Nations and members of the specialized agencies, in which he indicated that he would be grateful to the Governments consulted for any help they could give the Special Rapporteur in the preparation of his study, in particular, reports or other material which would enable him to fulfil the request, made by the Sub-Commission in paragraph 3 of its resolution 11 (XXX), to analyse the volume, origins, development and significance of the assistance given to the present régime in Chile and to study whether a quantitative or qualitative change in the aid now being given might contribute to restoring respect for human rights in Chile.
4. On 6 October 1977 a similar request was addressed by the Deputy Director of the Division of Human Rights to the following specialized agencies and United Nations bodies: Food and Agriculture Organization of the United Nations (FAO), Inter-Governmental Maritime Consultative Organization (IMCO), International Bank for Reconstruction and Development (IBRD), International Civil Aviation Organization (ICAO), International Labour Organisation (ILO), International Monetary Fund (IMF), International Telecommunication Union (ITU), United Nations Educational, Scientific and Cultural Organization (UNESCO), Universal Postal Union (UPU), World Health Organization (WHO), World Intellectual Property Organization (WIPO), World Meteorological Organization (WMO), Economic Commission for Latin America (ECLA), United Nations Industrial Development Organization (UNIDO).

5. The latter request was also sent to non-governmental organizations in consultative status with the Economic and Social Council, and to various independent institutions engaged in relevant activities.
6. Substantive replies were sent to the Rapporteur by the Governments of the following countries on the dates indicated: Bulgaria (20 December 1977), Chile (5 December 1977 and 13 February 1978), Cyprus (17 November 1977), German Democratic Republic (14 December 1977), Germany, Federal Republic of (30 January 1978), Greece (8 December 1977), Italy (17 March 1978), Japan (10 February 1978), Netherlands (21 December 1977), Norway (25 November 1977), Romania (19 January 1978), Surinam (4 January 1978), Sweden (15 December 1977), Union of Soviet Socialist Republics (17 April 1978).
7. Acknowledgements were received from the Governments of Australia, Austria, Barbados, Botswana, Denmark, Finland, France, Grenada, Guatemala, Haiti, Madagascar, New Zealand, Nigeria, Panama, United States of America.
8. Replies were sent to the Rapporteur by the following specialized agencies on the dates indicated: ILO (23 November 1977), UNESCO (29 November 1977), WHO (30 November 1977), IBRD (16 November 1977), ICAO (14 November 1977), WMO (9 November 1977), IICO (26 October 1977), WIPO (21 October 1977).
9. Replies were sent to the Rapporteur by the following non-governmental organizations in consultative status with the Economic and Social Council on the dates indicated: category I: Inter-Parliamentary Union (27 October 1977), International Youth and Student Movement for the United Nations (20 September 1977), World Federation of Trade Unions (29 November 1977); category II: Amnesty International (29 November 1977), Centre for Latin American Monetary Studies (24 October 1977), Chamber of Commerce of the United States of America (3 November 1977), Co-ordinating Committee for International Voluntary Service (4 November 1977), Friends World Committee for Consultation (29 November 1977), Inter-American Council of Commerce and Production (28 October 1977), Inter-American Statistical Institute (26 October 1977), International Association for Social Progress (5 December 1977), International Bar Association (17 October 1977), International Committee of the Red Cross (20 October 1977), International Commission of Jurists (13 December 1977), International Law Association (23 November 1977), Socialist International (20 October 1977), Vienna Institute for Development (19 October 1977), World Federation of Catholic Youth (22 October 1977); Roster: Commission to Study the Organization of Peace (9 October 1977), the Trilateral Commission (18 October 1977).
10. Replies were sent to the Rapporteur by the following independent institutions on the dates indicated: American Public Health Association (22 November 1977), Bay Area Ecumenical Committee of Concern for Chile (30 March 1978), Centro de Investigación y Docencia Económicas, A.C. (9 November 1977), Chile Committee for Human Rights (27 January 1978), Columbia University - School of Public Health (23 November 1977), Contemporary Archive on Latin America (25 November 1977, 12 and 19 June 1978), Inter-American Bar Association (15 November 1977), North American Congress on Latin America (8 November 1977), Tampere Peace Research Institute (25 October 1977), the Transnational Institute (16 March 1978 and 19 April 1978).

11. With the assistance of the secretariat, the Rapporteur is supplementing this material with the information obtained from United Nations documents and other publications, including periodicals, the press and the writings of scholars and experts.

12. In April 1978 a second note verbale was sent to the Governments of the following countries: Belgium, Canada, Germany, Federal Republic of, Italy, Japan, Netherlands, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America. This note verbale was accompanied by the following questionnaire:

"1. Does your Government grant general economic or financial assistance to Chile or does it grant such assistance only in specifically defined areas (e.g. employment, education, health, housing, etc.)? If given for specific areas, please enumerate.

2. Is your Government informed of loans or credits accorded to Chile by private banks or corporations in your country? If so, please furnish detailed data.

3. Is economic or financial assistance given to Chile by State agencies or by private banks or corporations ever made subject to any conditions (e.g. that the assistance be used in certain areas, for specific projects, subject to certain guidelines, or to be used within a certain time-limit, etc.)? If so, please describe.

4. In the event your Government grants economic assistance to Chile for specified purposes, are such grants made conditional upon the allocation and expenditure of specified funds from the Chilean budget for the same purposes? If so, please describe.

5. When your Government gives economic or financial assistance to Chile are procedures established for verifying how this assistance is actually used? If so, does your Government use its own means of verification or does it rely upon reports from Chilean authorities? Assess the value of such verifying procedures.

6. Does your Government have methods for determining if assistance is directly beneficial to needy people?"

13. Answers were received from the Government of Italy (27 April and 4 July 1978), Germany, Federal Republic of, (31 May 1978), the Netherlands (2 August 1978) and the United Kingdom (23 May 1978).

14. On 11 April 1978 a second note verbale was sent to the International Monetary Fund and the International Bank for Reconstruction and Development. The following questionnaire accompanied the note verbale:

"1. Does your organization grant general, economic or financial assistance to Chile or does it give such assistance only in specifically defined areas (e.g. employment, education, health, housing, etc.)? If given for specific areas, please enumerate.

2. Is economic or financial assistance granted to Chile by your organization ever made subject to any conditions? (e.g. that the assistance be used in

certain areas, for specific projects, subject to certain guidelines, or to be used within a certain time-limit, etc.)? If so, please describe.

3. In the event your organization grants economic assistance to Chile for specified purposes, are such grants made conditional upon the allocation and expenditure of specified funds from the Chilean budget for the same purposes? If so, please describe.

4. When your organization gives economic or financial assistance to Chile are procedures established for verifying how this assistance is actually used? If so, does your organization use its own means of verification or does it rely upon reports from Chilean authorities? Assess the value of such verifying procedures.

5. Does your organization have methods for determining if assistance is directly beneficial to needy people?"

15. Answers were received from the International Bank for Reconstruction and Development (World Bank) on 3 February, 25 May and 29 June 1978 and from the International Monetary Fund on 26 May 1978.

Annex II

LETTER DATED 5 DECEMBER 1977 FROM THE PERMANENT REPRESENTATIVE
OF CHILE TO THE INTERNATIONAL ORGANIZATIONS IN GENEVA ADDRESSED
TO THE SECRETARY-GENERAL

On the instructions of the Government of Chile I have the honour to reply to communication No. G/SO 214 (22-1), which you addressed to the Minister for Foreign Affairs, the Minister of Finance and various authorities and institutions of my country on behalf and at the request of Mr. Antonio Cassese, Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

1. The above-mentioned communication refers to resolution 11 (XXX) entitled "Study of certain questions relating to the situation of human rights in Chile", adopted by the Sub-Commission on 31 August this year, and requests any help that my Government could give in the preparation of a study which it is proposed to make for the dual purpose of analysing "the volume origins, development and significance of the assistance given to the present régime in Chile" and determining "whether a quantitative or qualitative change in the aid now being given might contribute to restoring respect for human rights in Chile".
2. The passages in that communication which I have quoted show that the issue has already been prejudged, despite the request for my Government's co-operation in carrying out the study.
3. I am bound to point out also that the communication addressed to the Minister of Finance goes beyond the resolution itself and, in terms not used in the resolution, requests information on foreign investment in Chile in recent years.
4. On the occasion of the submission and subsequent adoption of the text of resolution 11 (XXX), the Government of Chile expressed its outright rejection of the terms and objectives of that text because the repeated adverse judgments it pronounces on the Chilean situation bear no relation to the real situation prevailing in my country; because they are neither compatible with the collaboration which the Chilean Government extends to international organizations nor in keeping with the respect which those organizations owe to their members; because concealed behind the arguments of self-styled humanitarian concern is interference in the domestic affairs of States; because it would set a precedent with serious consequences in the United Nations; and lastly because there is an obvious intention to duplicate or supplant the workmanlike, responsible and honest activities of genuinely humanitarian international organizations such as the International Red Cross and UNHCR, which extend invaluable assistance to Governments without giving way to the politicizing and publicity that destroy due process.
5. Article 2, paragraph 7, of the Charter of the United Nations lays upon the United Nations the obligation not to intervene in matters which are essentially within the domestic jurisdiction of any State. As I have already pointed out, the resolution in question has features which are apparent from a mere perusal and which constitute dangerous and deliberate interference in the domestic affairs of Chile.

6. The national budget of Chile, its foreign debt both public and private, the amounts, sources and objectives of the budget and the volume of foreign investment and aid are matters which fall exclusively within its domestic sovereignty and no one can claim that they should be subjected to international investigation by political organs that have no competence, whatever their intentions and purposes may be. The specialized agencies of the United Nations and the international financing agencies are in a different situation and we shall continue to supply them with relevant information in accordance with their particular purposes, statutes and constituent instruments.

7. The Government of Chile consequently reiterates what was stated to the Sub-Commission; it shares the view expressed by the experts - most of them distinguished Latin American jurists - who opposed the resolution at the recent meeting of the Sub-Commission and instructs me to inform you that, for the reasons given, it will not collaborate in any way in the study for which its co-operation has been requested.

8. Nevertheless, you may rest assured that my Government will be ready at all times to continue giving you its fullest co-operation in any matter which may serve the promotion of human rights - a fundamental purpose of the United Nations, which is clearly absent from the proposed study.

9. Lastly, on the express instructions of my Government, I would request that in future, in order to avoid confusion and delay, communications on these matters addressed to Chilean authorities and institutions should be sent to this Delegation, which will gladly undertake to transmit them to Santiago.

(Signed) Manuel TRUCCO

Ambassador
Permanent Representative