NOTES AND COMMENTS

THE CHILEAN LAND REFORM: A LABORATORY FOR ALLIANCE-FOR-PROGRESS TECHNIQUES

Social critics have recently been centering their fire upon the Alliance for Progress for its failure to induce broad-scale enactment of social and economic reforms by Latin American member countries. Advocates of fiscal and tax reform denounce the lethargic manner in which changes in the budgetary schemes of participating countries are taking place. Students of urban problems urge speedier action in the construction of low-income, government-backed housing. And the friend of the agricultural laborer looks to land

1. Discussion and evaluation of the Alliance program in this Note will be in terms of its popular conception as a United States program of economic assistance for Latin America which differs from traditional foreign aid measures by its emphasis upon internal reform in recipient nations. This conception has been fostered by administrative officials. President Kennedy, in seeking appropriations to implement the Alliance, emphasized:

   Even at the start such measures will be a condition of assistance from the social fund. Priorities will depend not merely on need but on the demonstrated readiness of each government to make institutional improvements which promise lasting social progress.


   See testimony of Secretary Dillon, Hearings on Inter-American Social and Economic Cooperation Program Before Senate Committee on Appropriations, 87th Cong., 1st Sess. 11 (1961) [hereinafter cited as 1961 Hearings] (“the new alliance for progress demands self-help measures on the part of the Latin American countries as a precondition for assistance...”). And the committee report was explicit also:

   The most important new element in this program is the emphasis upon self-help efforts, mobilization of the resources of each recipient nation, and the appropriate measures of reform that may be needed.


   In addition, the committee wishes to emphasize that these funds are made available because this program is based on self-help, and because it has been assured by the witnesses who testified that land reforms, tax reforms, and social reforms will be among the principal objectives. The committee urges our administrators to withhold the commitment of funds made available in this bill until some of the aforementioned reforms have been accomplished or are in the process of being accomplished.

   Id. at 6.


redistribution as the nugget of reform about which Alliance efforts can be centered. Absent from these critiques has been a recognition of the possible conflict between economic advances and social desiderata, requiring decision as to the priorities to be accorded particular types of reform. Since United States financing will determine the success or failure of Latin American reform programs, this decision will often be one for United States foreign policy officials. And once these priorities have been formulated, United States administrators will have to determine the best method for convincing participating Alliance countries to enact conforming legislation. An example of the complex problems involved in the decision to finance is the Chilean land reform bill—a much battered enactment which issued from the Chilean legislature in the fall of 1962. Marked by the scars of compromise, it had been scrutinized and reviewed prior to passage by a multitude of panels, foreign aid experts in the United States State Department, economists, and politicians. Not only significant in its domestic ramifications, the Chilean law also had significant international implications: it was the first Latin American land reform legislation since the establishment in 1961 of the Alliance program.

Although Chile has a better-developed middle class than most Latin American nations, an extreme disparity of land ownership and wealth is also present. The Chilean Government has described the situation as follows:

The agrarian structure of Chile is characterized in the main by an abundance of very small holdings and a large concentration of large estates in the hands of a small number of proprietors... with the result that the living standard of the rural population is very low.

About thirty per cent of Chile's eight million people are engaged in agricultural work, and in the central part of the country, where practically all agricultural

---


4. Of the other countries cited by administrators as having "land reform" programs, none has instituted even its colonization scheme, the most common form listed, since the initiation of the Alliance program. See 1962 Hearings, pt. 1, at 259.

5. See editorial, N.Y. Times, March 1, 1960, p. 32, col. 1, for view that although Chile has a right to be called the cradle of Latin American democracy, there exists a current of distress and social resentment just below the surface, the acute maldistribution of wealth being perhaps even greater than in any other Latin American country; Hanke, South America 49 (1959); International Cooperation Administration (ICA), Latin American USOMs Seminar on Agrarian Reform 102 (150/tw/Dmr/March 1961); Pike, Chile and the United States 271-83 (1963). But see J. Zabala, letter to Editor, N.Y. Times, March 5, 1960. The gap between the rich and the poor in Chile was specifically referred to in discussion of the Alliance for Progress program in Congress, 107 Cong. Rec. 16184 (1961) (remarks of Senator Humphrey), and in the Fact Sheet prepared by administrators for congressional study, 1961 Hearings 19.


7. INSTITUTO DE ECONOMIA, DESARROLLO ECONOMICO DE CHILE 103 (1956).

In 1930, almost two of every five active persons worked in agriculture. Now, this proportion has declined to less than a third of the active population. Nevertheless,
production is concentrated, seven per cent of the properties contain over eighty-nine per cent of the land; over half of the privately owned land in the area belongs to 375 latifundistas, Latin American counterparts of feudal lords. Consequently, most of the profits from agriculture accrue to a small number of owners while the people who labor on the land exist at a subsistence level. Chile, however, has a serious problem at the other extreme of farm size as well. Minifundios, uneconomical dwarf holdings incapable of producing adequate support for their owners, constitute almost two-thirds of the total number of properties although occupying only two per cent of the agricultural area.

Repeated efforts had been made prior to 1960 to enact land tenure legislation that would reduce the egregious discrepancies in land holding. Political factors, however, made passage of such legislation virtually impossible. Controlled in 1952, the total rural percentage of the population was considerably higher than the percentage of the population occupied directly in the fields, and represented 40% of the total population, which indicates that the situation of the population dependent on the rural areas has not changed significantly.

Id. at 5 (tr.). Preliminary data from the 1960 census indicate a probable further drop in agricultural population—to 28% of the active population, and 34% of total population. CIDA (Inter-American Committee for Agricultural Development), "Inventory of Information Basic to Agricultural Programs in Latin America" (1963 draft form), pp. 61, 63. For present total population figure of eight million, see N.Y. Times, April 21, 1963, p. 22, col. 1.

8. CONSIDINE, NEW HORIZONS IN LATIN AMERICA 128 (1958). Figures given in other sources vary slightly, but verify the existence of enormous contrast in holdings. See PROGRESS IN LAND REFORM, supra note 6, at 42 (7% of properties in sample area in central Chile contain 85.9% of farm area; 1.4% of holdings in country as a whole contain 68.2% of farm area); Carroll, Agricultural Development of Central Chile 157-58 (1951 Cornell Ph.D. thesis) (1.5% of all farms take up 75% of farm land).

9. CONSIDINE, op. cit. supra note 8, at 128. See HERRING, A HISTORY OF LATIN AMERICA 607 (1961) (over one-half of all farm land owned by 626 holders).

The following terminology will be employed throughout this paper: latifundia (the system of large landholdings); latifundio (a large, landed estate); latifundista (the owner of a large landed estate). See, e.g., CIDA (Inter-American Committee for Agricultural Development), Land Tenure Project Outline, p. 12 (July, 1962 Draft). In this sense, latifundio includes both the hacienda and plantation type of holdings, since "both systems embody monopoly elements, both result in extreme maldistribution of income, and in social conditions which have often been described as deplorable." Carroll, The Land Reform Issue in Latin America, LATIN AMERICAN ISSUES, ESSAYS AND COMMENTS 164-65 (Hirschman ed. 1961).


11. Carroll thesis, supra note 8, at 158. See N.Y. Times, Dec. 17, 1961, p. 39, col. 1 (statement by United States agricultural officer of foreign aid agency that 85% of Chile's farmers cultivate 8% of the arable land); POBLETE TRONCOSO, ECONOMIA AGRARIA DE AMERICA LATINA 57 (1953) (describing production levels and living conditions on Chilean minifundios).

12. See reply of Chilean Government to United Nations questionnaire with respect to obstacles to adoption of land reform measures, in PROGRESS IN LAND REFORM, op. cit. supra note 6, at 43:

Owing to the economic and political structure of the country, land reform in Chile is difficult to carry out. Landholders who would be affected by any action of an
by a coalition composed of the center party and two rightist parties, the Chilean Government was immobilized from action on the issue of property: the rightist groups, dominated by landowner interests, consistently opposed strong land reform measures. Fiscal dislocations in the Chilean economy have posed additional obstacles to land reform. Despite a conscious austerity program designed to control government expenditures, the government has experienced an increasing budgetary deficit. As a result, cash is not available to finance a land redistribution program. Moreover, in a violent inflationary period such as Chile is experiencing, latifundista resistance to land surrender increases, since the cash received on redistribution will be of less certain continuing value than the property transferred. As a result there is a tendency to withhold land from the market.

In 1960, Chile and the other American nations assembled at Bogotá under the auspices of the Organization of American States. The spectre of the recent Cuban crisis, partially responsible for a $500 million authorization of American funds for the purpose of United States bargaining at the meeting, lent urgency to the conference's deliberation on the necessity of an integrated program of Latin American regional planning in the economic and social sphere. The further flowering of a social and economic community was given outline form in the Act of Bogotá, which contained a declaration of principles and set up the machinery for future international cooperation. One year later the same states signed the Charter of Punta del Este, establishing the Alliance for Progress. The signatory nations were committed to formulate "comprehensive and well-conceived national programs of economic and social development," whose sufficiency to qualify for recommendation to regional fund

---

16. The drastic and unpredictable nature of the rise in Chile's cost of living may be emphasized by noting that the 1961 rate of 8% was mild in comparison with the 38% of 1959. Ibid.
18. The relationship between the Cuban crisis of 1960 and congressional approval of the increased foreign aid to Latin America has often been noted. See, e.g., Hirschman, supra note 1, at 20; Szulc, N.Y. Times, March 12, 1962, p. 12, col. 2 ("The Alliance for Progress is seen on the political level as a major challenge to the Communist-backed revolutionary pressures of the Cuban type."). The legislation itself has been referred to as "the Castro bill." 106 Cong. Rec. 18724 (1960).
sources was to be evaluated by a supra-national committee of economic and social experts.\textsuperscript{20} Chile, pursuant to her pledge, submitted a broad national program for economic and social development in 1961.\textsuperscript{21} As a natural consequence of the intimate nexus between future Chilean social development and her present land holding pattern, the broad program bore the kernel of the subsequently enacted land reform bill.

In early 1962, the bill, drafted by a committee composed of representatives of the three parties in the Chilean coalition, was introduced in that country's legislature.\textsuperscript{22} Its terms were shaped to a considerable extent by the displeasure which had been voiced with respect to the land tenure aspects of the 1961 Chilean proposal to the Alliance. The first draft provided the Executive with broad, but discretionary, special decree powers for establishing agencies, standards, and rules to bring about land reform.\textsuperscript{23} The parties of the left outside the coalition, however, were constantly pressing to have stronger, broader laws enacted faster. The least conservative party in the Government coalition was sympathetic to this position, in part because of its need to attract popular support for the upcoming presidential election in 1964.\textsuperscript{24} Passage of the bill as originally introduced was blocked in the Senate, which insisted on maintaining greater legislative control of the program.\textsuperscript{25} A compromise was reached which resulted in the elimination of certain provisions from the law and the addition of a framework of limitations upon the Executive’s power.\textsuperscript{26} In November, 1962, this land reform bill was finally approved.\textsuperscript{27}

Articles 1 to 3 of Chilean Law 15.020 (1962) constitute an informal preamble, declaring property rights in landed property to be subject to the limitations required for national economic development and social progress, especially the obligations imposed by the instant law.\textsuperscript{28} The purposes of the reform,

\begin{enumerate}
\item See text in \textit{Pan American Union, Alliance for Progress, Official Documents, Charter of Punta del Este} (1961) [Hereinafter cited as \textit{Charter of Punta del Este}]. All of the twenty-one nations of the Organization of American States with the exception of Cuba were signatory nations to the Charter. The Dominican Republic and Cuba did not sign the earlier Act of Bogotá. See 1961 \textit{Hearings} 21.
\item See N.Y. Times, Jan. 20, 1961, p. 3, col. 6. Although begun independently of the two Alliance conferences, this plan fell within the terms of the requirement of the Charter of Punta del Este that participating Latin American countries formulate long-term development programs incorporating self-help measures. See \textit{Charter of Punta del Este}, Title I, ch. II.
\item Senate Bull. No. 19943, July 5, 1962, (Chile); “Proposal of Law of the House of Deputies Conceding Extraordinary Powers to the President of the Republic to Realize an Agrarian Reform.”
\item Law Number 15.020, Agrarian Reform, printed in full in Diario Oficial de la República de Chile, Nov. 27, 1962, pp. 2501-14 (copy on file in Yale Law Library). [Hereinafter particular articles of this statute are cited simply as Article.]
\item Article 1.
\end{enumerate}
phrased virtually in terms of the goals set forth in the Alliance charter, are
proclaimed to be improving the rural population's standard of living, in-
creasing agricultural production, and giving landownership opportunities to
those who work the land. To this end, the elaborate, 104-article statute
establishes an Agrarian Reform Corporation and a Supreme Council of
Agricultural Development to promote the rational division of rural land, and
specifies rules concerning their operation. Although much emphasis is placed
upon development through improvement of technical assistance programs and
transportation, market, and credit facilities, some provision is made for dealing
with basic tenure problems.

One facet of the statute is aimed at redistribution in terms of the mini-
fundios. To alleviate the undesirable economic and living conditions created by
these excessively small farms, provision is made for their consolidation and for redistribution of the land in parcels constituting "economic units." While there was little political opposition to such an attack upon the problems of minifundia, conservative elements severely limited the measures that could be used against the latifundios. In the first place, properties already held by the government must be used first in supplying land to the presently landless. Furthermore, when latifundios are required for redistribution, the preferred methods of acquisition are declared to be public auction or direct purchase from the owner. If purchase is made at auction, the government is permitted to make full payment in cash, but if property is bought directly from the owner, there is a cash expenditure limitation of twenty per cent of the purchase price; the remainder must be paid at a fixed rate in equal annual installments over a period of at least ten years. Outright expropriation as a method for acquisition is severely restricted. A two-thirds vote of the Council of the Agrarian Reform Corporation meeting in special session is a prerequisite. And even with this authorization, only certain latifundios (statutorily defined for this purpose as properties of more than twenty economic units in value) can be subjected to expropriation. The first broad category of

29. Article 3.
30. See Carroll, supra note 9, at 198, for a discussion of the preoccupation with "legalism" in all land reform programs, a preoccupation which takes the form of long, complicated, and detailed statutes making implementation or amendment difficult.
31. Article 11.
32. Article 4.
33. See note 11 supra.
34. Article 11 (f).
35. Article 11 (b).
36. The National Agricultural Organization, a group composed of latifundistas, has wielded great influence over agricultural policy and reform measures. See ICA, op. cit. supra note 5, at 105.
37. Article 11 (a).
38. Ibid.
39. Article 21. An extremely limited exception to this requirement allows the expropriation to be decreed by the President of the Republic in the case of certain properties within the jurisdiction of the law of coastal properties or planted to Auracarian pine. Ibid.
vulnerable landholding includes the following: abandoned property, or property that is extremely poorly exploited; half of any property irrigated through Government-built systems; lands being sold at public auction because of the insolvency of the owner; certain lands belonging to absentee owners; marshy properties. 40 This list obviously does not reach the bulk of latifundios within the country, and it appears that the implementing Executive decrees, by dropping the “poorly exploited” category, 41 may have eliminated the one point at which administrative expansion could have occurred. Any program of expropriation, therefore, will have to be concerned primarily with latifundios of the second basic permitted category. 42 These are lands that are included by the Supreme Council of Agricultural Development in a Regional Development Plan. This hinges the success of an expropriation program on the vigor with which such plans are developed. Even if sufficient lands become subject to this form of acquisition, however, a financial barrier remains, since the reform law stipulates that full cash payment must be made for expropriated land. 43

Thus arises the problem of procuring funds to finance reform which plagues each development program. Of course, the government might look to private financing. Civilian investors will not require a program to lead toward realization of any particular social goal, such as economic independence of the small landowner, so long as the profit rate, their primary concern, is sufficient. Such investors, however, will not be attracted to the unprofitable but basic infrastructure investment which must precede more commercial ventures. In countries such as Chile, which suffer chronically from a shortage of investment capital, the availability of funds to be raised internally, through exercise of the taxing power, is also severely limited. 44 Consequently, the government must place prime reliance on financing from external sources, funneled through either official regional conduits or ordinary channels of foreign aid. The vast bulk of these funds emanates at present from the United States. 45 Roughly two-fifths of the first billion American dollars made available to participating

40. Article 15.
42. Article 16.
43. Article 31.
44. CHARTER OF PUNTA DEL ESTE, Title II, ch. IV, sec. 1:
The economic and social development of Latin America will require a large amount of additional public and private financial assistance on the part of capital-exporting countries, including the members of the Development Assistance Group and international lending agencies. The measures provided for in the Act of Bogotá and the new measures provided for in this Charter, are designed to create a framework within which such additional assistance can be provided and effectively utilized.
45. See “Progress of the Alliance,” Americas, June, 1962, p. 3. Despite the fact that the Alliance program is based upon anticipated United States government grants and loans to Latin America of one billion dollars annually, this sum is only 20% of the amount considered essential for projected goals. But until private investors in Latin America or abroad can be induced to participate, United States funds remain the key catalytic agent. See RAUSHENBUSH, THE CHALLENGE TO THE ALLIANCE FOR PROGRESS 29, 42 (1962).
Latin American countries was to be administered through an explicitly regional authority, the Social Progress Trust Fund. The remainder has been allocated for unilateral administration, in general accord with Alliance principles, by American foreign aid officials, through the Agency for International Development.

The apparent availability of such large amounts of aid does not lead immediately to the conclusion that monetary problems have been resolved; to a considerable degree, pressures of American domestic politics as well as requirements of Alliance principles complicate the process of obtaining funds. The United States controls not only the disposition of AID funds, which may be conditioned upon fulfillment of stated requirements, but also, through use of a veto power, the disbursements of the Social Progress Trust Fund. Both programs are severely hampered in the aid they can extend to land purchase programs. The Social Progress Trust Fund is explicitly barred from allocating funds for the purchase of agricultural land; although statutory language is not explicit for AID programs, Congressional resistance to such use, current AID emphasis on support of discrete projects rather than broad reform programs, and Latin American sensitivities make it likely that the same inhibition will exist in practice. Of course, to the extent that dollars flow to Chile for approved purposes, which may include the agricultural improvement measures also provided for by the Chilean statute, Chilean funds which could otherwise have been devoted to these projects will be released. Although Chile may not have the financial resources to make this “released fund” fungibility effect complete, it would appear that a substantial amount of cash for land purchase purposes could become available in this manner.

As important as the question of direct availability of funds for land purchase programs is the fact that the question of financing does not arise in the isolated context of a land tenure reform program. All requests for financing,

46. Of the original $500 million appropriated by Congress for the Alliance program, $394 million was given to the Inter-American Development Bank as Administrator of this Fund. See 1961 Hearings at 94. The following year, $600 million was appropriated but not assigned to the Fund. 1962 Hearings, pt. 1, at 248-49.
47. 1962 Hearings at 250.
48. Because a two-thirds vote of the executive directors is necessary to make specific loans, the United States representative—casting over 40% of the votes on the basis of capital contributed to the Bank—has the ability to block proposed loans judged not in harmony with the Act of Bogotá. See 1961 Hearings at 23.
51. See 1962 Hearings, pt. 3, at 64, 75.
52. See note 106 infra.
53. Only to the extent that United States dollars are used for projects that would otherwise have been undertaken in the recipient country will additional funds be released and be available for use in land acquisition. If political pressure for reform is great, therefore, it may matter little whether the United States stipulates that funds must be used for land purchase or complementary projects.
whether to the Fund or to AID, will be measured by the overall aims of the Alliance; all decisions to finance will be influenced to some degree by the decisions of regional experts as well as American administrators. Thus, the Charter of Punta del Este has established a panel of nine economic planning advisors,\(^{54}\) mostly citizens of Latin American countries, whose function is to review proposals in terms of the principles and obligations of the Charter, to "exchange opinions with the interested government as to possible modifications," and, if the consent of the subject government is given, to report its conclusions to external financing agencies such as the Inter-American Development Bank and the United States government.\(^{55}\)

The constellation of American and regional experts, administrators and Alliance for Progress officials suggests a pattern of interaction between participating countries and regional agencies which bears analysis for its significance to future aid programs. Evaluation of the Chilean law may cast light on the standards which American administrators are currently employing in making the decision of financing \textit{vel non}, and on the ability of American and regional planners to secure compliance with desired reform programs in Alliance nations. Admittedly, the viewpoint of such administrators would be colored by the priority position they assign to land tenure reform in the spectrum of Alliance goals. Before reaching the question of priority, however, it may be more convenient to draw certain conclusions regarding the future of the Chilean land reform program as enacted.

Assuming effective administration, the provisions of the Chilean land reform dealing with conditions of \textit{minifundia} would appear to be the most promising.\(^{56}\) These excessively small plots are to be regrouped and redistributed in parcels constituting "economic units," with preference among recipients to be given to former occupants.\(^{57}\) The new units are to vary in size according to quality of soil, location, climate, and other characteristics considered to be proper criteria for determining the amount of land necessary to provide reasonable support for a family group.\(^{58}\) For the benefit of these new owners, as well as for other small property owners, the statute provides for increased technical assistance and for the transportation, market, and credit facilities essential to the satisfactory operation of their holdings.\(^{59}\)

Another clear benefit of the statute is the opportunity it provides for the creation of new, viable landholdings through fragmentation of large tracts.

\footnotesize
\(^{54}\) \textit{Charter of Punta Del Este}, Title II, ch. V.
\(^{55}\) \textit{Ibid.}.
\(^{57}\) Article 11 (f).
\(^{58}\) Article 11 (b).
\(^{59}\) Article 5(a). Ten million dollars had already been authorized as a loan from the Social Progress Trust Fund for this type of program in Chile. IADB, 2d \textit{Ann. Rep.} 112 (1961).
Administrators contemplate the creation of 15,000 such farms per year, a marked increase from the present rate of 5,000 per year.\textsuperscript{60} But such a rate, while an improvement, must be considered insufficient to relieve the pressure for land ownership created by the existence of an underprivileged rural population of nearly two million.\textsuperscript{61} And the priority emphasis on redistributing government-owned lands is likely to decrease the speed with which new "economic units" might be created. Previous experience in Chile has demonstrated that the process of making these generally undeveloped lands habitable and productive is slow and expensive.\textsuperscript{62} Furthermore, only eight per cent of the land currently owned by the government is considered suitable for agricultural development, and any reasonably effective redistribution program would exhaust this supply within a year.\textsuperscript{63}

Therefore, it is privately owned land that must be the primary source of supply for a redistribution program. Yet it would not be difficult to conclude that shortcomings in the statute—for example, lack of any provision setting a maximum size of farms \textsuperscript{64}—will prevent an effective attack upon the system of latifundia. The lack of statutory emphasis upon redistribution of latifundios might have been cured through dynamic administration,\textsuperscript{65} but even here there seems to be advance hamstringing through specific restrictions on the exercise


\textsuperscript{61} See \textit{International Cooperation Administration} [hereinafter cited as ICA], \textit{Latin American USOMs Seminar on Agrarian Reform} 103 (1961); N.Y. Times, April 21, 1963, p. 22, col. 1 (statement by leader of opposition in Chile).

\textsuperscript{62} See Carroll, \textit{supra} note 9, at 189; Ellsworth, \textit{Chile: An Economy in Transition} 156-57 (1945); Figueroa, \textit{Legislacion Sobre Colonizacion} 33-49 (1943); \textit{Inter-American Bank for Reconstruction and Development, The Agricultural Economy of Chile} 35-36 (1952) (in the first 24 years of the major program, only 82 holdings were created, and progress virtually stopped after 1940).

See ICA, \textit{op. cit. supra} note 61, at 44: "Large areas of Latin America remain in undeveloped state ownership. . . . Generally speaking the areas left in public ownership are those which could not be profitably used for one reason or another."

See Carroll, \textit{supra} note 9, at 197; \textit{Better Deal for Small Farmers}, Business Week, May 12, 1962, pp. 66-68.

\textsuperscript{63} Only 900,000 hectares of government lands are agricultural lands. Thus even if units of only 50 hectares were created, there could be only 18,000 new farms, and not all of these would be well-located. Much of the land currently being distributed is forest land and pasture land. See ICA, \textit{op. cit. supra} note 61, at 25 and 104.

\textsuperscript{64} But the view that maximum limits on land holdings are likely to be an effective means of implementing land reform has been seriously questioned in light of the Puerto Rican experience with the "500 Acre Law" (Joint Res. No. 23, S.R. 116, May 1, 1900), which has been in effect, but unenforced, since enactment. See Rosem, \textit{Puerto Rican Land Reform: The History of an Instructive Experiment}, 73 \textit{Yale L.J.} 334 (1963).

\textsuperscript{65} An apparently mild land reform law in Colombia has been made remarkably effective through vigorous implementation since its passage in 1961, in a process described by one observer as "revolution by stealth." Hirschman, "The Problem of Land Tenure and Land Reform in Colombia," July 1962 (chapter in as yet unpublished study for Twentieth Century Fund).
of administrative discretion. Thus, the limitations which require reliance upon public auction and direct purchase as the methods to be used in acquiring latifundios for redistribution,\(^6\) seem unsatisfactory substitutes for outright expropriation. Moreover, despite an increased availability of speculative landholdings in rural areas in the past several years, the limiting factor of lack of funds will prevent the government from fully utilizing this source of supply.\(^7\) And though provision for mandatory deferment of payment in cases of direct purchase \(^6\) might seem useful as a means of easing the immediate cash burden on the government, that method may be viewed as having the anti-reform effect of discouraging sales at reasonable prices. Owners will demand higher prices for their property when dealing with the government, to compensate them for the cost of compelled financing of the transaction since the four per cent interest rate is totally unrealistic in view of Chile's drastic and unpredictable rate of inflation.\(^9\) Although some protection against an inflation-caused loss of purchasing power may be provided through annual payment made on the basis of a general price index,\(^7\) the exact nature of these readjustments has not been made clear, and sellers will certainly be skeptical about their efficacy.

The payment provisions seem to thwart further the use of expropriation where that device is permitted since full cash payment is to be made within one year of condemnation.\(^7\) Deferred payment would be useful in easing the financial burdens of the program where the price paid and value maintenance terms could be easily controlled by the government.\(^7\) The original bill provided for twenty per cent of expropriation compensation for certain properties to be paid

---

66. See text at notes 37-43 supra.
68. See text at note 38 supra.
69. See notes 15-16 supra.
70. Article 11 (a).
71. See note 43 supra.
72. Payment in the form of bonds has been the most frequently used method of compensation in land reform programs in the past. In this manner the burden of compensating the expropriated owners may be spread over a period of years. Problems of Financing Land Distribution, in LAND TENURE 492 (Parsons, Penn, & Raup, ed. 1956). Such deferred payment in effect requires the latifundistas to lend to the government, at a statutorily set rate of interest, the money with which to by their land. Ibid.; ORGANIZATION OF AMERICAN STATES (OAS), AGRARIAN REFORM 33 (OEA/Ser.H/X.1) (1961).

Since unpredictable rates of inflation would have a great effect upon the final total return to the expropriated owner, a possible compromise is to employ value maintenance bonds with payments based upon an index of general prices or of certain agricultural products for which a market price is readily ascertainable. This device would preserve for the landowner the purchasing power of cash payment although actual payment is deferred.

in cash, with the remainder being paid in equal semi-annual installments over a period of ten years; yet doubt had been expressed that the government could obtain sufficient funds to make even the down payments under this approach. Nevertheless, neither this provision nor a proposed corollary constitutional amendment modifying the requirement of cash payments for expropriated property survived the legislative gauntlet. Because of current budgetary limitations, this failure to provide for deferred payment will seriously curtail the practicality of using expropriation to acquire even those few properties that can legally be expropriated for redistributive purposes.

In view of these weaknesses in the land reform bill, the attitude of United States administrators and other regional planners toward further financing of Chilean economic and social development will depend to a large extent upon the relative priority given to land tenure reform in evaluating performance by participating Latin American countries. This question of priorities becomes most difficult in those situations where the social goal of land tenure reform conflicts with progress on economic fronts. Economies of large-scale farming, for example, might be lost as a result of splitting latifundios into family-size farms; central government decisions, moreover, regarding production limits or crop diversification goals might be more difficult to implement. Furthermore, the possibility of future loss of landholdings might deter investment and development of land held by owners whose property is not taken in the first limited round of a redistribution program. The possibility of such a conflict was raised in the Act of Bogotá, which acknowledged that limitations on land reform might be desirable by providing that land tenure legislation seeking more equitable distribution of ownership should only be encouraged "in a manner consistent with the objectives of employment, productivity and economic growth." But a basic assumption of the Alliance is that land reform

73. N.Y. Times, March 8, 1962, p. 9, col. 3.
75. See N.Y. Times, Aug. 13, 1962, p. 25, col. 1. The country's limited revenues have made a tight budget policy necessary, but deficits have persisted despite a conscious austerity program. ICA, op. cit. supra note 61, at 105.
77. Pan American Union, Act of Bogotá 3 (1961) (Article I.A.1.a.). Both land reform measures and the Alliance program in general acknowledge land tenure reform as a social goal, even if short-run economic effects of the reform are adverse. RAUSHENBUSCH, op. cit. supra note 45, at 31; THEOBALD, THE RICH AND THE POOR 44 (1961); ICA, op. cit. supra note 61, at 9-10 ("Considerations that lead to land redistribution have the common objective of bringing about an improvement in the rural social structure. They may or may not lead to an increase in overall productivity of the land.").

The clearest expression of this distinction appears in the testimony of Lincoln Gordon, Consultant, President's Task Force on Latin America, and George Ball, Under Secretary for Economic Affairs, Department of State, 1961 Hearings 72-73. It should be noted, however, that the economic phenomenon in more developed countries of a trend toward larger
measures are essential or complementary to the accomplishment of other desired economic goals. To a large extent, this interrelationship of social and economic goals clearly exists. Tenure reform, i.e., redistribution, does not exist as an isolated goal. Land reform—the generic category—postulates the necessity for a wide variety of production-increasing techniques such as market and credit development, soil improvement, and road building. Even by itself, however, more equitable distribution of land ownership may have desirable economic effects. The advocates of land tenure reform argue that such measures are necessary to enlarge the market of consumers, creating more effective demand for goods to be produced in a developing commercial economy. And the use of more labor-intensive techniques which is likely to accompany tiller-owner division of the land is desirable in underdeveloped areas where capital is a scarce factor and labor abundant.

The important role of land tenure reform may also be stated in terms of its social welfare effects. The grand design of the Alliance for Progress is to improve the living standards of the peoples of Latin America. But if the present radically uneven distribution of land were to be left unaltered, the farm units does not indicate that this should also be the case where labor is abundant and capital scarce. In such countries, a family-scale operation is probably preferable. See U.S. DEPT OF AGRIC., Agrarian Reform & Economic Growth in Developing Countries 30-31 (March 1962).

In United Nations debates and studies, for example, the term refers to programs and techniques more broadly characterized as “agrarian reform.” U.N. EcoSoc Council, op. cit. supra note 72, at 8.

See SENIOR, LAND REFORM AND DEMOCRACY at vi, 7 (1958); ICA, op. cit. supra note 62, at 8; CARROLL, “The Land Reform Issue in Latin America,” LATIN AMERICAN ISSUES, ESSAYS, AND COMMENTS 196-200 (Hirschman ed. 1961).

The concept of land reform is itself a controversial and semantically intriguing topic. Its narrowest and traditional meaning confines it to land distribution. A broader view includes in it other related changes in agricultural institutions, such as credit, taxation, rents, cooperatives, etc. The widest interpretation makes land reform practically synonymous with all agricultural improvement measures—better seeds, price policies, irrigation, research, mechanization, etc. The writer is of the opinion that land tenure is the central problem in land reform. . . .

Carroll, supra at 162 n.1.


See the opening words of the “Declaration to the Peoples of America,” which accompanied the Charter of Punta Del Este. PAN AMERICAN UNION, ALLIANCE FOR PROGRESS 1 (OEA/Ser.H/XII.1) (1961).

Historically based upon a system of large land grants, land ownership patterns in Latin America today exist as a monopoly of agricultural resources. For a description of the history of land tenure patterns in Latin America as compared with the United States tradition of owner-tiller farms, see MALLORY, supra note 72, at 818-19. That ownership of roughly 85% of all land is held by 5% of the population demonstrates the extent of this concentrated ownership, or latifundia. Landownership figures vary somewhat from source to source, but within a relatively small range. E.g., RAUSHENBUSH, op. cit. supra note 46, at 32 (1.5% of the farming population owns 65% of the farm land; 9.5% owns 88%). See chart in LAND AND LIBERTY, A VISION REPORT 7 (1962).
benefits of United States assistance to the agricultural sector would accrue primarily to large landholders rather than to those individuals and families who work the land. Moreover, land reform measures are directed equally at the redistribution of future wealth—the opportunity to share in benefits to be generated by the Alliance. To the extent that future Alliance funds are channelled through agricultural interests, reallocation of the land means a fundamental change in the roster of recipients of Alliance largesse. Thus even if owners of latifundios receive full payment now for their property, as non-owners they will not participate in subsequent rises in the earning power of the land resulting from United States investment and development projects. New owners of the land will also have an incentive to work harder, since they will no longer be forced to share the product of their toil with their old landlords. Furthermore, political reality renders land redistribution a goal independent of its repercussions on present wealth-equalization. By providing farms for the masses who work the land, aspirations generated by the

83. At present, a small minority of the rural population is able to live opulently, while the vast majority exists at subsistence level as either tenant farmers or farm laborers. See RAUSHENBUSH, op. cit. supra note 45, at 32. President Kennedy has emphasized this fact as a reason for demanding redistribution as a condition precedent to assistance. See Kennedy Message to Congress, 44 DEP't STATE BULL. 474, 475-77 (1961); Address by Teodoro Moscoso, Alliance for Progress Press Release A-17, April 18, 1962 (“We would rather withhold our assistance than to participate in the maintenance of a status-quo characterized by social injustice.”)

84. See THEOBALD, op. cit. supra note 77, at 29, 133. The rationale for emphasizing redistributive reform was expressed by President Kennedy when he stated his conception of the Alliance in seeking appropriations for the program: “[I]f funds for improving land usage are to be used effectively they should go only to those nations in which the benefits will accrue to the great mass of rural workers.” Message of President Kennedy to Congress, supra note 83, at 476. The previous day he had addressed the assembled representatives of the Latin American countries at the White House and proposed his Alliance, urging them to “...modify their social patterns so that all, and not just a privileged few, share in the fruits of growth.” N.Y. Times, March 14, 1961, p. 1, col. 8.

The 1960 Act of Bogotá, the original documentary basis of the Alliance, listed land tenure legislation as a likely measure for a program of social development in Latin America. 43 DEP’t STATE BULL. 537, 538 (1960). It should be noted that this recommendation appeared first among the various measures proposed to the Council of the Organization of American States, indicating the primary role envisaged for land reform by the Committee of 21 American States, and especially the United States delegation, whose draft of the document was adopted. See 1961 Hearings 11-12. See also the “Declaration” at the Punta del Este Conference a year later. Pan American Union, supra note 81, at 3.

85. Latin American economies are basically agricultural in nature. Over 50% of the population in Latin America is dependent on employment in the agricultural sector for its livelihood. ICA, op. cit. supra note 61, at 41; LAND AND LIBERTY, op. cit. supra note 82, at 1-3. Because of this fact, United States assistance has been pledged in large part to support measures to benefit this sector. In the Fact Sheet on the Alliance program prepared by administrators for congressional perusal, agricultural production and rural living programs were given high priority. See 1961 Hearings 19.

86. See ICA, op. cit. supra note 62, at 68-69, for specific examples of projects relating to land development programs. See also Address by Teodoro Moscoso, quoted in RAUSHENBUSH, op. cit. supra note 45, at 38.

87. See THEOBALD, op. cit. supra note 77, at 44; PARSONS, op. cit. supra note 80, at 62-63.
much-publicized “revolution of rising expectations”88 may be satisfied and Communist efforts to exploit these same desires balked.89 Given the current hemispheric situation, a sense of urgency may dominate consideration of what land reform provisions are to be favored in implementing the aims of the Alliance.90 Thus, aid in passage of reform legislation may be expected from the conservative landowning class in some cases. Their fears that redistribution will wreak havoc in the existing social structure may well be outweighed by political apprehensions—the threat of violent revolution followed by communi-

zation of their properties.91

Even if United States administrators, as national planners, recognize the beneficent political, social, and economic consequences which flow from land reform, still it is clear that they must also function within the prescribed course of congressional expectations regarding the role of the State Department in the administration of the foreign aid program. Because of the difficult pass in which foreign aid officials often find themselves as a result of congressional criticism of their activities,92 legislative guidelines should be examined before a final determination is made on the issue of the priority status of land reform as an Alliance goal. Representatives of the Agency for International Development appearing before the House Subcommittee on Foreign Operations Appropriations in 1962 were reminded that their earlier testimony regarding land reform measures had been relied upon in providing funds for the program.93

88. See Theobald, op. cit. supra note 77, at 29-37; Address by Teodoro Moscoso, Alliance for Progress Press Release A-42, June 8, 1962. Speech by Secretary Dillon at Punta del Este Conference, quoted at 107 Cong. Rec. 15751 (1961): “We welcome the revolution of rising expectations among our [American] peoples, and we intend to transform it into a revolution of rising satisfactions.”

89. “The answer to communism in these [South American] countries is a vigorous program of social reform. Without this reform being put into action the door is left open, for the Communists to move in and take over. . . .” 108 Cong. Rec. 4038 (1962) (remarks of Senator Humphrey). See note 18 supra.

90. See generally, Rauschenbusch, op. cit. supra note 45, at 14-19; Address by Teodoro Moscoso, Alliance for Progress Press Release A-42, June 8, 1962; see note 5 supra.

91. Better Deal for Small Farmers, supra note 62, at 64. Cf. McBride, Chile: Land and Society 374-75 (1936). The entire framework of the Alliance program rests on the underlying assumption that the landowning groups either will be willing to cooperate in efforts to achieve progress or can be induced to so cooperate.

92. There is a built-in tension between the executive, charged with the responsibility of developing foreign policy, and the legislature, which must provide funds for this activity. Although in the sector of foreign affairs, the President “proposes,” the Congress “disposes,” and “can limit and reduce funds and be downright ingenious in the way it attaches strings to the money it provides,” Koenig, The Presidency: Foreign Aid to Spain and Yugoslavia, The Uses of Power 79 (Westin ed. 1962). Serious problems have been posed in the past due to the unwillingness of foreign aid administrators to be bound by legislative directives imposed at the authorization or appropriation level. See Koenig, supra; Clubb & Vance, Incentives to Private U.S. Investment Abroad Under the Foreign Assistance Program, 72 Yale L.J. 475 (1963); 107 Cong. Rec. 15865 (1961).

93. 1962 Hearings, pt. 3, at 146. Assurances had also been made to the same effect on the floor of Congress. Id. at 144-46. See Hanson, The Alliance for Progress—The First Year: Economic, Inter-American Economic Affairs, Summer 1962, p. 9.
Furthermore, though speaking partially to quiet political attacks, the Alliance's Director, Teodoro Moscoso, has recognized that:

The people of the United States are not prepared to support a large scale effort which they think will result in the perpetuation of social and economic systems that are structured so as to benefit the few to the detriment of the many. However, our people will gladly support that effort through public and private means for the sake of advancing social justice in Latin America. That is precisely why we are insisting on reforms as a condition of our material support to Latin America. We would rather withhold our assistance than to participate in the maintenance of a status-quo characterized by social injustice.94

Congressional discussion related in large part to the Punta del Este conception of land tenure reform as an independent social goal not to be limited because of possible conflict with a country's general economic growth program. The Charter lists as a primary objective of the Alliance for Progress the agreement of the American republics to work:

To encourage, in accordance with the characteristics of each country, programs of comprehensive agrarian reform leading to the effective transformation, where required, of unjust structures and systems of land tenure and use, with a view to replacing latifundia and dwarf holdings by an equitable system of land tenure so that, with the help of timely and adequate credit, technical assistance and facilities for the marketing and distribution of products, the land will become for the man who works it the basis of his economic stability, the foundation of his increasing welfare, and the guarantee of his freedom and dignity.95

And the United States authorization legislation itself adopted the approach of awarding priority to land reform measures. Title VI of the Foreign Assistance Act of 1962, the section dealing with the Alliance for Progress, directed the President to take into account "the principles of the Act of Bogotá and the Charter of Punta del Este" in furnishing assistance under that title, and more specifically,

assist in fostering measures of agrarian reform, including colonization and redistribution of land, with a view to insuring a wider and more equitable distribution of the ownership of land.96

Assuming, then, that an evaluation of social and economic progress should emphasize the role land reform must play in the accomplishment of Alliance goals, serious problems remain—as the Chilean experience indicates—with respect to the methods by which United States and regional administrators can secure an approximate reflection of the priorities in programs legislated in Latin American countries. In the case of Chile, there was a positive attempt to harmonize prospective legislation with Alliance regional goals and American expectations. Early in 1962, six months after the Charter of Punta del Este had been signed, the economic and social development program which Chile

94. Address by Teodoro Moscoso, Alliance for Progress Press Release A-17, April 18, 1962.
95. Charter of Punta del Este, Title I, sec. 6.
had developed was submitted to the panel of economic planning advisors established by the Charter. The Chilean program was judged unsatisfactory, especially the portion relating to land reform. As a consequence of this intermediate, pre-legislative disapproval, United States aid to Chile might have been suspended, since the Charter of Punta del Este provides that external assistance is to be given "those participating countries whose development programs establish self-help measures and economic and social policies consistent with the principles of the Charter." In addition to this storm-warning of possible defects from the panel, moreover, AID administrators personally consulted with the Chilean Government before the bill was passed. A group of United States officials, led by Mr. Moscoso, visited Chile in March, 1962, for the purpose of discussing the Alliance with Chilean officials and stressing the importance of tax and land reforms. Reference was made to the impending land tenure legislation, and members of some Chilean parties sought to persuade the delegation to exert even more pressure on Government leaders for stronger measures than appeared to be forthcoming. Public assurances of good intentions and cooperation emanated from these conferences as a result of the interplay between negotiators, and in addition there allegedly was signed, for the purpose of providing United States representatives with concrete evidence of aid strings to show to Congress, a not-so-secret secret agreement specifically pledging adherence to the Alliance provisions.

In a sense these prophylactic measures may be said to have failed. Despite the panel's reservations and the American touring party's exhortations, the resultant legislation, judged by the assumed emphasis on land reform achievement, seems to have compromised too much. What alternative devices might have been available to regional advisors to encourage closer approximation to regional goals? Arguably, in the intensive political atmosphere surrounding the issue of land reform, it might be possible for the regional administrators and the United States State Department to select sympathetic party factions and provide them with financial and political support. In Chile, the Radical Party, least conservative of the three Government coalition parties, had advocated stronger reform measures, and it is possible that a promise of increased United States assistance if that program is put into effect will generate increased support for that party. Alliance reforms have already been the central issue in

97. See text at notes 55-56 supra.
99. CHARTER OF PUNTA DEL ESTE, Title II, ch. IV.
100. See N.Y. Times, March 5, 1962, p. 1, col. 6 and March 8, 1962, p. 9, col. 3.
102. Moscoso, when questioned by a committee of Congress concerning the lag in reform in Chile, referred to this agreement to justify the extension of grants and loans to that country during the first year of the Alliance. See 1962 Hearings, pt. 3, at 142-43 (emphasizing the fact that in the case of Chile specific commitments had been obtained with regard to reform measures). N.Y. Times, March 12, 1962, p. 12, col. 1 ("Although it was not spelled out in the communique, the United States commitment is highly conditional.").
103. See N.Y. Times, Aug. 3, 1961, p. 9, col. 1. The recent rise to prominence of another center party, somewhat to the left of the Radicals, increases the potential effectiveness of this approach. See N.Y. Times, April 9, 1963, p. 16, col. 5.
several Latin American elections. As the Assistant Secretary of State in the Bureau of Inter-American Affairs has testified:

Among the central political objectives of the Alliance for Progress is the *unification of popular support behind those parties* which—by establishing constructive programs and clearly defined goals, by representing the aspirations and the will of the majority, and by conducting themselves with a high sense of responsibility—provide leadership and inspire confidence in the future of their countries.

But the best manner to manifest such factional favoritism is extraordinarily problematical; if support is visible, there is likely to be an unfavorable reaction to "the candidate (or program) the Yankee Ambassador likes." On the other hand, these weaknesses might not be present were a purportedly neutral campaign developed, directed at voters, popularizing the image of the Alliance as a partnership and emphasizing the value of supporting national leaders who favor basic reforms to qualify the country for economic assistance. Such a selling campaign could be developed through expansion of a similar program now being conducted by the Organization of American States, reducing the possible stigma which might arise from unilateral United States backing.

Absent the viability of effective political persuasion through appeal to voters, the administrators and regional planners will undoubtedly find it necessary to resort to sanctions grounded in economic threat: the curtailment or conditioning of funds. It is, in fact, principally in this manner that supranational goals can be achieved in a loose association such as the Alliance for Progress.

---

104. See text of President Kennedy's Foreign Aid Message to Congress, N.Y. Times, March 14, 1962, p. 4, col. 4.
106. The psychological strain caused by having to rely on a foreign government to push for social progress measures may lead nationalistic leaders to oppose measures favored by the United States for the very reason that such support has been indicated. See Hirschman, *Second Thoughts on the Alliance for Progress*, The Reporter, May 25, 1961, pp. 20, 21-22. Xenophobic fears aroused by the fact that "strings" are attached to the foreign aid are likely to be exploited by defenders of the status quo within the recipient country as a means of preserving their own positions, and this is especially true of the case where it is land reform which is being sought. See Morgenthau, *A Political Theory of Foreign Aid*, Political Science Rev. June, 1962 quoted in full at 108 Cong. Rec. 14332 (1962).
107. See memorandum from the Director of the International Cooperation Administration (United States foreign aid agency as predecessor of Agency for International Development), advocating encouragement of groups within the Latin American governments who favor self-help measures. 107 Cong. Rec. 15763 (1961).
109. Although the major investment in Latin America envisaged under the Alliance program is that by the private sector, both domestic and foreign, the crucial catalyst for this process is to be foreign governmental funds, of which the United States has pledged the largest share (ten billion dollars or more). See Progress of the Alliance, Americas, June 1962, p. 3; speech by President Kennedy, quoted at 107 Cong. Rec. 15566 (1961); and text accompanying notes 44-53 supra.
The United States Congress cannot directly legislate land reform programs for Latin American countries; instead, it must attempt to induce action on the part of the legislature of each of the recipient countries. Thus, land and other reforms may be stipulated as prerequisites to receiving economic assistance from the United States, in an indirect legislative process analogous to that used by the federal government when it seeks, through strings on dollar support, to promote in the states programs felt to be most suitably under their direct control. It is, however, a political fact of life of foreign aid programs that rigid adherence to stated legislative prerequisites may not be possible in seeking to implement the concurrently stated over-all legislative purpose of the aid. Though the blunt instrument of cutting off all aid until reforms are forthcoming has been advocated by certain members of Congress, one commentator has noted that:

... each government understands that the most frequent cause of unilateral requirements is domestic political pressure, and this common understanding encourages tolerance and mutual forbearance. The most important fact about American “strings” is that the various sanctions available to U.S. aid administrators are either too severe or too trivial

110. “We obviously can’t say we are going to dictate the land reform legislation of another country but we can provide help where the right kind of legislation is forthcoming and refrain from providing help where it doesn’t.” Statement by Lincoln Gordon as consultant for the President’s Task Force on Latin America, 1961 Hearings 65; statement by Senator Fulbright, N.Y. Times, May 10, 1961, p. 1, col. 4.

The nature of Congress’ limited authority to affect land tenure conditions in Latin America results in there being necessarily involved, in addition to United States economic aid legislation, the following intermediate steps in the indirect legislative process: United States administrators seeking to implement policy; United States administrators negotiating with Latin American administrators; Latin American administrators seeking to influence legislative decision-making in their own countries; the passage of land reform statutes by the legislatures of Latin America; and, finally, the effectuation of those laws. For an examination of each of the steps in the process as outlined for the purpose of identifying past difficulties and suggesting means of improving the process, see Wickersham, Land Tenure Reform: Implementing the Goals of the Alliance for Progress 20-31 (Unpublished divisional paper on file in Yale Law Library).

111. See Kennedy Message to Congress, supra note 83, at 476:

Even at the start such measures will be a condition of assistance from the social fund. Priorities will depend not merely on need, but on the demonstrated readiness of each government to make the institutional improvements which promise lasting social progress.

But see Statement by Secretary Dillon, 44 DEP’T STATE BULL. 693, 696 (1961) (“The phrase ‘self-help’ should not be interpreted to mean conditions imposed by a country as the price of external assistance.”). Compare statement by Secretary Dillon, 1961 Hearings 11 (“the new alliance for progress demands self-help measures on the part of the Latin American countries as a pre-condition for assistance.…”).


113. See N.Y. Times, May 10, 1961, p. 1, col. 4. It must be recognized, of course, that such demands might well reflect anti-foreign aid carping by some members of Congress rather than specific concern that the conditions have not been met.
to be effective. Withdrawing a program or even withholding funds for a period defeats the object of the aid, a fact well known to both parties. This observation is particularly applicable in relation to Latin America, and it provides a typical chicken-egg conundrum: insistence that no dollars will be forthcoming unless and until reforms are accomplished is an overly simplistic view, since often no reforms can be attained unless and until dollars are given—either because of the catalytic effect of foreign aid in encouraging development, or because of the need to support shaky governments and foreign exchange positions so as to make development possible.

If complete curtailment of funds or their continued free availability are the only two alternatives in the area of economic sanctions, the prospects for "indirect legislation" are dim indeed. The consequences of complete cession seem intolerable, but continuing a full aid program in the face of recurring rebuffs also presents severe difficulties. Latin American countries will probably retain their reluctance to undergo reforms so long as United States officials fail to impress upon them the essential role of such reform in the Alliance. Especially if aid is given on bases no different from the criteria imposed under previous programs, or if "emergency" pleas for aid are satisfied without reference to the need for institutional reforms, the firmness of United States purpose is apt to be doubted. But completed reform need not be postulated as the condition to be met before any aid is received; indeed, a realistic appraisal of the legislative-administrative process involved in instituting reform measures in Latin America—of the radical nature of the changes being sought in centuries-old social and economic patterns—must recognize that achievement of Al-

117. Id. at p. 12, col. 4; see statement by Teodoro Moscoso, in Newsweek, Aug. 27, 1962, p. 46, to the effect that much of what money has been spent is not for development at all: "[M]ost, unfortunately has been used to cover government deficits, support shaky currencies, and keep countries from going bankrupt." This explanation was relied upon by AID officials (when they were not contradictorily claiming that reforms really had taken place) seeking to justify loan and grant commitments they had made during the first year of the Alliance when few if any reforms were evident. See 1962 HEARINGS, pt. 3, at 93-104, 138-40; Hanson, supra note 93, at 11.
118. More positive methods must be employed to emphasize the fact that the United States intends to insist upon these preconditions and that paper pledges will not suffice. Persuasive efforts to date apparently have been relatively ineffective. A Senate group which visited Latin America shortly after the signing of the Act of Bogotá and the Charter of Punta del Este reported that it found "absolutely no evidence of any intention to implement the self-help measures which were a part of the alliance-for-progress program." And accounts of inactivity in the area of land reform and overall planning continue to appear in the press, along with suggestions that "many Latin Americans simply don't understand what the Alliance for Progress is about." See "The Alliance for Progress: The Big Need is for Deeds," Newsweek, Aug. 27, 1962, pp. 45, 47; 103 Cong. Rec. 20282 (1962).
119. On the need for United States officials to continue to press for the Alliance requirement of reform in order to make the program credible to Latin Americans, see RAUSHENBUSCH, THE CHALLENGE TO THE ALLIANCE FOR PROGRESS 48-62 (1962).
Alliance goals will to a large extent be a step-by-step process of maturation. As Secretary Dillon, in his role as United States representative to the Inter-American Development Bank, has stated in reference to land and tax reforms: "We obviously would not expect that a country had to reach perfection before they got any money in these areas, but if they were making progress and were moving in these fields we would help them." Thus, it is progress toward reform that the Alliance contemplates, and so long as such progress is occurring it should be rewarded.

However, the decision to reward less-than-total reform at preliminary stages does not imply that distinctions cannot be made in terms of the amount of dollar support to be given for varying degrees of progress attained by a recipient country. In effect, administrative flexibility may be achieved by viewing each dollar as a separate weapon in the United States arsenal. Alliance funds, for example, may be used to help finance the preparation of plans designed to meet Alliance standards, while further assistance is conditioned on putting the programs called for by these plans into operation. Even this latter step may be broken down into stages, with given dollar amounts "tied" to different steps in fulfillment of the program. A recent case in which this approach was followed (apparently for the first time) was the conditioning treatment given Brazil when she requested additional Alliance funds. A twelve-point fiscal reform program was outlined, with "rewards" to be given as each level was reached. A similar technique, of course, could be applied to stimulate land tenure reform. Furthermore, this more discriminating use of available funds, exacting specific assurances, is in exact harmony with the conceptual basis of the Alliance as a joint venture of partners grounded in a self-help system rather than a unilateral financing operation by the United States.

The advantages of this last technique, the "reward" system of continuous financing, suggest the stance United States and regional administrators should

---

120. See President Kennedy's Foreign Aid Message to Congress, N.Y. Times, March 14, 1962, p. 4, col. 4. See also 108 Cong. Rec. 9960 (1962) (remarks of Senator Smathers). The phrase "decade of development" has been employed by President Kennedy to refer to both the overall United States foreign aid commitment to underdeveloped nations, and the Alliance program in particular. N.Y. Times, March 14, 1961, p. 1, col. 8; N.Y. Times, March 14, 1962, p. 4, col. 4.

121. 1961 Hearings 50.

122. See Address by President Kennedy, 28 Vital Speeches 354 (1962).

123. Dollar distinctions are a logical and ready tool for differentiating among both degrees of a country's progress and relative country positions along the spectrum of progress toward reform.

124. This approach has already been employed in certain cases. AID has obligated itself to assist at least six countries in the preparation of national economic plans for long-range development, although not explicitly authorized to do so by the terms of the program. 1962 Hearings at 70-72.


take when faced with a statute of the Chilean type which is less than adequate as measured against a set of social and economic reform priorities. For these administrators must decide whether to continue aid despite the acknowledged weaknesses in the land reform law.\textsuperscript{127} Naturally, the issue must be viewed in context, since the aid-worthiness of a country within the Alliance scheme may depend upon such other factors as fiscal and urban land reforms.\textsuperscript{128} Moreover, the benefits to be derived from having a program presently in operation may be of great value as long as the existence of the statute does not relieve all pressure for more effective measures.\textsuperscript{129} Existing programs can serve as a laboratory where desirable modifications may be discovered; and even if the total number of present beneficiaries seems inadequate, living conditions will be improved for those families who do receive land as a result of the reform. By continuing payments in recognition of initial efforts toward reform, the attitude that the Alliance truly is a partnership may be fostered within the recipient country.\textsuperscript{130} Thus aid should continue to be provided, but with more circumspection and a greater degree of control exercised where a less-than-adequate measure provides a program's basis. The possibility of marginal improvements in the participating country's program should be explored and aid tied specifically to accomplishment of these advances.

Chile, one of the principal recipients of Alliance funds to date,\textsuperscript{131} would be particularly susceptible to this type of influence. In recent years, Chile's dollar reserves have been severely depleted due to an increasingly unfavorable balance of payments, and United States grants and loans have been relied upon to reduce this imbalance.\textsuperscript{132} Therefore, the threat that this aid will be reduced if Chile

\begin{footnotesize}
\begin{enumerate}
\item see text at notes 65-75 supra.
\item see notes 1-2 supra and accompanying text.
\item see statement by Robert Cutler, United States Executive Director of the Inter-American Development Bank (succeeding Secretary Dillon):
\begin{quote}
Now you come to the more basic criteria of what is the country doing in land reform, in tax reform, and in creating national planning bodies.
\begin{quote}
If we can find that the country has taken these steps, is taking them, or has expressed what I judge is a credible intention that it is going to do it, then I feel that... it is proper to make these loans to encourage the Latin American people, to give them the belief that it is an alliance and, if they will keep on, there is hope for them.
\end{quote}
\end{quote}
\begin{small}
1962 Hearings, pt. 1, at 265-66. Especially if aid continues to flow to members of the Alliance which have made considerably less progress than the country under consideration will there be resentment of the fact that the United States is not making its contribution to the partnership to match efforts taken by the Latin American country. For Chilean expression of this opinion, see N.Y. Times, March 5, 1962, p. 5, col. 3; Pan American Union, "The Alliance for Progress Weekly Report," April 8, 1963, p. 60.
\item see AID figures given in Hanson, supra note 93, at 6. Chile was also one of the principal beneficiaries of pre-Alliance assistance to Latin America. See AID, U.S. Foreign Assistance, at 65 (March 21, 1962).
\item see The Atlantic Report on Chile, note 129 supra at 20; 1962 Hearings, pt. 3, at 157 (showing relationship between domestic revenues and foreign aid receipts); N.Y. Times, March 6, 1962, p. 9, col. 1.
\end{small}
\end{enumerate}
\end{footnotesize}
fails to fulfill Alliance commitments may have a strongly coercive effect, even though United States administrators would probably hesitate to exert full pressure in this direction for fear of causing chaos in the Chilean economy.\textsuperscript{133} And, since increasing Chilean demands for domestic reform have not been satisfied,\textsuperscript{134} primarily because of the lack of funds to support such projects,\textsuperscript{135} local political pressure will tend to increase the United States' leverage. The Alliance may provide the pot of gold to accomplish these goals, and governmental action or inaction endangering that source of funds would be viewed with grave public disfavor.\textsuperscript{136}

Thus, within the existing framework of the land reform law, Alliance administrators bargaining for the disbursement of further funds might require that the number of new economic units created annually be raised from the currently planned rate of 15,000.\textsuperscript{137} Land tenure studies are now being conducted by Alliance-affiliated research teams;\textsuperscript{138} these could provide the basis for creating a scale by which larger amounts of financial aid would be given as larger numbers of new landholdings are distributed. Efforts to expand the amount of expropriable property within both of the basic classes could also be encouraged: if additional United States funds were allocated to irrigation projects under the statute, more land would be subject to expropriation since the reform law authorizes the government to take up to half of lands so benefited;\textsuperscript{139} also, United States money could aid the formulation of Regional Development Plans, making the lands encompassed in those plans subject to expropriation.\textsuperscript{140}

Administrators might also try to induce Chile to adopt a tax program that would play a more positive role in bringing about redistribution. The United States could agree specifically to underwrite in part the income-loss cost of the Chilean government's present program of inducing private sale of latifundios by granting tax concessions to the sellers.\textsuperscript{141} If tax rates, including

\textsuperscript{133} But see 1962 Hearings, pt. 3, at 100-01, for report and denial that United States aid had been held up because of Chile's reluctance to fulfill promises of social and economic reforms.

\textsuperscript{134} See N.Y. Times, Aug. 3, 1961, p. 9, col. 1; Carroll, supra note 79, at 200-01; HERRING, A HISTORY OF LATIN AMERICA 608 (1961):

Thoughtful Chileans hope that such land reform may come peacefully, with fair compensation to the present owners and with wise settlement of new farmers. But they face the threat that an angry proletariat might choose reforms by violence, after the fashion of Mexico or Cuba, with dire consequences to social stability.

\textsuperscript{135} See text at note 15 supra.

\textsuperscript{136} See Pike, Chile and the United States 297 (1963).

\textsuperscript{137} See text at note 61 supra.

\textsuperscript{138} See Inter-American Committee for Agricultural Development (CIDA), Land Tenure Project Outline, p. B-3 (July 1962 draft). Also, the extensive land survey being conducted in Chile is regarded as one of the largest multi-purpose projects of its kind in Latin America or possibly the world. Results will contribute to Alliance planning for development programs. N.Y. Times, Jan. 29, 1962, p. 31, col. 6.

\textsuperscript{139} See text at note 40 supra.

\textsuperscript{140} See text at note 43 supra.

such subsidized conversions, can be maintained and landowners are allowed to raise their assessments in expectation of government expropriation, increased revenues will be available to support a more extensive land purchase program.\textsuperscript{142} Administrative convenience will be served, moreover, by the availability of a readily ascertainable value for all property subject to expropriation.\textsuperscript{143} By assigning essentially self-declared tax-assessment values as the price to be paid upon expropriation, the government can induce property owners to raise their assessments and, during the interim preceding expropriation, pay more reasonable rates. On the other hand, the threat of expropriation based on assessment value might only cause owners to leave present low assessments unchanged for tax purposes and fight an expansion of the government's expropriation power all the more bitterly. Inducement of all these beneficial measures, moreover, may be insufficient for achievement of an optimal land redistribution program because of the inherent limitations in the basic Chilean land reform law; therefore, additional and stronger legislation should be sought. Since difficulties in financing\textsuperscript{144} and limitations on the properties subject to expropriation\textsuperscript{145} are the primary defects in the present law, they should be the prime objects of remedial legislation. Administrators might pledge additional aid if a deferred payment program for expropriated land is enacted and enforced. Similar resort to economic pressure might be employed in an effort to convince Chilean leaders that some of the better land from \textit{latifundios} must be redistributed if the goals of the Alliance are to be reached.\textsuperscript{146}

\begin{footnotesize}
142. See Carroll, \textit{supra} note 79, at 191; \textit{Taxation and Public Regulation of Private Land Uses}, in \textit{Land Tenure} 642 (Parsons, Penn, & Raup ed. 1956). The imposition of raising of land taxes will have a three-fold effect: in addition to encouraging sales, it will tend to drive down land prices and also increase government revenues. U.N. EcoSoc Coun-
cil, \textit{op. cit. supra} note 72, at 167 and 22.

143. This value would not necessarily be equal to the actual assessment, since that figure might be set uniformly at a percentage of calculated value, in which case the proper amount can be determined by reversing the computation.

144. See notes 73-75 \textit{supra} and accompanying text.

145. See note 40 \textit{supra}.

146. The potential impact of the Alliance upon land tenure and living conditions in Latin America, particularly Chile, is summarized in Pike, \textit{op. cit. supra} note 136, at 297:

Instead of making aid dependent, as in the past largely it has been, upon the willingness of the recipient country to balance its budget and refrain from any practice that seems to deviate from free-enterprise capitalism, the United States must insist resolutely, as it has begun tenuously to do, upon attaching different sets of strings. An overhauling of domestic structures, aimed at social amelioration, must be the price of assistance. If it were clearly understood among all social sectors in Chile that United States economic help would henceforth be conditional upon the enactment of progressive taxation legislation, upon efficient use of land and/or redistribution of it, and upon the undertaking of vast housing and education projects, the Chilean rulers would be hard pressed to withstand the pressure. Even in the 1950's, with the United States operating as a factor to aid them in their stand-pattism, they found it increasingly difficult to resist the clamor of the left for change. If the United States began to some degree to side with the underprivileged, it would help guarantee a lessening of social injustice and would at the same time act to prevent the non-communist left from gravitating increasingly toward the communist world.
\end{footnotesize}