

**DRAFT LETTER TO SECRETARY BAKER ON EL SALVADOR**

Dear Mr. Secretary:

We write to clarify the intent of Congress in drafting--and enacting--section ----- of the Foreign Assistance Appropriations Act of 1990, dealing with U.S. military aid to El Salvador, and to offer our help in ensuring the fair and effective implementation of that section.

As you know, the main purpose of the provision is to provide a strong incentive for both sides in the Salvadoran civil war to negotiate seriously for peace and to reduce the level of violence while those negotiations are underway. The provision is also designed to protect civilians from violations of human rights and to encourage a thorough investigation and prosecution of past crimes, including the murders that took place at the University of Central America on November 16, 1989. *by both sides*

Under the law, the President is required to submit to Congress a report in early January that describes the extent to which the two sides may or may not be meeting certain criteria cited in the law to determine the appropriate level of U.S. military aid. We look forward to that report and hope that it will remove any doubts within the Government of El Salvador or the FMLN that the Administration will implement the new statute in a firm, but even-handed, way. Thus, we urge you, when preparing the report, to bear the following observations in mind.

A fundamental purpose of the new law, and of U.S. policy in El Salvador, is to promote peace. For this to occur, compromises will obviously be required on both sides. Accordingly, the new law recognizes the importance of the role that must be played in the negotiations by Mr. Alvaro de Soto, the representative of the Secretary General of the United Nations. Any determination under the law about whether the government or the FMLN is negotiating in "good-faith" must, therefore, take into account the

willingness demonstrated by each side to respond constructively to procedural and substantive suggestions made by Mr. de Soto. A determination must also take into account the willingness of each side to live up to prior commitments made during the negotiation process, including the agenda and schedule for negotiations agreed upon in Caracas on May 21, 1990.

A second major issue addressed in the new law concerns the level and nature of violence during the negotiations process. Ideally, there will be no violence. Unfortunately, it is not realistic to expect the war to stop until a ceasefire has been negotiated. During the past month, the FMLN has attacked numerous military outposts causing significant civilian and military casualties, while the government has continued air and ground attacks against guerrilla positions on the Guazapa volcano and in Morazon and Chalatenango.

We hope, Mr. Secretary, that you will join us 1) in urging both sides to refrain from further actions that contribute to the suffering of the Salvadoran people or that undermine the prospects for a negotiated peace; and 2) in reminding both sides that the new law will penalize them severely for assassinating or abducting civilian noncombatants or engaging in other acts of violence directed at civilian targets. From this point forward, any assassination or abduction or disappearance, whether of a prominent political figure or an impoverished campesino, could trigger the sanctions contained in the law. And to be sure there is no confusion on the part of the FMLN, we note that the reference in the law to "civilian noncombatants" clearly extends, in our view, to members of the armed forces when they are not on duty.

The third issue that we would like to highlight is the investigation into the murders at the University of Central America. The fact is that if the Salvadoran justice system does not work in this highly-publicized case, it will not work in any case. And if there is no real hope for justice in El Salvador, there can be little hope for peace. Again, for the purpose of

X It should be made clear that a ~~fair~~ investigation  
of the Jesuits' case will result in a termination of the  
release of U.S. military assistance to El Salvador.

properly interpreting the new law, we note that a "thorough and professional investigation into, and prosecution of those responsible for, the eight murders" must extend not only to those who actually committed the crimes, but to any senior officials or others who may have ordered or helped plan them. Moreover, we urge you to join us in stressing the importance not only of civilian and judicial efforts to investigate and prosecute this case, but of military cooperation, as well.

Finally, we note that the purpose of the law is provide incentives for both the government and the FMLN to take--or refrain from taking--certain actions subsequent to its enactment. Thus, any determination made by the President concerning the release or further withholding of U.S. military aid must be based on actions or events occurring after -----.

In closing, let us assure you of our intention to monitor closely the implementation of the new law and of our willingness to work with you to provide continued incentives for both sides in El Salvador to choose peace over war, and real democracy over the rule of terror and force.

With kind regards.

Sincerely,

Hon. James Baker  
Secretary of State  
The Department of State  
Washington, D.C. 20520