

Justification for Presidential Determination
to Authorize Continued Security
Assistance for El Salvador

Section 728 of the International Security and Development Cooperation Act of 1981, PL 97-113, states that a wide range of security assistance may be provided and certain military personnel assigned to El Salvador only if the President makes a specific certification. The following constitutes the justification for this certification, pursuant to Sections 728(b), (d) and (e).

The issues on which periodic certification are required have been important elements of the Salvadoran government's policies since the overthrow of President Humberto Romero in October 1979. Romero was the last in a line of military officers who had ruled El Salvador for nearly fifty years. On October 15, 1979, a group of military officers who sought to introduce economic and political reforms overthrew Romero and created a civilian-military coalition called the Revolutionary Governing Junta. The original junta lasted three months. Its military members then reached an agreement with the Christian Democratic Party to form a new government. Despite several changes in its composition, this second junta has remained in power and is committed to sweeping economic and political changes aimed at reducing the causes of the present division and strife. The junta has instituted a series of reforms which are being implemented despite the violent opposition of groups on the extreme right and of Marxist guerrillas and terrorists, supported from Cuba and Nicaragua, who favor armed revolution. Each of the specific issues are addressed below:

Compliance with Internationally-recognized Human Rights.
A full report on the troubled human rights situation in El Salvador for 1981 will be sent to Congress at the end of this month. El Salvador is now in a state of active civil strife involving the government and armed groups of the left and right. As in similar circumstances in history, such civil strife has produced violations of human rights by elements on each side, because of partisan animosities, acts of retaliation, the settling of personal scores, and the disruption of the judicial system. These are long-term problems, and their correction is difficult over the short-term.

Along with the general disintegration of institutions in El Salvador after the October 1979 coup, the judicial system had nearly collapsed by January 1981. Conditions of internal strife make it possible for terrorists to intimidate judges,

witnesses, and government officials, blocking or slowing the process of investigation and judgement. Investigative efforts are impeded by the chaos caused by guerrilla and terrorist activities and movement of people out of the country and within it. These conditions greatly complicate the Salvadoran government's efforts to bring an end to human rights abuses.

Despite coup threats from the extreme right, intensified guerrilla warfare from the extreme left, and terrorism from both sides, the Salvadoran government has made significant progress in moving El Salvador toward a democratic process for resolving conflicts. It is also implementing important socioeconomic reforms designed to reduce the causes of the present terrorism and violence. Junta President Jose Napoleon Duarte's commitment to eliminating human rights abuses is a matter of public record. He himself has been the victim of abuses in the past. He was deprived of his electoral victory as president in 1972, arrested, beaten and exiled. Members of his Christian Democratic Party have been, and continue to be, victims of violence from both the extreme left and the extreme right. More than 20 Christian Democratic mayors were murdered during 1981.

The Salvadoran government, since the overthrow of General Romero, has taken explicit actions to end human rights abuses. The paramilitary organization "ORDEN" has been outlawed, although some of its former members may still be active. A military code of conduct was adopted in October 1980 explicitly prohibiting any actions by military personnel injurious to human rights. While the Salvadoran conflict, like most civil conflicts, has been characterized by many examples of savagery on all sides, the military high command has instructed the officer corps to ensure that all soldiers adhere to the code of conduct. A number of officers sympathetic to the violent right have been removed from command positions or reassigned to positions less sensitive to the domestic situation. Nevertheless, ultra-rightist ad hoc groups still operate without official sanction. Their apparent loose organization and the intermittent nature of their activities, coupled with the apparent complicity of some individual members of the security forces, makes identification of possible perpetrators very difficult.

In sum, despite formidable obstacles, the Salvadoran government is making a concerted and significant effort to comply with internationally recognized human rights.

Control Over All Elements of its Own Armed Forces. This is a key issue in attempting to ensure a democratic future for El Salvador. Traditionally, the National Guard and the

Treasury Police were often used to serve the private interests of their officers and of powerful landowners and businessmen. It is a characteristic feature of many societies, including El Salvador's, that personal ties often are stronger than legal obligations to standing regulations or orders from top government officials. These relationships are extremely difficult to eliminate totally, making the establishment of full central authority over subordinate officials a slow process. Despite the obstacles, the government is gradually consolidating its control. Elections to set in motion a democratic process, whereby the people can choose their own leaders, will be a major step in strengthening the legitimacy of the central authorities.

Through the removal of officers, institution of a code of conduct, and command emphasis on civilian-military relations and halting abuses, the government has taken concrete steps to bring all elements of its armed forces under control. These efforts are beginning to have a positive effect. The level of violence -- and particularly the number of deaths -- is difficult to quantify, but statistics compiled by our Embassy in San Salvador indicate a declining level of violence over the past year and a decrease in alleged abuses by security forces. There has been a definite trend in this regard.

Despite the government's intentions to do so, all abuses will not end in the immediate future. The guerrillas continue to justify terror and violence as acceptable tactics in their efforts to disrupt the society and overthrow the government. Moreover, guerrilla bands routinely operate accompanied by family members and other non-combatants, making it difficult to avoid non-combatant casualties when these groups are found and engaged by the military.

One of the principal missions of our military trainers in El Salvador is to increase the professionalism of the armed forces and improve the system of military discipline and command and control, thus reducing the abuses suffered in the past by the civilian population at the hands of the armed forces. To the extent that members of the armed forces see themselves first as military professionals, they are less likely to take action on behalf of partisan political causes or private interests. Discipline in the army and sensitivity to the problem of military abuse of civilians have improved and should improve further through professional training programs, such as those we are instituting for Salvadoran officers and infantrymen in the United States.

Economic and Political Reforms. When the Christian Democrats joined the Revolutionary Governing Junta they did so to open the political process in El Salvador and carry out socioeconomic reforms. One of the cornerstones of the reform program is land reform. This program has been particularly targetted by extremists of the right and left. Through assassinations of agrarian reform officials and intimidation of peasants, the extreme right seeks to defeat the implementation of the law, while the extreme left is attempting to derail a program that has seriously undercut its popular support. One part of that program, the distribution of landed estates over 1,235 acres to farmers who work on them, has been carried out and compensation to former owners is being made. A monthly report on beneficiaries, titles granted and compensation paid is now periodically provided to Congressman Long. A second part of the program is designed to transfer ownership of small farms to all tenants and sharecroppers. The titling process got off to a slow start. The process has accelerated since mid-year and provisional titles are now being issued at the rate of 4,000 per month. The Salvadoran Campesinos Union (UCS), in response to the government's request, has prepared a report detailing problems with the program which remain to be addressed in the months ahead. There is a legislative prohibition against U.S. assistance being used in planning for expropriation or in paying compensation to former landowner

Other reforms already achieved include the establishment of marketing authorities for the country's major exports, coffee and sugar, and of government majority participation in the banking system. These ambitious changes are being carried out under wartime conditions, which makes implementation all the more difficult.

Free Elections. Free elections are the cornerstone of the Salvadoran government's policy. President Duarte, other members of the junta, and Defense Secretary Jose Garcia, have made clear privately and publicly their commitment to free and fair constituent assembly elections in March 1982 and presidential elections in 1983. Planning for the constituent assembly elections scheduled to take place on March 28, 1982, is well underway. A central electoral council to conduct the elections has been established and is functioning. The elections council drew up a draft election law in May 1981 and invited all parties that renounce violence to participate in the electoral process. The new electoral law was promulgated by the junta in December after thorough discussion among the political parties. Seven parties, ranging from the non-violent left to the far right, are participating in the process. The Salvadoran government has sounded out dozens of democratic countries on the possibility of their sending electoral observers and formal invitations were sent out at year's end.

The government has explicitly left open the door for others, including the opposition political-guerrilla coalition, the FMLN-FDR, to participate. Two leftist parties associated with the FMLN-FDR, the social democratic MNR and the communist UDN, were designated by the government as legally constituted political parties with the need only to comply with a simple procedure to be inscribed on the ballot. President Duarte publicly invited all political parties and groups who renounce violence and wish to participate in the elections to join in a dialogue on the electoral ground rules. The government has offered amnesty to guerrillas and removed the legal state of siege for political parties, which will permit all to campaign freely. In response, the FMLN-FDR has denounced the elections and rejected the government's standing invitation to join in a discussion of electoral issues. Instead, the FMLN-FDR has maintained that any elections must be preceded by negotiations between the government and all elements of the FMLN-FDR resulting in a restructuring of the government and the military. Moreover, the guerrillas have prepared and are implementing an accelerated campaign of sabotage and terrorism to intimidate and to disrupt the elections, as evidenced by the attack on Ilopango Airport on January 27.

Efforts to Investigate the Murders of US Citizens (required under Section 728(e)). The investigations of the murders of the four American Churchwomen and the two land reform advisors have been underway over the past year. All key Salvadoran officials fully recognize how important it is to resolve these matters and have stated publicly and privately that the investigations of these crimes will continue until those responsible are brought to justice.

In the Churchwomen case, six members of the National Guard have been under detention since May 1981. On October 27, the Government of El Salvador formally requested additional FBI assistance with this investigation (and the land reform advisors case) and in early December an FBI representative saw leading members of the government most concerned with the issue. (In the early part of the investigation, the FBI had done fingerprint and ballistics analysis at the request of the Salvadorans.) To reinvigorate the investigation, the present investigating commission, composed of high-level officials, established a new working group in early December 1981 to collate prior reports, review and analyze them, interview all witnesses as well as the six National Guardsmen detained on suspicion of participation, and determine what technical assistance the FBI can provide. The working group has been hard at work throughout the past two months. It has uncovered additional evidence which gives hope of substantial new progress.

The Salvadoran Government has also been pursuing in good faith the investigation of the murders of the two American agrarian reform advisors at the Sheraton Hotel in San Salvador. Two suspects have been identified. In April 1981, the Salvadoran government arrested one of the two suspects and requested the extradition of his suspected accomplice from the U.S. On December 19 a Salvadoran judge signed an order suspending all judicial action in the case. The Salvadoran Attorney General has appealed this judicial action. The appeal has stayed the lower court's judicial order pending the appellate review. Meanwhile, one of the suspects has been released in San Salvador and is reportedly now in a neighboring country. The other suspect is free on bail in Miami pending resolution in U.S. courts of his extradition case. The new Salvadoran working group established to reinvestigate both this case and the Churchwomen's murder case will shortly be pursuing, with our technical assistance, several new avenues of investigation which we hope will lead to additional evidence.

On these bases, it is concluded that the Government of El Salvador has made a concerted, significant, and good faith effort to deal with the complex political, social, and human rights problems it is confronting and that progress is being made. It should be noted that it is only one year since the general guerrilla offensive and outside assistance to the guerrillas from Nicaragua, Cuba and other communist and radical states forced the United States to reassess its policy towards El Salvador. Since that time our concern for the elements of this certification have become a factor of increased significance in our bilateral relationship with El Salvador. There can be no doubt that much more must be done in these areas, but significant initial steps have been taken in this short timeframe. Progress is apparent and we have every reason to believe it will continue.

It is therefore concluded that the considerations set forth in Section 728(d) and (e) of the International Security and Development Cooperation Act of 1981 are satisfied.