



Security Council

Distr.  
GENERAL

S/14927  
25 March 1982  
ENGLISH  
ORIGINAL: SPANISH

LETTER DATED 25 MARCH 1982 FROM THE PERMANENT REPRESENTATIVE OF  
EL SALVADOR TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF  
THE SECURITY COUNCIL

I refer to the unusual letter from the Government of Nicaragua addressed to the Secretary-General of the United Nations, which is contained in document S/14913 dated 19 March 1982. Since the letter includes references to my country, I have the honour, on instructions from my Government, to transmit, through you, to the members of the Security Council the comments which El Salvador considers it useful to make in connexion with that text.

Apart from the potential propagandistic intentions behind such a communication, which are of fleeting and circumstantial value, what is at stake is an interest of permanent and crucial importance: the preservation of the inter-American system. It is precisely on this aspect that this note will first focus.

Chapter VIII of the Charter, entitled "Regional arrangements", contains a set of provisions which seek to link regional systems to the United Nations global system. Thus Article 52, paragraph 1, states: "Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations." The Article goes on to state in paragraph 2: "The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council." Paragraph 3 states: "The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the States concerned or by reference from the Security Council." Paragraph 4 adds: "This Article in no way impairs the application of Articles 34 and 35."

The obvious conclusion is that the United Nations system not only accepts the existence of regional agencies or arrangements, but also reserves for them a leading role in efforts to maintain international peace and security. The sole condition laid down in the Charter is that such regional arrangements or agencies and their activities should be consistent with the purposes of the United Nations.

With respect to inter-American matters, which unquestionably fall into the category of regional affairs because of the geographical element, we have the international instruments listed below. They have all been ratified (after the Charter of the United Nations was drafted) and are therefore binding. They are closely related to the issue before us and are, in chronological order:

I. The Inter-American Treaty of Reciprocal Assistance (also known as the Rio de Janeiro Treaty of 1947).

In article 1, the signatory States "formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty."

Article 2 elaborates on this solemn undertaking not to use force as a means of settling disputes: "As a consequence of the principle set forth in the preceding Article, the High Contracting Parties undertake to submit every controversy which may arise between them to methods of peaceful settlement and to endeavor to settle any such controversy among themselves by means of the procedures in force in the Inter-American System before referring it to the General Assembly or the Security Council of the United Nations."

II. However, in addition to the Inter-American Treaty of Reciprocal Assistance, there is one basic text which constitutes the backbone of the Inter-American system. I am referring to the Charter of the Organization of American States, adopted at the Ninth International Conference of American States, held at Bogota in 1948. Article 20 of the Charter stipulates that "all international disputes that may arise between American States shall be submitted to the peaceful procedures set forth in this Charter, before being referred to the Security Council of the United Nations."

As originally worded, this particular Article, which emerged after a comprehensive review, had contained a reference not only to the Security Council, but also to the General Assembly. It plainly shows that the intention of the States members of the Organization of American States was and remains clear as far as their attachment to this international instrument is concerned. In setting an order of priority among different bodies, they made a solemn undertaking to exhaust the peaceful procedures provided for in the Charter of OAS, before referring disputes to the Security Council of the United Nations.

III. Furthermore, the Inter-American system confirmed the desire to operate according to an order of priority with the American Treaty on Pacific Settlement (Pact of Bogota). The first paragraph of article II states: "The High Contracting Parties recognize the obligation to settle international controversies by regional pacific procedures before referring them to the Security Council of the United Nations."

/...

In addition to the legal question whether a State member of the Organization of American States should resort directly to the Security Council of the United Nations, the following elements must be taken into account in the discussion of this matter:

(1) Regional agencies and arrangements are crucially important to the proper functioning of a global system, since they are the local instruments for the maintenance of international peace and security;

(2) Inasmuch as they have the same purpose and *raison d'être*, namely, the preservation of international peace, regional agencies and arrangements are part of a whole;

(3) When a situation or dispute poses no present or imminent danger to international peace, there is all the more reason for the Security Council to have it dealt with through regional arrangements or by regional agencies, with a view to achieving the objectives set forth in Article 52, paragraphs 2 and 3, of the Charter;

(4) The practice of resorting to regional agencies has been widespread, both in the Organization of American States and in the Organization of African Unity, and has been instrumental in the settlement of a number of conflicts;

(5) At the eleventh session of the Organization of American States, held in Saint Lucia in December 1981, the Ministers for Foreign Affairs of the countries in attendance expressed their concern at the problems occurring in the Central American region.

For the purposes of this letter, it is useful to recall what Mr. José Napoleón Duarte, President of the Revolutionary Junta of the Government of El Salvador, stated at the thirty-sixth session of the General Assembly:

"The regional organizations, by their very nature, because of their proximity and the cultural roots of their members, can understand more clearly the proper interpretation of what happens in each part of the world, and must therefore be allowed to play a leading role in matters of international peace and security. Political logic requires that they be allowed to play a primary part, as is recognized by the United Nations Charter. Only States with no faith in their moral and legal arguments will try to repudiate an international system in order to localize a conflict. One result of such action would be to disrupt harmony between regional organizations and the world Organization, with all the dangers that might ensue. To strengthen international law in toto, we must not weaken the parts that make up the whole. Only in this way can an integrated system function."

Through the President of the Security Council, my Government wishes to reaffirm to members, in the most emphatic terms, its adherence to the principle of non-interference in the internal affairs of States and the vital need for other States, Nicaragua, in particular, to follow El Salvador's example in upholding that principle. Respect for that principle, as for the sovereign equality of rights and

/...

the self-determination of peoples, is indispensable for harmonious relations among nations. Thus in its approach to the problems facing the nation, which appertain to internal jurisdiction, my Government has chosen the course of an open, free and democratic electoral process as an important step towards solving the crisis and restoring institutional stability. The elections for a Constituent Assembly will take place on 28 March.

El Salvador also reasserts its sovereign right to maintain co-operative relations with any State, as it sees fit; with respect to the incident referred to in the letter from Nicaragua, which alleges that on 17 March a coastguard vessel of the Navy of El Salvador attacked a Nicaraguan fishing vessel, allow me, in order to dispel any doubt, to reproduce the protest note dated 18 March from the Salvadorian Ministry of Foreign Affairs addressed to the Nicaraguan Minister for Foreign Affairs:

"Sir,

"I refer to your note No. 111, dated 17 March, which describes an alleged attack carried out by a Salvadorian coastguard vessel. My Government considers inadmissible the assertions made in that letter, since they do not reflect what really happened. The incident stemmed from an incursion on the part of a vessel flying the Nicaraguan flag, in violation of our sovereignty. That vessel, upon being intercepted for inspection at 9.45 a.m. on 17 March, in Salvadorian territorial waters, at latitude 13° N and longitude 87° 47' W attacked the Salvadorian vessel with 30-mm calibre weapons, hitting it five times. The Salvadorian vessel returned fire in its own defence and in defence of national sovereignty, in accordance with international law. It is curious that a vessel engaged in fishing activities should sail into the territorial waters of another country, with armed military personnel on board, contrary to reason and contrary to the applicable norms. In this connexion, we categorically reject your assessment of the incident in the aforementioned note. It does not reflect the facts of the case. The distinguished Government of Nicaragua, to judge from its constant expressions of hostility towards our country, in violation of the principles of respect and coexistence which should govern relations between neighbouring countries desirous of living together in peace, does not appear to favour a 'reduction of tension in the area'. Similarly, we protest most strongly at the incursion of armed Nicaraguan vessels into the territorial waters of El Salvador. But, even this statement is not enough; the arms-mania in which Nicaragua is now caught up, unprecedented in the Central American region, is the major cause of increased tension in the area. It is jeopardizing stability and security while making it more difficult to solve the problems of under-development afflicting our peoples. My Government would remind you that it pursues a policy of absolute respect for the rules governing international law; it therefore finds your

/...

statements unacceptable, based as they are on unfounded assertions and made with the specific interests of your distinguished Government in mind.

"Accept, Sir, the assurances of my highest consideration.

"(Signed) Dr. Fidel Chávez Mena  
Minister for Foreign Affairs of El Salvador"

I wish to confirm, for the benefit of the President and the other members of the Security Council, that El Salvador is ready to continue to co-operate actively in fostering an atmosphere of trust among the fraternal countries of the region: its international conduct will continue to be guided by its commitment to the principles of the Charter, particularly those which seek to promote mutual respect, respect for the sovereignty of States and non-interference in the internal affairs of States. No one can rightly say that my government has violated those principles or has provoked situations of conflict with other countries of the region. On the contrary, we have been tolerant of the attitudes of others, even when such attitudes have been inconsistent with international law and with the principle of peaceful coexistence among sovereign nations, in the constant hope that they would change their ways, as a sign of political maturity and compliance with the norms of international law. El Salvador has pointed out that the so-called "solidarity" of organizations or movements of the same ideological stamp cannot validly be used, whether from the ethical, legal or political point of view, to justify overthrowing the whole structure of the fundamental principles of international law, which were accepted and endorsed by all Members States at the time of their incorporation in the Charter of the United Nations.

However, at the same time, El Salvador reserves the right to have recourse to appropriate procedures within the inter-American system, whenever it considers such a course of action advisable, in order to prevent interference in its internal affairs or acts of aggression on the part of other States.

We shall have recourse to the inter-American system not only in conformity with the principle of good faith and the rule of pacta sunt servanda, but also in the firm belief that it is the one competent and effective system for the settlement of disputes or incidents which pose a threat to peace in the Latin American region in general and Central America in particular.

In winding up these explanations and comments on behalf of my Government, which were prompted by Nicaragua's communication, I would request you to distribute this note as a Security Council document to members of the Council.

(Signed) Mauricio ROSALES  
Ambassador  
Permanent Representative

-----