SECURITY ASSISTANCE LEGISLATION AND POLICY

Fiscal Year 1989 Security Assistance Appropriations: A Preliminary Report

By

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For the first time since 1981, Congress succeeded in passing for FY 1989 a free-standing appropriations bill for foreign assistance (including security assistance). This is in marked contrast to the series of annual omnibus continuing appropriations of recent years which incorporated other required program appropriations. Indeed, each of the 13 appropriations bills required annually to fund U.S. government activities in FY 1989 were passed separately prior to the end of FY 1988--an event which last occurred in 1976. Congress, however, failed for the second consecutive year to pass an authorization bill for security assistance. Consequently, authorizations for FY 1989, as was also the case in FY 1988, are limited to those contained in the annual appropriations act.

Passage of the foreign assistance appropriations bill (H.R. 4637) occurred in the House on 29 September and in the Senate the following day. The President then signed the bill into law on 1 October, and it has been designated as Public Law 100-461, *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989.*

Table 1
FY 1989 Security Assistance Funding
(Dollars in Millions)

	FY88 Appropriations	FY 89 Budget Request	FY 89 Appropriations	FY 89 % Reductions from Request	FY 89 % Changes From FY 88
Foreign Military Sales (FMS) Finance Program	$4,049.00	$4,460.00	$4,272.75	-4.2%	+5.5%
Military Assistance Program (MAP)	700.75	467.00	467.00	0.0%	-33.4%
International Military Education and Training Program (IMET)	47.40	52.50	47.40	-9.7%	0.0%
Economic Support Fund (ESF)	3,188.32	3,281.00	3,258.50	-0.7%	+2.2%
Peacekeeping Operations (PKO)	31.69	31.69	31.69	0.0%	0.0%
TOTALS	$8,017.16	$8,292.10	$8,077.34	-2.6%	+0.8%

Inasmuch as P.L. 100-461 was enacted as this issue of *The DISAM Journal* was in final preparation for publication, a detailed report of the provisions of this new law will have to await our Winter issue. However, the following data is provided to identify funding levels, earmarks, ceilings, and certain special features. P.L. 100-461 provides $14.29 billion in overall foreign assistance appropriations for FY 1989, including $8.02 billion for security assistance programs. Table 1 compares FY 1989 security assistance funding with that of FY 1988 and also with the President's budget request for FY 1989. As is readily apparent, the FY 1989 funding falls below the overall request level by 2.6 percent, with reductions reflected in the FMS, IMET, and ESF accounts. Compared to FY 1988 appropriations, however, an overall increase of 0.8 percent has been appropriated for FY 1989. While this is a relatively minor increase involving $60.18 million, it nevertheless represents the first increase in annual security assistance funding since FY 1985.

As in previous years, Congressionally specified country funding levels (i.e., earmarks) have severely limited the Administration's flexibility in allocating program funds. For example, of the $4,272.75 million appropriated for the Foreign Military Sales Finance Program, $4,262.00 million (or 99.75 percent) is directed to be provided to seven countries: Israel, $1,800 million; Egypt, $1,300 million; Pakistan, $230 million; Morocco, $52 million, Tunisia, $30 million; Greece, $350 million; and Turkey, $500 million. The impact of such earmarked appropriations is to leave only $10.75M (or 0.25 percent) available for assistance to other countries.

Within the MAP account, earmarks are provided for three countries: Philippines, $125.0 million; Guatemala, $9.0 million (for non-lethal military assistance only); and Kenya, $15.0 million. Additionally, $20 million in MAP funds is earmarked to support the International Narcotics Control Program, and a ceiling of $40 million is specified for funding MAP general costs (including overseas SAO funding). These stipulated funding levels total $209 million, or 44.75 percent of the total MAP account, leaving only $258 million for allocation among such other important prior-year MAP recipients as Costa Rica, El Salvador, Honduras, Jordan, Portugal, Somalia, and Thailand. The ESF account is similarly earmarked, but at a far greater level with over 98 percent of all ESF funds earmarked by Congress. The Administration is thus confronted with the annual dilemma of how to allocate the limited non-earmarked funds among other deserving countries--a decision which must be completed within 30 days of the enactment of P.L. 100-461, or by 31 October 1988.

A variety of other features of the new appropriations act will be examined in our next issue, some of which are outlined below as a means of providing early identification for the reader of key issues which may affect their management functions. These include:

a. New terminology for the FMS Finance Program which refers to FMS "grants" (rather than "forgiven loans") and FMS "loans" (i.e., repayable loans).

b. An expansion of the FMS "grant" program to a total of $3,862.75 million which will fully fund (at the earmarked levels identified above) Israel, Egypt, Pakistan, Morocco, and Tunisia, and partially fund Greece and Turkey. Also, most of Turkey's funding will be in the form of these grants.

c. Authority to furnish all of the appropriated FMS "loan" funds ($410 million) at concessional rates of interest (i.e., no lower than five percent). Most of these funds will be allocated to Greece.

d. A requirement that not less than $409.75 million of the total FMS appropriation be used only for government-to-government sales (i.e., FMS), thereby restricting the amount of FMS funds available to finance direct commercial sales.

e. A repeal of the FY 1988 legislative provision which after 30 September 1989 would have prohibited the use of MAP monies as merged funds within the FMS Trust Fund.

f. A new provision whereby any MAP funds not expended by the end of the second fiscal year after the fiscal year for which they were appropriated (i.e., a total of three years) may not be committed thereafter unless a special 15-day notification is provided to Congress.

g. A requirement for the immediate return to the U.S. Treasury of $10 million from the MAP account unless the fully printed final version of the *FY 1990 Congressional Presentation Document for Security Assistance Programs* is received by Congress by 1 March 1990.

h. A new provision which prohibits IMET training for any country whose annual per capita GNP exceeds $2,349.00 unless that country agrees to fund from its own resources the transportation costs and living allowances for its students.

i. An expansion of the FY 1988 legislative provision on commercial leasing beyond its earlier application to only Israel and Egypt to allow NATO member countries and major non-NATO allies (Australia, Japan, Korea, Israel, and Egypt) to commercially lease defense articles, not including major defense equipment, but including helicopters and aircraft.

j. A new provision which, after 1 October 1989, will permit a waiver of all military salary costs for FMS cases funded with FMS grants, and will also allow a waiver of stipulated amounts for administrative surcharges and non-recurring cost recoupment surcharges for Israel's and Egypt's current F-16 acquisition programs (i.e., Peace Marble III and Peace Vector III).

k. A revision to the FY 1988 legislative provision requiring special Congressional notification of all missile sales regardless of sales value, which now requires such notification only for sales of air-to-ground or ground-to-air missiles, or associated launchers.

l. A new authority to permit the President to reprogram funds earmarked for assistance to a specific base rights, or base access country, if it is determined that such country has significantly reduced its military or economic cooperation with the United States.

m. A prohibition on the sale (FMS) of any defense article or defense service to the government of Qatar until that government has returned to the United States "all Stinger antiaircraft missiles illegally acquired or purchased." This prohibition does not become effective until 1 April 1989.

n. Obligational authority (OA) for FY 1989 for the Special Defense Acquisition Fund (SDAF) of $236,865,000--identical to the OA level authorized for the SDAF in FY 1988. Further, DOD will have three years (or until 30 September 1991) to obligate these funds.

o. An extension of the War Reserve Stocks for Allies (WRSA) program which permits the transfer of U.S. defense articles to the stockpiles in FY 1989 not to exceed a value of $77 million. The Administration plans to transfer $67 million worth of stocks to the stockpile in Korea and $10 million to Thailand.

p. The addition of Pakistan to the list of countries which are exempt from the statutory prohibition on the sale of U.S. antitank shells containing a depleted uranium (DU) penetrating component. Exemptions from this prohibition continue to apply to all NATO member-states, Australia, Japan, Israel, Egypt, and the Republic of Korea.