
FEATURE ARTICLE

Fiscal Year 1998 Security Assistance Legislation

By

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Introduction

This report is the fourteenth in a series of annual legislative studies published in *The DISAM Journal*. This year's report presents an expanded summary and analysis of significant new legislation impacting on United States security assistance programs in FY1998 and beyond. As in prior years, the report is presented in an extended outline format. The variety of new statutory provisions, together with the need for succinct and timely publication, supports the use of such a format. This summary approach, together with the use of boldface print to identify key topics, has proven useful for reference purposes in locating specific statutory provisions. DISAM's objective in producing these annual reports is to disseminate important new legislative information to better assist security assistance managers and executives throughout the world. This report should enhance their understanding of the changing statutory requirements that provide the program authorities and direction for implementing U.S. security assistance programs.

The FY1998 Legislative Process

Although many new and modified statutory provisions dealing with security assistance and foreign affairs were enacted for FY1998 and are discussed herein, Congress generally did not break any significant new legislative ground. The extraordinary statutory changes to the Foreign Assistance Act of 1961 and the Arms Export Control Act that were introduced for FY1997 in P.L. 104-164 had no FY1998 counterpart. The much-publicized legislative proposals for consolidating the Arms Control and Disarmament Agency and the U.S. Information Agency within the Department of State, failed to pass, although these proposals remain active and could be enacted in 1998. Also, for the thirteenth consecutive year since FY1985, Congress failed to enact a foreign affairs authorization act; once again the required enabling appropriations authorities had to be incorporated in the annual Foreign Operations Appropriations Act (§526, P.L. 105-118). Moreover, as in prior years, the process was characterized by delay in the passage of an appropriations act; a series of continuing appropriations resolutions were required before enactment finally occurred in late November. The legislative session also was beset by the usual debate over abortion assistance, while the most unusual aspect of the process involved some unique measures relating to Middle East funding. A brief discussion of these issues is presented below, followed by a more in-depth review of new FY1998 security assistance legislation.

Of the 13 annual appropriations acts required for financing federal government operations and activities, only one such act—the FY1998 Military Construction Appropriations Act—had been enacted by the start of the new fiscal year on 1 October 1997. Consequently, Congress resorted to its traditional method for meeting such problems—the passage of an interim funding measure, i.e., a **continuing appropriations resolution (CR)**. This measure was enacted for only a 23 day period, to expire on 23 October 1997. However, by that date only four additional

appropriations bills had been passed. Thus, over the next month a series of six separate extensions to the CR had to be passed before all 13 bills were enacted. It was at the end of this last CR extension, on 26 November 1997, that the bill that funds security assistance was enacted as the *Foreign Operations, Export Financing, and Related Programs Appropriations Act*, P.L. 105-118. The reader may recall that a far different approach was employed in 1996 for FY1997 appropriations legislation. Congress was then faced with six separate appropriations bills that remained to be enacted before the new fiscal year. Rather than resort to interim funding measures and possible government shutdowns, which had proven so politically controversial in 1995, Congress fashioned an extraordinarily massive FY1997 Omnibus Consolidated Appropriations bill; this bill included funding for nine separate cabinet level departments and related agencies, and was enacted by the President on 30 September 1996 as P.L. 104-208. For FY1998 appropriations, the Bipartisan Budget Agreement reached earlier in 1997 precluded the political threat of a government shutdown and allowed Congress to return to the use of the CR device.

The second notable feature of the FY1998 legislative process involved a perennial dispute over **abortion and international population planning assistance**. For many years annual Foreign Operations Appropriations Acts have routinely included prohibitions on the use of development funds “to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions;” also prohibited has been the use of such funds “to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilization” or to fund biological research associated with sterilization. In addition, this legislation has prohibited the use of United States assistance funds “to lobby for or against abortion.” These particular annual legislative restrictions were again enacted without controversy for FY1998. [§518, P.L. 105-118.]

However, congressional opponents of abortions and sterilization have attempted in recent years to add to the general abortion restrictions by reinstating the so-called “Mexico City” policy *barring any assistance funds for any private groups that use their own funds to promote, perform, or support abortions overseas*. This policy was formulated by the Reagan Administration in 1984 and was named for the site of a world population conference in that year. The Bush Administration continued the policy, but President Clinton rescinded it as one of his first acts on taking office in 1993. This policy, if legislatively enacted, would deny U.S. funding to such groups as the International Planned Parenthood Federation of London, that use their own money to perform and promote abortions.

Since 1995, this issue has been a continual focus of attention in congressional debates over the foreign operations appropriations bill. For FY1998, as in the previous three years, such prohibitory language was again sponsored and adamantly supported by Rep Christopher H. Smith (R, NJ). In fact, he managed to insert this provision in two separate House bills: the FY1998 Foreign Operations Appropriations Act as well as the 1998 Foreign Relations Authorization bill (i.e., the State Department Authorization Act, which failed enactment for FY1998 largely because of the abortion provisions despite the fact that the bill had passed the Senate in June by an overwhelming 90-5 vote). Also, as in prior years, no such provision was included in the Senate versions of these two bills, and Senate Republican leaders, including Senate Foreign Relations Committee Chairman Jesse Helms (R, NC) and Senate Majority Leader Trent Lott (R, MS) were widely reported to oppose the House initiatives.

The Clinton Administration threatened to veto any bill that included funding prohibitions for private groups that use their own funds for abortions. By 5 November 1997, following action by the Conference Committee, this abortion issue remained the only obstacle to congressional passage of the Foreign Operations Appropriations bill. After months of debate, and with pressure to adjourn, various compromise proposals were offered to the Administration. As bargaining chips, the congressional leadership proposed approval of two of the Administration's

controversial funding requests in return for passage of the additional abortion prohibitions: \$350M would be approved for a one-time appropriation for the International Monetary Fund (IMF) aimed at preventing massive international currency fluctuations; and \$926M would be authorized for payment of a portion of the U.S. debt to the United Nations. The Administration rejected both offers, and Congress subsequently withheld IMF and U.N. funding from the bill. Further, it was widely reported that Republican congressional leaders at one point even offered to drop their opposition to giving the President "fast-track" authority for negotiating international trade agreements, an authority the President had strongly sought. But, again the Administration failed to budge, and the fast-track authority was then rejected. Nevertheless, having denied the Administration support on these three issues, the Republican leadership ultimately yielded on the abortion issue. On 13 November 1997 Congress approved overseas population planning aid without the controversial additional abortion restrictions, and the Foreign Operations Appropriations bill was finally forwarded to the President who subsequently signed it on 26 November. Thus, in its final form, without the additional restrictions, §592, P.L. 105-118, provides \$385M for population planning activities or other population assistance, identical to the FY1997 level, with the funds to be distributed at a rate not to exceed 8.34 percent per month.

Several developments associated with the Middle East also played a significant role during the FY1998 foreign assistance legislative process. The first involved an announcement by President Clinton on 17 June 1997 of a new **Middle East Peace and Stability Fund (MEPSF)** whose "initial focus will be on assisting Jordan as it pursues economic modernization." An Administration Fact Sheet on this new presidential initiative states that, "Resources for the fund are planned at \$100 million annually for five years, to be transferred in equal shares from U.S. economic assistance (ESF) earmarked for Israel and Egypt." Further, the Fact Sheet reported that for this year, "most of the transfer from the Egypt program will come from residual funds left in completed projects." No specific reference was made to Israel's funding of the new program.

Then, only four days after the President's MEPSF announcement, Senator Mitch McConnell (R, KY), Chairman of the Senate Appropriations Committee, Foreign Operations Subcommittee (SACFO), proposed eliminating the long-standing military and economic assistance earmarks for Egypt. Sen. McConnell's proposal reportedly came as a surprise to the Administration and also to many in the Senate. In explaining its dropping of the Egyptian earmarks, the SACFO stated that Egypt had engaged in policies over the past 18 months that were

neither conducive to peace nor fulfilling obligations to develop normal relations with Israel. At best, Egypt has chosen a course of a cold peace. At its lowest point, decisions by the Egyptian leadership appear to lead other Arab nations down a course hostile to regional stability and security.

Thus, in the SACFO-proposed foreign operations bill (S. 955), no FMFP or ESF funds were earmarked for Egypt, although the SACFO reported that, "the administration is not prohibited from continuing support should it decide that aid is appropriate and contributes to the peace process." Sen. McConnell also proposed earmarking \$250M in military and economic aid to Jordan, "in recognition of the important commitment Jordan has made to the [Middle East] peace process." [SACFO Report, 105-35, 24 June 1997, p. 20.]

By the time the bill moved to the floor of the Senate in July, the Egyptian earmarks had been quietly restored. However, the political focus was then turned on Israel. In October, Rep. Sonny Callahan (R, AL), Chairman of the House Appropriations Committee, Foreign Operations Subcommittee (HACFO), placed a hold on the obligation and expenditure of FY1998 Israeli funding authorized under the first Continuing Resolution (P.L. 105-46). His action reportedly was prompted by his view of an ineffectual Middle East peace process, Israel's failed assassination attempt on a Hamas leader in Jordan, and the initial refusal of the Israeli government to extradite an American citizen, Samuel Sheinbein. The 17-year-old Sheinbein, who

claims joint U.S.-Israeli citizenship, is the chief-suspect in a brutal murder in Aspen Hill, Maryland, where the male victim's burned and mutilated body was found on 18 September 1997, a few days before Sheinbein fled to Israel. Rep. Callahan withdrew his opposition when Israel provided assurances that it would extradite Sheinbein.

Nonetheless, when the Government of Israel shortly afterward refused to provide a guarantee that it would contribute its \$50M share to the MEPSF program for aiding Jordan, another congressional hold on Israeli funding was put in place. Reportedly angered and frustrated by Israel's refusal, Rep. David R. Obey (D., WI), ranking minority member of the House Appropriations Committee, placed a hold on \$75M of ESF aid that Israel was to receive in October under the CR. This issue was finally resolved when Israel provided the requested funding guarantee for Jordan in the form of a letter to the House Appropriations Committee from the Israeli Ambassador to the United States. Thus, as noted in the FMFP and ESF sections of this report, Congress ultimately supported the traditional FMFP and ESF earmarks for Israel (\$1.8B and \$1.2B) and Egypt (\$1.3B and \$815M), respectively. Congress also earmarked FMFP and ESF for Jordan at \$75M and \$150M, respectively, the latter to be partially funded by \$50M contributions each from Israel and Egypt.

FY1998 Funding Allocations

Following the enactment of an annual foreign operations appropriations act, the Administration is tasked with specifying the amount of appropriations to be allocated among each eligible foreign country and international organization. Pursuant to the requirements of §653, AECA, the Administration must notify Congress of these funding allocations within 30 days following the enactment of "any law appropriating funds to carry out any provision" of the AECA. Unfortunately, the expected Department of State announcement of the FY1998 funding allocations had not occurred by the mid-January press date of this issue of *The DISAM Journal*. (A similar situation last occurred in conjunction with the allocation of funding for FY1995 security assistance programs.) In the absence of complete funding information, this present report is limited to identifying only those FY1998 security assistance program funds that Congress specifically earmarked for particular countries and programs. The publication of complete funding data has been deferred to our Spring 1998 issue. That issue will provide updated funding allocation tables, to replace the necessarily incomplete Tables 2-5 in this report.

Reference Sources: The following abbreviated titles are used in this report to identify the principal sources of information used herein.

- ***AECA:*** Arms Export Control Act, as amended.
- ***Conference Report:*** Conference Report on H.R. 2159, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998, as published in the *Congressional Record* (House Report 105-401), 12 November 1997, pp. H10602 – H10629.
- ***FAA:*** Foreign Assistance Act of 1961, as amended.
- ***FY1998 Congressional Presentation:*** The Secretary of State. *Congressional Presentation for Foreign Operations, Fiscal Year 1998*.
- ***HAC Report:*** House Appropriations Committee Report 105-176, 14 July 1996, to accompany H.R. 2159, Foreign Operations, Export Financing, and Related Programs Appropriations Act for the fiscal year ending September 30, 1998.
- ***P.L. 105-118:*** Public Law 105-118 [111 Stat 2386], Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998, 26 November 1997.

- *SAC Report:* Senate Appropriations Committee Report 105-35, 24 June 1997, to accompany S. 955, making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1998.

Table 1

**SECURITY ASSISTANCE PROGRAM APPROPRIATIONS
FISCAL YEARS 1997 AND 1998 FUNDING LEVELS
(Dollars In Millions)**

| | P.L. 104-208 30 Sep 96 FY1997 <u>Funding</u> | FY1998 Budget Request <u>12 Feb 1997</u> | S.955 Senate Proposal <u>17 Jul 97</u> | H.R. 2159 House Proposal <u>4 Sep 1997</u> | P.L. 105-118 26 Nov 97 FY1998 <u>Funding</u> |
|---------------|---|---|---|---|---|
| FMFP | \$3,764.000 [1] | 3,973.750 | \$4,068.450 | \$3,916.250 | \$3,953.550 |
| [Grants] | [3,224.000] | [3,274.250] | [3,308.950] | [3,259.250] | [3,296.550] |
| [Loans] | [540.000][2] | [699.500][3] | [759.500] | [657.000] | [657.000][4] |
| (Subsidy) | (60.000) | (66.000) | (74.000) | (60.000) | (60.000) |
| IMET | 43.475 | 50.000 | 47.000 | 50.000 | 50.000 |
| ESF | 2,362.500 | 2,497.600 | 2,541.150 | 2,400.000 | 2,400.000 |
| PKO | 65.000 | 90.000 | 75.000 | 77.500 | 77.500 |
| TOTALS | <u>\$6,234.975</u> | <u>\$6,611.350</u> | <u>\$6,731.600</u> | <u>\$6,443.750</u> | <u>\$6,481.050</u> |

[1] The FMFP total value of \$3.764M appropriated for FY1997 includes \$3.224M in grants and a maximum of \$540M in direct loans to be issued at current average treasury rates of interest. These loans were subsidized by a direct appropriation of \$60M. Congress placed ceilings on loans for Turkey and Greece at \$175.000M and \$122.5M, respectively, and also earmarked \$20M of the loan subsidy to be used to support direct loans for Poland, Hungary, and the Czech Republic. The FMFP request included \$6M for demining which was funded in a new, separate account.

[2] The FY1997 FMFP loan program provided \$60M in loan subsidy funding to support a maximum of \$540M in direct loans issued at then current average treasury rates of interest. Congress placed ceilings for these loans at no more than \$175M for Turkey, and no more than \$122.5M for Greece.

[3] The Administration's FY1998 FMFP request sought a subsidy of \$66M to support a direct loan program not to exceed \$699.500M. As in FY1997, the Administration again proposed loans of \$175M and \$122.5M for Turkey and Greece, respectively, for FY1998 sustainment of their U.S. supplied military equipment. Also, \$402.000M was sought in support of unspecified Central European Defense Loans.

[4] The FY 1998 FMFP loan program provides \$60M in loan subsidy funding to support a maximum of \$657M in direct loans issued at current average treasury rates of interest. Congress placed ceilings for these loans at no more than \$150M for Turkey, and no more than \$105M for Greece.

The Foreign Operations Budget for FY1998

- The Administration submitted its proposed Fiscal Year 1998 federal budget to the Congress on 3 February 1997, with a request for a total of **\$16,888,168,980** in discretionary budget (obligational) authority for all foreign operations programs. (This includes bilateral and multilateral economic assistance, export assistance, and bilateral military assistance.)

- The Senate responded with its bill (S. 955, 24 June 1997) with a relatively small cut of almost \$28.5M, for a budget of \$16,859,708,000. For its part, the House bill (H.R. 2159, 14 July 1997) substantially reduced the request by over \$4.5B to \$12,311,414,980.

- The final bill, reflecting the report of the Appropriations Conference Committee, established the FY1998 foreign operations budget at **\$13,190,968,080**—some \$3,697,200,900 less than Administration's original request. Much of this major cut is attributable to the refusal of Congress to provide \$3.5B for the International Monetary Fund as the Administration requested and as the Senate included in its proposed bill. Congress also denied an Administration request for an appropriation of \$926M for a portion of the U.S. debt to the United Nations and for a proposed State Department reorganization.

- Also, in comparison to last year, the overall FY1998 Foreign Operations budget (at \$13,190,968,080) substantially exceeds FY1997 funding (\$12,311,120,000) by \$879,848,080.

- Within the overall budget authority, FY1998 security assistance program funding totals **\$6,481.05M**, an increase of \$246.075M (or 3.9%) over that of FY1997 (\$6,234.975M). The evolution of the FY1998 budget levels for security assistance programs—from the administration's budget request submission, through legislative action in the Senate and House, to final congressional passage and presidential enactment—is illustrated in Table 1.

- The following section of this report examines the various security assistance-related provisions of the Foreign Operations Appropriations Act, FY1998 (P.L. 105-118), to include new statutory as well as committee reporting requirements. The section opens with a review of the FY1998 Foreign Military Financing Program.

Table 2

PART I - FOREIGN MILITARY FINANCING PROGRAM GRANT FUNDING
(Dollars in Millions) (E - Earmark; C - Ceiling)

| <u>Country/Program by Geographical Region</u> | <u>FY1997 FMFP Grant Funding</u> | <u>FY1998 Budget Request</u> | <u>FY1998 FMFP Grant Funding</u> |
|---|----------------------------------|------------------------------|----------------------------------|
| <u>NEAR EAST</u> | | | |
| Egypt | \$1,300.000E | \$1,300.000 | \$1,300.000 E |
| Israel | 1,800.000E | 1,800.000 | 1,800.000 E |
| Jordan | 30.000 | 45.000 | 50.000 E [1] |
| Subtotals | 3,130.000 | 3,145.000 | 3,150.000 |

(Continued on next page.)

Table 2, Continued

PART I - FOREIGN MILITARY FINANCING PROGRAM GRANT FUNDING
(Dollars in Millions) (E - Earmark; C - Ceiling)

| <u>Country/Program by Geographical Region</u> | <u>FY1997 FMFP Grant Funding</u> | <u>FY1998 Budget Request</u> | <u>FY1998 FMFP Grant Funding</u> |
|--|---|---|---|
| <u>EUROPE & THE NIS</u> | | | |
| Partnership for Peace (PFP) (Poland, Hungary, Czech Rep.) | 60.000 [E][2] | 70.000 | |
| Baltic Nations (Estonia, Latvia, Lithuania) | 0.000 | 0.000 | 18.300 E |
| Subtotals | 60.000 | 70.000 | |
| <u>LATIN AMERICA</u> | | | |
| Caribbean Regional | 2.000 | 3.000 | |
| Subtotals | 2.000 | 3.000 | |
| <u>AFRICA</u> | | | |
| Africa Crisis Response Force | 3.000 | 5.000 | |
| East Africa Regional (Sudan "Front Line States") | 4.750 | 5.000 | |
| Subtotals | 7.750 | 10.000 | |
| <u>EAST ASIA & PACIFIC</u> | | | |
| Cambodia | 1.000 | 1.000 | |
| Subtotals | 1.000 | 1.000 | |
| <u>MISCELLANEOUS</u> | | | |
| Landmine Clearing & Training | (7.000) [3] | 15.000 | (15.000) [4] |
| Defense Admin Expenses | 23.250C | 23.250 | |
| Enhanced International Peacekeeping | | 7.000 | |
| Subtotals | 23.250 | 45.250 | |
| <u>TOTAL GRANT PROGRAM</u> | <u>\$3,224.000</u> | <u>\$3,274.250</u> | <u>\$3,296.550</u> |

Table 2, Continued

PART II - FOREIGN MILITARY FINANCING PROGRAM LOAN FUNDING
(Dollars in Millions)

| <u>Country/Program by Geographical Region</u> | <u>FY1997 FMFP Loan Funding</u> | <u>FY1998 Budget Request</u> | <u>FY1998 FMFP Loan Funding</u> |
|---|---------------------------------|------------------------------|---------------------------------|
| <u>EUROPE & THE NIS/FSU</u> | | | |
| Turkey [Loan] | \$175.000C | 175.000 | 150.000 C |
| Greece [Loan] | 122.500C | 122.500 | 105.000 C |
| Central Europe Defense Loans | 242.500 | 402.000 | 402.000 |
| <u>TOTAL LOAN PROGRAM</u> | \$540.000 | \$699.500 | \$657.000 |
| <u>TOTAL GRANT PROGRAM</u> | \$3,224.000 | \$3,274.250 | \$3,296.550 |
| <u>PROGRAM TOTALS [5]</u> | <u>\$3,764.000</u> | <u>\$3,973.750</u> | <u>\$3,953.550</u> |

[1] Congress authorized a direct grant drawdown of DoD defense articles, services, and military education and training valued at not less than \$25M be provided to Jordan during FY1998 that, with grant funds of \$50M, is to count toward an overall \$75M program earmarked for Jordan.

[2] In addition to the \$60M in FY1997 FMFP grant funding for the PFP, another \$6.9M (not included above) was transferred to the FMFP account from two economic assistance accounts: *Assistance for Eastern Europe and the Baltic States* and *Assistance for the New Independent States (NIS) of the Former Soviet Union (FSU)*.

[3] \$7M in demining funding was appropriated for FY1997 in a new appropriations account, *Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR)*. These funds were designated for use in demining operations under the FMFP authority provided by §23, AECA.

[4] \$15M in demining funding was included in the Administration's FY1998 budget request. These funds were again appropriated in the separate FY1998 NADR account. (See discussion of this account in the Miscellaneous Appropriations and Related Provisions section below.)

[5] These program totals reflect the sum of all direct *grant* appropriations plus the actual value of the *loan* programs.

• **Foreign Military Financing Program (FMFP), Title III, Military Assistance), P.L. 105-118.**

• As illustrated in Table 1, the overall FMF Program for FY1998 (\$3,953.55M) has been significantly increased by \$189.55M (or 5%) over the previous year's program (\$3,764.00M). This marks the second continuous year in which Congress has approved increased FMFP funding and is unusual in light of the traditional propensity of Congress to cut Administration budget requests for security assistance programs. Although the FY1997 increase

of \$11.610M (or 0.3%) was far smaller, such upward funding stands in distinct contrast to the annual FMFP reductions experienced in the preceding 13 years from FY1984 through FY1996. In FY1984, the comparable grant assistance funding (FMFP and MAP) totaled \$6,428.00M. By FY1996, the FMFP Program (\$3,752.39M) had fallen (in current year dollars) by \$2,675.61M (or over 41%) below the FY1984 program. As reflected in Table 2 and discussed below, the FY1998 FMFP increase is principally a consequence of providing substantially increased loan funding for Central Europe together with incremental grant funding increases for Jordan, the Baltic countries, landmine clearing, and peacekeeping. (See Table 2 which identifies FMFP appropriations and legislatively earmarked funding for FY1997 and FY1998.)

- ***FMFP Grant Funding (nonrepayable credits)***

- As shown in Table 1, the appropriation of **\$3,296.55M for FY1998 FMFP grants** exceeds the President's funding request (\$3,274.25M) by \$22.30M. The FY1998 enacted level also reflects a compromise between the initially adopted FMFP grant levels of \$3,308.95M (Senate) and \$3,259.25M (House).

- ***FMFP Grant Earmarks***

- For the twelfth consecutive year, FMFP grant funding for FY1998 has again been earmarked for **Egypt at \$1.3 billion, and Israel at \$1.8 billion.**

- These two FMFP grant country earmarks total \$3,100M and represent over 94 percent of FY1998 grant FMFP funding.

- ***Special FMFP Provisions for Israel***

- As in past years, Congress continued to attach two special provisions to the FMFP appropriation for Israel. These provisions permit significant utility and flexibility in Israel's use of these grant funds.

- The first such provision directs the disbursement of Israel's entire FMFP account to occur within 30 days of the enactment of P.L. 105-118 [i.e., by 25 December 1997], or by 31 October 1997, whichever is later.

- Secondly, not less than \$475M of Israel's FMFP appropriation is available in FY1998 for "the procurement in Israel of defense articles and defense services, including research and development." This provision represents an exception to the general restriction on the use of FMFP funds by recipient countries to finance offshore (i.e., non-U.S.) procurements. To implement this special provision, (1) Israel must request such use of the funds from the FMFP grants made available to Israel for advanced fighter aircraft programs or for other advanced weapons, and (2) Israel and the United States must agree on such use of the funds for these purposes.

- In its discussion of these exceptional provisions for Israel, the House Appropriations Committee (HAC) reported its continuing concern that:

Israel's technological military edge could erode as a result of the unrestrained sale of advanced military equipment to Israel's potential adversaries by other nations and the increasing sophistication and cost of advanced weapon systems. Therefore, the Committee continues to believe the United States must make every effort to carry out its long-standing policy of ensuring that Israel's technological edge is maintained. [*HAC Report*, p. 44.]

- *Assistance for Jordan*

- Although the Administration requested only \$45M in FMFP grants for **Jordan** for FY1998, Congress chose to earmark \$75M for Jordan, a 150% increase over its FY1997 FMFP earmark of \$30M.

- The FMFP earmark for Jordan is tied to a unique military drawdown feature that has not previously been employed for any other earmarked FMFP grant-funded recipient. This unusual proviso requires the President to identify and direct drawdowns of defense articles and defense services from DoD stocks, services, and military education and training, "of an aggregate value of not less than \$25M," to be provided on a grant basis for assisting Jordan, and to "count toward meeting the [Jordan FMFP grant] earmark." In short, one-third of Jordan's FY1998 FMFP funding shall be provided in the form of grant drawdowns of DoD stocks and services. This provision also provides authority for reimbursement to DoD for such drawdowns, per Section 506(c), FAA.

- *Special European FMFP Funding Requirements*

- Title III, P.L. 105-118 also provides grant funding for the Baltic countries (Estonia, Latvia, and Lithuania) as well as for Poland, Hungary, and the Czech Republic, the three former Warsaw Pact countries which have been invited to join the NATO alliance. Of special interest is the unusual language used by Congress to identify FMFP funding for these two groups of countries.

- In the first case, Title III states that, "a total of \$18.3M *should be available* for [FMFP grant] assistance for Estonia, Latvia and Lithuania."

- The second case involves the requirement that \$50M in FMFP funds [nonspecified as to whether in grants and/or loans] "*should be made available* for the purpose of facilitating the integration of Poland, Hungary, and the Czech Republic into the North Atlantic Treaty Organization."

- The phrases, "should be available" and "should be made available," are not the usual language of appropriations acts. Rather, in designating *earmarked* funding, the phrase normally used states that "*not less than \$XXX shall be available. . . .*" This wording requires that funding be provided at no less than the stipulated earmark value, and also further allows for the discretionary furnishing of assistance above that level. (Conversely, when a *ceiling* is placed on a given appropriation, the phrase typically used is "*not more than \$XXX shall be available. . . .*" This wording restricts the provision of any funding above the stipulated ceiling level, and in fact permits no funding whatsoever to be furnished.) The unusual language used in the two special European grant appropriations for FY1998 is understood to establish earmarked funding levels.

- With respect to the Baltic nations, as part of the Administration's overall Partnership for Peace (PfP) budget request, \$4.1M in FMFP grant funds were requested for each of the three Baltic countries. This total \$12.3M request was raised to \$18.3M in the Conference Committee that reported the higher funding as being provided:

to enhance programs aimed at improving the military capabilities of these nations and to strengthen their interoperability and standardization with NATO, including the development of a regional airspace control system. Given progress in economic reform and meeting military guidelines for prospective NATO members, the conferees believe the Baltic nations will make an important

contribution to enhancing stability and peace in Europe and are strong candidates for NATO membership. [Conference Report, p. H10623.]

- In connection with this funding, a 15-day prior congressional notification must be provided to the two Committees on Appropriations before any funding may be made available to any non-NATO country participating in the PFP program.

- Also, it should be noted that since Congress did not specify the amount of grant funding to be furnished for any particular country in these two European groups, the specific country distribution, or "allocation," of such non-earmarked funds is left to the Administration to determine.

- ***FMFP Loans*** (repayable credits)

- In addition to non-repayable *grants*, repayable *loans* are another key component of the annual FMFP appropriation. These loans require repayment at prevailing Treasury rates of interest (i.e., rates "not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities"). The AECA, §23(b), requires that all such direct loans be repaid within a period not to exceed twelve years unless otherwise directed by specific legislation; historically, Congress has authorized longer repayment terms (e.g., 30 years) for specific countries.

- For FY1998, Congress appropriated \$60M to subsidize a direct loan FMFP program totaling \$657M. P.L. 105-118 specifies only two countries to receive such loan assistance—Greece and Turkey. The Administration, however, had proposed an additional \$402M in loans to be made available for creditworthy Central European countries; and the FMFP loan program approved by Congress for FY1998 provides sufficient loan authority to meet this \$402M requirement.

- ***Loans for Greece and Turkey***

- For FY1998, Congress has again applied its traditional (but non-statutory) 7 to 10 ratio in specifying FMFP assistance to Greece and Turkey. This ratio, which Congress has employed since FY1980, requires that military assistance to Greece be maintained at 70 percent of the value of military assistance furnished to Turkey. FMFP assistance to these two countries in the 1980s and early 1990s was provided as a combination of grants and repayable loans. Beginning with FY1993, and annually thereafter, all FMFP funding for the two countries has been limited to repayable loans. Further, such credit funding has declined annually from FY1993 levels of \$350M for Greece and \$500M for Turkey, to their respective FY1997 levels of \$122.5M and \$175M. This downward funding trend continued for FY1998. To support sustainment requirements for U.S.-origin equipment in these two NATO-members' respective military inventories, the Administration requested a continuation of funding at the FY1997 levels. While the Senate bill supported the Administration request, the Conference Committee agreement adopted (and Congress subsequently passed) a reduced House proposal whereby FY1998 funding will be limited to FMFP loans not to exceed \$105M for Greece and \$150M for Turkey.

- In commenting upon the loans for Greece and Turkey, the House Appropriations Committee reaffirmed that "1996 marked the graduation of both Greece and Turkey as annual FMFP loan program recipients for the purpose of supporting major new weapons acquisitions." The Committee went on to observe that, as in FY1997, the FY1998 FMFP program for these two countries, "is to be used to support upgrades or replacement parts for existing U.S. origin equipment currently in the inventories of the Turkish and Greek armed forces." [HAC Report, p. 47.]

- In its discussion of the FMFP loan program, the Conference Committee reported its "extreme concern" regarding what it characterized as the Administration's "apparent abandonment" of "its long-standing credit criteria for determining eligibility for the FMF loan program." The Conference Report notes that in previous years the Administration provided Congress with a clear understanding "of its loan criteria and its intended application" at the time the funds were being requested. Stating that "the current application of the FMF [for FY1997 loans] is not consistent with these presentations," the conferees:

direct the Secretary of State, in consultation with the Secretary of Defense, Secretary of the Treasury, the Director of the Office of Management and Budget, and in coordination with the Director of the Congressional Budget Office, to review the current FMF loan policy and its application to current and proposed program participants, and to report to the Committees on Appropriations, within 180 days of enactment of this Act, on these issues, to include a statement specifically detailing Administration FMF loan policy and credit risk criteria. The conferees also direct the Secretary of Defense to report to the Committees on Appropriations on a quarterly basis, beginning January 1, 1998, on the current credit risk ratings for potential and current FMF loan program participants. [Conference Report, p. H10624.]

- ***Funding for the General Costs of Administering Military Assistance***

- The FMFP appropriations account also includes funds that are used to finance certain military assistance administration costs. As identified in the *FY1998 Congressional Presentation for Foreign Operations*, these "Defense Administrative Costs" are associated with the following military assistance activities and/or functions: the International Military Education and Training Program; all security assistance activities incurred by the Unified Commands; all non-FMS related security assistance administration costs incurred by the Military Departments and the Defense Security Assistance Agency (DSAA); and the operating costs of non-FMS activities incurred by overseas security assistance organizations (SAOs).

- For FY1997, Congress approved the Administration's request for funding for the Defense Administrative Costs account at \$23.25M, the same level as approved for FY1996 and FY1997. In the view of the House and Senate Appropriations Committees, this funding authority serves more as a limitation (or ceiling) on administrative expenses than as an authorization of such expenses. Further, the legislation does not contain any provision to permit an increase of the \$23.25M ceiling. (Such a provision, for example, is contained in the authority for the related FMS Administrative Budget discussed below.)

- ***FMS Administrative Budget***

- This *non-appropriated* budget supports the administrative expenses of security assistance organizations, agencies, military departments, etc., related to the implementation of foreign military sales. For both FY1996 and FY1997, Congress approved an operating budget ceiling of \$355M. For FY1998, the Administration initially requested a continuation at the same level. However, on 23 June 1997 the Defense Security Assistance Agency provided Congress with a revised estimate of its anticipated FY1998 expenses, reducing the budget requirement by \$5M to \$350M. Congress subsequently adopted this overall limitation of \$350M on FY1998 FMS operating costs

- The FMS Administrative Budget is funded by surcharges which are added to all FMS cases in order to recover United States Government expenses for the following activities: sales negotiation, case implementation, program control, computer programming.

accounting and budgeting, and administration of the FMS Program at command headquarters and higher levels. The funds derived from these charges provide the basic financial resources used in the administration of the Foreign Military Sales Program.

- This is the sixth consecutive year that Congress has imposed a ceiling on obligations for the FMS Administrative Budget. Prior to FY1993, the appropriations committees did not address the Administrative Budget, as it was considered to be off-line and required no direct appropriations. Though it remains a non-appropriated funding source, Congress nevertheless initiated its current practice of limiting annual administrative expenditures in the FY1993 budget by imposing a cap of \$300M for that year.

- In comments regarding the FY1998 limitation on expenditures, the House Appropriations Committee reported that it “believes that it is important to retain this overall limitation . . . in order to ensure that funds collected to pay for personnel dedicated to the operation of the FMF [*sic*, FMS] system are used for that purpose only.” [*HAC Report*, p. 45.]

- Unlike the FMFP-funded Defense Administrative Costs budget discussed previously, the annual legislative provision covering the FMS Administration Budget includes an authority to increase this spending level through the regular (15-day) prior notification procedures of the House and Senate Appropriations Committees. This provision has been implemented twice.

- For FY1994, the budget had an initial ceiling of \$290M; however, on 16 November 1993, the Administration submitted a notification to Congress advising that the budget was being increased by \$42.1M to \$332.1M.

- Similarly, on 24 February 1995, the Administration notified Congress that it had increased the authorized FY1995 ceiling of \$335M by \$16M, to \$351M.

- ***Arms Sales to Latin America Report***

- The House Appropriations Committee has directed the Secretary of State, in consultation with the Secretary of Defense, to provide the Committees on Appropriations by 23 February 1998, “a report detailing the security needs in Latin America and the impact of lifting the existing U.S. ban on high technology weapon sales to the region.

- ***Countries Prohibited/Restricted from Receiving FMFP Funding***

- For FY1998, no FMFP funding may be provided to **Guatemala, Sudan and Liberia**; all three countries were similarly prohibited from receiving FMFP funds in FY1996 and FY 1997. **Zaire**, which also was denied FMFP in those years, was not included in the FY1998 prohibitory proviso.

- ***Limitations on Entertainment and Representational Allowances (§505, P.L. 105-118)***

- Congress set ceilings on FY1998 FMFP and IMET allowances that are identical to those authorized for FY1997 and prior years:

- FMFP: Not to exceed \$2,000 is available for entertainment expenses, and not to exceed \$50,000 shall be available for representational allowances.

- IMET: Not to exceed \$50,000 shall be available for entertainment.

International Military Education and Training (IMET) (*Title III, P.L. 105-218*)

- The Administration requested \$50M for the FY1998 IMET Program, a \$5M increase over the FY1997 appropriation. Although the Senate cut the request to \$47M, the House, and subsequently the Conference Committee, fully supported the Administration's \$50M request. Measured in current year dollars, this year's IMET appropriation is the largest since FY1987 when IMET was funded at \$56M. (See Table 3 for IMET country and program funding.)

- ***Congressional Evaluations of IMET***

- Although the House Appropriations Committee (HAC) was critical of certain features of the IMET Program (see the following discussion of the U.S. Army School of the Americas and the selection and screening of international students for IMET programs), the HAC reported its continuing support for IMET and Expanded IMET, to include support for "a substantial human rights component in programs for all IMET countries." The HAC stated that these programs "offer the military of other nations full exposure to how the United States military performs as a professional, highly respected institution in a civil, democratic society governed by the rule of law." In the HAC's view, "the attainment of such a military must be a fundamental objective of any underdeveloped nation in its pursuit of economic growth and prosperity and that the IMET program plays an important role in supporting this objective." [*HAC Report*, p. 42.]

- The Senate Appropriations Committee (SAC) also acknowledged the value of IMET programs which "offer the opportunity for the United States to play a valuable role in building civilian-military relations in emerging democracies, thereby having a direct impact on a nation's stability and political survival."

- However, the SAC was particularly critical of the IMET budget process. The *SAC Report* states that the Committee's proposed \$3M cut in the budget request was a result of the Administration's "failure to identify clear priorities and connect funding levels with security interests." In the SAC's view, for each of the past years when Congress has increased IMET funding, the Administration "appears to have simply apportioned on a strict percentage basis the available increase in resources." This approach, notes the report, "reflects a lack of consideration of shifts in U.S. security priorities or interests in the post-Cold War."

- These views prompted the SAC to direct "DSAA to prepare a report evaluating 5 year trends and expectations for IMET recipients." This report "shall include a separate section prepared in consultation with the regional commanders in chief indicating how IMET programs serve U.S. security and political interests in their theater of operation." [*SAC Report*, pp. 32-33.]

- ***Civilian Participation in IMET***

- The Conference Committee adopted an amendment proposed by the Senate which provides authority for IMET participation by civilian personnel who are not members of a government if their "participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights." Similar authority is provided in §541, FAA.

Table 3

International Military Education and Training (IMET)

**FY 1997 and FY1998 Funding
(Dollars in Thousands)**

| <u>Country/Program by Geographical Region</u> | <u>FY1997 IMET Allocations</u> | <u>FY1998 Funding Request</u> | <u>FY1998 Allocated Funding</u> |
|--|---|--|--|
| <u>AFRICA</u> | | | |
| Angola | 125 | 200 | |
| Benin | 350 | 350 | |
| Botswana | 450 | 500 | |
| Cameroon | 100 | 125 | |
| Cape Verde | 100 | 100 | |
| Central African Republic | 150 | 150 | |
| Chad | 25 | 50 | |
| Comoros | 75 | 75 | |
| Congo | 175 | 175 | |
| Cote d'Ivoire | 150 | 150 | |
| Djibouti | 100 | 100 | |
| Eritrea | 375 | 400 | |
| Ethiopia | 400 | 450 | |
| Ghana | 260 | 285 | |
| Guinea | 150 | 150 | |
| Guinea-Bissau | 125 | 125 | |
| Kenya | 300 | 400 | |
| Lesotho | 75 | 75 | |
| Madagascar | 100 | 100 | |
| Malawi | 225 | 225 | |
| Mali | 150 | 175 | |
| Mauritius | 25 | 50 | |
| Mozambique | 175 | 175 | |
| Namibia | 200 | 200 | |
| Rwanda | 300 | 300 | |
| Sao Tome & Principe | 75 | 75 | |
| Senegal | 650 | 675 | |
| Seychelles | 75 | 75 | |
| Sierra Leone | 115 | 115 | |
| South Africa | 700 | 800 | |
| Swaziland | 75 | 75 | |
| Tanzania | 225 | 225 | |
| Togo | 25 | 40 | |
| Uganda | 300 | 350 | |
| Zambia | 150 | 150 | |
| Zimbabwe | 275 | 350 | |
| Regional Totals | 7,325 | 8,015 | ----- |

(Continued on next page.)

IMET, Table 3, Continued

| <u>Country/Program by Geographical Region</u> | <u>FY1997 IMET Allocations</u> | <u>FY1998 Funding Request</u> | <u>FY1998 Allocated Funding</u> |
|---|--|---------------------------------------|---|
| <u>EAST ASIA AND PACIFIC</u> | | | |
| Cambodia | 500 | 600 | |
| Indonesia | 600 | 800 | |
| Malaysia | 600 | 700 | |
| Mongolia | 325 | 325 | |
| Papua New Guinea | 200 | 200 | |
| Philippines | 1,250 | 1,350 | |
| Solomon Islands | 150 | 150 | |
| Thailand | 1,500 | 1,600 | |
| Tonga | 100 | 100 | |
| Vanuatu | 100 | 100 | |
| Western Samoa | 100 | 100 | |
| Regional Totals | 5,425 | 6,025 | ----- |
| <u>EUROPE & THE NIS</u> | | | |
| Albania | 600 | 600 | |
| Belarus | 300 | 300 | |
| Bosnian Federation | 500 | 600 | |
| Bulgaria | 800 | 900 | |
| Croatia | 350 | 425 | |
| Czech Republic | 800 | 1,300 | |
| Estonia | 500 | 650 | |
| Georgia | 275 | 375 | |
| Greece | 25 | 25 | |
| Hungary | 1,000 | 1,500 | |
| Kazakhstan | 400 | 550 | |
| Kyrgyzstan | 250 | 325 | |
| Latvia | 500 | 650 | |
| Lithuania | 500 | 650 | |
| Malta | 100 | 100 | |
| Moldova | 250 | 350 | |
| Poland | 1,000 | 1,500 | |
| Portugal | 800 | 800 | |
| Romania | 800 | 900 | |
| Russia | 800 | 850 | |
| Slovakia | 600 | 600 | |
| Slovenia | 400 | 600 | |
| The FYRO Macedonia | 300 | 400 | |
| Turkey | 1,400 | 1,500 | |

(Continued on next page.)

IMET, Table 3, Continued

| <u>Country/Program by Geographical Region</u> | <u>FY1997 IMET Allocations</u> | <u>FY1998 Funding Request</u> | <u>FY1998 Allocated Funding</u> |
|---|--|---------------------------------------|---|
| <u>EUROPE, Cont'd</u> | | | |
| Turkmenistan | 250 | 300 | |
| Ukraine | 1,000 | 1,200 | |
| Uzbekistan | 250 | 350 | |
| | ----- | ----- | ----- |
| Regional Totals | 14,750 | 18,300 | |
| <u>LATIN AMERICA & CARIBBEAN</u> | | | |
| Argentina | 600 | 600 | |
| Bahamas | 100 | 100 | |
| Belize | 250 | 250 | |
| Bolivia | 500 | 550 | |
| Brazil | 225 | 225 | |
| Chile | 400 | 450 | |
| Colombia | 600 | 900 | |
| Costa Rica | 150 | 200 | |
| Dominican Republic | 500 | 500 | |
| Eastern Caribbean | 400 | 450 | |
| Ecuador | 425 | 500 | |
| El Salvador | 450 | 500 | |
| Guatemala | 225 | 225 | |
| Guyana | 175 | 175 | |
| Haiti | 300 | 300 | |
| Honduras | 425 | 500 | |
| Jamaica | 500 | 500 | |
| Mexico | 1,000 | 1,000 | |
| Nicaragua | 150 | 200 | |
| Panama Canal Area | | | |
| Military School (PACAMS) | 500 | 550 | |
| Paraguay | 200 | 200 | |
| Peru | 450 | 450 | |
| Suriname | 100 | 100 | |
| Trinidad & Tobago | 100 | 125 | |
| Uruguay | 275 | 300 | |
| Venezuela | 350 | 400 | |
| | ----- | ----- | ----- |
| Regional Totals | 9,350 | 10,250 | |

(Continued on next page)

IMET, Table 3, Continued

| <u>Country/Program by Geographical Region</u> | <u>FY1997 IMET Allocations</u> | <u>FY1998 Funding Request</u> | <u>FY1998 Allocated Funding</u> |
|--|--|---------------------------------------|---|
| <u>NEAR EAST</u> | | | |
| Algeria | 75 | 75 | |
| Bahrain | 125 | 175 | |
| Egypt | 1,000 | 1,050 | |
| Jordan | 1,600 | 1,700 | |
| Lebanon | 550 | 600 | |
| Morocco | 800 | 900 | |
| Oman | 150 | 200 | |
| Tunisia | 800 | 900 | |
| Yemen | 50 | 75 | |
| | ----- | ----- | ----- |
| Regional Totals | 5,150 | 5,675 | |
| <u>SOUTH ASIA</u> | | | |
| Bangladesh | 300 | 375 | |
| India | 400 | 475 | |
| Maldives, Republic of | 100 | 100 | |
| Nepal | 200 | 225 | |
| Sri Lanka | 200 | 225 | |
| | ----- | ----- | ----- |
| Regional Totals | 1,200 | 1,400 | |
| <u>NON-REGIONAL</u> | | | |
| Defense Administrative Costs | 275 | 335 | |
| | ----- | ----- | ----- |
| Non-Regional Totals | 275 | 335 | |
| TOTAL BUDGET REQUEST AND FY 1997 BUDGET AUTHORITY | <u>\$43,475</u> | <u>\$50,000</u> | <u>\$15,000</u> |

- *Mongolia*

- The Conference Committee commended DoD for its "implementation of the Fiscal Year 1997 IMET Program in Mongolia." In its report last year, the Committee urged the Administration, "to utilize IMET training, particularly expanded IMET, for the new members of the State Great Hural [national legislature], particularly those sitting on the security committee, as well as civilian and military personnel at the Ministry of Defense." [*Conference Report, to Accompany H.R. 3610*, 28 September 1996, p. 971.] This year's Conference Committee urged

“continued support for this important program in Mongolia [during FY1998], particularly in the expanded IMET area.” [Conference Report, p. H10623.]

- ***Restrictions and Prohibitions on IMET***

- The FY1998 IMET Program was also impacted by a variety of other congressional actions. These ranged from the imposing of various restrictions and prohibitions on IMET funding, to the placing of several restraints on the funding of the School of the Americas, and the imposing of special enrollment requirements for Latin American IMET participants.

- The Conference Committee adopted a House proposal that limits both **Indonesia** and **Guatemala** to Expanded IMET funded training only.

- E-IMET was first initiated for **Indonesia** in FY1996 after a three-year IMET funding prohibition. The original prohibition was imposed following severe human rights violations associated with the widely reported 1991 massacre by Indonesian military forces of over 100 civilians on the Indonesian-claimed island of East Timor.

- The House Appropriations Committee (HAC) noted that it had previously approved E-IMET in the hope that, “this training would substantially improve the human rights performance of the Indonesian military.” Acknowledging that the Indonesian government has informed the Administration that “it will not utilize expanded IMET in 1998,” the Committee observed that “by rejecting expanded IMET training, Indonesia creates the perception that it is not interested in improving the human rights performance of the Indonesia military.”

- The HAC also reported that it “was disturbed to learn that Indonesia is *purchasing* military training from the United States.” The Committee stated its belief that, “all military training for Indonesia, whether purchased [FMS or DCS] or grant [IMET], should be limited only to expanded IMET.” [HAC Report, p. 42. This Committee position, however, was not incorporated into P.L. 105-118.

- With respect to **Guatemala**, IMET funds may only be made available to the Government of Guatemala following a 15-day prior notification of the House and Senate Appropriations Committees. Also, the *Conference Report* reflected the agreement of the conferees that E-IMET for Guatemala, “shall be used to support the peace settlement and that qualified non-military personnel should be well represented in such courses to the extent practical.”

- ***School of the Americas***

- In recent years a growing public controversy has emerged regarding the operations of the U.S. Army School of the Americas which trains Latin American military officers at Fort Benning, Georgia. Various activist groups throughout the United States have linked the School’s programs for Latin American military personnel to human rights atrocities committed by School graduates. As a consequence, there have been numerous public calls for the closure of the School.

- The controversy has not escaped the attention of Congress. In its role in providing annual IMET appropriations that enable many Latin American students to attend the School, the House Appropriations Committee has examined the issue very closely. (Direct funding of the School is provided in the National Defense Appropriations Act.) In 1996, the HAC urged the Department of Defense (1) to take action to increase the human rights component of the School’s curriculum; (2) to rigorously screen potential students for past human rights abuses; and (3) to monitor the human rights performance of the School’s graduates. The

Committee also instructed the Secretary of Defense, in consultation with the Secretary of State, to provide the Committees on Appropriations a report no later than 15 January 1997 which (1) details the overall selection process for potential students at the School; (2) describes the screening process for determining prior human rights abuses of such candidates; and (3) describes the process for the long term monitoring of School graduates in the area of human rights. [*HAC Report* to Accompany H.R. 3540, 29 May 1996, pp. 43-44.]

- In the FY1998 *HAC Report*, the Committee noted “with great displeasure” the fact that the 1997 SECDEF Report on the School, which was due to the Committees on Appropriations no later than 15 January 1997, was not delivered until 25 June 1997. Further, the HAC stated “its dissatisfaction with the manner in which this report was conducted,” and reported that it “is woefully inadequate and does not respond to the Committee’s specific request.”

- While the HAC comments on the FY1997 program were limited to a congressional committee report for that year, for FY1998 the HAC proposed more direct legislative action. Reporting that the Committee had spent over a year and a half carefully reviewing the activities of the School of the Americas, the Committee introduced new bill language to: (1) “make it clear that the School is not engaged in any inappropriate activities;” (2) “strengthen the screening and selection process used to identify candidates for the school;” and (3) “provide a post-instruction assessment process which will enable the School to continue to improve the training curriculum.” Further, the HAC proposed that the obligation of FY1998 IMET funds be withheld until the Secretary of Defense certified that specific actions, as recommended by the Committee, have been implemented. [*HAC Report*, 14 July 1997, pp. 42 and 43.]

- Although the Senate did not address these HAC proposals, they were nevertheless adopted by the Conference Committee and were subsequently enacted in Title III, P.L. 105-118. Thus, for FY1998, no IMET funds may be made available to support grant financed military education at the School of the Americas unless the following statutory requirements are met:

- (1) The Secretary of Defense must certify that “the instruction and training provided by the School of the Americas is fully consistent with training and doctrine, particularly with respect to the observance of human rights, provided by the Department of Defense to United States military students of Department of Defense institutions whose primary purpose is to train United States military personnel.”

- (2) The Secretary of Defense must further certify that “the Secretary of State, in consultation with the Secretary of Defense, has developed and issued specific guidelines governing the selection and screening of candidates for instruction at the School of the Americas.” [For current guidance on this subject, see joint DSAA/LPP message, R 231411Z December 1997, Subject: “Guidelines for Screening Candidates—U.S.-Sponsored Training Programs,” which is reprinted herein directly following this article.]

- (3) The Secretary of Defense must provide the Committees on Appropriations “a report detailing the training activities of the School of the Americas and a general assessment regarding the performance of its graduates during 1996.”

- *Latin America Quotas (§584, P.L. 105-118)*

- An additional set of new IMET requirements, as initially proposed by the Senate Appropriations Committee (§593, S. 955), is provided in §584, Title V, P.L. 105-118. These new statutory provisions are only applicable to IMET funding for Latin American countries.

- **Enhanced IMET.** §584(a) states that the Secretary of Defense, in consultation with the Secretary of State, “should make every effort to ensure that approximately

30 percent” of the FY1998 IMET appropriation designated for Latin American IMET participants will be disbursed in support of the “enrollment of such participants in expanded IMET courses.”

- **Civilian Participation.** §584(b) states that the Secretary of State, in consultation with the Secretary of Defense, “should identify sufficient numbers of qualified, non-military personnel” from Latin American countries so that “approximately 25 percent of the total number” of such individuals who “are attending United States supported IMET programs and Center for Hemispheric Defense Studies at the National Defense University are civilians.”

- **Reporting Requirement.** 584(c) requires that not later than twelve months after the date of enactment of P.L. 105-118 (i.e., 25 November 1997) the Secretary of Defense, in consultation with the Secretary of State, shall report in writing to the appropriate congressional committees on the progress made to improve military training of Latin American participants in the areas of human rights and civilian control of the military. Further, the Secretary of Defense shall include in the report plans for implementing additional expanded IMET programs for Latin America during the next three fiscal years.

- ***Global IMET Screening and Selection Guidelines***

- A final IMET item of interest involves a proposal by the House Appropriations Committee for the development of “uniform guidelines for the screening and selection of all IMET candidates.” The HAC had reviewed the IMET screening and selection processes employed in selected Latin American countries, and had found the U.S. security assistance organizations in the embassies in those countries “were thorough, well-coordinated, and aware of the importance of these activities.” However, the HAC reported that the procedures “were individually developed rather than based upon any broad set of general screening and selection guidelines,” and the HAC expressed concern “that other embassies may not be as attentive to this issue as the embassies visited.” Accordingly, “if such uniform guidance is not currently available” for screening and selecting IMET students, the HAC proposed new bill which would require the Secretary of State, in consultation with the Secretary of Defense, to “develop appropriate guidelines at the earliest possible date.” [*HAC Report*, p. 43.]

Economic Support Fund (ESF) (Title II, P.L. 105-118)

- The Administration requested \$2,497.6M for the ESF Program for FY1998. This request represented an increase of \$135M over the FY1997 appropriation of \$2,362.6M. The Senate further increased the request to \$2,541.15M; but the House proposal offered a reduction to \$2,400M, and it was this lower level that the Conference Committee agreed upon, and that was subsequently enacted. The FY1998 appropriation, at \$2,400M, provided an increase of \$37.4M above the FY1997 ESF level, but a cut of \$97.6M below the Administration’s budget request. (See Table 4 which identifies ESF appropriations and congressionally earmarked funding for FY1997 and FY1998.)

- ***ESF Earmarks***

- For FY1998, for the twelfth consecutive year, Congress earmarked **Israel** and **Egypt** to receive ESF grants of not less than \$1,200M and \$815M, respectively. In addition, Congress established an earmark of not less than \$150M for **Jordan**. This earmark represents a 500% increase above the Administration’s original \$25M proposal for Jordan, and is the first year that the ESF account has contained an earmark for that country. The combined funding for these three countries (\$2,165M) represents 90.2% of the total ESF account of \$2,400M.

Table 4

**Economic Support Fund (ESF)
FY 1997 and FY1998 Funding
(Dollars in Thousands) (E=Earmark) (C = Ceiling)**

| <u>Country/Program by Geographical Region</u> | <u>Actual FY1997 Funding</u> | <u>FY1998 Budget Request</u> | <u>FY1998 Allocated Funding</u> |
|---|--------------------------------------|--------------------------------------|---|
| <u>MIDDLE EAST</u> | | | |
| Egypt | 815,000 E | 815,000 | 815,000 E |
| Israel | 1,200,000 E | 1,200,000 | 1,200,000 E |
| Jordan | 10,000 | 25,000 | 150,000 E |
| Lebanon | 12,000 | 12,000 | |
| Middle East Democracy | 750 | 5,000 | |
| Middle East Development Bank | 1,000 | 52,500 | |
| Middle East Peace Process Multilaterals | 3,250 | 5,000 | |
| Middle East Regional | 7,000 | 7,000 | |
| Northern Iraq Peace Monitor Force | 1,500 | 000 | |
| West Bank-Gaza | 75,000 | 75,000 | |
| Regional Totals | 2,125,500 | 2,196,500 | |
| <u>EUROPE and the NIS</u> | | | |
| Bosnia Commission on Missing Persons | 1,300 | 000 | 000 |
| Cyprus | 15,000 E | 15,000 | 15,000 E |
| Ireland Fund | 19,600 E | 19,600 | 19,600 E |
| Turkey | 22,000 | 50,000 | 40,000 C |
| Regional Totals | 57,900 | 84,600 | 74,600 |
| <u>SUB-SAHARAN AFRICA</u> | | | |
| Africa Regional Fund | \$9,000 | \$15,000 | |
| Angola | 5,000 | 10,000 | |
| Regional Totals | 14,000 | 25,000 | |
| <u>SOUTH ASIA</u> | | | |
| South Asia Democracy | 000 | 3,000 | |
| Regional Totals | 000 | 3,000 | |

(Continued on next page.)

ESF, Table 4, Continued

| <u>Country/Program by Geographical Region</u> | <u>Actual FY1997 Funding</u> | <u>FY1998 Budget Request</u> | <u>FY1998 Allocated Funding</u> |
|---|--------------------------------------|--------------------------------------|---|
| <u>LATIN AMERICA & CARIBBEAN</u> | | | |
| AOJ/ICITAP [1] | 7,500 | 10,000 | |
| Haiti | 72,000 | 70,000 | |
| LAC Regional Fund | 22,700 | 31,000 | |
| Peru/Ecuador Peace | 000 | 5,000 | |
| Regional Totals | 102,200 | 116,000 | |
| <u>EAST ASIA AND PACIFIC</u> | | | |
| Asia Regional Fund | 7,000 | 6,250 | |
| Cambodia | 35,000 | 37,000 | |
| East Asia Reg. Security | 000 | 250 | |
| Mongolia | 7,000 | 7,000 | |
| So. Pacific Fisheries Treaty | 14,000 | 14,000 | 14,000 |
| Regional Totals | 63,000 | 64,500 | |
| <u>NON-REGIONAL</u> | | | |
| Human Rights and Democracy | 000 | 8,000 | |
| Non-Regional Totals | 000 | 8,000 | |
| <u>PROGRAM TOTALS</u> | <u>\$2,362,600 [2]</u> | <u>\$2,497,600</u> | <u>\$2,400,000</u> |

[1] AOJ/ICITAP - Administration of Justice/International Criminal Investigation Training Assistance Program of the U.S. Department of Justice.

[2] Total includes \$19.6M for the Ireland Fund that for FY1997 and FY1998 was appropriated in separate accounts rather than directly in the IMET account. This account represents the U.S. contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 [P.L. 99-415].

- The ESF funding for **Israel** is once again to be made available as a cash transfer and is stipulated to be disbursed within 30 days of enactment of the Foreign Operations Appropriations Act (i.e., by 25 December 1997) or by 31 Oct 1997, whichever is later.

- With respect to **Egypt**, cash transfer of its grant ESF appropriation is also again authorized for FY1998, "with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years."

- The *Conference Report* contains HAC-initiated language stating that in providing cash transfer assistance to **Egypt and Israel**, “the President shall ensure the level of aid does not cause an adverse impact on the total level of non-military exports from the United States to each country.” However, the actual language in Title II applies this requirement only to **Israel**.

- Further, §517, P.L. 105-118, provides the following statutory statement regarding ESF assistance for Israel:

The Congress finds that progress on the peace process in the Middle East is vitally important to the United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that, subject to the availability of appropriations, it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

- With respect to the ESF earmark of \$150M for **Jordan**, Title II, P.L. 105-118 specifies three sources of funds that, in addition to direct appropriations, shall count toward meeting the earmark. These include:

- (1) any funds made available for Jordan from previous annual Foreign Operations Appropriations Acts;

- (2) up to \$10M of ESF funds that were reprogrammed for Jordan during FY1997; and,

- (3) up to \$116M that may be allocated or made available from previous year ESF appropriations, including funds contributed to the Middle East Peace and Stability Fund pursuant to the authority of §635, FAA. [See prior discussion of this fund that draws upon \$50M contributions each from Israel and Egypt]. This authority also provides that the President “should seek to ensure” that not more than \$54M shall be derived from any single contributing country.

- To facilitate the implementation of these special ESF authorities, the Administration’s required report to Congress on the allocation of FY1998 Middle East ESF funds (which would normally be required by 25 December 1997 per §653, FAA) may now be submitted as soon as practicable, but no later than 1 March 1998.

- ***Palestinian-Israeli Cooperation***

- The Conference Committee recommended that \$500M in ESF funds be allocated “to support the Palestinian-Israeli Cooperation Program to promote better understanding and mutual respect between Israelis and Palestinians at a time when the Middle East Peace process is threatened by violence and terrorist acts.” [Conference Report, p. H10619.]

- ***Limitation on ESF Assistance to the Palestinian Authority (§566, P.L. 105-118)***

- No FY1998 ESF funds may be obligated or expended with respect to providing funds to the Palestinian Authority, unless the President certifies to Congress “that waiving such prohibition is important to the national security interests of the United States.” Should such a waiver be granted, it “shall be effective for no more than a period of six months at a time and shall not apply beyond twelve months after enactment of this Act” (i.e., 25 November 1998).

- ***Funding for Cyprus (Title II)***

- For FY1998, as in the two previous fiscal years, the annual \$15M funding earmarked for **Cyprus** has been designated to be drawn from both the annual Economic Support Fund and the Development Assistance appropriations accounts. (In earlier years—FY1980 through FY1995—the ESF account alone carried an annual earmark of \$15M for Cyprus.)

- The purpose of this funding for Cyprus remains unchanged—the funds are “to be used only for scholarships, administrative support of the scholarship program, bicomunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.” [Title II, Bilateral Economic Assistance, Development Assistance, P.L. 105-118.]

- In its comments on the continuing annual ESF earmarked appropriation of \$15M for Cyprus, the House Appropriations Committee stated that these funds “provide a basis for mutual cooperation and preparation for these two societies to live together harmoniously by increasing inter-communal contacts.” The Committee stated further that it “strongly encourages the Administration to fulfill its pledge [of 1996] to reach a just solution to the Cyprus situation in 1997 by giving this matter attention at the highest levels and by working with all parties in an even-handed and fair manner.” [*HAC Report*, pp. 26-27.]

- ***Funding for Activities Related to Burma (Title II)***

- As with Cyprus, an earmark of not less than \$5M is to be drawn from both the Development Assistance and Economic Support Fund accounts for FY1998 to support democracy and humanitarian “activities in Burma, along the Burma-Thailand border, and for activities of Burmese student groups and other organizations located outside Burma.”

- The Conference Committee reported that this “assistance has been provided to underscore U.S. support for Aung San Suu Kyi and her supporters.” The conferees expressed concern that although this 1991 Nobel Peace prize winner is no longer under formal arrest, she is unable to move about freely and her “family, friends, associates, journalists, and advocates for restoring her to office [as General Secretary of the National League for Democracy] have been denied access.” Further, “she has drawn public attention to the continuation of a campaign of violence, intimidation, and terror being waged against her party members with the goal of destroying the democratic opposition.” [*Conference Report*, pp. H10618-10619.]

- ***International Fund for Ireland (Title II)***

- As in the past several years, Congress appropriated \$19.6M for the International Fund for Ireland in a separate Title II, Bilateral Economic Assistance account. (The Administration continues to report this funding through the ESF account where it was originally appropriated.)

- In 1986, the British and Irish government established the International Fund for Ireland to permit contributors to demonstrate support for the Anglo-Irish Agreement of 1985.

The European Union is the major contributor to the Fund, and contributions are also received from Canada, Australia, and New Zealand, as well as the United States. The Fund has promoted peace by contributing to the creation of thousands of jobs and by improving the economic situation of Northern Ireland and the border counties of Ireland, addressing needs in both Catholic and Protestant communities. [For further information, see the *FY1998 Congressional Presentation*, pp. 492-493.]

- ***ESF Assistance to Turkey (§565, P.L. 105-118)***

- Congress placed a ceiling of not more than \$40M on the amount of ESF that can be made available to Turkey during FY1998 [§565, P.L. 105-118]. This represents the first annual increase in Turkey's ESF account in the past four years; the FY1994 appropriation of \$119.978M fell annually to \$22M in FY1997—a cut of \$97.978M (or 82%) during that four-year period.

- A special earmarked funding level has been established within Turkey's ESF account. For FY1998, not less than 50 percent of such funds (i.e., \$20M) “shall be made available for the purpose of supporting private nongovernmental organizations engaged in strengthening democratic institutions in Turkey, providing economic assistance for individuals and communities affected by civil unrest, and supporting and promoting peaceful solutions and economic development which will contribute to the settlement of regional problems in Turkey.”

- ***Equitable Allocation of Funds (§557, P.L. 105-118)***

- This new provision, introduced by the House, places a ceiling on the level of certain assistance funding that can be provided to countries in Latin America and the Caribbean region.

- For FY1998, not more than 18 percent of the funds appropriated to carry out ESF and the provisions of sections 103 through 106 of the FAA (as applies to specific development assistance programs--agricultural, population and health, education, and energy) “may be made available through bilateral and Latin America and the Caribbean regional programs, to provide assistance for any country in the region.”

- ***Peacekeeping Operations (PKO) (Voluntary) (Title V, Additional Appropriations, P.L. 104-208)***

- For FY1998, the Administration requested \$90M for voluntary peacekeeping operations assistance to friendly countries and international organizations. This request represented a \$25M increase over the \$65M enacted for FY1997. The Senate proposed limiting the FY1998 increase to \$5M, for a \$70M program. However, the House advocated a \$77.5M program, and this was the level adopted by the Conference Committee and enacted for FY1998. [See Table 5 which identifies PKO country and program funding for FY1997 and FY1998.]

- Voluntary PKO appropriations reflect U.S. interest in supporting, on a voluntary basis, various peacekeeping activities that are not United Nations mandated and/or are not funded by U.N. assessments. The Voluntary PKO account promotes conflict resolution, multilateral peace operations, sanctions enforcement, and similar efforts outside the context of assessed U.N. peacekeeping operations.

- Funding for Voluntary Peacekeeping Operations is distinct from the bulk of international peacekeeping assistance which is contributed by the U.S. and other countries in fulfillment of their United Nations financial assessments, and which in U.S. budget documentation is termed. “Contributions for International Peacekeeping Activities” (CIPA).

Table 5

**Peacekeeping Operations (PKO) (Voluntary)
FY 1997 and FY1998 Funding
(Dollars in Thousands)**

| <u>Program</u> | <u>FY1997 PKO Allocations</u> | <u>FY1998 Budget Request</u> | <u>FY1998 PKO Allocations</u> |
|------------------------------------|--|---|--|
| Africa Regional | \$2,000 | \$10,000 | |
| African Crisis Response Initiative | 8,000 | 15,000 | |
| ARA Regional [1] | 000 | 4,000 | |
| Europe Regional | 000 | 14,000 | |
| Europe Regional/OSCE [2] | 18,600 | 11,000 | |
| Haiti | 15,200 | 15,000 | |
| Israel-Lebanon Monitoring Group | 1,200 | 2,000 | |
| MFO – Sinai [3] | 15,500 | 16,000 | |
| Northern Iraq Peace Monitor Force | 1,500 | 000 | |
| Organization of African Unity | 3,000 | 3,000 | |
| | ----- | ----- | ----- |
| PKO Total | \$65,000 | \$90,000 | \$77,500 |

- [1] ARA Regional - Latin America and Caribbean Regional
- [2] OSCE - Organization for Security and Cooperation in Europe
- [3] MFO – Multinational Force and Observers in the Sinai

- ***Africa Crisis Response Initiative (ACRI)***

- The ACRI represents a Voluntary PKO initiative that the Administration introduced in its FY1997 Foreign Operations budget request as the Africa Crisis Response Initiative. As reported to Congress in support of the FY1998 budget, the ACRI:

will consist of 5,000 to 10,000 African troops designated by African countries, equipped trained and ready for rapid deployment in international peacekeeping and humanitarian operations. These forces will be constituted and deployed under U.N. authority and when appropriate in coordination with the Organization of African Unity (OAU) and appropriate subregional organizations. The United States, European, and other donors will contribute to the training and equipping of the force. [*FY1998 Congressional Presentation*, p. 261.]

- In FY1997, \$8M was allocated for the ACRI. For FY1998, the Administration sought an increase to \$15M. However, the initiative ran into opposition in the Senate Appropriations Committee that proposed that no FY1998 funds whatsoever be made available for the program. The Committee's opposition to the ACRI was based on two factors:

- (1) There is “no need for yet another U.S. led [African peacekeeping] initiative.” The Committee stated that the U.S. is already “one of the largest financial supporters of the security training and conflict management activities of the Organization of African Unity and has provided substantial support to the Economic Community of West African States Peacekeeping Force (ECOMOG).” Further, the SAC maintained that both the French and the British are currently supporting similar programs in Africa.

- (2) The Committee also feared that the principal effect of a United Nations endorsement of this program would be a further financial assessment for U.S. participation. The SAC pointed out that it was “reluctant to endorse or support a potential new commitment” at this time when negotiations were underway to resolve the issue of the payment of U.S. arrears to the United Nations.

- The SAC concluded by requesting a report from the Administration by 1 March 1998 covering the peacekeeping activities of U.S. allies in Africa, to include an assessment of the potential support the United States could offer these initiatives in lieu of a unilateral American program.” [*SAC Report*, pp. 35-36.]

- For its part, the House Appropriations Committee supported the ACRI initiative and the “efforts to develop an African regional capability to respond to low-intensity peacekeeping activities. . . .” However, the HAC reported that it initially “expressed concern over the vagueness of the anticipated [ACRI] command and control relationships, as well as which countries would exercise operational and political control over the potential uses of these African peacekeeping capabilities.” The HAC stated that it endorsed the ACRI budget request after receiving assurances from the Administration that: (1) the command relationships would vary, to include possible U.S. or West European participation, depending on the situation; and (2) the operations would be UN sanctioned “when appropriate or requested by African states or organizations.” [*HAC Report*, p. 47.]

- The issue was resolved, at least for FY1998, by the Conference Committee Agreement that allowed funds to be provided to support the ACRI, providing they are “utilized to foster the growth of democracy and the protection of human rights in Africa.” The Conference Committee further stated that such funds, “should not be directed to undemocratic governments with a history of human rights abuses by their militaries.”

- The conferees also expressed their full agreement with the Department of State’s view that “it is important that countries selected to receive additional training and equipment have military establishments that accept the supremacy of domestic civilian government.” To this end, the Committee stated that it expects “the Administration to consult closely with the Committees on Appropriations, prior to obligating such funds, to ensure this minimum standard is met.” [*Conference Report*, p. H10264.

Title V, P.L. 105-118: Significant New and/or Modified General Provisions

Only a limited number of *new* statutory items related to security assistance appear in the FY1998 Foreign Operations Appropriations Act; most of the general provisions in the Act involve the annual renewal for FY1998 of prior year enacted statutes. The following section examines new/modified general provisions relevant to security assistance activities.

- ***Landmines (§554)***

- For FY1998, Congress extended an authority first provided in FY1997 to authorize the provision of U.S. “demining equipment available to the Agency for International Development

and the Department of State to be used in support of the clearance of land-mines and unexploded ordnance for humanitarian purposes. to be disposed of on a grant basis in foreign countries. subject to such terms and conditions as the President may prescribe." [See also discussion of demining funding in Miscellaneous Appropriations and Related Provisions section below.]

- Added to the FY1998 provision is a new reporting requirement. Not later than 90 days after the enactment of *P.L. 105-118* (i.e., by 23 February 1998), the Secretary of Defense, in consultation with the Secretary of State, shall submit a report to the Appropriations Committees,

describing potential alternative technologies or tactics and a plan for the development of such alternatives to protect anti-tank mines from tampering in a manner consistent with the 'Convention on the Prohibition, Use, Stockpiling, Production, and Transfer of Anti-personnel Mines and on Their Destruction.'

- *Limitation on Assistance to Security Forces (§570)*

- This provision prohibits U.S. assistance funds from being provided to any of the security forces of a foreign country "if the Secretary of State has credible evidence that such unit has committed gross violations of human rights. . . ."

- When such assistance funds are withheld from any such unit under this provision, "The Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice so funds to the unit may be resumed."

- Also, the funds will not be withheld if the Secretary of State determines and reports to Congress that the government of such a country, "is taking effective measures to bring the responsible members of the security forces unit to justice."

- The FY1998 *Conference Report* notes that "there may be instances when providing information to a foreign government would compromise sources and methods or endanger witnesses." For this reason, the phrase, "to the maximum extent practicable" is used in this statute to ensure, "among other things, that sources, methods, and the safety of witnesses are fully protected." Further, by taking effective measures to bring responsible members of the security forces unit to justice, the conferees stated that it is their intent that "the government carry out a credible investigation and that the individuals involved face appropriate disciplinary action or impartial prosecution in accordance with local law." [*Conference Report*, p. H10626.]

- Also, in a related House Appropriations Committee Report item entitled, "Accountability and Human Rights," the HAC noted that it supports the provision (i.e., 570), "to ensure that U.S. assistance does not go to units involved in human rights violations and to ensure the success of the U.S. counter-narcotics effort." The HAC added that it also expects that the Administration will continue its "existing policy of applying the provision to excess defense articles used for counter-narcotics purposes."

- Further, the HAC noted that there was a "continued delay in the publication of end use monitoring reports," and the HAC requested the Department of State to include "in each country section credible reports of human rights violations perpetrated by any security unit receiving United States assistance [that is] involved in counter-narcotics operations." The HAC stated that "such end use reports should be published in a timely manner, and past years reports should be published as soon as possible." [HAC Report, pp. 37-38.]

- ***Additions Relating to the Stockpiling of Defense Articles for Foreign Countries (§575)***

- §514(b)(2), FAA, establishes the annual value of defense articles located abroad that may be set aside, reserved, or otherwise earmarked from U.S. military inventories for use as war reserve stocks for allies (WRSA) or for other countries (other than for NATO or Israel). The title to these stocks and their control remains with the U.S. government, and any future transfer of any of these items must be in accordance with the provisions of the security assistance legislation prevailing at the time of such transfer.

- Congress has amended §514(b)(2), FAA, to approve WRSA additions in FY1998 totaling \$60M for FY1998. Of the total, such additions valued at not more than \$40M are authorized to be transferred to stockpiles in the Republic of Korea, and not more than \$20M to stockpiles in Thailand.

- ***Delivery of Drawdown by Commercial Transportation Services (§576)***

- This provision adds a new §506(3)(c) to the FAA, as proposed by the Senate. Under this new authority, commercial transportation and related services may now be used in support of any “drawdown of defense or other articles or commodities, or defense or other services from an agency of the United States Government” for assistance to a foreign country or international organization. This authority, however, applies only “if the cost to acquire such commercial transportation and related services is less than the cost to the United States Government of providing such services from existing agency assets.”

- Further, §506(b)(2), FAA, has been amended to require the Administration to furnish Congress with a new report “detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training.” This report should also include “whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets.”

- ***Withholding Assistance to Countries Violating United Nations Sanctions Against Libya (§582)***

- This new provision requires the President to withhold from obligation and expenditure not less than five percent of U.S. assistance funds (other than funds for humanitarian and development assistance) that have been allocated to any country if he determines and certifies to Congress that such country is violating any sanction imposed against Libya pursuant to U.N. Security Council Resolutions 731, 748, or 883. Funds may nevertheless be provided for such a country if the President determines that to do so is in the national security interest of the U.S.

P.L. 105-118: New Country-Specific Provisions

This section examines special country-specific provisions not previously reviewed in this report.

- ***Limitations on Funding for Cambodia (Title II)***

- For FY1998, no assistance funds appropriated in *P.L. 105-118* may be made available to the Government of Cambodia, with the exception of funding provided for humanitarian, demining, or election-related programs or activities. Any funds provided to Cambodia during FY1998 are subject to a 15-day prior notification to the Committees on Appropriations.

- The *Conference Report* states that the general restrictions on funding for Cambodia are designed to assure that no assistance is provided to Hun Sen, the former Second Prime Minister of Cambodia, who seized control of the Cambodian government in the summer of 1997 following “a systematic campaign of summary executions, torture, and kidnappings. . . .” The exemptions for humanitarian, demining, and election programs were permitted because they “directly benefit Cambodia’s citizens.” [*Conference Report*, p. H10619.]

- Also attached to this Cambodian provision is a special statutory reporting requirement that calls for the President to report to the Committees on Appropriations by 25 December 1997 [i.e., 30 days after the enactment of *P.L. 105-118*], “the results of the FBI investigation into the bombing attack in Phnom Penh” on Easter Sunday, 30 March 1997. On that day, a grenade attack was conducted against a crowd gathered to protest government corruption; nineteen people were killed and more than 100 wounded, including one American.

- In a related provision, §589, *P.L. 105-118*, states that the Secretary of the Treasury “should instruct the United States Executive Directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Government of Cambodia, except loans to support basic human needs.”

- *Thailand*

- The *SAC Report* expressed concern regarding incidents of Thai military officials having aggressively harassed and forcefully directed the repatriation to Burma of Burmese refugees and democratic activists who were in exile in Thailand. The SAC linked these Thai military actions to the IMET program, of which Thailand has been a regular participant. The SAC noted that the goals of the program, “to strengthen humanitarian values and practices of military recipients . . . presumes a commitment on behalf of the military’s leadership to its purpose.” Accordingly, the SAC requested a report by 1 February 1998 “evaluating the Thai military’s record in the preceding 9 months enforcing the Thai Government’s official policy of affording all Burmese refugees safe haven.”

- *Morocco*

- Observing that “Morocco is a key friend and ally” of the United States, the House Appropriations Committee recommended providing up to \$20M in FMFP funding to Morocco “to support U.S. origin equipment.” Even so, noting “the mission by former Secretary of State James Baker to resolve issues pertaining to the Western Sahara,” together with “Morocco’s right of legitimate self defense,” the HAC stated that “the Administration should ensure that U.S. military equipment sold or provided to Morocco should not be used in Western Sahara in a manner inconsistent with the United Nations Settlement Plan, particularly those provisions of the cease fire dealing with the deployment of military equipment.”

- *Special Notification Requirements (§520)*

- A special 15-day advance notification to the Committees on Appropriations is required prior to obligating or expending any of the funds appropriated in *P.L. 105-118* for FY1998 for **Colombia, Haiti, Liberia, Pakistan, Panama, Peru, Serbia, Sudan, or the Democratic Republic of Congo.**

- Removed from the FY1998 list for which this notification requirement applied in FY1997 are the **Dominican Republic, Guatemala, and Zaire.**

- Added to the FY1998 list is **Panama and the Democratic Republic of the Congo.**

- ***Limitations on Assistance for Haiti (§562 and §569)***

- §562 expands a prior two-year provision (known as the Dole Amendment) that prohibits foreign assistance funds (other than for humanitarian, electoral, counter-narcotics, or law enforcement assistance) from being made available to **Haiti** until the President determines that the Government of Haiti:

(1) is conducting thorough investigations of extrajudicial and political killings which have occurred in Haiti; (2) is cooperating with U.S. authorities in the investigation of political and extrajudicial killings; (3) has substantially completed privatization of (or placed under long-term private management or concession) at least three major public enterprises; and (4) has taken action to remove from the Haitian National Police, national palace and residential guard, ministerial guard and any other public security entity of Haiti those individuals who are credibly alleged to have engaged in or conspired to conceal gross violations of international recognized human rights.

- The President may waive these provisions on a semiannual basis if he determines and reports to Congress that such a waiver is in the U.S. national interest.

- In a related separate provision (§569, *P.L. 105-118*) as introduced in the Senate, the Government of Haiti shall be eligible to purchase defense articles and services [through FMS] under the AECA, “for the civilian-led Haitian National Police and Coast Guard” subject to the special reporting notifications procedures of the Committees on Appropriations. Presumably, this authority is contingent upon the granting of a Presidential waiver as required by §562, as discussed above.

- ***Limitations on Transfer [by Indonesia] of Military Equipment to East Timor [§571]***

- In any U.S. agreement for the sale, transfer, or licensing of any lethal equipment or helicopters for **Indonesia** under the authority of *P.L. 105-118*, or any other Act, the agreement “shall state that the United States expects that the items will not be used in **East Timor**.”

- This provision also provides that “nothing in this section shall be construed to limit Indonesia’s inherent right to legitimate national defense as recognized under the United Nations Charter and international law.”

- The Conference Committee noted that U.S. military equipment had previously been used by Indonesian troops in East Timor. Thus, in passing this new provision, the Committee seeks to preclude further use, “in a manner inconsistent with international law, particularly with respect to the observance of human rights.” [*Conference Report*, p. H10626.]

- ***Aid to the Government of the Democratic Republic of Congo (§585)***

- None of the FY1998 funds appropriated or otherwise made available by *P.L. 105-118* may be furnished to the central Government of the **Democratic Republic of Congo** until such time as the President reports to Congress that such Government “is cooperating fully with investigators from the United Nations in accounting for human rights violations committed in the Democratic Republic of Congo or adjacent countries.”

- ***Assistance for the Middle East (§586)***

- The Conference Committee imposed a unique ceiling of \$5,402,850,000 on the total amount of U.S. assistance that can be made available for Israel, Egypt, Jordan, Lebanon, the West Bank and Gaza, the Israel-Lebanon Monitoring Group, the Multinational Force and

Observers, the Middle East Regional Democracy Fund, Middle East Regional Cooperation, and Middle East Multilateral Working Groups.

- This overall ceiling applies to assistance provided under all of the following programs: Economic Support Fund, Foreign Military Financing Program, International Military Education and Training, Peacekeeping Operations, for refugees resettling in Israel (under the heading "Migration and Refugee Assistance"), and for anti-terrorism assistance to Israel (under the heading Nonproliferation, Anti-Terrorism, Demining, and Related Programs).

- Further, this new provision also prohibits the use of prior year funds in the accounts listed above that were allocated for other regions (such as Africa and Latin America) to fund any of the programs listed above for Middle East countries and activities.

- This ceiling limitation may be waived if the President determines and certifies to the Committees on Appropriations that it is important to the U.S. national security interest to exceed the imposed ceiling. Any additional funds shall only be provided through a 15-day prior notification of the Committees on Appropriations.

P.L. 105-118: Miscellaneous Appropriations and Related Provisions

- ***Nonproliferation, Anti-Terrorism, Demining, and Related Programs (Title II, Bilateral Economic Assistance (NADR), P.L. 105-118)***

- This account, which was first introduced in the FY1997 Foreign Operations Appropriations Act (P.L. 104-208), consolidates appropriations for six formerly separate appropriations accounts: Nonproliferation and Disarmament Fund; Korean Peninsula Energy Development Organization; Anti-Terrorism Assistance; International Atomic Energy Agency; Israel Emergency Counter-Terror Assistance; and Demining Activities. The Conference Committee reported that the conferees recognize that "there may be numerous [other] nonproliferation programs which could logically be included in the NADR account in order to facilitate the continued rationalization of government-wide nonproliferation programs and activities." To this end, the conferees stressed that "the Committees on Appropriations are prepared to work with the Administration in this ongoing rationalization process as the Administration prepares its fiscal year 1999 request." [*Conference Report*, p. H10623.]

- FY1998 Appropriations for the NADR account total \$133M, \$18M less than the FY1997 appropriation of \$151M. The foreign assistance activities in this consolidated account for which funding has been specified for FY1998 are discussed below.

- **The Nonproliferation and Disarmament Fund (NDF).** The NDF is designed "to provide the Secretary of State with a flexible funding source to respond to urgent unanticipated nonproliferation activities of immediate concern to the United States. As in FY1997, up to \$15M of the FY1998 NADR funds has been designated for the NDF and "is to remain available until expended" to promote "bilateral and multilateral activities relating to nonproliferation and disarmament."

- **Demining activities.** The Conference Committee recommended \$20M of the FY1998 NADR account for use in support of demining, the clearance of unexploded ordnance, and related activities, including activities implemented through nongovernmental and international organizations. Although these funds are appropriated through the NADR account, they are allocated by the Department of State for use pursuant to the FMFP authority of §23, AECA. (Prior to FY1997, funding for demining activities was provided directly through an appropriation of grant FMFP funds in Title III of the annual foreign operations appropriations act.)

- The conferees specified that they strongly support programs to locate and remove landmines and other unexploded ordnance, including mine awareness and education, mapping and marking, and training of deminers. Further, the Committee urged the Department of State, in consultation with the humanitarian demining training program at the Department of Defense, to explore opportunities for the United States to provide technical advice and assistance to Russia and other new independent states in the clearance of landmines, including the southern Caucasus region. [Conference Committee Report, p. H10623.]

- **The Korean Peninsula Energy Development Organization (KEDO).** The only other assistance program for which funding was specified in the NADR account was the KEDO. For FY1998, not to exceed \$30M may be obligated to KEDO, an increase of \$5M over the FY1997 ceiling of \$25M. These funds may be used only for the administrative expenses and heavy fuel oil costs associated with support for the *Agreed, Multilateral Framework between the United States, Japan, the Republic of Korea [ROK], and the Democratic People's Republic of Korea [(DPRK)]* of 21 October 1994 (generally referred to in *P.L. 105-118* as the "Agreed Framework").

- The Agreed Framework calls for assistance by the U.S., Japan, and the ROK in the construction of light-water nuclear reactors in the DPRK, and also for the provision of heavy oil for the DPRK. KEDO is the international consortium that has been established to implement the Agreed Framework.

- Several additional restrictive provisions are attached to the availability of this funding in FY1998. Title II, *P.L. 105-118* requires that such funds may be obligated only if thirty days prior to such obligation, the President certifies and reports to Congress that:

(1) (A) the parties to the Agreed Framework are taking steps to assure that progress is [being] made on the implementation of the January 1, 1992 Joint Declaration on the denuclearization of the Korean Peninsula and the implementation of the North-South dialogue; and

(B) North Korea is complying with the other provisions of the Agreed Framework . . . and with the Confidential Minute: [and that]

(2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is to be completed by 1 April 1988. [This represents a slip in this aspect of the program which was previously scheduled to be completed by the end of FY1997]; and,

(3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended.

- A Presidential waiver of these certification requirements may be issued "if the President determines that it is vital to the national security interests of the United States." A number of additional detailed items also must be reported to Congress before funding for KEDO may be obligated. Further, the Secretary of State is required to submit to Congress,

an annual report . . . providing a full and detailed accounting of the fiscal year request for the United States contribution to the Korean Peninsula Energy Development Organization, the expected operating budget of the Korean Peninsula Energy Development Organization, to include proposed annual costs associated with heavy fuel oil purchases and other related activities, and the

amount of funds pledged by other donor nations and organizations to support KEDO activities on a per country basis, and other related activities.

- An additional \$10M may be made available in FY1998 to KEDO from this account if the Secretary of State certifies to Congress that funds have been provided by donors other than the U.S that are "sufficient to cover all outstanding debts owed by KEDO for heavy fuel oil. . . ."

- The remainder of the funds in the NADR account are available for discretionary allocation by the Department of State among the following activities: Anti-Terrorism Assistance; the International Atomic Energy Agency (IAEA); and Israel Emergency Counter-Terrorism Assistance.

- *Migration and Refugee Assistance-MRA (Title II)*

- Administered by the Department of State, MRA programs span the range of international refugee needs, and encompass emergency assistance, long-term care and maintenance, repatriation, and resettlement. For FY1998, \$650M has been appropriated for Migration and Refugee Assistance, a cut of \$21M below the \$671M that was provided in each of the previous two fiscal years.

- As in FY1997, not less than \$80M of this account is earmarked for the support of refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel. The Conference Committee Report acknowledges that there has been a "modest decrease" in the number of refugees coming to Israel in 1997. Should the current decline continue, the conferees "expect this program to be funded at \$70,000,000 in fiscal year 1999 and \$60,000,000 in fiscal year 2000." [Conference Committee Report, p. H10623.]

- In addition to providing funding for other general activities to meet refugee and migration needs, this account is also expected to include U.S. FY1998 contributions (amounts unspecified) to the following organizations: the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the International Organization for Migration, and the World Food Program.

- *P.L. 105-118* also provides a \$5M appropriation for supplementary **Refugee Resettlement Assistance** for the targeted assistance program authorized by Title IV of the Immigration and Nationality Act and §501 of the Refugee Education Assistance Act of 1980. The Office of Refugee Resettlement of the Department of Health and Human Services administers this program.

- *U.S. Emergency Refugee and Migration Assistance-ERMA (Title II)*

- The Department of State also administers the ERMA program. Funding from the ERMA account is drawn upon by the President to meet unexpected urgent refugee and migration needs when such assistance is determined to be important to the United States. For FY1998, this account is funded at \$50M, identical to the funding of each of the past three years. These funds are treated as a "no-year" appropriation, as they remain available until expended.

- *International Narcotics Control-INC (Title II)*

- Congress appropriated \$215M for the FY1998 International Narcotics Control Program, a \$2M increase above the FY1997 appropriation. The House had proposed \$230M and the Senate asked for \$216.2M for this account. (See also new "Narcotics Interdiction" account discussed below.)

- The Conference Committee reported that it had not adopted a Senate proposal to earmark not less than \$10M in INC funds for law enforcement and training and not less than \$22M for anti-crime programs. However, the conferees reported that they “expect that not less than the 1997 levels for each such activity (\$9,000,000 and \$20,000,000 respectively) will be provided in fiscal year 1998.” [Conference Committee Report, p. H10622.]

- Congress has also established new reporting requirements covering INC activities:

- The Secretary of State, in consultation with the Director of the Office of National Drug Control Policy, shall not later than 60 days after the enactment of *P.L. 105-118* (i.e., by 24 January 1998) provide the Appropriations Committees with a report containing: (1) a list of all countries in which the U.S. conducts international counter-narcotics activities; (2) the number, mission, and agency affiliation of the U.S. personnel assigned to each such country; and (3) the total costs and expenses obligated for each program, project, or activity by each U.S. agency in each country.

- Other FY1998 statutory provisions involving the INC program include the following:

- (1) Authorization for the State Department, to use the authority of §608, FAA, to receive non-lethal excess property from an agency of the U.S. Government “for the purpose of providing it to a foreign country” under the INC provisions (Chapter 8 of Part I) of the FAA;

- (2) Not to exceed \$5M of the FY1998 INC appropriation shall be allocated to operate the Western Hemisphere International Law Enforcement Academy; and,

- (3) Ten percent of the INC appropriation shall be held back from obligation, “until the Secretary of State submits a report to the Committees on Appropriations providing a financial plan for the funds appropriated for INC and for the related “Narcotics Interdiction” program discussed below.

- ***Narcotics Interdiction (Title II)***

- A total of \$15M has been appropriated for this new account for FY1998. These funds are to remain available until expended (i.e., another “no-year” appropriation).

- As stated in the Conference Committee Report, these funds are to be used in addition to funds from the International Narcotics Control account, “to procure three Black Hawk utility helicopters including maintenance and training, for the [Colombian] National Police solely for counternarcotics purposes, at a cost of \$36,000,000.” The Committee added that \$14M should also “be made available to provide upgrades for UH-1H Huey Helicopters for the Colombian National Police solely for counternarcotics purposes.” The Committee reported it is “extremely concerned about reports that Colombian heroin is flooding the U.S. market,” and that “60 percent of all heroin recently seized on American streets is of Colombian origin.” These new funding authorities are intended to address the Colombian National Police equipment shortfall. [Conference Committee Report, p. H10622.]

- ***International Disaster Assistance-IDA (Title II)***

- For the necessary expenses associated with international disaster relief, rehabilitation, and reconstruction assistance, Congress appropriated \$190M for FY1998, equal to the previous year’s funding.

- The Conference Committee reported that the conferees support the recommendations of the House Appropriations Committee regarding disaster assistance for **Kosovo** and for **Northern Iraq**. [Conference Report, p. H10619.]

- The HAC had recommended that \$6M in IDA funds be provided to assist the people of **Kosovo**. [Kosovo was an autonomous province in the southernmost part of Serbia in the former Federal Republic of Yugoslavia; Serbia imposed direct rule over the region in 1990.] The HAC stated that the humanitarian situation in Kosovo “continues to be grim and has created a population of nearly 20,000 refugees in Albania [directly west of Kosovo], straining that country’s already weakened economy.” [*HAC Report*, p. 20.] Kosovo is reported to have a population of 2,043,000 [1993 est.], of which over 82% are ethnic Albanians. The region is said to be one of the poorest in all of Europe.

- The HAC also recommended that continued funding be provided in FY1998 to refugees and internally displaced persons in **Northern Iraq**, “where the Kurdish population and other inhabitants continue to suffer shortages of food and medicine.” The Committee Report noted that, “non-governmental organizations and private voluntary organizations remain unable to meet these serious needs” due to the tense situation in the area. [*HAC Report*, pp. 20-21.]

- ***Assistance for Eastern Europe and the Baltic States (Title II)***

- For FY1998 Congress has appropriated \$485M for economic assistance and related programs for Eastern Europe and the Baltic States to carry out the provisions of the FAA and the *Support for Eastern European Democracy (SEED) Act of 1989*. This is an increase of \$10M above the \$475M appropriated for this account for FY1997. Several stipulations relating to assistance for the Federation of Bosnia and Herzegovina, as proposed by the House, are attached to this account and are discussed below.

- Not more than \$200M of this account (exclusive of assistance for police training) may be made available for Bosnia and Herzegovina. Further, not more than \$7M of these funds may be made available for the cost of modifying direct loans and loan guarantees for Bosnia and Herzegovina.

- However, as in FY1997, none of these FY1998 funds may be used “for new housing construction or repair or reconstruction of existing housing in Bosnia and Herzegovina unless directly related to efforts of United States troops to promote peace in said country.”

- Also, the President is authorized to withhold economic revitalization program funds for Bosnia and Herzegovina if he determines and certifies to the House and Senate Appropriations Committees that:

- (1) the Federation of Bosnia and Herzegovina has not complied with the 1995 Dayton Agreement [Article III of Annex 1-A, *General Framework Agreement for Peace in Bosnia and Herzegovina*] regarding the withdrawal of foreign forces; and that,

- (2) “intelligence cooperation on training, investigations, and related activities between Iranian and Bosnian officials has not been terminated.”

- ***Assistance for the New Independent States (NIS) of the Former Soviet Union (FSU) (Title II)***

- For FY1998, Congress appropriated \$770M for the NIS and for related programs, an increase of \$145M (or 23.2%) above the \$625M appropriated for FY1997. As in prior years, a wide array of special conditions and funding earmarks are attached to this account, as the following examples illustrate:

- (a) None of the funds in this account may be made available for any of the new independent states “that directs any action in violation of the territorial integrity or sovereignty of any other new independent state. . . .”

- (b) Similarly, none of the funds in this account may be made available for any of the NIS to enhance their military capability.

- (c) None of the funds in this account may be made available to the **Government of Russia**: “

(1) unless that government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment; [or] (2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.”

However, funds may be furnished to the Government of Russia without regard to these provisos if the President determines that it is in the national interest to do so.

- (d) Further, of the funds allocated for **Russia**, fifty percent shall be withheld from obligation until the President determines and certifies to the Congress that the Government of Russia has terminated implementation of arrangements to provide Iran with certain goods and services related to nuclear and ballistic missile programs in Iran. However, such funds may be made available to Russia if the President certifies to Congress that to do so (1) is vital to the national security interest of the U.S. and (2) that the Government of Russia is taking meaningful steps to limit major supply contracts and to curtail the transfer of technology and technological expertise to Iran.

- (e) Yet another provision covering assistance for **Russia** is provided by §577, P.L. 105-118. This proviso prohibits making any assistance funds available to Russia unless the President determines and certifies to Congress by 25 December 1998 that:

the Government of the Russian Federation has implemented no statute, executive order, regulation, or similar government action that would discriminate, or would have as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

- This section is effective 150 days after the enactment of P.L. 105-119 (i.e., on 25 May 1998).

- (f) An earmark of not less than \$225M shall be made available for **Ukraine**, “with the understanding that Ukraine will undertake significant economic reforms which are additional to those which were undertaken in previous years.”

- (g) Not less than \$12M will be made available for assistance to **Mongolia** in FY1998 from development assistance funds and from resources in the NIS account.

- (h) P.L. 105-118 establishes a new **Southern Caucasus Region** funding category in the NIS account. For FY1998, not less than \$250M shall be made available for this region, with funding ceilings as follows:

- (1) Twenty-eight percent of this funding [i.e., not less than [\$70M]] “should be used for reconstruction and remedial activities relating to the consequences of conflicts within the region, especially those in the vicinity of **Abkhazia** and **Nagorno-Karabakh**.” [Abkhazia is a former autonomous republic located in the northwest portion of the Republic of Georgia. Separatists in this region have been deeply involved in a conflict with the Government of Georgia. Ngorno-Karabakh is an Armenian enclave in the Republic of Azerbaijan that has been similarly engaged in separatist conflict.] The Conference Committee reported that it “intends that emphasis be placed on restoring transportation, telecommunications, and other infrastructure that promote regional economic integration in this region.

- (2) Thirty-five percent [not less than \$87.5M] shall be made available for **Armenia**, “a country in the center of a volatile region that cannot prosper without renewed trade and communications with its sometimes hostile neighbors.”

- (3) Thirty-seven percent [not less than \$92.5M] shall be made available for **Georgia**, a “key country providing regional leadership for conflict resolution and economic reform. Training and infrastructure support for customs and border control by Georgian officials should be a high priority for the use of these funds.” [*Conference Report*, p. H10621.]

- (4) Finally, none of the foreign assistance funds in *P.L. 105-118*, or any other Act, may be provided to assist the **Government of Azerbaijan** until the President reports to the Congress that said government “is taking demonstrable steps to cease all blockades against Armenia and Nagorno Karabakh.”

P.L. 105-85: National Defense Authorization Act for Fiscal Year 1998

The following items represent significant security assistance-related statutory provisions enacted in P.L. 105-85, the *National Defense Authorization Act for Fiscal Year 1998*, dated 18 November 1997.

- *Transfer of Naval Vessels to Certain Foreign Countries (§1025)*

- Pursuant to the authority of §21, AECA (“Sales From Stock”), AECA. This section authorizes the Secretary of the Navy to transfer by sale fourteen U.S. naval vessels to seven specified countries, plus Taiwan, as follows:

- The Government of Brazil: the HUNLEY class submarine tender HOLLAND (AS 32);

- The Government of Chile: the KAISER class oiler ISHERWOOD (T-AO 191);

- The Government of Egypt: the following four frigates of the KNOX class: the PAUL (FF 1080), MILLER (FF 1091), JESSE L. BROWN (FFT 1089), and the MOINESTER (FFT 1097); plus the two following frigates of the OLIVER HAZARD PERRY class: the FAHRION (FFG 22) and the LEWIS B., FULLER (FFG 23);

- The Government of Israel: the NEWPORT class tank landing ship PEORIA (LST 1183);

- The Government of Malaysia: the NEWPORT class tank landing ship BARBOUR COUNTY (LST 1195);

- The Government of Mexico: the KNOX class frigate ROARK (FF 1053);

- The Government of Thailand: the NEWPORT class tank land ship SCHENECTADY (LST 1185); and,

- The Taipei Economic and Cultural Representative Office in the United States [the Taiwan instrumentality that is designated pursuant to §10(a) of the Taiwan Relations Act], the following two frigates of the KNOX class: the WHIPPLE (FF 1062) and the DOWNES (FF 1070).

- Any expenses incurred by the U.S. in connection with the transfer of any of these 14 vessels shall be charged to the recipient.

- As a further condition of any such transfer, the Secretary of the Navy shall require, to the maximum extent practicable, that any repairs or refurbishments that are needed prior to the transfer, be performed at a shipyard located in the United States, including a United States Navy shipyard.

- Transfer authority is permitted for two years, beginning on the date of the enactment of this Act (i.e., beginning on 26 November 1997 and expiring on 25 November 1997).

- ***Support for the Counter-Drug Activities of Mexico (§1032)***

- This provision extends through FY1998 the FY1997 authority (§1031, P.L. 104-201) for the provision by DoD of up to \$8M in counter-drug support to the Government of Mexico. This support is in addition to support provided to Mexico under any other provision of law, and is to be furnished in the form of non-lethal equipment, such as protective and utility personnel equipment, plus nonlethal specialized equipment, to include navigation, photo, radar and repair equipment, spare parts, and software for aircraft or patrol boats, plus support for the maintenance and repair of equipment used by Mexico for counter-drug activities. However, the FY1997 provision has been amended to state that no new funds are authorized to be appropriated for FY1998 for the provision of support under this section. Rather, funding for FY1998 may be obligated from any FY1997 funds that remained unobligated by 30 September 1997.

- The FY1997 legislation has been further amended for FY1998 to require the Secretary of Defense to consult with the Secretary of State prior to providing such assistance to the Government of Mexico. The provision of this support is further contingent on a 15-day prior written certification to Congress by the Secretary of Defense to reflect adherence by the U.S. and Mexico to an extensive list of legislative requirements set forth in §1031(e), P.L. 104-201.

- ***Support for the Counter-Drug Activities of Peru and Colombia (§1033)***

- This is a new provision that provides a five-year authorization to the Secretary of Defense, in consultation with the Secretary of State, to furnish Peru and Columbia assistance in support of their drug interdiction and counter-drug activities. The support is to be provided for certain types of non-lethal equipment, to include repair equipment and parts, riverine patrol boats, and maintenance and repair services. Although the funds that are made available to carry out this assistance shall remain available until expended, the total amount of assistance that may be obligated and expended for both countries may not exceed \$20M per year during FY1999 through FY2002, while assistance during FY1998 is limited to \$9M.

- The provision of this support for FY1998 is also contingent upon a statutory requirement for the development by the Secretary of Defense, in consultation with the Secretary of Defense, of a riverine counter-drug plan; assistance may not be furnished to Peru or Colombia until 60 days after the submission of this plan to Congress.

- In addition to the statutory requirement for the above plan, the Conference Committee on the FY1998 National Defense Authorization bill directed DoD, in consultation with other federal agencies, to develop an integrated regional plan to establish a riverine program that can be sustained by the source nations at the end of the five-year period. This plan should provide details as to how the riverine program fits into the overall national drug strategy. Further, the report also must be provided to Congress before any assistance is provided pursuant to the authority of this provision (i.e., §1033, P.L. 105-85). [Conference Committee Report 105-340 to Accompany H.R.1119, 23 October 1997.]

- ***Authority of the Secretary of Defense Concerning Disposal of Assets Under Cooperative Agreements on Air Defense in Central Europe (§1064)***

- This Senate-introduced provision authorizes the disposal by transfer of 12 Patriot missile batteries and 27 Roland short range air defense missiles to the Federal Republic of Germany. These missiles were originally acquired by the U.S. and operated by Germany to carry out a 1983 Cooperative Air Defense Agreement with Germany. Ownership of the missiles is to be transferred to Germany in exchange for equitable compensation in the form of articles, services, or other considerations to be negotiated in an amendment to the original agreement.

- The Conference Committee on the FY1998 National Defense Authorization bill directed the Secretary of Defense to provide Congress with a report on the status of the negotiations on the proposed treaty amendment, termed the Patriot-Roland Follow-On Implementing Agreement (FOIA). Further, before the transfer of title of any of these missiles may occur, the Secretary also must provide Congress an additional report on: (a) the financial and non-financial benefits to the United States of the transfer of the equipment; (b) the mission value of the FOIA compensation components; (c) the terms of the equipment transfer; (d) the ability of the United States to meet its NATO obligations, and (e) any potential obstacles to the performance of FOIA missions. [Conference Report 105-340 to Accompany H.R. 1119, 23 October 1997.]

- ***Sense of Congress and Reports Regarding Financial Costs of Enlargement of NATO (§1223)***

- This new provision expresses a “sense of the Congress” that the analysis of the military requirements relating to NATO enlargement and the financial costs to the Alliance of NATO enlargement will be one of the major factors in: (a) the Senate’s ratification of the expansion treaty, and (b) the authorization and appropriation of U.S. funding for the costs associated with such enlargement.

- Pursuant to this section, the Secretary of Defense is required to provide a report to Congress by 31 March 1998 on the following topics:

- (1) an assessment of the NATO analysis of the military requirements related to NATO enlargement, and the estimate of the financial costs to the NATO Alliance for the integration into the alliance of Poland, the Czech Republic, and Hungary;

- (2) a description of the analytical methods used to determine such requirements and costs; and,

- (3) a general assessment of the additional military requirements and costs that would result from a significantly increased threat.

- This section also requires a second report to Congress by the Secretary of Defense specifying DoD defense costs for NATO enlargement. This report shall be furnished in conjunction with the President's FY1999 budget submission and it shall include a detailed estimate of DoD costs for FY1998 that identifies all appropriations (by specific budget activity) for the military departments and other elements of DoD to support NATO enlargement.

P.L. 105-56: Department of Defense Appropriations Act, 1998

The following section examines additional new legislative provisions affecting security assistance that were enacted in P.L. 105-56, the Department of Defense Appropriations Act, 1998, dated 8 October 1997.

- *Limitation on the Transfer of Defense Articles (§8081)*

- This provision renews prior year restrictions that require special 15-day advance notifications of Congress for the proposed transfer of defense articles or services (other than intelligence services) to any nation or international organization for use in any international peacekeeping, peace-enforcement, or humanitarian assistance operation.

- *F-22 Export Ban (§8118)*

- In a provision which has a significant impact on the USAF F-22 fighter aircraft development program, Congress has determined that none of the funds made available in the DoD Appropriations Act, 1998, may be used "to approve or license the sale of the F-22 advanced tactical fighter to any foreign government."

- *NATO Expansion Costs (§8122)*

- This provision requires yet another new report be furnished to Congress by the Secretary of Defense by 1 October 1997 on the anticipated costs to the U.S. for the admission to NATO of the Czech Republic, Hungary, and Poland over the next five fiscal years. The report should also include any new commitments or obligations, to include the following: (a) the deployment of U.S. military personnel; (b) the provision of defense articles or equipment; (c) training activities; and (d) the modification and construction of military facilities.

Conclusion

The fairly routine legislative output for FY1998 security assistance programs stands in marked contrast to the remarkable legislative changes enacted for FY1997. Certain important new and modified statutory provisions were introduced for FY1998, to include the introduction of unique FMFP and ESF funding methods for Jordan, and numerous new special congressional reporting requirements. Nevertheless, the long-awaited legislation to reorganize the Department of State failed to be enacted, and Congress once again proved itself unable to produce an annual foreign assistance authorization act.

In a year in which new security assistance legislation was generally limited to fairly mundane security assistance issues, a general increase in appropriations for security assistance programs stands out as the major feature of the new legislation. During the periods FY1985-FY1988 and FY1992-FY1995, appropriations for security assistance generally experienced a gradual but steady reduction. This was especially true of the FMFP account that fell 42% overall from a record high in FY1984 of \$6,428M to the FY1996 program level of \$3,752M. A small increase that was made in the FY1997 FMFP appropriations to \$3,764M, was followed by the more substantial increase to \$3,953.55M for the current year. Moreover, for FY1998 Congress also provided significant increases for IMET and ESF as well, while retaining the FY1997 level

for PKO funding. As a whole, FY1998 security assistance funding rose \$246.075M (or 3.9%) over that of the previous year.

In addition to the varied legislative changes that must be implemented for FY1998, other divergent issues continue to impact security assistance programs, to include worldwide declines in defense spending, an accompanying contraction in global arms sales, and efforts to preserve and strengthen the U.S. defense industrial base. In this milieu of divergent issues, the only relatively safe prediction that can be made in anticipation of new legislation for next year is that FY1999, like FY1998, will likely introduce a wide variety of renewed, revised, and entirely new statutes. Similarly, the worldwide security assistance community in FY1999, as in FY1998 and prior years, will once again have another ample set of new statutes to try to understand, absorb, and implement. A more specific forecast for FY1999 would be too speculative.

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