
SECURITY ASSISTANCE LEGISLATION AND POLICY

Fiscal Year 1989 Military Assistance Legislation: An Analysis

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INTRODUCTION

Appropriations for U.S. military assistance programs for FY 1989 reflect a general continuation of the principal features of recent years' appropriations legislation, characterized by marginal funding levels, specifically designated country funding levels, and a variety of new program limitations. For FY 1989, Congress appropriated a total of \$14.29 billion in overall foreign assistance appropriations, of which \$4,787.15 million was appropriated for the three military assistance programs identified in Table 1 below. Total military assistance funding for FY 1989 constitutes a \$10 million (or 0.2%) decrease below FY 1988 appropriations (\$4,797.15 million). Moreover, the FY 1989 total is \$192.35 million (or 3.9%) below the Administration's original budget request (\$4,979.5 million).

Another similarity to FY 1988 (and previous years) involves the Congressionally directed designation of specific assistance levels for selected country programs. This is accomplished through the legislating of mandatory "earmarks" (i.e., required minimum funding levels) for specified countries receiving FMS financing, as well as MAP and ESF assistance. The earmarked levels for most country or regional programs generally were at or near the levels originally requested by the Executive Branch. Nevertheless, extensive Congressional earmarking together with the overall funding shortfall, reduced substantially the monies available to the Administration for discretionary funding allocation among non-earmarked recipient nations. For example, earmarks constitute 36 percent of the MAP account, and a record high of 99.75 percent (or \$4,262 million) of the entire FMS appropriation (\$4,272.75 million) was earmarked for seven countries (Egypt, Greece, Israel, Morocco, Pakistan, Tunisia, and Turkey). Thus, the impact of these FMS earmarks was to leave only \$10.75 million (or 0.25 percent) available for discretionary allocation to other countries. In this regard, the earmarks for Greece and Turkey proved relevant since unlike the others, they were not specifically designated for FMS, but rather were generically identified as "military assistance," i.e., FMS/MAP earmarks. Accordingly, the Administration, as will be discussed later in this article, allocated some of the earmarked funds for these two countries from the MAP account. While this reduced the overall level of earmarked FMS monies, it had a reverse effect on the MAP account by increasing its earmarked level. Thus, the overall impact of the earmarks of military assistance funds remained unchanged and resulted in serious shortfalls in the Administration's effort to fund non-earmarked countries.

TABLE 1
FY 1989 Military Assistance Funding
(Dollars in Millions)

Programs	FY88 Appropriations	FY 89 Budget Request	FY 89 Appropriations	FY 89 % Reductions from Request	FY 89 % Changes From FY 88
Foreign Military Financing Program (FMFP)	\$4,049.00	\$4,460.00	\$4,272.75	-4.2%	+5.5%
Military Assistance Program (MAP)	700.75	467.00	467.00	0.0%	-33.4%
International Military Education and Training Program (IMET)	<u>47.40</u>	<u>52.50</u>	<u>47.40</u>	<u>-9.7%</u>	<u>0.0%</u>
TOTALS	\$4,797.15	\$4,979.50	\$4,787.15	-3.9%	-0.2%

Various statutory restrictions which were first enacted for FY 1988 have also been carried over into FY 1989. These include, among others, such provisions as: a continuation of the prohibition on the sale of Stinger missiles to all countries in the Persian Gulf, with a limited exception for Bahrain; a continuing restriction on the sale of anti-tank shells containing a depleted uranium (DU) penetrating component, except that such shells can now be sold to Pakistan, as well as to NATO countries and to major non-NATO allies; an extension of the special Congressional notification requirements concerning the transfer of helicopters or other aircraft for military use to any country in Central America; a similar extension of the special Congressional notification requirements for FMS cases financed through the FMFP or MAP accounts; a continuation of the FMS debt reform "interest rate reduction" provisions introduced in FY 1988; an extension of the "indefinite borrowing authority" provision approved last year for the Guaranty Reserve Fund (GRF); a continuation of the requirement that the annual distribution of excess defense articles to Greece and Turkey under the Southern Region Amendment (Section 516, FAA of 1961) be applied to closely approximate the distribution ratio (7-10) used by Congress in the allocation of military assistance to the two countries; and continuing prohibitions on military assistance to Haiti, Panama, and Mozambique.[1] Additionally, many other important new legislative provisions have been enacted for FY 1989 and are discussed at length herein.

Ongoing funding issues, together with new statutory provisions incorporated in the FY 1989 Foreign Assistance Appropriations Act, present important challenges for the effective management of military assistance programs in FY 1989. This article, a continuation of our annual series of legislative reports, is designed to provide the security assistance community with an analytical review of the major features and significance of new military assistance legislation. The article opens with a brief discussion of the legislative process for FY 1989. This is then followed by an analysis of each military assistance program component, examining specific funding issues as well as related statutory provisions. Concluding the study is a discussion of a wide variety of additional new legislative requirements for FY 1989. Additionally, an appendix is provided which examines appropriations for the Economic Support Fund (ESF) and Peacekeeping Operations (PKO) programs. The objective throughout the report is to provide a comprehensive guide to the variety of new statutory requisites which have been added to the complex legislative framework governing military assistance.

THE LEGISLATIVE PROCESS

FY 1989 marks the first year since FY 1982 for which military assistance funding has been provided in a free-standing, separate appropriations act. Funding during the interim years was provided through annual Joint House Continuing Appropriations Resolutions (CRs), a legislative device increasingly employed by a Congress beset by various internal political conflicts and unable to pass independent appropriations bills. By 1986, severe political wrangling in Congress led to the passage of an omnibus CR for FY 1987 which incorporated all 13 appropriations bills required for the annual funding of federal government activities. A similar all-encompassing bill also was passed for FY 1988. In a notable reversal of this recent trend, Congress separately passed each of the 13 required bills for FY 1989--an event which last occurred in 1976. This dramatic return to independent appropriations bills was prompted by two principal factors. First, a "budget summit conference" held in November, 1987, among Congressional and Executive Branch leaders, resulted in an overall compromise agreement on funding for both FY 1988 and FY 1989. Thus, the basic funding levels for FY 1989 were in place almost one year before the passage of the various FY 1989 appropriations acts. Secondly, last year President Reagan publicly deplored the overwhelming length and complexity of the FY 1988 CR and he vowed to veto any such similar money bill for FY 1989. The Administration had long been critical of the restrictive veto process which limits Presidential vetoes to complete appropriations bills, thereby precluding the veto of individual items in a single bill. Thus, the Administration viewed the omnibus CR as a conglomeration of 13 separate appropriations bills for which opposition to any single bill, or any part of a bill, would require a veto of the entire CR; and since such CRs have normally been passed several weeks to months after a new fiscal year has begun, such a veto of either the FY 1987 or FY 1988 bills would have brought all funding for government operations to a halt until legislation acceptable to the President could be passed, or until Congress could override the veto. (President Reagan was at least the 12th president known to have asked Congress for line-item veto authority, beginning with President U.S. Grant in 1873. In the most recent session of Congress, which adjourned on October 6, 1988, 16 separate measures were introduced to provide such presidential authority; all of them died in Congressional committees.)[2]

The FY 1989 Foreign Assistance Appropriations Act, formally entitled the *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989*, and serially identified as Public Law 100-461, was signed by President Reagan on 1 October 1988 after several days of controversy over a wide variety of diverse issues. These ranged from a proposed arms sale to Kuwait and the planned launching of three U.S. satellites aboard Chinese rockets, to the imposition of sanctions on Iraq for its use of chemical weapons against its Kurdish minority, and the proposed curtailment of legal immunity for foreign diplomats in the United States.[3] Four months earlier, on 25 May, the initial appropriations bill (carrying the designation H.R. 4637) was passed by the House. The Senate then passed a considerably amended version of H.R. 4637 on 7 July, thereby necessitating the convening of an Appropriations Conference Committee composed of designated members of the Appropriations Committees of both Houses to resolve the differences in the two bills. The Appropriations Conference Committee issued its report of a highly revised bill on 26 September, only to encounter a variety of additional new proposals as the bill was taken up for final consideration on the floor of both Houses. Finally, the bill was passed in the House on 29 September, and in the Senate on the following day, thereby clearing it for Presidential signature.

Following enactment of P.L. 100-461, serious concern arose within the Executive Branch regarding the widespread earmarking of security assistance program funds. The cumulative effect of such earmarks, of course, is to produce major shortfalls in funding for non-earmarked countries. Particularly disturbing is the reduced funding available for countries which provide the U.S. with military basing, transit, port call, communications, and exercise facilities, and for "front-line" countries, i.e., those countries faced with externally supported subversion and aggression. Concerns over these funding issues prompted Administration officials to conduct

informal consultations with Congress in the weeks following enactment of P.L. 100-461 to examine ways in which the U.S. could more fully meet its overseas security assistance commitments. One possibility in this regard involved breaking the Congressional earmarked funding levels through the implementation of the special Presidential authority of Section 614(a)(1), FAA. Under this provision, the President "may authorize the furnishing of assistance . . . without regard to any provision of" the FAA, the AECA, "and any Act authorizing or appropriating funds for use under" the FAA when he notifies Congress "that to do so is important to the United States." Exercise of this authority would, in effect, permit reduction of the security assistance earmark levels in P.L. 100-461, thereby increasing the funding available for allocation to non-earmarked countries. Despite the statutory basis for such an attempt to "break the earmarks," Congress had serious reservations about this proposed disruption of Congressional prerogatives to earmark appropriated funds, and the Administration ultimately decided this approach was not feasible for FY 1989. However, the effort to resolve the funding problems extended well beyond the time period available to the President under Section 653, FAA (i.e., 30 days after enactment of an appropriations act) to notify Congress of how all of the appropriated funds were to be allocated. Indeed, it was not until 23 December that Congress was notified of the ESF allocations, and 3 January of the FMS, MAP, and IMET allocations. (Details of the allocation of FMS, MAP, and ESF country/special program funding, including earmarks, may be found in Tables 2-4 and accompanying discussions in subsequent sections of this article.)

Congress proved unsuccessful in passing a second major piece of legislation associated with military assistance--the annual Foreign Assistance Authorization Act (formally entitled *The International Security Assistance and Development Cooperation Act of 1989*). This marks the second consecutive year in which Congress has failed to produce such a bill; in a repeat of 1987's action on the FY 1988 authorization bill, the House again voted out a version of the bill, but no similar action occurred in the Senate. Consequently, as in previous years for which no authorization bill was passed (e.g., FY 1984, FY 1985, and FY 1988), authorizations for FY 1989 are limited to those contained in the appropriations act (hereinafter referred to as P.L. 100-461). Among the various effects of the failure of the Authorization Committees (i.e., the Senate Foreign Relations Committee and the House Foreign Affairs Committee) to obtain Congressional passage of an authorization bill is the increased legislative role that has been acquired by the Appropriations Committees. This is evident in the increasing number of non-appropriations-related authorities and restrictions which appear in P.L. 100-461 and which are discussed below. A further and more explicit result of the absence of an authorization act is the failure to obtain passage of various legislative initiatives which were sought by the Administration to improve the management of security assistance and which generally receive support within the authorization committees.

THE FOREIGN MILITARY FINANCING PROGRAM (FMFP)

Major new legislative provisions governing the Foreign Military Sales Financing Program include the introduction of new program terminology, the establishment of special funding requirements and authorities, and the increase in funding earmarks discussed above.

The terminological changes resulted from past confusion in the identification of the program and its components. Various referred to previously as the FMS Credit (FMSCR) Program and the FMS Financing Program (FMSFP), Congress has now designated the program as the **Foreign Military Financing Program (FMFP)**, a title which will serve during FY 1989 as the appropriate name for this component of the U.S. Security Assistance Program. (No permanent change in this terminology was made in P.L. 100-461 to either the FAA of 1961 or the AECA; accordingly, this change only applies for FY 1989, but it could be extended or permanently changed in FY 1990 or in subsequent legislation.) For many years the informal terms "forgiven loans/credits" and "non-repayable loans/credits" have been employed to identify special FMS loans/credits, i.e., those for which the recipient governments were released under law from their contractual liability to repay the loan principal and interest to the U.S. Government. Such forgiven

loans/credits actually are equivalent to grant (or gift) assistance, like the grant funds provided under the MAP, IMET, and ESF programs. For FY 1989, Congress has designated these funds as "FMFP grants," distinguishing them from repayable "FMFP loans." These new terms, reflecting the two components of the FMFP, are highlighted in P.L. 100-461 wherein rather than providing, as in past years, an overall total figure for FMFP appropriations, individual paragraphs have been included to separately identify "grant" funding and "loan" funding levels. Moreover, P.L. 100-461 requires that the FMS grants "be implemented by grant documents," as opposed to the previously employed special loan documents used for forgiven loans/credits.[4] DSAA has now developed appropriate "Grant Agreements" to serve as the obligating documents for the use of these FMFP grants. No change in operation under the former "FMS forgiven credit" agreements is anticipated under the new Grant Agreements. It should also be noted that since these FMS grants and loans both fall under the statutory authority of Section 23 of the Arms Export Control Act (AECA), which is entitled "Credit Sales," they may also be termed "Section 23 grants or loans."

TABLE 2
FY1989 Foreign Military Financing Program (FMFP)
(Dollars in Millions)
Total FY 1989 FMFP Appropriation: \$4,272.75

Country	FY 1989 Budget Request (All Grants)	Allocated FY 1989 Grants	Allocated FY 1989 Concessional Loans	% of FY 1989 Appropriations
Egypt	\$1,300.00	\$1,300.00*	\$0.00	30.42%
Greece	350.00	0.00	320.00**	7.49%
Israel	1,800.00	1,800.00*	0.00	42.13%
Jordan	48.00	10.00	0.00	0.24%
Morocco	40.00	52.00*	0.00	1.22%
Pakistan	240.00	230.00*	0.00	5.38%
Portugal	100.00	100.00	0.00	2.34%
Tunisia	30.00	30.00*	0.00	0.70%
Turkey	550.00	340.75**	90.00**	10.08%
Yemen	2.00	0.00	0.00	0.00%
Totals	\$4,460.00	\$3,862.75	\$410.00	100.00%

* Congressional Earmarks

** Reflects military assistance earmark (FMFP portion) for Greece and Turkey.

The final level of FMFP funding settled upon by the Appropriations Conference Committee, and subsequently passed and enacted, totaled \$4,272.5 million, with \$3,862.75 million designated for FMFP grants, and the remaining \$410 million stipulated for FMFP loans. Congress further stipulated that the FMFP loans could all be made available at concessional rates of interest, i.e., below the cost of money to the U.S. Government but no lower than five percent per annum. Table 2 reflects the funding distribution of these grants and loans among nine countries, including all FMFP earmarks and discretionary funding allocations. It is significant to note that in addition to the four countries which received earmarked FMS grant funding in FY 1988 and are again earmarked for FY 1989 (i.e., **Egypt, Israel, Pakistan, and Turkey**), two more countries (**Morocco and Tunisia**) have been added to the FY 1989 grant earmark list. This represents their first receipt of FMFP grants, and continues the expansion of this program which began in FY 1988 when, in addition to the annual grants for Israel and Egypt, both Pakistan and Turkey received their first such grants. Also of interest is the fact that only two non-earmarked countries--**Jordan and Portugal**--will receive any FMFP funds in FY 1989. Further, the \$110.00 million

in FMFP grants that was furnished to these two countries was made possible only by allocating a portion of the military assistance earmarks for Greece and Turkey into the MAP account, as will be discussed shortly.

Despite this Congressional increase of the FMFP grant component, Congress failed to support a larger expansion of the grant program for FY 1989 as was desired by the Executive Branch. In its annual budget request, the Administration had proposed that *all* FMS financing be provided on a grant basis for FY 1989, thereby excluding any repayable loans. In support of its request, the Administration reported that, "By providing forgiven FMS credits, those recipients that have the bureaucratic structures to do so will be able to apply part or all of their FMS financing to commercial sales, a process that is not possible under the grant Military Assistance Program (MAP), which is intended strictly for government-to-government [i.e., FMS] purchases." [5] The Administration further stated that, "This all-forgiven initiative is consistent with the trend advocated by Congress to modify the FMS program in order to ease countries' debt burdens." [6]

The two appropriations committees adopted quite different approaches to FMS financing for FY 1989. The Senate Appropriations Committee (SAC) recommended a "melding of the MAP and FMS Programs into a [single] repayment forgiven FMS program totaling \$4,779,260,000." [7] This approach, which would have effectively eliminated any separate MAP funding for FY 1989, was approved by the Senate. The Administration supported the Senate bill which would have produced the desired all-grant financing program which it sought. For its part, the House Appropriations Committee (HAC) recommended continued funding for both FMS (\$3,893,000,000) and MAP (\$876,750,000), but rejected the Administration's request for the conversion of the FMFP to a full grant program. The HAC reported that its opposition was based on a "need to limit the potential for corrupt procurement under the commercial sales program" for which FMS loans may be employed. [8] The Committee expressed its deep concern over "the number of reported corruption cases and the difficulty the Department of Justice faces in investigating these cases and gaining convictions." [9] Two additional objections to an all-grant FMS program were cited by Representative David R. Obey (D-WI) in later testimony in the House in support of the Appropriations Conference Committee Report on the appropriations bill. First, he claimed that,

When we remove the loan component from our military aid program, we remove all remaining restraints on the appetites of Third World countries for arms, because if a defense minister can go to the President of that country and say, 'Look, let's ask for these weapons, because we are never going to have to pay any of the cost back,' there is no restraining influence on that country.

Representative Obey argued further that the second problem with the Administration's proposal was that, "if we convert to an all grant program . . . the [U.S.] taxpayer gets socked with the result." Obey claimed that the all-grant approach would cost the taxpayer over the long term about an extra billion and a half dollars, "resulting from the non-repayment of loan principal and interest." He concluded that the Appropriations Conference Committee had averted this loss by insisting that \$410 million, "remain loans rather than being converted to grants." [10] Congress subsequently adopted the Appropriations Conference Committee Report provisions for separate FMFP grant and loan appropriations, while also retaining grant MAP assistance. It should be noted, however, that the loan component represents less than 10 percent of the FY 1989 FMFP, as compared to about 23 percent in the FY 1988 program. Thus, the Administration succeeded in making progress toward its goal of an all-grant financing program. In this regard, the Administration's security assistance budget request for FY 1990 proposes a 100 percent grant FMS financing program, with funding for MAP limited to MAP administrative costs.

The concern expressed by the HAC over the **potential corrupt use of FMFP funds in direct commercial sales programs** also found its way into a specific new restriction on the

use of the FMFP appropriation. For the first time in the history of FMS financing, Congress placed a limit on the amount of FMFP funds that could be used for financing commercial sales. This was done indirectly by requiring that "not less than \$409,750,000 shall be available *only* for use in financing the procurement of defense articles, defense services, or design and construction services that are sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt . . . "[11] In other words, of the total FMFP appropriation of \$4,272.75 million, \$3,863 million can be made available for financing either FMS or direct commercial sales, while the remaining \$409.75 million is restricted to financing FMS cases only; Israeli and Egyptian FMFP grants, however, are exempted from this restriction.

The subject of potential FMFP corruption also arose with respect to the need for auditing direct commercial sales cases financed by the FMFP. The Appropriations Conference Committee identified some of the problems involved in investigating and prosecuting the fraudulent use of FMFP funds:

The Conferees are aware that the Department of Justice has in the past had difficulties proving guilt due to poor recordkeeping, gaining access to international banking records, being allowed to interview and take depositions from foreign nationals, dealing with issues of diplomatic immunity, and in recovering lost funds.[12]

The Conference Committee further recognized that efforts were underway within the Department of Justice and *within the Defense Security Assistance Agency* "to strengthen the ability of the United States government to investigate and prosecute FMS related corruption cases." [13] In the Committee's view, "administrative procedures, audit functions, and legal requirements should be such as to assure the American taxpayer that funds are not stolen or misspent." Accordingly, to help assure that "investigations can be successfully pursued to ensure that the perpetrators of such crimes are convicted and that stolen funds are recovered," Congress passed the following new provision regarding audits of FMS-funded commercial sales:[14]

Provided further, that the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading [FMFP] (as well as subcontractors thereof) as requested by the Defense Security Assistance Agency [DSAA].[15]

DSAA is currently in the process of establishing new regulations which will enhance DOD's ability to monitor and audit such commercial contracts.

Two additional features of the FMFP legislation are worthy of comment. As in previous years, Congress made special provisions for the **State of Israel** with respect to its use of FMFP funds for financing "advanced fighter aircraft programs or for other advanced weapons systems." To the extent Israel requests the use of its FMFP grants for such purposes, P.L. 100-461 authorizes Israel to use "up to \$150 million for research and development programs in the United States" for such systems; additionally, "not less than \$400 million shall be available [to Israel] for the procurement in Israel of defense articles and defense services, including research and development." [16]

Also of interest is the FY 1989 earmarked military assistance funding provided for **Greece and Turkey**. Since FY 1980, in response to the Cyprus conflict, Congress has insisted that the annual total military assistance (i.e., FMFP and MAP) for Greece be provided at a level of not less than 70 percent of that furnished to Turkey. This allocation procedure, widely known as the "7-10 ratio," serves, in the view of Congress, to help maintain a military balance in the Eastern Mediterranean. Despite substantial asymmetries in the size and structure of the armed forces of the two countries and in their differing armaments requirements, repeated efforts by the Administration

to furnish higher assistance levels to Turkey have been consistently constrained by rigid Congressional adherence to the 7-10 allocation ratio.

As in previous years, the Administration asked Congress to fund these two countries in FY 1989 outside of the parameters of the 7-10 ratio. The budget proposal sought FMFP grants of \$350 million for Greece and \$550 million for Turkey, a 7-11 distribution ratio. Congress, however, reduced the appropriation for Turkey to \$500 million, thereby again placing it in exact conformity to the 7-10 ratio. It should also be noted that Turkey will receive \$60 million in earmarked economic assistance (ESF) which is not counted against the ratio; Greece, however, receives no ESF appropriation.

Congress, as in past years, made an attempt to establish the 7-10 ratio for Greece and Turkey in law. Although Congressional Committees have regularly applied this ratio in their dollar earmarks in the annual authorization and appropriations process, and have made frequent reference to it in their committee reports, the Administration has been successful in persuading Congress to refrain from incorporating into law a statutory requirement for employing the ratio. The House Appropriations Committee proposed including such language in the FY 1989 Foreign Assistance Appropriations Bill (H.R. 4637), but faced again with strong resistance from the Administration, this provision was dropped in the Appropriations Conference Committee.

P.L. 100-461 also contains a special FMFP provision carried over from FY 1988 whereby Greece is to receive not less than \$30 million in MAP funds if any such funds are furnished to Turkey. Such a required allocation of \$30 million was made to Greece in FY 1988 when Turkey received \$156 million in MAP funding. For FY 1989, the Administration originally considered placing all of the earmarked military assistance for Turkey in the FMFP, thereby obviating any requirement for MAP funding for either country. However, during the lengthy post-legislative funding allocation process, as the Executive Branch sought a remedy to the minimal level of available FMFP discretionary funds (\$10.75 million), the decision was made to allocate a portion of the earmarks for Greece and Turkey as MAP funds. Thus, Turkey received \$430.7 million for the FMFP (\$340.75M in grants plus \$90M in loans) and \$69.25 million in MAP; and Greece received \$320 million, all in FMFP loans, and \$30 million in MAP.

This transfer of a total of \$99.25 million to the MAP account served to increase the non-earmarked funding available for the FMFP from \$10.75 million to \$110.00 million; this action thus enabled the Administration to allocate non-earmarked FMFP grants to Jordan and Portugal of \$10.00 million and \$100.00 million, respectively, as shown in Table 2. Of course, the transfer also increased the earmark level in the MAP account, as discussed below.

TABLE 3
FY 1988-89 MAP FUNDING ALLOCATIONS
(Dollars in Millions)

Country/ Regional Program	FY 1988 Initial Funding Allocations	FY 1989 Funding Request	FY 1989 Funding Allocations	Country/ Regional Program	FY 1988 Initial Funding Allocations	FY 1989 Funding Request	FY 1989 Funding Allocations
Belize	\$0.00	\$ 0.50	0.00	Liberia	0.00	1.00	0.00
Bolivia	0.00	5.00	5.00 [C]	Madagascar	0.00	1.00	0.00
Botswana	0.00	4.00	0.00	Malawi	0.50	1.20	0.25
Central African Republic	0.00	0.50	0.00	Morocco	40.00 [A]	0.00	0.00
Chad	5.50	10.00	2.00	Nepal	0.00	0.50	0.00
Colombia	0.00	5.00	6.00 [C/E]	Niger	1.00	2.00	0.00
Costa Rica	0.00	1.50	0.00	Peru	0.00	0.00	1.50 [C]
Djibouti	1.00	2.00	0.50	Philippines	125.00 [A]	110.00	125.00 [A]
Dominican Republic	0.00	2.00	0.00	Portugal	80.00	0.00	0.00
Eastern Caribbean [B]	0.00	5.00	0.50	Senegal	0.75	2.00	0.50
Ecuador	0.00	3.00	4.00 [C]	Somalia	5.50	17.00	2.50
El Salvador	85.00	95.00	85.00	Sudan	0.00	5.00	0.00
Fiji	0.00	0.30	0.00	Thailand	20.00	45.00	22.00
Greece	30.00 [A]	0.00	30.00 [D]	Tunisia	27.00	0.00	0.00
Guatemala	7.00 [A]	5.00	9.00 [A]	Turkey	156.00 [A]	0.00	69.25 [D]
Honduras	40.00	60.00	40.00 [F]	Yemen	1.00	0.00	0.50
Indonesia	0.00	10.00	1.00	Zaire	3.00	10.00	3.00
Jamaica	0.00	3.50	3.50 [C]	Africa Civic Action	3.00	5.00	2.00
Jordan	26.50	0.00	0.00	General Costs	38.00 [A]	42.00	40.00
Kenya	5.00	13.00	15.00 [A]	TOTALS	\$700.75	\$467.00	\$468.00 [F]

[A] Congressional earmark.

[B] Funds requested for the Eastern Caribbean were proposed to be allocated among Antigua-Barbuda (\$1.03M), Barbados (\$0.83M), Dominica (\$0.70M), Grenada (\$0.73M), St. Christopher-Nevis (\$0.45M), St. Lucia (\$0.72M), and St. Vincent and the Grenadines (\$0.54M), for a total of \$5.0M.

[C] Includes distribution of a \$16.5M narcotics control earmark per Section 578(a)(2), P.L. 100-461, allocated as follows: Bolivia, \$4.5M; Colombia, \$5.00M; Ecuador, \$3.5M; and Jamaica, \$3.5M. Also included is an additional \$3.5M general narcotics control earmark for Latin America/Caribbean per Section 4205, P.L. 100-690, which has been allocated among Bolivia, Colombia, Ecuador, and Peru.

[D] Reflects military assistance earmarks (MAP portion) for Greece and Turkey.

[E] Includes a \$1.0M earmark for Narcotics Control Aircraft, per Section 4203(a), P.L. 100-690.

[F] Includes \$1.0M in anticipated MAP receipts.

THE MILITARY ASSISTANCE PROGRAM (MAP)

The \$467 million appropriated for MAP for FY 1989 is equal to the level requested by the Administration, but is nevertheless \$233.75 million (or 33.4%) below the prior FY 1988 funding level. The reduced MAP funding level requested for FY 1989 by the Administration was "partly attributable to the fact that an all-forgiven FMS financing program" was also requested for FY 1989.[17]

As proposed by the Administration, the FY 1989 program would have provided funding for 30 country and regional programs. However, direct funding earmarks totalling \$169.5 million (or 36.19%) of the MAP appropriation, plus an additional \$99.25 million from the military assistance earmarks for Greece and Turkey (as discussed above), together with up to \$40.0 million designated for funding MAP general costs (i.e., administrative expenses, including SAO expenses), resulted in limiting MAP funding allocations to 24 countries and regional/special programs. Moreover, the painful choices involved in allocating funds heavily constrained by Congressional earmarks, resulted in the "zeroing out," i.e., the denial of any MAP funds whatsoever for 12 countries for which FY 1989 funding had been requested. Additionally, another 12 countries/programs suffered major cuts in their planned funding for FY 1989. Table 3 identifies the MAP allocations for both FY 1988 and FY 1989, including Congressional earmarks, as well as the Administration's original FY 1989 funding proposal.

Apart from Greece and Turkey, MAP funding for the three directly earmarked countries included: **The Philippines**, \$125 million; **Kenya**, \$15 million; and **Guatemala**, \$9 million. The Philippines earmark was identical to that furnished in FY 1988, but was \$15 million higher than that requested by the Administration. Congress opposed any funding reductions for the Philippines, citing the country's need for economic recovery and the continuing threat posed by communist insurgents. The Philippines was also earmarked to receive \$124 million in ESF and \$40 million in development assistance funds.

A special limitation was attached to the Guatemala funding earmark which restricts such funds to "non-lethal military assistance . . . of which not less than \$2,000,000 shall be available only for civic action programs and for the construction of military barracks." [18] The Appropriations Conference Committee reported that its intent in providing this assistance to Guatemala was, "for the purpose of promoting democratically elected, civilian government in Guatemala and with the understanding that the country's defense forces will respect the human rights of the citizens of Guatemala." [19]

In addition to these country-specific earmarks, an additional \$16.5 million in MAP funds was earmarked in Section 578 of P.L. 100-461 for support of the **International Narcotics Control Program**; and another \$4.5 million in MAP funds is earmarked for this same program in the *International Narcotics Control Act of 1988* (Title IV, Sections 4203 and 4205, incorporated in the *Anti-Drug Abuse Act of 1988*, P.L. 100-690, November 18, 1988). A discussion of these narcotics control-related provisions is provided in a separate section later in this article.

Although FY 1989 MAP funds for El Salvador were not earmarked, Section 539, P.L. 100-461 extends unchanged a prior year provision which requires that \$5 million of the combined military assistance funds (i.e., MAP, IMET, and FMFP) allocated to El Salvador be withheld from expenditure until the President reports:

following the conclusion of the Appeals process in the case of Captain Avila, to the Committee on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative actions with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera,

and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

Similar provisions involving El Salvador (and identified as the Harkin Amendment for its originator, then Representative, now Senator Tom Harkin, D-IA) have been in every annual foreign assistance appropriation since the enactment of P.L. 98-473 in October 1984. With no adequate resolution of this murder case yet at hand, a total of \$20 million in appropriated military assistance funds has been already been withheld from El Salvador during the period FY 1985-FY 1988, and these funds were reallocated to other country programs.

Several additional Congressional actions regarding MAP deserve comment. In last year's FY 1988 Continuing Appropriations Act, Congress passed legislation which would have required by 1 October 1990 the **termination of the MAP Merger Program** (i.e., the merging of MAP funds with a country's cash deposits and/or any FMS grant/loan monies available to fund FMS cases).[20] This would have required the establishment of a new, separate accounting system to manage MAP funds in FY 1990 and thereafter. The Administration strongly opposed this requirement, arguing that such a system would not increase the visibility of MAP expenditures (as Congress believed) since such expenditures were already highly visible, and that it would only add to the already complex financial management required for FMS cases. Congress was persuaded by the Administration's view that such a major accounting change was unnecessary, and in the FY 1989 Appropriations Act, Congress repealed this requirement.[21]

For FY 1989, Congress also adopted a proposal initiated within the House Appropriations Committee which establishes a new **three-year limit on the commitment of MAP funds**. Heretofore, no legislative time limit was applied to such commitments. For FY 1989, however, Congress has stipulated that any FY 1989 MAP funds, "that have not been committed for the payment of any sale under the Arms Export Control Act during the period ending at the end of the second fiscal year after the fiscal year for which such funds were appropriated [i.e., 30 September 1991] shall not be committed . . . "[22] However, Congress did provide a means for extending the MAP commitment period beyond three years by allowing for a fifteen-day prior notification to the two Appropriations Committees in which would identify, "the amount of funds involved, the reasons why no commitment was [previously] made thereof, and the proposed [FMS] sales to be financed with such funds." [23]

Three additional new legislative provisions regarding MAP are included in P.L. 100-461. The first provides authority for the **reprogramming of MAP funds**. This new provision permits MAP funds, which were originally programmed to finance particular FMS cases, to be reprogrammed to finance other FMS cases, "in the event of sales cancellations, reductions, excess funds at case closure, or other reasons relating to the implementation of [the original] sales programs." [24] The second provision establishes a **new MAP Congressional reporting requirement** involving the expenditure of MAP funds. Under this new requirement, the Appropriations Committees must be furnished, "on March 1 of every year, a complete report of the status of military assistance funds appropriated by this [P.L. 100-461] or any future act committed for the payment of any sales under the Arms Export Control Act as regards the individual sale, item description, and estimated sales price." [25]

The final new MAP-related provision in the FY 1989 Appropriations Act concerns a **MAP penalty clause** related to the timing of the distribution of the annual *Congressional Presentation [Document] for Security Assistance Programs (CPD)*. The CPD is developed jointly within the Department of State (PM-SAS) and the Department of Defense (DSAA). It provides extensively detailed supporting information in justification to the Congress of the Administration's proposed budget and related statutory recommendations for Congressional consideration in the passage of the annual security assistance authorization/appropriations legislation. Under the provisions of Section 25(a) of the Arms Export Control Act, the CPD is

required to be provided to Congress "no later than February 1 of each year." In recent years, the preparation of a final *CPD* has generally been delayed for several reasons, including lengthy hold-ups in the passage of prior year appropriations acts (i.e., continuing resolutions), and pressure to present Congress with a budget which would reflect an equitable funding distribution despite anticipated budget reductions. Nevertheless, the Administration attempted to meet Congressional notification requirements by furnishing Congress with a preliminary *CPD*, and then following this up with a final version. However, Congress has been dissatisfied with this approach. The House Appropriations Committee (HAC) reported its "frustration that the *Congressional Presentation [Document] for Security Assistance Programs for FY 1989* was not presented to the Committee on Appropriations until May 4, 1988, one week after the House Subcommittee on Foreign Operations, Export Financing, and Related Programs had completed all hearings on this bill." [26] Consequently, the HAC introduced the following MAP penalty provision into H.R. 4637 to stimulate the more rapid furnishing to Congress of the FY 1990 *CPD*.

Unless the fully printed final version of the fiscal year 1990 Congressional Presentation for Security Assistance Programs is received by the Congress by March 1, 1989, \$10,000,000 of the funds appropriated by this Act for the Military Assistance Program [MAP] shall be returned immediately to the General Fund of the United States Treasury. [27]

This HAC provision was subsequently enacted in its entirety as Section 575, P.L. 100-461. It should also be noted that this new provision implies a legislative extension to March 1 of the February 1 deadline stipulated in Section 25(a), AECA. In any event, the Administration succeeded in presenting Congress with the *FY 1990 CPD* on 9 January 1989, on the same day as President Reagan's proposed overall FY 1990 U.S. Budget was also furnished to Congress.

THE INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET) PROGRAM

The Administration had proposed for FY 1989 that Congress increase the IMET Program appropriation to \$52.5 million from the \$47.4 million appropriated for FY 1988. Neither Appropriation Committee, however, supported the request. The HAC recommended a funding level of \$51,254,750 while the SAC cut the request much further, down to the FY 1988 level of \$47.4 million. The SAC reported its belief "that the IMET grant program has proven a valuable element in the U.S. military assistance effort," but nevertheless, the SAC added that, as with other military assistance programs, the IMET "funding level requested must be reduced due to severe budgetary constraints imposed upon the Committee," a comment identical in wording to that which appeared in the FY 1988 SAC Report. [28]

The Conference Committee endorsed the SAC recommendation, thereby resulting in IMET funding for FY 1989 at the same level as the previous year, i.e., \$47.4 million. At this level, grant IMET funds have been allocated among 109 countries, equal to the number proposed in the original budget request. It is estimated that these allocations will provide training for approximately 6,000 foreign military personnel, somewhat below the originally proposed 6,233 students.

As in previous years, Congress took little direct legislative action affecting the IMET Program. However, one significant new provision was passed which warrants discussion. This involves furnishing IMET grant training to students from high income countries.

Since 1985, the HAC has annually expressed its concern over Executive Branch requests for IMET funding to be furnished to countries whose high annual personal income levels indicated to the Committee that such countries were capable of providing their own national funds to satisfy

their military training requirements. These countries had been identified by the HAC as those with an average annual per capita income exceeding \$5,500. Believing that IMET should be restricted to less prosperous countries, the HAC provided the following instructions to the Administration in its FY 1988 report: "If in the future the Administration includes IMET funding for high income countries . . . , the Committee directs the Defense Security Assistance Agency to provide a specific justification for the request." [29] For its part, the Administration has maintained that providing IMET programs to these countries, "furthers U.S. national security and foreign policy interests as well as ensuring continued military-to-military ties that might not otherwise occur." [30]

In its FY 1989 Committee Report, the HAC re-expressed its concern regarding this issue, using words identical to those cited above from its FY 1988 report. [31] But while the HAC retained \$5,500 as the threshold average annual per capita income level, and though it offered no specific legislative action for FY 1989 regarding this issue, a much more restrictive approach was adopted by the SAC for FY 1989. Expressing "its displeasure at the egregious manner in which IMET funds have been used to support programs in advanced, industrialized countries . . . [which] have the capacity to train and equip their own military forces," the SAC argued that any IMET expenditures on behalf of such countries "constitutes a sharp deviation from the original purpose of the program." [32] To preclude such future expenditures, the SAC recommended that no IMET funds whatsoever "be made available for grant financed military education and training for any country whose annual per capita GNP (as set forth in International Bank for Reconstruction and Development [i.e., the World Bank publication] *World Development Report, 1988*) exceeds \$2,349." [33]

Opposition by the Administration to the rigid nature of this proposed stricture, including the lowering of the former HAC endorsed threshold of \$5,500 to the new SAC proposed threshold of \$2,349 (a 59 percent reduction which would embrace many more nations), led to extended consideration of this issue in the Appropriations Conference Committee. Eventually a compromise was reached which retains the lower threshold, but which also allows IMET monies to be furnished to such "high income" countries if they agree to pay the transportation and living allowances (TLA) of their students in the IMET Program. As enacted in the FY 1989 Appropriations Act, this new provision reads as follows:

Provided, that none of the funds appropriated under this heading [IMET] shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds \$2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students. [34]

An analysis by the Department of State of the World Bank's *Development Report, 1988*, revealed the broad impact of this new statutory provision. Of the 20 countries which fall into this new Congressionally-defined "high income" category, 11 had used IMET funds in FY 1988 to pay for student TLA. These countries include Austria, Antigua, Barbados, The Bahamas, Finland, Gabon, Greece, Iceland, Oman, Spain, and Trinidad. Additionally, three other "high income" countries which received no funding in FY 1988 but are programmed for IMET in FY 1989 are also affected: Ireland, Malta, and Suriname. Luxemburg, which also falls into the category, may be affected in FY 1990 when it is programmed to receive IMET funds. Five other "high income" IMET recipient countries which do not normally use IMET funds for TLA, and therefore are not affected by the new legislation, include Algeria, Argentina, Korea, Singapore, and Venezuela. [35]

In pursuing a compromise on this issue with the Appropriations Conference Committee, the Administration entered into an agreement with the Committee, "to draw down [country IMET] programs appropriately so that money available from the reduced TLA costs would not result in an increase in the overall size or scope of the country IMET Program." [36] A problem remains, however, with respect to the implementation of the FY 1989 IMET Program. As reported by the Department of State, the "unexpected assumption of TLA will most likely become a host country

budget issue and may interrupt the flow of IMET students to CONUS in early FY 1989 until appropriate [host country] budgetary arrangements are made." U.S. training officers in Security Assistance Organizations (SAOs) in the affected countries have been directed to report any changes to their countries planned FY 1989 IMET programs resulting from these new TLA restrictions. They have also been advised that, "no late cancellation charges will apply for training cancelled as a result of this legislation." [37]

One additional IMET-related issue which did not produce any new legislative provisions but did result in guidance to the Executive Branch from the Senate Appropriations Committee involves the subject of "nation-building training." The SAC reported its belief "that military training professionals in many developing countries would benefit from training which enhances their ability to construct public works and to engage in other activities helpful to the economic and social development of their countries." The SAC cited support by the Departments of State and Defense for such programs in Africa and elsewhere as confirmation of the Committee's positive view of nation building training. Accordingly, the SAC Report includes the statement that, "the Committee encourages the Department of State and DOD to allocate a portion of the funds made available each year for IMET for training of foreign military personnel in nation building activities including engineering, communications, electronics, maintenance, medicine, logistics, management, and jurisprudence." [38]

A final IMET-related issue involves a legislative initiative presented by the Administration requesting Congress to **exempt IMET from the restrictions of the Brooke Amendment.** This amendment (annually re-enacted in the Foreign Assistance Appropriations Act [currently, Section 518], and named for its original sponsor, former Senator Edwin Brooke, R, MA) calls for the termination of funded assistance to any country, "which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States" pursuant to a funded U.S. foreign assistance program. The Administration's request to exempt country IMET programs from the funding suspension provisions of the Brooke Amendment was justified in Congressional testimony by Lieutenant General Charles W. Brown, USA, Director, DSAA, as follows:

IMET's objectives are primarily the longer-term ones of building strong and productive relations with and promoting professionalism within foreign military establishments; exempting IMET from restrictions such as Brooke will prevent shorter-term problems, such as loan arrearages, from interfering with the achievement of these longer-term objectives. [39]

Congress, however, was unpersuaded, and rejected the Administration's request. In its report on this issue, the HAC stated its opposition to any weakening of the Brooke Amendment. The HAC observed that the Brooke Amendment, "provides a one-year overdue period for the payment of country debts before sanctions are applied--a very generous timeframe." Further, the Committee reported its belief that, "DSAA could administer their Brooke Amendment effected training participants in a less damaging manner, while remaining in compliance with existing law." As an example, the HAC discussed an IMET-funded foreign military student who was scheduled for English language training, followed by "substantive training." If, in the interim, the student's country were to fall under the Brooke provisions, the HAC saw "no reason why the provisions of the Brooke Amendment would require the immediate return of the participants after the [conclusion of] English language training." The HAC did advise, however, that it believed that, "no new training participants should be allowed while a country remains under a Brooke Amendment sanction." The HAC concluded its comments on this matter by encouraging "DSAA to consult with AID [Agency for International Development] on how that agency administers its training participants under these circumstances." [40] In view of this HAC position, DSAA subsequently changed its IMET interpretation to now allow students who have already initiated their IMET-funded training to complete their full scheduled battery of courses should their government become

subject to the Brooke Amendment. Previously, students in such a situation were sent home immediately upon completion of the individual course in which they were then enrolled.

THE SPECIAL DEFENSE ACQUISITION FUND (SDAF)

The SDAF is designed to permit the acquisition of defense articles and services in anticipation of future foreign government requirements. As such, the SDAF reduces procurement lead times, permits improved responses to emergency foreign requirements, and reduces the need for drawdowns or diversions of defense equipment from U.S. stocks or new production. Since FY 1982, when the SDAF was first implemented, the fund has been capitalized with various FMS-derived monies, i.e., charges for asset use and non-recurring research, development, and production costs, plus sales revenues from SDAF-procured items. [41] Under current law, total SDAF capitalization cannot exceed \$1,070 million, which applies cumulatively to the total of the amounts in the fund plus the value of defense articles held or on order by the SDAF.[42] Further, the total amount available for SDAF obligation in a given year must be specified in the annual Foreign Assistance Appropriations Act.[43]

Last year, Congress reduced the FY 1988 SDAF obligational authority to \$236,865,000; this represented a 25 percent cut from the FY 1987 level of \$315,820,000. The SAC had justified the FY 1988 reduction as "necessary to reinforce selectivity and caution in ongoing procurements." [44] For FY 1989, the Administration proposed raising the annual obligational authority to \$350 million, the identical level it had previously requested, albeit unsuccessfully, for FY 1988. The Director, DSAA, advised Congress that it was "difficult to understand why a program as valuable as the SDAF suffered such a large reduction [for FY 1988] when that reduction will have no significant effect on the budget." General Brown further observed that the SDAF is a revolving fund which only spends "previously appropriated funding (from certain receipts from FMS Sales)," and that "its spending authority is not scored as budget authority . . . , and it outlays at an extremely slow rate." He concluded that, "Reduced SDAF spending authority could precipitate increased emergency drawdowns from U.S. forces, especially when decreased U.S. defense spending could produce longer procurement lead times for many items." [45]

Congress, however, proved unwilling to increase the SDAF obligational authority for FY 1989. Both the HAC and the SAC recommended holding the FY 1989 obligational level at the FY 1988 level, i.e., \$236,865,000, with the SAC repeating its prior year view, "that this limit is necessary to reinforce selectivity and caution in ongoing procurements." [46] Thus, Congress continued to restrict the SDAF for FY 1989 to limited acquisitions at the same dollar value as in FY 1988.

Congress did, however, act on the Administration's request for an extended period for implementing the SDAF obligational authority for FY 1989. Unlike certain DOD programs, which enjoy a three-year obligational authority, the SDAF had been previously limited to a one-year period. The Executive Branch had reported that due to protracted contract negotiations, lengthy SDAF and DOD coordination often resulted in the slippage of some SDAF programs into a following year's procurement cycle; this often led to a failure to implement specific SDAF planned procurements due to expiration of the one-year obligational authority. Moreover, the problem also impacted on DOD procurements, since "SDAF participation would have enabled the aggregation of the minimum procurement quantities necessary for economical purchase," i.e., unit prices would have been lowered through larger procurement contracts incorporating both DOD and SDAF requirements.[47]

Although the SAC took no action on this SDAF request, it was supported in the HAC, which endorsed a three-year extension of the SDAF obligational authority for FY 1989. The HAC pointed out that a three-year extension was "needed to coordinate SDAF purchases within cost-

effective DOD contracts and to avoid disruptions to DOD contracting efforts which are based upon the availability of funds over a three year period." [48] The Conference Committee accepted the HAC recommendation, and it was subsequently enacted. Thus, as the SDAF enters its seventh year of operation it will enjoy, for the first time, a three year obligational authority period.

WAR RESERVE STOCKPILES FOR ALLIED FORCES OR OTHER FORCES (WRSA)

The Administration's FY 1989 security assistance budget proposal included a request for authority to increase the value of the War Reserve Stockpile for Allied Forces (WRSA) by a total of \$87 million. [49] Currently, only two non-NATO countries--Korea and Thailand--are authorized to maintain such stockpiles of U.S. defense articles. These stockpiled items remain under the title and control of the U.S.; and the requested authority for an increase in stockpile values does not represent a new appropriations authority, but rather a request for permission to transfer current U.S. stocks into the stockpiles at a Congressionally authorized value. Of the \$87 million authority proposed by the Administration for this purpose, \$77 million worth of defense articles was to be set aside for Korea, and \$10 million for Thailand. [50]

Congress acted on the request, but limited the FY 1989 transfer authority to \$77 million. The Administration subsequently decided to transfer \$67 million in stocks to the Korean stockpile, and \$10 million to Thailand.

INTERNATIONAL NARCOTICS CONTROL PROGRAM

Congress appropriated \$101 million directly to the International Narcotics Control Program. [51] Substantial additional funding for this program, however, was also earmarked in the *FY 1989 Foreign Assistance Appropriations Act* (P.L. 100-461, October 1, 1988) in accounts appropriated for two security assistance programs--MAP and ESF. Subsequently, the *International Narcotics Control Act of 1988* (incorporated as Title IV of the *Anti-Drug Abuse Act of 1988*, P.L. 100-690, November 18, 1988) was enacted and included a number of other such security assistance program earmarks, including one involving IMET as well. Differences exist in the provisions of the two bills, but they are resolved in favor of P.L. 100-690, since it was enacted following the passage of P.L. 100-461, and is therefore the most current law. The following identifies a wide variety of earmarked foreign assistance funds which will be employed in FY 1989 in support of U.S. anti-drug activities under the provisions of the two laws.

Section 578(a)(2), P.L. 100-461, earmarked \$16.5 million in MAP funding for **Bolivia, Ecuador, Jamaica, and Colombia**. This earmark contains a further provision that not more than \$5 million in such MAP funds can be made available to any one of these four countries. Accordingly, the Administration allocated the \$16.5 million as follows: Bolivia, \$4.5 million; Ecuador, \$3.5 million; Jamaica, \$3.5 million; and Colombia, \$5 million.

Title IV, Section 4203(a), P.L. 100-690, earmarks \$1 million in MAP funds, "to arm, for defensive purposes, aircraft used in narcotics eradication or interdiction efforts." These funds are limited to "arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft." Congress has also required that it be provided a 15-day notification prior to the use of these funds. The severity of the drug production problem in Colombia led to the Administration's allocation of this earmark in its entirety to that country. This earmark will be subsumed within the broader MAP earmark for Colombia described above.

Another \$3.5 million in MAP funding is earmarked in Title IV, Section 4205, P.L. 100-690, for countries in Latin America or the Caribbean, "for the procurement, for use in narcotics control, eradication, and interdiction efforts, of weapons or ammunition for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement." Use

of these funds is also subject to a 15-day programming notification. Of special interest is the fact that in this legislation, Congress authorized a waiver of the prohibitions on police training assistance contained in Section 660(a), FAA, to permit such MAP expenditures in both FY 1989 and FY 1990. The Administration chose to allocate these funds for police and paramilitary forces in four specific countries: Bolivia, \$0.5 million; Colombia, \$1.0 million; Ecuador, \$0.5 million; and Peru, \$1.5 million.

A final provision dealing with MAP is an authority in Title IV, Section 4305(b), P.L. 100-690, which provides a supplemental authorization for FY 1989 of \$15 million in MAP for Colombia. This is *not* an appropriation; rather it is an authorization for a future possible appropriation. The funds, if appropriated, would be for use in providing defense articles, "to the armed forces of Colombia to support their efforts to combat illicit narcotics production and trafficking." In a related action, Title IV, Section 4305(a), P.L. 100-690, amends Section 515 (c) (1), FAA, to add Colombia to the list of countries identified in that section which are permitted to have more than six U.S. military personnel assigned to an overseas Security Assistance Organization to conduct security assistance activities.

A narcotics control-related earmark of \$2 million in FY 1989 IMET funds is stipulated in Title IV, Section 4204 of P.L. 100-690. These funds are to be used for two general purposes. First, they may finance "education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts of countries in Latin America and the Caribbean" which have been identified as "major illicit drug producing or major drug transit countries," as defined in Section 481(i), FAA. (By this definition, a "major illicit drug producing country" is one which produces "five metric tons or more of opium or opium derivative during a fiscal year," or produces "five hundred metric tons of coca or marijuana . . . during a fiscal year.") The second use of IMET funds (which is also limited to countries falling under the Section 481(i), FAA definition) is for the deployment of DOD Mobile Training Teams, "to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction." [52] Countries eligible for either type of such IMET assistance must also have democratic governments, and their law enforcement agencies must "not engage in a consistent pattern of gross violations of internationally recognized human rights." Also, the police training prohibitions of Section 660, FAA, are again waived for the use of IMET funds for either of the above purposes. [53] Furthermore, these funds are only available to law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

Finally, an additional \$61 million in FY 1989 ESF monies is also earmarked in P.L. 100-461 to support the International Narcotics Control Program. These funds are stipulated to be made available only for four countries: **Bolivia, Ecuador, Jamaica, and Peru**. A further condition limits providing any one of these four countries more than \$25.00 million in such ESF funds. The Administration chose to allocate this \$61 million as follows: Bolivia, \$25 million; Ecuador, \$9 million; Jamaica, \$25 million; and Peru, \$2 million.

In summary, a total of \$185 million has been directly earmarked to fund international narcotics control activities in FY 1989. This includes the following: (a) direct appropriation: \$101 million; (b) MAP earmarks: \$21 million; (c) IMET earmark: \$2 million; and (d) ESF earmark: \$61 million. In addition to these earmarks, P.L. 100-461 states that of the funds appropriated for the Agency for International Development, up to \$10 million "should be made available for narcotics education and awareness programs (including public diplomacy programs)," and up to \$15 million in development assistance funds "should be made available for narcotics related economic assistance programs." [54] Moreover, Title IV, Section 4107, P.L. 100-690 earmarks \$3 million for FY 1989 as the U.S. contribution to multilateral and regional drug abuse programs. Of this total, \$600,000 and \$400,000, respectively, are designated for the Legal Development Project and

for the Law Enforcement Training Project, both of which are administered by the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS).

A further narcotics-related provision of P.L. 100-691 warrants attention inasmuch as it has a direct bearing on the allocation and reallocation of security assistance funds. In a significant change which adds a new Section 468 to the FAA of 1961, Congress has authorized the **reallocation of any security assistance funds** which are not used for a country for which they were originally allocated because the subject country had subsequently violated any "provision of law requiring the withholding of assistance for countries that *have not* taken adequate steps to halt illicit drug production or trafficking" [55] Such reallocations are now authorized to be used for "additional assistance for those countries which *have* met their drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking" [56] A similar provision was included in P.L. 100-461, but only as a one-year provision for FY 1989. By amending the FAA, this reallocation provision in P.L. 100-691 has now become a permanent legislative provision.

MISCELLANEOUS LEGISLATIVE PROVISIONS

Reprogramming Earmarked Funds

For FY 1989, Congress adopted a SAC-originated legislative provision which permits, under special conditions, the reprogramming (i.e., transferring) of earmarked funds from a country, regional, or special program to another program within the same appropriations account. Such reprogrammings of earmarked funds may be effected in FY 1989 under either of two specific conditions.

The first involves a technical issue of law: reprogrammings are authorized under this condition, "if compliance with the earmark is made impossible" because of the operational features "of any provision" of the FY 1989 Foreign Assistance Appropriations Act (P.L. 100-461), "*or any other Act . . .*" [57] As an example of this provision, presume a country is the recipient of earmarked MAP funds, and it is determined by the U.S. Government that such country had violated a specific U.S. statute which prescribes as a penalty for such violations the suspension or termination of all U.S. assistance. If such a suspension/termination is effected, the specific assistance funds (in this case, MAP) earmarked for that country may be reprogrammed for MAP assistance (i.e., the same program account) to another country.

The second condition under which earmarked funds may be reprogrammed involves a more specific situation, as it applies to the funds earmarked for use by "**base rights**" or "**base access**" countries. These are countries "with which the United States has an agreement providing the United States with [either] base rights or base access" in such countries. [58] The reprogramming of such a country's earmarked funds for use by another country is authorized for FY 1989, "if the President determines that the recipient for which funds are earmarked *has significantly reduced its military or economic cooperation with the United States*" since enactment of the FY 1988 Foreign Assistance Appropriations Act (P.L. 100-202). Prior to exercising this authority, however, "the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations." [59] Further, such reprogrammings are "subject to the regular notification procedures" of the two Appropriations Committees, and the reprogrammed assistance must, "be made available under the same terms and conditions as originally provided." [60]

The general issue of "military base access rights" received extensive consideration in the Senate Appropriations Committee. Reporting its opposition to the view of some base access rights countries that, "they have an entitlement to a portion of the military assistance account," the SAC asserted that the Committee "will not be a party to a military aid bidding war involving military

base access rights." The SAC observed that, "The United States does not pay friendly or allied nations for the right to advance the collective security interests of the world," and it pointed out that, "There are shared costs and benefits in an alliance or partnership relationship with the United States." In the SAC's view, "There is . . . no more pernicious concept than the view that the United States must pay some form of military assistance to a friendly nation for the right to protect it." Underlining its position, the SAC concluded: "The Committee will not be guided in its actions by any threats, stated or implied, from any government that failure to appropriate a given level of military assistance will result in loss of access to any foreign military base by U.S. military forces."[61]

Special Missile-Related Legislation

Last year, in the FY 1988 Foreign Assistance Appropriations Act, Congress prohibited the Administration from providing in any manner (i.e., by sale, grant, lease, etc.) any Stinger anti-aircraft missiles in FY 1988 to any country in the Persian Gulf, except Bahrain.[62] This statute also included a provision which required advance Presidential notification to Congress of any proposed FY 1988 sale or transfer of Stinger missiles to *any country*, regardless of the value of the sale or transfer.[63]

For FY 1989, Congress extended the FY 1988 Stinger sales prohibitions and special advance Presidential notification requirements through FY 1989, despite efforts by the Administration to have these provisions rescinded.[64] Further, in a proposal originating in the SAC, and adopted by the Senate, an advance Presidential notification requirement similar to that for the Stinger, would have been applied to the sale of, "*any* missiles, rockets, or associated launches or *any* artillery projectiles (without regard to the amount of the possible sale)."[65] The House version of the Appropriations Bill, however, did not include a comparable provision, and after substantive debate within the Appropriations Conference Committee, a significantly revised requirement was agreed upon, and subsequently enacted.

The modified provision limits the requirement for such advance Congressional notifications to the sale of only "**any Air-to-Ground or Ground-to-Air missiles, or associated launchers** (without regard to the amount of the sale)."[66] The term "ground-to-air" has been interpreted to refer to all "surface-to-air" missiles, thereby including sea-launched air defense missiles such as the Navy's "Standard Missile."

In establishing this new requirement, Congress recognized that such notifications actually might be provided through compliance with some other statutory provision. Thus, these new notification procedures apply *only* in the event that within the six months preceding the proposed sale, an advance "listing has *not* been transmitted to the Congress [by DSAA] pursuant to Section 28 of the Arms Export Act with respect to that sale *and if* Section 36(b) of that Act [the normal FMS Congressional reporting provision] does *not* apply." [67] This provision amends Section 28, AECA, and therefore is a permanent addition to this law.

The small Persian Gulf emirate of **Qatar** is the subject of a final new missile-related provision in the FY 1989 Appropriations Act. It was reported in March, 1988, that the United States Government learned that Qatar had illicitly obtained U.S. Stinger anti-aircraft missiles.[68] Officials of the Government of Qatar are said to have claimed "that they secretly bought 12 of the Stingers," but that they "refused to identify the source." [69] Claiming in June 1988 that it "needed the missiles to defend against threats to its security," Qatar reportedly rejected repeated U.S. Executive Branch efforts to get the missiles returned to the United States.[70]

Congressional concern over this illegal acquisition of Stinger missiles was expressed in an amendment introduced by the SAC to the Stinger provisions discussed previously. This new amendment, which was adopted by the Appropriations Conference Committee and subsequently

enacted, requires that Qatar return to the United States, "all Stinger anti-aircraft missiles illegally acquired or purchased," before the Administration will be permitted to issue "any letter of offer to sell any defense article or defense service to Qatar" [71] In short, no new FMS cases with Qatar may be initiated until the missiles are returned. However, the Appropriations Conference Committee agreed to defer the implementation of this ban on future sales until April 1, 1989. With respect to this delay in implementation, Senator Dennis DeConcini (D-AZ), the author of the provision, is said to have explained that, "The State Department had argued that an immediate ban would complicate diplomatic efforts to convince Qatar to return the missiles." He reportedly added that, "in any event . . . , the Department had assured him that there are no immediate plans for arms sales to Qatar." [72] Finally, this new statutory provision in P.L. 100-461 also requires the President to notify Congress when all of the missiles in Qatar have been returned. [73]

Depleted Uranium Anti-Tank Shells

Legislation first enacted in the FY 1987 omnibus supplemental appropriations act introduced a sales prohibition dealing with certain types of U.S. anti-tank ammunition. [74] The prohibition, which was restated in the FY 1988 Continuing Appropriations Resolution, restricts the use of appropriated funds to facilitate in any way the sale to any country (with certain important exceptions) of "M-833 antitank shells, or any comparable anti-tank shells containing a depleted uranium [DU] penetrating component." [75] The legislation, however, provided exemptions from this prohibition for all NATO member-countries, plus any country which had been designated as a major non-NATO ally for the purposes of Section 1105, P.L. 99-661 (National Defense Authorization Act for Fiscal Year 1987). Countries so designated included Australia, Japan, Israel, Egypt, and the Republic of Korea. Further, the Administration interpreted these legislative prohibitions to apply to all such sales to non-exempt countries, including sales financed with a purchaser country's own cash resources. [76]

The Executive Branch attempted to have Congress rescind the FY 1988 ban on sales of DU rounds (as well as the ban on Stingers discussed above) in the new FY 1989 legislation. In testimony before the Foreign Operations Subcommittee of the House Appropriations Committee, DSAA Director Lieutenant General Charles W. Brown, USA, pointed out that, "DU Rounds [like the banned Stinger] are important instruments for helping friends deter or resist aggression against our common interests" Further, General Brown pointed out that the DU round:

is the standard kinetic energy round of the American tank. Countries could simply purchase the equivalent tungsten round from other countries, and perhaps turn to them as suppliers of armored vehicles as well. Such an outcome reduces our leverage without denying the [DU round] capability to countries and regions.

General Brown concluded that, "Congress should assess transfers of these items [i.e., Stingers and DU rounds] on a case-by-case basis when they are needed, as the Administration does, instead of legislating a preemptive across-the-board prohibition." [77]

Despite the Administration's view, Congress decided to renew the ban on DU rounds (and Stingers) for FY 1989. [78] The DU-related language in the FY 1989 legislative provision is identical to that which Congress passed the previous year, except for the addition of a SAC-originated amendment which expands the exempted country list to include, "countries for which repayment, in whole or in part, of foreign military credits provided in fiscal year 1988 is forgiven." Of the total four countries which received such forgiven FMS credits in FY 1989, three were already exempted from the ban on sales of DU rounds, i.e., Israel, Egypt, and Turkey. Thus, only the fourth such country, Pakistan, is effectively added to the previous list of exempted countries (i.e., NATO member countries and major non-NATO allies).

Fair Pricing

The Executive Branch presented Congress with a package of legislative initiatives termed "FMS Fair Pricing" which it hoped to have enacted for FY 1989. Very technical in their application, these initiatives were designed to establish a more effective pricing system for Foreign Military Sales. This was to be accomplished by changing the way in which certain special FMS charges are assessed for Security Assistance program expenses. In effect, the initiatives, if adopted, would have resulted in reductions/eliminations of some of the charges required under existing legislation. Some examples are illustrative. The "asset use charges" would have been eliminated for all FMS cases, and the "recoupment charges" for nonrecurring research and development would have been automatically waived for all MAP and FMFP grant-funded sales. Further, the cost of military salaries (except for the Coast Guard) would have been excluded from defense services cases funded with nonrepayable credits (i.e., FMFP grants).

These provisions, as well as others in the Administration's legislative package, were endorsed by the SAC and subsequently passed in the Senate.[79] The HAC, however, failed to concur, and in the ensuing Appropriations Conference Committee, the overall package failed to be endorsed.

Certain limited features of the Administration's proposal, however, were enacted, albeit in a much altered fashion than originally intended. Under Section 586 of P.L. 100-461, entitled, "Fair Pricing," the following new provisions all become effective on October 1, 1989. Section 503(a)(3) of the FAA has been amended, to permit a waiver of all military salary costs (excluding those of the Coast Guard) for all FMS cases funded with FMFP grants.[80] This action now establishes a consistent policy for FMS cases funded by FMFP grants and FMS cases funded by MAP grants, since MAP funded cases already enjoyed such a waiver under Section 503(a)(3), FAA.

Additional provisions identified under the "Fair Pricing" title in P.L. 100-461 stipulate other specific cost waivers, but for only two countries--Israel and Egypt--with such waivers limited to these countries respective F-16 acquisition programs, Peace Marble III and Peace Vector III. One such "fair pricing" provision permits a waiver of \$20 million and \$11.7 million, respectively, from Israel's and Egypt's total administrative surcharges for their F-16 programs.[81] The costs associated with the waivers of these surcharges, however, must be reimbursed from "any funds available to the Department of Defense," as determined by the Secretary of Defense, for carrying out the administrative expenses of these programs, per Section 43(b), AECA.[82] Procedures for implementing this reimbursement requirement are contained in Section 705 of the *FMS Financial Management Manual, DOD 7290.3-M*.

Also provided in the new legislation are provisions authorizing waivers of specified amounts of the nonrecurring cost recoupment charges for these country's F-16 programs. Specific waivers for this purpose of \$70 million and \$38 million have been granted, respectively, to Israel and Egypt.[83] Thus, Israel's Peace Marble III program will enjoy a total cost reduction of \$90 million, while Egypt's Peace Vector III will realize a total savings of \$49.7 million.

Reciprocal and Commercial Leasing

Two separate provisions of P.L. 100-461 address special authorities for the lease of U.S. defense articles. The first such provision amends Section 61(a), AECA, which authorizes "reciprocal leasing," and extends this authority through FY 1989.[84] Reciprocal leasing authority was first introduced for FY 1987, to permit the U.S. to enter into cross leasing arrangements at no charge with one country, the Government of Israel.[85] The FY 1988 Continuing Appropriations Resolution extended the authority through FY 1988, and it has now been extended for an additional year.[86]

The second provision deals with the authority for "commercial leasing." This authority was first introduced for FY 1988 in an amendment to Section 23(a), AECA, which authorizes FMFP grants to be used by Israel and Egypt, "for the procurement by leasing (to include leasing with an option to purchase) of defense articles from United States commercial suppliers." [87] This authority is limited, however, for it does not apply to any Major Defense Equipment, "other than helicopters and other types of aircraft having possible civilian applications." [88]

In the FY 1989 Foreign Assistance Appropriations Act, Congress left unchanged the basic commercial leasing authority of Section 23(a), AECA, but expanded that authority to permit FMS financing for such commercial leases to be used by NATO member-countries and major non-NATO allies (i.e., Australia, Japan, and the Republic of Korea) in addition to Israel and Egypt. [89] This authority remains contingent upon a Presidential determination which is required for each such lease, and which must state: "there are compelling foreign policy or national security reasons for those [specific] defense articles being provided by commercial lease rather than by government-to-government sale" under the AECA. [90]

Third Party Transfers

P.L. 100-461 provides technical changes to the AECA which are related to "third party transfers," i.e., the proposed retransfer of U.S. defense articles, training, or services from an original recipient country to another entity (the third party). Extant law requires the President to notify Congress before permitting such transfers whenever the items to be transferred involve either major defense equipment (MDE) originally valued at \$14 million or more, or any such items valued originally at \$50 million or more. [91] During the required 30 day Congressional notification period (15 days for NATO member countries), the law previously stipulated that Congress could enact "a law prohibiting the proposed transfer." [92] This statutory language was introduced in 1986 in P.L. 99-247 to correct legal deficiencies in earlier language. [93] P.L. 99-247 also amended various other AECA provisions which authorize Congressional action to prohibit the proposed transfer of similarly valued items under either an FMS case, through a direct commercial sale (DCS), or via a U.S. government lease. However, the 1986 AECA authorizing provisions permitting a Congressional ban of a third party transfer under either of these three situations (i.e., FMS, DCS, or lease) all employ the same language, requiring Congress to enact "a joint resolution" of disapproval rather than a law. [94] Under Congressional legislative procedures, Congress can act more expeditiously in passing a joint resolution than in enacting a law. [95]

The new 1989 amendments simply serve to technically standardize the language for all four types of situations. Thus, the term "law" in Section 3(d), AECA, governing third party transfers, has been replaced with the phrase, "joint resolution, as provided for in Sections 36(b)(2) and 36(b)(3)" of the AECA. [96] Further, the following sentence has been added at the end of paragraph (3), Section 3(d), AECA: "Such [Presidential] consent [for a third party transfer] shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in Sections 36(c)(2) and 36(c)(3) of this Act [AECA] prohibiting the proposed transfer." [97]

Country-Specific Legislation

As previously discussed, for FY 1989 Congress extended its FY 1988 prohibitions on the provision of military assistance to Haiti, Panama, and Mozambique. In the case of Haiti, P.L. 100-461 bans funded military and economic assistance to Haiti, but expands the various categories of non-military U.S. assistance which may be provided. Thus, the U.S. Peace Corps and the Overseas Private Investment Corporation can now operate in Haiti. [98] Also, the Administration is now authorized to use MAP funds to furnish Haiti limited, non-lethal military assistance "such as transportation and communications equipment and uniforms." However,

before such aid may be provided, the Appropriations Committees must be provided advance notification.[99] The resumption of assistance to Haiti is dependent on the Government of Haiti adhering "fully and faithfully" to the "democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the provisional Electoral Council . . . "[100]

The FY 1989 prohibitions regarding Panama remain unchanged from FY 1988; no military assistance whatsoever may be furnished to Panama, to include a ban on any U.S. participation in joint military exercises conducted in Panama in FY 1989.[101] This ban on Panama, which also includes most other forms of U.S. foreign assistance, is to continue unless the President certifies to Congress that:

- (1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;
- (2) an impartial investigation into allegations of illegal actions by members of the Panama Defense Force is being conducted;
- (3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and
- (4) freedom of the press and other constitutional guarantees, including due process of law, are being restored to the Panamanian people.[102]

With respect to Mozambique, the FY 1988 provision remains unchanged, banning any U.S. funded military assistance in FY 1989.[103] However, last year's prohibition on "all funded U.S. assistance" was deleted by Congress for FY 1989, thereby paving the way for the provision of U.S. economic aid to that country.[104]

Additional country-specific legislative provisions in the FY 1989 Foreign Assistance Appropriations Act include the following: a continuation of the FY 1988 requirement for a detailed economic and human rights related certification by the Secretary of State to Congress prior to authorizing the use of MAP or ESF funds for Liberia.[105]; requirements for special notifications by the Administration prior to the obligation or expenditures of any FY 1989 security assistance funds for Burundi, Jamaica, Lebanon (FMFP and ESF only), Liberia, Somalia, Sudan, and Uganda [106]; and finally, the continuation of two specific legislative provisions which place prohibitions on the commitment of any foreign assistance appropriated funds to finance either *directly* or *indirectly* any assistance to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria.[107]

CONCLUSION

Although appropriations for security assistance for FY 1989 represent the first overall increase since FY 1985, the margin of increase was slight--only 0.8 percent--and an actual decrease from FY 1988 of \$10.00 million was experienced in the combined FMFP/MAP accounts. In fact, the FY 1989 funding levels are more than 10 percent, or nearly \$1.0 billion, below FY 1987 appropriated levels. Most importantly, as this analysis has revealed, the FY 1989 funding fell almost 3 percent below the Administration's budget request for security assistance; and together with the pervasive Congressionally-mandated earmarks for selected countries and programs, the Administration faced serious problems in determining how the limited non-earmarked funds could be optimized in making allocations for FY 1989. As in the past few years, the Executive Branch was compelled to make drastic cuts in assistance for several countries, as

well as to eliminate entirely certain aid programs for other countries. Indeed, in January, 1989, the Department of State reported its concerns that the funding situation for security assistance threatens "to damage U.S. ability to conduct a vigorous foreign policy and to pursue national security objectives." The Department of State went on to report that the U.S. government was "seeking ways to lessen the adverse impact of funding reductions and constraints," but that it "did not wish . . . to raise false hopes that any increases or shifts in resources will make up the allocation shortfalls for FY 1989." [108]

The preceding report also illustrates clearly the Congressional role in the governance of security assistance. In addition to the extension through FY 1989 of various program limitations it first introduced for FY 1988, Congress enacted a variety of additional new regulatory provisions for FY 1989. These range from a constraint on the use of FMFP funds for commercial sales, to a three-year time limit on the commitment of MAP funds, a restriction on the use of IMET funds by so-called "high income" countries, and a special Congressional reporting requirement for the proposed sale of any air-to-ground or ground-to-air missiles, or associated launchers. At the same time, Congressional actions resulted in other legislative provisions that, in the Administration's view, enhance the management of security assistance, to include: an expansion of the FMFP grant program, though not at the total program level sought by the Executive Branch; an expansion of the commercial leasing authority; an exclusion of military salaries from the costs of defense services funded with FMFP grants; and a repeal of a prior year provision resulting in a continuation of the MAP Merger program. Notwithstanding these enhancements, the Administration has plans to seek additional legislative revisions for FY 1989, including a renewed submission of a revised "fair pricing" initiative for FMS sales, as described elsewhere in this issue of *The DISAM Journal* by Lieutenant General Charles W. Brown.

These newly enacted legislative provisions, together with the paramount funding problems, present the security assistance community with important management issues for FY 1989. New statutory provisions demand the development of new operating directive and procedures for the proper implementation of the new legislation. Even more difficult will be the challenges of extracting optimum benefits from the minimal funding available for FY 1989 security assistance programs. It is our hope that this article will prove helpful in understanding the new legislation and the various issues it raises, and in meeting the new management requirements resulting from the statutory changes described herein.

NOTES:

1. For an analysis of FY 1988 appropriations. see Samelson, Louis J., "Another Year of Austerity: The Fiscal Year 1988 Security Assistance Budget," *The DISAM Journal*, Spring, 1988, pp. 1-34.
2. *Congressional Record*, 28 September 1988, p. H8479, and "Line-Item Request Again Likely to Get 1-line Reply: No," *Dayton Daily News*, December 28, 1988, p. 4.
3. Felton, John, "Rare Aid Funding Bill Comes Down to the Wire," *Congressional Quarterly Weekly Report*, 1 October 1988, p. 2731.
4. Title III--Military Assistance, Foreign Military Financing Program, P.L. 100-461.
5. *Congressional Presentation [Document] for Security Assistance Programs for Fiscal Year 1989*, p. 18. Hereinafter cited as *FY 1989 CPD*.
6. *Ibid.*
7. U.S. Senate. *Foreign Assistance and Related Programs Appropriations Bill, 1989*. Report 100-395 of the Committee on Appropriations to accompany H.R. 4637, 22 June 1988, p. 78. Hereinafter cited as *FY 1989 SAC Report*.

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8. U.S. House of Representatives. *Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1989*. Report 100-641 of the Committee on Appropriations to accompany H.R. 4637, 19 May 1988, p. 86. Hereinafter cited as *FY 1989 IIAC Report*.
 9. *Ibid.*
 10. *Congressional Record*, September 28, 1988, p. H8479.
 11. Title III--Military Assistance, Foreign Military Financing Program, P.L. 100-461.
 12. U.S. House of Representatives. *Making Appropriations for the Foreign Operations, Export Financing, and Related Programs for the Fiscal Year ending September 30, 1989, and for Other Purposes*. Report 100-983 of the Committee of Conference to accompany H.R. 4637, p. 32. Hereinafter cited as *FY 1989 Conference Committee Report*.
 13. *Ibid.*
 14. *Ibid.*
 15. Title III--Military Assistance, Foreign Military Financing Program, P.L. 100-461.
 16. *Ibid.*
 17. *FY 1989 CPD*, p. 20. *Cf.* prior comments by Representative David R. Obey on p.6 of this article.
 18. Title III--Military Assistance, P.L. 100-461.
 19. *FY 1989 Conference Committee Report, op. cit.*, pp. 28-29. The Conference Committee added the following comments regarding MAP funding for Guatemala:

In providing aid to Guatemala, the conferees expect that the Government of Guatemala will continue to make significant progress toward (a) achieving control over its military and security forces; (b) investigating and prosecuting human rights violations alleged to have been committed by the security or defense forces since January, 1986; (c) eliminating kidnappings and disappearances, forced recruitment into the civil defense patrols, and other abuses of internationally recognized human rights by such forces; (d) respecting the internationally recognized human rights of the indigenous Indian population; and (e) completing negotiations for a permanent presence of the International Committee of the Red Cross. [P. 29.]
 20. Title III--Military Assistance, P.L. 100-202.
 21. Title III--Military Assistance, P.L. 100-461.
 22. *Ibid.*
 23. *Ibid.*
 24. Title III--Military Assistance, P.L. 100-461.
 25. *Ibid.*
 26. *FY 1989 HAC Report, op. cit.*, p. 101.
 27. *Ibid.*
 28. *FY 1989 SAC Report, op. cit.*, p. 88.

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29. U.S. House of Representatives. *Foreign Operations and Export Financing, and Related Programs Appropriations Bill, 1988*. Report 100-2873 of the Committee on Appropriations to accompany H.R. 3186, August 6, 1987, p. 95.
 30. Secretary of State message E.O. 12356, 090046Z November 1988, Subject: FY 1989 IMET Legislation--High Income Restriction.
 31. *FY 1989 HAC Report, op. cit.*, p. 88.
 32. *FY 1989 SAC Report, op. cit.*, p. 188. Interestingly, this very same language appears in the *FY 1989 Conference Committee Report, op. cit.*, p. 30.
 33. *Ibid.*
 34. Title III--Military Assistance, International Military Education and Training, P.L. 100-461.
 35. Secretary of State message, *op. cit.*
 36. *Ibid.*
 37. *Ibid.*
 38. *FY 1989 SAC Report, op. cit.*, pp. 188-189.
 39. Brown, Charles W., LTG, USA, "The FY 1989 Funding Request for Security Assistance," *The DISAM Journal*, Summer, 1988, p. 57.
 40. *FY 1989 HAC Report, op. cit.*, p. 88.
 41. Section 51(b), AECA.
 42. Section 114c, Title 10, United States Code.
 43. Obligational authority levels for the SDAF since FY 1982 are as follows: FY 1982 and FY 1983, \$125 million each year; FY 1984, \$225 million; FY 1985 and FY 1986, \$325 million each year; FY 1987, \$315,820,000; FY 1988, \$236,865,000; and FY 1989, \$236,865,000.
 44. *FY 1988 SAC Report, op. cit.*, p. 227.
 45. Brown, C. W., *op. cit.*, p. 52.
 46. *FY 1989, SAC Report, op. cit.*, p. 192.
 47. *FY 1989 CPD, op. cit.*, p. 37.
 48. *FY 1989, HAC Report, op. cit.*, p. 91.
 49. *FY 1989 CPD, op. cit.*, p. 402.
 50. *Ibid.*
 51. Title II--Bilateral Economic Assistance, Department of State, International Narcotics Control, P.L. 100-461.
 52. Title IV, Section 4204(a)(2), P.L. 100-690.
 53. Title IV, Section 4204(e), P.L. 100-690.
 54. Section 578(e), P.L. 100-461.

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55. Title IV, Section 4206(a), P.L. 100-690 which adds a new Section 486 to the FAA. Emphasis added.
 56. *Ibid*, emphasis added.
 57. Section 562, P.L. 100-461, emphasis added
 58. *Ibid*.
 59. *Ibid*.
 60. *Ibid*.
 61. *FY 1989 SAC Report, op. cit.*, p. 179.
 62. Section 573, P.L. 100-202.
 63. *Ibid*, emphasis added.
 64. Section 556, P.L. 100-461. The Director, DSAA, testified before the Foreign Operations Subcommittee of the House Appropriations Committee that:

STINGER missiles provide an effective and low-cost alternative for the many states which cannot afford more expensive systems such as HAWK and CHAPARRAL but need an air-defense capability that they can deploy with their tactical forces. Because of the stringent safeguards we impose and the determination of countries to guard these systems, we judge that the danger of diversion is almost nil. Brown, C. W., *op. cit.*, p. 56.
 65. *FY 1989 SAC Report, op. cit.*, p. 210, emphasis added.
 66. *Ibid*, emphasis added.
 67. Section 588, P.L. 100-461, emphasis added.
 68. Sciolino, Elaine. "Qatar Rejects U.S. Demand for Return of Illicit Stingers," *New York Times*, June 28, 1988, p. 2.
 69. *Ibid*.
 70. *Ibid*.
 71. Section 566(d), P.L. 100-461.
 72. Felton, John, *op. cit.*, p. 2732.
 73. *Ibid*.
 74. Section 508, P.L. 100-71, July 11, 1987
 75. Section 567, P.L. 100-202.
 76. Defense Security Assistance Agency (DSAA-OPS-E) message 281519Z July 1987, Subject: "Restriction on Sale of M833 Anti-Tank Ammo."
 77. LTG C. W. Brown, USA, *op. cit.*, p. 56.
 78. Section 561, P.L. 100-202.

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79. *FY 1989 SAC Report, op. cit.*, p. 203.
 80. Section 586(a), P.L. 100-461.
 81. Section 586(b)(1), P.L. 100-461.
 82. *Ibid.*
 83. Section 586(b)(2), P.L. 100-461.
 84. Section 552, P.L. 100-461, as amends Section 61(a), AECA.
 85. Section 147, P.L. 99-591, as amends Section 61(a), AECA.
 86. Section 556, P.L. 100-202, as amends Section 61(a), AECA
 87. Section 572, P.L. 100-202, as amends Section 23(a), AECA.
 88. *Ibid.*
 89. Section 580, P.L. 100-461.
 90. Section 23(a), AECA.
 91. Section 3(d)(1), AECA.
 92. Section 3(d)(2)(A), AECA, emphasis added.
 93. P.L. 99-247, February 12, 1986. For a discussion of P.L. 99-247 and the overall subject of Congressional reporting requirements for proposed transfers of U.S. weapons. see Mortsof, Larry A. and Samelson, Louis J. "The Congress and U.S. Military Assistance, Part II," *The DISAM Journal*, Fall, 1987, pp. 24-28.
 94. *Ibid.*
 95. *FY 1989 HAC Report, op. cit.*, p. 101.
 96. Section 577, P.L. 100-461.
 97. *Ibid*, emphasis added.
 98. Section 563(b), P.L. 100-461. Other categories of U.S. assistance previously authorized for Haiti in FY 1988 and continued for FY 1989 include: private, non-governmental developmental assistance, assistance involving the donation of food and medicine; disaster relief and refugee assistance; assistance under the Inter-American Foundation Act; financial aid for the education of Haitians in the U.S.; and assistance for continuing migrant and narcotics interdiction operations.
 99. Title II--Military Assistance, P.L. 100-461.
 100. Section 563(a), P.L. 100-461.
 101. Section 564(a), P.L. 100-461.
 102. *Ibid.*
 103. Section 571, P.L. 100-461.
 104. *Cf.*, Section 590, P.L. 100-202.
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105. Section 551(a), P.L. 100-202. The required certification to Congress must confirm that the Government of Liberia:

(1) has taken significant steps to: reduce extra-budgetary expenditures; reduce borrowing from any source (whether local or foreign) in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues; reduce the use of off-shore funds for the financing of domestic expenditures; and reduce the extent to which public expenditures exceed allocations.

(2) has ceased diverting and misusing United States assistance, and has paid all amounts owed to the local currency accounts (established pursuant to the Agricultural Trade Development and Assistance Act of 1954) for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(3) is making significant progress toward--(A) permitting all political parties to freely organize, assemble, and disseminate their views as provided for by the Liberian constitution; (B) respecting constitutional guarantees of freedom of the press and freedom of speech; (C) maintaining the independence of the legislative branch in accordance with the Liberian constitution; (D) establishing and maintaining an independent judiciary; (E) providing full access to all political prisoners by internationally respected human rights organizations for the purpose of investigating human rights abuses; (F) improving the human rights situation; and (G) satisfying Liberia's undisputed debts to United States Citizens.

106. Sections 532 and 543, P.L. 100-461.

107. Sections 512 and 550, P.L. 100-461.

108. Department of State message, 060011Z, 4 January 1989, Subject: FY 1969 Security Assistance Allocations.

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APPENDIX

FUNDING FOR OTHER SECURITY ASSISTANCE PROGRAMS

THE ECONOMIC SUPPORT FUND (ESF)

The ESF is the economic component of security assistance and is the second largest funded security assistance activity, ranking just below the Foreign Military Financing Program. ESF monies, which are managed by the U.S. Agency for International Development (USAID), provide grant economic assistance "to allies and developing countries of strategic concern to the United States;" and "ESF is used primarily to provide balance of payments support and to finance commodity import programs," as well as to fund, under special circumstances, "infrastructure development and other capital and economic development projects . . ."[1]

In its budget request for FY 1989, the Administration sought \$3,281 million for ESF, all of it to be employed as grant assistance. This represents the first year for which such a proposal for an all-grant ESF program has been made: while the bulk of the ESF appropriations in prior years was furnished to recipient countries as grants, a relatively small level of funding (generally under five percent) was provided in the form of long term (20-40 year) concessional loans at two to five percent annual interest rates.

While endorsing the all-grant approach for FY 1989, each of the Appropriations Committees, nevertheless, proposed funding reductions to the Administration's ESF budget request, but at differing levels. The low recommendation was made by the HAC which reported out a figure of \$3,248.5 million, while the SAC recommended an appropriation of \$3,268.5 million. Thus, a difference of \$20 million separated the two committees. Resolution of this issue was achieved in the Appropriations Conference Committee by literally splitting the difference, and the final appropriation was passed at \$3,258.5 million--some \$22.5 million (or 0.7 percent) below the Administration's request.

The ESF appropriation, like the FMFP appropriation, was heavily earmarked by Congress. A total of not less than \$3,197 million (representing 98.11 percent of the ESF account) was specifically designated for 16 countries and 4 special programs, plus Sub-Sahara Africa (where an \$85.75 million non-country specific earmark was allocated among 8 additional countries.) Despite this heavy ESF earmarking, which left only \$61.5 million available for discretionary allocation, the impact was far less severe than that experienced with the FMFP and MAP allocations. This was a direct result of varying levels of Congressional reductions to the Administration's proposed budget: such cuts were much lower for the ESF account [0.7%] as compared to the larger reductions in the combined military assistance (FMFP and MAP) accounts [3.8%]. Thus, the Administration was able to successfully allocate the non-earmarked \$61.5 million among 11 additional countries and 5 other special programs. Moreover, this represented ESF funding for almost every non-earmarked country and special program proposed by the Administration, with the allocations generally approaching, if not matching, the ESF levels originally requested. In sum, the FY 1989 ESF appropriation provides funding for a total of 35 countries and 9 special programs. Table 1A identifies the ESF allocations for FY 1988 and FY 1989, including Congressional earmarks as well as the Administration's original FY 1989 funding proposal.

TABLE 1A
FY 1988-89 ESF FUNDING ALLOCATIONS
(Dollars in Millions)

Country/ Special Program	FY 1988 Funding Allocations	FY 1989 Funding Request	FY 1989 Funding Allocations	Country/ Special Program	FY 1988 Funding Allocations	FY 1989 Funding Request	FY 1989 Funding Allocations
Belize	\$0.00	2.00	\$0.00	Thailand	5.00	5.00	5.00 [A]
Bolivia	7.32	25.00	25.00 [D/E]	Tunisia	10.00 [A]	12.50	11.25 [A]
Chad	10.00 [B]	10.00	10.00 [C]	Turkey	32.00	70.00	60.00 [A]
Colombia	0.00	0.00	5.00 [D]	Afghan Humanitarian	22.50 [A]	22.50	22.50 [A]
Costa Rica	90.00 [A]	70.00	90.00 [A/D]	Asia/Near East Regional	0.00	12.50	0.00
Cyprus	15.00 [A]	3.00	15.00 [A]				
Djibouti	3.25 [B]	3.20	3.20 [C]	Cambodian Non-Communist Resistance Forces	3.50 [A]	5.00	5.00
Dominican Republic	0.00	25.00	12.15				
Eastern Caribbean	0.00	15.00	10.20 [D]	Central American Regional	0.00	10.00	7.50 [D]
Ecuador	0.00	9.00	9.00 [E]	Costa Rica Fact Finding	0.00	0.00	0.25
Egypt	815.00 [A]	815.00	815.00 [A]				
El Salvador	185.00 [A]	185.00	185.00 [A/D]	International Fund For Northern Ireland and Ireland	35.00	0.00	10.00 [A]
Guatemala	80.00 [A]	80.00	80.00 [A/D]				
Honduras	85.00 [A]	87.00	85.00 [A]	Latin America and Caribbean Regional	15.00 [A]	12.50	8.60 [D]
Israel	1,200.00 [A]	1,200.00	1,200.00 [A]	Middle East Regional	7.00	0.00	20.00 [A]
Jamaica	0.00	25.00	25.00 [D/E]				
Jordan	18.00 [A]	18.00	15.00 [A]	National Endowment for Democracy (Nicaragua)	0.00	0.00	2.00 [A]
Kenya	10.00 [A]	10.00	10.00				
Lebanon	0.00	0.30	0.30	South Pacific Regional	10.00	11.20	10.00
Liberia	11.00 [B]	7.00	11.00 [C]				
Morocco	20.00 [A]	15.00	20.00 [A]	SUBTOTALS	\$3,188.32	\$3,268.50	\$3,258.50
Oman	13.00	15.00	15.00	Deobligation/Reobligation Authority	12.50	12.50	0.00
Pakistan	220.00 [A]	250.00	215.00 [A]				
Peru	0.00	2.00	2.00 [D/E]	TOTALS	\$3,200.82	\$3,281.00	\$3,258.50
Philippines	174.00 [A]	124.00	124.00 [A]				
Poland	1.00 [A]	0.00	3.00 [A/G]				
Portugal	32.00	60.50	50.00 [A]				
Senegal	10.00 [B]	10.00	10.00 [C]				
Seychelles	3.00 [B]	3.00	3.00 [C]				
Somalia	25.00 [B]	23.00	23.25 [C]				
South Africa	3.40 [B]	3.30	13.30 [C/F]				
Spain	3.00	0.00	0.00				
Sudan	14.35 [B]	12.00	12.00 [C]				

[A] Congressional Earmark

[B] Reflects FY 1988 allocation of non-country specific Congressional earmark of \$90 million for sub-Saharan Africa.

[C] Reflects FY 1989 allocation of non-country specific Congressional earmark of \$85.75 million for Sub-Saharan Africa.

[D] Includes distribution of a \$20.00 million earmark for the Administration of Justice program, allocated as follows: Bolivia, \$1.50M; Central America Regional, \$5.00M; Colombia, \$1.00M; Costa Rica, \$1.40M; Eastern Caribbean, \$2.30M; El Salvador, \$2.00M; Guatemala, \$2.00M; Jamaica, \$0.80M; Latin America/Caribbean Regional, \$3.50M; and Peru, \$0.50M.

[E] Includes distribution of a \$61.00 million narcotics control initiative per P.L. 100-461, allocated as follows: Bolivia, \$25.00M; Ecuador, \$9.00M; Jamaica, \$25.00M; and Peru, \$2.00M.

[F] Includes earmark of \$10.00M for scholarships.

[G] Includes earmark of \$2.00M for the independent trade union Solidarity.

The FY 1989 Appropriations Act also attached a number of specific provisions to the ESF funding earmarks identified for particular countries. As in past years, the entire ESF account for Israel (amounting to a grant of \$1.2 billion) was again designated to be furnished as a direct cash transfer, to be disbursed by October 31, 1987.[2] Also, again as in previous years, an additional stipulation in P.L. 100-461 attached to the Israeli ESF account provides that, "it is the policy and intention of the United States" that Israel's ESF funds "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." [3]

A direct cash transfer of not more than \$115 million is also again authorized for FY 1989 to be furnished to Egypt from out of her total ESF grant of \$815 million. As in past years, Congress again stipulated that this cash transfer was being provided, "with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years" [4] Further, Congress again designated that not less than \$20 million of Egypt's ESF appropriation be provided in the form of Commodity Import Program Assistance. [5]

Two other provisions of the FY 1989 Appropriations Act regarding the ESF appropriations for Israel and Egypt warrant mentioning. First, as in FY 1988, Congress again directed the President, "in exercising the authority to provide cash transfer assistance" to the two countries, to "ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States," to either Israel or Egypt. [6] Secondly, with respect to the sizeable level of funding for the two countries, which together represents 61.84 percent of the total FY 1989 ESF appropriation, Congress restated its prior year objective: "It is the sense of Congress that the recommended [i.e., earmarked] levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David accords and upon the Egyptian-Israeli peace treaty." [7]

Other ESF appropriations affecting the Middle East include: an earmark of \$5 million for **Middle East regional cooperative programs** [8]; and authority to commit up to \$5 million "to assist the people of Lebanon." [9] This funding for Lebanon is contingent upon it being made available, "only through the United Nations Children's Fund, indigenous non-governmental organizations, or international organizations," and that it be provided pursuant to the general authorities in Section 491, FAA of 1961, governing the provision of international disaster assistance. [10] A further ESF provision affecting the Middle East involves an earmark of \$15 million for development projects for the **West Bank and Gaza Program**; this program had previously been administered by Jordan, but in view of Jordan's 1988 announced withdrawal from political and economic responsibility for the occupied territories, the funding will now be made available through the **Middle East Regional Program**. [11]

The FY 1989 Appropriations Act also contains a variety of stipulations affecting the ESF accounts of several other countries. For example, of the total \$440.00 million earmarked for four Central American countries (**Costa Rica, El Salvador, Guatemala, and Honduras**), not less than \$5 million "shall be available only to develop energy self-sufficiency, to identify and utilize indigenous resources to improve economic development, and to reduce reliance on imported energy." [12] Two additional specific conditions were attached to the ESF account for **El Salvador**. First, not less than 25 percent of that account is to be used for projects and activities in El Salvador in accordance with the legislative provisions governing the USAID managed development assistance program. [13] Secondly, as in past years' appropriations acts, P.L. 100-461 authorizes the use of up to \$1 million of the ESF appropriation, "to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador." [14]

Of final ESF interest, the FY 1989 Appropriations Act includes authorities for allocating funds for the following special programs: not more than \$5 million from the ESF and MAP accounts for assistance to the **Cambodian Non-Communist Resistance Forces** [15]; an earmark of not less than \$45 million to be derived in equal parts from the ESF and the Development Assistance Program accounts to provide, "food, medicine, or other humanitarian assistance to the **Afghan people**" [16]; up to \$35 million but no less than \$10 million in ESF as this year's U.S. contribution to an international fund established in 1985 for economic development in **Northern Ireland and Ireland** [17]; an earmark of \$2 million in ESF for "**Solidarity**" (the independent Polish trade union), of which \$1 million is designated to support Solidarity's Social Fund project, and another \$1 million is stipulated for support to Solidarity through the AFL-CIO's Free Trade Union Institute "to promote democratic activities in Poland" [18]; an additional \$1 million in ESF is earmarked to be provided to **Poland**, "for the provision of medical supplies and hospital equipment . . . through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment" [19]; up to \$2 million in ESF is to be made available to the **National Endowment for Democracy**, "for the promotion of democracy in **Nicaragua**" [20]; \$20 million from the ESF account has also been earmarked for the U.S. **Administration of Justice** program conducted in Latin America and the Caribbean [21]; and, as in the MAP account, a special ESF earmark of \$61 million has been designated for allocation among **Bolivia, Ecuador, Jamaica, and Peru** for support of the **International Narcotics Control Program** which is discussed in greater detail in the basic article.[22]

PEACEKEEPING OPERATIONS (PKO)

The PKO program is the smallest of the five funded security assistance programs. Since the termination of funding for the Caribbean Peacekeeping Force (CPF) at the end of FY 1985, the PKO program has supported only two activities: the **Multinational Force and Observers (MFO)**, an independent international organization which implements the security arrangements established in the 1979 Egyptian-Israeli Peace Treaty; and the **United Nations Force in Cyprus (UNFICYP)** which has helped since 1964 to preserve the peace in Cyprus.

Funding for PKO for FY 1989, at \$31.689 million, is identical to the annual appropriations for PKO for both FY 1987 and FY 1988. As such, PKO represents the only appropriated component of security assistance to enjoy any measure of funding stability during recent years. Although the Administration had requested a higher funding level for both FY 1987 and FY 1988 (\$39.000 million and \$46.311 million, respectively) than Congress ultimately approved, the FY 1989 request was identical to the FY 1989 appropriation (\$31.689 million). Of the total funds that were requested/appropriated, the Administration has allocated \$24.377 million for the MFO and \$7.312 million for the UNFICYP, the exact same funding allocations as provided to these two activities in both FY 1987 and FY 1988. In authorizing the PKO appropriation, Congress stipulated that the funding "may be used only as justified in the Congressional Presentation Document for fiscal year 1989," and that, "to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts." [23]

Although no new substantive PKO legislation was passed for FY 1989, the House Appropriations Committee again restated its continuing concern, "that the Cyprus Peacekeeping Force is operating at a financial deficit, which the United States has been absorbing disproportionately." [24] In the view of the HAC, "the deficit situation is continuing to occur because of the limited number of countries that are actually contributing to the peacekeeping operations." [25] The Administration had reported earlier that the overall deficit from previous years, which is borne by the seven UNFICYP troop-contributing countries (Austria, Canada, Denmark, Finland, Ireland, Sweden, and the United Kingdom), was "expected to reach \$160.9 million by the end of June 1988." [26] The Administration also informed Congress that the U.S.

was continuing to try to reduce the deficit, "in various ways, including actively seeking contributions from noncontributing U.N. members and seeking means to reduce operating costs." [27] Further, anticipating a possible Congressional effort to reduce the UNFICYP appropriation, the Administration advised Congress that the, "failure of the United States to maintain its full-contribution to UNFICYP would increase the deficit and would make more difficult efforts to increase contributions from others." [28]

APPENDIX NOTES

1. *FY 1989 CPD, op. cit.*, p. 27.
2. Title II--Bilateral Economic Assistance, Economic Support Fund, P.L. 100-461.
3. Section 530, P.L. 100-461.
4. Title II--Bilateral Economic Assistance, Economic Support Fund, P.L. 100-461.
5. *Ibid.*
6. *Ibid.*
7. *Ibid.*
8. Section 558, P.L. 100-461.
9. Section 559, P.L. 100-461.
10. *Ibid.*
11. Title II--Bilateral Economic Assistance, Economic Support Fund, P.L. 100-461.
12. *Ibid.*
13. Section 591, P.L. 100-461.
14. Title II--Bilateral Economic Assistance, Economic Support Fund, P.L. 100-461.
15. Section 581, P.L. 100-461.
16. Section 537, P.L. 100-461.
17. Title II--Bilateral Economic Assistance, Economic Support Fund, P.L. 100-461. The U.S. had contributed a total of \$120 million to the International Fund for Ireland through FY 1988, at a rate of \$35 million annually. Of this amount, about \$48 million has been obligated by June, 1988, with actual expenditures amounting to about \$26 million [*FY 1989 HAC Report, op. cit.*, p. 141.] The Administration, faced with competing priorities for assistance, chose not to ask for any funding for this program in FY 1989. The program, however, is popular with Congress. Nevertheless, citing the sizable balance left in the Fund, and the pledge of the European Economic Community to contribute \$18 million to the Fund in FY 1989, the HAC recommended cutting back the FY 1989 contribution to \$5 million. [*Ibid.*] Subsequently, the Appropriations Conference Committee agreed to earmark the FY 1989 contribution at a minimum of \$10 million while allowing the Administration to allocate up to \$35 million. Congress also expressed its view that in the allocation of these funds, the Board of the International Fund for Ireland, "should give great weight . . . to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years . . . defined as areas that have high rates of unemployment." Section 587, P.L. 100-461.
18. Title II--Bilateral Economic Assistance, Economic Support Fund, P.L. 100-461.

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19. *Ibid.*
 20. *Ibid.* Congress stipulated that "this assistance, (1) shall be provided to internal groups [in Nicaragua] that have renounced violence and support a negotiated settlement to the conflict in Nicaragua, including independent elements of the press, independent labor unions, independent business groups, and independent human rights groups, and (2) may not be provided to any group that is affiliated with or supportive of any armed opposition groups." Further, Congress directed that these funds, "be administered consistent with the Agreement between the Government of Nicaragua and the Nicaraguan Resistance, signed March 23, 1988 at Sapoa, Nicaragua ('Sapoa Agreement') and the Guatemala Peace Accords of August 7, 1987;" and the assistance must be consistent "with the Sapoa Agreement, as its terms are applied and monitored for acceptability by the Verification Commission established by that Agreement."
 21. *Ibid.* The House Appropriations Committee reported the Administration of Justice program has:

Enabled training in criminal investigations to judges, public defenders, and police acting under judicial or prosecutorial control. It has enabled more than 6,000 student-days of training to criminal justice officials, and provided over 4,300 law books to law libraries. By the end of FY 1988 all bilateral AID missions in Central America, except Panama, will have developed national programs oriented to the judicial system in their countries. *FY 1989 HAC Report, op. cit.*, p. 76.
 22. Section 578, P.L. 100-461.
 23. Title III--Military Assistance, Peacekeeping Operations, P.L. 100-461.
 24. *FY 1989 HAC Report, op. cit.*, p. 91.
 25. *Ibid.*
 26. *FY 1989 CPD, op. cit.*, p. 33.
 27. *Ibid.*
 28. *Ibid.*