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BY THE COMPTROLLER GENERAL

Report To The Chairman, Subcommittee On Western Hemisphere Affairs, House Committee On Foreign Affairs And Ranking Minority Member, Senate Committee On Foreign Relations

OF THE UNITED STATES

Use Of Special Presidential Authorities For Foreign Assistance

Under the Foreign Assistance Act, the Congress has granted the President special and unusual flexibility in the conduct of foreign policy. Congressional recognition and acceptance of the need for this flexibility have been demonstrated by the use of some form of these authorities for over 30 years. The authorities have been invoked at least 163 times since 1961 and involved over $2.5 billion in foreign assistance. Congressional guidance on the use of the special presidential authorities has generally been broad, and reflects a recognition of trade-offs between executive flexibility and congressional control. This control has changed over time and will likely continue to change. The degree of congressional control is a judgment the Congress must make based on such factors as its needs, the state of executive-legislative relations, and the international situation.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-215034

The Honorable Claiborne Pell
Ranking Minority Member
Committee on Foreign Relations
United States Senate

The Honorable Michael D. Barnes
Chairman, Subcommittee on Western
Hemisphere Affairs
Committee on Foreign Affairs
House of Representatives

This report is in response to your request that we review the President's use of the special authorities for foreign assistance. The report discusses the legislative history, usage guidelines, and use of these authorities.

We did not obtain agency comments on this report. As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days from the date of this report. At that time, we will send copies to the Departments of State, Defense, Agriculture, and the Treasury, the Agency for International Development, the Office of Management and Budget, the National Security Council, and the Central Intelligence Agency.

Charles A. Bowsher

Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT TO THE CHAIRMAN, SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS, HOUSE COMMITTEE ON FOREIGN AFFAIRS, AND RANKING MINORITY MEMBER, SENATE COMMITTEE ON FOREIGN RELATIONS

USE OF SPECIAL PRESIDENTIAL AUTHORITIES FOR FOREIGN ASSISTANCE

D I G E S T

For many years, the Congress has recognized and accepted the need for the President to have some form of special or unusual flexibility in the foreign policy area. This has been demonstrated by the special presidential authorities in foreign assistance legislation. Since the enactment of the Foreign Assistance Act (FAA) in 1961, five special authorities have been in effect for most of the period.

--Section 506--The drawdown authority permits the President in an emergency to provide Department of Defense (DOD) equipment from stocks and services to a foreign government.

--Section 610--The transfer authority permits the President to transfer foreign assistance funds between program accounts.

--Section 614(a)--The waiver authority permits the President to waive provisions of foreign assistance legislation.

--Section 614(b)--The Berlin authority permits the President to provide Economic Support Fund (ESF) assistance to Germany, including West Berlin.

--Section 614(c)--The cloaking authority permits the President to not disclose foreign assistance-related actions and their funding source.

Under these provisions, the President is authorized to drawdown stocks and services, make transfers between accounts, make waivers, and cloak transactions without the need of specific congressional approval prior to the action. (See pp. 1 and 59.)

The Chairman of the Subcommittee on Western Hemisphere Affairs, House Committee on Foreign Affairs, and the Ranking Minority Member, Senate Committee on Foreign Relations, requested that GAO review the use of these authorities. (See app. III and IV.)

GAO/NSIAD-85-79
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ADMINISTRATION OF THE AUTHORITIES

Each use of the special authorities is conditioned on a determination or certification by the President. The implementing procedure is known as a Presidential Determination (PD). The President has never delegated the authority to invoke these special authorities. Overall responsibility for recommending that the President invoke a special authority and for administering the PD process was transferred from the Agency for International Development (AID) to the State Department in 1968 as part of a centralization of foreign assistance decisionmaking. However, the centralization of functions was incomplete because AID retained responsibility for some of the PD process. This division of responsibilities may have contributed to uncertainty about the extent of use of these authorities and to the provision of erroneous information to the Congress during hearings on proposed amendments.

For example, although there had been substantial use of the waiver authority (which was acknowledged by the executive branch in 1982), the administration told congressional committees in early 1980 that it had been used sparingly. At the time, the Congress was considering a proposed amendment--which it enacted into law--to expand the waiver authority. Congress might have acted differently on the amendment if the extensive use of the waiver authority had been known. Diffused control over the PD process could also result in a situation where dollar ceilings or percentage limitations of authorities could be exceeded. GAO did not find any record of a PD authorizing a fiscal year 1968 transfer of $4.95 million which was apparently made. It is possible that this transfer was made without a PD. (See pp. 1-4, 26-27, and 32-34.)

THE DRAWDOWN AUTHORITY

Since 1963, 13 drawdowns have been authorized for $862.1 million and 12 have actually been made, to provide a variety of military equipment to six countries--Vietnam, Cambodia, Thailand, Liberia, El Salvador, and Chad. (See p. 8.)

As enacted in 1961, use of the drawdown authority was conditioned on a determination by the

President that a drawdown was vital to U.S. security interests. During the 1970s, this criterion was relaxed, reinstated and strengthened, and relaxed again. Overall, the drawdown authority has changed from a large dollar ceiling, tightly controlled, special authority to a moderate dollar ceiling authority with less control over its use. Even though there have been changes in the drawdown usage criteria, written procedures governing use of the authority have apparently not been updated. GAO's review of documents shows that up to 1976 there was written guidance, generally within DOD, on use of the drawdown authority. Officials told GAO that they do not know of any current written guidances on the use of the drawdown authority.

In addition, GAO was told there is no definition of the key terms of the authority. Currently, the usage criteria are that the President must determine that there is an unforeseen emergency requiring immediate military assistance and this emergency cannot be met under any other law. (See pp. 7-8 and 13-16.)

The interpretation of what meets the criteria can vary by situation and by administration. The U.S. response to Thailand's security problems is an example of this variability. In 1980, the drawdown authority was used to fund an airlift of military equipment following a Vietnamese attack across the Thai border. In 1983, the U.S. response to a similar but greater attack was to require Thailand to pay for a similar airlift through its military assistance grant funds. (See p. 16.)

In the 1960s and early 1970s, the Congress appropriated specific funds for drawdown reimbursement. Since 1979, Congress has appropriated a lump sum amount for military assistance with reimbursement of DOD for a drawdown being one of the items that could be funded. As a result, the decision on reimbursement of a drawdown has shifted from the Congress to the executive branch. Since 1979, most military assistance funding has gone to provide defense articles and services for various countries, and drawdown reimbursements have not been made. (See pp. 16-20.)

THE TRANSFER AUTHORITY

At least 31 transfers have shifted $443.4 million between various foreign assistance accounts under the FAA. Over half the transfers were to support military operations in Southeast Asia and the remainder were for various purposes, including funding unforeseen program requirements, compensating for budget reductions, paying personnel, and funding peacekeeping requirements. (See pp. 24-26.)

THE WAIVER AUTHORITY

The waiver authority has been the most frequently used special authority. One hundred and seventeen waivers of foreign assistance legislation provisions have authorized almost $1.6 billion in assistance. About half of these were to meet emergencies, to respond to unforeseen events, or to deal with situations where formal assistance agreements were not possible. For example, during the period from 1962 to 1972, waivers of military assistance eligibility allowed continuation of U.S. military assistance to eight countries (Indonesia, Burma, Zaire, Nepal, Morocco, Tunisia, Laos, and Cambodia) while permitting them to maintain their respective nonaligned or neutral standing. Additionally, during the following decade, waivers of local currency requirements or country support restrictions were used to strengthen U.S. access to foreign military bases and to facilitate Middle East peace efforts. The authority was also used to waive requirements for security clearances for U.S. citizens, to allow assistance programs for more than one year, and to fund military operations. (See pp. 29, 31, 34-36, and 39-41.)

In 1980, the Congress approved an administration proposal to expand the waiver authority to the Arms Export Control Act (AECA) and related legislation covering arms sales. As requested, GAO analyzed the impact that this amendment could have had on the $8.5 billion sale of Airborne Warning and Control System (AWACS) to Saudi Arabia. While the AECA sales waiver authority has never been invoked, it was available to the President for Saudi Arabia's AWACS purchase. The use of the waiver authority in a fiscal year is limited to not more than a total

of $250 million in appropriated funds. Because the Saudi sale did not require appropriated funds, it was not covered by the waiver's annual ceiling of $250 million. In addition, the President hypothetically could have invoked this authority to waive the AECA provision that required advance congressional review of the proposed sale. (See pp. 42-46.)

THE BERLIN AUTHORITY

This authority initially allowed the United States to provide assistance to Trieste, Austria, and Berlin.

Currently, it allows the President to use the Economic Support Fund for West Berlin and Germany without regard to any provision of law. It has not been used since at least 1961, and its potential for future use has been basically overtaken by the waiver authority and the economic recovery of West Germany. (See pp. 49 and 50.)

THE CLOAKING AUTHORITY

Under this authority the President can decide not to disclose a transaction if he deems it inadvisable to specify the nature of the expenditure. The authority gives the President a cumulative ceiling of $50 million. Functional and financial control is limited by design, and the authority and its use are little known within the executive and legislative branches. The executive branch has disclosed three uses of this authority occurring from fiscal years 1962 through 1966. Two of the three uses were to not disclose the payments made to the Korean troops that fought in Vietnam. Although the last use of this authority was fiscal year 1966, it was considered for use as late as 1976. (See pp. 51, 53-54, and 56-58.)

CONCLUSIONS

Administrations perceive the special presidential authorities as providing important flexibility in the conduct of foreign policy. Congressional recognition and acceptance of the need for this flexibility have been demonstrated by some form of these authorities for over 30 years. The authorities have been invoked at least 163 times since 1961 and have involved over $2.5 billion in foreign assistance. Congressional guidance on the use of

the special presidential authorities has generally been broad, and reflects a recognition of trade-offs between executive flexibility and congressional control. This control has changed over time and will likely continue to change. The degree of congressional control is a judgment the Congress must make based on such factors as its needs, the state of executive-legislative branch relations, and the international situation. (See p. 59.)

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GAO did not obtain the views of agency officials on its findings and conclusions. However, GAO did provide copies of this report to the Departments of State and Defense and the Agency for International Development for a security classification review. They advised GAO on April 12 and 25 and May 1, 1985, respectively, that the report is unclassified and releasable to the public.

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ABBREVIATIONS

AECA	Arms Export Control Act
AID	Agency for International Development
AWACS	Airborne Warning and Control Systems
CRA	Continuing Resolution Authority
DOD	Department of Defense
DSAA	Defense Security Assistance Agency
ESF	Economic Support Fund
FAA	Foreign Assistance Act
ICA	International Cooperation Administration
IMAF	International Military Assistance Force
MAAG	Military Assistance and Advisory Group
MAP	Military Assistance Program
MASF	Military Assistance Service Funded
MDAA	Mutual Defense Assistance Act
MSA	Mutual Security Act
NSC	National Security Council
OMB	Office of Management and Budget
OPIC	Overseas Private Investment Corporation
OSD	Office of the Secretary of Defense
PD	Presidential Determination
PKO	Peacekeeping and Other Operations
UN	United Nations

CHAPTER 1

INTRODUCTION

For many years, Congress has recognized the need for the President to have some form of special or unusual flexibility in the foreign policy area. As a result, five special presidential authorities were enacted in the Foreign Assistance Act (FAA) of 1961 as amended (22 U.S.C. § 2151 et. seq.):

--Section 506 - The drawdown authority permits the President to provide Department of Defense (DOD) stocks and services to another government in an emergency situation.

--Section 610 - The transfer authority permits the President to transfer foreign assistance funds between accounts.

--Section 614(a) - The waiver authority permits the President to waive provisions of foreign assistance legislation.

--Section 614(b) - The Berlin authority permits the President to provide Economic Support Fund (ESF) assistance to Germany, including West Berlin.

--Section 614(c) - The cloaking authority permits the President to not disclose foreign assistance related actions and their funding source.

Under these provisions, the President is authorized to drawdown stocks and services, make transfers between accounts, make waivers, and cloak transactions without the need for specific congressional approval prior to the action. In addition, there are other provisions of the FAA and the Arms Export Control Act[1] (AECA) which further increase the President's flexibility and regulate his use of these or similar authorities.

ACCOUNTABILITY AND CONTROL

The use of special authorities has been conditioned by the President's determination or certification to exercise the

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[1]In 1976 Congress revised the Foreign Military Sales Act and retitled the act as the AECA. The Foreign Military Sales Act provided separate legislative authority for the purchase of defense articles and services. Provision of defense articles and services on a grant basis remained under the FAA.

authorities. This is implemented by a procedure known as the Presidential Determination (PD). The President has never delegated the authority to invoke the special authorities. As described by the Secretary of State in 1961 hearings before the Subcommittee on Foreign Operations Appropriations, House Committee on Appropriations, use of the drawdown authority "is conditioned on a personal determination by the President that it is vital to the security of the United States." The waiver, transfer, and Berlin authorities have also required a personal determination, and the cloaking authority has required a personal certification as has been the case since the Mutual Security Act (MSA) of 1954, as amended.[2]

The overall responsibility for administering the PD process was assigned to the administrator of the International Cooperation Administration (ICA) during the MSA period. This responsibility was inherited by the Agency for International Development (AID) Administrator as part of the transfer of operations from ICA to AID following passage of the FAA of 1961 and the resulting reorganization of the foreign assistance agency. In 1968, the Secretary of State assumed responsibility for the PD process (including the overall responsibility for recommending that the President invoke a special authority) as part of the centralization of foreign policy matters. Within the PD process, the State Department lawyers are viewed as the principal control on properly using these authorities.

From enactment of the FAA until early 1968, the AID Administrator transmitted the memorandum to the President that recommended using one or more of the special authorities. The department or agency having the primary role in the use of a special authority apparently drafted the PD package (memorandum to the President, PD justification, letters of congressional notification, etc.) required to invoke an authority. Thus, for example, DOD would draft a PD package for the drawdown authority or the waiving of MAP eligibility requirements, and AID would draft the package for a transfer from the contingency funds account to the development assistance account. AID was also responsible for the mechanics of the PD process; for example, assigning PD numbers and maintaining financial control over those special authorities having dollar ceilings.

As of January 2, 1968, the Secretary of State assumed responsibility for administering the PD process under Delegation of Authority 104-6. This provided that the State Department would be responsible for most PDs. AID would staff unusual cases involving both military and economic assistance and would continue to perform some of the mechanics of the PD process.

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[2]The MSA was the authorizing foreign assistance legislation for the period 1951 to 1960. The MSA was superceded by the FAA of 1961.

PD 68-7 of April 3, 1968, was the first special presidential authority invocation under this new system.

This centralization of foreign assistance decisionmaking continued in the early 1970s by creation of what is now the Under Secretary of State for Security Assistance, Science and Technology. In terms of the special presidential authorities, this means that the Under Secretary decides whether or not to forward to the Secretary of State a recommendation to request a presidential invocation of an authority, what funds will be requested from the Congress, and what appropriated funds will be apportioned among the various foreign aid requirements. Furthermore, centralization has continued to reduce the role of other agencies in the PD process. At this time, AID retains some responsibility for preparation of AID-related PDs. DOD's role is generally limited to drafting the justification statement of military-related PDs.

While foreign assistance decisionmaking on using the special presidential authorities was centralized in the State Department, some of the mechanics of the PD process were not, and we had difficulty in obtaining a data base on the use of these authorities. We also noted that guidelines for invoking these authorities are limited, the administration may have difficulty knowing when the dollar ceilings are reached, and the procedure for maintaining the PD register within the bureaucracy seems cumbersome.

The limited control over PD listings can result in situations where the Congress is provided erroneous information on which to base a decision to amend the special presidential authorities, as was the case in 1980 with the expansion of the waiver authority (see pp. 30-34). It is possible that the expansion would not have taken place if the Committee had known of the extensive use of the waiver authority at the time they considered the issue. Furthermore, this circumstance could also result in a situation where dollar ceilings or percentage limitations of these authorities could be unintentionally exceeded simply because there was no executive branch record of prior use within the fiscal year. (See p. 57.)

Guidance on the use of special presidential authorities and implementing and operating procedures have been limited since the 1968 transfer of responsibility. Prior to 1968, DOD and AID had detailed procedures for using these authorities. For example, AID's 1962 Manual Order 1031.1 Presidential Determinations set forth procedures for the PD process and identified the legislative provisions requiring a PD. In another example, DOD's 1965 legal memorandum provides a history of the drawdown authority, outlines the possible use of the authority, and details the notification and reporting requirements. However, at the time

of our review, the State Department lawyers said that the only written guidance on the PD process was an unissued Foreign Affairs Manual procedural order on distribution of PDs to the public and a September 17, 1982, memorandum that was sent to them. The memorandum outlined the procedure for requiring notification to the Congress of a PD and arranging its publication in the Federal Register. However, it was not distributed to the AID staff person involved in this process.

While AID was responsible for the PD process, it maintained a "master register" of PDs as a part of its formal system of administrative and accounting control over the use of the foreign assistance authorities, including the special presidential authorities. The register contained a listing of PDs by number, subject, and country. It was used to assign and control PD numbers. In the 1968 changes, this function and certain ones for transmitting PD packages to the President and returning signed PDs to State remained with AID and are now located in the Coordinator for Asia Office. Since State is responsible for administering the PD process, it seems unnecessarily cumbersome for AID to continue maintaining the register.

Regarding the cloaking authority, in 1961 hearings on adoption of the MSA authority into the FAA, a State Department lawyer testified that the ICA Comptroller "tabulates the uses" and that any agency could be used as an intermediary (funding source or implementing agency) in its use. The accounting function was retained within the Comptroller's office when ICA became AID and has never been transferred to the State Department.

OBJECTIVES, SCOPE, AND METHODOLOGY

Representative Michael D. Barnes, the Chairman of the Subcommittee on Western Hemisphere Affairs,[3] House Committee on Foreign Affairs, and Senator Claiborne Pell, the Ranking Minority Member of the Senate Committee on Foreign Relations, requested that we review the use of special presidential emergency and contingency authorities, including sections 506(a) and 614 of the FAA. They expressed particular interest in the legislative history of these provisions, the manner and extent to which they have been used, the guidelines or standards used by successive administrations in deciding to invoke these authorities and the impact of such use on other aspects of U.S. foreign policy, accounting and administrative controls, and our suggestions for revisions to the legislation.

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[3]Effective February 13, 1983, the Subcommittee on Inter-American Affairs was renamed the Subcommittee on Western Hemisphere Affairs.

During the course of our review, the Supreme Court handed down its decision of Immigration and Naturalization Service v. Chadha, 103 S.Ct.2764, 77 L.Ed.2d 317 (1983), followed 2 weeks later by United States Senate v. Federal Trade Commission, 77 L.Ed.2d 1403 (1983). These decisions appear to invalidate the legislative veto provisions of section 36(b) and (c) of the AECA which provided the Congress a means of rejecting sales of U.S. military equipment and services to other governments. Nevertheless, to illustrate the breadth of the waiver authority (section 614(a) of the FAA), we reviewed how that authority hypothetically could have been used to override or avoid a congressional veto on the sale of the Airborne Warning and Control System (AWACS) aircraft to Saudi Arabia, a matter of interest to each of the requestors.

Our work was conducted at the Departments of State, Defense (DOD), and the Treasury, the Office of Management and Budget (OMB), the National Security Council (NSC), and AID. We reviewed available records and interviewed agency program managers and lawyers responsible for the invocation, use, and financial control of these authorities. All work was done in the Washington, D.C., area.

Since we could not find a complete listing of the uses of these authorities by number, date, and subject of the PD, our listings (see pp. 8, 53-54, and 60-87) were compiled from PD files and listings obtained from various offices. These offices included the AID Coordinator for Asia Office, the AID General Counsel's Office, the Office of the Secretary of Defense General Counsel's Office, and the State Department Office of Political Military Affairs.

In an attempt to verify our listings and to test accountability over the use of these authorities, we asked the State Department's Office of Legal Adviser to provide us with its listing of PDs for 1979 to the present. We selected that unit because officials at State, DOD, OMB, AID, and the NSC generally agreed that the State Department lawyers have central control over use of the special presidential authorities. Five months after our request, they responded with a listing that was incomplete. The State listing identified 14 of the 19 PDs we had identified from other sources.

There were also some limitations on our review. The State Department limited our access to documents involving use of the special presidential authorities. Nevertheless, we believe our discussions with current and former executive branch officials and our review of various agencies' documents provided us with sufficient information to report on most of the issues. As requested by the Chairman and Ranking Minority Member, we did not obtain official agency comments.

There are also some limitations on what we can report. The General Accounting Office Act of 1980 (31 U.S.C. §3524) restricts our reporting of expenditures under unvouchered accounts such as those resulting from invocation of the cloaking authority, section 614(c)of the FAA. We may report only those expenditures certified as confidential where there are unresolved discrepancies, and may report such expenditures only to the Senate Committee on Governmental Affairs, the House Committee on Government Operations, and House and Senate Committees having legislative or appropriations oversight with respect to the expenditures in question. We do not consider these disclosure restrictions applicable to data made available to the public by an executive agency.

Our review was performed in accordance with generally accepted government auditing standards except that we did not obtain the views of responsible officials on our findings and conclusions. However, we did provide copies of this report to the Departments of State and Defense and the Agency for International Development for a security classification review. They advised us on April 12 and 25 and May 1, 1985, respectively that the report is unclassified and releasable to the public.

CHAPTER 2

SECTION 506 - THE DRAWDOWN AUTHORITY

The drawdown authority (22 U.S.C. §2318) has had a controversial history since enacted as part of the FAA. Some supporters claim it is the only true foreign policy flexibility that the President has. Some critics charge it is used to evade congressional review of foreign aid.

LEGISLATIVE HISTORY

The drawdown authority was one of six major legislative changes proposed by the administration in 1961 as part of its multi-year foreign assistance request. As enacted, the authority allowed the President to authorize drawdown of DOD stocks and use of defense services up to $300 million annually for military assistance if he determined that such an action was vital to the security of the United States. This ceiling equalled the estimated costs of the 1958 crises in Lebanon and Quemoy which, along with problems in Laos in early 1961, were referred to in hearings by DOD officials as the motivating incidents in requesting the drawdown authority. The President was also authorized to replace/reimburse the services for drawndown stocks and services from subsequent foreign assistance appropriations to the Military Assistance Program[1] (MAP) account.

The intended emergency nature of the section was reflected in 1961 committee reports which justified the authority in terms of allowing the President to meet contingencies that arise from unpredictable events and to act promptly in situations that cannot be anticipated. The authority was continued for succeeding fiscal years and was redesignated from section 510 to section 506 in 1967.

In 1973 and 1974, according to a Senate committee report, the Senate proposed repeal of this authority as part of an attempt "to close off auxiliary sources of military assistance which annually have allowed for greater expenditures on military aid than could be clearly perceived either by the Congress or the American people." Also, the Senate committee report stated this was done "as a part of its overall effort to restore Congressional control over the foreign aid program and retract major grants of discretionary authority over foreign aid matters which have been given to the President in the past." The Senate receded in conference each year. In 1973 the Conference Committee retained the drawdown authority and relaxed the criteria for its use by eliminating that part of the usage criterion that

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[1]At the time, U.S. military assistance to other countries was provided on a grant basis via MAP and was funded under the FAA.

required that each drawdown be "vital" to U.S. security. The Conference Committee stated its intent that $200 million of the $250 million authorized for fiscal year 1974 be used for Cambodia. It also admonished the administration not to use the authority routinely to supplement military assistance funds to meet foreseen, non-emergency requirements. For fiscal year 1975, the drawdown authority ceiling was lowered to $150 million.

In 1976, the Congress restricted the President's use of the authority by restoring and strengthening former usage standards, lowering the ceiling to an authorized level of $67.5 million, and requiring an appropriation prior to use of the authority. However, the Congress did not appropriate drawdown funds for the next several years and the authority was effectively terminated.

In 1979, the Congress agreed to the administration's request to substantially relax the usage standards and deleted the restriction that drawdowns in any fiscal year are effective only to the extent provided in an appropriation act. A drawdown ceiling of up to $10 million was authorized. In the subsequent 2 years, the ceiling was raised to $50 million and then $75 million.

INVOCATION AND USAGE

Since the authority's enactment in 1961 through August 5, 1983, 13 drawdowns have been authorized, as follows:

506(a) Presidential Determinations

PD number	Country	Date	Authorized drawdown (million)
63-15	India	1/03/63	$ 55.0
65-12	MAP/Vietnam	5/15/65	75.0
66-6	MAP/Vietnam	10/21/65	300.0
74-12	Cambodia	12/24/73	200.0
74-19	Cambodia	5/13/74	50.0
75-9	Cambodia	1/10/75	75.0
80-21	Thailand	7/01/80	1.1
80-30	Liberia	12/09/80	1.0
81-2	El Salvador	1/16/81	5.0
81-4	El Salvador	3/05/81	20.0
82-5	El Salvador	2/02/82	55.0
83-8	Chad	7/19/83	10.0
83-9	Chad	8/05/83	15.0
	TOTAL		$862.1

Note: PD 63-15 is the only drawdown that was authorized but not used.

The circumstances associated with these drawdowns are described below.

India

In response to the October-November 1962 border war with the Peoples Republic of China, and in a major foreign policy change, India requested U.S. military assistance. The United States supplied some MAP equipment, but a DOD analysis indicated that this new requirement would curtail or critically reduce other parts of this worldwide program. Therefore, DOD recommended that the drawdown authority be used. A $55 million drawdown was authorized by the President on January 3, 1963, but was not used. Apparently, reduced tensions between the two countries caused U.S. officials not to drawdown stocks and services. A MAP Comptroller memorandum on this PD noted that in June 1963, it was decided to use regular military assistance funds to cover, on an after-the-fact basis, deliveries made to India.

Vietnam

By early 1965, the Vietnam war was causing severe financing problems for the MAP. Program requirements for Vietnam and Laos for fiscal year 1965 were estimated to be at least $180 million above initially programmed levels. Additionally, program requirements for Zaire and Morocco had increased. Programs for several forward defense countries[2] were reduced, and $55 million was transferred from the AID contingency fund account to the MAP account to offset these increases (PD 65-11). These actions were insufficient, and on May 15, 1965, the President authorized a $75 million drawdown (PD 65-12) to continue the program through the fiscal year. However, the problem was not solved since, during the latter stages of drafting PD 65-12, it was recognized that additional funds would be needed. An amendment (PD 65-12A) was considered but not authorized. Also considered in addition to the amendment was another transfer like PD 65-11. Although neither was authorized, the funding problem remained. On October 21, 1965, the President authorized a $300 million drawdown (PD 66-6) to meet extraordinary MAP requirements. According to the Defense Security Assistance Agency (DSAA) General Counsel, these drawdowns were made as a stopgap funding measure. This allowed the administration to shift

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[2]The forward defense countries were Turkey, South Korea, Taiwan, Greece, Iran, India, Pakistan, Thailand, Laos, South Vietnam, and the Philippines. Apparently not all countries' programs were reduced.

funding of the war from a peacetime program (the Vietnam segment of the MAP account) to a combat support program (the Military Assistance Service Funded or MASF[3] account). Once this was done, the authority was not used again for Vietnam.

Cambodia

In 1970, large numbers of American military forces were sent into Cambodia. With this expansion of the war, there was a corresponding need to increase military assistance to Cambodia. However, MAP funds remained relatively low, MASF was not available, and funding was a problem. By late 1973, the problem was acute due to reductions in military assistance resulting from the Paris Agreements, greater than expected offensive action in Cambodia, and the end of U.S. air support to Cambodia. The administration included a $200 million request for Cambodia with its $2.4 billion emergency security assistance request for Israel and Cambodia. The Conference Committee instead directed that the drawdown authority be used to meet the Cambodian requirement. The Presidential Determination (PD 74-12) authorized the $200 million drawdown on December 24, 1973.

The amount was insufficient to meet Cambodia's requirements, and on May 13, 1974, the President authorized (PD 74-19) drawdown of the remaining $50 million in the fiscal year 1974 authority. The drawdown was justified on the basis that the level of combat had been greater than expected and that emergency replacement of ammunition and equipment was required if the Cambodian government was to survive.

For fiscal year 1975, the administration requested $365.2 million for military assistance to Cambodia. Although the Congress authorized $600 million for military assistance worldwide, the Senate Committee on Foreign Relations indicated that only $200 million of that amount was intended for the Cambodia program. Before the fiscal year was half over, the $200 million in military assistance was either expended or committed, and the administration was looking for additional funds to cover ammunition deliveries. An emergency supplemental funding request was considered by the administration but rejected because ammunition shipments would probably have been disrupted prior to its passage. Instead, the President authorized (PD 75-9) a $75 million drawdown on January 10, 1975.

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[3]The MASF account was part of the DOD Appropriation, a much larger dollar appropriation that funded U.S. military activities in Southeast Asia. Thus, the combat support program for U.S. Forces was also used to fund the military activities of allied military forces in Southeast Asia, except Cambodia.

Thailand/Liberia

Following the Vietnam war and virtual termination of the drawdown authority in 1976, the Congress effectively renewed the authority in 1979. The first use in Thailand of the renewed authority was in the following year when Vietnamese troops in Kampuchea (Cambodia) crossed the Thai border and overran a military post and several villages before withdrawing. As part of its response to the incursion, Thailand requested additional U.S. security assistance.

The U.S. response was designed to show support of Thailand to all countries in the area. Military equipment already purchased by Thailand was airlifted by U.S. military aircraft to Thailand. The Secretary of State's memorandum to the President recommending use of the drawdown conceded that Thailand could pay for the transportation. However, the memorandum stated the belief that requiring the Thais to pay "would frustrate the ultimate politico-military impact of the airlift." The emergency requirement provision of the authority was judged legally supportable by the State Department on the determination of a need for a prompt and visible sign of U.S. resolve and support. On July 1, 1980, the President authorized (PD 80-21) up to $1.1 million in defense services for the airlift.

On December 9, 1980, the President authorized (PD 80-30) a drawdown of up to $1 million to provide and transport 20 U.S. Army trucks to Liberia. This drawdown is unique since it is the only time the authority has been used to respond to a situation that did not involve hostilities against the recipient. The justification was to increase U.S. leverage with the moderate segment of the Liberian military and enable the United States to turn the tide against Liberian radicals who were being courted with a Russian offer of 200 free trucks and a Libyan offer of oil and grant economic assistance.

The PD's for both of these drawdowns said these actions were to achieve political and psychological results. A highly visible demonstration of U.S. support was determined by the administration to be necessary and justified in invoking this authority.

El Salvador

On January 10, 1981, the rebels in El Salvador launched their so-called "final offensive" in an attempt to quickly overthrow the Salvadoran government prior to assumption of office by the Reagan administration. In defeating the rebel attack, the Salvadoran government requested the Carter administration to provide military assistance and training on an emergency basis. On January 16, 1981, the President authorized (PD 81-2) a $5 million drawdown for El Salvador. The justification for the drawdown was that El Salvador required a rapid response to a

legitimate security need, it did not have funds to pay for the items, and fiscal year 1981 Foreign Military Sales (FMS) funds were already expended or programmed for higher priority requirements.

As was the case in Vietnam and Cambodia, estimating funding requirements in dynamic situations is difficult. Less than 3 months later, on March 5, 1981, a $20 million drawdown was authorized (PD 81-4). Citing the shift in rebel tactics from military battles to destruction of the country's infrastructure and the need to be ready for the next rebel offensive, the administration's justification for this drawdown was virtually the same as for the prior drawdown.

By the end of 1981, funding problems again became serious. The $25 million in programmed security assistance for El Salvador was already committed, rebel attacks were increasing, and it was expected the rebels would attempt to disrupt the elections scheduled for March 1982. In response to these conditions, the executive branch decided, in December 1981, to invoke the authority and prepared a $35 million drawdown proposal designed to significantly upgrade Salvadoran capabilities to respond to the short-term threat. However, before the proposal, which had been drafted on January 22, 1982, could be sent to the President for approval, the rebels attacked the Salvadoran air base at Ilopango and destroyed a major part of its air force.

According to State Department officials, the impact of this attack and increasing rebel attacks on the infrastructure caused serious U.S. concern about whether or not the Salvadoran military might unravel and collapse. To counter this, the administration decided a rapid response was required. The proposed $35 million drawdown was increased to $55 million to cover costs of replacing and augmenting Salvadoran aircraft losses. Six days after the Ilopango attack, on February 2, 1982, the President authorized (PD 82-5) a $55 million drawdown.[4]

Thus far, the El Salvadoran situation has been marked by some similarities to the conditions and problems of the Vietnam and Cambodian situations. In all three cases, various administrations have wrestled with the problem of attempting to assist

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[4]Among the uses of this $55 million was the grant of six UH-1H helicopters that were leased to the Salvadoran Air Force. Included in the grant were those helicopters destroyed or damaged in the attack. For more on this, see our report Applicability of Certain U.S. Laws That Pertain To U.S. Military Involvement In El Salvador, GAO/ID-82-53, July 27, 1982, page 13. Additionally, over a year later, some of the drawdown funds were used to pay some of the costs of the Special Forces instructors assigned to the Regional Military Training Center in Honduras.

allies in a war effort with a funding system designed for peacetime operations. Drawdowns have provided stopgap assistance that temporarily eased this problem and, in the case of Vietnam, were successful as a funding bridge between MAP and MASF. A second similarity is that in each of these three situations, administrations have struggled to estimate a future year budget to assist countries conducting military actions in a guerrilla war. Drawdowns were used as the primary means of compensating for shortfalls in the estimates. A third similarity, at least between the Cambodia and El Salvador drawdowns, is that administration policy and security assistance budget requests have not always been supported by the Congress. Drawdowns have thus been used to make up for much of the difference between requested and actual funding levels.

Chad

We did not review the two drawdowns which were authorized for Chad in mid-1983 since they were made subsequent to the end of our audit work.

PRESIDENTIAL FLEXIBILITY AND DRAWDOWN USAGE CRITERIA CHANGE

The Chairman of the Subcommittee on Western Hemisphere Affairs, House Committee on Foreign Affairs, stated in 1982 that the drawdown authority reflects "the degree and nature of Presidential flexibility which Congress has concluded was appropriate at various times." As such, it has changed from a large dollar ceiling, tightly controlled, special authority to a moderate dollar ceiling authority with less control over its use (see pp 11-13).

In 1961 testimony on the proposed drawdown authority, administration witnesses indicated the authority would only be used for "emergencies" or "really serious unforeseen circumstances." The witnesses also stressed that prior to submitting the proposed legislation to Congress, the administration upgraded the proposal usage criteria from first a presidential determination that its use was necessary to U.S. security, then to essential to U.S. security, and finally to vital to U.S. security. The administration witnesses outlined various conditions and situations under which they envisioned how the drawdown would and would not be used and how it would be administered, as follows.

--It would be used to respond to unforeseen events or ones so uncertain that it would be inappropriate to budget for them.

--It would be used to respond in situations where the only alternatives were to do

nothing or to completely realign or reprogram the military assistance program, in effect a last resort use.

--It would be used to assist a country such as Vietnam or Laos in fighting a small scale war.

--It would not ordinarily be used to restore programs or parts of programs that Congress has rejected, but technically could be used for that purpose.

--It would not be used to meet the requirements of a large scale shooting war.

--It would not be used for reasonable, predictable, relatively stable Communist related problems such as Korea, Formosa, and Iran.

--It could be used, technically, to provide a military assistance program to a country or an area.

--It could be used, technically, for an airlift.

--Reimbursement for a drawdown would be from the following fiscal year's military assistance budget or a supplemental appropriation.

--Defense services would include the transportation of defense stocks to a recipient, the maintenance of these stocks, and the deployment of personnel necessary to provide the training required to employ these stocks.

In the FAA of 1973, the Congress made substantial changes to the authority. The ceiling was reduced from $300 million to $250 million, the "vital to the security of the United States" standard was replaced by the less demanding criterion of "in the security interests" of the United States, and the administration was directed by the Conference Committee to use $200 million of the authority for Cambodia. The Conference Committee directed that the authority was not to be used to supplement MAP funds routinely to meet foreseen non-emergency requirements for military assistance. These changes were made for the express purpose of allowing the drawdown authority to be used to provide additional aid to Cambodia. It was used for this purpose in fiscal year 1974 and again in 1975.

In 1976, the Congress reversed this trend and tightened its control over use of the drawdown. The threshold for using the authority was raised to a new high by the requirements that (1) the President determine an unforeseen emergency existed, (2) failure to respond immediately would result in serious harm to vital United States security interests, and (3) the emergency requirement could not be met under the AECA or any other law except the authority. Further, the Congress reduced the authority to $67.5 million and required an appropriation prior to use.

For 3 years the authority was effectively terminated because Congress did not approve an appropriation. In 1979, the administration decided to attempt to revive the authority. According to the DSAA General Counsel, the concept for reviving the authority, as discussed with a State Department Assistant Legal Adviser, was to give a President the means of

--financing the airlift of foreign troops and/or equipment in response to an emergency,

--financing the United States' share of a consortia response to an emergency, and

--financing an emergency response to a country that has no reasonable means of repaying the United States.

However, these ideas on usage criteria were not put in writing or presented to the Congress in justifying the 1979 revival of the authority. In response to congressional questions on how the authority would be used, State Department lawyers said the Department could not speculate as to the types of emergencies that would be responded to using this authority. In its 1979 amendments to the act, the Congress lowered the threshold for using the authority by removing the 1976 criterion that the President must determine that a failure to respond immediately would result in serious harm to vital United States security interests.

The following year, the administration requested the ceiling be increased from $10 million to $50 million. In response to a Senate Committee on Foreign Relations question on how the drawdown would have been used in the past year, the Deputy Secretary of State's written response noted that it was difficult to provide examples. He wrote that use of the drawdown was limited to a "narrow range of extraordinary situations," including, for example, a country that could not pay for or finance defense stocks. He also stated that the drawdown is an important factor in considering U.S. response to possible emergencies and a deterrent to anyone who doubted U.S. ability and willingness to support friends promptly and effectively. The 1980 House Committee on Foreign Affairs report stated the drawdown's

purpose was to meet emergency security assistance requirements and recommended the ceiling increase in view of the costs of defense articles and service.

In 1981, the Senate Committee on Foreign Relations rejected the administration's proposal for the $100 million grant military aid contingency fund "for budgetary reasons." To offset the loss of the fund, they increased the drawdown ceiling to $100 million on the basis that it "would have no budget impact, but would provide the President with additional flexibility in time of emergency." The Conference Committee agreed to a ceiling of $75 million.

Even though there have been changes in the drawdown's usage criteria, the written procedures governing its use have apparently not been updated. Our review of documents shows that up to the time of the 1976 changes, there was written guidance, generally within DOD, on its use. Officials told us that they did not know of any current written guidance on the use of the drawdown authority, and there are no definitions of any of the revised key terms of the authority. Thus, the interpretation of what meets the criteria for invoking the drawdown authority can vary by situation and by administration. The U.S. response to Thailand's security problems is an example of this. In 1980, the drawdown authority funded an airlift of military equipment following a Vietnamese attack across its border (PD 80-21). In 1983, U.S. response to a similar but greater attack was to have Thailand pay for a similar airlift via their military assistance grant funds.

FINANCIAL CONTROLS

Along with authorizing the President a means of responding to unforeseen emergencies, the Congress has also authorized a means of partially reimbursing the services for stocks and services provided via the drawdown authority.

Reimbursement of the military services

Three different methods have been used to reimburse the military services for drawdowns.

Originally, the drawdown authority authorized the services to incur obligations to replace stocks in anticipation of repayment from subsequent military assistance appropriations (unfunded MAP contract authority). In his 1961 testimony, the Secretary of Defense specified that unless there was a supplemental appropriation, drawdown reimbursement would be the first item charged against the next fiscal year's military assistance appropriation. Under this method, the Congress reimbursed two Vietnam drawdowns and the first and third Cambodia drawdowns.

The Congress did not reimburse the services for the second Cambodia drawdown (PD 74-19) because the administration did not observe its guidance that $200 million, and not $250 million, was available for Cambodia.

The second method of drawdown reimbursement was initiated in the 1976 revision to the authority in which the funding basis was reversed. The unfunded contract authority, a post-drawdown financial transaction, was replaced by appropriated funds, a pre-drawdown financial transaction.

In 1979, the current drawdown reimbursement method was enacted. Section 506(c) of the FAA, the reimbursement authorization, provides:

> "There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section."

The current method is therefore a combination of the prior two reimbursement methods. Stocks and services can be provided without an appropriation, but the reimbursement for contract authority to replace these items is restricted to an appropriation being approved by the Congress.

Since 1980, seven drawdowns totaling $107.1 million have been authorized. There were no requests for appropriations in the fiscal year 1980 or 1981 budgets.[5] Beginning with the fiscal year 1982 budget request, the administration has asked the Congress for funds in the military assistance account budgets to repay the military services for the first five drawdowns of $82.1 million. The two Chad drawdowns were in progress at the time of our review, and thus a final cost on which to make a reimbursement request was not available. In making each request, the administration specified that the funds were for replacement of stocks and reimbursement for services provided by DOD pursuant to section 506 of the FAA of 1961. For fiscal years 1982 and 1983, the Congress approved a lump sum appropriation for military assistance without a specific line item for

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[5]The time lapse between a drawdown being authorized and a request for reimbursement being made is due in part to the reimbursement request being made for the actual cost of the drawdown. The determination of this cost is made subsequent to the completion of the drawdown. This is why there were no requests in 1980 and 1981.

drawdown reimbursement. Prior to the 1979 changes in the authority, drawdown reimbursements were made by a specific line item appropriation.

Change in responsibility for reimbursement decisions

This appropriation process and the changes in who decides to fund drawdown reimbursements raise questions as to whether reimbursement will be made or if there is adequate accountability over this aspect of the program. Former and current executive branch officials state that the basic operating concept has been that reasonable, prudent use of the authority by the executive branch would be followed by congressional reimbursement of drawndown stocks. Early exercises of the authority elicited statements of congressional concern during hearings that they had not yet received a request for reimbursement. In another case, they rejected a request for reimbursement of a drawdown (PD 74-19) that did not meet their legislative intent.

The lump sum appropriation transfers the reimbursement decision from the Congress to the executive branch. The Under Secretary of State for Security Assistance, Science and Technology makes the decision whether or not to reimburse the services after considering security assistance program priorities, fund availability, current political factors, and whether a decision not to request reimbursement might be viewed by the Congress as abusive. This can result in a decision to reimburse the service one year and not in the next, as was the situation in fiscal years 1982 and 1983.

For fiscal year 1982, the services received $6,893,000 to reimburse their actual costs for the Thailand, Liberia, and first El Salvador drawdowns. According to a Special Assistant to the Under Secretary, there was no real difficulty in making the decision to reimburse these drawdowns. The appropriation of $178.5 million for military assistance was reasonably close to the administration's request of $238.5 million, and the drawdown reimbursement amount was small relative to the total appropriated funds.

For fiscal year 1983, however, the Special Assistant said the decision to allocate funds within the account was very difficult. The Continuing Resolution Authority (CRA) of $107.5 million was far less than the administration's amended request of $557.0 million, and the drawdown reimbursement request of $75 million was large relative to the total funds available under the CRA. A decision was made to fund specific country military assistance requirements to the extent possible and again request drawdown reimbursement in the fiscal year 1983 supplemental

request ($25 million) and the fiscal year 1984 request ($50 million). Subsequently, a decision was made to shift the $25 million request from the fiscal year 1983 supplemental request to the fiscal year 1985 request. This shift was made in conjunction with the administration's reprogramming of assistance for Central America. Further, he said there is no specific time limit by which a drawdown must be reimbursed.

Drawdowns are emergency responses specifically approved and justified by the President. Their reimbursement has been by subsequent appropriation. As long as drawdown reimbursements are postponed, such use of the authority becomes, in effect, an added appropriation for foreign assistance without formal congressional appropriation.

"Never whole" problem

The decision to postpone reimbursement, for any length of time, worsens the "never whole" problem now inherent to the authority. Under the present system, a reimbursement request is normally made in the next budget request or supplemental appropriation request that follows a determination of the final costs of the drawdown. Presuming congressional approval and allocation of funds to DOD, the services can begin to replace their stocks. However, full replacement of the drawdowns is unlikely, if not impossible, for several reasons:

--The replacement funds are based on DOD prices at the time of the drawdown and are not adjusted for inflation during the time span between these events, generally estimated to be 1 to 2 years.

--The replacement price of an item may increase more than the inflation rate during this period.

--The item may have been replaced by a new item with a higher cost.

--The item may no longer be in production orthe service may no longer be ordering replacements.

The Liberia and the last El Salvador drawdowns provide examples of this problem.

The Army supplied twenty 2 1/2 ton trucks to Liberia on December 29, 1980. Between the time of the drawdown and the time of reimbursement, the Army replaced this truck with a medium tactical vehicle that is to be available in the 1985 timeframe. The price of the old truck was $41,913 and the price of the new vehicle until June 30, 1983 was $52,452. As a

result, the Army will be able to replace, at most, 17 of the trucks with the newer vehicles and will not have use of the 20 trucks from 1980 to 1985.

As a result of the El Salvador drawdown, the Army Chief of Staff addressed the reimbursement problem. In his February 18, 1982, memorandum to the Deputy Secretary of Defense, he estimated the Army's contribution to the five outstanding drawdowns would be $53.0 million of the total $82.1 million and concluded:

> "We are unable to replace material taken from Army stocks until such time as Congress appropriates funds, and we cannot afford both the gap in our readiness posture and the deflated value of the replacement dollars. I urge you to give your strong support to obtaining the $20M already in the FY 83 budget and press for inclusion of the $55M in that budget."

The Deputy Secretary responded on April 9, 1982, that he intended to fully support the $20 million reimbursement request then in the fiscal year 1983 budget request. On the subject of the $55 million drawdown, he advised the Army Chief of Staff not to plan on reimbursement prior to the fiscal year 1984 budget's enactment.

The Army Chief of Staff then requested his logistics section to outline the implications of this decision. The Deputy Chief of Staff for Logistics response on April 29, 1982, was:

--Army and Defense Logistics Agency stocks would be minus 15 UH-1H helicopters, light weapons, ammunition, communications equipment, individual clothes, and field gear.

--Funds for reprogramming would not be available earlier than fiscal year 1984 and, when received, would have depreciatedto the extent of inflation in the interim.

--Operations and maintenance funds used to support the drawdown would not be available for other Army uses in fiscal year 1982.

Although the $55 million was included in the amended fiscal year 1983 budget request of $557 million, only $107.5 million was appropriated and no funds were allocated by the administration to drawdown reimbursement. (See pp. 18-19.)

OTHER DRAWDOWN AUTHORITIES AND VARIATIONS

Section 506(a) is not the only drawdown-type authority available to a President. There is a sales drawdown authority and a pending request for a Peacekeeping and Other Operations (PKO) drawdown authority.

Sales drawdown authority

Section 21 of the AECA provides for sale of U.S. defense stocks and services in U.S. dollars. Ordinarily, such sales must be paid for in advance of delivery. However, under subsection (d), the President may permit payment within 60 days after delivery if he determines it to be in the national interest. Subsection (d) also authorizes the President to extend the repayment period to 120 days (the so-called sales drawdown authority) if he determines the purchaser's emergency requirements are beyond its capabilities to repay within 60 days. In submitting this determination to the Congress, he must also submit a special emergency request for funds to finance the sale of these items.

The 120-day extension of section 21(d) is a 1976 amendment of section 21. The pre-1976 section 21 was invoked to authorize the 1973 resupply operation for Israel when the President ordered large quantities of U.S. stocks to be shipped to Israel and subsequently asked the Congress for funds to reimburse the services for this drawdown.

Subsequent to completion of our audit work, the President on April 13, 1984, authorized the 60-day clause section 21(d) to provide military assistance to El Salvador. On June 18, 1984, he authorized the extended repayment, 120-day clause of section 21(d).

Prior to the El Salvador case, the post-1976 section 21 authority had not been used. However, there have been situations where arguably it could have been invoked; for example,

the 1978 Shaba II airlift[6] and some of the seven drawdowns since then. According to various administration officials, the lack of use of the section 21(d) sales drawdown authority might in part be due to reluctance to recommend its use to the President as long as the section 506(a) drawdown authority is available. A section 21(d) action does not have the "free equipment" aspect of a section 506(a) action since under section 21(d) there is a fixed time by which the President must seek emergency funds to pay for the transfer. Further, under section 21(d), the recipient signs an FMS case and thus is liable ultimately for the transferred item charges. Various administration officials stated their reluctance to recommend use of this section in a controversial transfer and subject the recipient to a debt resulting from a possible congressional rejection of the emergency supplemental funding request. Additionally, they said they were reluctant to ask a recipient of emergency assistance to possibly pay for it in case the Congress rejected the supplemental. As such, section 21(d) is not viewed by them as a viable option, and these considerations are part of the determination that no other means are available to respond to an emergency, a criterion for use of the drawdown authority. Thus, the

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[6]In 1978, the President ordered the Air Force to assist in airlifting French, Belgian, and Moroccan troops and French equipment to Zaire. These forces were part of a multinational effort to assist the Zairian government in repelling an attack in Shaba Province by an Angolan-based rebel force and restoring security to the province. The justification for the order was the President's authority as Commander-in-Chief of the Armed Forces. This broad justification was used due to legal and fiscal questions associated with the initial deployment of French and Belgian forces to Zaire and the subsequent deployment of African peacekeeping forces. These questions appeared to come from a U.S. commitment to act without complete consideration of the constraints involved; for example, the section 506 drawdown authority was not available because funds were not appropriated in advance and section 21(d) required the recipient to sign an FMS agreement which would have created political problems since the U.S. commitment was to provide, not sell, airlifts. Subsequently, DOD officials stated an understanding was reached with the Congress to resolve the legal and fiscal questions associated with these airlifts. Section 26 of the International Security Assistance Act of 1979 (Public Law 96-92) authorized the removal of "those foreign armed forces which were transported to Zaire by the United States at the time of the crisis in Shaba Province in 1978." A part of this understanding, according to the DOD officials, was that the airlift billings would be for round trip and would cover all forces. Further, section 5(b) of this Act amended the drawdown authority to provide the President with $10 million in authority without prior appropriations.

tendency has been to recommend use of the drawdown authority instead of section 21(d).

PKO drawdown authority

In 1982, the administration proposed expanding the President's flexibility to respond to peacekeeping operation emergencies. Subsection 552(c) of the FAA of 1961, as amended, authorizes the President in a unforeseen emergency to transfer up to $15 million each fiscal year from the ESF account. As proposed, a drawdown authority would have been added to this transfer authority. Some of the specifics of the proposal and comparisons to the other special presidential authorities are:

--Compared to the criteria for invoking section 506, the usage criterion is lower, requiring only that the President must determine that unforeseen circumstances require immediate PKO assistance.

--The funding authorization for reimbursement of a PKO drawdown is the same as for the section 506 drawdown authority and, as such, could be subject to the same reimbursement problems.

--There is no prohibition on the President using section 614(a)(1) FAA waiver authority on any part of the proposed PKO drawdown authority, such as the dollar ceiling, as long as he reports this to the Congress.

The Senate Committee on Foreign Relations and the House Committee on Foreign Affairs reported favorably on this proposal. However, the bill was not debated or brought to a vote in either house prior to the expiration of the 97th Congress. In 1983, the administration again requested this authority. The Senate Committee on Foreign Relations in April 1984 recommended a drawdown of up to $25 million if the President determines that an "unforeseen emergency" requires immediate assistance. The House bill passed on May 10, 1984, was silent regarding PKO drawdown authority. The 98th Congress did not pass a foreign aid authorization bill. In early 1985, the administration again requested the authority.

CHAPTER 3

SECTION 610 - THE TRANSFER AUTHORITY

The transfer authority has been the second most used special presidential authority. At least 31 transfers have been authorized during the FAA period. Over half the transfers were to support U.S. military operations in Southeast Asia.

LEGISLATIVE HISTORY

A transfer authority was authorized by section 408(c) of the Mutual Defense Assistance Act (MDAA) of 1949 (Public Law 81-329) and then by section 513 of the MSA of 1951 (Public Law 82-165). Up to 5 percent of the MDAA funds and up to 10 percent of the MSA funds available under one title could be transferred for use under another title whenever the President determined it to be "essential" or "necessary" for carrying out the purposes of the respective foreign assistance acts. This was to provide a degree of flexibility for response to unforeseen occurrences or crises in widely separated parts of the world.

The transfer authority was expanded in the adoption of the MSA of 1954. Section 501 provided that whenever the President determined it necessary, up to 10 percent of the funds under one provision could be transferred to another provision provided the total in the provision to which money was transferred was not increased by more than 20 percent. Section 501 was not limited to transfers between titles as had been the case in prior legislation; transfers could also be made within titles. The House Committee on Foreign Affairs justified the authority on the President's need for flexibility to meet unforeseen contingencies.

The authority was continued as part of the FAA of 1961. It provided under section 610 that:

> "Whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 per centum of the funds made available for any provision of this Act may be transferred to, and consolidated with, the funds made available for any other provision of this Act and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision."

In 1962, existing provisions of section 610 were designated 610(a). Section 610(a) was amended in 1969 and again in 1974.

The FAA of 1969 (Public Law 91-175) prohibited transfer of funds out of the Overseas Private Investment Corporation (OPIC).The FAA of 1974 (Public Law 93-559) prohibited transfer of funds into the MAP account. It also amended section 614(a) to prohibit the use of the waiver authority on percentage limitations of section 610(a).

In 1959, the Congress enacted section 551 of the MSA of 1959 (Public Law 86-108), which prohibited the use of special authorities to finance activities normally funded from appropriations for administrative expenses. The Conference Committee stated that there had been several instances in which administrative funds were augmented by a transfer of money from program activities, and this provision was intended to terminate the practice. However, a year later, Congress agreed to suspend section 551 for fiscal year 1961 in order to provide adequate funds that year to cover pay increases for government employees and new assistance programs in Africa.

In 1961, section 551 was omitted from foreign assistance legislation at the request of the executive branch, owing to the extensive reorganization that was in progress. The following year, the Senate Committee on Foreign Relations recommended restoring the prohibition against transferring program funds to administrative expense accounts. The prohibition, enacted that year by the FAA of 1962 (Public Law 87-565), added section 610(b), which provided that the President shall not use his contingency authority under section 451, his drawdown authority under section 506, or his waiver authority under section 614(a) to augment appropriations or to otherwise finance administrative expenses. Section 610(b) remained unchanged until 1966 when the FAA of 1966 (Public Law 89-583) amended it to permit payments up to $5 million for administrative expenses incurred in connection with programs in Vietnam. The FAA of 1967 (Public Law 90-137) raised the annual ceiling on these transfers to $9 million. In 1978, the Vietnam program clause of the subsection was deleted.

Subsection 610(c), enacted by the FAA of 1974 (Public Law 93-559), provided additional specific transfer authority. Subject to congressional notification requirements of section 653 of the FAA of 1961, as amended, the subsection permits the transfer of a country's military assistance funds to its development assistance account and was specifically enacted for programs in Vietnam, Cambodia, and Laos.

USE OF THE TRANSFER AUTHORITY

There have been at least 31 FAA transfers (see appendix I for a list of these transfers) that authorized shifting at least $443.4 million between various foreign assistance accounts. About half of these relate directly to U.S. involvement in the

Southeast Asian war. Its most recent uses generally have been to fund peacekeeping operations.

Southeast Asia transfers

The largest number of these transfers was made at the direction of the Congress. They were solely for funding the additional administrative expenses that AID incurred in connection with its expanded programs in Vietnam. From fiscal year 1966 through 1973, eight transfers totaling $35.6 million were made.

The second largest number of transfers was made to fund the military assistance program in Cambodia. In fiscal years 1970 and 1971, three transfers totaling $61 million were made in combination with the waiver authority. These were part of a larger assistance program in Cambodia, largely funded via a combination of special presidential authorities. (See p. 88.)

Six other transfers were made to support U.S. activities in Southeast Asia. Two of these provided $56 million to "accommodate urgent funding requirements" of the Vietnam Supporting Assistance Program, thereby allowing the program to continue during January and February 1966. These transfers were unique in that the President determined they were contingent on a supplemental appropriation, which was pending at the time, to reverse the transfer and replenish the AID donor accounts. A third provided $50 million to meet high-priority requirements in Southeast Asia. A fourth provided $50 million to the MAP account to accommodate additional requirements resulting from increased combat operations in Southeast Asia. Future MAP transfers in the fiscal year were foreseen but instead were resolved by using the drawdown authority and subsequently eliminated by the establishing of the MASF account. A fifth provided $12.8 million for security oriented projects in Vietnam, Laos, and Thailand. A sixth transfer was $40 million, but we could not determine how much was for Southeast Asia. In total, the value of the 17 transfers was at least $265.4 million.

Non-Southeast Asia transfers

The remaining 14 transfers were made for various purposes, including funding unforeseen program requirements, compensating for budget reductions, paying personnel, and funding peacekeeping requirements.

Questionable transfer

In 1969 hearings before the Subcommittee on Foreign Operations and Related Agencies, House Committee on Appropriations, AID reported there was a fiscal year 1968 transfer of $4.95 million from Alliance for Progress funds to "non-regional programs for population and family planning activities."

We did not find any record of a PD authorizing this transfer. An AID lawyer said that any basis for the transfer would probably be found in authorizing or appropriating legislation. Our review of the legislation did not disclose any authority other than section 610 for making this transfer. It is possible that this transfer was made without a PD. (See chapter 1 for a discussion of the need for a PD).

USAGE CRITERIA

The Congress has provided specific usage criteria since a transfer authority was first enacted in 1949. Since 1954, the overall criterion has been that whenever the President determines it to be necessary, the so-called "10 out-20 in" rule applies, whereby transfers cannot reduce by more than 10 percent the total funds originally in the debited account and cannot increase by more than 20 percent the total funds originally in the credited account.

While the overall purpose and operating criteria for this authority have not changed, the Congress has, over time, placed some prohibitions on using the authority. Examples of these are the 1969 prohibition on using the authority to transfer OPIC funds to other accounts, the 1974 prohibition on transferring funds to the MAP account, and the 1974 prohibition on waiving the transfer percentage limitations of the authority.

The transfers which we found supported by PDs met these criteria. However, we found that the source of funding of several was inconsistent with administration officials' statements as to how these funds would be used. In their 1961 testimony, administration officials acknowledged that the transfer authority could be used to shift funds from economic assistance to military assistance and vice versa. At the same time, they clearly stated, and the House Committee on Foreign Affairs chairman stated that he understood, that the contingency fund account (section 451) was to be used only for economic aid and the drawdown authority would be used for military emergencies. By late 1962, this representation was being reviewed, as shown by a DOD Assistant General Counsel for International Affairs memo.

> "Although historically, the authority vested in the President by section 610 of the Foreign Assistance Act (and previous legislation) to transfer funds between accounts has been viewed as a one-way street, namely, from MAP to economic, it is legally two-way. Accordingly, you may wish to bear in mind, should the need arise, the possibility of transferring funds from AID to MAP. In that event, and if necessary, AID could then seek a supplemental appropriation."

Between 1964 and 1970, four transfers totaling $131 million were made from the contingency fund account to the MAP account. A majority of these funds was used for military operations in Southeast Asia. In 1974, section 610 was amended to prohibit this type of transfer.

OTHER TRANSFER AUTHORITIES

Section 610 is not the only transfer type authority available to a President. There are transfer authorities within the development assistance and PKO accounts of the FAA.

AID transfer authority

Enacted in 1973, section 109 provides for the limited transferability of funds among the development assistance accounts (sections 103-106 of chapter 1, part 1) of the FAA. Up to 15 percent of the funds in one section can be transferred to another section as long as the credited section is not increased by more than 25 percent. Section 109's prohibition on using the section 610(a) transfer authority and section 614(a) waiver authority with respect to transferring funds out of the development assistance accounts was amended in 1977 to allow transfers to the operations expense account so long as the account is not increased by more than 5 percent.

In contrast to the section 610(a) transfer authority, the responsibility for authorizing a section 109 transfer has been delegated to the AID Administrator in consultation with the Director of the International Development Cooperation Agency. According to an AID lawyer who is responsible for these authorities, a section 109 transfer has never been made. However, PD 80-22 (see appendix I), a section 610 transfer, was made in accordance with section 109's 5-percent limitation.

PKO transfer authority

In 1979, section 552(c) was enacted to allow the President greater flexibility in peacekeeping operations. Section 552(c) allows the President, if he determines that as the result of an unforeseen PKO emergency provision of additional PKO assistance is important to U.S. national interests, to transfer, under the section 610(a) authority, up to $15 million in ESF funds to the PKO account without regard to the 20-percent limitation of the section 610 transfer authority.

CHAPTER 4

SECTION 614(a) - THE WAIVER AUTHORITY

The waiver authority is the most used and has the most extensive coverage of the special presidential authorities. It is also the only one which presently applies to both the FAA of 1961, as amended, and the AECA.

LEGISLATIVE HISTORY

A waiver-type authority was enacted by the MSA of 1952 (Public Law 82-400). It authorized the President to provide up to $100 million in assistance of which not more than $20 million could be provided to any one country "without regard to any conditions as to eligibility contained in this Act, when the President determines that such use is important to the security of the United States." The authority was expanded to allow waiving of any provision of the MSA and was designated section 401, Special Fund, by the MSA of 1954. The ceiling was raised from $100 million to $150 million for any fiscal year. The MSA of 1958 redesignated the authority as subsection 451(a) and increased the overall ceiling to $255 million by authorizing that $100 million from the contingency fund account, subsection 451(b), could be used under the subsection 451(a) waiver authority. Committee reports during the MSA period of the 1950s explained that the purpose of this authority was to provide the President the flexibility to deal with situations where strict applicability of foreign assistance provisions would not serve U.S. interests and to respond to emergencies or unforeseen developments, such as national disasters.

The waiver authority, as had generally existed under section 451(a), then was enacted as section 614(a) of the FAA of 1961, which provided that:

> "The President may authorize in each fiscal year the use of funds made available for use under this Act and the furnishing of assistance under Section 510 in a total amount not to exceed $250,000,000 and the use of not to exceed $100,000,000 of foreign currencies accruing under this Act or any other law, without regard to the requirements of this Act, any law relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.), in furtherance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States. Not more than $50,000,000 of the funds

available under this subsection may be allocated to any one country in any fiscal year."

In 1966, the scope of the authority was expanded by providing that the $50 million per country limitation did not apply to any country which was the victim of active Communist or Communist-supported aggression. In 1974, the authority's scope was narrowed by prohibiting the use of this section to waive section 610(a) transfer limitations on transfers between accounts (see p. 27).

In 1976, the Senate passed a foreign assistance bill that prohibited the use of section 614(a) to waive ceilings under grant military assistance programs. This action was described in the Senate Committee on Foreign Relations staff analysis of the bill as "consistent with the general thrust of the bill to restrict or repeal the vast discretionary power that in the past Congress has given to the President over foreign military assistance and sales matters." On May 7, 1976, the President vetoed this foreign assistance bill. Shortly thereafter, a revised bill was enacted into law which omitted any new limitations on section 614(a).

History of the "sales waiver"

As the law stood in the beginning of 1980, section 614(a) generally permitted the President to waive any provision of the FAA, or of any act appropriating funds for use under the FAA. Provisions pertaining to foreign military sales could not be waived under authority of section 614(a).

The administration proposed amending the authority to also permit the President to waive any provision of the AECA, any provision of any act appropriating funds for use under the AECA, and any provision of any annual authorization act. In his 1980 testimony before the Subcommittee on International Security and Scientific Affairs, House Committee on Foreign Affairs, the Under Secretary of State for Security Assistance, Science and Technology noted the changes in the foreign assistance program since 1961 and their limiting impact on the authority. He stated that the administration's proposal "...would reflect the original purpose of section 614(a) by restoring its applicability to our entire foreign assistance program."

The Senate Committee on Foreign Relations concurred in the administration's proposed amendment of section 614(a) with several important changes. First, it required that the President determine the waiver to be "vital" to U.S. security rather than "important," which had been the test for many years. This Committee intended to limit use of the waiver. Second, the Committee required the President to determine that "time constraints exist which prevent him from seeking remedial statutory authority." Third, the presidential notification would have to be

transmitted in writing to the relevant committees. Fourth, the President was required to consult in advance "in every possible instance." Fifth, the $250 million ceiling would be extended to include any AECA waivers.

The Conference Committee agreed to a compromise provision which required the President to determine it important to U.S. security interests to make FAA waivers, and vital to U.S. national security interests to make AECA waivers. The time constraint provision was deleted. The Senate requirement that the President consult "in every possible instance" was changed to a requirement that he "shall consult" with congressional committees. The requirements that the President notify the committee in writing and that the $250 million ceiling be extended to AECA appropriated funds were retained.

Section 614(a)(2), as submitted by the administration and as enacted, provided that the President was permitted to make sales, extend credit, and issue loan guarantees under the AECA without regard to any provision of the FAA, the AECA, any law relating to receipts and credits accruing to the United States, or any act authorizing or appropriating funds for use under the AECA. The existing section 614(a) waiver exemptions, reporting requirements, and dollar ceilings were applied to the section 614(a)(2) AECA waiver. The section 614(a) FAA waiver was redesignated section 614(a)(1) and similarly amended.

In addition to creating the section 614(a)(2) AECA waiver, the administration's proposal, as enacted, exempted section 506(a) drawdowns made by waiver from being counted against the annual dollar ceilings and clarified an earlier legal interpretation that the section 614(a) waiver authority could be applied to other than the fiscal year in which it was invoked. (See pp. 39-40.)

SUBSTANTIAL USAGE OF THE WAIVER

Since enactment of the FAA of 1961, as amended, section 614(a) waiver authority has been the most frequently used of the special presidential authorities. Since fiscal year 1962, there have been at least 117 waivers, more than twice the total usage of the other four special presidential authorities during this same period. Use of the waiver each fiscal year has varied due to the number and nature of U.S. commitments, changes in the foreign assistance legislation, foreign aid funding levels, and international conditions. The value of assistance authorized via the waiver authority has totaled almost $1.6 billion as follows:

ASSISTANCE AUTHORIZED BY WAIVERS

Fiscal year	Number of waivers	Authorization (in millions)
1962	10	$ 54.3
1963	12	85.7
1964	12	128.2
1965	9	107.0
1966	8	114.6
1967	6	97.2
1968	4	11.7
1969	1	4.0
1970	5	62.9
1971	9	209.5
1972	8	198.6
1973	6	106.9
1974	11	194.6
1975	2	74.6
1976	1	.9
1976T (7/1/75 - 9/30/75)	1	3.0
1977	0	0.0
1978	0[a]	0.0
1979	2[a]	15.0
1980	2[a]	45.1
1981	5[a]	53.2
1982	2[a]	26.9
1983 (as of 6/30/83)	1[a]	.1
Total	117	$1,594.0

[a]These figures represent the minimum number of waivers for these years based on information gathered from files at AID, DOD, and the State Department, other than its Office of the Legal Adviser, which did not have an accurate listing.

Although there has been substantial use of the waiver authority, the executive branch told congressional committees in early 1980 that it had been used sparingly. The administration had proposed a major expansion of the waiver authority to reconcile what it considered to be inconsistencies between the FAA and the AECA. In written responses to questions on the use of the waiver authority from the Senate Committee on Foreign Relations and the Subcommittee on International Security and Scientific Affairs, House Committee on Foreign Affairs, the Under Secretary of State for Security Assistance, Science and Technology stated that the waiver authority had been used sparingly since enactment of the FAA in 1961. In his House response, he stated:

"Its most recent use was on September 13, 1979, when the President waived various limitations on assistance to Yugoslavia under the Foreign Assistance Act of 1961 in order to provide economic support fund (ESF) assistance to that country in the wake of a serious earthquake (Presidential Determination No. 79-16). The last use prior to PD 79-16 was in June of 1974 when section 614(a) was employed in order to permit assistance in connection with the clearance of the Suez Canal (Presidential Determination No. 74-26 of June 30, 1974; prior determinations under section 614(a) for the same purpose were Nos. 74-21 of June 21, 1974, 74-20 of May 16, 1974, and 74-16 of April 19, 1974). Other uses in the past include the provision of assistance to charitable institutions in Egypt (Presidential Determination No. 74-15 of March 7, 1974); grants of defense articles and services and security supporting assistance to Spain (Presidential Determination No. 74-10 of December 20, 1973); and for a number of grants of defense articles and services to the Philippines, Thailand, Portugal, and Indonesia between 1971 and 1973."

Parts of this response were also sent to the Senate Committee on Foreign Relations.

As can be seen from the list of waivers in appendix I (see pp. 93-121) and the table on page 52, this statement did not reflect the extensive use that had been made of the authority. For example:

--At the time of the Under Secretary's response, the waiver authority had been used 107 times to authorize $1.468 billion in assistance.

--The most recent use was on September 28, 1979, when the President waived the prohibition on offshore procurement of agricultural goods for less than parity prices to provide up to $5 million in rice, sorghum, beans, and corn to Nicaragua (PD 79-17).

--There were four waivers made between the Yugoslavian and Suez Canal waivers. Three (PD TQ-7, 76-19, and 75-18) provided base rights related assistance to Spain. The fourth (PD 75-17) allowed Indochina postwar reconstruction funds to finance the evacuation of various nationals from South Vietnam.

--The Spanish waiver (PD 74-10) was one of eight made on almost an annual basis during the period from fiscal year 1970 to the transition quarter.

--Annual waivers for grants of defense articles and services to the Philippines, Thailand, Portugal, and Indonesia in two cases went beyond the 1971 to 1973 period; Indonesia waivers were for fiscal years 1962 to 1963 and 1968 to 1972, and Portugal waivers were for fiscal years 1970 to 1974. Some annual country waivers omitted were for Morocco (1962 to 1968), Burma (1962 to 1968), and Nepal (1964 to 1967).

--Virtually omitted was the use of the waiver authority in support of military operations in Southeast Asia, Laos (11 waivers), Cambodia (9 waivers), Vietnam (2 waivers), and other (8 waivers).

On the other hand, during a 1982 hearing on an amendment to place a $750 million ceiling on AECA sales via the waiver authority, the State Department recognized that usage of the waiver had been substantial. In response to a question as to whether any presidents had used the waiver authority, a State Department official answered "the section 614 authority has been used many times, a number of occasions in the past few years."

Fiscal years 1962 through 1972 waiver usage

From fiscal years 1962 through 1972, the authority was primarily used to waive various MAP eligibility requirements to provide continuous grant military assistance to selected countries. During this period, 63 of the 84 waivers, or 75 percent, involved waiving the eligibility requirements. Of them, 53 were made to provide continuous assistance to eight countries (Indonesia, Burma, Zaire, Nepal, Morocco, Tunisia, Laos, and Cambodia).

In general, overall eligibility requirements that U.S. personnel be allowed to inspect the grant equipment and that it would return to U.S. control after it was of no use to a recipient were waived to preserve the appearance that these were sales relationships with most of the eight countries. The prohibition on providing grant military assistance in excess of $3 million unless it was to be used for the recipient's defense and the free world's defense was also waived for several of these countries. The waivers were justified to allow the eight countries to maintain their respective nonaligned or neutral standing and also maintain military support agreements with the

United States. The Laos and Cambodia waivers allowed the funding of military operations in each country.

Of the remaining 21 waivers made during this period, 7 waived the prohibition on providing assistance to developed countries, 4 provided funds to U.S.-supported universities, 5 supported operations in Southeast Asia, and 5 were for various purposes. See appendix I for a list of waivers.

Fiscal years 1973 through 1983 waiver usage

Since 1972 the largest block of waivers, 13, was made to continue American use of foreign military bases. Five waivers of the 10 percent local currency requirement[1] were made for the Philippines, Turkey, and Thailand in fiscal years 1973 and 1974 to provide $201 million in grant military assistance. The remaining eight waived the developed country prohibition[2] for Spain and Portugal from fiscal year 1973 to the transition quarter (July - September 1976) to provide $17.83 million in grant military assistance and $12 million in security supporting assistance as part of the quid pro quo for base rights.[3]

A block of five waivers was made between March and June 1974 as part of American peace efforts in the Middle East and to provide assistance to Egypt prior to the resumption of a regular assistance program. In general, prohibitions were waived on providing assistance to a country that had severed diplomatic

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[1]Section 514 required military assistance recipients to agree to deposit 10 percent of the value of excess defense articles and grant military assistance in its currency in a special account established by the United States and to agree to allow the United States to use such currency to defray official costs. This requirement was repealed by Public Law 93-189, which was enacted on December 17, 1973.

[2]Section 620(m) prohibited furnishing grant assistance to any economically developed country capable of sustaining its own defense burden and economic growth. This prohibition was repealed in 1981 by Public Law 97-113.

[3]These waivers began in fiscal year 1970; five were made by fiscal year 1973 and eight were made between fiscal year 1973 and the transition quarter. In all, 13 waivers were made for Spain and Portugal.

relations with the United States and that had debt and expropriation disputes with the United States.[4] As a result, funds were made available for a local currency grant to a local charity and a variety of projects to assist in reopening the Suez Canal.

Eight waivers involving ESF assistance were made beginning in late fiscal year 1979. They ranged from waiving spending restrictions on the last month of a fiscal year to waiving of country earmarkings of funds. Some of the projects funded by these waivers were disaster assistance for Yugoslavian earthquake victims, budget support for Liberia and El Salvador, peacekeeping operations in Chad and the Sinai, and economic support for Nicaragua.

Beginning in mid-1980, the prohibition on providing assistance to Communist countries[5] was waived to provide an International Military Education and Training (IMET) program to Yugoslavia. Each year since then, the waiver has been routinely granted to continue the IMET program for Yugoslavia.

During the period 1975 through 1983, there were also four waivers for drug control work, South Vietnam evacuations, and food aid to Laos, Cambodia, and Nicaragua. See appendix I for a list of waivers.

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[4]Section 620(c) prohibits the provision of assistance to a country which has defaulted on debts owed to American citizens or firms.
Section 620(e) requires suspension of assistance to a country which has expropriated the assets of American citizens or firms.
Section 620(p) prohibited the provision of assistance to the United Arab Republic. This prohibition was repealed in 1974 by Public Law 93-559, 88 Stat. 1795.
Section 620(q) prohibits the provision of assistance to a country more than 6 months in default of loans owed to the U.S. government.
Section 620(t) prohibits the provision of assistance to a country that has severed diplomatic relations with the United States or vice versa until relations are resumed.
Section 220A authorized up to $10 million in Egyptian pounds to assist in reopening the Suez Canal if an agreement was reached for nondiscriminatory use of the canal. This provision was repealed by Public Law 95-424, 92 Stat. 937 (1978).

[5]Section 620(f) prohibits assistance to Communist countries except for assistance provided under section 214(a) and (b) for hospital centers for medical education and research.

WAIVER CRITERIA, GUIDANCE, REPRESENTATIONS, AND USAGE

Congressional guidance on use of the waiver authority is broad, with few specifics as to how it is to be used.

614(a)(1) Waiver usage criteria, guidance, and representations

Section 614(a) of the FAA of 1961, as amended, states that it can be invoked whenever the President determines "that to do so is important to the security interests of the United States." That clause is not defined in the statute.

In their 1961 testimony on continuation of the waiver authority, administration witnesses stated that the FAA waiver essentially was the same authority that had existed under section 451(a) of the MSA of 1958 and was not an enlargement of that authority. Section 451 was based on section 401 of the MSA of 1954, which in turn was based on section 7(i) of the MSA of 1952.

The 1952 act gave the President the authority to provide up to $100 million without regard to the conditions for eligibility set out in the act, whenever he determined waiver was important to U.S security. The House Committee on Foreign Affairs report noted that some countries would not comply with U.S. eligibility conditions because they were "afraid to enter into agreements with the United States which might be interpreted as an alliance with the United States against the Soviet Union." The committee concluded the following:

> "The committee considered it important to provide for some flexibility to deal with emergency situations and to provide limited amounts of assistance in circumstances which do not warrant the negotiations of agreements."

Similarly, their report on the MSA of 1954 indicated that one of the main purposes of section 401 was

> "to continue the authority in previous legislation to use limited amounts of funds authorized under this bill to meet special situations and emergencies which cannot be dealt with in the context of regular programs."

The Senate Committee on Foreign Relations report on the MSA of 1958 specified prior types of situations where the waiver authority had been used. These were

"...emergency relief because of natural disasters, as in Pakistan and Haiti; increases necessitated by adverse economic developments or by failure to estimate needs adequately, as in Turkey in 1956; institution of programs in newly independent countries, as in Morocco and Tunisia in 1957 and Sudan in 1958; action necessitated by unforeseen political events, as in Jordan in 1957."

The committee went on to say:

"By the nature of these programs, it is not possible to foresee clearly what the requirements will be....Without funds available for immediate use in cases such as these, the United States would perforce miss many opportunities to advance its foreign policy objectives; worse, in some cases it would be forced to sit idly by and watch developments disadvantageous to it."

No specific legislative guidance on the use of the waiver authority was enacted in the FAA of 1961. During the 1980 expansion of the waiver authority, the 1961 usage criterion ("important to the security interest of the United States") was retained for section 614(a)(1) waivers, and a "vital" standard was established for the new waiver authority (section 614(a)(2)) enacted by that legislation. The Subcommittee on International Security and Scientific Affairs, House Committee on Foreign Affairs, report recommended expansion "enabling the President to furnish a wider variety of security assistance than currently possible in extraordinary emergency situations." The Senate Committee on Foreign Relations report noted:

"While the Committee recognizes that unforeseen, critical circumstances can necessitate the exercise of the very broad waiver authority permitted under this section . . . the Committee cautions that prohibitions and limitations written into the affected foreign assistance legislation are not to be taken lightly ..."

Legislative history indicates that the waiver authority was provided to give the President a certain degree of flexibility to deal with situations where strict applicability of foreign assistance provisions would not serve U.S. interests, as well as to permit the President to respond promptly to emergencies and unforeseen events.

614(a)(1) waiver usage

Our analysis of the waiver PDs and their supporting documents was that about half were to meet emergencies, to respond to unforeseen events, or to deal with situations where formal assistance agreements were not practical. Some examples are

--emergency disaster relief for Yugoslavia (PD 79-16);

--emergency military assistance for India (PD 63-11);

--programs in newly independent countries for Niger, Dahomey, the Ivory Coast, and Upper Volta (PD 62-22), Cameroon (PD 62-28), and Somalia (PD 63-26); and

--nonformal agreement situations for Morocco (7 waivers), Tunisia (4 waivers), Burma (7 waivers), Indonesia (7 waivers), Nepal (4 waivers), and Zaire (4 waivers).

In other instances, waivers were made for provisions that were part of the FAA for just a few years. Some involved provisions that have existed since the MSA. Still others were based on a legal interpretation of the FAA authority that substantially increased the possible use of the waiver from its MSA predecessor.

Multi-year waivers

Under the MSA, the authority was limited to the fiscal year in which it was invoked. In 1980, the authority was amended to permit multi-year waivers.

According to a 1970 State Department Legal Adviser Memorandum of Law, section 614(a) of the FAA of 1961 allowed a form of multi-year waiver. The memorandum stated, under section 614(a),

> "the authorization of funds is tied to a fiscal year but . . . the use of funds is not tied to a fiscal year. This is a change from section 451 of the Mutual Security Act which tied the use of funds to the fiscal year in which they were authorized. . . . Under section 614(a), if funds are authorized in a given fiscal year, the authorization remains valid in subsequent fiscal years to the extent that unused balances remain."

The memorandum then outlined how the Spanish payments could be made.[6] While this provides the legal rationale for the Spanish payments via PD 70-5, it may not provide the legal rationale for

--PD 74-26 of June 30, 1974, the last day of fiscal year 1974, which provided $20 million in fiscal year 1975 security supporting assistance funds to Egypt for a variety of Suez Canal cleaning operations, or

--PD 80-20 of June 10, 1980, which provided $36,000 in fiscal year 1980 and $29,000 in fiscal year 1981 IMET funds for Yugoslavia.

In both these cases, the waiver applied to fiscal year funds other than those of the fiscal year in which it was invoked. According to the DSAA General Counsel, it was the legal uncertainty surrounding PD 80-20 that provided the impetus behind the administration's 1980 request to amend section 614(a) in a manner to allow multi-year waivers. On July 8, 1981, the President signed PD 81-11, which provided $41,000 in fiscal year 1981 and $130,000 in fiscal year 1982 IMET funds for Yugoslavia. In this regard, the Yugoslavia IMET waiver for fiscal year 1983 was signed on October 1, 1982, which seems to demonstrate that the program might not require multi-year waivers to operate.

Security waivers

In 1963, the Congress enacted Section 111 which required security clearances for certain U.S. citizens working overseas.[7] AID officials decided that requiring security clearances for approximately 80 U.S. citizens who were faculty and staff members of the American University of Beirut and approximately 78 U.S. citizens who were faculty and staff members of

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[6]The memorandum was prepared as part of the PD process for the Spanish waiver. (PD 70-5 of March 19, 1970, provided $50 million in military assistance funds to Spain to be obligated in $25 million segments in fiscal years 1970 and 1971.)

[7]Section 111 of the Foreign Aid and Related Agencies Appropriation Act; 1963, 76 Stat. 1163, 1166, stated: "None of the funds appropriated or made available under this act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to make payments with respect to any contract for the performance of services outside the United States by United States citizens where such citizens have not been investigated for loyalty and security in the same manner and to the same extent as would apply if they were regularly employed by the United States."

Robert College of Istanbul, Turkey, would seriously damage their image of American academic freedom and thus lessen their role as primary instruments of American influence in their respective areas. Two waivers of section 111 were made to provide up to $3.13 million in fiscal year 1963 assistance funds.

In its fiscal year 1964 appropriations proposal, the administration recommended repeal of section 111 for several reasons, including "that application of the security clearance provision to American schools abroad would defeat the objectives of assistance by giving the impression that the faculty is controlled by the United States Government." The Congress rejected the repeal recommendation. Waivers of section 111 were then made to provide the schools with $3.9 million in fiscal year 1964 assistance funds and Robert College with $1.1 million in fiscal year 1965 assistance funds.

Ten percent waivers

In early February 1972, the Congress enacted the 10 percent local currency requirement.[8] A month later, the House Committee on Foreign Affairs Chairman asked a DOD official if all governments had been informed of the requirement to deposit 10 percent of the value of military assistance to a special fund and if guidelines had gone out on requirements of the legislation. DOD's formal written response was: "Guidelines on the requirements of the legislation have gone to all posts. To our knowledge, most governments have been informed of this requirement but we have yet to receive reports from a few posts on their discussion with host governments."

On June 7, 1972, the President waived the requirement for the Philippines. From then to its repeal December 17, 1973, six waivers were made on the justification that the deposits would be detrimental to either base access to or access negotiations with the Philippines, Turkey, and Thailand.

War waivers

The waiver authority was used to fund military operations in Southeast Asia. Eleven Laos related waivers authorized $206.6 million in military assistance from 1962 to 1966 as part of the United States' military activities in Laos. Further, the waiver authority was used extensively in funding military assistance to Cambodia. (See p. 88.)

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[8]See page 35 for the specifics of this requirement. Effective February 7, 1972, through December 17, 1973.

614(a)(2) waiver criteria, representations, and usage

In his 1980 testimony on amending the waiver authority to include the AECA, the Under Secretary of State for Security Assistance, Science and Technology stated that the change to be brought about by the administration's proposal "would reflect the original purpose of section 614(a) by restoring its applicability to our entire foreign assistance program." His formal written response to Senate Committee on Foreign Relations questions reinforced this by stating that the proposed change was "to reconcile inconsistencies in the current legislation."

In his 1980 response to House Committee on Foreign Affairs questions on limits to using this proposed authority, the Under Secretary replied that limitations of the FAA waiver would also apply to the proposed AECA waiver. With respect to overall uses, he said that the

> "...proposed revision of section 614(a) would extend its reach to programs and activities under the Arms Export Control Act insofar as FMS sales and financing are involved, and would permit the waiver of 'free-standing'[9] limitations in annual authorization legislation."

And with respect to the FAA waiver's $250 million and $50 million ceilings, he said the

> "...revision would not, however, impose any comparable limitation on the amount of FMS sales that could be made, and FMS financing that could be extended, under the Arms Export Control Act through the exercise of the authority of section 614(a), and would not impose any comparable limitation on the amount of assistance that could be provided under the emergency 'drawdown' authority of section 506(a) of the Foreign Assistance Act of 1961. In addition, of course, any exercise of the section 614(a) authority to furnish assistance involving appropriated funds would be necessarily limited by the amount of available appropriations."

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[9]"Freestanding" in this context refers to permanent legislation enacted as part of an annual authorization which does not amend the AECA or other law but stands alone.

The Congress rejected some of the proposal and required that the dollar ceilings[10] be applied to both waiver subsections.

Specific waiver limitations (for example, the waiver cannot be used to provide certain assistance to a specific country) were not enacted. Instead, House Committee on Foreign Affairs concerns that the authority would be used to waive nuclear nonproliferation restrictions were resolved by administration assurances that (1) there were no cases currently being considered and (2) with respect to Pakistan (the subject of the Committee's concern), it would not be used for this purpose. Senate Committee on Foreign Relations concerns that the authority would be used to provide assistance to Chile and Argentina were apparently resolved by the Under Secretary's written response that the section 614(a) authority had not been used for this purpose and that it was difficult to foresee circumstances under which it would.

Additionally, Senate Committee on Foreign Relations proposals that would have raised the threshold for using the waiver were modified in the Conference Committee. The threshold for invoking section 614(a)(1) remained at "important" to U.S. national security interests, and the standard for invoking section 614(a)(2) was established as "vital" to U.S. national security interests.

At the time of our review, the 614(a)(2) authority had not been invoked. However, as mentioned in the letters requesting our review, the possibility of using the waiver authority was discovered during the debate on the sale of AWACS to Saudi Arabia. This is discussed below.

Saudi AWACS sale

During the 1981 debate on the proposal to sell the AWACS and F-15 enhancements to Saudi Arabia, some executive branch officials believed that the waiver authority could be invoked to override a concurrent resolution disapproving the sale and thereby make the sale to Saudi Arabia. While there seems to be some doubt as to how this information was originally presented to the Senate, it is clear that some Members of Congress were concerned about this situation.

In response to our questions as to whether the President could have used section 614(a)(2) authority to waive a provision prohibiting him from making a sale if Congress enacts a concurrent resolution disapproving a sale, various administration lawyers and officials agreed that it was legally possible to do

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[10]Exempted from the dollar ceiling were drawdowns made in conjunction with a section 614(a)(1) waiver.

this. They added that politically it was unlikely the waiver would have been made since the Congress would probably repeal the authority following what they likely would view as an abuse.

If the Congress had by a concurrent resolution disapproved the $8.5 billion sale of AWACS to Saudi Arabia, the President nevertheless probably could have made the sale had he invoked section 614(a)(2) to waive section 36(b) of the AECA. Section 36(b) forbids the President to contract for a sale if the Congress objects to the sale by concurrent resolution.[11] Section 614(a)(2) states

> "...The President may make sales ...under the Arms Export Control Act, without regard to any provision of...the Arms Export Control Act,...when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States."

The President's proposal was a cash sale. The Secretaries of State and Defense both testified before the Senate Committee on Foreign Relations that the sale was vital to U.S. interests. Had the President been willing to certify that the sale was vital to U.S. national security interests and to accordingly notify the Congress in writing, the threshold for invoking section 614(a)(2) theoretically would have been met.

As enacted, the $250 million and $50 million ceilings apply only to funds "made available for use under...the Arms Export Control Act." As a cash sale, the proposal's funds were to be made available by the Saudi Arabian government and not the Congress. Thus, the ceilings did not apply to this proposed arms transfer.

Not only could the President have possibly taken the extreme action of invoking waiver authority in this manner to make the sale, but there were other extreme options hypothetically available if the President were determined to make the sale. However, these would appear to entail the same political risk as in the prior case.

For example, the President might have invoked section 36(b)(1) of the AECA. This subsection allows the President to

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[11] As noted on p. 5, 1983 decisions of the Supreme Court appear to invalidate the legislative veto provisions of section 36(b) and (c) of the AECA.

certify that there is an emergency requiring a waiver of the 30-day period allowed for the Congress to object to a proposed sale. Under this hypothetical situation, the President could avoid the congressional vote on the proposed sale (or in the more blatant hypothetical situation could invoke it to thwart an approaching Senate refusal following a House rejection of the sale) by certifying to an existing emergency that required the immediate sale in the U.S. national security interests.[12]

Notwithstanding the escalation in the Iran-Iraq war leading to a U.S. decision to deploy its own AWACS to Saudi Arabia in October 1980, a major difficulty in the above approach would likely be justifying to the Congress how the 5-year delay in delivery of the AWACS responds to the emergency.

A second hypothetical method of making the sale could have been for the President to invoke a variety of provisions of section 21 of the AECA in combination with either a general or specific waiver of congressional review requirements. The first step in this scenario would have been section 21(a), which would have allowed the President to make sales from DOD stocks if the buyer agreed to pay in U.S. dollars. Accordingly, the President could have authorized the sale of the AWACS aircraft from Air Force stocks, in this case an active unit.[13] Because the sale items would have come from an active unit, a section 21(i) report probably would have been required. Section 21(i) requires the President to report to the Congress any such sale that could have a significant adverse effect on the combat readiness of U.S. armed forces, including a certification that the sale is important to U.S security. Should the President not have wanted to make such justification and certification, he could have invoked section 614(a)(2) authority and waived this requirement. In order to invoke section 614(a)(2), the President would have had to certify that waiver of the section 21(i) report was "vital to the national security interest of the United States."

The last step in this scenario would have been to waive the congressional review requirement of section 36(b). This could have been done either by invoking the specific waiver authority

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[12]As of June 30, 1983, the only use of this specific waiver was PD 79-6 of March 7, 1979, which authorized that up to $76 million in military equipment, training, and services be provided to the Yemen Arab Republic.

[13]In our report, Major Issues in Sale of AWACS to Saudi Arabia (C-ID-82-6, May 6, 1982), we pointed out that transferring AWACS from U.S. stocks would have been difficult because the U.S. aircraft would have required major reconfiguration to protect technology of certain sensitive equipment.

of the subsection or by using the general waiver authority of section 614(a). The decision would have been whether the President wanted to certify to an emergency necessitating an immediate response (the specific waiver) or to certify that waiving the review was vital to national security interests (the general waiver).

In addition to hypothetical uses of the AECA waiver to make this sale, the FAA waiver might also have been used to provide the AWACS on a grant basis. In this hypothetical case, the FAA waiver could have been invoked to waive the drawdown ceiling of $75 million, and the aircraft could then have been provided from stocks. As with the sales scenarios, these are extreme options that are viewed by various executive branch officials as likely "use and lose" decisions with respect to the waiver authority. According to these officials, a "use and lose" decision involves an executive action extreme enough that the Congress views the action as an abuse of the legislative authority granted to the President and thus revokes the authority.

WAIVER JUSTIFICATION AND REPORTING

In 1972, section 654 of the FAA, entitled Presidential Findings and Determinations, was enacted. It requires the President to put in writing and sign any finding or determination[14] he is required to report to the Congress and to publish it in the Federal Register unless publication would be harmful to U.S national security. It also prohibits any action from being taken prior to the President's signing the finding or determination and prohibits the executive branch from refusing to release information to the Congress on these actions prior to their transmittal to the appropriate committee or officer of the Congress. Proposed by the Senate Committee on Foreign Relations, the committee report stated that the section was a response to executive branch actions in the prior 2 years, primarily to furnish military aid to Cambodia without a specific congressional authorization. As such, the section was designed to tighten several FAA provisions relating to the President's waiver authority.

At the same time, section 652 of the FAA was revised and retitled. This provision had formally restricted the President's use of the drawdown, transfer, and waiver authorities in Cambodia by requiring notice to the Speaker of the House of Representatives and the Senate Committee on Foreign Relations a

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[14]A presidential finding or determination is a document signed by the President determining and authorizing use of an authority. Generally, this is accompanied by documents supporting and justifying use of the authority.

fixed time period prior to exercising the authorities. The notice had to be in writing and contain the section of the FAA being invoked and justification for and extent of the exercise of authority. The 1972 change expanded this restriction to any use of these three authorities.

In 1980, the Senate Committee on Foreign Relations recommended that the written notification requirement for using section 614(a) be moved from section 652 to an amended section 614(a) that would require written notification of a waiver action to the congressional committees responsible for foreign relations and appropriations as well as advance consultations in every possible instance with these committees before exercising the waiver authority. The Conference Committee agreed on a new subsection, 614(a)(3), which provides that before exercising the waiver authority

> "...the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate."

The committee report stated that the various existing prior notification requirements in existing law would remain in force and were not to be construed as being superseded by the conference substitute. No definition of what constituted a "written justification" was provided.

This situation can result in circumstances where, although provided a "written policy justification" for invoking the waiver authority, the Congress is not made aware of the underlying policy decisions that necessitate the waiver. For example, there were two waivers of ESF earmarkings to provide assistance to Liberia. The first (PD 81-6) justification referred to U.S. efforts to improve the economic and political situation in Liberia and cited the need to fill a $35 million external financing gap in fiscal year 1981 as the main reason for the waiver. The second (PD 82-16) justification cited the continuation of these efforts and noted that the waiver would raise the ESF level to $35 million. This level of ESF was cited as being "the most critical component of a projected package of approximately $80 million in various types of U.S. assistance to Liberia for fiscal year 1982."

These justifications did not include the fact that, in March 1981, the administration decided that U.S. assistance to Liberia should be increased to $80 million annually for the next few years and that the ESF levels within this plan were to be $35 million annually. According to a Deputy Assistant Secretary

of State for Africa, the decision, which was reflected in a formal policy document, committed the United States to this level of assistance. Thus, while the justifications contained some of the facts of the situation, they were basically devoid of the policy considerations and decision whose implementation was to result in the waivers.

CHAPTER 5

SECTION 614(b) - THE BERLIN AUTHORITY

The Berlin authority is an obscure holdover from the post-World War II period of European history. It has not been used during the FAA period, and its potential use has been basically overtaken by the section 614(a) waiver authority.

LEGISLATIVE HISTORY

The Berlin authority was originally enacted as sections 403 and 404 of the MSA of 1954, and authorized special assistance in joint control areas:[1] Trieste, Austria, and Berlin. These sections were combined by the MSA of 1958, and section 403 as reenacted provided special assistance funds for Germany--primarily West Berlin (the remaining joint control area). The Senate Committee on Foreign Relations report on this change noted that authority to meet the economic responsibilities of the United States in regard to Berlin was provided through the use of German currency, special assistance, and contingency funds. For fiscal year 1961, the monetary limit for the authority was $6.75 million.

In 1961, the administration urged the Congress to adopt this MSA special authority as part of the FAA of 1961. The House Committee on Foreign Affairs report indicated that the intent of section 614(b) was identical to the MSA section 403. The Senate Committee on Foreign Relations report stated that a ceiling was not established due to the uncertain nature of the potential requirement.

In 1976, the Senate Committee on Foreign Relations proposed repeal of this authority stating it was obsolete. The Senate agreed to its repeal in passing the foreign assistance bill. However, the proposal was dropped in conference without explanation. On May 7, 1976, the President vetoed this foreign assistance bill. A revised bill was enacted which also omitted any repeal of this authority.

Currently, section 614(b) provides that whenever the President determines it to be important to national interest, ESF funds may be used to meet responsibilities or objectives of the United States in Germany, including West Berlin, without regard

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[1]Joint control areas were those areas where, after World War II, various allied nations exercised administrative control for a period of time.

to such provisions of law as the President determines should be disregarded to achieve this purpose.[2]

Since its incorporation in the FAA of 1961, we found no evidence of the Berlin authority ever being either invoked or used. Since this authority has not been used in over 20 years, there is a question as to the continuing need for it. The West German economy has progressed to a level where the United States no longer provides economic assistance to the Federal Republic of Germany. Further, the section 614(a) waiver authority is available to meet U.S. responsibilities or objectives in Germany.

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[2]Authority to provide funds to meet U.S. responsibilities or objectives in Germany that do not require a presidential determination to disregard the provisions of the law has been delegated to the Secretary of State.

CHAPTER 6

SECTION 614(c) - THE CLOAKING AUTHORITY[1]

Section 614(c) is an extraordinary grant of authority that allows the President to not disclose the nature of any expenditure that he deems is "inadvisable" to specify. Such expenditures are termed "unvouchered." Accordingly, little is known about such uses, but the executive branch has disclosed three uses of section 614(c) since 1961.

LEGISLATIVE HISTORY

A cloaking type authority can be traced back to section 303, "the China Provision," of the Mutual Defense Assistance Act (MDAA) of 1949 which authorized the expenditure of funds upon the President's certification (unvouchered). The legislative history of this provision refers to the general need for "emergency funds for the President" and "unusual flexibility."

Authority for unvouchered expenses was enacted as section 401 of the MSA of 1954, the "Special Fund" provision. It provided in part that

> "Certification by the President that he has expended amounts under this section not in excess of $50,000,000, and that it is inadvisable to specify the nature of such expenditures, shall be deemed a sufficient voucher for such amounts."

The House Committee on Foreign Affairs report on this section, which included not only the cloaking authority but also the waiver authority, noted that one of the primary purposes of this section is

> "to continue the authority in previous legislation to use limited amounts of funds authorized under this bill to meet special situations and emergencies which cannot be dealt with in the context of regular programs."

Section 401 was redesignated section 451(a) by the MSA of 1958.

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[1]Section 101 of the General Accounting Office Act of 1980, codified at 31 U.S.C. §3524, limits what and to whom GAO may report concerning expenditures certified by the President as confidential. Certain information has been deleted from this chapter so as to comply with the statute.

In 1961, the administration urged the Congress to adopt a cloaking authority as part of the FAA of 1961. In House Committee on Foreign Affairs hearings, a State Department official testified that

--cloaking actions were not accounted for to the Congress or to the General Accounting Office but only to the executive branch;

--there had been very few uses of this authority under the MSA;

--only about $7 million to $8 million of the ceiling had been used as of 1961;

--the authority had not been used for the Cuban (Bay of Pigs) invasion;

--any agency operating under the MSA could recommend that the President use this authority;

--any agency could be used as an intermediary under this authority by a suballocation procedure from another agency; and

--the authority required the personal determination of the President before it could be invoked.

The Committee report on the proposed adoption stated "Subsection(c), although reworded for purposes of clarity, is identical in intent to a sentence of section 451(a) of the former Mutual Security Act." The Senate Committee on Foreign Relations report on this provision noted that "Similar authority with regard to similar amounts has been available for several years. It has been rarely used." As enacted, the subsection authorized the President

> "...to use amounts not to exceed $50,000,000 of the funds made available under this Act pursuant to his certification that it is inadvisable to specify the nature of the use of such funds, which certification shall be deemed to be a sufficient voucher for such amounts."

The FAA of 1966 amended the subsection by adding the following notification requirement:

> "The President shall promptly and fully inform the Speaker of the House of Representatives and the chairman and ranking minority member of the

Committee on Foreign Relations of the Senate of each use of funds under this subsection."

In 1976, the Senate Committee on Foreign Relations recommended repeal of this subsection, stating that it contained "discretionary spending authority, without public accountability, which is not appropriate or desirable public policy." The Senate agreed to its repeal in passing the foreign assistance bill. However, the proposal was dropped in conference without explanation.

USAGE

In considering incorporation of this special authority into the FAA of 1961, the Senate Committee on Foreign Relations noted that the authority had been rarely used. Since enactment of the FAA, the executive branch has disclosed that the cloaking authority has been used three times. These uses were during fiscal years 1962 through 1966. On two occasions since 1961, cloaking authority PDs were cancelled. Additionally, it was considered for use as late as 1976.

Vietnam PDs

In the mid-1960s, the Republic of Korea and the United States negotiated an agreement for Korean military involvement in South Vietnam. Under the "More Flags" program, the Korean government agreed to send troops to South Vietnam. The troops, known as the International Military Assistance Force (IMAF), initially were made up of an engineering battalion together with support and security elements to Vietnam. The United States agreed to pay all costs associated with the operation over and above the regularly budgeted pay and normal allowances. The extra costs were funded from military assistance and supporting assistance funds, provided as a cash grant, and not disclosed via the cloaking authority.

The justification for the cloaking action stated

> "It is highly desirable that the U.S. funding not be apparent, to avoid lending credence to possible accusations that the IMAF personnel are U.S. 'mercenaries.' No certification is required to conceal the MAP input, which will come largely as additions to regular programs, but to effectively conceal the U.S. payment of other items of cost, primarily the overseas allowances, the use of unvouchered funds is considered necessary."

On February 26, 1965, the President signed PD 65-8(a) and invoked the cloaking authority to not disclose the payment of $1.5 million in supporting assistance funds to cover these costs

for 12 months. On September 22, 1965, the cloaking authority was again invoked for a $9.75 million payment ($1.75 million in supporting assistance funds and $8.0 million in military assistance funds). According to a DOD official, the inclusion of IMAF costs in the MASF program in 1966 made further use of the cloaking authority for this purpose unnecessary.[2]

These two uses of the cloaking authority were disclosed in 1976. On May 20, 1975, Senator Schweiker requested that AID provide information on the use of the cloaking authority as part of his preparation of legislation to regulate the use of unvouchered, or confidential, funds.

In response to his request, the AID Comptroller Office prepared a schedule of uses of the authority during the FAA period. On June 25, 1975, Senator Schweiker was provided classified documents relating to the use of the authority. Following his December 3, 1975, request to declassify certain of these documents for public release, the AID Administrator on February 10, 1976, declassified PD 65-8(a) with supporting justification documents and another Presidential Determination, less the PD number and the supporting justification documents. This allowed the Korean participation in the "More Flags" program to be made public.[3]

Other PD

In addition to the above two disclosures, another had been made in 1962. In 1962 hearings before the House Committee on Appropriations, Subcommittee on Foreign Operations Appropriations, the AID Administrator listed one use of the contingency fund as of May 31, 1962, as "Classified projects, $550,000. Section 614(c) of the Foreign Assistance Act authorizes the President to use up to this amount for classified projects when he certifies that it is inadvisable to specify the nature of the use of such funds." A second reference in the hearings indicated that the use was for a nonregional program and involved the transfer of funds from the contingency account to the supporting assistance account in March 1962.

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[2]For fiscal year 1967, a proposal was made to invoke section 610(a) authority to transfer $12.7 million in MAP funds to AID to cover these costs. We found no record of this transfer ever being made, perhaps because these costs were subsequently covered by the MASF program.

[3]Fisher, L. "Confidential Spending and Governmental Accountability," 47 Geo. Wash. L. Rev., 347 (1979) and Presidential Spending Power, Princeton University Press, 1975.

Cancelled PDs[4]

AID records list at least two occasions in which a proposal to invoke the cloaking authority was cancelled. PD 62-16 proposed the use of $150,000 in contingency funds to assist selected students from African, Asian, and Latin American countries in returning to their homes because they had become dissatisfied while attending universities in Communist countries. Once home, it was hoped they would advise others of their dissatisfactions. The only information we could identify on the second cancellation, PD 64-10, was that it proposed authorizing $50,000 to the Inter-American University in Brazil. We do not know why these PDs were cancelled.

Proposed uses

A 1975 AID memorandum advised the AID General Counsel that over the years the financial management staff had participated in discussions regarding possible uses of the cloaking authority, but noted that "alternative arrangements" had been worked out. We identified two proposed uses of the authority. First, consideration was given to using the cloaking authority in the late 1960s to not disclose payments to Thai or Laotian soldiers to fight in Laos. However, it was decided that not enough of the ceiling remained to cover the costs of the proposed program. Second, in 1976, there was a proposal to use the cloaking authority to provide arms to Kenya. We do not know why the proposal was not approved.

USAGE GUIDANCE

The most specific executive branch guidance on this authority that we could locate was a 1977 AID fact sheet on Confidential and Unvouchered Authorities. It stated:

> "A $50 million unvouchered authority, Section 614(c), authorizes use of up to $50,000,000 pursuant to certification that it is inadvisable to specify the nature of the use of such funds. The certification is deemed to be the voucher for the use of the funds. This authority has been used for program-type operations of a critical security and/or national interest nature. Its most recent use was in the 1960's to reimburse Korea .... for net additional costs of their participation in International Military Assistance Forces ("More Flags") in

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[4]Cancelled PDs were those proposals where a PD number was assigned but the proposal was never signed by the President. The PD number was not reassigned but instead was cancelled.

> Vietnam, funding of which was provided mainly from military funds. That activity has subsequently become public knowledge through the press. The authority for making the requisite determination under Section 614(c) rests with the President. It is not included among those delegated to AID through the Executive Order and State Delegation. Sections 636(a)(8) and 614(c) are used only as a last resort. All other possible options are explored carefully in advance."

ACCOUNTABILITY

On a functional or usage basis, very few administration officials who regularly are involved (and who generally have been involved for many years) with other special presidential authorities are aware of the cloaking authority's existence. Even within this group, we were not able to determine specifically when the cloaking authority had last been used. The consensus was that it had not been used in years and possibly not since the mid- or late 1960s. Also, these officials did not specifically know how this authority had been used.

The functional accountability situation also appears to be long-standing and varied as shown by the following examples. After reviewing our draft report, U.S. Agreement With and Assistance To Free World Forces In Southeast Asia Show Need For Improved Reporting (B-159451, Apr. 24, 1973), and the State Department's proposed comments in response to the report, a DOD official suggested that DOD submit its formal comments separately from the State Department's. His rationale for this suggestion was the difference between the State Department's proposed response and the facts as known by DOD. His memorandum stated

> "the State Department alleges that no payments were ever made with AID funds for overseas allowances for Korean military forces in Vietnam. That contention by the Department of State is factually inaccurate. AID funds were used for that purpose in FY 1965 and 1966. Attached is the documentation which demonstrates the inaccuracy--or short memory--of the State Department."

The State Department subsequently did not challenge our position that AID funds were used to pay the overseas allowances, and DOD submitted its comments separately.

Other examples of the problems with accountability over use of this authority include the manner in which the funds were

spent in one case and the misunderstanding that exists with respect to the PD number of a cloaking action.

Financial accountability

The cloaking authority is unique among the special presidential authorities in the FAA because the $50 million ceiling is a cumulative authorization. Each use of the authority reduces the amount available for future use. In theory, if and when the ceiling is reached, the authority would be exhausted and no longer available to the President. The Congress would then have to decide whether or not to renew the authority and what ceiling to authorize. However, in practice, we believe it may be difficult for an administration to know when to seek renewal since they might not know when the ceiling had been reached.

We questioned officials of State, DOD, AID, NSC, and OMB, who are primarily responsible for the use of special presidential authorities, as to how much of the $50 million ceiling had been used, how much remained, and who was responsible for financial accounting for the authority. We also asked Treasury officials about this authority and how financial accountability is maintained. Initially, no one provided us with specifics on dollar amounts, the accounting system of the authority, or who was responsible for financial accountability. Their general remarks on the status of the ceiling ranged from probably having some authority left to probably being exhausted. A DOD official recalled that there had been an inquiry in 1968 or 1969 as to the possibility of using the cloaking authority to pay for troops to fight in Laos. He said the proposal was researched and rejected because the amount remaining was insufficient to fund the proposal.

Subsequently, we located a schedule of cloaking authority usage at the AID Comptroller Office. The schedule was prepared in response to Senator Schweiker's 1975 request for information on the use of this authority. AID comptroller officials said there is no periodic accounting of this authority nor did they know the last accounting or audit prior to the 1975 request.

At our request, AID comptroller officials attempted to certify to the completeness of the 1975 schedule. Their work was hampered by the Beirut Embassy bombing death of the AID official who compiled the 1975 schedule. After discussions with their General Counsel Office, AID comptroller officials certified that the 1975 figure was the remaining ceiling of the cloaking authority.

There is a difference in how the ceiling balance is calculated. AID officials certify that the remaining cloaking authority ceiling balance is based on the cumulative dollar amount of all authorized uses of the authority. However, State

lawyers interpret the authority's ceiling balance to be based on expenditures.

REPORTING REQUIREMENTS

The cloaking authority is designed to limit executive and legislative branch personnel's awareness of presidential actions. As such, its parameters of congressional reporting (the Speaker of the House of Representatives and the chairman and ranking minority member of the Senate Committee on Foreign Relations) are the most restricted of the special presidential authorities in the FAA. This reporting requirement was enacted in 1966. Prior to that, the President was not required to advise anyone in the Congress of use of this authority but, according to AID records, did so on some occasions to selected members on an oral, classified basis. We do not know the extent of these disclosures or to whom they were made. With respect to the 1966 notification requirement, one of the IMAF cloakings was signed September 22, 1965, just 3 days after the 1966 amendment. We were unable to ascertain whether the required notification was made.

In addition, the President has greater flexibility with respect to what he reports or does not report than is the case with the drawdown, transfer, and waiver authorities. While waiver authority use, which is governed by section 614(a)(3), requires a written policy justification, and use of the drawdown or transfer authorities, which is governed by section 652, requires specific information to be provided to congressional committees (see p. 47), the cloaking authority only requires the President to "fully inform" the three members of "each use" of the authority.

The cloaking authority does not appear to be subject to section 654 of the FAA, Presidential Findings and Determinations (see p. 46). As a result, the method of informing the three members of use of the authority appears to be the responsibility of the President. Further, the timing of the notification, "promptly," appears to provide the President with some flexibility and appears to allow after-the-fact notification in contrast to section 654's requirement.

CHAPTER 7

CONCLUSIONS

Congressional recognition and acceptance of the need for presidential flexibility in the foreign policy area has been demonstrated by some form of special authority in the foreign assistance legislation for over 30 years. Since the enactment of the FAA in 1961, there have been five special presidential authorities in effect for most of this period as congressional grants to the President of very broad discretionary authority in the foreign policy area.

Administrations perceive these special authorities as providing important flexibility in conducting U.S. foreign policy. In total, the waiver, transfer, drawdown, and cloaking authorities have been invoked at least 163 times during the FAA period to authorize over $2.5 billion in assistance. The Berlin authority has not been used. The special authorities have allowed presidents to respond to emergency, extraordinary, and unforeseen circumstances, such as providing emergency disaster relief aid and promoting U.S. peace efforts in the Middle East. The main use of these authorities can be divided into two groups. One group is made up of 43 waivers[1] of eligibility requirements to provide grant military assistance to countries that could not sign formal military agreements with the United States (see pp. 34 and 35). Over $233.6 million was authorized by these waivers during the fiscal years 1962 to 1972. The other group is made up of a combination of 28 waivers, transfers, drawdowns, and cloakings to support U.S. military operations in Southeast Asia. The latter provided over $1.6 billion in assistance during fiscal years 1962 to 1975.

Congressional guidance on the use of the special presidential authorities, except for the initial drawdown authority, has been broad. The question of the amount of congressional control over the special presidential authorities is central to their existence. This control is a trade-off with executive flexibility. Controls over these authorities, both on a policy level and on an administrative level, have changed over the years and likely will continue to change in the future. The degree of control that is needed is a judgment the Congress must make based on, in part, its needs, the state of executive-legislative branch relations, and the international situation.

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[1]Twenty waivers of eligibility requirements involving Laos and Cambodia authorized $515.5 million. We have included these waivers in the Southeast Asia military operations group since this was the primary reason for the waivers.

LIST OF USE OF THE TRANSFER AND WAIVER AUTHORITIES FISCAL YEAR 1962 TO June 30, 1983

Presidential Determination Number	Action and Justification	Presidential Determination Date
62-3	Waiver of military assistance eligibility requirements to provide $6.5 million in military assistance for internal security programs to Panama, Costa Rica, Nicaragua, El Salvador, Honduras, and Guatemala to defend them against Castro-Communist subversion. This only provided for a determination. (See PD 62-9 for the authorization.)	10/26/61
62-7	Waiver of military assistance eligibility requirements, including the $3 million limit on grant defense articles to a single country, to provide up to $4.3 million in military assistance for a communications project and a naval base for Indonesia. This pseudo sales program[1] had been authorized annually by PDs since 1958 and had provided $63 million prior to PD 62-7.	6/22/62
62-9	Authorization in accordance with PD 62-3 to use up to $6.5 million of military assistance to Panama, Costa Rica, El Salvador, Nicaragua, Honduras, and Guatemala.	12/14/61

[1]Pseudo sales programs operated pursuant to MAP agreements which required recipient countries to make token payments in local currency for MAP equipment and services. The equipment and services were provided basically as grants and the token payments generally were not made. However, ostensibly, these were sales programs that allowed recipient countries to maintain the fiction of their neutral or nonaligned status.

62-14	Waiver of military assistance eligibility requirements, including the $3 million limit on grant defense articles to a single country, to provide up to $9 million in military assistance as the first part of a 5-year, $43 million, pseudo sales pro-gram to Burma. This was essen-tially a continuation of a similar program begun in June 1958. The purpose of the program was primarily political.	4/30/62
62-18	Waiver of the limitation on increasing an account by over 20 percent of the total as a result of a transfer and the transfer of $2 million from the contingency fund to the State Department administrative expense account to pay for administration of the Battle Act and U.S. personnel at the U.S. Mission to NATO and European Regional Organizations.	3/21/62
62-20	Waiver of the prohibition on providing assistance to a country which is indebted to American citizens to provide up to $13.2 million in supporting assistance for construction and rural development projects and $1.7 million in military assistance to Haiti.	3/14/62
62-22	Waiver of military assistance eligibility requirements to provide up to $300,000 in non-lethal military assistance to Niger, Dahomey, Upper Volta, and the Ivory Coast. Delivery of the items was to be made by air due to the length of time in responding to their requests for assistance.	3/14/62

62-24	Transfer of $3 million from the contingency fund to the AID administrative expense account to cover unforeseen expenses at the time the budget was submitted resulting from transition of the assistance program from ICA to AID. AID advised the Congress in its budget proposal that such a transfer might be necessary.	3/22/62
62-25	Waiver of military assistance eligibility requirements, including the $3 million limit on grant defense articles to a single country, to provide up to $8.7 million in military assistance to Morocco. This was the third part of a 5-year, pseudo sales program begun in fiscal year 1961 and authorized by PDs to improve Morocco's internal security and maintain U.S. access to military bases and communications facilities in the country. It also provided for new multi-year programs to improve the air force.	4/06/62
62-26	Transfer of up to $30.5 million in military assistance funds to contingency funds, up to $9.5 million in military assistance funds to international organizations funds, and up to $15 million in development grant funds to international organizations funds as part of the response to unforeseen program requirements. The funds were to be used for road building in Afghanistan, the Indus River project, additional funding of the United Nations (UN) Special Fund for the Congo, an emergency public works project in Bolivia, and the Cuban and other refugee programs.	6/05/62

62-28	Waiver of military assistance eligibility requirements to provide up to $250,000 in non-lethal military assistance to Cameroon for internal security requirements resulting from independence.	5/14/62
62-29	Waiver of military assistance eligibility requirements, including the $3 million limit on grant defense articles to a single country to provide up to $8.2 million in military assistance to Tunisia. This was the final part of a 3-year, PD authorized, pseudo sales program operated under a 1957 confidential military assistance agreement.	5/22/62
63-4	Waiver of military assistance eligibility requirements to provide up to $150,000 in non-lethal military assistance to the Republic of the Congo. This was the first time military assistance was provided on a bilateral, grant basis. Prior to PD 63-4, all assistance to the Republic of the Congo was provided through the UN on a reimbursable basis.	9/14/62
63-5	Waiver of military assistance eligibility requirements, including the $3 million limit on grant defense articles to a single country, to provide up to $7.5 million in military assistance to Laos during the transition stage of implementing the 1962 Geneva Accords.	11/01/62
63-5(a)	GAO Note: We identified a reference to an amendment to PD 63-5 that increased military assistance by $10 million.	6/22/63

	However, we could not locate the signed PD or supporting documents.	
63-6	Waiver of military assistance eligibility requirements to provide up to $1.2 million in military assistance to Mali. This continued a program authorized by PD 61-27 to train and equip a paratrooper company and to counter Communist influence in the country.	12/13/62
63-8	Fiscal year 1963 version of PD 62-14 to provide up to $10.5 million in military assistance to Burma as part of a multi-year, pseudo sales program.	5/09/63
63-9	Fiscal year 1963 version of PD 63-4 to provide up to $4 million in military assistance to the Republic of the Congo.	12/17/62
63-10	GAO Note: We identified a reference to an informal waiver similar to PD 62-3 which would have authorized military assistance for internal security purposes to Latin America. The informal waiver was made as part of the President's blockade of Cuba and allowed the United States to provide riot control equipment to the countries' police or military to handle internal disorders resulting from the blockade.	10/24/62
63-10(b)	Cancellation of informal waiver of military assistance eligibility requirements and of the ceiling on grant military assistance to Latin America to provide military assistance for riot control programs in the American republics.	4/29/63

63-11	Waiver of military assistance eligibility requirements, including the $3 million limit on grant defense articles to a single country, to provide up to $25 million in military assistance to India. This allowed the United States to respond to an Indian emergency request for assistance in its border war with the People's Republic of China and to establish a formal military assistance program.	11/01/62
63-12	Fiscal year 1963 version of PD 62-25 to provide up to $9.4 million in defense articles to Morocco as part of various multi-year, pseudo sales, force improvement programs that supported U.S. access to Moroccan facilities.	3/12/63
63-16	Fiscal year 1963 version of PD 62-7 to provide up to $15.7 million in defense articles to Indonesia. This funded the third year of a multi-year,pseudo sales program designed to retain the military as the chief bulwark against the Indonesian Communist Party.	3/12/63
63-18	Transfer of up to $10 million in-Alliance for Progress grant funds to the supporting assistance account to fund critical projects as a result of an almost 20 percent congressional reduction of the fiscal year 1963 supporting assistance budget request.	5/21/63
63-20	Waiver of the prohibitions on providing military assistance to a Communist country to provide up to $2 million in military assistance to Yugoslavia. This authorized the filling of existing orders of equipment	5/14/63

	which would be paid for in dollars within 120 days after delivery, and thus would be assistance.	
63-24	GAO Note: We identified a reference to this transfer. However, we could not locate the signed PD or supporting documents.	6/22/63
63-26	Waiver of military assistance eligibility requirements to provide up to $229,000 in military assistance to Somalia. This authorized an "impact program" of equipment while consideration was given to a 6-year, $2.4 million, multi-donor, military assistance program.	6/29/63
64-1	Waiver of security clearance requirements for American employees at the American University of Beirut to provide up to $2.5 million in assistance funds for salaries and a training contract. Section 111 of the 1963 Appropriations Act required security clearances. AID's fiscal year 1963 agreement with the school was made with the understanding and on the condition that a recommendation for a waiver would be made.	8/21/63
64-3	Waiver of security clearance requirements for American employees at Robert College in Istanbul, Turkey, to provide up to $650,000 in assistance funds for salaries.	12/09/63
64-6	Fiscal year version of PD 63-5 to provide up to $10 million in military assistance to Laos for military operations.	3/10/64

64-6(a)	Waiver to amend PD 64-6 from $10 million to $12.3 million.	5/15/64
64-6(b)	Waiver to amend PD 64-6(a) from $12.3 million to $22.3 million.	6/02/64
64-9	Transfer of up to $1.6 million in contingency funds to Project Hope and the Children's Hospital, Krakow, Poland. Congress had statutorily limited the program to $2.2 million. AID's position was this unintentionally precluded funds for Project Hope, and thus the transfer was necessary.	3/21/64
64-11	Fiscal year 1964 version of PD 62-14 to provide up to $1.2 million in military assistance to Burma as part of a multi-year, pseudo sales program.	5/15/64
64-12	Waiver of the 10 percent limitation on transfers to transfer up to $50 million from contingency funds to military assistance funds as part of the response to Congress' almost 30 percent reduction in the military assistance request.	5/19/64
64-13	Fiscal year 1964 expanded version of PD 64-1 and 64-3 to provide up to $2.7 million in assistance funds to the American University in Beirut for salaries and up to $1.2 million in assistance funds to Robert College for salaries. This waiver was made following congressional rejection of an administration proposal to repeal this prohibition because of its impact on the schools and instead restated it in the 1964 appropriations legislation.	6/11/64

64-15	Fiscal year 1964 version of PD 62-25 to provide up to $1.1 million in military assistance to Morocco under a pseudo sales program that supported U.S. access to military bases in Morocco.	6/26/64
64-16	Fiscal year 1964 version of PD 63-4 to provide up to $6 million in military assistance to the Republic of the Congo to assist the government in restoring internal security.	6/26/64
64-17	Waiver of military assistance eligibility requirements to provide up to $500,000 in military assistance to Nepal. This authorized a multi-year, $2 million program by the United States with a similar program to be provided by the United Kingdom.	6/26/64
64-18	Waiver of the transfer percentage limitations to transfer up to $25 million from contingency funds and $15 million from development grant funds to military assistance funds to compensate for a lower level of recoupments than planned and increased funding requirements for Southeast Asia, the Congo, and Turkey.	6/26/64
64-19	Transfer of up to $8 million in development grant funds and up to $6 million in supporting assistance funds to Alliance for Progress loan funds as part of the response to Congress' more than 20 percent reduction in the loan budget request.	6/29/64
65-2	Fiscal year 1965 version of PD 63-5 to provide up to $8.9 million in military assistance to Laos to support military operations.	7/09/64

65-2(a)	Waiver to amend PD 65-2 from $8.9 million to $31.5 million to radically increase assistance required by an accelerated rate of combat operations.	8/22/64
65-5	Fiscal year 1965 version of PD 64-17 to provide up to $500,000 in military assistance to Nepal as part of a multi-year program to meet a continuing internal security threat. The Nepal program was to be done via PD and not by a regular agreement.	11/04/64
65-6	Waiver of military assistance eligibility requirements to provide up to $1 million in military assistance to Guinea to train and equip an engineering company for civil action purposes.	1/28/65
65-7	Fiscal year 1965 version of PD 63-4 to provide up to $6 million in military assistance to the Republic of the Congo to support internal security operations and to assist in retraining the armed forces.	2/28/65
65-9	Fiscal year 1965 version of PD 62-14 to provide up to $6.5 million in military assistance to Burma as part of a multi-year, pseudo sales program.	3/31/65
65-10	Fiscal year 1965 version of PD 62-25 to provide up to $5.4 million in military assistance to Morocco. Coupled with FMS credits, this allowed the purchase of an F-5 squadron.	4/15/65
65-11	Fiscal year 1965 version of PD 64-12 to transfer up to $55	4/15/65

	million from contingency funds to military assistance funds to meet increased requirements. $50 million was for combat operations in Southeast Asia and $5 million was for Morocco.	
65-14	Fiscal year 1965 version of PD 64-3 to provide up to $1.1 million in assistance funds to Robert College for salaries.	5/15/65
65-15	Transfer of up to $18 million in technical cooperation and development grant funds to the supporting assistance account to meet high priority requirements in Vietnam, Thailand, Laos, the Dominican Republic, and other Latin American countries. $13.8 million of the $18 million was for security-oriented programs in Southeast Asia.	6/22/65
66-1	Fiscal year 1966 version of PD 64-6 to provide up to $30.6 million in military assistance to Laos to support military operations.	7/26/65
66-1(a)	Waiver to amend PD 66-1 from $30.6 million to $50 million to increase air operations.	12/15/65
66-4	Fiscal year 1966 version of PD 64-17 to provide up to $400,000 in military assistance to Nepal as part of a multi-year program.	12/04/65
66-5	Fiscal year 1966 version of PD 62-14 to provide up to $3.1 million in military assistance to Burma as part of a multi-year, pseudo sales program.	11/26/65
66-7	Fiscal year 1966 version of PD 62-25 to provide up to $4.6	12/13/65

	million in military assistance to Morocco to provide F-5 training and other support as a continuation of the F-5 program of PD-65-10.	
66-12	Waiver of the 10 percent limitation on transfers to transfer up to $28 million in international organizations funds to the supporting assistance program for Vietnam and, contingent on passage of a supplemental appropriation for supporting assistance, to transfer up to $28 million in supporting assistance funds to replenish the international organization account. The transfer was needed to meet the accelerated requirements of the Vietnam program.	1/18/66
66-14	Waiver of the 10 percent limitation on transfers to transfer up to $18 million in international organizations funds and up to $10 million in technical cooperation and development grant funds to the supporting assistance program for Vietnam and, contingent on passage of supplemental appropriations for supporting assistance, to replenish the accounts accordingly. This transfer was needed to meet accelerated program requirements through February 1966. It was acknowledged that even though temporary, the transfers would retard the other programs, but the immediate needs of Vietnam were judged to take precedence.	2/10/66
66-15	Fiscal year 1966 version of PD 62-29 and waiver of the prohibition on providing military assistance in Africa for non-internal security and non-civic	5/11/66

	action requirements to provide up to $500,000 in military assistance to Tunisia. The assistance was ammunition for training and a war reserve stock and was provided on the pseudo sales basis of PD 62-29.	
66-16	Transfer of up to $1.4 million in supporting assistance funds to AID administrative expenses for Vietnam funds. This transfer funded the expansion of the auditing staff in Vietnam, the increased costs of recruiting people for the Vietnam program, and general support services for the expanded Vietnam program. Congress specifically authorized the transfer.	6/08/66
67-1	Fiscal year 1967 version of PD 64-6 to provide up to $50 million in military assistance to Laos to carry on a wide range of supporting military actions without precluding the possibility of returning at some future point to the strict application of the Geneva Agreements.	7/14/66
67-2	Fiscal year 1967 version of PD 64-17 to provide up to $825,000 in military assistance to Nepal as part of a multi-year program.	7/13/66
67-3	Fiscal year 1967 version of PDs 62-25 and 66-7 to provide up to $3 million in military assistance to Morocco.	11/15/66
67-4	Fiscal year 1967 version of PD 62-14 to provide up to $2.9 million in military assistance to Burma as part of a multi-year, pseudo sales program.	9/23/66

67-6	Fiscal year 1967 version of PD 66-16 to transfer up to $5 million. Section 610(b) of the FAA authorized this transfer solely for additional administrative expenses incurred in connection with programs in Vietnam.	11/19/66
67-12	Fiscal year 1967 version of PD 62-29 to provide up to $5.2 million in military assistance to Tunisia to assist in force improvements to meet potential threats from Egypt and Algeria.	12/16/66
67-13	Waiver to amend PD 67-1 from $50 million to $85.3 million for increased military operations in Laos. At the time of PD-67-1, it was recognized that requirements would be greater than $50 million, but the waiver authority was limited to this ceiling for a single country. The FAA of 1966, approved June 16, 1966, removed this ceiling when the country was the victim of active Communist or Communist-supported aggression.	12/10/66
68-2	Fiscal year 1968 version of PD 62-7 to provide up to $5 million in non-lethal military assistance to Indonesia to assist in civic action programs.	7/12/67
68-5	Fiscal year 1968 version of PD 66-16 to transfer up to $7.2 million. Section 610(b), as amended by the FAA of 1968, authorized that up to $9 million could be used for Vietnam program administrative expenses.	5/16/68
68-7	Fiscal year 1968 version of PD 62-14 to provide up to $2.5	4/03/68

	million in military assistance to Burma. This completed the multi-year program.	
68-8	Fiscal year 1968 version of PDs 62-25 and 66-7 to provide up to $1.5 million in military assistance to Morocco. This continued training and other support of Morocco's F-5s. It was made in tandem with PD 68-9 of June 6, 1968, which authorized the sale of a second squadron of F-5 aircraft.	6/06/68
68-11	Fiscal year 1968 version of PD 62-29 to provide up to $2.7 million in military assistance to Tunisia as part of a multi-year program based on a 1965 survey team recommendation of a 5-year, $26 million program.	6/28/68
69-3	Fiscal year 1969 version of PD 62-7 to provide up to $4 million in military assistance to Indonesia to assist in civic action programs.	12/27/68
69-5	Fiscal year 1969 version of PD 66-16 to transfer up to $6.4 million for Vietnam program administrative expenses.	5/13/69
70-3	Fiscal year 1970 version of PD 66-16 to transfer up to $5.5 million for Vietnam program administrative expenses.	4/14/70
70-5	Waiver of the prohibition against providing assistance to economically developed nations to provide up to $50 million in military assistance to Spain. The assistance was part of the quid pro quo for extending U.S. base rights in Spain with $25 million provided in fiscal year 1970 and the remainder in	3/19/70

	fiscal year 1971. This waiver and PD 70-7 were made following a congressional rejection of an administration proposal to amend the prohibition of providing assistance to economically developed countries by excluding Spain and Portugal.	
70-7	Waiver of the prohibition against providing assistance to economically developed nations to provide up to $984,000 in military assistance to Portugal. It was justified as helping to preserve the status quo of U.S. access to the Azores base facilities pending negotiations of a new base agreement.	4/21/70
70-8	Fiscal year 1970 version of PD 62-7 to provide $5.8 million in military assistance to Indonesia to assist in civic action programs.	5/18/70
70-9	Waiver of military assistance eligibility requirements to provide up to $7.9 million in military assistance to Cambodia --retroactive to April 22, 1970 --the date of the President's order to respond to the April 14, 1970, Cambodian government request for military assistance.	5/21/70
70-10	Waiver to amend PD 70-9 by transferring $1 million from contingency funds to military assistance and increase from $7.9 million to $8.9 million military assistance to Cambodia. Originally, this was to have been a part of PD 70-9 and would have been a $2 million transfer.	6/30/70
71-1	Transfer of up to $500,000 in supporting assistance funds to	7/18/83

	American schools and hospitals abroad funds to cover the increased operating expenses of Project Hope as a U.S. flag ship.	
71-2	Fiscal year 1971 version of PD 70-9 to provide up to $40 million in military assistance to Cambodia. This was expected to fund the first 6 months of fiscal year 1971 operations which were projected to be between $75 and $100 million.	7/23/70
71-3	Fiscal year 1971 version of PD 70-7 to provide up to $1.0 million in military assistance to Portugal to maintain the status quo in the Azores.	8/06/70
71-4	Fiscal year 1971 version of PD 62-7 to provide up to $18 million in military assistance to Indonesia. This implemented a decision to expand the program threefold and to include combat equipment.	9/05/70
71-5	Waiver to amend PD 71-2 and to waive the 10 percent limitation on transfers to transfer $50 million from supporting assistance funds to military assistance and increase from $40 million to $90 million military assistance to Cambodia. Funds from PD 71-2 were exhausted in less than 4 months, and additional funds were required or the Cambodian government forces would have been out of ammunition.	10/23/70
71-7	Fiscal year 1971 version of PD 71-5 to provide up to $10 million in military assistance to Cambodia. This was the remaining $10 million transfer of an October 1970 decision to	2/11/71

	provide Cambodia with $60 million. PDs 71-5 and 71-7 were made separately so as not to exceed the $100 million overall limitation on military assistance to countries for which no program had been presented. PD 71-7 was made following congressional approval of funds for Cambodia.	
71-8	Fiscal year 1971 version of PD 70-9, waiver of adjusted price procurement criteria, and waiver of prohibition on procurement of foreign made vehicles to provide up to $7 million in military assistance to Cambodia.	3/01/71
71-10	Fiscal year 1971 version of PD 66-16 to transfer up to $3.6 million for Vietnam program administrative expenses.	3/23/71
71-13	Fiscal year 1971 version of PD 70-9 to provide up to $78 million in military assistance to Cambodia. This was the remainder of a fiscal year 1971 program of $185 million, all of which was authorized by PDs.	4/20/71
71-16	Waiver of military assistance eligibility requirements to provide up to $3 million in military assistance to Ceylon (Sri Lanka) to assist the government in an internal security problem. Confirmed oral determination of April 10, 1971.	6/07/71
71-18	Waiver of the prohibition on providing assistance to economically developed nations to provide up to $2.4 million in military assistance to Iran to fund grant military training and the operations of the U.S.	6/24/71

	Military Assistance Advisory Group (MAAG).	
72-2	Fiscal year 1972 version of PD 70-9 to provide up to $75 million in military assistance to Cambodia. This level of assistance was slightly higher than Cambodia's overall pro rata share of the CRA but was justified on the need for annual contractual arrangements which resulted in greater obligations during the first part of the fiscal year.	8/03/71
72-3	Fiscal year 1972 version of PD 62-7 to provide $25 million in military assistance to Indonesia for internal security programs.	9/07/71
72-4	Fiscal year 1972 version of PD 70-5 to provide up to $13 million in military assistance to Spain. This provided funds for part of the quid pro quo for U.S. use of Spanish bases. As provided for in an August 6, 1970, agreement, the United States would provide $26 million in military assistance over a 5-year period.	9/13/71
72-7	Fiscal year 1972 version of PD 70-9 to provide up to $40 million in military assistance to Cambodia. This provided the second increment of a $200 million, fiscal year 1972 military assistance program for Cambodia.	11/13/71
72-9	Fiscal year 1972 version of PD 70-7 to provide up to $1.1 million in military assistance to Portugal to maintain the Azores status quo.	12/23/71

72-10	Fiscal year 1972 version of PD 71-18 to provide up to $942,000 in military assistance to Iran to fund grant military training and the MAAG.	1/12/72
72-12	Fiscal year 1972 version of PD 66-16 to transfer up to $3.6 million for Vietnam program administrative expenses.	3/01/72
72-15	Waiver of the prohibition on providing assistance to a country in substantial violation of military assistance act provisions to provide up to $40 million in military assistance to Jordan. The violation arose from Jordan's transfer of F-104 aircraft to Pakistan during the latter's hostilities with India and the subsequent loss of an F-104 flown by a Pakistani pilot. The transfer was made without U.S. government approval.	5/19/72
72-16	Waiver of the 10 percent local currency deposit requirement to provide up to $3.6 million in military assistance to the Philippines to avoid a change that could result in an explicit quid pro quo, base rights, military assistance agreement like the Spanish model (PD 72-4).	6/07/72
73-2	Fiscal year 1973 version of PD 72-16 to provide up to $22 million in military assistance to the Philippines while negotiations for a base rights agreement continued.	8/29/72
73-3	Waiver of the 10 percent local currency deposit requirement to provide up to $50 million in military assistance to Thailand in order to continue U.S.	8/29/72

	access to and freedom of operations from Thai bases, and to preclude a formal agreement on these bases. A waiver was not required in fiscal year 1972 because the Thai program was funded from the MASF account.	
73-7	Fiscal year 1973 version of PD 70-5 to provide up to $10 million in military assistance to Spain as part of the 5-year base agreement.	11/13/72
73-8	Waiver of the prohibition on offshore procurement of agricultural goods for less than parity prices in order to provide up to $21 million in rice for Laos and Cambodia. A variety of war-related factors combined to require the purchase of Thai rice to feed people in the two countries.	12/05/72
73-9	Fiscal year 1973 version of PD 70-7 to provide up to $905,000 in military assistance to Portugal to assist in extending the Azores base agreement to 1974.	12/05/72
73-11	Fiscal year 1973 version of PD 70-5 to provide up to $3 million of security supporting assistance to Spain to fund the non-military (educational and cultural) aspects of the base agreement.	2/01/72
73-15	Fiscal year 1973 version of PD 66-16 to transfer up to $2.9 million for Vietnam program administrative expenses.	6/13/73
74-1	Waiver of the 10 percent local currency deposit requirement to provide up to $50 million in military assistance to Turkey	8/17/73

	to retain U.S. access to Turkish bases. The waivers were not needed in fiscal years 1972 and 1973 because there were sufficient U.S. local currency deposits to fund U.S. operating expenses.	
74-2	Fiscal year 1974 version of PD 72-16 to provide up to $29 million in military assistance to the Philippines while negotiations for a base rights agreement continued.	8/17/73
74-3	Fiscal year 1974 version of PD 73-3 to provide up to $50 million in military assistance to Thailand to retain access to the bases without a formal agreement. PDs 74-1, 74-2, and 74-3 were apparently sent to the President as a single package.	8/17/73
74-7	Fiscal year 1974 version of PD 70-7 to provide up to $1 million in military assistance to Portugal to assist in extending the Azores base agreement to 1974.	11/02/73
74-10	Fiscal year 1974 version of PDs 70-5 and 73-11 to provide up to $3.4 million in military assistance and up to $3 million in security supporting assistance to Spain to fund the military and non-military parts of the 5-year base agreement. PDs 74-7 and 74-10 were sent to the President as a single package but were signed at different times.	12/20/73
74-15	Waiver of the prohibitions on furnishing assistance to Egypt, a country with which no diplomatic relations exist, a country which was indebted to	3/07/74

	American citizens, a country which expropriated American citizens' assets, and a country which is in default on U.S. government debts, to provide up to $10 million equivalent to Egyptian pounds as a grant to an Egyptian charity. Using a broad definition of national security interests of the United States, this grant was justified as contributing to U.S. peace efforts in the Middle East. The Secretary of State notified the Egyptian President's wife, who headed the charity, on her birthday of the U.S. government's intention to donate the funds.	
74-16	Waiver of the requirements of the FAA to transfer $5 million in military assistance funds to security supporting assistance and to provide up to $8 million of security supporting assistance to Egypt. Reopening the Suez Canal was considered the logical follow-on to the Egyptian-Israeli military disengagement and separation of forces. The $8 million was justified for clearing the canal of mines and providing technical and advisory assistance to the Egyptians in disposing of unexploded ordnance in the canal and along its banks, the first phase of reopening the canal.	4/19/74
74-20	Fiscal year 1974 version of PD 74-16 to provide up to $730,000 in security supporting assistance and up to the $3 million equivalent of Egyptian pounds in furtherance of security supporting assistance to Egypt. This funded the second phase of	5/16/74

	reopening the canal, the clearing of wrecked ships and other debris.	
74-21	Waiver and amendment of PDs 74-16 and 74-20 to allow for reprogramming within the account unobligated balances of security supporting assistance to Egypt. This allowed for $600,000 of funds authorized for minesweeping to be used for ship clearing.	6/21/74
74-22	Waiver of the 20-percent limitation on obligations for June 1974 to provide up to $15.9 million of International Narcotics Control funds. Fifteen million dollars was to be available for Turkey providing the government announced before the end of the fiscal year that it would uphold the existing poppy cultivation ban. The remaining $900,000 was for high priority narcotics programs. The total fiscal year 1974 program was $42.5 million. PDs 74-21 and 74-22 apparently were sent to the President as a single package.	6/21/74
74-26	Fiscal year 1975 version of PD 74-16 to provide up to $20 million in security supporting assistance to Egypt. This would allow for the continuance of ongoing clearance activities in fiscal year 1975. The PD was signed in fiscal year 1974.	6/30/74
75-17	Waivers of the requirements of the FAA to allow use of Indochina postwar reconstruction funds to finance the evacuation of foreign nationals and Vietnamese from South Vietnam.	4/25/75

75-18	Fiscal year 1975 version of PDs 70-5 and 73-11 to provide up to $1.6 million in military assistance and up to $3 million in security supporting assistance to Spain to fund the military and non-military aspects of the base agreement.	5/09/75
76-19	Fiscal year 1976 version of PD 70-5 to provide up to $925,000 in military assistance to Spain to continue a military relationship following the end of the 5-year base agreement.	6/30/76
TQ-7	Transition quarter version of PD 73-11 to provide up to $3 million in security supporting assistance to Spain to provide the final increment of the non-military aspects of the base agreement.	9/30/76
79-15	Transfer of up to $1.0 million in unobligated refugee relief for Cyprus funds, $500,000 in program development and support activity funds, $173,000 in unobligated fiscal year 1978 Middle East special requirements funds, and $1.5 million in unused fiscal year 1979 AID operating expenses funds to disaster assistance funds for assistance to Hurricane David's Caribbean victims. This transfer was to bridge the gap between a depleted year end relief account and a request to Congress for $25 million in disaster assistance to the victims.	9/13/79
79-16	Waiver of the prohibition on providing assistance to a Communist country to provide up to $10 million in ESF to Yugoslavia for earthquake relief.	9/13/79

79-17	Waiver of the prohibition on offshore procurement of agricultural goods for less than parity prices to provide up to $5 million in rice, sorghum, beans, and corn for Nicaragua. This implemented a decision to shift from relief efforts following the civil war to an interim phase of a recovery assistance program.	9/28/79
80-10	Transfer of up to $3.9 million in ESF funds to the PKO account for the Sinai Support Mission to fund the unforeseen replacement of air transport services required by the Mission. The transfer reduced unearmarked funds available for Jordan and Portugal.	1/24/80
80-20	Waiver of the prohibition on providing assistance to a Communist country to provide up to $36,000 in fiscal year 1980, and up to $29,000 in fiscal year 1981, in military assistance to Yugoslavia. This authorized the start of an IMET program for the country. It was also the first waiver to specifically authorize funds for 2 fiscal years. At the time, the waiver authority was limited to authorizations in the fiscal year in which it was invoked.	6/10/80
80-22	Transfer of up to $7 million in health and disease prevention funds to the AID operating expenses account as part of the response to a $17.6 million shortfall in this account resulting from a CRA, budget request reductions, and unforeseen program increases.	7/08/80

80-26	Waiver of the prohibition on providing ESF to a country involved in international terrorism and of the earmarkings on ESF to provide up to $45 million in ESF to Nicaragua. This authorized the first increment of a projected $75 million ESF program. The ESF funds came from the Egyptian fiscal year 1979 account and were to be repaid from the Nicaraguan fiscal year 1981 account.	9/12/80
81-5	Waiver of the prohibition on providing ESF to a country involved in international terrorism and calling due loans to such a country to continue assistance to Nicaragua. The waiver was the result of the positive trends of the Nicaraguan government in stopping its support of the anti-government forces in El Salvador.	4/14/81
81-6	Waiver of earmarkings on ESF to provide up to $25 million in ESF assistance to Liberia. This authorized the payment of Liberia's oil and debt servicing bills and was part of a multi-year, U.S. financial commitment to Liberia.	5/13/81
81-10	Waiver of earmarkings on ESF to provide up to $18 million in ESF assistance to El Salvador. This was part of a $63.5 million reprogramming of economic assistance to the country. Both PD 81-6 and 81-10 were submitted as a single package, and both were funded by a temporary loan from the Israel and Egypt ESF programs.	6/09/81

81-11	Fiscal year 1981 version of PD 80-20 to provide an additional $41,000 to the fiscal year 1981 military assistance program and provide up to $130,000 in military assistance to Yugoslavia. At the time of this PD, the waiver authority had been amended to allow multi-year waivers.	8/08/81
81-13	Fiscal year 1981 version of PD 80-10 to transfer $9 million from the ESF account to the PKO account and waiver on the limitation on expenditures during the last month of the fiscal year to provide up to $10 million in PKO funds to establish the Director General's office of the Multinational Force and Observers and commence start up and preparatory operations in advance of the authorizing legislation and appropriation.	9/28/81
82-3	Fiscal year 1982 version of PD 80-10 and waiver of the reporting requirements to allow for transfer of $12 million in ESF funds to the PKO account and provision of up to $12 million in PKO assistance to the Organization of African Unity Peacekeeping Force in Chad. U.S. assistance was limited to airlift services and the provision of non-lethal supplies.	12/05/81
82-16	Fiscal year 1982 version of PD 81-6 to provide $14.9 million in ESF to Liberia as part of the United States' $80 million a year, multi-year commitment to the country.	5/27/82
83-1	Fiscal year 1983 version of PD 80-20 to provide up to $130,000 in military assistance to Yugoslavia. This is the annual Yugoslavian IMET waiver.	10/01/82

USE OF SPECIAL AUTHORITIES IN CAMBODIA
FISCAL YEARS 1970 - 1975

To provide military assistance

PD number	FAA Section	Value (millions)	PD date
70-9	614(a)	$ 7.9	5/21/70*
70-10	610/614(a)	1.0	6/30/70
71-2	614(a)	40.0	7/23/70
71-5	610/614(a)	50.0	10/23/70
71-7	610/614(a)	10.0	2/11/71
71-8	614(a)	7.0	3/01/71
71-13	614(a)	78.0	4/20/71
72-2	614(a)	75.0	8/03/71
72-7	614(a)	40.0	11/13/71
74-12	506	200.0	12/24/73
74-19	506	50.0	5/13/74
75-9	506	75.0	1/10/75
Total		$633.9	

To provide food assistance

PD number	FAA Section	Value (millions)	PD date
73-8	614(a)	16.0**	12/05/72
Grand Total		$649.9	

* Retroactive to April 22, 1970--this is the only retroactive PD since enactment of the FAA of 1961, as amended.

** $16 million was for Cambodia and .$5 million was for Laos; only the amount for Cambodia is included in this table.

Source: Executive branch PD files.

APPENDIX III

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ARLEN ERDAHL, MINN.
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HENRY J. HYDE, ILL.

JOHN J. BRADY, JR.
CHIEF OF STAFF

Congress of the United States
Committee on Foreign Affairs
House of Representatives
Washington, D.C. 20515

September 9, 1982

Mr. Charles A. Bowsher
The Comptroller General
of the United States
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

Over the next year, this Committee may consider making some changes in the basic authorizing legislation for foreign assistance and foreign military sales. Present law provides the President with special authorities to furnish assistance or military equipment in extraordinary circumstances. In several cases, such as El Salvador or Liberia, the President has invoked these special authorities on more than one occasion, and a significant portion of assistance has flowed to these countries without prior Congressional authorization. Expanded use of these special powers could have clear, adverse implications for the Congressional authorization process.

I am writing to ask your office to review these special Presidential emergency and contingency authorities, such as Sections 506(a), 614, and other provisions of the Foreign Assistance Act of 1961. Your study should review the legislative history of these provisions, and assess the extent to which Congressional intent has been carried out in practice. Your study should also determine the guidelines or standards employed by successive administrations in deciding to invoke these special authorities, as well as the extent to which such guidelines or standards have been changed over the years. I would also like to know the impact of the use of these authorities on other aspects of our foreign policy, such as any adverse effects for defense readiness or stockpiles by the use of Section 506(a) drawdown authority. Finally, I would request any suggestions for possible improvements in current legislation. As one example of needed revisions, I recall that during the debate of the proposed sale of AWACS to Saudi Arabia in 1981, it was discovered that the present language of Section 614 would actually permit the President to approve the sale outside the Congressional controls provided in the Arms Export Control Act. I would appreciate an analysis of this problem and a presentation of alternative approaches to close this apparent legislative loophole.

Mr. Charles A. Bowsher
Page Two
September 9, 1982

Your report should be ready in time for our next annual mark-up of foreign assistance legislation, sometime in the spring of 1983. Because of its legislative purpose, it would clearly be most helpful for your study to be in unclassified form, to the greatest possible extent. Also, please inform me of any difficulties which your staff may encounter in gaining access to information necessary for this study. As I have indicated, we are interested in a thorough and comprehensive review.

Your International Division continues to do exemplary work. This request has been discussed with the staff of the division. I look forward to the contribution which I know this study will make to the work of our Committee.

Sincerely,

Michael D. Barnes
Chairman
Subcommittee on Inter-
American Affairs

MDB:rkn

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APPENDIX IV

United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, D.C. 20510

September 1, 1982

Mr. Charles A. Bowsher
The Comptroller General of the United States
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

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Mr. Bowsher
page 2

interested in a thorough and comprehensive review.

Your International Division continues to do exemplary work for this Committee, most recently in the reports on U.S. military programs in El Salvador. This request has been discussed with the staff of the International Division, and I look forward to the contribution which I know this new study will make to the work of our Committee.

With every good wish.

Ever sincerely,

Claiborne Pell
Ranking Minority Member

(463692)

31292

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