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PROVISIONS  
OF THE  
MUTUAL SECURITY ACT OF 1954, AS  
AMENDED, OMITTED  
FROM THE  
FOREIGN ASSISTANCE BILL  
AND  
REASONS THEREFOR

(Prepared by the Executive Branch)



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## 2 PROVISIONS OMITTED FROM THE FOREIGN ASSISTANCE BILL

military assistance may be furnished to a Near East country to permit it to participate in the defense of its area, and urge the creation of an economic and military organization in Asia, respectively.

The first paragraph has been omitted because its purposes have to a large extent been accomplished. The second paragraph has been omitted since section 505(a) of the International Peace and Security Act provides that military assistance furnished to a country to permit it to participate in the defense of its area must be related to regional or collective arrangements which are consistent with the Charter of the United Nations. The third paragraph has been omitted in view of the establishment of the Southeast Asia Treaty Organization.

### 6. *Section 131(c). Marine insurance*

Section 131(c) of the Mutual Security Act first provides that, in furnishing assistance in procuring commodities in the United States, dollars be made available for competitive marine insurance on such commodities. Second, the proviso in that section requires that, if a recipient country discriminates against U.S. marine insurance companies in the insurance of aid commodities from the United States, all such commodities to that country must be insured with such companies.

While the executive branch fully supports the principle of competition and nondiscrimination in world trade, it does not consider it appropriate to achieve these objectives by including provisions in foreign assistance legislation.

### 7. *Section 131(d). Special provisions for assistance to Korea*

Section 131(d) of the Mutual Security Act affords certain special authorities with regard to economic assistance to Korea.

This section has been omitted as no longer necessary, because aid operations in Korea have now been standardized, in accordance with the understanding reached last year between the Congress and the executive branch. In addition, the section has been omitted because it is a principle of the foreign assistance bill not to legislate special provisions for specific countries.

### 8. *Section 142(a). Conditions of eligibility for military assistance and defense support*

Section 142(a) of the Mutual Security Act contains 10 conditions, to all of which a country must agree to receive military assistance, and 7 of which to receive defense support. Applicable to both kinds of assistance are a number of political conditions designed to align the recipient country with the free world. These have been dropped altogether, in view of the abolition of the category of defense support, and because they have created serious problems with many countries which it is our policy to support and which cannot be expected to subscribe to these conditions. The requirement of obtaining formal agreement to these political conditions has rendered aid negotiations unnecessarily difficult and has necessitated a recurring number of Presidential waivers of this requirement. The practical conditions concerning transfer of possession, proper use, and maintenance of security of equipment have been retained for the purposes of military assistance.

*9. Section 142(b). Counterpart*

Section 142(b) of the Mutual Security Act requires a country receiving defense support (but not special assistance) on a grant basis to deposit into a special account the sale proceeds of such assistance. The deposits to be used principally for such purposes of the Mutual Security Act as the United States and the country agree to.

This section has been omitted because it is believed that the objective of joint planning of the use of a country's resources in furthering aid objectives, which this section was intended to accomplish, will be better accomplished by making available U.S. assistance in the promotion of a carefully drawn overall plan agreed upon with the country in accordance with the self-help criteria included in the Act for International Development.

In many cases the requirement hinders more than it helps the accomplishment of assistance objectives. It may be an unnecessary offense to impose the requirement upon a country which can be expected of its own volition to use its resources wisely or which can be persuaded to do so without a formal agreement. In other situations, the tying of U.S. control to a particular amount of funds has unduly limited the extent of U.S. influence, whereas without such a precisely defined requirement the United States might have been able to influence the use of greater amounts of local resources in furtherance of aid objectives.

In fact, the only situation in which making this requirement a matter of law can possibly be said to further assistance objectives is that in which a country cannot be expected to use its resources wisely, and the political relations of the United States with that country do not permit the making of demand by U.S. officials unless such demands are required by U.S. law. And even in these cases such influence as the United States may have over the use of funds in the counterpart account can easily be nullified by the country if it wishes. Countries can and often do simply attribute the use of counterpart to carrying out that portion of their unilaterally planned budget which the United States finds acceptable, while using other funds for activities which may perhaps be inconsistent with U.S. objectives. Or countries can simply "freeze" counterpart by refusing to use it altogether and creating funds of their own which they can use without U.S. control. A positive country plan approach, on the other hand, in connection with the furnishing of aid may help to achieve more meaningful U.S. participation.

Abolition of the statutory requirement, however, does not mean that the counterpart mechanism will be abandoned where it has proven to be a useful device in situations which do not present the problems described above.

*10. Section 143. Conditions on assistance to Yugoslavia*

Section 143 of the Mutual Security Act requires that, in furnishing assistance to Yugoslavia, the President continuously assure himself that Yugoslavia is independent of international communism and that such assistance is in the interest of the national security.

This section has been omitted because military assistance, to which the section was primarily directed, has been terminated to Yugoslavia, and because it unnecessarily states in law considerations which the President would in any case take into account.

#### 4 PROVISIONS OMITTED FROM THE FOREIGN ASSISTANCE BILL

##### 11. *Section 144. Special provisions for assistance to southeast Asia*

Section 144 of the Mutual Security Act provides authority to waive the requirements of sections 141 (conditions of eligibility for assistance) and 142 (agreements) of the Mutual Security Act with regard to certain kinds and amounts of assistance to nations in southeast Asia.

This section has been omitted as no longer necessary in view of the elimination of sections 141 and 142 of the Mutual Security Act.

##### 12. *Sections 202(a) and 204(c). Incorporation of Development Loan Fund*

Sections 202(a) and 204(c) of the Mutual Security Act establish the DLF as a corporation.

These sections have been omitted consistent with the proposal of the executive branch to create a single, integrated economic aid agency. Similarly, several other sections peculiarly applicable to the DLF have been omitted, such as section 205(b) (officers of the DLF), section 205(c) (corporate authorities), and section 205(e) (transfer of assets to the DLF).

##### 13. *Section 202(c). Limitation on DLF advance commitments*

Section 202(c) of the Mutual Security Act prohibits the advance commitment of DLF funds unless an application indicating reasonably that funds will be used in a sound manner has been submitted, or the President determines that such a commitment is necessary for a multi-lateral venture.

This section has been omitted because it is inconsistent with the basic emphasis being put upon commitments of development loan funds in support of long-range development plans. In particular, where bilateral assistance is involved, it may well be necessary to indicate general levels of aid availability in advance of the submission of the required application.

##### 14. *Section 206. National Advisory Council*

Section 206 of the Mutual Security Act subjects the DLF to the provisions of section 4 of the Bretton Woods Agreements Act concerning the NAC.

This section has been omitted as legally unnecessary since section 4 of the Bretton Woods Agreements Act will by its own terms apply to the development loan category.

##### 15. *Section 303. Prerequisites to technical assistance*

Section 303 of the Mutual Security Act sets out five prerequisites for technical assistance.

The executive branch has found that in most cases this section can be satisfied only by the conclusion of an executive agreement in advance of instituting a technical assistance program. Such agreements have caused serious negotiating difficulties because the conditions are regarded as "strings" on aid, and because countries do not wish to commit themselves indefinitely to standards which cannot be precisely defined. It is believed that compliance with standards of this kind may often be better achieved by informal means during the course of the administration of aid programs than by demanding formal commitments as a prerequisite thereto. In any case, section 211 of the Act for International Development requires that there be taken into

account four basic criteria in the furnishing of development grants, which include activities of a technical assistance type.

*16. Section 305. Limitation on commodities in technical assistance programs*

Section 305 of the Mutual Security Act permits the use of technical assistance funds to furnish commodities, as opposed to services, only where necessary for instruction or demonstration purposes.

This section has been omitted, since the category of technical assistance has been absorbed into the development grant authority, which will include the furnishing of capital commodities as well as services.

*17. Section 307(b). Point Four Youth Corps*

Section 307(b) of the Mutual Security Act authorizes a study of the Point Four Youth Corps.

This section has been omitted in view of the establishment of the Peace Corps, for which separate legislation (S. 2000 and H.R. 7500) is being sought.

*18. Section 400(b). Economic development in Latin America*

Section 400(b) of the Mutual Security Act authorizes an appropriation of \$20 million for development in the social and economic sectors in Latin America.

This section has been omitted in view of the emphasis being put upon development in Latin America both under the special Latin American Development Act and Appropriation Act and the Act for International Development.

*19. Section 401. United Nations Emergency Fund*

Section 401 of the Mutual Security Act declares it to be the policy of the United States to support the UNEF, and authorizes the use of funds for voluntary contributions thereto.

This section has been omitted because voluntary contributions to the UNEF are authorized by section 301 of the Act for International Development and because the policy in favor of the UNEF is now well established, as evidenced by section 4 of the Middle East Resolution.

*20. Section 402. Earmarking of funds*

Section 402 of the Mutual Security Act requires that at least \$175 million of fiscal year 1961 funds be used to finance the purchase and disposition abroad of surplus agricultural commodities.

A comparable requirement for fiscal year 1962 has been omitted since program requirements were developed on the basis that surplus agricultural commodities would be fully covered by Public Law 480. The use of section 402 has resulted in little, if any, greater movement of such commodities.

*21. Section 409(b). Arrangements concerning shipments of voluntary contributions*

Section 409(b) of the Mutual Security Act provides that, with regard to the shipment of voluntary contributions, where practicable the President shall make arrangements with the receiving country for free entry and for the making available by that country of currencies to defray the costs of inland transportation.

This section has been omitted as unnecessary because current executive branch practice is to require assurances from voluntary

agencies that they have arranged for free entry and the payment of inland transportation costs.

*22. Section 411(c). Department of State expenses*

Section 411(c) of the Mutual Security Act authorizes appropriations for certain expenses of the Department of State under the Mutual Security Act and the Battle Act.

This section has been omitted because the Department of State will carry out no operational responsibilities under the bill, and because section 704 of the foreign assistance bill amends the Battle Act to add a permanent authorization of appropriations to the Department for carrying out that act. The expenses of the continuing responsibilities of the Department of State with regard to foreign assistance programs will be covered by regular appropriations to the Department.

*23. Sections 413 (c) and (d) Studies*

Sections 413(c) and 413(d) of the Mutual Security Act call for annual studies of the role of the private sector and a single study of assistance from industrialized countries, respectively.

These sections have been omitted because the first subject is undergoing continuous review, and because the second study has already been submitted and is covered by the presentation materials.

*24. Section 416. Encouragement of travel*

Section 416 of the Mutual Security Act calls for the promotion of travel to and from the United States.

This section has been omitted in view of the bill (S. 610) to establish an Office of International Travel and Tourism.

*25. Section 420. Malaria eradication*

Section 420 of the Mutual Security Act authorizes the use of funds for malaria eradication.

This section has been omitted because the authority is included within the broader authority of several sections, including sections 211 (development grants) and 301 (international organizations and programs) of the Act for International Development.

*26. Section 421. Loans to small farmers*

Section 421 of the Mutual Security Act states that it is the policy of the United States to make loans to small farmers.

This section has been omitted because the activities envisaged by the section are included in several sections of the Act for International Development, including sections 211 (development grants) and 401 (supporting assistance).

*27. Sections 451 (a) and (c). Peoples subject to communism*

The second sentence of section 451(a) of the Mutual Security Act, known as the Kersten amendment, and section 451(c) of the Mutual Security Act, known as the Douglas-Dirksen amendment, authorize assistance to persons who have been enslaved by communism.

These provisions have been omitted because it is intended that their substance will be included in separate legislation concerning refugees and escapees to be submitted to the Congress.

28. *Sections 505(b) and 514. International educational exchange activities*

Section 505(b) of the Mutual Security Act gives a priority to the use of certain foreign currency loan repayments for the Fulbright program, and section 514 of the Mutual Security Act permits the reservation of any foreign currencies for that program, in each case subject to the use of appropriated dollars to purchase such foreign currencies.

These sections have been omitted because they are not appropriate to a foreign assistance bill, and because S. 1415, the proposed omnibus Fulbright program bill, provides for the reservation of, and permits giving a priority to, foreign currencies from a number of sources, including all loan repayments, for the Fulbright program, subject to the use of appropriated dollars for their purchase.

29. *Section 508. Limitation on funds for propaganda*

Section 508 of the Mutual Security Act prohibits the use of funds to finance the dissemination within the United States of propaganda concerning the foreign aid program.

This section has been omitted because the difficulty of defining "propaganda" in section 508 has had the undesirable effect of inhibiting the furnishing of information concerning foreign aid which the Senate Foreign Relations and House Foreign Affairs Committees have, especially in recent years, strongly urged.

30. *Section 512. Penal provision*

Section 512 of the Mutual Security Act imposes criminal sanctions upon certain persons who give or accept gifts in connection with procurement under the Mutual Security Act, without regard to intent.

This section has been omitted because it is a discriminatory provision applicable only to the foreign assistance program, and because it is believed that the conflict-of-interest statutes generally applicable throughout the executive branch are sufficient.

31. *Section 516. Prohibition against debt retirement*

Section 516 of the Mutual Security Act prohibits the use of funds to retire debts of foreign governments. Because of its sweeping language, this section has been construed to apply to contractual as well as funded debts, although this may not have been the intent of the Congress.

This section has been omitted because it is believed to be unwise to legislate absolute prohibitions, especially as they affect the workings of foreign economies. In fact, the use of foreign aid funds to retire certain debts can be a useful contribution to a country's economic stabilization program.

32. *Sections 523 (b) and (c). Roles of Secretary of State and ambassador*

Section 523(b) of the Mutual Security Act provides that the President shall assure coordination of U.S. activities in a foreign country through the ambassador, and section 523(c) of the Mutual Security Act states that the Secretary of State shall provide supervision and direction over foreign aid programs.

These sections have been omitted because it is believed that, as a matter of principle, all foreign aid functions should be vested in the President for such delegation as he may determine.

## 8 PROVISIONS OMITTED FROM THE FOREIGN ASSISTANCE BILL.

The President has already informed all ambassadors and all heads of departments and agencies that the ambassador shall oversee and coordinate all the activities of the U.S. Government in the country to which he is accredited.

The President has further stated that the Administrator of the new Agency for International Development will report directly to the Secretary of State and the President; that the Peace Corps will continue as an agency within the Department of State; and that the Secretary of State will provide continuous supervision and general direction of the military assistance program, including the determination as to whether there should be a program for a country and the value of that program.

### *33. Section 524. Role of Secretary of Defense*

Section 524 of the Mutual Security Act sets out specific responsibilities of the Secretary of Defense with regard to the military assistance program.

This section, like section 523(c) of the Mutual Security Act, has been omitted because it is believed that, as a matter of principle, all foreign aid functions should be vested in the President for such delegation as he may determine. No substantial change in the role of the Secretary of Defense is proposed, however.

### *34. Section 527(e). Benefits from foreign governments*

Section 527(e) of the Mutual Security Act provides that, notwithstanding any law, personnel performing functions under the Mutual Security Act shall not accept benefits from foreign governments.

This section has been omitted because there is no law explicitly authorizing such acceptance of benefits, and because section 625 of the foreign assistance bill, which relates to details to foreign governments, contains a similar express prohibition.

### *35. Section 531. Security clearance*

Section 531 of the Mutual Security Act provides that Executive Order 10450, which establishes the basic standards and procedures concerning security applicable to all agencies of the executive branch, shall apply to any agency administering nonmilitary assistance.

This section has been omitted because it is not necessary to reiterate in law the application to foreign aid operations of an Executive order which by its terms already applies thereto.

### *36. Section 533A. Inspector General and Comptroller*

Section 533A of the Mutual Security Act establishes in the Department of State the Office of Inspector General and Comptroller.

This section has been omitted because its functions will be carried out by the new Agency for International Development as well as the Department of Defense, insofar as military assistance is concerned.

### *37. Sections 131(a), 533A(d), and 534(b). Requirements for submission of documents*

Sections 131(a), 533A(d), and 534(b) of the Mutual Security Act require, in various ways with different sanctions for noncompliance, the production of documents by the executive branch upon congressional request.

These sections have been omitted and replaced by section 633(c) of the foreign assistance bill, which is essentially the same as section

101(d) of this year's Mutual Security Appropriation Act, and gives due recognition to the constitutional obligations of the Congress and the executive branch in this area in a manner which has proven to be acceptable to both.

*38. Section 537(f). Detailed report on defense support and special assistance*

Section 537(f) of the Mutual Security Act requires during the annual presentation a detailed country-by-country report on the assistance in the categories of defense support and special assistance to be furnished.

This section has been omitted as unnecessary because, to the extent that fiscal year 1962 economic assistance is programed, its provisions are being substantially satisfied by the presentation materials.

*39. Section 551. Limitation on transfer authority*

Section 551 of the Mutual Security Act prohibits, with an exception for this fiscal year, the use of the President's special authorities to increase funds available for administrative expenses.

This section has been omitted because, as the current fiscal year has shown, it is not always possible precisely to predict the administrative needs of the coming year, and because, if the executive branch is to be able to respond adequately to needs throughout the world as they arise, the President must have the ability to increase administrative, as well as other, funds.

This authority is particularly necessary when the administrative needs are uncertain and a new agency is being established.

*40. Section 552. Prohibition on aid to Cuba*

Section 552 of the Mutual Security Act prohibits assistance to Cuba unless the President makes a requisite finding.

This section has been omitted because the executive branch has no intention whatsoever of furnishing assistance to Cuba under existing circumstances, and because, in any case, a reversal of this policy would, as envisaged by the section, be made only by the President himself.

