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REFORMING UNITED STATES SECURITY ASSISTANCE

Duncan L. Clarke and Steven Woehrel*

INTRODUCTION

Beginning with President Harry S. Truman, every President of the United States has deemed security assistance programs¹ to be important means of promoting United States interests. Security assistance has been used in support of a wide variety of policies, including the Truman Doctrine and containment, the Vietnam War, underwriting the Camp David Accords between Israel and Egypt, and aid to the newly democratic governments of Panama and Nicaragua.² Since its inception, a primary rationale behind the American security assistance program has been to counter communism on a worldwide scale.³ The program then expanded to meet additional United States foreign policy

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1. There are numerous ways to define security assistance. In this article, the term encompasses military assistance in the form of grants and some concessional low interest loans to friendly countries for military equipment and training, and economic assistance allocated via the Economic Support Fund for special political-strategic purposes. *See infra* notes 15 to 24 and accompanying text (defining and discussing the Economic Support Fund). The term excludes food aid and multilateral and bilateral economic development assistance from its definition. Additionally, the definition excludes cash arms sales, funds for peacekeeping operations, resistance groups, and international narcotics control. This definition is narrower than that of the Foreign Assistance Act of 1961 where peacekeeping forces and cash arms sales are elements of security assistance. Foreign Assistance Act of 1961, 22 U.S.C. § 2151 (1988) (defining the term security assistance).

2. *See* HOUSE COMM. ON FOREIGN AFF., 101ST CONG., 1ST SESS., TASK FORCE ON FOREIGN ASSISTANCE OF HOUSE COMM. ON FOREIGN AFF. (Comm. Print 1989) [hereinafter HFAC, HAMILTON TASK FORCE] (statement of Larry Q. Nowels, Specialist in Foreign Affairs, Foreign Affairs and National Defense Division) (providing a list of high priority aid endeavors); Grimmer, *Role of Security Assistance in Historical Perspective*, in U.S. SECURITY ASSISTANCE: THE POLITICAL PROCESS 1, 4, 21-26 (1978); CONGRESSIONAL PRESENTATION FOR SECURITY ASSISTANCE PROGRAMS, FISCAL YEAR 1991, at 224-26 (1990); [hereinafter CONGRESSIONAL PRESENTATION, 1991] *Bush Signs Aid Package for Panama, Nicaragua*, Wash. Post, May 27, 1990, at A4 [hereinafter *Bush Signs Aid Package*].

3. N. EBERSTADT, FOREIGN AID AND AMERICAN PURPOSE 21-32 (1988).

objectives such as securing American interests in the Middle East, and countering additional unfriendly political forces throughout the world. The early Bush Administration, like previous administrations, adopted most "traditional" arguments in support of the United States government's use of security assistance such as: security assistance helps friendly nations to defend themselves against external threats and internal instability; it strengthens economies of friendly nations and advances United States economic interests; it promotes regional security and maintains the cohesion of United States alliances. The administration has also asserted that security assistance secures for the United States access to overseas military bases and facilities, increases Washington's political influence with recipient states, and defends democratic values and institutions.⁴

Many of these traditional objectives require reexamination. This is particularly true because the primary justification for security assistance in the past—thwarting the expansion of communism—is no longer compelling. The Soviet Union is experiencing profound internal turmoil, while, at the same time, its global military presence and political influence recede. In its place, new political, economic, and security systems are forming in Europe. In addition, the United States foreign assistance program is beset by several long-standing problems that the changing international system and competing claims on a fiscally constrained foreign aid budget make much harder to ignore.

As the aftermath of Iraq's August 1990 invasion of Kuwait will surely illustrate, security assistance still has a substantial role to play in world politics. There is, however, an ever-growing consensus that the program must adapt to a new environment.⁵ Unfortunately, this is perhaps the only area in which there is agreement. The question of how security assistance should serve United States interests sparks considerable controversy in the legal and political communities. The security assistance program has never been without controversy except during the earliest years of the cold war when the threat of global communism was most profoundly felt.⁶ This article examines key dimensions of the security assistance program as it currently exists, reviews its historical development, and addresses frequent criticisms. The article then makes

4. CONGRESSIONAL PRESENTATION, 1991, *supra* note 2, at 2-3; HFAC, HAMILTON TASK FORCE, *supra* note 2, at 24.

5. See Graves, *Implications for the Future of Security Assistance as an Instrument of Defense and Foreign Policy*, in U.S. SECURITY ASSISTANCE: THE POLITICAL PROCESS 161, 164-79 (1978) (analyzing the future of the program through a historical perspective).

6. *Id.*

proposals for reform of the current system and suggests how the program may evolve in the future.

I. DIMENSIONS OF SECURITY ASSISTANCE

Since the mid-1980s, foreign assistance budgets have generally declined in constant dollars, have favored "security assistance" over "development assistance," and have targeted a small, select group of countries.⁷ The foreign assistance appropriation for fiscal year (FY) 1990 rose to \$15.5 billion, almost \$1 billion above the FY 1989 level, but this was only because of a one-time supplemental aid package—most of which went to Panama and Nicaragua. The total foreign assistance budget for FY 1991 was \$15.4 billion. In recent years, between fifty and sixty percent of the total aid budget has been devoted to security assistance. Eight strategically important countries received over one-half of all United States foreign assistance in FY 1990: Israel, Egypt, Pakistan, Turkey, the Philippines, El Salvador, Greece, and Panama.⁸ By FY 1991, Pakistan, El Salvador, and Panama were no longer among the leading recipients of U.S. aid.⁹ Overall, the Middle East region has received more than fifty percent of United States aid since the mid-1970s. For example, from FY 1977 to FY 1990, Israel and Egypt together accounted for forty percent of all United States foreign assistance.¹⁰

A. MILITARY ASSISTANCE

The two primary components of security assistance, military aid and economic assistance for the Economic Support Fund (ESF), comprised approximately thirty percent and twenty percent respectively of all foreign aid in FY 1991. These percentages in FY 1990 were, respectively, thirty-six percent and twenty-six percent. Outright grants under the Foreign Military Financing (FMF) Program accounted for more than

7. For a definition of "security assistance" see Foreign Assistance Act of 1961, 22 U.S.C. § 2151 (1988). Development assistance is designed to encourage long-term economic development by creating programs that enable a host country to utilize its resources more effectively. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 1. The United States has bilateral development programs administered by the Agency for International Development (AID) and provides multilateral development assistance through contributions to various multinational development banks and organizations. *Id.*

8. *Bush Signs Aid Package*, *supra* note 2, at A4; HFAC, HAMILTON TASK FORCE, *supra* note 2, at 10-14; *State Department Plans Sharp Cuts in Aid for Pakistan*, Wash. Post, Jan. 27, 1991, at A18 [hereinafter *State Department Plans Sharp Cuts*].

9. *Id.*

10. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 10-12.

ninety percent of the entire military aid package (\$4.66 billion in FY 1991).¹¹ Between FY 1950 and FY 1991, Congress appropriated \$73.4 billion in FMF grants and loans, of which Israel received \$30.4 billion and Egypt received \$14.6 billion.¹² Since FY 1977, these two countries have received sixty percent of all United States military assistance. In recent years, the annual FMF allocation for Israel has been \$1.8 billion, and \$1.3 billion for Egypt. Of all nations receiving assistance in FY 1990, five countries, Israel, Egypt, Turkey, Greece, and Pakistan, accounted for eighty-eight percent of the FMF program.¹³

B. ECONOMIC SUPPORT FUND (ESF)

The Foreign Assistance Act of 1961,¹⁴ the overarching legislation for United States foreign assistance, requires the ESF to promote political or economic stability in regions of special security interest to the United States.¹⁵ The State Department directs the ESF while the Agency for International Development (AID) is responsible for its administration.¹⁶ The ESF represents the single largest United States economic assistance program. It totalled \$3.14 billion for FY 1991. Disbursements for FY 1991 were similar to disbursements in other years since 1974 in that more than sixty percent of the 1991 ESF funds went to Israel (\$1.2 billion) and Egypt (\$815 million).¹⁷

11. Congress repeatedly denied administration requests to convert all military assistance to grants, insisting instead on retaining a token level in concessional loans. HOUSE COMM. ON APPROPRIATIONS, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 1991, H.R. REP. NO. 553, 101ST CONG., 2D SESS. (1990) [hereinafter FOREIGN OPERATIONS]; CONGRESSIONAL PRESENTATION, 1991, *supra* note 2, at 224-26.

12. UNITED STATES GENERAL ACCOUNTING OFFICE, DOC. NO. GAO/NSIAD-89-78FS, SECURITY ASSISTANCE: UPDATE OF PROGRAMS AND RELATED ACTIVITIES 10-11 (1988) [hereinafter GAO, SECURITY ASSISTANCE]; CONGRESSIONAL PRESENTATION, 1991, *supra* note 2, at 224-26. In 1990, Congress appropriated a minimum of \$1.8 billion to Israel and \$1.3 billion to Egypt. Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991, Pub. L. No. 101-513, 104 Stat. 1979, 1997.

13. GAO, SECURITY ASSISTANCE, *supra* note 12, at 10-16; CONGRESSIONAL PRESENTATION, 1991, *supra* note 2, at 224-26.

14. Foreign Assistance Act of 1961, 22 U.S.C. § 2151 (1988).

15. See AN OVERVIEW OF THE ECONOMIC SUPPORT FUND, HOUSE COMM. ON FOREIGN AFF., BACKGROUND MATERIAL ON FOREIGN ASSISTANCE, 101ST CONG., 1ST SESS., at 261-63, 271-74 (1989) [hereinafter OVERVIEW OF THE ESF] (statement of Larry Q. Nowels) (providing an overview of the trends and patterns in ESF policy); HFAC, HAMILTON TASK FORCE, *supra* note 2, at 261-74.

16. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 262.

17. *Id.* at 20; GAO, SECURITY ASSISTANCE, *supra* note 12, at 35; Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991, Pub. L. No. 101-513, 104 Stat. 1979, 1990. Since 1985 and the enactment of Public Law 99-83, Israel has, unlike other ESF recipients, received this aid as a lump-sum payment within

Presidents favor the ESF because it is a flexible account, unrestricted by conditions that apply to other economic assistance programs. Although more costly to the government, ESF permits the executive to make relatively timely aid disbursements because a higher percentage of ESF goes for budget outlays in the first fiscal year than does any other component of the foreign aid budget. Furthermore, unlike other aid accounts, ESF can be programmed in several ways to afford executive branch policymakers options in employing the money.¹⁸ Approximately sixty percent of ESF is programmed for balance of payments support in the form of cash transfers while the remainder is allocated for development assistance and other purposes.¹⁹ Although the ESF is economic, not military, assistance, it is classified as "security assistance" in the president's budget and grouped with military aid.²⁰ This classification causes some confusion as to precisely what constitutes ESF and development assistance within the foreign aid budget. Coupling ESF with military aid makes security assistance the dominant feature of the total budget.²¹ Alternatively, if the ESF is included with multilateral and bilateral development assistance, economic aid becomes the largest budget component.²² In this regard, some security assistance advocates are concerned that placing ESF with military aid makes ESF more vulnerable to budget cuts because military aid tends to be less popular with Congress than development assistance.²³ These advocates also assert that because the ESF meets broadly defined development needs, Congress should regard it as development aid.²⁴

These concerns are misplaced and the resulting debate is misleading. The ESF has what an experienced congressional staffer calls "a con-

the first 30 days of the fiscal year. The funds are subsequently invested in United States Treasury bonds until used. Annual interest paid on these deposits of early payments constitutes additional costs to the United States. For example, in FY 1989, this amounted to \$76.7 million. 136 CONG. REC. E578-79 (daily ed. Mar. 7, 1990) (statement of Rep. Lee Hamilton) (commenting on a letter from Assistant Secretary of State for Legislative Affairs Janet Mullins).

18. Ryan, *Foreign Assistance and Low-Intensity Conflict*, in *LOW INTENSITY CONFLICT: THE PATTERN OF WARFARE IN THE MODERN WORLD* 166 (L.B. Thompson ed. 1989).

19. OVERVIEW OF THE ESF, *supra* note 15, at 273.

20. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 262.

21. In FY 1990, for example, ESF plus military aid comprised \$9.7 billion of the \$15.5 billion foreign assistance budget. FOREIGN OPERATIONS, *supra* note 11, at 4.

22. *Id.* In FY 1990, ESF, when added to the funds for multilateral and bilateral development assistance, comprised \$9.2 billion of the \$15.5 billion foreign assistance budget. *Id.*

23. Ryan, *supra* note 18, at 166.

24. *Id.* at 166-67.

structive ambiguity"²⁵ that is generally acceptable to the majority of Congress and the executive branch. While the ESF, which cannot be used for military purposes, fits somewhat uncomfortably with military aid, it is even less compatible with development aid. Congress allocates only about one-third of ESF for development. This allocation goes to countries where United States political-strategic interests, such as Middle Eastern and Central American peace, are priority objectives: Sound development is a secondary objective.²⁶ As Bush Administration AID Administrator Alan Woods comments, "[s]trategic aid, sometimes in the form of direct payment transfers, has little bearing on development pure and simple."²⁷ From its inception, the ESF's primary purpose has been to advance United States political and security objectives; long-term development is always given a lower priority. Furthermore, the administration explicitly uses a portion of the ESF as "political assistance" or "walking around money". For example, when Vice President Quayle visited Jamaica and Nicaragua in 1990, he took several million dollars from the ESF to disperse locally. Indeed, virtually all United States foreign aid, including military and most development and humanitarian assistance, is designed to meet political-strategic objectives.²⁸ This is why the State Department and the undersecretary of state for security assistance, not the Department of Defense (DOD) or AID, generally lead the interagency process for allocating ESF funds, unless the White House intervenes.

There is little evidence that clustering ESF with military aid makes it more or less vulnerable to congressional budget cuts. Although the level of ESF aid may fluctuate over time, Congress is unlikely to impose large-scale budget cuts for two reasons. First, many legislators believe that the president should have at least one relatively flexible tool for dispersing aid. Second, select ESF recipients enjoy strong congressional backing. If Congress is displeased with an aid program, that program is in jeopardy whether it is labeled security or development assistance.

25. Interview with congressional staff person in Washington, D.C. (May 1990).

26. Sewell & Contes, *Foreign Aid and Gramm-Rudman*, 65 FOREIGN AFF. 1021, 1027 (1987); W. QUANDT, *THE UNITED STATES AND EGYPT: AN ESSAY ON POLICY FOR THE 1990s* (1990).

27. AGENCY FOR INTERNATIONAL DEVELOPMENT, *DEVELOPMENT AND THE NATIONAL INTEREST: UNITED STATES ECONOMIC ASSISTANCE INTO THE 21ST CENTURY* 119 (1989) [hereinafter AID, *DEVELOPMENT AND THE NATIONAL INTEREST*].

28. Kramer, *The Government's Approach to Security Assistance Decisions*, in U.S. SECURITY ASSISTANCE: THE POLITICAL PROCESS 101, 101-02 (1978).

II. EVOLUTION OF SECURITY ASSISTANCE

A. LEGISLATION

As previously discussed, the United States security assistance program sprang from a desire to contain Soviet expansionism. It evolved from ad hoc aid to Greece and Turkey in 1947 to a more systematic approach with the implementation of the Mutual Defense Assistance Act of 1949.²⁹ This legislation created what was to become a central element of United States foreign aid, the Military Assistance Program (MAP), under which recipient nations received grants for military equipment and training.³⁰ A precursor to the current ESF, the Economic Support for Defense fund was added by the Mutual Defense Assistance Act of 1951.³¹ The Mutual Security Act of 1954 established the Foreign Military Sales (FMS) credit program, which is today the FMF.³² In 1961, Congress consolidated these three programs (FMS credit, MAP, and ESF) in the Foreign Assistance Act of 1961 (FAA).³³ Since it was enacted, the International Security Assistance and Arms Export Control Act of 1976 (AECA)³⁴ has governed cash and credit arms sales. The AECA is technically an amendment to the FAA. The FAA remains the legal cornerstone for all United States foreign aid, including security assistance.

B. LATE 1940S-EARLY 1970S

Between 1947 and 1952 more than eighty percent of all United States foreign aid went to Europe.³⁵ Marshall Plan economic aid dwarfed security assistance, but the latter eased the economic strain on Western Europe associated with defense buildup. By the 1950s, security aid was shifted from a now more prosperous Western Europe to East Asia, Southeast Asia, and the Middle East.³⁶ The same mix of collective security alliances and security assistance that the United States successfully employed in Europe was also initially applied to

29. Mutual Defense Assistance Act of 1949, Pub. L. No. 81-329, 63 Stat. 714.

30. See Grimm, *supra* note 2, at 6-7 (providing a history of the Military Assistance Program). The training program was separated from MAP in 1976 and named the International Military Education and Training Program (IMET). *Id.* at 7.

31. OVERVIEW OF THE ESF, *supra* note 15, at 263-68.

32. Hildreth, *Perceptions of U.S. Security Assistance: 1959-1983 The Public Record*, in U.S. SECURITY ASSISTANCE AND THE POLITICAL PROCESS 74 (1978).

33. Grimm, *supra* note 2, at 7.

34. 22 U.S.C. § 2384 (Supp. III 1979).

35. L. Nowels & S. Heginbotham, *An Overview of U.S. Aid Programs* 16 (Congressional Research Service 1988).

36. *Id.* at 2, 3.

these other regions. This security aid was redirected in order to thwart threats to friendly countries from the Soviet Union, Asian communist nations, and insurgent groups, as well as to secure access to bases for forward deployment of United States forces. The shift of assistance from Europe to the Third World coincided with a decline in overall aid levels, a trend that continues to the present day.³⁷ United States foreign assistance declined from over two percent of the Gross National Product (GNP) in the late 1940s, to one percent in the late 1950s, to less than one-third of one percent in the early 1990s.³⁸ From the end of the Korean War until 1964, military aid also declined, although defense support assistance³⁹—mostly to Asian countries—increased throughout the mid-1950s.⁴⁰

Western Europe had skilled workers and the sound political and economic institutions necessary for recovery,⁴¹ but as American security interests and assistance expanded to Asia, Latin America, and Africa it became clear that prescriptions successful in Europe were inapplicable to the Third World. Some of these countries lacked the essential political and economic base to effectively absorb security assistance. Except for countries like Korea and Japan, it was often difficult to define the threat or the interests to be protected. It was sometimes difficult to determine whether threats to security were from Soviet or Chinese supported insurgencies, economic deprivation, a spectrum of internal political, demographic, and cultural factors, or some combination of all of these factors. Hence, by the late 1950s, both security assistance and foreign aid shifted from a heavy military focus⁴² to development programs, that policymakers saw as antidotes to communism, and to projects aimed at winning in-country support for sometimes shaky anti-communist regimes. From 1956 to 1964, military assistance fell from approximately forty-nine percent to approximately twenty-two percent of the foreign aid budget.⁴³ This change was particularly evident during the Kennedy administration.

37. *Id.* at 13.

38. *Id.* at 19.

39. The program known as the ESF since 1978 previously had various names, including "defense support", "supporting assistance", and "security supporting assistance".

40. L. Nowels & S. Heginbotham, *supra* note 35, at 17.

41. See Grimmet, *supra* note 2, at 5 (emphasizing the Truman Administration's commitment to supplying billions of dollars to Western Europe in order to facilitate recovery after World War II).

42. See generally *id.* at 14-21 (providing an overview of the distribution of Security Assistance from 1950 to 1963).

43. L. Nowels & S. Heginbotham, *supra* note 35, at 18; OVERVIEW OF THE ESF, *supra* note 15, at 263-65.

The Vietnam War dramatically altered the distribution of United States security assistance. Congress established a special account called the Military Assistance Service Fund⁴⁴ to fund the war effort. From 1964 to 1975 this fund received nearly twice the amount of the military aid provided to the rest of the world combined. Additionally, more than seventy-two percent of defense support funds went to Southeast Asia.⁴⁵ More importantly, the Vietnam experience shattered the public and executive-legislative consensus that had supported American foreign policy and the security assistance program. By the late 1960s and early 1970s there was mounting criticism of security assistance. The notion that the program was effective and necessary to build alliances for fighting communism was no longer universally accepted. As a result, Congress began to take a more assertive role in determining allocations.

C. CONGRESSIONAL ASSERTIVENESS AND THE 1970s

A breakdown in the foreign policy consensus combined with other factors such as the Watergate scandal, growing concerns about human rights, regional arms races, and nuclear proliferation, contributed to a pronounced congressional inclination to place restrictions on security assistance.⁴⁶ For instance, the AECA of 1976 gave Congress greater control over cash and credit United States arms sales, and prohibited arms transfers to countries engaging in "a consistent pattern" of human rights violations.⁴⁷ Similarly, a provision of the AECA, often called the Symington Amendment, forbids security assistance to countries contravening United States nuclear nonproliferation policies.⁴⁸ Both restrictions, however, had provisions for presidential waivers. By the mid-1970s, there was also a shift in emphasis within the military aid program from grants to loans,⁴⁹ and a notable deemphasis on secur-

44. Grimmett, *supra* note 2, at 23.

45. *Id.* at 20, 23; OVERVIEW OF THE ESF, *supra* note 15, at 266.

46. See G. WARBURG, CONFLICT AND CONSENSUS 45-47 (1989) (describing the major changes in Congress during the 1970s).

47. International Security Assistance and Arms Export Control Act of 1976, 22 U.S.C. § 2384 (Supp. III 1979). See S. NEUMAN & E. HARKAVY, ARMS TRANSFERS IN THE MODERN WORLD 232 (1980) (criticizing the use of human rights standards as a criteria for United States development assistance).

48. International Security Assistance and Arms Export Control Act of 1976, 22 U.S.C. § 2429 (1988). See R. BECKMAN, NUCLEAR NON-PROLIFERATION: CONGRESS AND THE CONTROL OF PEACEFUL NUCLEAR ACTIVITIES 242-44 (1985) (discussing the legislative history of the Symington Amendment).

49. See P. HAMMOND, D. LOUSCHER, M. SALOMONE & N. GRAHAM, THE RELUCTANT SUPPLIER: U.S. DECISIONMAKING FOR ARMS SALES 125-67 (1983) (tracking the direction of United States security assistance programs between 1950 and 1980); M.

ity assistance generally. Not surprisingly, cash arms sales to Third World countries escalated.⁵⁰ This was consistent with the Nixon Doctrine of placing primary responsibility for defending United States allies on the allies themselves.⁵¹

Three additional points about the 1970s are noteworthy. First, the Middle East (primarily Israel and Egypt) became, and remains today, the dominant regional recipient of United States security assistance.⁵² Second, strategic "base-rights countries"⁵³ such as Turkey, Greece, Portugal, and the Philippines continued, as they do today, to receive substantial security assistance. Finally, the Carter Administration maintained the most restrictive postwar arms transfer policy ever adopted by the United States,⁵⁴ although the Camp David Accords and Soviet activities in the Middle East, Africa, and Afghanistan prompted some notable waivers of this policy.⁵⁵

D. THE REAGAN YEARS

The Reagan Administration made security assistance a cornerstone in the global contest with the Soviet Union. In this regard, United States policymakers perceived the Soviet Union as supporting wars of national liberation and evincing "little or no interest in arms transfer limitations."⁵⁶ ESF assistance doubled from \$3 billion to \$6 billion between FY 1981 and FY 1985. Similarly, military assistance increased from \$4.6 billion to \$6 billion during the same period (in constant 1989 dollars).⁵⁷ By 1984, military aid alone constituted over forty-two percent of United States foreign aid.⁵⁸ In contrast, development aid fell

KLARE, *AMERICAN ARMS SUPERMARKET* 13 (1984) (comparing sales of military equipment and grants of military assistance).

50. M. KLARE, *supra* note 49, at 11.

51. *Id.* at 114-15.

52. See generally A. PIERRE, *THE GLOBAL POLITICS OF ARMS SALES* 160, 166-70 (1982) (detailing the historical background of United States aid to Israel and Egypt).

53. Base-rights countries are those nations which have received significant amounts of security assistance primarily because the United States wishes to secure access to military installations on their territories. R. Grimmett, *Current Issues with the 'Base-Rights' Countries and their Implications* 1 (Congressional Research Service 1988).

54. See *id.* at 52-54 (detailing the new restrictions on arms transfers introduced by the Carter Administration).

55. See M. KLARE, *supra* note 49, at 45-46 (explaining the Carter Administration's apparent inconsistency regarding arms transfers).

56. Buckley, *Arms Transfer and the National Interest*, 81 DEP'T OF ST. BULL. 51-53 (1981).

57. See L. Nowels & S. Heginbotham, *supra* note 35, at 17 (1988) (delineating disbursements of United States foreign aid according to major programs between 1946-89).

58. *Id.*

steadily from just under forty-eight percent of United States foreign aid between FY 1977 and FY 1980 to approximately thirty-eight percent by 1985.⁵⁹

Congress reacted to large federal budget deficits, passage of the Gramm-Rudman-Hollings deficit reduction plan in 1985, and uneasiness about President Reagan's tilt away from development aid, by cutting security assistance during Reagan's second term.⁶⁰ While security assistance continued to dominate the foreign aid program, the ESF decreased from \$6 billion to \$3.3 billion and military aid declined from \$6.6 billion to \$5.6 billion between FY 1985 and FY 1989 (in constant 1989 dollars). During the 1980s there was also a dramatic shift in military aid from loans to grants.⁶¹ In 1981, the ratio of loans to grants in United States military aid was eighty percent to twenty percent; by 1988 that ratio was reversed. This shift was made to provide recipient nations with better "quality" assistance considering declining United States aid budgets, the large FMS debt burden of several countries including Israel, Egypt, Turkey, and Pakistan, and the overall foreign debt burden of many United States military aid recipients.⁶²

III. CRITICS AND CRITICISMS

Foreign aid rarely enjoys broad-based, sustained public support. For example, a 1988 survey found that fifty percent of the public believed that "the United States foreign aid program is one of the best places to cut federal government spending."⁶³ Public dissatisfaction with military assistance programs is even more pronounced. The same survey revealed that the majority of those polled favored economic development and humanitarian assistance over military aid.⁶⁴ Similarly, a 1986 Chicago Council on Foreign Relations survey found that sixty-two percent of those polled favored reducing military aid and only four percent

59. *Id.* at 18.

60. See G. WARBURG, *supra* note 46, at 233-38 (discussing the evolution of congressional priorities, particularly during the Reagan years).

61. L. Nowels & S. Heginbotham, *supra* note 35, at 6.

62. L. Nowels, *Foreign Aid: Budget Policy and Reform* 3 (Congressional Research Service 1989); interviews with executive branch officials (May-June 1990).

63. Martilla, *American Public Opinion: Evolving Definition of National Security*, in *AMERICA'S GLOBAL INTERESTS: A NEW AGENDA* 301 (1989).

64. *Id.* at 301-05. Sixty-one percent of those polled felt that economic development best advanced United States interests, while 25% thought military assistance was more effective; 58% would decrease military assistance, 32% would keep it at the same level, and seven percent would increase it. *Id.*

would increase it.⁶⁵ Development aid was somewhat less unpopular: forty-eight percent would reduce it, eleven percent favored an increase.⁶⁶ In sharp contrast, a sample of the foreign policy leadership expressed overwhelming support for both military and development aid. Equally striking is the remarkable stability of both the public's and the congressional leadership's attitudes on military and development aid beginning in 1974 when the Chicago Council began its surveys. The study concluded that public resistance to foreign aid is largely due to persistent doubts about what aid actually achieves for the United States or recipient countries.⁶⁷ Another concern is that military aid will draw the United States into a military conflict.⁶⁸

Weak public support for security assistance, particularly the military component, is accompanied by disagreement over the appropriate goals of the program.⁶⁹ Many still agree with most of the official, traditional goals and rationales for security assistance.⁷⁰ A growing number of legislators and others, while accepting the need for security assistance, albeit at reduced levels, believe that the program must reflect United States interests in an international system markedly different from the cold war era.⁷¹ These critics are concerned that certain conventional arms transfers exacerbate regional instability and increase the likelihood of United States involvement in a conflict. They also fear security assistance does little to serve the long-term economic interests of the recipient. Lastly, critics express concern that the program gives Washington far less political leverage over recipient countries than is often claimed, and that because virtually all security assistance is on a grant, not loan, basis, it constitutes a net financial drain on an already fiscally strained United States.⁷²

65. See J. RIELLY, AMERICAN PUBLIC OPINION AND U.S. FOREIGN POLICY 26, 28 (1987) (discussing and analyzing public opinion surveys conducted by the Chicago Council on Foreign Relations from 1974 to 1986).

66. *Id.*

67. *Id.*

68. *Id.*; Hildreth, *supra* note 32, at 86.

69. See Mahoney & Wallace, *The Domestic Constituencies of the Security Assistance Program*, in U.S. SECURITY ASSISTANCE: THE POLITICAL PROCESS 125-41 (1978) (detailing how the public and various interest groups evaluate economic and military assistance programs).

70. See *supra* note 4 and accompanying text (listing historically cited rationales for security assistance).

71. Mahoney & Wallace, *supra* note 69, at 130.

72. See ARMS CONTROL AND FOREIGN POLICY CAUCUS OF THE U.S. CONGRESS, THE DEVELOPING WORLD: DANGER POINT FOR U.S. SECURITY (1989) (providing the views of liberal and moderate legislators who share common concerns about international affairs); A. PIERRE, *supra* note 52, at 165; Lewis, *Political Influence: The Di-*

An additional group of critics is prominent in academic and nongovernmental humanitarian and international development circles. It would also include some liberal members of Congress. This group asserts, *inter alia*, that Congress should use foreign aid to alleviate poverty and injustice in the developing world, with few or no political strings attached, rather than to counter exaggerated or nonexistent threats from the Soviet Union or other sources.⁷³ Consistent with this view, they argue that America's security assistance, and much of its development assistance as well, perpetuates poverty, fosters or condones undemocratic institutions and practices, and destabilizes the economies of recipient nations to the benefit of large United States corporations.⁷⁴

With differences over goals as well as public antipathy toward foreign aid, it might appear that the security assistance program is skating upon thin political ice. The situation in Congress, however, is even more complex.

The absence of a broad-based constituency for foreign assistance means that, except for the first eighteen months of the Marshall Plan in Europe, and for specific countries at specific times, there is always substantial congressional resistance to military and often economic aid.⁷⁵ In spite of this, most legislators vote for annual foreign assistance appropriations even while denouncing foreign aid to their constituents in Peoria or Providence. One reason for this seemingly inconsistent behavior is interest group activity. Most foreign assistance lobbyists focus on a single country or program. The decline of the defense budget since 1985, however, prompted the defense industry to increase its lobbying for all military aid programs. With the partial exception of Israel, this is largely because the programs are tied to the purchase of United

minished Capacity, in *ARMS TRANSFERS IN THE MODERN WORLD* 184-99 (1980) (providing substantial criticism of current appropriations in the form of grants).

73. See Mahoney & Wallace, *supra* note 69, at 130 (explaining the tenets and goals of post-cold war internationalists).

74. See LAPPE, SHURMAN & DANAHER, *BETRAYING THE NATIONAL INTEREST* (1987) (providing virtually across-the-board criticism of the U.S. foreign aid program); S. HOFFORD, *U.S. SECURITY ASSISTANCE TO DEVELOPING COUNTRIES* (1988); JOHANSEN, *THE NATIONAL INTEREST AND THE HUMAN INTEREST* (1980) (offering one academic's view of the adverse effects of this type of aid).

75. See HFAC, HAMILTON TASK FORCE, *supra* note 2, at 257-59 (statement of Thomas W. Galdi) (discussing the history of the controversy in Congress over foreign aid); see also Obey & Lancaster, *Funding Foreign Aid*, 71 *FOREIGN POL'Y* 141, 146-47 (1988) (emphasizing the lack of widespread support for foreign aid programs); L. Mortsoff & L. Samelson, *The Congress and U.S. Military Assistance*, in *MILITARY ASSISTANCE AND FOREIGN POLICY* 147, 147-83 (C. Brandt ed. 1990) (explaining the legislative process and congressional oversight concerning U.S. military assistance).

States military equipment.⁷⁶ More importantly, the Israel lobby, spearheaded by the American Israel Public Affairs Committee (AIPAC), one of the most potent interest groups in the country, works continually toward increasing the entire foreign assistance program. AIPAC is disturbed when legislators support aid to Israel, but vote against other major aid programs.⁷⁷ This is significant as there is widespread concurrence with the remark by one senior congressional source that "there is a pervasive sense in Congress that a bill AIPAC is supporting is not something we should vote against."⁷⁸ Some believe that without the support of pro-Israel legislators and, to a lesser degree, midwestern legislators backing the Food and Peace Program, a substantial portion of the entire foreign aid package could unravel.⁷⁹

For various reasons, it is difficult to build and sustain a coalition in Congress to pass a foreign aid measure. Although some in Congress oppose all aid, liberal Democrats often favor development aid while conservative Republicans traditionally favor security assistance.⁸⁰ Moreover, many Republicans and Democrats support preferential treatment for Israel and Egypt and oppose aid to countries that are not formally at peace with Israel. Finally, legislators see a foreign aid bill as an opportunity to make a personal imprint on foreign policy through public statements and numerous amendments intended to satisfy constituent interests. This is true even though some of these amendments may be minimally related or unrelated to national needs.⁸¹

Despite a certain endemic unruliness in the process, historical battles over foreign assistance have lessened considerably in recent years. Although Congress often passes foreign assistance bills by substantial margins, there will always be differences over the proper balance between development and military aid, and over uniquely controversial

76. See Mahoney & Wallace, *supra* note 69, at 143 (defining the American League for Exports and Security Assistance). The American League for Exports and Security Assistance, a coalition of companies and trade unions benefitting from United States arms exports, has a long history of lobbying in Congress. *Id.*

77. Interviews with Republican and Democratic House and Senate Staff members in Washington, D.C. (Apr.-May 1990). When, as in recent years, the foreign aid pie shrinks, Israel's predominance in that budget stands out.

78. Interview with congressional staff person in Washington, D.C. (May 1990); see J. Burke, *U.S. Arms Sales to the Middle East: How and Why?*, in *MILITARY ASSISTANCE AND FOREIGN POLICY* 129-30, 138 (C. Brandt ed. 1990) (assessing AIPAC's influence on U.S. arms sales to the Middle East from 1975 to 1984).

79. G. WARBURG, *supra* note 46, at 236; M. FEUERWERGER, *CONGRESS AND ISRAEL* 133 (1979).

80. G. WARBURG, *supra* note 46, at 237.

81. See *id.* at 234 (describing the process whereby foreign aid legislation frequently becomes overburdened by nonessential restrictions); Obey & Lancaster, *supra* note 75, at 148; Kramer, *supra* note 28, at 112.

programs such as military aid to El Salvador.⁸² The overall program, however, is not adrift politically; there is still a consensus that security and foreign assistance programs are necessary.

Compromise is most difficult in the area of military aid primarily because this topic often triggers intensely held, yet clashing, values. There is, however, solid support for the two principal recipients of military and ESF aid—Israel and, primarily because of Israel, Egypt. Moreover, two of the other major recipients enjoy formidable backing—Turkey because of its strategic value, and Greece because of its political influence with Congress. Some consensus will likely continue to sustain even a significantly changed security assistance program. Budget pressures, the aftermath of the Persian Gulf conflict, a diminished Soviet threat, and new goals for future security assistance will, however, affect the equation. Many members of Congress are also concerned about the adequacy of current foreign assistance legislation, the management and coordination of the security assistance program, executive-legislative oversight of the program, and the degree of flexibility that the president should have in employing security assistance as a tool of United States foreign policy. These concerns have sparked some interest in security assistance reform and closer congressional monitoring.

IV. REFORMING SECURITY ASSISTANCE: PROPOSALS

Proposals to reform security assistance are nearly as old as the program itself. Successive presidential commissions expended almost as much effort trying to garner support from a skeptical Congress as they spent in assessing specific programmatic shortcomings. Specifically, the reports of Eisenhower's "Draper Committee"⁸³ in 1959, Kennedy's "Clay Committee"⁸⁴ in 1963, and Nixon's "Perkins Committee"⁸⁵ and "Peterson Commission"⁸⁶ in 1968 and 1970 respectively, advocated vigorous security assistance programs, adopted the traditional collective security argument, and bemoaned the public's ignorance and lack of enthusiasm for such aid. The reports' more substantive proposals ranged from isolating military aid from other aid and locating it within

82. Military aid to El Salvador is controversial primarily because of human rights abuses associated with elements of the country's armed forces. 136 CONG. REC. H12382-83 (daily ed. Oct. 27, 1990) (statement of Rep. Matthew McHugh).

83. G. HILDRETH & E. GRAVES, U.S. SECURITY ASSISTANCE: THE POLITICAL PROCESS 45 (1985).

84. *Id.* at 54.

85. *Id.* at 64.

86. *Id.* at 65.

DOD's budget as advocated by the Draper and Perkins Reports, to separating security from development aid while leaving the former with the State Department as favored by the Peterson Report.⁸⁷

Two similar high-level reports appeared during the Reagan Administration. The 1983 Commission on Security and Economic Assistance (Carlucci Commission)⁸⁸ drafted the first report. Secretary of State George Schultz set up the Carlucci Commission for the express political purpose of building public and congressional consensus for foreign aid.⁸⁹ Congress agreed with the Carlucci Commission's and administration's desire to increase the concessional component in military assistance. Most of the other Carlucci Commission recommendations, however, were unremarkable and went largely unnoticed.⁹⁰ In 1988, President Reagan's Commission on Integrated Long-Term Strategy issued a report that predictably favored more security assistance with fewer congressional restrictions.⁹¹ One subgroup of the Commission, headed by retired Army General Paul Gorman, offered more specific observations and recommendations. These observations reiterated a concern that the Pentagon had expressed since 1984. The thrust of this concern was that the overall decline in aid levels, combined with Israel's and Egypt's perennially dominant share of aid had caused a sharp decrease in aid to smaller Third World recipients. Specifically, this meant a seventy-nine percent reduction of aid to twenty-nine Third World nations from FY 1984 to FY 1987.⁹² Several regional commanders in chief (CINCs) of United States forces and other senior DOD personnel have long been displeased with Israel's "disproportionate" share of aid.⁹³

Recent private studies also address security assistance. Like the Draper and Perkins Reports, some of the private reports urge the transfer of military aid to the defense budget while others call for greater

87. *Id.* at 45-65.

88. THE COMMISSION ON SECURITY AND ECONOMIC ASSISTANCE, A REPORT TO THE SECRETARY OF STATE (1983).

89. G. HILDRETH & E. GRAVES, *supra* note 83, at 83.

90. *Id.* (citing COMMISSION ON SECURITY AND ECONOMIC ASSISTANCE, A REPORT TO THE SECRETARY OF STATE 3-5 (1983)).

91. COMMISSION ON INTEGRATED LONG-TERM STRATEGY, DISCRIMINATE DETERRENCE 17 (1988).

92. WORKING GROUP ON REGIONAL CONFLICT OF THE COMMISSION OF INTEGRATED LONG-TERM STRATEGY, U.S. DEPT. OF DEFENSE, COMMITMENT TO FREEDOM: SECURITY ASSISTANCE AS A U.S. POLICY INSTRUMENT IN THE THIRD WORLD 16 [hereinafter GORMAN REPORT] (1988).

93. Interview with former senior Department of Defense official (Mar. 1990). In 1987, Chairman of the Joint Chiefs of Staff Admiral William Crowe employed the same word in congressional testimony but substituted "Eastern Mediterranean" for "Israel". GORMAN REPORT, *supra* note 92, at 13.

differentiation between military and development aid within the State Department.⁹⁴ A Heritage Foundation report advises reductions in both development and security assistance.⁹⁵ Still other reports continue to recommend a shift away from security assistance and toward long-term development aid.⁹⁶

A. *The Hamilton Task Force*

Many factors prompted congressional interest, particularly in the House Foreign Affairs Committee, in reforming foreign assistance legislation in the late 1980s.⁹⁷ These factors included: (1) the reduced foreign aid budget; (2) the long-term prospect of low or no growth in this budget; and (3) public dissatisfaction with the foreign assistance program. The Foreign Affairs Committee expressed a widely held view that the "foreign assistance program was not focused, . . . had failed to achieve its intended purposes . . . [and] was . . . fragmented, uncoordinated, and ineffective in advancing national objectives."⁹⁸ As a result, the Hamilton Task Force, a bipartisan task force of Committee mem-

94. See INT'L. TRADE AND DEV. EDUC. FOUND., *THE CONVERGENCE OF INTERDEPENDENCE AND SELF-INTEREST: REFORMS NEEDED IN U.S. ASSISTANCE TO DEVELOPING COUNTRIES* (1989) (recommending that military aid be the responsibility of the Department of Defense).

95. Bergner, *Security Assistance*, in *U.S. AID TO THE DEVELOPING WORLD: A FREE MARKET AGENDA* 89-101 (D. Bandow ed. 1985).

96. See R. SMUCKLER, R. BERG & D. GORDEN, *NEW CHALLENGES, NEW OPPORTUNITIES: U.S. COOPERATION FOR INTERNATIONAL GROWTH AND DEVELOPMENT IN THE 1990s* (1988) (recommending broadly based economic growth, an effective attack on poverty, and an end to the destruction of the environment); S. HELLINGER, D. HELLINGER & F. O'REGAN, *AID FOR JUST DEVELOPMENT* 76 (1988) (recommending that completely different agencies than those controlling development assistance administer aid for political and security purposes). But see *AID, DEVELOPMENT AND THE NATIONAL INTEREST*, *supra* note 27, at 24 (observing that there is confusion not only over how well the development assistance program works, but also over what it intended to accomplish).

97. HFAC, *HAMILTON TASK FORCE*, *supra* note 2, at 29.

98. HOUSE COMM. ON FOREIGN AFF., *INTERNATIONAL COOPERATION ACT OF 1989*, H.R. REP. NO. 2655, 101st Cong., 1st Sess. 2 (1989) [hereinafter *INTERNATIONAL COOPERATION ACT*]. The frequent inability of the House to pass annual foreign assistance authorization legislation diminished the Committee's standing to set policy in this area. Interview with congressional sources in Washington, D.C. (May 1990). The House approved such legislation only twice between 1981 and 1989. *Id.* What the Foreign Affairs Committee lost, the Appropriations Committee and its Foreign Operations Subcommittee gained. *Id.* Therefore, the Foreign Affairs Committee sought to recoup lost influence by writing legislation. *Id.* See L. Nowels, *Foreign Assistance: Congressional Initiatives to Reform U.S. Foreign Aid in 1989*, at 13-17 (Congressional Research Service 1990) [hereinafter *Nowels, Foreign Assistance*] (describing the process that led to the Hamilton Task Force report).

bers, issued a report in February 1989.⁹⁹ The Task Force recommended the most sweeping overhaul of foreign assistance legislation since 1961.¹⁰⁰ One of the report's more prominent themes, that won the low-profile support of the Bush Administration, was the need for Congress to resist the temptation to micromanage the program.¹⁰¹ The report stated that a maze of congressionally imposed conditions and restrictions had engendered such "confusion, ambiguity and bureaucratic gridlock,"¹⁰² so as to make "the present system unworkable and increasingly irrelevant."¹⁰³

B. EARMARKING AND CONDITIONALITY

Few issues in foreign policy are more controversial than the Congressional practice of earmarking and conditioning foreign aid. Earmarking refers to congressional actions in an authorization or appropriation act whereby Congress sets aside or "earmarks" funds for a specific program or account. Throughout most of the 1980s Congress earmarked about ninety-two percent of military aid, between eighty and ninety-eight percent of ESF, and fifty percent of development aid.¹⁰⁴ Fiscal Year 1991 saw a reduction in earmarking, but eighty percent of the security assistance budget was still earmarked.¹⁰⁵ "Conditionality," on the other hand, refers to the numerous conditions, directives, and restrictions in foreign aid legislation and committee or conference reports that must be followed by implementing agencies and recipients of United States assistance.¹⁰⁶

Among both executive branch officials and (often privately and selectively) many members of Congress, "earmarking" is a pejorative word. There are several reasons for this. First, earmarking restricts the president's flexibility to meet unforeseen contingencies that may arise over the course of the fiscal year.¹⁰⁷ For example, Bush Administration offi-

99. HFAC, HAMILTON TASK FORCE, *supra* note 2. The task force was named after its co-chairman, Rep. Lee Hamilton (D-IN). See Nowels, Foreign Assistance, *supra* note 98, at 13 (discussing the Task Force).

100. *Id.* at 32.

101. See *id.* at 27-28 (noting that in the foreign assistance area, the executive branch regularly complains that congress involves itself too deeply in programmatic details, that is, it "micromanages").

102. *Id.* at 32.

103. *Id.*

104. *Id.* at 27.

105. L. Nowels & E. Collier, Foreign Policy Budget: Issues and Priorities for the 1990s, at 1 (Congressional Research Service 1991).

106. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 27.

107. *Id.* at 32 (criticizing the effect of earmarking on the United States' ability to meet the changing financial needs of aid recipients).

cials indicated that earmarking hindered the expeditious shifting of assistance priorities toward Eastern Europe and Central America in 1989 and 1990. Second, earmarking also limits United States leverage over the policies and practices of politically favored recipient nations such as Egypt and Israel, because those nations are accustomed to knowing in advance that they will receive assistance, and the exact amount of the assistance. Thus, the predictable annual deposit of no less than \$3 billion in Israel's account arguably does little to induce the Israelis to be more sensitive to Washington's interests in, for example, significant movement toward an Arab-Israeli peace settlement.¹⁰⁸ At the same time, however, this lack of United States leverage is also an example of why earmarking will *not* be eliminated.¹⁰⁹ Many members of Congress resist presidential manipulation of certain nations through security assistance programs. Specifically, few members of Congress publicly wish to create conditions that allow presidents to pressure Israel.

A third issue—as noted in the Gorman Report¹¹⁰—is the frequent mismatch between restrictive security assistance legislation and United States military requirements. Although a valid consideration, a central purpose of security assistance is to foster or maintain good *political* relations, not simply to enhance United States defense posture. Consequently, for their own domestic political reasons, many aid recipients insist that security assistance be distanced from United States defense plans. The Gorman Report also addressed the severe reduction of small, unearmarked programs in times of budgetary stringency. To alleviate this situation, the Hamilton Task Force recommended establishing a “regional contingency fund” to finance small programs for Third World countries with specific military needs.¹¹¹ This would require the executive branch to notify Congress before using money from the fund.¹¹² The proposed fund was essentially an “unearmarked earmark”¹¹³ designed to “out-earmark the earmarkers.”¹¹⁴ In sum, Congress would set aside an unearmarked two percent of the foreign assistance budget to give the president some flexibility to assist select smaller recipients. The fund's modest size and the case-by-case report-

108. See *id.* at 39-40 (describing the restricting effect earmarking has on United States policy leverage).

109. *Id.* at 40.

110. GORMAN REPORT, *supra* note 92, at 42-45.

111. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 40.

112. *Id.*

113. Confidential interview with former congressional staff member (May 1990).

114. *Id.*

ing requirement, however, led the Bush Administration to reject this recommendation.¹¹⁵

In addition to the Regional Contingency Fund, the Hamilton Task Force urged Congress to sharply reduce earmarks and conditions on foreign aid.¹¹⁶ The Task Force optimistically believed that this would improve legislative oversight because Congress could then concentrate much needed attention on program results rather than on various prohibitions, reporting requirements, and assorted conditions. This call for earmark reductions, however laudable, was more an aspiration than a realistic expectation. The Hamilton Task Force itself acknowledged that "politically inevitable earmarks will go forward."¹¹⁷

Because earmarked funds for Israel and Egypt constitute a large part of United States foreign aid, and a huge share of security assistance, any movement away from earmarking in the immediate future will be modest and will not change these "politically inevitable" accounts. In January 1990, Senator Robert Dole (R-Kan.) called for slight reductions in large earmarked accounts, including Israel's. A combination of fiscal constraints, new aid commitments in Central America and Eastern Europe, a declining Soviet threat in the Middle East and elsewhere, and sharp aid reductions to thirty-five unearmarked countries prompted this politically unusual request. In 1988, the chairman of the House Appropriations Committee's Foreign Operations Subcommittee, Congressman David Obey (D-Wis.), raised the possibility of a similar shift of aid away from major earmarked recipients. Obey's idea went nowhere.¹¹⁸ In this regard, the Bush Administration backed Dole's proposal, on the condition that reductions occur across the board. The measure died quickly, however, when seventy-three senators wrote to President Bush and expressed opposition to aid cuts to Israel and Egypt.¹¹⁹

115. *Id.*; HFAC, HAMILTON TASK FORCE, *supra* note 2, at 40; see also Ryan, *supra* note 18, at 169 (listing specific examples of the reductions' effects on nations not designated to receive funds).

116. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 31-32, 39-40.

117. *Id.* at 31-32, 40.

118. Interview with congressional staff person in Washington, D.C. (May 1990). This source reported that "[Secretary of State George] Schultz was unwilling at the time to give unequivocal, open support and AIPAC blasted Obey. Only after Obey was attacked did Schultz indicate some interest; by this time Obey was unresponsive." *Id.*

119. Dewar & Kamen, *Cut in Aid to Israel Proposed*, Wash. Post, Jan. 17, 1990, at A1; Kamen, *Baker Favors "Shaving" U.S. Aid to Israel, Egypt*, Wash. Post, Mar. 2, 1990, at A1.

C. BASE-RIGHTS COUNTRIES

The Hamilton Task Force also examined the goals of security assistance and aid to base-rights countries. Concerning the latter, the Task Force considered budget constraints as well as the United States government's growing concern about the costly and unhealthy proclivity of base-rights countries demanding ever-increasing levels of assistance as the price for United States access to overseas bases. The Task Force correctly noted that defense ties should be based on mutual security interests, not on "rent" paid by the United States for the "privilege" of using foreign military bases.¹²⁰ As a result, it recommended that Congress create a separate line item account with clear funding limits in the military aid budget to fund existing commitments to Portugal, Greece, Turkey, and the Philippines on a *one-time*, multi-year basis of about five years.¹²¹ After that period, military assistance for bases would cease.¹²² Portugal, Greece, and Turkey were also listed as near-term candidates for "graduation" from military aid to cash sales (following the examples of Spain and Korea).¹²³

D. PROGRAM GOALS

In an effort to more precisely define security assistance goals, the Hamilton Task Force also recommended replacing the AECA with new legislation which would separate military aid, with its overriding political linkages and objectives, from United States cash arms sales to NATO and other allies.¹²⁴ In addition, while acknowledging the political purposes of military aid, the Task Force called for a clearer standard for evaluating the effectiveness of such assistance.¹²⁵ Specifically, the Task Force recommended that the appropriate standard should be the degree to which each assistance program advances United States military objectives through, for example, joint defense research and development undertakings and prepositioning of United States defense material overseas.¹²⁶ The Task Force further recommended that the ESF be defined as supporting immediate political, economic, and secu-

120. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 8.

121. *Id.* at 40.

122. *Id.*

123. INTERNATIONAL COOPERATION ACT, *supra* note 98, at 4; HFAC, HAMILTON TASK FORCE, *supra* note 2, at 40-41; *see generally* R. Grimmett, *supra* note 53 (providing an overview of the Hamilton Task Force's recommendations).

124. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 38.

125. *Id.*

126. *Id.*

urity interests and be allocated to countries in a manner consistent with the proposed definition.¹²⁷

E. MANAGEMENT AND ACCOUNTABILITY

Finally, the Hamilton Task Force assessed the management and accountability of foreign aid programs. It called for a much needed overhaul of the five hundred page maze of often ambiguous, contradictory, and even obsolete provisions that collectively comprise the Foreign Assistance Act.¹²⁸ The Task Force urged a substantial congressional reduction in the two hundred eighty-eight annual foreign assistance individual reporting requirements that cost AID alone 140 work-years to fulfill.¹²⁹ The Task Force also asked the president to correct long-standing defective executive branch coordinating processes. Problems cited included foreign policy decisions that regularly ignore security and development assistance implications, economic and military assistance policies that are poorly integrated with one another, and military aid programs that are inadequately coordinated with other strands of United States policy toward recipient nations.¹³⁰

The government's current foreign aid accountability systems are defective.¹³¹ They tend to focus on allocations of future assistance rather than on the efficiency of past expenditures.¹³² Consequently, DOD and AID often ineffectively monitor improper practices by countries receiving United States aid. Moreover, congressional oversight of security assistance is, in the words of a knowledgeable congressional staffer, "virtually nonexistent."¹³³ Realizing this practical reality, the Task Force urged greater in-country monitoring of military aid and sales assets and a genuinely centralized accounting system within DOD for military sales. The Task Force also stressed the need for "more rigorous" congressional oversight.¹³⁴

Some of the Executive's shortcomings are partly attributable to congressional failure to enact statutory provisions specifically mandating

127. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 31. Once allocated, however, ESF should foster the four basic objectives the Task Force set forth for all United States economic aid: growth; environmental sustainability; poverty alleviation; and political, social, and economic pluralism. *Id.*

128. *Id.* at 29.

129. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 27; AID, DEVELOPMENT AND THE NATIONAL INTEREST, *supra* note 27, at 114.

130. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 28, 34-35, 42.

131. *Id.* at 27.

132. *Id.*

133. *Id.* at 27, 32.

134. HFAC, HAMILTON TASK FORCE, *supra* note 2, at 33, 39.

post-delivery monitoring of grant military aid, and to congressionally mandated, hard-to-monitor practices such as direct cash transfers to recipient nations.¹³⁵ Moreover, the limitations of congressional oversight are well known.¹³⁶ For example, legislators rarely pursue a vigorous oversight strategy without some political or personal incentive. There are incentives for overseeing aid to such countries as El Salvador, but there are few political rewards for scrutinizing aid to Israel.¹³⁷

Problems in financial management and managing decentralized operations, staffing, and program budgeting impede AID's delivery of bilateral economic assistance.¹³⁸ Perhaps the most serious problem, however, is maintaining adequate accountability for direct cash transfers of ESF aid. Most ESF takes this form, including all ESF to Israel.¹³⁹ Although Congress enacted legislation in 1987 requiring AID to maintain special accounts to help track ESF expenditures, the General Accounting Office (GAO) found that foreign nations' actual use of these accounts is impossible to verify completely.¹⁴⁰ Consequently, these nations have occasionally violated United States law when they use the ESF funds.¹⁴¹ For instance, corrupt Central American officials may have deposited some of the aid in personal overseas bank accounts.¹⁴² Respond-

135. See U.S. GENERAL ACCOUNTING OFFICE, DOC. NO. GAO/T-NSIAD-90-25, ACCOUNTABILITY AND CONTROL OVER FOREIGN ASSISTANCE 5-6, 14 (1960) (statement of Frank C. Conahan, Assistant Comptroller General) [hereinafter ACCOUNTABILITY AND CONTROL] (discussing monitoring difficulties in direct cash transfers to recipient nations).

136. See J. ABERBACH, KEEPING A WATCHFUL EYE: THE POLITICS OF CONGRESSIONAL OVERSIGHT 187-213 (1990) (presenting an overview of congressional oversight practices).

137. See INTERNATIONAL COOPERATION ACT, *supra* note 98, at 121, 136 (stating that assistance to El Salvador is linked to the promotion of a political settlement of conflict, an end to human rights abuses, and respect for democracy and the rule of law). The report also notes that Section 802 of the Act earmarks \$1.8 billion for the 1990 and 1991 fiscal years in order to finance advance weapons systems for Israel. *Id.* at 136.

138. U.S. GENERAL ACCOUNTING OFFICE, DOC. NO. GAO/NSIAD-89-61BR, FOREIGN AID: PROBLEMS AND ISSUES AFFECTING ECONOMIC ASSISTANCE 2 (Dec. 1988) [hereinafter FOREIGN AID] (briefing report to the Honorable Lee H. Hamilton, House Comm. on Foreign Affairs).

139. See Memorandum from Clyde R. Mark, Specialist in Middle Eastern Affairs, Foreign Affairs and National Defense Division (Mar. 8, 1988) (copy on file with the author) (discussing United States laws that benefit Israel). In terms of cash transfers in ESF assistance to Israel, no AID accounting is given as to how the money is used. *Id.*

140. ACCOUNTABILITY AND CONTROL, *supra* note 135, at 1, 20 (statement of Frank C. Conahan, Assistant Comptroller General, National Security and International Affairs Division).

141. *Id.* at 6, 7.

142. See *id.* at 5-8; FOREIGN AID, *supra* note 138, at 18, 21-25 (discussing the skimming of foreign aid into personal bank accounts); U.S. GENERAL ACCOUNTING OFFICE, DOC. NO. GAO/NSIAD-88-182, FOREIGN AID: IMPROVING THE IMPACT AND

ing to these concerns, Congress enacted additional legislation in 1989 that required recipient nations to establish separate accounts for cash transfer assistance in order to prevent the commingling of funds.¹⁴³ In November 1990, Congress created the Commission on Management of the Agency for International Development Programs which was charged, *inter alia*, with the task of making recommendations concerning "the adequacy of systems of personal accountability for program management. . . ."¹⁴⁴

The delegation of accountability functions to the individual military services creates additional problems in DOD. During the 1980s, El Salvador, the Philippines, and some other nations engaged in "misexpenditures" of United States military aid. The Justice Department is currently investigating additional cases.¹⁴⁵ In addition, when the military services and intelligence agencies detect a recipient country's illegal transfers of United States defense material to a third party, the United States rarely imposes sanctions.¹⁴⁶ The State Department usually resists sanctions because enforcement risks straining diplomatic relations with the violating country, and because it is sometimes difficult to directly trace the illegal transfers to the government and, said a former senior DOD official, it is politically "very hard to lay a finger on Israel."¹⁴⁷ Finally, FMF cash sales pose the biggest problem. Hundreds

CONTROL OF ECONOMIC SUPPORT FUNDS, REPORT TO THE CHAIRMAN, SUBCOMM. ON EUROPE AND THE MIDDLE EAST, HOUSE COMM. ON FOREIGN AFFAIRS 4, 46 (1988) [hereinafter CONTROL OF ECONOMIC SUPPORT FUNDS]. A former senior Department of Defense official remarked: "Senior AID and DOD officials don't care that much about accountability. They'll deal with particular problems but the fact is that some aid to Third World countries is *going* to be skimmed off. It's often a cultural thing. If you don't understand this, you're an idiot. The issue is: how do you proceed *despite* predictable, minor corruption." Interview with former Department of Defense official in Washington, D.C. (May 1990).

143. Foreign Operations, Export Financing, and Related Programs Act, 1990, Pub. L. No. 101-167, 103 Stat. 1195-1264 (1989).

144. Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991, Pub. L. 101-513, 104 Stat. 1979, 2022-23.

145. See ACCOUNTABILITY AND CONTROL, *supra* note 135, at 18-22 (statement of Frank C. Conahan, Assistant Comptroller General, National Security and International Affairs Division) (focusing on grant aid accountability control over technology transfers, accounting systems for military aid, and the difficulties encountered in auditing covert aid).

146. See U.S. GOVERNMENT ACCOUNTING OFFICE, Doc. No. GAO/NSIAD-89-186, EL SALVADOR: TRANSFERS OF MILITARY ASSISTANCE FUND (Report to the Honorable Tom Harkin, United States Senate) [hereinafter TRANSFERS OF MILITARY ASSISTANCE FUND] (finding that in 1986 and 1988, the Salvadoran Air Force transferred MAP-funded fuel to third parties without United States' consent).

147. See HFAC, HAMILTON TASK FORCE, *supra* note 2, at 39 (referring to El Salvador and Israel as examples of nations previously making illicit third party transfers of United States defense material); TRANSFERS OF MILITARY ASSISTANCE FUND, *supra* note 146, at 1-2; see also Clarke & Cohen, *The United States, Israel and the Lavi*

of millions of dollars were reportedly unaccounted for due to deficient Pentagon accounting procedures that both GAO and DOD auditors had faulted for more than ten years.¹⁴⁸ Congressional criticism prompted the Pentagon to belatedly institute several improvements in its central accounting system in early 1990.¹⁴⁹

F. REFORM LEGISLATION FAILS

In June 1989, the House Foreign Affairs Committee accepted most of the Task Force proposals, but the Committee rejected two crucial recommendations: phasing out aid tied to base rights¹⁵⁰ (even though the Committee conceded this aid could not be sustained in the long-term) and reductions in earmarking. The base-rights issue became prominent by late 1990, particularly in the case of the Philippines. Many members of Congress, however, remain unwilling to significantly dilute the powerful check on the executive that earmarking provides.¹⁵¹

In 1989, the House passed the first foreign aid authorization bill since 1985. Unfortunately, the Committee's reform proposals were not enacted into law because an authorization bill never reached the Senate floor.¹⁵² Due, however, to the persistent, formidable problems afflicting foreign assistance, interest in reform remains alive in Congress, especially in the House.

V. THE FUTURE

A. CONSENSUS?

The Vietnam War weakened consensus behind the traditional goals of security assistance, and support continued to wane after the war's end. This trend was especially evident during President Reagan's second term, when aid budgets fell dramatically.¹⁵³ Still, throughout the Reagan years, Congress generally agreed that the Soviets, Third World communism, and other forces were threats to be that needed countered.

Fighter, 40 MIDDLE E.J. 21-22 (1986) (discussing the strategic ramifications of the Lavi fighter and Israeli transfer of United States technology).

148. See ACCOUNTABILITY AND CONTROL, *supra* note 135, at 16-17 (reviewing the accounting system that supports the transfer of United States military aid).

149. *Id.*; HFAC, HAMILTON TASK FORCE, *supra* note 2, at 38-39.

150. See generally R. Grimmer, *supra* note 53 (focusing on central problems in maintaining overseas military installations); INTERNATIONAL COOPERATION ACT, *supra* note 98, at 4 (1989).

151. INTERNATIONAL COOPERATION ACT, *supra* note 98, at 4, 174.

152. See Nowels, Foreign Assistance, *supra* note 98, at 24-25 (describing the Senate's inability to take action on the bill).

153. G. WARBURG, *supra* note 46, at 142-45.

Moreover, congressional majorities regularly appropriated aid for Israel and Egypt, for new democratic governments such as the Philippines, for securing overseas base rights, and for more controversial assistance to so-called front-line states like El Salvador, Honduras, and Pakistan. While Congress grumbled about paying "rent" for foreign bases, it made the payments. Moreover, aid to the front-line states continued despite often intense criticism. For example, aid to El Salvador was particularly generous considering the strained relationship between Congress and the Reagan Administration over Central American policy.

Today, support for some of the traditional objectives of security assistance, although not for security assistance as such, is gone. A central reason is the rapid diminution of a Soviet threat since 1989.¹⁵⁴ CIA Director William Webster testified in March 1990 that even if Soviet President Mikhail Gorbachev was ousted, the successor regime "would have little incentive to engage in major confrontations with the United States"¹⁵⁵ and "would be unlikely to indulge in a major military buildup."¹⁵⁶ Indeed, by September 1990, Presidents Bush and Gorbachev had personally coordinated a Soviet-American policy toward common goals in the Persian Gulf.

Meanwhile, as the Soviet Union suffers internal trauma, some regional conflicts in Central America, Southwest Asia, and Southern Africa have wound down or moderated. The United States also has new nonmilitary aid priorities in Eastern Europe, Central America, and Africa. Looming over future aid appropriations is a fiscal crunch that is likely to constrain the size of the foreign assistance budget for several years, if not longer. The absence or sharp reduction of a Soviet or communist threat to most front-line and base-rights countries increases the pressure to reduce some elements of the military aid budget. In the fall of 1990, for example, Congress withheld fifty percent of the authorized military aid to El Salvador because of that country's human rights abuses, although President Bush moved to restore these funds in 1991. Congress also halted all aid to Pakistan because of the U.S. government's nuclear proliferation concerns, Pakistan's drift away from de-

154. *See Soviets Plan to Review Military Aid*, Wash. Post, May 27, 1990, at A1 (stating that Soviet military aid to the Third World dropped by \$2 billion in 1989). In May 1990, Moscow announced a "radical review" of its foreign military assistance programs. *Id.*

155. HOUSE COMM. ON ARMED SERVICES, *THE FADING THREAT: SOVIET CONVENTIONAL MILITARY POWER IN DECLINE*, H.R. REP. NO. 623, 101st Cong., 2d Sess. 222-27 (1990).

156. *Id.*

mocracy, and drug trafficking in that country. While Turkey's key role in the allied war effort against Iraq will preserve its portion of security assistance for now, the United States may eventually phase out its Philippine bases or, at the very least, reduce military aid to Manila.¹⁵⁷

While some military assistance programs will decline, the ESF should remain intact. Israel and Egypt receive the lion's share of ESF. Most of the 1989-1990 United States economic aid to Central America and much of the aid to Eastern Europe was from the ESF. Despite accountability programs and the shortcomings of its development assistance component, the ESF does afford the president a rare measure of congressionally tolerated flexibility.

Security assistance will not disappear. In fact, another consensus on security assistance is already discernible. It is rooted in major part in the status quo—fifty percent or more of all security assistance will continue to go to Israel and Egypt. Likewise, aid appropriations to most base-rights and former front-line nations, while less secure, will probably continue for a time, albeit at reduced levels in several instances. Beyond these customary purposes, however, there is strong support for applying security assistance to new tasks such as countering illicit drug trafficking in countries like Columbia and Bolivia; financing international peacekeeping operations in the Middle East, Africa, and elsewhere; and helping to establish a completely new, democratically grounded political-security system in Europe. Although it is premature to speculate on the form it might take, security assistance could very well play a role in a future Persian Gulf-Middle East security system.

Finally, the effective end of the cold war will not necessarily lead to a tranquil world order. Apart from Saddam Hussein's invasion of Kuwait and the resulting war, major conflict elsewhere in the Middle East and in South Asia is possible. Chemical, biological, and nuclear weapons, and sophisticated long-range delivery systems, pose formidable threats to global stability. Moreover, what the Pentagon calls low-in-

157. Richburg, *U.S. to Start Phasing out Military Bases in Philippines*, Wash. Post, Sept. 14, 1990, at A1. The House Appropriations Committee stated in June 1990 that it "expects to make substantial reductions over the next five years in military assistance" to base-rights countries. HOUSE COMM. ON APPROPRIATIONS, REPORT ON H.R. 5114, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAM APPROPRIATIONS, FISCAL YEAR 1991, H.R. REP. NO. 553, 101 Cong., 2d Sess. 30 (1990). See also Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991, Pub. L. No. 101-513, 104 Stat. 2799, 2009-12 (discussing military assistance for El Salvador during FY 1991); *State Department Plans Sharp Cuts*, supra note 8, at A18. See C. Brandt, *U.S. Military Bases Overseas: Military Expediency and Political Dilemmas*, in MILITARY ASSISTANCE AND FOREIGN POLICY 185-220 (C. Brandt ed. 1990) (examining the past and likely future status of United States bases in Spain, Portugal, Greece, Turkey, and the Philippines).

tensity conflict, encompassing a spectrum of political-military operations in the Third World from counterterrorism to regional wars, is not necessarily either a low cost or a low risk contingency. Current United States policy, for which there is considerable congressional backing, emphasizes indirect measures for dealing with many of these contingencies. This means, in no small measure, security assistance.¹⁵⁸

B. PRIVILEGED RECIPIENTS

Regardless of the level of resources devoted to security assistance, program changes are necessary in order for the United States to effectively interact with a rapidly evolving international system. Arguably, this means breaking down the concentrated, rigid country allocation of aid by reducing earmarking. This would give the president more flexibility to respond quickly to changing circumstances, would allow for more leverage with foreign aid recipients, and would possibly facilitate the executive's redistribution of aid to nations deemed neediest (in terms of United States interests).

A fundamental loosening of habitual aid allocation patterns is, however, unlikely in the near future. Congress will not give up earmarking because many members regard it as an institutional prerogative and a valuable check on the executive. Presidents themselves sometimes request special earmarks from Congress, such as when President Bush asked Senator Daniel Inouye (D-Haw.) and others for earmarked funds for Jordan in the 1989 defense bill.¹⁵⁹ Moreover, there are some justifiable political (if not always national interest) reasons for the aid distribution patterns in the cases of Israel and Egypt and the seven-to-ten aid ratio for Greece and Turkey.¹⁶⁰ Congressional activism concerning security assistance may make the policy process messy and inefficient,

158. U.S. GENERAL ACCOUNTING OFFICE, DOC. NO. GAO/PEMD-90-13, U.S. WEAPONS: THE LOW-INTENSITY THREAT IS NOT NECESSARILY A LOW-TECHNOLOGY THREAT 1-9 (1990).

159. Interview in Washington, D.C. (May 1990).

160. The seven-to-ten ratio is grounded in two political considerations. First, the Greek Government argues that this helps maintain a military balance vis-a-vis Turkey. Second, while the executive has long viewed Turkey as more valuable strategically to the United States than Greece, this ratio is responsive to a vocal "Greek lobby" in Congress. Kramer, *supra* note 28, at 114-15 (1978). R. Grimmer, *supra* note 53, at 16. Interviews with executive branch officials and congressional staff members in Washington, D.C. (Apr.-May 1990). It may be noteworthy, however, that the July 1990 agreement that renewed U.S. base-rights in Greece did not mention this ratio. See C. Brandt, American Security Assistance in the 1990s, at 3-5 (Nov. 8-10, 1990) (paper prepared for the International Security Section of the International Studies Association, Columbus, Ohio) (discussing the future of the United States security assistance program in the decade of the 1990s).

but legislators have their own priorities and program efficiency is not always among them.

This implies that a huge share of United States security assistance and foreign aid programs will continue to go to Israel and Egypt.¹⁶¹ The protracted budget process during the fall of 1990 was simply one indicator that the overall foreign assistance budget is unlikely to increase significantly. Foreign Assistance funds for competing, worthy purposes must come from a foreign aid budget that is effectively frozen or, possibly, from DOD's budget. Washington's ability to adjust to a changing world is thereby restricted. This is particularly unfortunate considering the political uncertainty following the 1990-91 Persian Gulf crisis. It is conceivable, however, that some members of Congress may seek to scrutinize Israel's customary privileged standing when Washington's attention returns to Arab-Israeli tensions.

C. REASSESSMENT OF AID TO ISRAEL AND EGYPT

Along with some other members in Congress, Congressman Obey questions the appropriateness of generously financing an Israel that does not make "active efforts at resolving regional problems."¹⁶² Israeli Prime Minister Yitzhak Shamir's disinterest in making even minimal concessions toward settling the Palestinian issue was one major reason why Thomas Foley (D-Wash.), Speaker of the House of Representatives, ardent pro-Israel Congressman Mel Levine (D-Cal.), and others warned in the spring of 1990 of increasing, yet private, congressional criticism of Israel.¹⁶³ A frustrated Secretary of State James Baker emerged relatively unscathed after openly challenging Shamir in congressional testimony in June 1990. Secretary Baker declared: "When you're serious about peace, call us."¹⁶⁴ Even as he announced suspension of peace talks with the Palestine Liberation Organization (PLO), President Bush questioned the Shamir government's commitment to peace.¹⁶⁵ The PLO's declared support of Saddam Hussein in August 1990 and Iraqi missile attacks on Israel in January and February of 1991 deflected this mounting chorus of United States criticism. The

161. See generally Mark, U.S. Laws That Benefit Israel (Congressional Research Service 1988) (summarizing the numerous, often unique privileges accorded Israel). A majority of Congress treat aid to Israel as a virtual entitlement. Interviews with congressional staff people in Washington, D.C. (Mar.-June, 1990).

162. Obey & Lancaster, *supra* note 75, at 151-52.

163. Cohler, *Don't Misread the Numbers*, Wash. Jewish Week, May 10, 1990, at 7; *Israel Faces Trouble in Congress*, Wash. Jewish Week, May 31, 1990, at 2.

164. Goshko, *Baker Says Israel Must Compromise*, Wash. Post, June 14, 1990, at A1.

165. Devay, *President Suspends PLO Talks*, Wash. Post, June 14, 1990, at A1.

sincerity of Israel's interest in a balanced peace settlement, however, is an issue that will surely recur.

In 1983, the United States signed formal strategic cooperation agreements with Israel. President Reagan said that these agreements were designed to counter "the threat to our national interest posed by increased Soviet involvement in the Middle East."¹⁶⁶ Today, in the post-cold war era, the Soviet Union has sharply reduced its commitment to Syria and has retreated from other states in the region.¹⁶⁷ Consequently, one cornerstone of the assertion that "Israel is a strategic asset" is either gone or rapidly crumbling. Of course, Israel's security remains threatened. This is largely due, however, to the interaction of Israel's own policies and practices and those of its neighbors, not the Soviet Union. In the crisis with Iraq, Israel appeared to be a strategic liability for the United States. Shortly after the invasion of Kuwait, for example, United States government officials informed Israel that the United States would not welcome overt Israeli involvement in the Gulf Crisis.¹⁶⁸ After war broke out in January 1991, the United States became acutely concerned that Israeli military intervention could undermine the multinational coalition arrayed against Iraq.¹⁶⁹

Secretary Baker correctly stated that United States foreign policy "must reflect democratic values"¹⁷⁰ and that "the American people will not support for long a policy that violates their sense of humane values. . . ."¹⁷¹ Israel's democratic system is endangered and its image is tarnished because of its harsh treatment of Palestinians, especially during the intifada. Similarly, most mainline Protestant denominations, the National Council of Catholic Bishops, and the Holy See denounced Israel's human rights record in the occupied territories and called for

166. White House Press Release, Nov. 29, 1983. See, EIZENSTAT, *FORMALIZING THE STRATEGIC PARTNERSHIP: THE NEXT STEP IN U.S.-ISRAEL RELATIONS* (1988) (arguing that a strategic relationship with Israel serves the interests of the United States).

167. Blitzer, *New Era Soviet-U.S. Relations Could Impact on Israel*, Wash. Jewish Week, Jan. 4, 1990, at 15; Amouyal, *U.S., Israel to Refine Military Relationships*, Defense News, Mar. 26, 1990, at 4; Cody, *U.S.-Syrian Ties Warm a Bit*, Wash. Post, Sept. 16, 1990, at A25.

168. Confidential interview with executive branch official in Washington, D.C. (Aug. 1990); see also Diehl, *Cold War's End, Gulf Crisis Shake Israel's Security Strategy*, Wash. Post, Sept. 16, 1990, at A25.

169. J. Diehl, *Israel Agrees to Put Off Attacking Iraq*, Wash. Post, Jan. 20, 1991, at A30.

170. Address by Secretary James Baker, "Democracy and American Diplomacy," Current Policy No. 1266, United States Department of State, at 2-3 (Washington, D.C. 1990).

171. *Id.*

Palestinian self-determination.¹⁷² Additionally, a 1989 *Washington Post-ABC News* poll found that eighty percent of those polled believed that Israeli human rights violations would weaken the backing for Israel in the United States.¹⁷³ That same poll found that initial sentiment favoring substantial aid to Israel decreased sharply once people were specifically informed that Israel received \$3 billion annually.¹⁷⁴ A 1990 *Wall Street Journal/NBC News* poll found that Senator Dole's proposal to trim aid to the largest recipients was favored by a sixty-three percent to twenty-four percent margin, and that the public considers Japan "to be more of a friend to the United States than Israel."¹⁷⁵ If the public knew that Israel annually receives substantially greater benefits than the commonly cited figure of \$3 billion, polling results could change significantly. For example, in FY 1989 and FY 1990 Congress supplemented the officially reported \$3 billion amount (ESF plus FMF) with special perquisites and other aid for a total of \$3.742 billion in FY 1989 and \$3.666 billion in FY 1990.¹⁷⁶ Americans would also not be pleased with Israeli surveys indicating that more Israelis desire a government with "strong leadership" than one that is democratic, and that seventy percent of Israel's Jewish population favors denying electoral rights to Israelis who advocate the establishment of a Palestinian state.¹⁷⁷ Although factors such as the PLO's identification with Iraq in the Persian Gulf war might temporarily influence

172. Hamilton, *American Churches Are Speaking out on Palestine and Israel*, WASH. REP. ON MIDDLE E. AFF., Jan. 1990, at 8, 16; MIDDLE EAST ASSOCIATES, STATEMENTS AND POSITION PAPERS OF MAJOR AMERICAN ORGANIZATIONS ON MIDDLE EAST PEACE (R. Madrid ed. 1986).

173. Morin, *Americans Polled Urge Israeli-PLO Talks*, Wash. Post, Apr. 4, 1989, at A17. See also Greene, *Israel Faces Tough Days Ahead*, Wash. Jewish Week, Feb. 9, 1989, at 6 (indicating that 51% thought aid should remain at current levels, 43% favored decreasing it, and four percent supported an increase).

174. *Id.*

175. *Dole's Plan*, Wall St. J., Mar. 16, 1990, at 1.

176. Blitzer, *AIPAC Pleased With Extra Aid for Israel* Wash. Jewish Week, Dec. 21, 1989, at 7; 136 CONG. REC. E578-79 (daily ed. Mar. 7, 1990) (statement of Rep. Lee Hamilton); The actual subsidy to Israel in FY 1991 should far exceed \$4 billion, partly because Congress required \$700 million in "excess defense articles" transferred to Israel, it added \$100 million to the U.S. military equipment stockpile in Israel, and Congress provided for early distribution of the \$1.8 billion FMF funds to Israel to be invested in U.S. Government securities with the proceeds of the investment to be paid to Israel. Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991, Pub. L. No. 101-513, 104 Stat. 1979, 2063. In January 1991, the Israeli foreign minister indicated that Israel had an immediate need for \$13 billion! W. Claiborne, *Israel Seeks \$13 Billion More in Aid*, Wash. Post, Jan. 23, 1991, at A1.

177. *Israelis Want "Strong Leadership"*, Wash. Jewish Week, Feb. 1, 1990, at 10; *Right-wing Attitudes in Israel*, Wash. Jewish Week, June 14, 1990, at 2.

United States public opinion, Israel faces a major problem in this regard.

The reality that Egypt would not have received \$28 billion in United States aid between 1980 and 1991 without the backing of a U.S. pro-Israel constituency,¹⁷⁸ and views, such as Congressman Hamilton's that the United States spends billions of dollars on Egypt and "we get nothing in return"¹⁷⁹ create additional problems. Aid allocations to Israel and Egypt, however, remain untouched. Indeed, Egypt's position was strengthened substantially when, at his request, Congress authorized President Bush to forgive \$6.7 billion of Egypt's debt to the United States in recognition of Cairo's strategically important role in the collective opposition to Iraqi aggression.¹⁸⁰

Concerning Israel, one of several potential indicators of future change is found within the American Jewish Community itself. Steven M. Cohen's often cited surveys show that while American Jewish leaders strongly favor aid to Israel, sixty-three percent fear that the intifada could affect Israel's democratic character and sixty percent think Israel is mistreating Arabs in the occupied territories. While Israel retains a central place in the Jewish consciousness, many events since 1982, such as the intifada, the deep cleavages within Israel's society and government, the Jonathan Pollard espionage affair, and the war in Lebanon suggest a possible distancing of many American Jews, especially the young, from Israel.¹⁸¹ If so, politicians may gradually acquire more flexibility to deal with this sensitive issue.

CONCLUSION

In the wake of dramatic upheavals in the international system after 1989, there were some notable redistributions of security assistance and other United States foreign aid. Congress slashed aid to such former front-line, anti-communist states as El Salvador and Pakistan in the FY 1991 budget, and aid reallocations will continue to occur. For example, development assistance, particularly to Africa, will receive

178. W. QUANDT, *supra* note 26, at 5, 9-10.

179. Ottaway, *U.S. Withholds \$230 Million from Egypt*, Wash. Post, Mar. 8, 1989, at A26.

180. Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991, Pub. L. No. 101-513, 104 Stat. 1979, 2059-60; Atherton, *Recognizing the Role of Egypt*, Wash. Post, Sept. 14, 1990, at A4.

181. COHEN, *ISRAEL-DIASPORA RELATIONS: A SURVEY OF AMERICAN JEWISH LEADERS* 9, 11-12, 29-31, 67-69 (1989) (published by the Israel-Diaspora Institute, Tel Aviv, Israel); COHEN, *TIES AND TENSIONS: AN UPDATE—THE 1989 SURVEY OF AMERICAN JEWISH ATTITUDES TOWARD ISRAEL AND ISRAELIS* (1989).

greater attention, and certain base-rights countries, like the Philippines, face probable future cuts in military assistance.

Because Israel and Egypt so dominate the U.S. security assistance program, fundamental shifts in aid allocations have not yet occurred. This situation could change for reasons discussed above, although almost certainly not in the immediate future. The continued centrality of U.S. subsidies to Israel and Egypt, taken together with the near certainty of a constant or declining foreign assistance budget, means that the U.S. government has little flexibility and relatively meager funds to meet new global challenges. These challenges include assisting emerging democracies in Eastern Europe and perhaps even the Soviet Union, dealing with regional and low-intensity conflicts, and countering terrorism and the international flow of illegal drugs. Consequently, most security assistance reforms in the foreseeable future will likely be modest and substantially within the present system.

Several recommendations of the Hamilton Task Force were important and merited a more serious reception than they received in 1989. To be sure, in 1990, some of the Task Force's prescriptions—such as selectively phasing out aid for overseas base rights and tightening program accountability—received considerable attention. Even so, the reform measures that are likely to be taken can do little to affect a paucity of resources and public support, nor can they rationalize a program so enmeshed in and substantially driven by powerful political forces.