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THE FOREIGN ASSISTANCE ACT OF 1948

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I The Foreign Assistance Act of 1948

The Act entitled the "Foreign Assistance Act of 1948" was signed by the President on April 3, 1948. It is omnibus legislation embodying the following parts:

- Title I - The Economic Cooperation Act of 1948 (European Recovery).
- Title II - The International Children's Emergency Fund Assistance Act of 1948.
- Title III - The Greek-Turkish Assistance Act of 1948.
- Title IV - The China Aid Act of 1948.

The summary of the legislation contained in this report will be primarily concerned with Title I, although a brief summary of the other titles is given at the end.

While Title I constitutes United States acceptance of the European Recovery Program and establishes administrative machinery essential to its execution, it does not purport to fix the total amount of assistance to be provided by the United States under the program or actually appropriate the funds necessary to carry out the first twelve months thereof. Rather, in accordance with customary U. S. legislative practice, it merely "authorizes to be appropriated" the sum of \$4.3 billion, with an advance allotment of \$1 billion in order that the European Recovery Program may begin to function immediately. In addition the Act authorizes the Administrator to issue notes not exceeding \$1 billion (over and above the \$4.3 billion) for the purpose of making loans to the CEEC countries, or guaranteeing direct private U. S. investments in participating countries. Until necessary appropriations are made by separate

legislation, therefore, the Economic Cooperation Administration^{1/} has only the authority to make grants up to \$1 billion and loans or guarantees up to a further \$1 billion.

The Appropriations Committee of the House will shortly begin hearings, in order to present an appropriation bill to the House^{2/} regarding funds for the first twelve months of the program. Thereafter, Senate action, involving perhaps further hearings, will be required. Section 114(c) stipulates expressly that the funds authorized to be appropriated by this legislation is limited to a twelve-month period "in order that subsequent Congresses may pass on any subsequent authorizations."

II - The Economic Cooperation Act

The Act authorizing the European Recovery Program is extremely long and may be subject to diverse interpretations. This summary will cover the major points, but in view of the length and the complicated nature of the Act, the summary should be viewed simply as a rough reference brief. Further, there is wide flexibility provided in the administration of the Act, and the ultimate decisions in many cases will rest with the Administrator or the President.

Statement of U. S. Policy

The intention of the framers of the Act is noted in the preamble (Sec. 102) which may be summarized as follows: The existing situation in Europe endangers the establishment of a lasting peace and the attainment of the objectives of UN.

^{1/} Statutory title for administrative organ charged with execution of U. S. part of program.

^{2/} Under the Constitution, money bills originate in the lower House. The Chairman of the House Appropriations Committee is Mr. Taber, and of the Senate Appropriations Committee, Senator Bridges.

The restoration or maintenance of individual liberty, and free institutions, depends largely on sound economic conditions and a healthy economy independent of extraordinary outside assistance. "The accomplishment of these objectives calls for a plan of European recovery, open to all such nations which cooperate in such plan, based upon a strong production effort, the expansion of foreign trade, the creation and maintenance of internal financial stability, and the development of economic cooperation, including all possible steps to establish and maintain equitable rates of exchange and to bring about the progressive elimination of trade barriers." It is the policy of the U. S. to encourage the participating countries to achieve these objectives through a joint organization. Necessary aid will be given by the U. S. provided such aid will not seriously impair economic stability in the U. S. and provided there is, at all times, continued cooperation among the participating countries.

The U. S. will furnish material and financial aid in order to assist the participating countries to become independent of extraordinary outside economic assistance, by increasing agricultural and industrial production, by "furthering the restoration or maintenance of the soundness of currencies, budgets and finances" and by stimulating the growth of international trade and the reduction of tariff barriers.

Extent of Aid

The Act "authorizes to be appropriated" the sum of \$4.3 billion, and directs the R.F.C. to advance the sum of \$1 billion, this amount to be reimbursed to the R.F.C. when the actual appropriation of funds is made. In addition, the Act authorizes the Administrator to issue notes to the Secretary of the Treasury for a further \$1 billion, for the purpose of extending loans to the participating countries or guarantees for U. S. private investments in the participating countries,

Participating Countries

Participating countries include any country, together with its dependent areas, which signed the CEEC report, together with any other country (including the occupation zones of Germany, any area under international administration or control, and Trieste) wholly or partly in Europe, together with its dependent areas, provided such country, whether it signed or did not sign the CEEC report, adheres, and remains adherent to, a joint program for European recovery.^{1/}

U. S. Administration

An Economic Cooperation Administration is to be established with head-
Administration : quarters in Washington, under the direction of an Adminis-
in U. S. : trator, who will be appointed by the President, with the
: advice and consent of the Senate, and who will have status equal to that of a
member of the Cabinet. There will also be a Deputy Administrator. If the
Administrator approves, ECA may take a corporate form.

The Administrator is required to:

- (1) Review and appraise the requirements of the partici-
pating countries for assistance.
- (2) Formulate programs of U. S. assistance including the
approval of specific projects submitted to him by the
participating countries.
- (3) Provide for the efficient execution of programs placed
in operation, and
- (4) Terminate assistance, where required under the terms
of the Act.

^{1/} The House bill specifically included Spain at one point but this was stricken out. It is the intention of the Congress that the original Sixteen will be the determinants of adherence through invitation and acceptance by a country which did not sign the original report.

The Administrator and the Secretary of State are required to keep one another fully informed on all pertinent matters of mutual concern. In the case of differences between them, the disputes go to the President.

The Administrator will also be a member of the National Advisory Council, which coordinates U. S. policies and operations in foreign monetary and financial matters.

The Act establishes a Public Advisory Board, under the chairmanship of the Administrator, with additional members up to twelve who will be appointed by the President (with the advice and consent of the Senate) from persons with broad and varied experience in matters of public interest. No more than a majority of two may be from the same political party. None of the twelve is to be a Government official.

The Administrator is authorized to establish other advisory committees.

A. U. S. Special Representative in Europe - with the rank of Ambassador -

Administration : will be the principal representative of the Administrator in
in Europe : Europe. He will act as the chief U. S. representative to the
: continuing organization to be created by the CEEC and may also be nominated as
U. S. representative on the ECE.

A special economic mission will be established in each participating country under a chief who will rank immediately after the chief of the U. S. diplomatic mission in that country. The latter remains responsible for general coordination of U. S. policy within the country. In the case of disputes, the disagreement goes to the Administrator and Secretary of State for settlement. The U. S. Special Representative in Europe is responsible for the coordination of the activities of all the special missions.

The President is required to make a quarterly report on the ECA to the Congress. The Act establishes a joint committee of the Congress, composed of

Congressional : three members of the foreign affairs committees of both houses,
Committee : and two members of the appropriation committees of both houses,
: to make a continuous study and review of the progress of ECA.

The Administrator is required to consult with them "from time to time".

Forms of Assistance

The Administrator is authorized to furnish assistance to any of the participating countries through

- (1) Procurement from any source, including government stocks.
- (2) Processing, storing, transporting and repairing any commodity or performing any other services to a participating country he determines to be required.
- (3) Procurement and furnishing of technical information and assistance.
- (4) The transfer of any commodity or service.
- (5) The allocation of commodities or services to specific projects which have been approved by him.

The Administrator may provide this assistance through grants, or for cash, or on credit terms, or on such other terms as he may find appropriate, including

Loans : the transfer to the U. S. of critical or potentially critical materials,
and :
Grants : deficient in the U. S. In determining whether the assistance will be
: in the form of grants or upon terms of payment, the Administrator is
required to act in consultation with the NAC and the determination will depend
on the character and purpose of the assistance and on whether there is a reasonable assurance of repayment, considering the capacity of the country to repay.

If the aid is to be in the form of a credit, the Administrator will allocate the funds to the Export-Import Bank which will make the loans.

The Administrator is given full authority to establish accounts in U. S. Government departments, or with the approval of the Secretary of the Treasury, in banks, against which letters of commitment may be issued or withdrawals by the participating countries may be made, under proper documentation. In purchases outside the U. S., the Administrator may establish regulations to be approved by the Comptroller General.

The Administrator has substantial latitude in making purchases from Offshore Procurement : outside the U. S., since procurement may be "from any source". There is no specific limit on the total amount of such purchases outside the U. S. There are several clauses, however, which affect such procurement. In the case of petroleum, the Administrator is specifically directed to procure petroleum "to the maximum extent practicable" outside the U. S. In the case of surplus agricultural commodities, the Administrator may authorize the purchase of such commodity only in the U. S. This latter provision, however, is subject to certain technical exceptions.^{1/}

The Administrator is authorized to guarantee - up to fourteen years - Guaranty of Private U. S. Investments : the transfer into U. S. currency (up to the amount invested) of U. S. private investments in Europe in connection with projects approved by the Administrator. This may include the

^{1/} "Provided, That this restriction shall not be applicable (i) to any agricultural commodity, or product thereof, located in one participating country, and intended for transfer to any participating country, if the Administrator, in consultation with the Secretary of Agriculture, determines that such procurement and transfer is in furtherance of the purposes of this title, and would not create a burdensome surplus in the United States or seriously prejudice the position of domestic producers of such surplus agricultural commodities, or (ii) if, and to the extent that any such surplus agricultural commodity is not available in the United States in sufficient quantities to supply the requirements of the participating countries under this title." Sec. 112 (d) (1)

"transfer into United States dollars of other currencies, or credits in such currencies, received by such person as income from the approved investment, as repayment or return thereof, in whole or in part, or as compensation for the sale or disposition of all or any part thereof."^{1/}

The Administrator is authorized to charge up to one percent as a fee - the fee to be placed in a special fund to discharge liabilities under the guaranty.

A \$300 million maximum has been placed on the amount that may be guaranteed. The amount guaranteed under this provision is to be subtracted from the total \$1 billion authorized for direct loans to the participating countries.

The President is required to take appropriate steps to encourage other
Western Hemisphere Aid : countries in the Western Hemisphere to furnish assistance.
: No other specific mention of the Western Hemisphere is made.

The Administrator is directed to encourage the travel of American citizens
Travel : to the participating countries.

Limitations on Assistance^{2/}

The broad powers given the Administrator are limited in several respects either in connection with specific commodities or in more general terms for the "protection of (the) domestic economy".

The Administrator is directed to procure commodities in the U. S. in such
General : a way as to minimize the drain on U. S. resources and the impact of
the procurement on the U. S. economy, and to avoid impairing the

^{1/} Sec. 111 (b) (3) (i)

^{2/} Sec. 112.

fulfillment of the vital needs of the U. S. There is also a clause authorizing export controls to prevent the export to any non-participating European country, of commodities insufficient in supply in the U. S. to meet the requirements of the participating countries.^{1/}

Certain earlier drafts of the Act contained authorizations to charter Shipping :^{2/} up to 300 freighters to the participating countries from the government's surplus fleet. Such provisions were deleted in the final Act. Inasmuch as the recent amendment to the Merchant Ship Sales Act banned the further sales of U. S. surplus ships to foreign-flag operators, there is now no provision for the transfer of U. S. surplus ships abroad.

The Act directs the Administrator "so far as is practicable" and to the extent U. S. vessels are available at market rates, to assure that at least 50 percent of the gross tonnage of exports procured in the U. S. are transported in U. S. flag vessels. This requirement does not apply to commodities procured outside the U. S.

The Administrator is directed to procure petroleum and petroleum pro-
Petroleum : ducts "to the maximum extent practicable" outside the U. S.
and :
Petroleum- : Further, he is required to take into account the world petroleum
consuming :
Equipment : shortage and the consequent undesirability of expansion in
petroleum-consuming equipment where the use of alternate fuels or power is practicable.

In exports of wheat, the Administrator must assure that 25% of the
Wheat : exports of the wheat equivalent of wheat and flour shall go as flour.

Surplus agricultural products are, with certain qualifications noted in
Surplus : the "offshore procurement" section of this paper, to be pro-
Agricultural :
Commodities : cured only in the U. S.

^{1/} Sec. 112(g)

^{2/} Sec. 111(a) (2)

"The Administrator is directed to refuse delivery insofar as practicable to participating countries of commodities which go into the production of any commodity for delivery to any nonparticipating European country which commodity would be refused export licenses to those countries by the United States in the interest of national security".^{1/}

The Administrator is also directed to stop aid to any participating country "whenever he determines that (1) such country is not adhering to its agreement or is diverting from the purposes of this title assistance provided hereunder or (2) because of changed conditions, assistance is no longer consistent with the national interest of the United States."^{2/}

The CEEC

U. S. policy, as noted in the preamble, is declared to be the encouragement of the participating countries "through a joint organization to exert sustained common efforts" to achieve the objectives set forth in the CEEC report at Paris, and reference is made to the CEEC report three times in the Act. In particular, the Act takes note of the CEEC commitments in Section 115 ("Bilateral and Multilateral Undertakings") in stating that assistance "results from the multilateral pledges of the participating countries to use all their efforts to accomplish a joint recovery program based upon self-help and mutual cooperation".

The Administrator is required to encourage the CEEC to ensure that each participating country makes efficient use of its resources by "observing and reviewing such use through an effective follow-up system" approved by the CEEC.

^{1/} Sec. 117 (d)

^{2/} Sec. 118.

Bilateral and Multilateral Undertakings
Of Participating Countries

In accordance with the statements of policy in regard to the CEEC organization and commitments, the Act empowers the Secretary of State after consultation with the Administrator to enter into agreements with the permanent CEEC organization or with any country or countries and requires each of the participating countries to enter into a bilateral agreement with the U. S.

These bilateral agreements, to be concluded by the Secretary of State, after consultation with the Administrator, are required to be signed within three months of the enactment of the Act. Temporary agreements are authorized until a permanent agreement is concluded.

The first four provisions required in the agreement^{1/} are a statement of Bilateral : the commitments at Paris while the remaining clauses are U. S. Agreements : additional requirements. Each participating country will be required to agree,

- (1) To promote industrial and agricultural production in order to attain economic independence, and to submit specific projects for assistance, whenever practicable, and particularly for the increase in production of coal, steel, transportation and food.
- (2) To take financial and monetary measures to stabilize the currency, to establish and maintain a "valid" rate of exchange, to balance its budget as soon as practicable and, in general, to restore or maintain confidence in its monetary system.

^{1/} Sec. 115.

- (3) To cooperate with other participating countries in facilitating and stimulating an increased interchange of goods, and a reduction of tariff barriers.
- (4) To make efficient and practical use, within the framework of CEEC, of the resources of the country, including its assets in the U. S.^{1/}
- (5) To facilitate the transfer to the U. S. of critical materials.
- (6) To hold local currency in special accounts, for goods given under grant, and to use these currencies only for such purposes as are agreed to by the Administrator in consultation with NAC and the Public Advisory Board.^{2/}
- (7) To prepare a quarterly report to the U. S. on the operations under the agreement and the use of funds, commodities and services received.

1/ As worded in the Act "to the extent practicable, taking measures to locate and identify and put into appropriate use" ... assets and earnings of its citizens which are situated in the U. S.

2/ Such local currency will be held together with local currency deposited under the interim aid act. The Act provides that the currency may be used "for purposes of internal monetary and financial stabilization, for the stimulation of productive activity and the exploration for and development of new sources of wealth, or for such other expenditures as may be consistent with the purposes of this title, including local currency administrative expenditures of the United States incident to operations under this title, and under agreement that any unencumbered balance remaining in such account on June 30, 1952, shall be disposed of within such country for such purposes as may, subject to approval by Act or joint resolution of the Congress, be agreed to between such country and the Government of the United States".

- (8) To make all relevant data available to the U. S. upon request.
- (9) To agree to negotiate (a) "a future schedule of minimum availabilities to the U. S. for future purchase of a fair share of materials ... required ... by the U. S. as a result of deficiencies or potential deficiencies ... at world market prices, so as to protect the access of U. S. industry to an equitable share of such materials" ... and (b) to assure to U. S. investors access to the development of such materials "on terms of treatment equivalent to those afforded the materials of the country concerned" and (c) an agreed schedule of increased production and delivery of such materials.
- (10) To submit to arbitration any disputes on compensation to U. S. nationals of property expropriated.

The Act also contains several other provisions which affect the obligations of the participating countries. The Administrator is directed to encourage the participating countries, in conjunction with I.R.O., to make arrangements "looking toward the largest practicable utilization of manpower" in furtherance of the purposes of the Act.^{1/}

The Administrator is also directed to encourage, "whenever practicable" an increase in production of materials in the participating countries which are required by the U. S.^{2/}

There is also a clause stating that it is the understanding of Congress that prisoners of war still in the participating countries will be repatriated by January 1, 1949 if they so elect.

^{1/} Sec. 115(e).

^{2/} Sec. 117(a).

Miscellaneous Provisions

The Administrator is empowered to pay, out of funds authorized by the Private Relief Act, the shipping costs on all private relief goods sent to the participating countries, including goods sent by both organizations and private individuals.

The President is empowered to request the cooperation of the UN or of United Nations any specialized agency in carrying out the recovery program. When necessary, funds may be allocated to cover the costs of such assistance.

III. Other Titles of Foreign Assistance Act.

1. The International Children's Emergency Fund Act (Title II)

An authorization for an appropriation of \$60 million for this fund appears in Title II. In accordance with the complicated formula for the contributions of the U. S. and other countries to the Fund, the U. S. contribution is established at whichever sum is smaller - \$100 million, or 72% of the total resources contributed after May 31, 1947 by all countries, including the U. S.

2. The Greek-Turkish Assistance Act (Title III)

This Act provides an additional \$275 million for aid to Greece and Turkey, two of the participating countries under the Economic Cooperation Act. An advance allotment of \$50 million, through the R.F.C. is provided. These funds are in addition to those authorized under the original Greek-Turkish aid act of May 22, 1947.

3. The China Aid Act (Title IV)

This title contains a preamble which notes, in a manner similar to the preamble of Title I, that the existing situation in China endangers the establishment of a lasting peace and the objectives of UN, and that it is the policy of the U. S. to encourage China to maintain its independence and strengthen the principles of individual liberty, through a program of assistance based on self-help and cooperation.

Except that China is not required to adhere to a joint program for European recovery, aid is to be provided under the applicable provisions of the European Cooperation Act. For this purpose the amount of \$338 million is authorized under conditions similar to ECA. A further \$125 million is authorized for aid, referred to in the Conference Report accompanying the Bill, as "of a military character". Aid to China is granted an advance allotment of \$50 million.

The China Aid Act is brief in comparison with the Economic Cooperation Act. The Secretary of State is directed, after consultation with the Administrator of ECA, to negotiate an agreement with China concerning those undertakings which the Secretary may deem necessary. The Secretary is also authorized to conclude an agreement for a Joint (U. S. - Chinese) Commission on Rural Reconstruction in China.