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# Emergency Powers: Three Options on Aid

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The administration, looking for ways to send a quick arms fix to El Salvador without a bruising fight in Congress, early this year considered using emergency powers contained in foreign aid law.

But, in the face of vigorous opposition by members of Congress, whose authority would be bypassed, administration strategists set this approach aside, according to officials. The administration next moved to attach a \$93 million supplemental for El Salvador to "must" appropriations legislation (H J Res 492) wending its way through Congress. (*Story*, p. 606).

With a protracted conference fight looming, however, the administration could wind up back at square one — emergency powers.

Three provisions in the two major foreign aid laws (PL 87-195 and PL 90-629), originally passed in 1961 and 1968 and heavily amended since, enable the president to provide emergency aid without the advance congressional approval normally required. At the same time that President Reagan is considering using these powers, Congress is looking at ways to set conditions on them.

## 'Defense Drawdown'

The most frequently used of the powers, section 506 of the foreign aid law enables the president to provide up to \$75 million worth of military supplies, services or training to other countries in any fiscal year. This power is called the "Defense drawdown" because the aid is provided by the Defense Department. The president must notify Congress before providing the aid; in his report, he is required to state that the aid is needed because of "an unforeseen emergency" and he has no other legal way of providing it. The president also must keep Congress "fully and currently informed" of what has been provided.

El Salvador has received \$80 million in military aid under this section: \$25 million in 1981 pro-

vided by Presidents Carter and Reagan, and \$55 million in fiscal 1982 provided by Reagan. (*1981 Almanac* p. 185; *1982 Weekly Report* p. 2930)

## Special Authority

Section 614 of the foreign aid law gives the president broad discretion to provide foreign aid, regardless of legal restrictions, if he notifies Congress in advance. The most frequent use of this power has been to provide military training



Salvadoran soldiers could receive U.S. assistance without advance approval of Congress.

aid to Yugoslavia in spite of legal prohibitions on aid to communist countries.

To provide foreign aid under this authority, the president must notify Congress that such action is "important to the national security interests" of the United States. To make arms sales under this authority, the president must tell Congress that it is "vital to the national security interests" of the United States.

The president can use his section 614 authority to provide up to \$50 million annually to any one country, and up to \$250 million each year worldwide. The president

can exceed the \$50 million limit for any country if he determines that it is "a victim of active communist or communist-supported aggression."

The president also can secretly provide up to \$50 million to other countries, under this authority, if he certifies to Congress that it is "inadvisable" to specify the use of the money.

## Deferred Payments

Under section 21D of the Arms Export Control Act (PL 90-629), the president is allowed to defer for up to 120 days the requirement that a country pay on delivery for arms it buys from the United States. The president can do so if he determines that allowing a country to delay payment would be in the U.S. national interest and that the purchasing country cannot make immediate payment because of "emergency requirements."

The president must notify Congress of the deferred payment before the end of the 120 days.

This provision was used to provide large quantities of arms to Israel during the 1973 "Yom Kippur" war, but congressional aides said they knew of no recent uses of the provision in controversial cases.

## Changes Considered

The House Foreign Affairs Committee is considering amendments to its foreign aid authorization bill (HR 5119) banning use of the defense drawdown and deferred payment powers to provide aid to El Salvador in fiscal years 1984-85.

The committee's bill also would require congressional approval of any decision by the president to use his section 614 special authority to provide aid to El Salvador. Prospects for the changes are uncertain and it is unlikely that any action would be taken in time to stop Reagan from using emergency powers to aid El Salvador.

—By John Felton

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