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BRIEF VAN DE MINISTER VAN BUITENLANDSE ZAKEN

TEKST VAN DE „MUTUAL DEFENSE
ASSISTANCE ACT”

Aan
de Heer Voorzitter van de Tweede Kamer
der Staten-Generaal.

’s-Gravenhage, 7 Februari 1950

Zoals U bekend is, zal zeer binnenkort bij de Staten-Generaal worden ingediend een wetsontwerp tot goedkeuring van het Verdrag tot Wederzijdse Hulpverlening inzake Verdediging tussen Nederland en de Verenigde Staten van Amerika, getekend te Washington op 27 Januari j.l. In dit Verdrag wordt melding gemaakt van de „Mutual Defense Assistance Act”, aangenomen door het Amerikaanse Congres op 6 October 1949.

Aangezien kennisneming van deze wet voor de leden van de Tweede Kamer van belang kan zijn, moge ik U hiernevens een exemplaar daarvan aanbieden.

De Minister van Buitenlandse Zaken,
STIKKER.

[Public Law 329—81st Congress]

[Chapter 626—1st Session]

[H. R. 5895]

AN ACT

To promote the foreign policy and provide for the defense and general welfare of the United States by furnishing military assistance to foreign nations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Mutual Defense Assistance Act of 1949”.

Findings and declaration of policy

The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except in the common interest. The Congress hereby finds that the efforts of the United States and other countries to promote peace and security in furtherance of the purpose of the Charter of the United Nations require additional measures of support based upon the principle of continuous and effective self-help and mutual aid. These measures include the furnishing of military assistance essential to enable the United States and other nations dedicated to the purposes and principles of the United Nations Charter to participate effectively in arrangements for individual and collective self-defense in support of those purposes and principles. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to obtain agreements to provide the United Nations with armed forces as contemplated in the Charter and agreements to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying nations against violation and evasion.

The Congress hereby expresses itself as favoring the creation by the free countries and the free peoples of the Far East of a joint organization, consistent with the Charter of the United Nations, to establish a program of self-help and mutual cooperation designed to develop their economic and social well-being, to safeguard basic rights and liberties and to protect their security and independence.

The Congress recognizes that economic recovery is essential to international peace and security and must be given clear priority. The Congress also recognizes that the increased confidence of free peoples in their ability to resist direct or indirect aggression and to maintain internal security will advance such recovery and support political stability.

TITLE I

North Atlantic treaty countries

Sec. 101. In view of the coming into force of the North Atlantic Treaty and the establishment thereunder of the Council and the Defense Committee which will recommend measures for the common defense of the North Atlantic area, and in view of the fact that the task of the Council and the Defense Committee can be facilitated by immediate steps to increase the integrated defensive armed strength of the parties to the treaty, the President is hereby authorized to furnish military assistance in the form of equipment, materials, and services to such nations as are parties to the treaty and have heretofore requested such assistance. Any such assistance furnished under this title shall be subject to agreements, further referred to in section 402, designed to assure that the assistance will be used to promote an integrated defense of the North Atlantic area and to facilitate the development of defense plans by the Council and the Defense Committee under article 9 of the North Atlantic Treaty and to realize unified direction and effort; and after the agreement by the Government of the United States with defense plans as recommended by the Council and the Defense Committee, military assistance hereunder shall be furnished only in accordance therewith.

Sec. 102. There are hereby authorized to be appropriated to the President for the period through June 30, 1950, out of any moneys in

the Treasury not otherwise appropriated, for carrying out the provisions and accomplishing the policies and purposes of this title, not to exceed \$ 500,000,000, of which not to exceed \$ 100,000,000 shall be immediately available upon appropriation, and not to exceed \$ 400,000,000 shall become available when the President of the United States approves recommendations for an integrated defense of the North Atlantic area which may be made by the Council and the Defense Committee to be established under the North Atlantic Treaty. The recommendations which the President may approve shall be limited, so far as expenditures by the United States are concerned, entirely to the amount herein authorized to be appropriated and the amount authorized hereinafter as contract authority.

Sec. 103. In addition to the amount authorized to be appropriated under section 102, the President shall have authority, within the limits of specific contract authority which may be hereafter granted to him in an appropriation Act, to enter into contracts for carrying out the provisions and accomplishing the policies and purposes of this title in amounts not exceeding in the aggregate \$ 500,000,000 during the period ending June, 30, 1950, and there are hereby authorized to be appropriated for expenditure after June 30, 1950, such sums as may be necessary to pay obligations incurred under such contract authorization. No contract authority which may be granted pursuant to the provisions of this section shall be exercised by the President until such time as he has approved recommendations for an integrated defense of the North Atlantic area which may be made by the Council and the Defense Committee to be established under the North Atlantic Treaty.

Sec. 104. None of the funds made available for carrying out the provisions of this Act or the Act of May 22, 1947, as amended, shall be utilized (a) to construct or aid in the construction of any factory or other manufacturing establishment outside of the United States or to provide equipment or machinery (other than machine tools) for any such factory or other manufacturing establishment, (b) to defray the cost of maintaining any such factory or other manufacturing establishment, (c) directly or indirectly to compensate any nation or any governmental agency or person therein for any diminution in the export trade of such nation resulting from the carrying out of any program of increased military production or to make any payment, in the form of a bonus, subsidy, indemnity, guaranty, or otherwise, to any owner of any such factory or other manufacturing establishment as an inducement to such owner to undertake or increase production of arms, ammunition, implements of war, or other military supplies, or (d) for the compensation of any person for personal services rendered in or for any such factory or other manufacturing establishment, other than personal services of a technical nature rendered by officers and employees of the United States for the purpose of establishing or maintaining production by such factories or other manufacturing establishments to effectuate the purposes of this Act and in conformity with desired standards and specifications.

TITLE II

Greece and Turkey

Sec. 201. In addition to the amounts heretofore authorized to be appropriated, there are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, not to exceed \$ 211,370,000 to carry out the provisions of the Act of May 22, 1947, as amended, for the period through June 30, 1950.

TITLE III

Other assistance

Sec. 301. The President, whenever the furnishing of such assistance will further the purposes and policies of this Act, is authorized to furnish military assistance as provided in this Act to Iran, the Republic of Korea, and the Republic of the Philippines.

Sec. 302. There are hereby authorized to be appropriated to the President for the period through June 30, 1950, out of any moneys in the Treasury not otherwise appropriated, for carrying out the provisions and accomplishing the purposes of section 301, not to exceed \$ 27,640,000.

Sec. 303. In consideration of the concern of the United States in the present situation in China, there is hereby authorized to be appropriated to the President, out of any moneys in the Treasury not otherwise appropriated, the sum of \$ 75,000,000 in addition to funds otherwise provided as an emergency fund for the President, which may be expended to accomplish in that general area the policies and purposes declared in this Act. Certification by the President of the amounts expended out of funds authorized hereunder, and that it is inadvisable to specify the nature of such expenditures, shall be deemed a sufficient voucher for the amounts expended.

TITLE IV

General provisions

Sec. 401. Military assistance may be furnished under this Act, without payment to the United States except as provided in the agreements concluded pursuant to section 402, by the provision of any service, or by the procurement from any source and the transfer to eligible nations of equipment, materials, and services: *Provided*, That no equipment or materials may be transferred out of military stocks if the Secretary of Defense, after consultation with the Joint Chiefs of Staff, determines that such transfer would be detrimental to the national security of the United States or is needed by the reserve components of the armed forces to meet their training requirements.

Sec. 402. The President shall, prior to the furnishing of assistance to any eligible nation, conclude agreements with such nation, or group of such nations, which agreements, in addition to such other provisions as the President deems necessary to effectuate the policies and purposes of this Act and to safeguard the interests of the United States, shall make appropriate provision for—

(a) the use of any assistance furnished under this Act in furtherance of the policies and purposes of this Act;

(b) restriction against transfer of title to or possession of any equipment and materials, information or services furnished under this Act without the consent of the President;

(c) the security of any article, service, or information furnished under this Act;

(d) furnishing equipment and materials, services, or other assistance, consistent with the Charter of the United Nations, to the United States or to and among other eligible nations to further the policies and purposes of this Act.

Sec. 403. (a) Any funds available for carrying out the policies and purposes of this Act, including any advances to the United States by any nation for the procurement of equipment and materials or services, may be allocated by the President for any of the purposes of this Act to any agency, and such funds shall be available for obligation and expenditure for the purpose of this Act in accordance with authority granted hereunder or under the authority governing the activities of the agency to which such funds are allocated.

(b) Reimbursement shall be made by or to any agency from funds available for the purpose of this Act for any equipment and materials, services or other assistance furnished or authorized to be furnished under authority of this Act from, by, or through any agency. Such reimbursement shall include expenses arising from or incident to operations under this Act and shall be made by or to such agency in an amount equal to the value of such equipment and materials, services (other than salaries of members of the armed forces of the United States) or other assistance and such expenses. The amount of any such reimbursement shall be credited as reimbursable receipts to current applicable appropriations, funds, or accounts of such agency and shall be available for, and under the authority applicable to, the purposes for which such appropriations, funds, or accounts are authorized to be used, including the procurement of equipment and materials or services, required by such agency, in the same general category as those furnished by it or authorized to be procured by it and expenses arising from and incident to such procurement.

(c) The term “value”, as used in subsection (b) of this section, means—

(1) with respect to any excess equipment or materials furnished under this Act, the gross cost of repairing, rehabilitating, or modifying such equipment or materials prior to being so furnished;

(2) with respect to any nonexcess equipment or materials furnished under this Act which are taken from the mobilization reserve (other than equipment or materials referred to in paragraph (3) of this subsection), the actual or the projected (computed as accurately as practicable) cost of procuring for the mobilization reserve an equal quantity of such equipment or materials or an equivalent quantity of equipment and materials of the same

general type but deemed to be more desirable for inclusion in the mobilization reserve than the equipment or materials furnished;

(3) with respect to any nonexcess equipment or materials furnished under this Act which are taken from the mobilization reserve but with respect to which the Secretary of Defense has certified that it is not necessary fully to replace such equipment or materials in the mobilization reserve, the gross cost to the United States of such equipment and materials or its replacement cost, whichever the Secretary of Defense may specify; and

(4) with respect to any equipment or materials furnished under this Act which are procured for the purpose of being so furnished, the gross cost to the United States of such equipment and materials.

In determining the gross cost incurred by any agency in repairing, rehabilitating, or modifying any excess equipment furnished under this Act, all parts, accessories, or other materials used in the course of such repair, rehabilitation, or modification shall be priced in accordance with the current standard pricing policies of such agency. For the purpose of this subsection, the gross cost of any equipment or materials taken from the mobilization reserve means either the actual gross cost to the United States of that particular equipment or materials or the estimated gross cost to the United States of that particular equipment or materials obtained by multiplying the number of units of such particular equipment or materials by the average gross cost of each unit of that equipment and materials owned by the furnishing agency.

(d) Not to exceed \$ 450,000,000 worth of excess equipment and materials may be furnished under this Act or may hereafter be furnished under the Act of May 22, 1947, as amended. For the purposes of this subsection, the worth of any excess equipment or materials means either the actual gross cost to the United States of that particular equipment or materials or the estimated gross cost to the United States of that particular equipments or materials obtained by multiplying the number of units of such particular equipment or materials by the average gross cost of each unit of that equipment or materials owned by the furnishing agency.

Sec. 404. The President may exercise any power or authority conferred on him by this Act through such agency or officer of the United States as he shall direct, except such powers or authority conferred on him in section 405 and in clause (2) of subsection (b) of section 407.

Sec. 405. The President shall terminate all or part of any assistance authorized by this Act under any of the following circumstances:

(a) If requested by any nation to which assistance is being rendered;

(b) If the President determines that the furnishing of assistance to any nation is no longer consistent with the national interest or security of the United States or the policies and purposes of this Act; or

(c) If the President determines that provision of assistance would contravene any decision of the Security Council of the United Nations, or if the President otherwise determines that provision of assistance to any nation would be inconsistent with the obligation of the United States under the Charter of the United Nations to refrain from giving assistance to any nation against which the United Nations is taking preventive or enforcement action or in respect of which the General Assembly finds the continuance of such assistance is undesirable.

(d) Assistance to any nation under this Act may, unless sooner terminated by the President, be terminated by concurrent resolution by the two Houses of the Congress: *Provided*, That funds made available under this Act shall remain available for twelve months from the date, of such termination for the necessary expenses of liquidating contracts, obligations, and operations under this Act.

Sec. 406. (a) Any agency may employ such additional civilian personnel without regard to section 14 (a) of the Federal Employees Pay Act of 1946 (60 Stat. 219), as amended, as the President deems necessary to carry out the policies and purpose of this Act.

(b) Notwithstanding the provisions of Revised Statutes 1222 (U. S. C., title 10, sec. 576), personnel of the armed forces may be assigned or detailed to noncombatant duty, including duty with any agency or nation, for the purpose of enabling the President to furnish assistance under this Act.

(c) Technical experts and engineering consultants, not to exceed fifteen persons at any one time, as authorized by section 15 of the Act of August 2, 1946 (U. S. C., title 5, sec. 55a), required for the purposes of this Act, may, if the President deems it advantageous for the purposes of this Act and if in his opinion the existing facilities of the agency concerned are inadequate, be employed by any agency performing functions under this Act, and individuals so employed may be compensated at rates not in excess of \$ 50 per diem.

(d) Service of any individual employed as a technical expert or engineering consultant under subsection (c) of this section shall not be considered as service or employment bringing such individual

within the provisions of sections 281, 283, and 284 of United States Code, title 18, of section 190 of the Revised Statutes (U. S. C., title 5, sec. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such individual was directly involved in the performance of such service.

(e) For the purpose of carrying out the provisions of this Act, there may be employed not to exceed three persons at a rate of compensation not to exceed \$ 15,000 and one person at a rate of compensation not to exceed \$ 16,000. Any person so employed shall be appointed by the President, by and with the advice and consent of the Senate.

Sec. 407. (a) Nothing in this Act shall alter, amend, revoke, repeal, or otherwise affect the provisions of the Atomic Energy Act of 1946 (60 Stat. 755).

(b) The President may perform any of the functions authorized under section 401 of this Act without regard to (1) the provisions of title 10, United States Code, section 1262 (a), and title 34, United States Code, section 546 (e); and (2) such provisions as he may specify of the joint resolution of November 4, 1939 (54 Stat. 4), as amended.

Sec. 408. (a) Notwithstanding any other provision of law, the Reconstruction Finance Corporation is authorized and directed, until such time as appropriations shall be made under the authority of this Act and the Act of May 22, 1947, as amended, to make advances not to exceed in the aggregate \$ 125,000,000 to carry out the provisions of this Act and the Act of May 22, 1947, as amended, in such manner, at such time, and in such amounts as the President shall determine, and no interest shall be charged on advances made by the Treasury to the Reconstruction Finance Corporation for this purpose. The Reconstruction Finance Corporation shall be repaid without interest for advances made by it hereunder from funds made available for the purposes of this Act and the Act of May 22, 1947, as amended.

(b) Funds made available for carrying out the provisions of title I shall be available for the expenses of administering the provisions of this Act and of the Act of May 32, 1947, as amended. Whenever possible the expenses of administration of this Act shall be paid for in the currency of the nation where the expense is incurred, as provided in subsection (d).

(c) Whenever he determines that such action is essential for the effective carrying out of the purpose of this Act, the President may from time to time utilize not to exceed in the aggregate 5 per centum of the amounts made available for the purpose of any title of this Act for the purpose of any other title. Whenever the President makes any such determination, he shall forthwith notify the Committee on Foreign Relations of the Senate, the Committees on Armed Services of the Senate and of the House of Representatives, and the Committee on Foreign Affairs of the House of Representatives.

(d) Upon approval by the President, any currency of any nation received by the United States for its own use in connection with the furnishing of assistance under this Act may be used for expenditures for essential administrative expenses of the United States in any such nation incident to operations under this Act and the amount, if any, remaining after the payment, of such administrative expenses shall be used only for purposes specified by Act of Congress.

(e) The President may, from time to time, in the interest of achieving standardization of military equipment and in order to provide procurement assistance without cost to the United States, transfer, or enter into contracts for the procurement for transfer of, equipment, materials or services to nations designated in title I, II, or III of this Act, or to a nation which has joined with the United States in a collective defense and regional arrangement: *Provided*, That, prior to any such transfer or the execution of any such contracts, any such nation shall have made available to the United States the full cost, actual or estimated, of such equipment, materials, or services, and shall have agreed to make available forthwith upon request any additional sums that may become due under such contracts.

(f) Any equipment or materials procured to carry out the purposes of title I of this Act shall be retained by, or transferred to, and for the use of, such department or agency of the United States as the President

may determine in lieu of being disposed of to a nation which is a party to the North Atlantic Treaty whenever in the judgment of the President of the United States such disposal to a foreign nation will not promote the self-help, mutual aid, and collective capacity to resist armed attack contemplated by the treaty or whenever such retention is called for by concurrent resolution by the two Houses of the Congress.

Sec. 409. That at least 50 per centum of the gross tonnage of any equipment, materials, or commodities made available under the provisions of this Act, and transported on ocean vessels (computed separately for dry bulk carriers and dry cargo liners) shall be transported on United States flag commercial vessels at market rates for United States flag commercial vessels in such manner as will insure a fair and reasonable participation of United States flag commercial vessels in cargoes by geographic areas.

Sec. 410. The President, from time to time, but not less frequently than once every six months, while operations continue under this Act, shall transmit to the Congress reports of expenditures and activities authorized under this Act, except information the disclosure of which he deems incompatible with the security of the United States. Reports provided for under this section shall be transmitted to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, if the Senate or the House of Representatives, as the case may be, is not in session.

Sec. 411. For the purpose of this Act—

(a) The terms “equipment” and “materials” shall mean any arms, ammunition or implements of war, or any other type of material, article, raw material, facility, tool, machine, supply, or item that would further the purposes of this Act, or any component or part thereof, used or required for use in connection therewith, or required in or for the manufacture, production, processing, storage, transportation, repair, or rehabilitation of any equipment or materials, but shall not include merchant vessels.

(b) The term “mobilization reserve”, as used with respect to any equipment or materials, means the quantity of such equipment or materials determined by the Secretary of Defense under regulations prescribed by the President to be required to support mobilization of the armed forces of the United States in the event of war or national emergency until such time as adequate additional quantities of such equipment or materials can be procured.

(c) The term “excess”, as used with respect to any equipment or materials, means the quantity of such equipment or materials owned by the United States which is in excess of the mobilization reserve of such equipment or materials.

(d) The term “services” shall include any service, repair, training of personnel, or technical or other assistance or information necessary to effectuate the purposes of this Act.

(e) The term “agency” shall mean any department, agency, establishment, or wholly owned corporation of the Government of the United States.

(f) The term “armed forces of the United States” shall include any component of the Army of the United States, of the United States Navy, of the United States Marine Corps, of the Air Force of the United States, of the United States Coast Guard, and the reserve components thereof.

(g) The term “nation” shall mean a foreign government eligible to receive assistance under this Act.

Sec. 412. Whoever offers or gives to anyone who is now or in the past two years has been an employee or officer of the United States any commission, payment, or gift, in connection with the procurement of equipment, materials, or services under this Act, and whoever, being or having been an employee or officer of the United States in the past two years, solicits, accepts, or offers to accept any such commission, payment, or gift, shall upon conviction thereof be subject to a fine of not to exceed \$ 10,000 or imprisonment for not to exceed three years, or both.

Sec. 413. If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and applicability of such provision to other circumstances or persons shall not be affected thereby.

Approved October 6, 1949.