

1,900,000 metric tons, of which not less than 1,425,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies and the World Food Program;

unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this subchapter: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this chapter pursuant to section 1731 of this title, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements."

Pub. L. 99-83 inserted provisions relating to minimum quantities for fiscal years 1986 and 1987.

Subsec. (c). Pub. L. 99-198, §1103, added subsec. (c).

1981—Subsec. (b)(3). Pub. L. 97-113 substituted "1,200,000 metric tons for nonemergency programs" for "1,400,000 metric tons".

1977—Subsec. (b). Pub. L. 95-88 substituted provisions increasing and setting specific minimums for commodities to be distributed for fiscal years 1978 through 1980, for 1981, and for fiscal year 1982 and each fiscal year thereafter, for provisions which had set a fixed minimum of 1,300,000 tons of agricultural commodities each fiscal year, of which the minimum to be distributed through nonprofit voluntary agencies and the World Food Program was 1,000,000 tons each fiscal year.

1975—Pub. L. 94-161 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89-808 expanded scope of assistance to include emergency relief without regard to recipient being a friendly people, combating malnutrition in children, promotion of economic and community development in friendly developing areas, and for nonprofit school lunch and preschool feeding programs outside the United States and to be furnished from available commodities rather than surplus agricultural commodities.

1956—Act Aug. 3, 1956, inserted "or extraordinary" after "urgent" wherever appearing.

Act May 28, 1956, struck out "f.o.b. vessels in United States ports," before "as he may request".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

NONEMERGENCY FOOD ASSISTANCE PROGRAMS

Pub. L. 105-385, title II, §201, Nov. 13, 1998, 112 Stat. 3465, as amended by Pub. L. 110-246, title III, §3001(b)(1)(A), (2)(D), June 18, 2008, 122 Stat. 1820, provided that:

"(a) IN GENERAL.—In providing nonemergency assistance under title II of the Food for Peace Act (7 U.S.C. 1721 et seq.), the Administrator of the United States

Agency for International Development shall ensure that—

"(1) in planning, decisionmaking, and implementation in providing such assistance, the Administrator takes into consideration local input and participation directly and through United States and indigenous private and voluntary organizations;

"(2) each of the nonemergency activities described in paragraphs (2) through (6) of section 201 of such Act (7 U.S.C. 1721), including programs that provide assistance to people of any age group who are otherwise unable to meet their basic food needs (including feeding programs for the disabled, orphaned, elderly, sick and dying), are carried out; and

"(3) greater flexibility is provided for program and evaluation plans so that such assistance may be developed to meet local needs, as provided for in section 202(f) of such Act (7 U.S.C. 1722(f)).

"(b) OTHER REQUIREMENTS.—In providing assistance under the Food for Peace Act [7 U.S.C. 1691 et seq.], the Secretary of Agriculture and the Administrator of United States Agency for International Development shall ensure that commodities are provided in a manner that is consistent with sections 403(a) and (b) of such Act (7 U.S.C. 1733(a) and (b))."

[Section 3001(b)(1)(A), (2)(D) of Pub. L. 110-246, which directed amendment of section 201 of Pub. L. 105-385, set out above, by substituting "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954", was executed in subsec. (b) by making the substitution for "Agriculture Trade Development and Assistance Act of 1954", to reflect the probable intent of Congress.]

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR AND CORNMEAL

Pub. L. 85-683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase and donate flour and cornmeal when it has wheat or corn available for donation pursuant to this subchapter, see note set out under section 1431 of this title.

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for donation of agricultural commodities to foreign countries to be implemented by Administrator of the Agency for International Development, see Ex. Ord. No. 12752, §1(b), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§ 1722. Provision of agricultural commodities

(a) Emergency assistance

Notwithstanding any other provision of law, the Administrator may provide agricultural commodities to meet emergency food needs under this subchapter through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

(b) Nonemergency assistance

(1) In general

The Administrator may provide agricultural commodities for nonemergency assistance under this subchapter through eligible organizations (as described in subsection (d) of this section) that have entered into an agreement with the Administrator to use the commodities in accordance with this subchapter.

(2) Limitation

The Administrator may not use as a sole rationale for denying a request for funds submit-

ted under this subsection because the program for which the funds are requested—

(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

(B) is not part of a development plan for the country prepared by the Agency.

(3) Program diversity

The Administrator shall—

(A) encourage eligible organizations to propose and implement program plans to address 1 or more aspects of the program under section 1721 of this title; and

(B) consider proposals that incorporate a variety of program objectives and strategic plans based on the identification by eligible organizations of appropriate activities, consistent with section 1721 of this title, to assist development of foreign countries.

(c) Uses of assistance

Agricultural commodities provided under this subchapter may be made available for direct distribution, sale, barter, or other appropriate disposition.

(d) Eligible organizations

To be eligible to receive assistance under subsection (b) of this section an organization shall be—

(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

(2) an intergovernmental organization, such as the World Food Program.

(e) Support for eligible organizations

(1) In general

Of the funds made available in each fiscal year under this subchapter to the Administrator, not less than 7.5 percent nor more than 13 percent of the funds shall be made available in each fiscal year to eligible organizations described in subsection (d) of this section, to assist the organizations in—

(A) establishing new programs under this subchapter;

(B) meeting specific administrative, management, personnel and internal transportation and distribution costs for carrying out programs in foreign countries under this subchapter; and

(C) improving and implementing methodologies for food aid programs, including needs assessments (upon the request of the Administrator), monitoring, and evaluation.

(2) Request for funds

To receive funds made available under paragraph (1), an eligible organization described in subsection (d) of this section shall submit a request for the funds that is subject to approval by the Administrator.

(3) Assistance with respect to sale

Upon the request of an eligible organization, the Administrator may provide assistance to the eligible organization with respect to the sale of agricultural commodities made available to it under this subchapter.

(f) Effective use of commodities

To ensure that agricultural commodities made available under this subchapter are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

(2) assess and take into account nutritional and other needs of beneficiary groups;

(3) help such beneficiary groups design and carry out mutually acceptable projects;

(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

(5) supervise the distribution of commodities provided and the implementation of programs carried out under this subchapter; and

(6) periodically evaluate the effectiveness of projects undertaken under this subchapter.

(g) Labeling

Commodities provided under this subchapter shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

(h) Food aid quality

(1) In general

The Administrator shall use funds made available for fiscal year 2009 and subsequent fiscal years to carry out this subchapter—

(A) to assess the types and quality of agricultural commodities and products donated for food aid;

(B) to adjust products and formulations (including the potential introduction of new fortificants and products) as necessary to cost-effectively meet nutrient needs of target populations; and

(C) to test prototypes.

(2) Administration

The Administrator—

(A) shall carry out this subsection in consultation with and through independent entities with proven expertise in food aid commodity quality enhancements;

(B) may enter into contracts to obtain the services of such entities; and

(C) shall consult with the Food Aid Consultative Group on how to carry out this subsection.

(3) Funding limitation

Of the funds made available under section 1726a(f) of this title,¹ for fiscal years 2009 through 2011, not more than \$4,500,000 may be used to carry out this subsection.

(July 10, 1954, ch. 469, title II, §202, 68 Stat. 458; Pub. L. 86-472, ch. VI, §601(a)(1), May 14, 1960, 74 Stat. 140; Pub. L. 88-205, pt. IV, §403(d), Dec. 16, 1963, 77 Stat. 390; Pub. L. 89-808, §2(C), Nov. 11, 1966, 80 Stat. 1534; Pub. L. 95-88, title II, §§207, 208(a), Aug. 3, 1977, 91 Stat. 547; Pub. L. 96-53,

¹ So in original. The comma probably should not appear.

title I, §121, title II, §202, Aug. 14, 1979, 93 Stat. 366, 368; Pub. L. 99-83, title X, §§1003, 1004(a), 1005, Aug. 8, 1985, 99 Stat. 270, 271; Pub. L. 100-202, §11, Dec. 22, 1987, 101 Stat. 1329-448; Pub. L. 101-508, title I, §1204(b)(1), Nov. 5, 1990, 104 Stat. 1388-11; Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3636; Pub. L. 104-127, title II, §207(a), Apr. 4, 1996, 110 Stat. 953; Pub. L. 107-171, title III, §3002, May 13, 2002, 116 Stat. 280; Pub. L. 110-246, title III, §3008, June 18, 2008, 122 Stat. 1823.)

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-246, §3008(1), substituted “may not use as a sole rationale for denying a request for funds” for “may not deny a request for funds” in introductory provisions.

Subsec. (e)(1). Pub. L. 110-246, §3008(2)(A), substituted “not less than 7.5 percent nor more than 13 percent” for “not less than 5 percent nor more than 10 percent” in introductory provisions.

Subsec. (e)(1)(C). Pub. L. 110-246, §3008(2)(B)-(D), added subpar. (C).

Subsec. (h). Pub. L. 110-246, §3008(3), added subsec. (h) and struck out former subsec. (h) which required Administrator to streamline program procedures and guidelines not later than 1 year after May 13, 2002, and incorporate changes, to the maximum extent practicable, beginning in fiscal year 2004.

2002—Subsec. (b)(3). Pub. L. 107-171, §3002(1), added par. (3).

Subsec. (e)(1). Pub. L. 107-171, §3002(2), substituted “not less than 5 percent nor more than 10 percent of the funds” for “not less than \$10,000,000, and not more than \$28,000,000.”

Subsec. (h). Pub. L. 107-171, §3002(3), added subsec. (h).

1996—Subsec. (b). Pub. L. 104-127, §207(a)(1), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “The Administrator may provide agricultural commodities for non-emergency assistance under this subchapter through eligible organizations (as described in subsection (d) of this section) that have entered into an agreement with the Administrator to use such commodities in accordance with this subchapter.”

Subsec. (e). Pub. L. 104-127, §207(a)(2)(A), substituted “eligible organizations” for “private voluntary organizations and cooperatives” in heading.

Subsec. (e)(1). Pub. L. 104-127, §207(a)(2)(B), in introductory provisions, substituted “\$28,000,000” for “\$13,500,000” and “eligible organizations described in subsection (d) of this section, to assist the organizations” for “private voluntary organizations and cooperatives to assist such organizations and cooperatives”.

Subsec. (e)(2). Pub. L. 104-127, §207(a)(2)(C), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds (which must be approved by the Administrator) when submitting a proposal to the Administrator for an agreement under this subchapter. Such request for funds shall include a specific explanation of—

“(A) the program costs to be offset by such funds;

“(B) the reason why such funds are needed in carrying out the particular assistance program; and

“(C) the degree to which such funds will improve the provision of food assistance to foreign countries (particularly those in sub-Saharan Africa suffering from acute, long-term food shortages).”

Subsec. (e)(3). Pub. L. 104-127, §207(a)(2)(D), substituted “an eligible organization, the Administrator may provide assistance to the eligible organization” for “a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative”.

1990—Pub. L. 101-624 amended section generally, substituting present provisions for provisions relating to

furnishing commodities through friendly governments, agencies, and organizations, assistance for community and other self-help activities, and multiyear agreements for distribution of commodities through nonprofit voluntary agencies and cooperatives.

Subsec. (e)(1). Pub. L. 101-508, in introductory provisions, substituted “the Administrator, not less than \$10,000,000, and not more than \$13,500,000, shall be made available in each fiscal year to private voluntary organizations and cooperatives” for “private voluntary organizations and cooperatives, not less than \$10,000,000 and not more than \$13,500,000 shall be made available by the Administrator”.

1987—Subsec. (a). Pub. L. 100-202 inserted “or cooperatives” after “voluntary agencies”.

1985—Subsec. (a). Pub. L. 99-83, §1003, inserted provisions relating to appropriate disposition under section 1721 of this title.

Subsec. (b)(4). Pub. L. 99-83, §1004(a), added par. (4).

Subsec. (c). Pub. L. 99-83, §1005, added subsec. (c).

1979—Subsec. (a). Pub. L. 96-53, §121, substituted “Agency for International Development” for “Advisory Committee on Voluntary Foreign Aid”, and “Advisory Committee” wherever appearing.

Subsec. (b)(2). Pub. L. 96-53, §202, substituted provisions relating to encouragement of entities distributing commodities to work with indigenous institutions and to employ indigenous workers, for provisions relating to employment of indigenous workers.

1977—Subsec. (a). Pub. L. 95-88, §§207(1), (2), 208(a), designated existing provisions as subsec. (a), struck out requirement that assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance, and inserted provisions authorizing the President to utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee on Voluntary Foreign Aid if no United States nonprofit voluntary agency registered with and approved by the Advisory Committee is available.

Subsec. (b). Pub. L. 95-88, §207(3), added subsec. (b).

1966—Pub. L. 89-808 substituted provisions for furnishing commodities for prescribed purposes through use of friendly governments, agencies, and organizations, using to extent practicable registered and approved nonprofit voluntary agencies, identification of source of commodities, determination by the President of the manner and terms and conditions of furnishing the commodities and for directions of the assistance toward community and self-help activities for former provisions for transfer of commodities on a grant bases to assist the prescribed programs.

1963—Pub. L. 88-205 substituted “economic and community development” for “economic developments”.

1960—Pub. L. 86-472 substituted “In order to facilitate the utilization of surplus agricultural commodities in meeting the requirements of needy peoples, and in order to promote economic development in underdeveloped areas in addition to that which can be accomplished under sections 1701 to 1704 and 1705 to 1709 of this title, the” for “The”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as a note under section 1691 of this title.

Amendment by Pub. L. 101-508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101-508, set out as an Effective Date note under section 940d of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under sec-

tion 2151-1 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

REGISTRATION OF FOREIGN NONPROFIT VOLUNTARY AGENCIES

Section 208(b) of Pub. L. 95-88 provided that: "For purposes of implementing the amendment made by subsection (a) [providing for the utilization by the President of foreign nonprofit voluntary agencies], the President shall issue regulations governing registration with an approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit voluntary agencies."

CONTINUATION OF AUTHORITY

Section 601(a)(2) of Pub. L. 86-472, which provided that the amendment of this section by section 601(a)(1) shall expire June 30, 1961, was repealed by Pub. L. 87-92, July 20, 1961, 75 Stat. 211.

§ 1723. Generation and use of currencies by private voluntary organizations and cooperatives

(a) Local sale and barter of commodities

An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this subchapter may provide for the sale or barter in 1 or more recipient countries, or 1 or more countries in the same region, of the commodities to be provided under such agreement.

(b) Minimum level of local sales

In carrying out agreements of the type referred to in subsection (a) of this section, the Administrator shall permit private voluntary organizations and cooperatives to sell, in 1 or more recipient countries, or in 1 or more countries in the same region, an amount of commodities equal to not less than 15 percent of the aggregate amounts of all commodities distributed under non-emergency programs under this subchapter for each fiscal year, to generate proceeds to be used as provided in this section.

(c) Description of intended uses

A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this subchapter shall include in such proposal a description of the intended uses of any proceeds that may be generated through the sale, in 1 or more recipient countries, or in 1 or more countries in the same region, of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

(d) Use

Proceeds generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this subchapter may—

(1) be used to transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under this subchapter;

(2) be used to implement income-generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within 1 or more recipient countries or within 1 or more countries in the same region; or

(3) be invested, and any interest earned on such investment may be used, for the purposes for which the assistance was provided to that organization, without further appropriation by Congress.

(July 10, 1954, ch. 469, title II, §203, 68 Stat. 458; May 28, 1956, ch. 327, title II, §208(c), 70 Stat. 201; Pub. L. 85-128, §1(3), Aug. 13, 1957, 71 Stat. 345; Pub. L. 86-341, title I, §3, Sept. 21, 1959, 73 Stat. 606; Pub. L. 86-472, ch. VI, §601(b), May 14, 1960, 74 Stat. 140; Pub. L. 87-128, title II, §202(1), Aug. 8, 1961, 75 Stat. 307; Pub. L. 88-638, §1(13), (14), Oct. 8, 1964, 78 Stat. 1037; Pub. L. 89-808, §2(C), Nov. 11, 1966, 80 Stat. 1535; Pub. L. 95-88, title II, §209, Aug. 3, 1977, 91 Stat. 548; Pub. L. 98-473, title III, §305, Oct. 12, 1984, 98 Stat. 2195; Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3638; Pub. L. 104-127, title II, §208, Apr. 4, 1996, 110 Stat. 954; Pub. L. 107-171, title III, §3003, May 13, 2002, 116 Stat. 281; Pub. L. 110-246, title III, §3009, June 18, 2008, 122 Stat. 1824.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-246 inserted "in" before "1 or more recipient countries".

2002—Pub. L. 107-171, §3003(1), struck out "foreign" before "currencies" in section catchline.

Subsec. (a). Pub. L. 107-171, §3003(2), substituted "1 or more recipient countries, or 1 or more countries" for "the recipient country, or in a country".

Subsec. (b). Pub. L. 107-171, §3003(3), substituted "1 or more recipient countries, or in 1 or more countries" for "in recipient countries, or in countries" and struck out "foreign currency" before "proceeds".

Subsec. (c). Pub. L. 107-171, §3003(4), struck out "foreign currency" before "proceeds" and substituted "1 or more recipient countries, or in 1 or more countries" for "the recipient country, or in a country".

Subsec. (d). Pub. L. 107-171, §3003(5)(A), substituted "Proceeds" for "Foreign currencies" in introductory provisions.

Subsec. (d)(2). Pub. L. 107-171, §3003(5)(B), substituted "income-generating" for "income generating" and "1 or more recipient countries or within 1 or more countries" for "the recipient country or within a country".

Subsec. (d)(3). Pub. L. 107-171, §3003(5)(C), inserted comma after "invested" and after "investment may be used".

1996—Subsec. (a). Pub. L. 104-127, §208(1), inserted "or in a country in the same region," after "in the recipient country".

Subsec. (b). Pub. L. 104-127, §208(2), inserted "or in countries in the same region," after "in recipient countries," and substituted "15 percent" for "10 percent".

Subsec. (c). Pub. L. 104-127, §208(3), inserted "or in a country in the same region," after "recipient country".

Subsec. (d)(2). Pub. L. 104-127, §208(4), inserted "or within a country in the same region" after "recipient country".