

That nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State”.

1966—Pub. L. 89-808 substituted food production assistance provisions for provision respecting applicability of other laws, now provided for by section 1707(d) of this title.

1962—Pub. L. 87-703 made section 1701(b) and (c) applicable to this subchapter.

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 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.

FARMER-TO-FARMER PROGRAMS FOR FISCAL YEARS 1986 THROUGH 1990

Pub. L. 99-198, title XI, §1107, Dec. 23, 1985, 99 Stat. 1467, as amended by Pub. L. 100-277, §6, Apr. 4, 1988, 102 Stat. 69, directed that not less than one-tenth of 1 percent of the funds available for each of the fiscal years ending Sept. 30, 1986, through Sept. 30, 1990, to carry out this chapter be used to carry out section 1736(a)(1), (2) of this title, and directed the Administrator of the Agency for International Development, in conjunction with the Secretary of Agriculture, to submit to Congress a report, not later than 120 days after Dec. 23, 1985, indicating the manner in which the Agency intended to implement such provisions.

§ 1736-1. Special Assistant for Agricultural Trade and Food Assistance

(a) Appointment by President

The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Assistance (hereinafter in this section referred to as the “Special Assistant”). The President shall appoint the initial Special Assistant not later than May 1, 1986.

(b) Service in Executive Office of President

The Special Assistant shall serve in the Executive Office of the President.

(c) Required functions

The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture

and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production; and

(B) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

(d) Compensation

Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.

(Pub. L. 99-198, title XI, §1113(a)-(d), Dec. 23, 1985, 99 Stat. 1479; Pub. L. 99-260, §4(a)(1), (b), (d), Mar. 20, 1986, 100 Stat. 49; Pub. L. 101-624, title XV, §1572(2), Nov. 28, 1990, 104 Stat. 3702.)

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (d), is set out in section 5314 of Title 5, Government Organization and Employees.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Food for Peace Act which comprises this chapter.

Another section 1113(d) of Pub. L. 99-198 amended section 5312 of Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (c)(9)(B), (C). Pub. L. 101-624 redesignated subpar. (C) as (B) and struck out former subpar. (B) which required that report contain identification of at least 15 target countries most likely to emerge as growth markets for commodities in next 5 to 10 years.

1986—Pub. L. 99-260, §4(a)(1)(A), substituted “Food Assistance” for “Food Aid” in section catchline.

Subsec. (a). Pub. L. 99-260, §4(a)(1)(B), (b), substituted “Food Assistance” for “Food Aid” and inserted provision that the President appoint the initial Special Assistant not later than May 1, 1986.

Subsec. (d). Pub. L. 99-260, §4(d), amended subsec. (d) generally, substituting provision relating to compensation of the Special Assistant for provision relating to additional required functions of the Special Assistant.

§ 1736a. Administrative provisions**(a) Subchapter II programs****(1) Acquisitions**

The importing country or private entity that enters into an agreement under subchapter II of this chapter shall acquire the agricultural commodities to be financed under subchapter II of this chapter.

(2) Invitation for bid

No purchase of agricultural commodities from private stock or purchase of ocean transportation shall be financed under subchapter II of this chapter unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings that shall conform to such invitation and be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under subchapter II of this chapter shall be consistent with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary. Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.

(b) Agents**(1) Authority of Secretary or Commodity Credit Corporation****(A) General rule**

Except as provided in subparagraph (B), if it is determined appropriate, the Secretary or the Commodity Credit Corporation may serve as the purchasing or shipping agent, or both, for the importer or importing country in arranging the purchase or shipping of commodities financed under subchapter II of this chapter.

(B) Exception

Notwithstanding subparagraph (A), the Secretary or the Commodity Credit Corporation may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Secretary or the Corporation to handle the shipping of commodities financed under this chapter.

(C) Avoidance of conflict of interest of contractors

Freight agents employed by the Secretary or the Commodity Credit Corporation under subchapter II of this chapter shall not represent any foreign government during the period of their contract with the United States Government.

(2) Reasonable fees and commissions**(A) Fees**

Notwithstanding any other provision of law, the Secretary or the Commodity Credit Corporation may enter into an agreement with the importer or importing country that contains the terms and conditions that will govern the provision of purchasing or shipping agent services by the Secretary or the Corporation, including the establishment of

fees for such services. Any such fees shall be fair and reasonable in relation to the services performed and shall be available as reimbursement for costs incurred in providing such services.

(B) Prohibition on commissions

Commissions, fees, or other payments to any selling agent or to any agent of a purchaser shall be prohibited in the purchase of agricultural commodities that are financed under subchapter II of this chapter.

(3) Limitations

No commission, fees, or other payments to an agent, broker, consultant, or other representative of the importer or importing country for ocean transportation brokerage services in connection with the carriage of commodities provided under subchapter II of this chapter may—

(A) be paid in excess of an amount determined appropriate by the Secretary; and

(B) be shared by such person with the importer or importing country or any agent thereof.

(4) Avoidance of conflict of interest

A person may not be an agent, broker, consultant, or other representative of the United States Government, an importer, or an importing country in connection with agricultural commodities provided under this chapter during a fiscal year in which such person provides or acts as an agent, broker, consultant, or other representative of a person engaged in providing ocean transportation or transportation-related services for such commodities. For the purpose of this paragraph, the term “transportation-related services” means lightening, stevedoring, bagging, or inland transportation to the destination point.

(c) Subchapters III and III-A program**(1) Acquisition****(A) In general**

The Administrator shall transfer, arrange for the transportation, and take other steps necessary to make available agricultural commodities to be provided under subchapter III and subchapter III-A of this chapter.

(B) Certain commodities made available for nonemergency assistance

In the case of agricultural commodities made available for nonemergency assistance under subchapter III of this chapter for least developed countries that meet the poverty and other eligibility criteria established by the International Bank for Reconstruction and Development for financing under the International Development Association, the Administrator may pay the transportation costs incurred in moving the agricultural commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs.

(2) Freight procurement

Notwithstanding chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e),