

**§ 1736y. Contract sanctity and producer embargo protection**

It is hereby declared to be the policy of the United States—

(1) to foster and encourage the export of agricultural commodities and the products of such commodities;

(2) not to restrict or limit the export of such commodities and products except under the most compelling circumstances;

(3) that any prohibition or limitation on the export of such commodities or products should be imposed only in time of a national emergency declared by the President under the Export Administration Act [50 U.S.C. 4601 et seq.]; and

(4) that contracts for the export of such commodities or products entered into before the imposition of any prohibition or limitation on the export of such commodities or products should not be abrogated.

(Pub. L. 99-198, title XI, § 1133(a), Dec. 23, 1985, 99 Stat. 1489.)

REFERENCES IN TEXT

The Export Administration Act, referred to in par. (3), probably means the Export Administration Act of 1979, Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 1133(a) of Pub. L. 99-198. Section 1133(b) of Pub. L. 99-198 amended section 1736j of this title.

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.

**§§ 1736z, 1736aa. Repealed. Pub. L. 101-624, title XV, § 1572(3), Nov. 28, 1990, 104 Stat. 3702**

Section 1736z, Pub. L. 99-198, title XI, § 1162, Dec. 23, 1985, 99 Stat. 1499, provided for a regular assessment of certain projects and activities administered by the Secretary and Department of Agriculture.

Section 1736aa, Pub. L. 99-198, title XI, § 1167(d), Dec. 23, 1985, 99 Stat. 1503, provided for barter by exporters of agricultural commodities and products for foreign products needed by exporters.

**§§ 1736bb to 1736bb-6. Repealed. Pub. L. 104-127, title II, § 271(a), Apr. 4, 1996, 110 Stat. 976**

Section 1736bb, Pub. L. 100-202, § 1, Dec. 22, 1987, 101 Stat. 1329-445; Pub. L. 100-418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411, related to establishment of agricultural aid and trade missions.

Section 1736bb-1, Pub. L. 100-202, § 2, Dec. 22, 1987, 101 Stat. 1329-445, related to required and additional missions and eligible countries.

Section 1736bb-2, Pub. L. 100-202, § 3, Dec. 22, 1987, 101 Stat. 1329-446, related to functions of members of missions to eligible countries.

Section 1736bb-3, Pub. L. 100-202, § 4, Dec. 22, 1987, 101 Stat. 1329-446; Pub. L. 100-418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411, related to mission reports.

Section 1736bb-4, Pub. L. 100-202, § 5, Dec. 22, 1987, 101 Stat. 1329-446; Pub. L. 100-418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411, related to quarterly progress reports on implementing recommendations of missions.

Section 1736bb-5, Pub. L. 100-202, § 6, Dec. 22, 1987, 101 Stat. 1329-447; Pub. L. 100-418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411, related to authorization of appropriations.

Section 1736bb-6, Pub. L. 100-202, § 7, Dec. 22, 1987, 101 Stat. 1329-447; Pub. L. 100-418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411; Pub. L. 101-624, title XV, § 1515(b), Nov. 28, 1990, 104 Stat. 3663; Pub. L. 102-237, title III, § 307, Dec. 13, 1991, 105 Stat. 1856, provided definitions for former sections 1736bb to 1736bb-6.

INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO AGRICULTURAL AID AND TRADE MISSIONS

Pub. L. 100-277, § 7, Apr. 4, 1988, 102 Stat. 69, provided that any agricultural aid and trade mission established under this section and any other activity under sections 1736bb to 1736bb-6 of this title were not to be considered advisory committee for purposes of Federal Advisory Committee Act, 5 App. U.S.C., prior to repeal by Pub. L. 104-127, title II, § 271(b), Apr. 4, 1996, 110 Stat. 976.

**§ 1736cc. Repealed. Pub. L. 101-624, title XV, § 1577, Nov. 28, 1990, 104 Stat. 3702**

Section, Pub. L. 101-220, § 13, Dec. 12, 1989, 103 Stat. 1884, prohibited duty drawback claims by exporters who used certain export promotion programs.

SUBCHAPTER V—FARMER-TO-FARMER PROGRAM

**§ 1737. John Ogonowski and Doug Bereuter Farmer-to-Farmer Program**

**(a) Definitions**

In this section:

**(1) Caribbean Basin country**

The term “Caribbean Basin country” means a country eligible for designation as a beneficiary country under section 2702 of title 19.

**(2) Emerging market**

The term “emerging market” means a country that the Secretary determines—

(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

**(3) Middle income country**

The term “middle income country” means a country that has developed economically to the point at which the country does not receive bilateral development assistance from the United States.

**(4) Sub-Saharan African country**

The term “sub-Saharan African country” has the meaning given the term in section 3706 of title 19.

**(b) Provision**

Notwithstanding any other provision of law, to further assist developing countries, middle-income countries, emerging markets, sub-Saharan African countries, and Caribbean Basin countries to increase farm production and farmer incomes, the President may—

(1) establish and administer a program, to be known as the “John Ogonowski and Doug Bereuter Farmer-to-Farmer Program”, of farmer-to-farmer assistance between the United States and such countries to assist in—

(A) increasing food production and distribution; and

(B) improving the effectiveness of the farming and marketing operations of agricultural producers in those countries;

(2) use United States agricultural producers, agriculturalists, colleges and universities (including historically black colleges and universities, land grant colleges or universities, and foundations maintained by colleges or universities), private agribusinesses, private organizations (including grassroots organizations with an established and demonstrated capacity to carry out such a bilateral exchange program), private corporations, and nonprofit farm organizations to work in conjunction with agricultural producers and farm organizations in those countries, on a voluntary basis—

(A) to improve agricultural and agribusiness operations and agricultural systems in those countries, including improving—

- (i) animal care and health;
- (ii) field crop cultivation;
- (iii) fruit and vegetable growing;
- (iv) livestock operations;
- (v) food processing and packaging;
- (vi) farm credit;
- (vii) marketing;
- (viii) inputs; and
- (ix) agricultural extension; and

(B) to strengthen cooperatives and other agricultural groups in those countries;

(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on an individual basis, to those countries while enhancing the democratic process by supporting private and public agriculturally related organizations that request and support technical assistance activities through cash and in-kind services;

(4) to the maximum extent practicable, make grants to or enter into contracts or other cooperative agreements with private voluntary organizations, cooperatives, land grant universities, private agribusiness, or nonprofit farm organizations to carry out this section (except that any such contract or other agreement may obligate the United States to make outlays only to the extent that the budget authority for such outlays is available under subsection (d) or has otherwise been provided in advance in appropriation Acts);

(5) coordinate programs established under this section with other foreign assistance programs and activities carried out by the United States; and

(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use, within the country in which the program is being conducted, of—

(A) foreign currencies that accrue from the sale of agricultural commodities and products under this chapter; and

(B) local currencies generated from other types of foreign assistance activities.

**(c) Special emphasis on sub-Saharan African and Caribbean Basin countries**

**(1) Findings**

Congress finds that—

(A) agricultural producers in sub-Saharan African and Caribbean Basin countries need training in agricultural techniques that are appropriate for the majority of eligible agricultural producers in those countries, including training in—

- (i) standard growing practices;
- (ii) insecticide and sanitation procedures; and
- (iii) other agricultural methods that will produce increased yields of more nutritious and healthful crops;

(B) agricultural producers in the United States (including African-American agricultural producers) and banking and insurance professionals have agribusiness expertise that would be invaluable for agricultural producers in sub-Saharan African and Caribbean Basin countries;

(C) a commitment by the United States is appropriate to support the development of a comprehensive agricultural skills training program for those agricultural producers that focuses on—

(i) improving knowledge of insecticide and sanitation procedures to prevent crop destruction;

(ii) teaching modern agricultural techniques that would facilitate a continual analysis of crop production, including—

(I) the identification and development of standard growing practices; and

(II) the establishment of systems for recordkeeping;

(iii) the use and maintenance of agricultural equipment that is appropriate for the majority of eligible agricultural producers in sub-Saharan African or Caribbean Basin countries;

(iv) the expansion of small agricultural operations into agribusiness enterprises by increasing access to credit for agricultural producers through—

(I) the development and use of village banking systems; and

(II) the use of agricultural risk insurance pilot products; and

(v) marketing crop yields to prospective purchasers (including businesses and individuals) for local needs and export; and

(D) programs that promote the exchange of agricultural knowledge and expertise through the exchange of American and foreign agricultural producers have been effective in promoting improved agricultural techniques and food security and the extension of additional resources to such farmer-to-farmer exchanges is warranted.

**(2) Goals for programs carried out in sub-Saharan African and Caribbean Basin countries**

The goals of programs carried out under this section in sub-Saharan African and Caribbean Basin countries shall be—

(A) to expand small agricultural operations in those countries into agribusiness

enterprises by increasing access to credit for agricultural producers through—

- (i) the development and use of village banking systems; and
- (ii) the use of agricultural risk insurance pilot products;

(B) to provide training to agricultural producers in those countries that will—

- (i) enhance local food security; and
- (ii) help mitigate and alleviate hunger;

(C) to provide training to agricultural producers in those countries in groups to encourage participants to share and pass on to other agricultural producers in the home communities of the participants, the information and skills obtained from the training, rather than merely retaining the information and skills for the personal enrichment of the participants; and

(D) to maximize the number of beneficiaries of the programs in sub-Saharan African and Caribbean Basin countries.

#### (d) Minimum funding

Notwithstanding any other provision of law, in addition to any funds that may be specifically appropriated to carry out this section, not less than the greater of \$10,000,000 or 0.5 percent of the amounts made available for each of fiscal years 2008 through 2013, and not less than the greater of \$15,000,000 or 0.6 percent of the amounts made available for each of fiscal years 2014 through 2018, to carry out this chapter shall be used to carry out programs under this section, with—

- (1) not less than 0.2 percent to be used for programs in developing countries; and
- (2) not less than 0.1 percent to be used for programs in sub-Saharan African and Caribbean Basin countries.

#### (e) Authorization of appropriations

##### (1) In general

There are authorized to be appropriated for each of fiscal years 2008 through 2018 to carry out the programs under this section—

- (A) \$10,000,000 for sub-Saharan African and Caribbean Basin countries; and
- (B) \$5,000,000 for other developing or middle-income countries or emerging markets not described in subparagraph (A).

##### (2) Administrative costs

Not more than 5 percent of the funds made available for a fiscal year under paragraph (1) may be used to pay administrative costs incurred in carrying out programs in sub-Saharan African and Caribbean Basin countries.

(July 10, 1954, ch. 469, title V, § 501, as added Pub. L. 101-624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3656; amended Pub. L. 102-237, title III, § 301, Dec. 13, 1991, 105 Stat. 1855; Pub. L. 104-127, title II, §§ 224, 277(c)(1), Apr. 4, 1996, 110 Stat. 959, 979; Pub. L. 107-76, title VII, § 777, Nov. 28, 2001, 115 Stat. 747; Pub. L. 107-171, title III, § 3014, May 13, 2002, 116 Stat. 285; Pub. L. 108-447, div. A, title VII, § 769, Dec. 8, 2004, 118 Stat. 2848; Pub. L. 110-246, title III, § 3024, June 18, 2008, 122 Stat. 1830; Pub. L. 113-79, title III, § 3014(a), Feb. 7, 2014, 128 Stat. 778.)

#### AMENDMENTS

2014—Subsec. (d). Pub. L. 113-79, § 3014(a)(1), substituted “2013, and not less than the greater of \$15,000,000 or 0.6 percent of the amounts made available for each of fiscal years 2014 through 2018,” for “2012” in introductory provisions.

Subsec. (e)(1). Pub. L. 113-79, § 3014(a)(2), substituted “2018” for “2012” in introductory provisions.

2008—Subsec. (d). Pub. L. 110-246, § 3024(a), in introductory provisions, substituted “not less than the greater of \$10,000,000 or” for “not less than” and “2008 through 2012” for “2002 through 2007”.

Subsec. (e)(1). Pub. L. 110-246, § 3024(b), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “There is authorized to be appropriated to carry out programs under this section in sub-Saharan African and Caribbean Basin countries \$10,000,000 for each of fiscal years 2002 through 2007.”

2004—Pub. L. 108-447, § 769(2), inserted “and Doug Bereuter” after “John Ogonowski” in section catchline.

Subsec. (b)(1). Pub. L. 108-447, § 769(1), inserted “and Doug Bereuter” after “John Ogonowski” in introductory provisions.

2002—Pub. L. 107-171 reenacted section catchline without change and amended text generally, substituting, in subsec. (a), provisions relating to definitions for general provisions, in subsec. (b), provisions authorizing the President to administer the program for provisions relating to definitions, in subsec. (c), provisions relating to special emphasis on sub-Saharan African and Caribbean Basin countries for provisions relating to minimum funding, in subsec. (d), provisions relating to minimum funding for provisions relating to designation of program, and adding subsec. (e) relating to authorization of appropriations.

2001—Pub. L. 107-76, § 777(1), inserted “John Ogonowski” before “Farmer-to-Farmer Program” in section catchline.

Subsec. (d). Pub. L. 107-76, § 777(2), added subsec. (d).

1996—Subsec. (a). Pub. L. 104-127, § 277(c)(1)(A), substituted “emerging markets” for “emerging democracies” in introductory provisions.

Subsec. (a)(6). Pub. L. 104-127, § 224(1), added par. (6) and struck out former par. (6) which read as follows: “to the extent practicable, augment the funds available for programs established under this section through the use of foreign currencies that accrue from the sale of agricultural commodities under this chapter, and local currencies generated from other types of foreign assistance activities.”

Subsec. (b)(1). Pub. L. 104-127, § 277(c)(1)(B), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “The term ‘emerging democracy’ means a country that is taking steps toward—

“(A) political pluralism, based on progress toward free and fair elections and a multiparty political system;

“(B) economic reform, based on progress toward a market-oriented economy;

“(C) respect for internationally recognized human rights; and

“(D) a willingness to build a friendly relationship with the United States.”

Subsec. (c). Pub. L. 104-127, § 224(2), substituted “0.4 percent of the amounts” for “0.2 percent of the amounts”, “1996 through 2002” for “1991 through 1995”, and “0.2 percent to be used” for “0.1 percent to be used”.

1991—Subsec. (a)(3). Pub. L. 102-237 struck out comma after “public”.

#### 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

Section effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

## DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Administrator of the Agency for International Development by section 4(d) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

## SUBCHAPTER VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

## § 1738. Establishment of Facility

There is established in the Department of the Treasury an entity to be known as the “Enterprise for the Americas Facility” (hereafter referred to in this subchapter as the “Facility”).

(July 10, 1954, ch. 469, title VI, §601, as added Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3658.)

## EFFECTIVE DATE

Subchapter effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

## EXECUTIVE ORDER NO. 12757

Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, as amended by Ex. Ord. No. 12823, Dec. 3, 1992, 57 F.R. 57645; Ex. Ord. No. 13028, Dec. 3, 1996, 61 F.R. 64589; Ex. Ord. No. 13131, July 22, 1999, 64 F.R. 40733, which related to implementation of the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act of 1998, was revoked by Ex. Ord. No. 13345, §6(a), July 8, 2004, 69 F.R. 41903, set out below.

## EX. ORD. NO. 13345. ASSIGNING FOREIGN AFFAIRS FUNCTIONS AND IMPLEMENTING THE ENTERPRISE FOR THE AMERICAS INITIATIVE AND THE TROPICAL FOREST CONSERVATION ACT

Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 (ATDA Act), as amended [now Food for Peace Act, 7 U.S.C. 1691 et seq.], the Foreign Assistance Act of 1961 (Foreign Assistance Act), as amended [22 U.S.C. 2151 et seq.], and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Functions to be Performed by the Secretary of the Treasury.* (a) The Secretary of the Treasury is hereby designated to perform the functions of the President under the following provisions of law:

(1) sections 603(b), 604(a), and 611 of the ATDA Act (7 U.S.C. 1738b(b), 1738c(a), and 1738j); and

(2) sections 703, 704(a), 805(b), 806(a), 807(a), 808(a), and 812 of the Foreign Assistance Act (22 U.S.C. 2430b, 2430c(a), 2431c(b), 2431d(a), 2431e(a), 2431f(a), and 2431j).

(b) The Secretary of the Treasury shall:

(1)(A) make determinations under the provisions of sections 703(b) and 805(b) of the Foreign Assistance Act in accordance with any recommendations received from the Secretary of State with respect to subsections 703(a)(1)–703(a)(4) and the corresponding recommendations under section 805(a)(1) of that Act; and

(B) make determinations under the provisions of section 805(b) of the Foreign Assistance Act in accordance with any recommendations from the Administrator of the United States Agency for International Development (USAID) with respect to section 803(5)(B) of that Act [22 U.S.C. 2431a(5)(B)];

(2) exercise the functions under the provisions listed in section 1(a)(1) of this order in consultation with the Secretary of State and with the National Advisory Council on International Monetary and Financial Policies (Council) established by Executive Order 11269 of February 14, 1966 [22 U.S.C. 286b note];

(3) consult, as appropriate, with the Secretary of State, the Administrator of USAID, the Council, the Secretary of Agriculture, the Director of the Office of Management and Budget, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the Office of National Drug Control Policy, and the Chairman of the Council of Economic Advisers in the performance of all other functions under the provisions listed in section 1(a) of this order.

SEC. 2. *Functions to be Performed by the Secretary of State.* (a) The Secretary of State is hereby designated to perform the functions of the President under sections 607 and 614 of the ATDA Act (7 U.S.C. 1738f and 1738m) and section 813(a) of the Foreign Assistance Act (22 U.S.C. 2431k).

(b) The Secretary of State shall consult, as appropriate, with the Secretary of the Treasury and the Administrator of USAID, in the performance of functions under the provisions listed in subsection 2(a) of this order.

(c) The Secretary of State shall consult, as appropriate, in the performance of functions under section 607 of the ATDA Act, with the Secretary of Agriculture, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the heads of such other executive departments and agencies as the Secretary of State determines appropriate.

(d) The Secretary of State is hereby designated to receive advice or supplemental views on the President's behalf consistent with the following provisions of law:

(1) section 610(c)(1) of the ATDA Act (7 U.S.C. 1738i(c)(1)); and

(2) section 813(b) of the Foreign Assistance Act (22 U.S.C. 2431k).

SEC. 3. *Recommendation by USAID.* The Administrator of USAID shall make recommendations with respect to 803(5)(B) of the Foreign Assistance Act (22 U.S.C. 2431a(5)(B)[]), in cooperation with the Secretary of Agriculture and the Secretary of State.

SEC. 4. *Government Appointees to the Enterprise for the Americas Board.* (a) Pursuant to section 610(b)(1)(A) of the ATDA Act (7 U.S.C. 1738i(b)(1)(A)[]) and section 811(b)(1)(A) and (b)(2) of the Foreign Assistance Act (22 U.S.C. 2431i(b)(1)(A) and (b)(2)), the following officers or employees of the United States are hereby designated to serve as representatives on the Enterprise for the Americas Board:

(i) the designee of the Secretary of State, who shall be the chairperson of the Board;

(ii) the designee of the Secretary of the Treasury;

(iii) two designees of the Secretary of Agriculture, one of whom shall be an officer or employee of the United States Forest Service International Programs Office with experience in international forestry matters, and the other shall be an officer or employee of the Foreign Agricultural Service;

(iv) the designee of the Secretary of the Interior;

(v) the designee of the Administrator of the Environmental Protection Agency;

(vi) the designee of the Administrator of USAID, who shall be the vice chairperson of the Board; and

(vii) the designee of the Chairman of the Council on Environmental Quality.

(b) The Board shall permit the following officers or employees of the United States to attend and observe a Board meeting:

(i) a designee of the Secretary of Commerce; and

(ii) a designee of the head of any executive department or agency, if the meeting will relate to matters relevant to the activities of such executive department or agency.

(c) An officer of the United States listed in subsections 4(a) and 4(b) shall make a designation for purposes of those subsections in writing submitted to the Secretary of State and shall change any such designation in the same manner. The authority to make such a designation may not be delegated.

(d) The Secretary of State may, after consultation with the officers of the United States listed in sub-