

### § 2353. Shipping on United States vessels

The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this chapter or the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], and transfers of fresh fruit and products thereof under this chapter, shall not be governed by the provisions of section 55305 of title 46, or any other law relating to the ocean transportation of commodities on United States flag vessels.

(Pub. L. 87–195, pt. III, § 603, Sept. 4, 1961, 75 Stat. 439; Pub. L. 110–246, title III, § 3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, as amended, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

#### CODIFICATION

In text, “section 55305 of title 46” substituted for “section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241)” on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 55305 of Title 46, Shipping.

#### AMENDMENTS

2008—Pub. L. 110–246 substituted “Food for Peace Act” for “Agricultural Trade Development and Assistance Act of 1954”.

#### 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 Title 7, Agriculture.

### § 2354. Procurement

#### (a) Limitations on procurement outside United States

(1) Funds made available for assistance under this chapter may be used by the President for procurement—

(A) only in the United States, the recipient country, or developing countries; or

(B) in any other country but only if—

(i) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in subparagraph (A); or

(ii) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(I) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in subparagraph (A); or

(II) to promote efficiency in the use of United States foreign assistance resources,

including to avoid impairment of foreign assistance objectives.

(2) For purposes of this subsection, the term “developing countries” shall not include advanced developing countries.

#### (b) Purchases in bulk

No funds made available under this chapter shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

#### (c) Agricultural commodities or products thereof available for disposition under Food for Peace Act

In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], for transfer by grant under this chapter to any recipient country in accordance with its requirements, the President shall, insofar as practicable and when in furtherance of the purposes of this chapter, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this chapter.

#### (d) Marine insurance

In providing assistance in the procurement of commodities in the United States, United States dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing prior to the outbreak of World War II: *Provided*, That in the event a participating country, by statute, decree, rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States, then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

#### (e) Parity for domestic commodities prior to use of funds outside United States

No funds made available under this chapter shall be used for the procurement of any agricultural commodity or product thereof outside the United States when the domestic price of such commodity is less than parity, unless the commodity to be financed could not reasonably be procured in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed.

#### (f) Commodity eligibility

No funds authorized to be made available to carry out subchapter I of this chapter shall be used under any commodity import program to make any payment to a supplier unless the supplier has certified to the agency primarily responsible for administering such subchapter I,