

(b) Market development activities

Subsection (a)(1) shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage industry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under subchapter II of this chapter.

(July 10, 1954, ch. 469, title IV, §401, as added Pub. L. 86-341, title I, §14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 87-703, title II, §201(1), Sept. 27, 1962, 76 Stat. 610; Pub. L. 89-808, §2(E), Nov. 11, 1966, 80 Stat. 1535; Pub. L. 95-88, title II, §212, Aug. 3, 1977, 91 Stat. 551; Pub. L. 95-113, title XII, §1204, Sept. 29, 1977, 91 Stat. 956; Pub. L. 96-53, title II, §208, Aug. 14, 1979, 93 Stat. 370; Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3645; Pub. L. 104-127, title II, §212, Apr. 4, 1996, 110 Stat. 955; Pub. L. 110-246, title III, §3014(a), June 18, 2008, 122 Stat. 1826.)

AMENDMENTS

2008—Pub. L. 110-246 redesignated subsecs. (b) and (c) as (a) and (b), respectively, in subsec. (b), substituted “(a)(1)” for “(b)(1)”, and struck out former subsec. (a). Prior to amendment, text read as follows: “No agricultural commodity shall be available for disposition under this chapter if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Secretary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this chapter.”

1996—Pub. L. 104-127 added subsec. (a) and struck out former subsec. (a) which authorized Secretary, after consultation with other affected Federal agencies, to determine agricultural commodities and quantities thereof available for disposition, redesignated subsec. (e) as (b) and struck out former subsec. (b) which provided for modification of determination by Secretary, redesignated subsec. (f) as (c) and substituted “(b)(1)” for “(e)(1)”, struck out former subsec. (c) which provided for nonavailability of commodities if domestic supply of such commodities was adversely affected, and struck out subsec. (d) which outlined policies for distribution of commodities to developing countries.

1990—Pub. L. 101-624 amended section generally, substituting present provisions for provisions authorizing Secretary to determine types and quantities of commodities available for distribution, limiting distribution where domestic supply is threatened, and requiring available storage facilities in recipient country prior to making commodities available to such country as well as finding that distribution will not result in interference with production or marketing in that country.

1979—Subsec. (b)(2). Pub. L. 96-53 substituted “to or interference with domestic production or marketing in” for “to domestic production in”.

1977—Subsec. (a). Pub. L. 95-113 inserted provisions under which commodities may be made available for disposition if the Secretary of Agriculture determines that some part of the supply of commodities should be used to carry out urgent humanitarian purposes, even though such disposition would reduce the domestic supply of those commodities below that needed to meet domestic requirements, provide adequate carryover, and allow for anticipated exports.

Pub. L. 95-88 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-88 added subsec. (b).

1966—Pub. L. 89-808 substituted provisions relating to determination and criteria for such determination by the Secretary of Agriculture of agricultural commod-

ities available for disposition for former statement of purpose of provisions relating to long-term supply contracts, now covered by subchapter II of this chapter.

1962—Pub. L. 87-703 included in the statement of purpose the stimulation and increase of sales of surplus agricultural commodities for dollars through long-term supply contracts and through the extension of credit for the purchase of such commodities, by agreements with friendly nations or with private trade.

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 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 Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

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.

EXPORT SALES OF DAIRY PRODUCTS

Pub. L. 99-198, title XI, §1163, Dec. 23, 1985, 99 Stat. 1499, as amended by Pub. L. 100-435, title I, §107, Sept. 19, 1988, 102 Stat. 1651; Pub. L. 101-624, title I, §111, Nov. 28, 1990, 104 Stat. 3380; Pub. L. 103-465, title IV, §411(c), Dec. 8, 1994, 108 Stat. 4963, provided that:

“(a) In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the disposition of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of commercial trade.

“(b) Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

“(c) Through September 30, 1995, the Secretary shall report semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.”

[Amendment of section 1163 of Pub. L. 99-198, set out above, by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.]

[Amendment of section 1163 of Pub. L. 99-198, set out above, by Pub. L. 100-435 effective and implemented on Oct. 1, 1988, see section 701 of Pub. L. 100-435, set out as a note under section 2012 of this title.]

§ 1732. Definitions

As used in this chapter:

(1) Administrator

The term “Administrator” means the Administrator of the Agency for International

Development, unless otherwise specified in this chapter.

(2) Agricultural commodity

The term “agricultural commodity”, unless otherwise provided for in this chapter, includes any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products. Effective beginning on October 1, 1991, for purposes of subchapter III, a product of an agricultural commodity shall not be considered to be produced in the United States if it contains any ingredient that is not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.

(3) Appropriate committee of Congress

The term “appropriate committee of Congress” means—

- (A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;
- (B) the Committee on Agriculture of the House of Representatives; and
- (C) the Committee on Foreign Affairs of the House of Representatives.

(4) Cooperative

The term “cooperative” means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

(5) Developing country

The term “developing country” means a country that has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels.

(6) Food security

The term “food security” means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

(7) Nongovernmental organization

The term “nongovernmental organization” means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.

(8) Private voluntary organization

The term “private voluntary organization” means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of title 26) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

(9) Secretary

The term “Secretary” means the Secretary of Agriculture, unless otherwise specified in this chapter.

(July 10, 1954, ch. 469, title IV, §402, as added Pub. L. 86-341, title I, §14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 87-703, title II, §201(2), Sept. 27, 1962, 76 Stat. 611; Pub. L. 89-808, §2(E), Nov. 11, 1966, 80 Stat. 1536; Pub. L. 92-42, July 1, 1971, 85 Stat. 99; Pub. L. 95-113, title XII, §1205, Sept. 29, 1977, 91 Stat. 956; Pub. L. 96-72, §24, Sept. 29, 1979, 93 Stat. 536; Pub. L. 97-98, title XII, §1213, Dec. 22, 1981, 95 Stat. 1281; Pub. L. 98-623, title IV, §405(b), Nov. 8, 1984, 98 Stat. 3409; Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3645; Pub. L. 104-127, title II, §211(b), Apr. 4, 1996, 110 Stat. 955; Pub. L. 110-246, title III, §3015, June 18, 2008, 122 Stat. 1826.)

AMENDMENTS

2008—Pars. (3) to (9). Pub. L. 110-246 added par. (3) and redesignated former pars. (3) to (8) as (4) to (9), respectively.

1996—Par. (6). Pub. L. 104-127 added par. (6) and struck out heading and text of former par. (6). Prior to amendment, text read as follows: “The term ‘indigenous nongovernmental organization’ means an organization that operates under the laws of the recipient country, or that has its principal place of activity in such country, and that works at the local level to solve development problems in the foreign country in which it is located, except that the term does not include an organization that is primarily an agent or instrumentality of the foreign government.”

1990—Pub. L. 101-624 amended section generally, substituting present provisions for provisions defining agricultural commodity.

1984—Pub. L. 98-623 inserted “(including fish, without regard to whether such fish are harvested in aquacultural operations)” and struck out provision that subject to the availability of appropriations therefor, any domestically produced fishery product could be made available under this chapter.

1981—Pub. L. 97-98 substituted “wine, beer, distilled spirits, or other alcoholic beverage” for “wine or beer”.

1979—Pub. L. 96-72 inserted reference to beer.

1977—Pub. L. 95-113 required that in allocation of funds made available under subchapter II of this chapter priority be given to financing the sale of food and fiber commodities.

1971—Pub. L. 92-42 inserted sentence that proviso excluding alcoholic beverages from term “agricultural commodity” shall not be construed as prohibiting domestic wine industry from participating in market development activities for expansion of export sales of domestic agricultural commodities.

1966—Pub. L. 89-808 substituted definition of agricultural commodity and provisions as to availability of fishery products for former provisions respecting agreements for delivery of surplus agricultural commodities, period, and security for payments in relation to long-term supply contracts, now covered by subchapter II of this chapter. See section 1707 of this title.

1962—Pub. L. 87-703 authorized executive agreements with financial institutions acting in behalf of friendly nations and administrative sales agreements with foreign and United States private trade with provision for security for payments.

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 1984 AMENDMENT

Amendment by Pub. L. 98-623 to be considered as having taken effect before Sept. 8, 1982, for purposes of section 135 of Pub. L. 97-253 (set out as a note under section 612c of this title), see section 405(d) of Pub. L. 98-623, set out as a note under section 1707a of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 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.

§ 1733. General provisions**(a) Prohibition**

No agricultural commodity, food procured outside of the United States, food voucher, or cash transfer for food shall be made available under this chapter unless it is determined that—

(1) in the case of the provision of an agricultural commodity, adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or waste of the commodity; and

(2) the distribution of the agricultural commodity or use of the food procured outside of the United States, food voucher, or cash transfer for food in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

(b) Impact on local farmers and economy

The Secretary or the Administrator, as appropriate, shall ensure that the importation of United States agricultural commodities, the use of food procured outside of the United States, food vouchers, and cash transfers for food, and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country. The Secretary or the Administrator, as appropriate, shall seek information, as part of the regular proposal and submission process, from implementing agencies on the potential costs and benefits to the local economy within the recipient country.

(c) Transshipment

The Secretary or the Administrator, as appropriate, shall, under such terms and conditions as are determined to be appropriate, require commitments designed to prevent or restrict the resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities donated or purchased under this chapter.

(d) Private trade channels and small business

Private trade channels shall be used under this chapter to the maximum extent practicable in the United States and in the recipient countries with respect to—

- (1) sales from privately owned stocks;
- (2) sales from stocks owned by the Commodity Credit Corporation; and
- (3) donations.

Small businesses shall be provided adequate and fair opportunity to participate in such sales.

(e) World prices**(1) In general**

In carrying out this chapter, reasonable precautions shall be taken to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

(2) Sale price

Sales of agricultural commodities described in paragraph (1) shall be made at a reasonable market price in the economy where the agricultural commodity is to be sold, as determined by the Secretary or the Administrator, as appropriate.

(f) Publicity

Commitments shall be obtained from countries or private entities, as appropriate, receiving commodities under this chapter that such countries or private entities will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

(g) Participation of private sector

The Secretary or the Administrator, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this chapter.

(h) Safeguard usual marketings

In carrying out this chapter, reasonable precautions shall be taken to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made.

(i) Military distribution of food aid**(1) In general**

The Secretary or the Administrator, as appropriate, shall attempt to ensure that agricultural commodities made available under this chapter will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

(2) Prohibition on handling of commodities by the military**(A) In general**

Except as provided in subparagraph (B), the Secretary or the Administrator, as appropriate, shall not enter into an agreement under this chapter to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military