

(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

(3) otherwise promote the export of United States agricultural commodities.

The reference in paragraphs (1) and (2) to “on a long-term basis” shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.

(d) Use of program

(1) General uses

The Commodity Credit Corporation may use export sales financing authorized under this section—

(A) to increase exports of agricultural commodities;

(B) to compete against foreign agricultural exports;

(C) to assist countries in meeting their food and fiber needs, particularly—

(i) developing countries; and

(ii) countries that are emerging markets that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(D) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

(2) General restrictions

Export sales financing authorized under this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales financed under this section.

(e) Terms of credit assistance

Any contract for the financing of exports by the Commodity Credit Corporation under this section shall include—

(1) a requirement that repayment shall be made in dollars with interest accruing thereon as determined appropriate by the Secretary; and

(2) a requirement, if the Secretary determines such requirement appropriate to protect the interests of the United States, that an initial payment be made by the purchaser at the time of sale or shipment of the agricultural commodity that is subject to the contract.

(f) Restrictions

The Commodity Credit Corporation may not make export sales financing authorized under this section available in connection with sales of an agricultural commodity to any country that the Secretary determines cannot adequately service the debt associated with such sale.

(Pub. L. 95-501, title II, §201, as added Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3672; amended Pub. L. 102-511, title VII, §707(a)-(c), Oct. 24, 1992, 106 Stat. 3350, 3351; Pub. L. 104-127, title II, §277(c)(2), Apr. 4, 1996, 110 Stat. 979.)

Editorial Notes

PRIOR PROVISIONS

A prior section 201 of Pub. L. 95-501 enacted section 1707b of this title prior to the complete revision of Pub. L. 95-501 by Pub. L. 101-624.

AMENDMENTS

1996—Subsec. (d)(1)(C)(ii). Pub. L. 104-127 substituted “emerging markets” for “emerging democracies”.

1992—Subsec. (c). Pub. L. 102-511, §707(a), inserted sentence at end.

Subsec. (d)(1)(C). Pub. L. 102-511, §707(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “to assist countries, particularly developing countries, in meeting their food and fiber needs; and”.

Subsec. (f). Pub. L. 102-511, §707(c), added subsec. (f).

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 102-511, title VII, §707(d), Oct. 24, 1992, 106 Stat. 3351, required Secretary of Agriculture to issue final regulations to implement this section not later than 30 days after Oct. 24, 1992, prior to repeal by Pub. L. 104-127, title II, §276, Apr. 4, 1996, 110 Stat. 977.

§ 5622. Export credit guarantee program

(a) Short-term credit guarantees

The Commodity Credit Corporation may guarantee the repayment of credit made available to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products, from privately owned stocks on credit terms that do not exceed a 24-month period.

(b) Purpose of program

The Commodity Credit Corporation may use export credit guarantees authorized under this section—

(1) to increase exports of agricultural commodities;

(2) to compete against foreign agricultural exports;

(3) to assist countries in meeting their food and fiber needs, particularly—

(A) developing countries; and

(B) countries that are emerging markets that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(4) for such other purposes as the Secretary determines appropriate.

(c) Restrictions on use of credit guarantees

Export credit guarantees authorized by this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales with respect to which credit is guaranteed under this section.

(d) Restrictions

The Commodity Credit Corporation shall not make credit guarantees available in connection with sales of agricultural commodities to any obligor that the Secretary determines cannot

adequately service the debt associated with such sale.

(e) Terms

Export credit guarantees issued pursuant to this section shall contain such terms and conditions as the Commodity Credit Corporation determines to be necessary.

(f) United States agricultural commodities

The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.

(g) Ineligibility of financial institutions

(1) In general

A financial institution shall be ineligible to receive an assignment of a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that such financial institution—

(A) is the financial institution issuing the letter of credit or a subsidiary of such institution; or

(B) is owned or controlled by an entity that owns or controls that financial institution issuing the letter of credit.

(2) Third country banks

The Commodity Credit Corporation may guarantee under subsection (a) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined.

(h) Conditions for fish and processed fish products

In making available any guarantees of credit under this section in connection with sales of fish and processed fish products, the Secretary shall make such guarantees available under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to sales of other agricultural commodities under this section.

(i) Consultation on agricultural export credit programs

The Secretary and the United States Trade Representative shall consult on a regular basis with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of multilateral negotiations regarding agricultural export credit programs.

(j) Administration

(1) Definition of long term

In this subsection, the term “long term” means a period of 10 or more years.

(2) Guarantees

In administering the export credit guarantees authorized under this section, the Secretary shall—

(A) develop an approach to risk evaluation that facilitates accurate country risk designations and timely adjustments to the designations (on an ongoing basis) in response to material changes in country risk condi-

tions, with ongoing opportunity for input and evaluation from the private sector;

(B) adjust risk-based guarantees as necessary to ensure program effectiveness and United States competitiveness;

(C) work with industry to ensure, to the maximum extent practicable, that risk-based fees associated with the guarantees cover the operating costs and losses over the long term; and

(D) notwithstanding any other provision of this section, administer and carry out (only after consulting with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate) the program pursuant to such terms as may be agreed between the parties to address the World Trade Organization dispute WTO/DS267 to the extent not superseded by any applicable international undertakings on officially supported export credits to which the United States is a party.

(Pub. L. 95-501, title II, §202, as added Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3673; amended Pub. L. 102-237, title III, §334, Dec. 13, 1991, 105 Stat. 1859; Pub. L. 102-511, title VII, §§708, 709(a), Oct. 24, 1992, 106 Stat. 3351; Pub. L. 104-127, title II, §§243(a), 277(c)(3), Apr. 4, 1996, 110 Stat. 965, 979; Pub. L. 107-171, title III, §3102(a)-(c), May 13, 2002, 116 Stat. 289; Pub. L. 110-246, title III, §3101(a), (c), June 18, 2008, 122 Stat. 1831, 1832; Pub. L. 113-79, title III, §3101(a), Feb. 7, 2014, 128 Stat. 778.)

Editorial Notes

PRIOR PROVISIONS

A prior section 202 of Pub. L. 95-501 enacted section 1707c of this title prior to the complete revision of Pub. L. 95-501 by Pub. L. 101-624.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-79, §3101(a)(1), substituted “24-month” for “3-year”.

Subsec. (d). Pub. L. 113-79, §3101(a)(2), substituted “obligor” for “country”.

Subsecs. (i), (j). Pub. L. 113-79, §3101(a)(3), (4), redesignated subsecs. (j) and (k) as (i) and (j), respectively, and struck out former subsec. (i) which related to percentages of export credit guarantees issued to promote export of processed or high-value agricultural products in fiscal years 1996 through 2007.

Subsec. (j)(2)(A), (B). Pub. L. 113-79, §3101(a)(5)(A), (B), redesignated subpars. (C) and (D) as (A) and (B), respectively, and struck out former subpars. (A) and (B) which read as follows:

“(A) maximize the export sales of agricultural commodities;

“(B) maximize the export credit guarantees that are made available and used during the course of a fiscal year;”.

Subsec. (j)(2)(C). Pub. L. 113-79, §3101(a)(5)(B), (D)(i), redesignated subpar. (E) as (C) and struck out “, but do not exceed,” after “cover”. Former subpar. (C) redesignated (A).

Subsec. (j)(2)(D). Pub. L. 113-79, §3101(a)(5)(C), (D)(ii), (E), added subpar. (D). Former subpar. (D) redesignated (B).

Subsec. (j)(2)(E). Pub. L. 113-79, §3101(a)(5)(B), redesignated subpar. (E) as (C).

Subsec. (k). Pub. L. 113-79, §3101(a)(4), redesignated subsec. (k) as (j).

2008—Subsec. (a). Pub. L. 110-246, §3101(a)(1), struck out par. (1) designation and heading before “The Com-

modity” and struck out pars. (2) and (3) which related to supplier credits and extended supplier credits, respectively.

Subsec. (b). Pub. L. 110-246, §3101(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “Subject to the provisions of subsection (c) of this section, the Commodity Credit Corporation may guarantee the repayment of credit made available by financial institutions in the United States to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products, from privately owned stocks on credit terms that are for not less than a 3-year period nor for more than a 10-year period in a manner that will directly benefit United States agricultural producers.”

Subsec. (b)(4). Pub. L. 110-246, §3101(c)(1), struck out “, consistent with the provisions of subsection (c) of this section” after “appropriate”.

Subsec. (c). Pub. L. 110-246, §3101(a)(2), (3), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to requirements for guarantees under former subsec. (b).

Subsec. (d). Pub. L. 110-246, §3101(c)(2), struck out par. (1) designation and heading before “The Commodity” and struck out par. (2) which related to criteria for the determination required under this subsec. with respect to credit guarantees under former subsec. (b).

Pub. L. 110-246, §3101(a)(3), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (b).

Subsecs. (e) to (g). Pub. L. 110-246, §3101(a)(3), redesignated subsecs. (g) to (i) as (e) to (g), respectively. Former subsecs. (e) and (f) redesignated (c) and (d), respectively.

Subsec. (g)(2). Pub. L. 110-246, §3101(c)(3), substituted “subsection (a)” for “subsections (a) and (b)”.

Subsecs. (h) to (l). Pub. L. 110-246, §3101(a)(3), (4), redesignated subsecs. (j) to (l) as (h) to (j), respectively, and added subsec. (k). Former subsecs. (h) and (i) redesignated (f) and (g), respectively.

2002—Subsec. (a)(3). Pub. L. 107-171, §3102(a), added par. (3).

Subsec. (k)(1). Pub. L. 107-171, §3102(b), substituted “through 2007” for “, 2001, and 2002”.

Subsec. (l). Pub. L. 107-171, §3102(c), added subsec. (l). 1996—Subsec. (a). Pub. L. 104-127, §243(a)(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (d)(3)(B). Pub. L. 104-127, §277(c)(3), substituted “emerging markets” for “emerging democracies”.

Subsec. (f). Pub. L. 104-127, §243(a)(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (h). Pub. L. 104-127, §243(a)(3), added subsec. (h) and struck out heading and text of former subsec. (h). Text read as follows: “The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities. The Commodity Credit Corporation shall not finance or guarantee under this section the value of any foreign agricultural component.”

Subsec. (i). Pub. L. 104-127, §243(a)(4), designated existing provisions as par. (1), inserted heading, struck out former par. (1) which read as follows: “is not in a sound financial condition;”, redesignated pars. (2) and (3) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (k). Pub. L. 104-127, §243(a)(5), added subsec. (k) and struck out heading and text of former subsec. (k). Text read as follows:

“(1) IN GENERAL.—In issuing export credit guarantees under this section in connection with sales to the independent states of the former Soviet Union, the Commodity Credit Corporation shall, to the extent practicable and subject to paragraph (2), ensure that no less than 35 percent of the total amount of credit guarantees issued for a fiscal year are issued to promote the export of processed and high-value agricultural products and that the balance are issued to promote the export of bulk or raw agricultural commodities.

“(2) LIMITATION.—The 35 percent requirement of paragraph (1) shall apply for a fiscal year only to the extent that the percentage of the total amount of credit guarantees issued for that fiscal year under this section to promote the export to all countries of processed and high-value agricultural products is less than 25 percent.”

1992—Subsecs. (a), (b). Pub. L. 102-511, §709(a)(1), inserted “, including processed agricultural products and high-value agricultural products,” after “agricultural commodities”.

Subsec. (c). Pub. L. 102-511, §708(a), inserted sentence at end.

Subsec. (d)(3). Pub. L. 102-511, §708(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “to assist countries, particularly developing countries, in meeting their food and fiber needs; and”.

Subsec. (k). Pub. L. 102-511, §709(a)(2), added subsec. (k).

1991—Subsec. (i). Pub. L. 102-237 substituted “issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that” for “or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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.

REGULATIONS

Pub. L. 104-127, title II, §243(d), Apr. 4, 1996, 110 Stat. 967, provided that: “Not later than 180 days after the date of enactment of this Act [Apr. 4, 1996], the Secretary of Agriculture shall issue regulations to carry out the amendments made by this section [amending this section and sections 5602 and 5641 of this title].”

PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS

Pub. L. 101-624, title XV, §1542, Nov. 28, 1990, 104 Stat. 3691, as amended by Pub. L. 102-237, title III, §338, Dec. 13, 1991, 105 Stat. 1859; Pub. L. 102-511, title VII, §706, Oct. 24, 1992, 106 Stat. 3350; Pub. L. 103-182, title III, §321(g), Dec. 8, 1993, 107 Stat. 2112; Pub. L. 104-127, title II, §§277(a), 278, Apr. 4, 1996, 110 Stat. 977, 979; Pub. L. 107-171, title III, §3203, May 13, 2002, 116 Stat. 300; Pub. L. 110-246, title III, §3204, June 18, 2008, 122 Stat. 1837; Pub. L. 113-79, title III, §3203, Feb. 7, 2014, 128 Stat. 779; Pub. L. 113-188, title I, §101(b), Nov. 26, 2014, 128 Stat. 2017; Pub. L. 115-334, title III, §§3201(b)(3)(A), 3304, Dec. 20, 2018, 132 Stat. 4616, 4619, provided that:

“(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2023 not less than \$1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.

“(b) FACILITIES AND SERVICES.—

“(1) IN GENERAL.—A portion of such export credit guarantees shall be made available for—

“(A) the establishment or improvement of facilities, or

“(B) the provision of services or United States produced goods,

in emerging markets by United States persons to improve handling, marketing, processing, storage, or dis-

tribution of imported agricultural commodities and products thereof if the Secretary of Agriculture determines that such guarantees will primarily promote the export of United States agricultural commodities (as defined in section 102(7) of the Agricultural Trade Act of 1978 [7 U.S.C. 5602(7)]).

“(2) PRIORITY.—The Commodity Credit Corporation shall give priority under this subsection to—

“(A) projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

“(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs.

“(3) CONSTRUCTION WAIVER.—The Secretary may waive any applicable requirements relating to the use of United States goods in the construction of a proposed facility, if the Secretary determines that—

“(A) goods from the United States are not available; or

“(B) the use of goods from the United States is not practicable.

“(4) TERM OF GUARANTEE.—A facility payment guarantee under this subsection shall be for a term that is not more than the lesser of—

“(A) the term of the depreciation schedule of the facility assisted; or

“(B) 20 years.

“(c) CONSULTATIONS.—Before the authority under this section is exercised, the Secretary of Agriculture shall consult with exporters of United States agricultural commodities (as defined in section 102(7) of the Agricultural Trade Act of 1978 [7 U.S.C. 5602(7)]), nongovernmental experts, and other Federal Government agencies in order to ensure that facilities in an emerging market for which financing is guaranteed under paragraph (1)(B) do not primarily benefit countries which are in close geographic proximity to that emerging market.

“(d) FOREIGN DEBT BURDENS.—In carrying out the program described in subsection (a), the Secretary of Agriculture shall ensure that the credits for which repayment is guaranteed under subsection (a) do not negatively affect the political and economic situation in emerging markets by excessively adding to the foreign debt burdens of such countries.

“(e) EMERGING MARKET.—In this section and section 1543 [7 U.S.C. 3293], the term ‘emerging market’ means any country, foreign territory, customs union, or other economic market that the Secretary determines—

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

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

Executive Documents

PRESIDENTIAL DETERMINATION OF EMERGING DEMOCRACIES

Determination of President of the United States, No. 95-35, Aug. 10, 1995, 60 F.R. 44723, provided:

Pursuant to the authority vested in me by section 1542(f) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended (7 U.S.C. 5622 note) (hereinafter “the Act”), I hereby determine that the following countries are taking the steps set forth in section 1542(f) of the Act to qualify as emerging democracies for purposes of that section:

Albania, Bangladesh, Belarus, Bosnia and Herzegovina, Bulgaria, Cambodia, Croatia, Czech Republic, Egypt, El Salvador, Estonia, the Former Yugoslav Republic of Macedonia, Ghana, Guatemala, Hungary, Jordan, Kazakhstan, Latvia, Lithuania, Morocco, Namibia, Nicaragua, Pakistan, Panama, the Philippines, Poland, Romania, Russia, Slovak Republic, Slovenia, South Africa, Tanzania, Tunisia, Ukraine, Yemen, and Zimbabwe.

In making this determination, I have considered the eligibility only of those countries for which programs are underway or currently contemplated by the Department of Agriculture.

The Secretary of State is authorized and directed to publish this determination in the Federal Register.

WILLIAM J. CLINTON.

§ 5623. Agricultural trade promotion and facilitation

(a) Establishment

The Secretary shall carry out activities under this section—

(1) to access, develop, maintain, and expand markets for United States agricultural commodities; and

(2) to promote cooperation and the exchange of information.

(b) Market Access Program

(1) Definition of eligible trade organization

In this subsection, the term “eligible trade organization” means—

(A) a United States agricultural trade organization or regional State-related organization that promotes the export and sale of United States agricultural commodities and that does not stand to profit directly from specific sales of United States agricultural commodities;

(B) a cooperative organization or State agency that promotes the sale of United States agricultural commodities; or

(C) a private organization that promotes the export and sale of United States agricultural commodities if the Secretary determines that such organization would significantly contribute to United States export market development.

(2) In general

The Commodity Credit Corporation shall establish and carry out a program, to be known as the “Market Access Program”, to encourage the development, maintenance, and expansion of commercial export markets for United States agricultural commodities (including commodities that are organically produced (as defined in section 6502 of this title)) through cost-share assistance to eligible trade organizations that implement a foreign market development program.

(3) Participation requirements

(A) Marketing plan and other requirements

To be eligible for cost-share assistance under this subsection, an eligible trade organization shall—

(i) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such a marketing plan specified in this paragraph or otherwise established by the Secretary;

(ii) meet any other requirements established by the Secretary; and

(iii) enter into an agreement with the Secretary.

(B) Purpose of marketing plan

A marketing plan submitted under this paragraph shall describe the advertising or other market oriented export promotion ac-