

AGRICULTURAL TRADE ACT OF 1978

[As Amended Through P.L. 113–188, Enacted November 26, 2014]

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SECTION 1. [7 U.S.C. 5601 note] SHORT TITLE.

This Act may be cited as the “Agricultural Trade Act of 1978”.

TITLE I—GENERAL PROVISIONS

SEC. 101. [7 U.S.C. 5601] PURPOSE.

It is the purpose of this Act to increase the profitability of farming and to increase opportunities for United States farms and agricultural enterprises by—

- (1) increasing the effectiveness of the Department of Agriculture in agricultural export policy formulation and implementation;
- (2) improving the competitiveness of United States agricultural commodities and products in the world market; and
- (3) providing for the coordination and efficient implementation of all agricultural export programs.

SEC. 102. [7 U.S.C. 5602] DEFINITIONS.

As used in this Act—

(1) **AGRICULTURAL COMMODITY.**—The term “agricultural commodity” means any agricultural commodity, food, feed, fiber, or livestock (including livestock as it is defined in section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) and insects) and any product thereof.

(2) **DEVELOPING COUNTRY.**—The term “developing country” means a country that—

(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

(B) has the potential to become a commercial market for agricultural commodities.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(4) **SERVICE.**—The term “Service” means the Foreign Agricultural Service of the Department of Agriculture.

(5) **UNFAIR TRADE PRACTICE.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the term “unfair trade practice” means any act, policy, or practice of a foreign country that—

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party;

(ii) in the case of a monopolistic state trading enterprise engaged in the export sale of an agricultural

commodity, implements a pricing practice that is inconsistent with sound commercial practice;

(iii) provides a subsidy that—

(I) decreases market opportunities for United States exports; or

(II) unfairly distorts an agricultural market to the detriment of United States exporters;

(iv) imposes an unfair technical barrier to trade, including—

(I) a trade restriction or commercial requirement (such as a labeling requirement) that adversely affects a new technology (including biotechnology); and

(II) an unjustified sanitary or phytosanitary restriction (including any restriction that, in violation of the Uruguay Round Agreements, is not based on scientific principles;

(v) imposes a rule that unfairly restricts imports of United States agricultural commodities in the administration of tariff rate quotas; or

(vi) fails to adhere to, or circumvents any obligation under, any provision of a trade agreement with the United States.

(B) CONSISTENCY WITH 1974 TRADE ACT.—Nothing in this Act may be construed to authorize the Secretary to make any determination regarding an unfair trade practice that is inconsistent with section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

(6) UNITED STATES.—The term “United States” includes each of the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(7) UNITED STATES AGRICULTURAL COMMODITY.—The term “United States agricultural commodity” means—

(A) an agricultural commodity or product entirely produced in the United States; or

(B) a product of an agricultural commodity—

(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

(ii) that the Secretary determines to be a high value agricultural product.

For purposes of this paragraph, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

(8) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The term “independent states of the former Soviet Union” means the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

SEC. 103. [7 U.S.C. 5603] AGRICULTURAL EXPORT PROMOTION STRATEGY.

(a) **IN GENERAL.**—The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

- (1) the North American Free Trade Agreement and the Uruguay Round Agreements;
- (2) any accession to membership in the World Trade Organization;
- (3) the continued economic growth in the Pacific Rim; and
- (4) other developments.

(b) **PURPOSE OF STRATEGY.**—The strategy developed under subsection (a) shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

(c) **GOALS OF STRATEGY.**—The strategy developed under subsection (a) shall have the following goals:

- (1) Increase the value of United States agricultural exports each year.
- (2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.
- (3) Increase the value of United States high-value and value-added agricultural exports each year.
- (4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.
- (5) Ensure that to the extent practicable—
 - (A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or
 - (B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

(d) **PRIORITY MARKETS.**—

(1) **IDENTIFICATION OF MARKETS.**—In developing the strategy required under subsection (a), the Secretary shall annually identify as priority markets—

- (A) those markets in which imports of agricultural products show the greatest potential for increase; and
- (B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

(2) **IDENTIFICATION OF SUPPORTING OFFICES.**—The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31, United States Code, each overseas office of the Foreign Agricultural

Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).

SEC. 104. [7 U.S.C. 5604] PRESERVATION OF TRADITIONAL MARKETS.

The Secretary shall, in implementing programs of the Department of Agriculture intended to encourage or assist exports of agricultural commodities, seek to preserve traditional markets for United States agricultural commodities.

SEC. 105. [7 U.S.C. 5605] INDEPENDENCE OF AUTHORITIES.

Each authority granted under this Act shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 106. [7 U.S.C. 5606] IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

(1) submit the evaluation to the United States Trade Representative; and

(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.

SEC. 107. [7 U.S.C. 5607] EXPORTER ASSISTANCE INITIATIVE.

To provide a comprehensive source of information to facilitate exports of United States agricultural commodities, the Secretary shall maintain on a website on the Internet information to assist exporters and potential exporters of United States agricultural commodities.

TITLE II—AGRICULTURAL EXPORT PROGRAMS

Subtitle A—Programs

SEC. 201. [7 U.S.C. 5621] DIRECT CREDIT SALES PROGRAM.

(a) **SHORT-TERM PROGRAM.**—To promote the sale of agricultural commodities, the Commodity Credit Corporation may finance the commercial export sale of such commodities from privately owned stocks on credit terms for not to exceed a 3-year period.

(b) **INTERMEDIATE-TERM PROGRAM.**—Subject to subsection (c), to promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sales of agricultural commodities from privately owned stocks on credit terms for a period of not less than 3 years nor in excess of 10 years in

a manner that will directly benefit United States agricultural producers.

(c) DETERMINATIONS.—The Commodity Credit Corporation shall not finance an export sale under subsection (b) unless the Secretary determines that such sale will—

(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

(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

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 coun-

try that the Secretary determines cannot adequately service the debt associated with such sale.

SEC. 202. [7 U.S.C. 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 conditions, 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.

SEC. 203. [7 U.S.C. 5623] MARKET ACCESS PROGRAM.

(a) **IN GENERAL.**—The Commodity Credit Corporation shall establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for agricultural commodities (including commodities that are organically produced (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502))) through cost-share assistance to eligible trade organizations that implement a foreign market development program.

(b) TYPE OF ASSISTANCE.—Assistance under this section may be provided in the form of funds of, or commodities owned by, the Commodity Credit Corporation, as determined appropriate by the Secretary.

(c) REQUIREMENTS FOR PARTICIPATION.—To be eligible for cost-share assistance under this section, an organization shall—

- (1) be an eligible trade organization;
- (2) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such plans established by the Secretary; and
- (3) meet any other requirements established by the Secretary.

(d) ELIGIBLE TRADE ORGANIZATIONS.—An eligible trade organization shall be—

- (1) a United States agricultural trade organization or regional State-related organization that promotes the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities;
- (2) a cooperative organization or State agency that promotes the sale of agricultural commodities; or
- (3) a private organization that promotes the export and sale of agricultural commodities if the Secretary determines that such organization would significantly contribute to United States export market development.

(e) APPROVED MARKETING PLAN.—

(1) IN GENERAL.—A marketing plan submitted by an eligible trade organization under this section shall describe the advertising or other market oriented export promotion activities to be carried out by the eligible trade organization with respect to which assistance under this section is being requested.

(2) REQUIREMENTS.—To be approved by the Secretary, a marketing plan submitted under this subsection shall—

(A) specifically describe the manner in which assistance received by the eligible trade organization in conjunction with funds and services provided by the eligible trade organization will be expended in implementing the marketing plan;

(B) establish specific market goals to be achieved as a result of the market access program; and

(C) contain whatever additional requirements are determined by the Secretary to be necessary.

(3) AMENDMENTS.—A marketing plan may be amended by the eligible trade organization at any time, with the approval of the Secretary.

(4) BRANDED PROMOTION.—An agreement entered into under this section may provide for the use of branded advertising to promote the sale of agricultural commodities in a foreign country under such terms and conditions as may be established by the Secretary.

(f) OTHER TERMS AND CONDITIONS.—

(1) MULTI-YEAR BASIS.—The Secretary may provide assistance under this section on a multi-year basis, subject to annual review by the Secretary for compliance with the approved marketing plan.

(2) **TERMINATION OF ASSISTANCE.**—The Secretary may terminate any assistance made, or to be made, available under this section if the Secretary determines that—

(A) the eligible trade organization is not adhering to the terms and conditions of the program established under this section;

(B) the eligible trade organization is not implementing the approved marketing plan or is not adequately meeting the established goals of the market access program;

(C) the eligible trade organization is not adequately contributing its own resources to the market access program; or

(D) the Secretary determines that termination of assistance in a particular instance is in the best interests of the program.

(3) **EVALUATIONS.**—The Secretary shall monitor the expenditure of funds received under this section by recipients of such funds. The Secretary shall make evaluations of such expenditure, including—

(A) an evaluation of the effectiveness of the program in developing or maintaining markets for United States agricultural commodities;

(B) an evaluation of whether assistance provided under this section is necessary to maintain such markets; and

(C) a thorough accounting of the expenditure of such funds by the recipient.

The Secretary shall make an initial evaluation of expenditures of a recipient not later than 15 months after the initial provision of funds to the recipient.

(4) **USE OF FUNDS.**—Funds made available to carry out this section—

(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

(i) a cooperative;

(ii) an association described in the first section of the Act entitled “An Act To authorize association of producers of agricultural products”, approved February 18, 1922 (7 U.S.C. 291); and

(iii) a nonprofit trade association; and

(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.

(g) **LEVEL OF MARKETING ASSISTANCE.**—

(1) **IN GENERAL.**—The Secretary shall justify in writing the level of assistance provided to an eligible trade organization

under the program under this section and the level of cost-sharing required of such organization.

(2) **LIMITATION.**—Assistance provided under this section for activities described in subsection (e)(4) shall not exceed 50 percent of the cost of implementing the marketing plan, except that the Secretary may determine not to apply such limitation in the case of agricultural commodities with respect to which there has been a favorable decision by the United States Trade Representative under section 301 of the Trade Act of 1974. Criteria for determining that the limitation shall not apply shall be consistent and documented.

(3) **STAGED REDUCTION IN ASSISTANCE.**—In the case of participants that received assistance under section 1124 of the Food Security Act of 1985 prior to November 28, 1990, and with respect to which assistance under this section would be limited under paragraph (2), any such reduction in assistance shall be phased down in equal increments over a 5-year period.

SEC. 204. [7 U.S.C. 5624] BARTER OF AGRICULTURAL COMMODITIES.

(a) **IN GENERAL.**—The Secretary or the Commodity Credit Corporation may provide eligible commodities in barter for foreign products under such terms and conditions as the Secretary or the Corporation shall prescribe.

(b) **ELIGIBLE COMMODITIES.**—Unless otherwise specified, eligible commodities shall include—

(1) agricultural commodities acquired by the Commodity Credit Corporation through price support operations; and

(2) agricultural commodities acquired by the Secretary or the Commodity Credit Corporation in the normal course of business and available for disposition.

(c) **BARTER BY EXPORTERS OF AGRICULTURAL COMMODITIES.**—

(1) **PURPOSE.**—The Secretary or the Commodity Credit Corporation shall encourage exporters of agricultural commodities to barter such commodities for foreign products—

(A) to acquire such foreign products needed by such exporters; and

(B) to develop, maintain, or expand foreign markets for United States agricultural exports.

(2) **ELIGIBLE ACTIVITIES.**—The Secretary or the Commodity Credit Corporation may provide eligible commodities to exporters to assist such exporters in barter transactions.

(3) **TECHNICAL ASSISTANCE.**—The Secretary or the Commodity Credit Corporation shall provide technical advice and assistance relating to the barter of agricultural commodities to any United States exporter who requests such advice or assistance.

(d) **TRANSFER OF FOREIGN PRODUCTS TO OTHER GOVERNMENT AGENCIES.**—The Secretary or the Commodity Credit Corporation may transfer any foreign products that the Secretary or such Corporation obtains through barter activities to other Government agencies if the Corporation receives assurances that it will receive full reimbursement from the agency within the same fiscal year in which such transfer occurs.

(e) CORPORATION AUTHORITY NOT LIMITED.—Nothing contained in this section shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such foreign materials as such Corporation determines appropriate in carrying out the functions and protecting the assets of the Corporation.

(f) PROHIBITED ACTIVITIES.—The Secretary or the Commodity Credit Corporation shall take reasonable precautions to prevent the misuse of eligible commodities in a barter or exchange program, including activities that—

(1) displace or interfere with commercial sales of United States agricultural commodities that otherwise might be made;

(2) unduly disrupt world prices of agricultural commodities or the normal patterns of commercial trade with recipient countries; or

(3) permit the resale or transshipment of eligible commodities to countries other than the intended recipient country.

SEC. 205. [7 U.S.C. 5625] COMBINATION OF PROGRAMS.

The Commodity Credit Corporation may carry out a program under which commercial export credit guarantees available under section 202 are combined with direct credits from the Commodity Credit Corporation under section 201 to reduce the effective rate of interest on export sales of agricultural commodities.

Subtitle B—Implementation

SEC. 211. [7 U.S.C. 5641] FUNDING LEVELS.

(a) DIRECT CREDIT PROGRAMS.—The Commodity Credit Corporation may make available for each fiscal year such funds of the Commodity Credit Corporation as it determines necessary to carry out any direct credit program established under section 201.

(b) EXPORT CREDIT GUARANTEE PROGRAM.—The Commodity Credit Corporation shall make available for each fiscal year \$5,500,000,000 of credit guarantees under section 202(a).

(c) MARKET ACCESS PROGRAMS.—

(1) IN GENERAL.—The Commodity Credit Corporation or the Secretary shall make available for market access activities authorized to be carried out by the Commodity Credit Corporation under section 203—

(A) in addition to any funds that may be specifically appropriated to implement a market access program, not more than \$90,000,000 for fiscal year 2001, \$100,000,000 for fiscal year 2002, \$110,000,000 for fiscal year 2003, \$125,000,000 for fiscal year 2004, \$140,000,000 for fiscal year 2005, and \$200,000,000 for each of fiscal years 2008 through 2018, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and

(B) any funds that may be specifically appropriated to carry out a market access program under section 203.

(2) PROGRAM PRIORITIES.—In providing any amount of funds made available under paragraph (1)(A) for any fiscal year that is in excess of the amount made available under

paragraph (1)(A) for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

(A) give equal consideration to—

(i) proposals submitted by organizations that were participating organizations in prior fiscal years; and

(ii) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

(B) give equal consideration to—

(i) proposals submitted for activities in emerging markets; and

(ii) proposals submitted for activities in markets other than emerging markets.

TITLE III—BARRIERS TO EXPORTS

SEC. 301. [7 U.S.C. 5652] RELIEF FROM UNFAIR TRADE PRACTICES.

(a) USE OF PROGRAMS.—

(1) IN GENERAL.—The Secretary may, for each article described in paragraph (2), make available some or all of the commercial export promotion programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice serving as the basis for the proceeding described in paragraph (2).

(2) COMMODITIES SPECIFIED.—Paragraph (1) shall apply in the case of articles for which the United States has instituted, under any international trade agreement, any dispute settlement proceeding based on an unfair trade practice if such proceeding has been prevented from progressing to a decision by the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress.

(b) CONSULTATIONS REQUIRED.—For any article described in subsection (a)(2), the Secretary shall—

(1) promptly consult with representatives of the industry producing such articles and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy utilizing some or all of the commercial export programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice identified in subsection (a)(2); and

(2) ascertain and take into account the industry preference for the practical use of available commercial export promotion programs in implementing subsection (a)(1).

SEC. 302. [7 U.S.C. 5653] EQUITABLE TREATMENT OF HIGH-VALUE AND VALUE-ADDED UNITED STATES AGRICULTURAL COMMODITIES.

In the case of any program operated by the Secretary or the Commodity Credit Corporation during the fiscal years 1991 through 1995, for the purpose of discouraging unfair trade practices, the Secretary shall establish as an objective to expend annually at least 25 percent of the total funds available (or 25 percent of the value of any commodities employed) for program activities involving the export sales of high-value agricultural commodities

and value-added products of United States agricultural commodities.

TITLE IV—GENERAL PROVISIONS

Subtitle A—Program Controls

SEC. 401. [7 U.S.C. 5661] PROGRAM CONTROLS FOR EXPORT PROGRAMS.

(a) ARRIVAL CERTIFICATION.—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201 or 202, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.

(b) DIVERSION.—The unauthorized diversion of commodities under the programs authorized in sections 201 and 202 is prohibited. The Commodity Credit Corporation shall establish procedures providing for the annual audit of a sufficient number of export transactions under such programs to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

(c) GOOD FAITH.—The failure of an exporter, seller or other person to comply with the provisions of this section shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this Act with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller, or person was assigned the credit guarantee or at the time the Corporation entered into such obligation.

SEC. 402. [7 U.S.C. 5662] COMPLIANCE PROVISIONS.

(a) RECORDS.—

(1) IN GENERAL.—In the administration of the programs established under sections 201, 202, and 203 the Secretary shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records.

(2) CONFIDENTIALITY.—The personally identifiable information contained in reports under subsection (a) may be withheld in accordance with section 552(b)(4) of title 5, United States Code. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18, United States Code, shall be subject to section 1905 of title 18, United States Code. Nothing in this

subsection shall be construed to authorize the withholding of information from Congress.

(b) VIOLATION.—If any exporter, assignee, or other participant has engaged in fraud with respect to the programs authorized under this Act, or has otherwise violated program requirements under this Act, the Commodity Credit Corporation may—

(1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

(2) require a refund of any assistance provided to such exporter, assignee, or participant plus interest, as determined by the Secretary; and

(3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

(c) SUSPENSION AND DEBARMENT.—The Commodity Credit Corporation may suspend or debar for 1 or more years any exporter, assignee, or other participant from participation in one or more of the programs authorized by this Act if the Corporation determines, after opportunity for a hearing, that such exporter, assignee, or other participant has violated the terms and conditions of the program or of this Act and that the violation is of such a nature as to warrant suspension or debarment.

(d) FALSE CERTIFICATIONS.—The provisions of section 1001 of title 18, United States Code, shall apply to any false certifications issued under this Act.

SEC. 403. [7 U.S.C. 5663] DEPARTMENTAL ADMINISTRATION SYSTEM.

(a) IN GENERAL.—With respect to each commercial export promotion program of the Department of Agriculture or the Commodity Credit Corporation, the Secretary shall—

(1) specify by regulation the criteria used to evaluate and approve proposals for that program;

(2) establish a centralized system to permit the Foreign Agricultural Service to provide the history and current status of any proposal;

(3) provide for regular audits of program transactions to determine compliance with program objectives and requirements; and

(4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees.

(b) ACCESSIBILITY OF INFORMATION.—Information pertaining to the status of a particular proposal shall be retrievable within the central system by appropriate categories, as determined appropriate by the Secretary.

[SEC. 404. [7 U.S.C. 5664] REGULATIONS.²]

Subtitle B—Miscellaneous Provisions

SEC. 411. [7 U.S.C. 5671] AGRICULTURAL EMBARGO PROTECTION.

(a) PREREQUISITES; SCOPE OF COMPENSATION.—Notwithstanding any other provision of law, if—

(1) the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) or under any other provision of law;

(2) such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world; and

(3) sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceeds 3 percent of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect;

the Secretary shall compensate producers of the commodity involved by making payments available to such producers, as provided in subsection (b) of this section.

(b) AMOUNT OF PAYMENTS.—If the Secretary makes payments available to producers under subsection (a), the amount of such payment shall be determined—

(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), by multiplying—

(A) the farm program payment yield for the producer or the yield established for the farm for the commodity involved; by

(B) the crop acreage base established for the commodity; by

(C) the amount by which the average market price per unit of such commodity received by producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), by multiplying the amount by which the average market price per unit of such commodity received by the producers during the 60-day period

²Sec. 404 was repealed by sec. 248 of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 969, April 4, 1996.

immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

(c) **TIME FOR PAYMENTS.**—Payments under paragraph (1) of subsection (b) shall be made for each marketing year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at 90-day intervals, beginning 90 days after the date of the imposition of the suspension or restriction.

(d) **COMMODITY CREDIT CORPORATION.**—The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

(e) **REGULATIONS.**—The Secretary may issue such regulations as are determined necessary to carry out this section.

SEC. 412. [7 U.S.C. 5672] DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EMBARGOES.

To alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities of the President or other member of the executive branch of the Federal Government causing the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

(1) develop a comprehensive contingency plan that shall include—

(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in paragraph (1)(B);

(2) for any suspension or restriction for which compensation is not provided under section 411, prepare and submit to the appropriate Committees of Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

(3) for any suspension or restriction for which compensation is provided under section 411, prepare and submit to the appropriate Committees of Congress a plan for implementing and administering section 411; and

(4) require the Commodity Credit Corporation, prior to such Corporation purchasing any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

SEC. 413. [7 U.S.C. 5673] CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) **IN GENERAL.**—The Secretary may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) **NOT EMPLOYEES OF THE UNITED STATES.**—Individuals referred to in subsection (a) shall not be regarded as officers or employees of the United States.

SEC. 414. [7 U.S.C. 5674] TRADE CONSULTATIONS CONCERNING IMPORTS.

(a) **CONSULTATION BETWEEN AGENCIES.**—The Secretary shall require consultation between the Administrator of the Service and the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, prior to relaxing or removing any restriction on the importation of any agricultural commodity into the United States.

(b) **CONSULTATION WITH TRADE REPRESENTATIVE.**—The Secretary shall consult with the United States Trade Representative prior to relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

(c) **MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.**—The Secretary shall monitor the compliance of World Trade Organization member countries with the sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

(B) any notice given by the Secretary to the United States Trade Representative.

SEC. 415. [7 U.S.C. 5675] TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

SEC. 416. [7 U.S.C. 5676] LIMITATION ON USE OF CERTAIN EXPORT PROMOTION PROGRAMS.

(a) **IN GENERAL.**—The Secretary may provide that a person shall be ineligible for participation in an export program established under title I of the Food for Peace Act (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(b) **VEGETABLE OIL.**—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(c) **CERTIFICATION.**—If the Secretary takes action under the authority granted under subsection (a), a person applying to export any agricultural commodity under the export programs referred to in subsection (a) shall certify that none of the commodity has been or will be used as the basis of a claim for any refund specified in subsection (a), except that regardless of whether the Secretary takes action under the authority granted under subsection (a), a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

(d) **REGULATIONS.**—The Secretary shall promulgate regulations to carry out this section.

(e) **APPLICABILITY.**—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to November 28, 1990, for an export sale.

SEC. 417. [7 U.S.C. 5677] TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

(a) **IN GENERAL.**—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a “program”).

(b) **COMPENSATION OR PROVISION OF FUNDS.**—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

(c) **DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.**—

(1) **COMPENSATION.**—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary’s estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

(2) **DETERMINATION OF AMOUNT OF FUNDS.**—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most recent 3 years prior to the suspension for which data are available.

(d) **DURATION OF PROGRAM.**—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

(e) **COMMODITY CREDIT CORPORATION.**—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

(f) **EXCEPTION TO CARRYING OUT A PROGRAM.**—This section shall not apply to any suspension of trade due to a war or armed hostility.

(g) **PARTIAL YEAR EMBARGOES.**—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year (in addition to any funds otherwise required under a program to be made available in the following fiscal year).

(h) **SHORT SUPPLY EMBARGOES.**—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).

TITLE V—FOREIGN AGRICULTURAL SERVICE

[SEC. 501. [7 U.S.C. 5691] UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS.³]

SEC. 502. [7 U.S.C. 5692] ADMINISTRATOR OF THE FOREIGN AGRICULTURAL SERVICE.

(a) **ESTABLISHMENT.**—There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service.

(b) **DUTIES.**—The Administrator of the Foreign Agricultural Service is authorized to exercise such functions and perform such duties related to foreign agriculture, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

(c) **USE OF SERVICE.**—In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attache Service.

SEC. 503. [7 U.S.C. 5693] DUTIES OF FOREIGN AGRICULTURAL SERVICE.

The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

- (1) acquiring information pertaining to agricultural trade;
- (2) carrying out market promotion and development activities;
- (3) providing agricultural technical assistance and training; and
- (4) carrying out the programs authorized under this Act, the Food for Peace Act (7 U.S.C. 1691 et seq.), and other Acts.

³Section 501 was repealed by section 225(e)(1) of the Department of Agriculture Reorganization Act of 1994, P.L. 103-354, 108 Stat. 3214, Oct. 13, 1994.

SEC. 504. [7 U.S.C. 5694] STAFF OF THE FOREIGN AGRICULTURAL SERVICE.

(a) **PERSONNEL OF THE SERVICE.**—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Service shall not be less than 900 staff years each fiscal year.

(b) **RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.**—Notwithstanding any other provision of law, the Secretary of State shall, on the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed twelve.

SEC. 505. [7 U.S.C. 5695] AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated for the Service such sums as may be necessary to carry out the provisions of this title.

TITLE VI—REPORTS

[SEC. 601.⁴ [7 U.S.C. 5711] LONG-TERM AGRICULTURAL TRADE STRATEGY REPORT.]

SEC. 602. [7 U.S.C. 5712] EXPORT REPORTING AND CONTRACT SANCTITY.

(a) **EXPORT SALES REPORTS.**—

(1) **IN GENERAL.**—All exporters of wheat and wheat flour, feed grains, oil seeds, cotton, pork, beef, and products thereof, and other commodities that the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period:

(A) type, class, and quantity of the commodity sought to be exported;

(B) the marketing year of shipment; and

(C) destination, if known.

(2) **CONFIDENTIALITY AND COMPILATION OF REPORTS.**—Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting.

(3) **IMMEDIATE REPORTING.**—All exporters of agricultural commodities produced in the United States shall, upon request of the Secretary, immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as the Secretary may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily.

(4) **MONTHLY REPORTING PERMITTED.**—The Secretary may, with respect to any commodity or type or class thereof during any period in which the Secretary determines that—

⁴Sec. 601 was repealed by sec. 241(c)(1) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 964, April 4, 1996.

(A) there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements,

(B) total supplies of such commodity in the exporting countries are estimated to be in surplus,

(C) anticipated exports will not result in excessive drain on domestic supplies, and

(D) to require the reports to be made will unduly hamper export sales,

provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

(b) FAILURE TO REPORT.—Any person who knowingly fails to make any report required under this section shall be fined not more than \$25,000 or imprisoned for not more than 1 year, or both.

(c) CONTRACT SANCTITY.—Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity under an export sales contract—

(1) that is entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity, and

(2) the terms of which require delivery of the commodity within 270 days after the date of the suspension of trade is imposed,

except that the President may prohibit or curtail the export of any agricultural commodity during a period for which the President has declared a national emergency or for which the Congress has declared war.

TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM

SEC. 701. [7 U.S.C. 5721] DEFINITION OF ELIGIBLE TRADE ORGANIZATION.

In this title, the term “eligible trade organization” means a United States trade organization that—

(1) promotes the export of 1 or more United States agricultural commodities or products; and

(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

SEC. 702. [7 U.S.C. 5722] FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products, with a continued significant emphasis on the importance of the export of value-added United States agricultural products into emerging markets.

(b) ADMINISTRATION.—Funds made available to carry out this title shall be used only to provide—

(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

SEC. 703. [7 U.S.C. 5723] FUNDING.

(a) **IN GENERAL.**—To carry out this title, the Secretary shall use funds of the Commodity Credit Corporation, or commodities of the Commodity Credit Corporation of a comparable value, in the amount of \$34,500,000 for each of fiscal years 2008 through 2018.

(b) **PROGRAM PRIORITIES.**—In providing any amount of funds or commodities made available under subsection (a) for any fiscal year that is in excess of the amount made available under this section for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

(1) give equal consideration to—

(A) proposals submitted by organizations that were participating organizations in prior fiscal years; and

(B) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

(2) give equal consideration to—

(A) proposals submitted for activities in emerging markets; and

(B) proposals submitted for activities in markets other than emerging markets..