

## 2. STATUTES RELATED TO FOOD FOR PEACE ACT

[As Amended Through P.L. 110-246, Effective May 22, 2008]

### a. Food for Progress

#### FOOD SECURITY ACT OF 1985

SEC. 1110. [7 U.S.C. 1736o] (a) This section may be cited as the “Food for Progress Act of 1985”.

(b) DEFINITIONS.—In this section:

(1) COOPERATIVE.—The term “cooperative” has the meaning given the term in section 402 of the Food for Peace Act (7 U.S.C. 1732).

(2) CORPORATION.—The term “Corporation” means the Commodity Credit Corporation.

(3) DEVELOPING COUNTRY.—The term “developing country” has the meaning given the term in section 402 of the Food for Peace Act (7 U.S.C. 1732).

(4) ELIGIBLE COMMODITY.—The term “eligible commodity” means an agricultural commodity, or a product of an agricultural commodity, in inventories of the Corporation or acquired by the President<sup>1110-1</sup> or the Corporation for disposition through commercial purchases under a program authorized under this section.

(5) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) the government of an emerging agricultural country;

(B) an intergovernmental organization;

(C) a private voluntary organization;

(D) a nonprofit agricultural organization or cooperative;

(E) a nongovernmental organization; and

(F) any other private entity.

(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” has the meaning given the term in section 402 of the Food for Peace Act (7 U.S.C. 1732).

(8) PRIVATE VOLUNTARY ORGANIZATION.—The term “private voluntary organization” has the meaning given the term in section 402 of the Food for Peace Act (7 U.S.C. 1732).

(9) PROGRAM.—The term “program” means a food assistance or development initiative proposed by an eligible entity and approved by the President under this section.

(c) PROGRAM.—In order to use the food resources of the United States more effectively in support of developing countries, and countries that are emerging democracies that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President shall enter into agreements with eligible entities to furnish to

<sup>1110-1</sup> So in original. Probably should be “Secretary of Agriculture”.

the countries eligible commodities made available under subsections (e) and (f).

(d) CONSIDERATION FOR AGREEMENTS.—In determining whether to enter into an agreement under this section, the President shall consider whether a potential recipient country is committed to carry out, or is carrying out, policies that promote economic freedom, private, domestic production of eligible commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such eligible commodities. Such policies may provide for, among other things—

(1) access, on the part of farmers in the country, to private, competitive markets for their products;

(2) market pricing of eligible commodities to foster adequate private sector incentives to individual farmers to produce food on a regular basis for the country's domestic needs;

(3) establishment of market-determined foreign exchange rates;

(4) timely availability of production inputs (such as seed, fertilizer, or pesticides) to farmers;

(5) access to technologies appropriate to the level of agricultural development in the country; and

(6) construction of facilities and distribution systems necessary to handle perishable products.

(e) FUNDING OF ELIGIBLE COMMODITIES.—(1) The Corporation shall make available to the President such eligible commodities as the President may request for purposes of furnishing eligible commodities under this section.

(2) Notwithstanding any other provision of law, the Corporation may use funds appropriated to carry out title I of the Food for Peace Act in carrying out this section with respect to eligible commodities made available under that Act, and subsection (g) does not apply to eligible commodities furnished on a grant basis or on credit terms under that title.

(3) The Corporation may finance the sale and exportation of eligible commodities, made available under the Food for Peace Act, which are furnished under this section. Payment for eligible commodities made available under that Act which are purchased on credit terms under this section shall be on the same basis as the terms provided in section 106 of that Act.

(4) In the case of eligible commodities made available under the Food for Peace Act for purposes of this section, section 406 of that Act shall apply to eligible commodities furnished on a grant basis under this section and sections 402, 403(a), 403(c), and 403(i) of that Act shall apply to all eligible commodities furnished under this section.

(5) NO EFFECT ON DOMESTIC PROGRAMS.—The President shall not make an eligible commodity available for disposition under this section in any amount that will reduce the amount of the eligible commodity that is traditionally made available through donations to domestic feeding programs or agencies, as determined by the President.

(f) PROVISION OF ELIGIBLE COMMODITIES TO DEVELOPING COUNTRIES.—(1) The Corporation may provide for—

(A) grants, or

(B) sales on credit terms,

of eligible commodities made available under section 416(b) of the Agricultural Act of 1949 for use in carrying out this section.

(2) In carrying out section 416(b) of the Agricultural Act of 1949, the Corporation may purchase eligible commodities for use under this section if—

(A) the Corporation does not hold stocks of such eligible commodities; or

(B) Corporation stocks are insufficient to satisfy commitments made in agreements entered into under this section and such eligible commodities are needed to fulfill such commitments.

(3) No funds of the Corporation in excess of \$40,000,000 (exclusive of the cost of eligible commodities) may be used for each of fiscal years 1996 through 2012 to carry out this section with respect to eligible commodities made available under section 416(b) of the Agricultural Act of 1949 unless authorized in advance in appropriation Acts.

(4) The cost of eligible commodities made available under section 416(b) of the Agricultural Act of 1949 which are furnished under this section, and the expenses incurred in connection with furnishing such eligible commodities, shall be in addition to the level of assistance programmed under the Food for Peace Act and may not be considered expenditures for international affairs and finance.

(5) **SALE PROCEDURE.**—In making sales of eligible commodities under this section, the Secretary shall follow the sale procedure described in section 403(l) of the Food for Peace Act.

(6) **PROJECT IN MALAWI.**—

(A) **IN GENERAL.**—In carrying out this section during fiscal year 2009, the President shall approve not less than 1 multiyear project for Malawi—

(i) to promote sustainable agriculture; and

(ii) to increase the number of women in leadership positions.

(B) **USE OF ELIGIBLE COMMODITIES.**—Of the eligible commodities used to carry out this section during the period in which the project described in subparagraph (A) is carried out, the President shall carry out the project using eligible commodities with a total value of not less than \$3,000,000 during the course of the project.

(g) **MINIMUM TONNAGE.**—Subject to subsection (f)(3), not less than 400,000 metric tons of eligible commodities may be provided under this section for the program for each of fiscal years 2002 through 2012.

(h) **PROHIBITION ON RESALE OR TRANSSHIPMENT OF ELIGIBLE COMMODITIES.**—An agreement entered into under this section shall prohibit the resale or transshipment of the eligible commodities provided under the agreement to other countries.

(i) **DISPLACEMENT OF UNITED STATES COMMERCIAL SALES.**—In entering into agreements under this section, the President shall take reasonable steps to avoid displacement of any sales of United States commodities that would otherwise be made to such countries.

(j) **MULTICOUNTRY OR MULTIYEAR BASIS.**—

(1) **IN GENERAL.**—In carrying out this section, the President, on request and subject to the availability of eligible com-

modities, is encouraged to approve agreements that provide for eligible commodities to be made available for distribution or sale by the recipient on a multicountry or multiyear basis if the agreements otherwise meet the requirements of this section.

(2) DEADLINE FOR PROGRAM ANNOUNCEMENTS.—Before the beginning of any fiscal year, the President shall, to the maximum extent practicable—

(A) make all determinations concerning program agreements and resource requests for programs under this section; and

(B) announce those determinations.

(3) REPORT.—Not later than December 1 of each fiscal year, the President shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a list of programs, countries, and eligible commodities, and the total amount of funds for transportation and administrative costs, approved to date for the fiscal year under this section.

(k) EFFECTIVE AND TERMINATION DATES.—This section shall be effective during the period beginning October 1, 1985, and ending December 31, 2012.

(1) ADMINISTRATIVE EXPENSES.—(1) To enhance the development of private sector agriculture in countries receiving assistance under this section the President may, in each of the fiscal years 1996 through 2012, use in addition to any amounts or eligible commodities otherwise made available under this section for such activities, not to exceed \$15,000,000 (or, in the case of fiscal year 1999, \$12,000,000) of Corporation funds (or eligible commodities of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs, and to provide technical assistance for monetization programs, to strengthen private sector agriculture in recipient countries.

(2) To carry out this subsection, the President may provide eligible commodities under agreements entered into under this section in a manner that uses the commodity transaction as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such eligible commodities.

(3) The President may use the assistance provided under this subsection and proceeds derived from the sale of eligible commodities under paragraph (2) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the capacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural eligible commodities.

(4) HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary<sup>1110-2</sup> may authorize the use of proceeds to pay the costs incurred by an eligible entity under this section for—

(A)(i) programs targeted at hunger and malnutrition;

or

(ii) development programs involving food security;

(B) transportation, storage, and distribution of eligible commodities provided under this section; and

<sup>1110-2</sup> So in original. Probably should be “President”.

(C) administration, sales, monitoring, and technical assistance.

(m) **PRESIDENTIAL APPROVAL.**—In carrying out this section, the President shall approve, as determined appropriate by the President, agreements with agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives that provide for—

(1) the sale of eligible commodities, including the marketing of these eligible commodities through the private sector; and

(2) the use of the proceeds generated in the humanitarian and development programs of such agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives.

(n) **PROGRAM MANAGEMENT.**—

(1) **IN GENERAL.**—The President shall ensure, to the maximum extent practicable, that each eligible entity participating in 1 or more programs under this section—

(A) uses eligible commodities made available under this section—

(i) in an effective manner;

(ii) in the areas of greatest need; and

(iii) in a manner that promotes the purposes of this section;

(B) in using eligible commodities, assesses and takes into account the needs of recipient countries and the target populations of the recipient countries;

(C) works with recipient countries, and indigenous institutions or groups in recipient countries, to design and carry out mutually acceptable programs authorized under this section; and

(D) monitors and reports on the distribution or sale of eligible commodities provided under this section using methods that, as determined by the President, facilitate accurate and timely reporting.

(2) **REQUIREMENTS.**—

(A) **IN GENERAL.**—Not later than 270 days after the date of enactment of this paragraph, the President shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under this section.

(B) **CONSIDERATIONS.**—In conducting the review, the President shall consider—

(i) revising procedures for submitting proposals;

(ii) developing criteria for program approval that separately address the objectives of the program;

(iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;

(iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;

(v) upgrading information management systems;

(vi) improving commodity and transportation procurement processes; and

(vii) ensuring that evaluation and monitoring methods are sufficient.

(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this paragraph, the President shall consult 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 changes made in regulations and procedures.

(3) REPORTS.—Each eligible entity that enters into an agreement under this section shall submit to the President, at such time as the President may request, a report containing such information as the President may request relating to the use of eligible commodities and funds furnished to the eligible entity under this section.

(o) PRIVATE VOLUNTARY ORGANIZATIONS AND OTHER PRIVATE ENTITIES.—In entering into agreements described in subsection (c), the President (acting through the Secretary)—

(1) shall enter into agreements with eligible entities described in subparagraphs (C) and (F) of subsection (b)(5); and

(2) shall not discriminate against such eligible entities.

## **b. Donations of Processed Grain Food Products**

### **ACT OF AUGUST 19, 1958**

AN ACT Authorizing Commodity Credit Corporation to purchase flour and cornmeal and donating same for certain domestic and foreign purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [7 U.S.C. 1431 note; Public Law 85-683]* That at any time Commodity Credit Corporation has any grain available for donation pursuant to the Food for Progress Act of 1985, section 416 of the Agricultural Act of 1949, as amended, section 210 of the Agricultural Act of 1956, or title II of the Agricultural Trade Development and Assistance Act,<sup>1-1</sup> as amended, the Corporation, in lieu of processing all or any part of such grain into human food products, may purchase such processed food products in quantities not to exceed the equivalent of the respective grain available for donation on the date of such purchase and donate such processed food products pursuant to the Food for Progress Act of 1985, such section 416, and to such section 210, and make such processed food products available pursuant to such title II, and may sell, without regard to the provisions of section 407 of the Agricultural Act of 1949, as amended, a quantity of the grain equivalent to the processed food products so purchased: *Provided*, That no food product purchased pursuant to the authority contained herein shall constitute less than 50 per centum by weight of the grain from which processed (except that this limitation does not apply in the case of the protein byproduct resulting from the production of fuel alcohol from agricultural commodities), or contain any additive other than for normal vitamin enrichment, preservative, and bleaching purposes.

<sup>1-1</sup> Sec. 3001(c) of the Food, Conservation, and Energy Act of 2008, Public Law 102-246, 122 Stat. 1821, provides that “Any reference in any Federal, State, tribal, or local law (including regulations) to the ‘Agricultural Trade Development and Assistance Act of 1954’ shall be considered to be a reference to the ‘Food for Peace Act’.”

**c. Special Assistant for Agricultural Trade and Food Assistance**

**FOOD SECURITY ACT OF 1985**

SEC. 1113. [7 U.S.C. 1736-1] (a) The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Assistance (hereinafter in this section referred to as the "Special Assistant"). The President shall appoint the initial Special Assistant not later than May 1, 1986.

(b) The Special Assistant shall serve in the Executive Office of the President.

(c) The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production; and

(B) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

(d) Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.

**d. Cooperator Market Development Program**

**FOOD SECURITY ACT OF 1985**

SEC. 1126. [7 U.S.C. 1736u] (a) It is the sense of Congress that the cooperator market development program of the Foreign Agricul-

tural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable.

(b) The cooperator market development program shall be exempt from the requirements of Circular A 110 issued by the Office of Management and Budget.

## OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

### PART 2—FOREIGN AGRICULTURAL SERVICE

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#### SEC. 4214. [7 U.S.C. 5234] COOPERATOR ORGANIZATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

(b) COMMODITIES FOR COOPERATOR ORGANIZATIONS.—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) RELATION TO FUNDS.—Commodities made available to cooperator organizations under this section shall be in addition to, and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) CONFLICTS OF INTEREST.—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) EVALUATION.—It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

### e. Minimum Level of Food Assistance

## OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

#### SEC. 4310. [7 U.S.C. 1691 note] MINIMUM LEVEL OF FOOD ASSISTANCE.

(a) ANNUAL MINIMUM.—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Food for Peace Act (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.



(b) DEFINITION.—For purposes of this section, the term “foreign economic assistance” includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Food for Peace Act (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.

### **f. Bill Emerson Humanitarian Trust**

#### **BILL EMERSON HUMANITARIAN TRUST ACT**

## **TITLE III—BILL EMERSON HUMANITARIAN TRUST**

### **SEC. 301. [7 U.S.C. 1736f-1 note] SHORT TITLE.**

This title may be cited as the “Bill Emerson Humanitarian Trust Act”.

### **SEC. 302. [7 U.S.C. 1736f-1] ESTABLISHMENT OF COMMODITY TRUST.**

(a) IN GENERAL.—To provide for a trust solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this title as the “Secretary”) shall establish and maintain a trust of wheat, rice, corn, or sorghum, any combination of the commodities, or funds for use as described in subsection (c).

(b) COMMODITIES OR FUNDS IN TRUST.—

(1) IN GENERAL.—The trust established under this section shall consist of—

(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

(B) wheat, rice, corn, and sorghum (referred to in this section as “eligible commodities”) acquired in accordance with paragraph (2) to replenish eligible commodities released from the trust, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the trust established under this section; and

(D) funds made available—

(i) under paragraph (2)(B);

(ii) as a result of an exchange of any commodity held in the trust for an equivalent amount of funds from the market, if the Secretary determines that such

a sale of the commodity on the market will not unduly disrupt domestic markets; or

(iii) to maximize the value of the trust, in accordance with subsection (d)(3).

(2) REPLENISHMENT OF TRUST.—

(A) IN GENERAL.—Subject to subsection (h), commodities of equivalent value to eligible commodities in the trust established under this section may be acquired—

(i) through purchases—

(I) from producers; or

(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

(B) FUNDS.—Any funds used to acquire eligible commodities through purchases from producers or in the market to replenish the trust shall be derived—

(i) with respect to fiscal years 2000 through 2012 from funds made available to carry out the Food for Peace Act (7 U.S.C. 1691 et seq.) that are used to repay or reimburse the Commodity Credit Corporation for the release of eligible commodities under subsections (c)(1) and (f)(2), except that, of such funds, not more than \$20,000,000 may be expended for this purpose in each of the fiscal years 2000 through 2012;

(ii) from funds authorized for that use by an appropriations Act; or

(iii) from funds accrued through the management of the trust under subsection (d).

(c) RELEASE OF ELIGIBLE COMMODITIES.—

(1) RELEASES FOR EMERGENCY ASSISTANCE.—

(A) DEFINITION OF EMERGENCY.—

(i) IN GENERAL.—In this paragraph, the term “emergency” means an urgent situation—

(I) in which there is clear evidence that an event or series of events described in clause (ii) has occurred—

(aa) that causes human suffering; and

(bb) for which a government concerned has not chosen, or has not the means, to remedy; or

(II) created by a demonstrably abnormal event or series of events that produces dislocation in the lives of residents of a country or region of a country on an exceptional scale.

(ii) EVENT OR SERIES OF EVENTS.—An event or series of events referred to in clause (i) includes 1 or more of—

(I) a sudden calamity, such as an earthquake, flood, locust infestation, or similar unforeseen disaster;

(II) a human-made emergency resulting in—

(aa) a significant influx of refugees;

(bb) the internal displacement of populations; or

(cc) the suffering of otherwise affected populations;

(III) food scarcity conditions caused by slow-onset events, such as drought, crop failure, pest infestation, and disease, that result in an erosion of the ability of communities and vulnerable populations to meet food needs; and

(IV) severe food access or availability conditions resulting from sudden economic shocks, market failure, or economic collapse, that result in an erosion of the ability of communities and vulnerable populations to meet food needs.

**(B) RELEASES.—**

(i) **IN GENERAL.**—Any funds or commodities held in the trust may be released to provide food, and cover any associated costs, under title II of the Food for Peace Act (7 U.S.C. 1721 et seq.)—

(I) to assist in averting an emergency, including during the period immediately preceding the emergency;

(II) to respond to an emergency; or

(III) for recovery and rehabilitation after an emergency.

(ii) **PROCEDURE.**—A release under clause (i) shall be carried out in the same manner, and pursuant to the same authority as provided in title II of that Act.

**(C) INSUFFICIENCY OF OTHER FUNDS.**—The funds and commodities held in the trust shall be made immediately available on a determination by the Administrator that funds available for emergency needs under title II of that Act (7 U.S.C. 1721 et seq.) for a fiscal year are insufficient to meet emergency needs during the fiscal year.

**(D) WAIVER RELATING TO MINIMUM TONNAGE REQUIREMENTS.**—Nothing in this paragraph requires a waiver by the Administrator of the Agency for International Development under section 204(a)(3) of the Food for Peace Act (7 U.S.C. 1724(a)(3)) as a condition for a release of funds or commodities under subparagraph (B).

**(2) PROCESSING OF ELIGIBLE COMMODITIES.**—Eligible commodities that are released from the trust established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

**(3) EXCHANGE.**—The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

**(4) USE OF NORMAL COMMERCIAL PRACTICES.**—To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

**(d) MANAGEMENT OF TRUST.—**

(1) **IN GENERAL.**—The Secretary shall provide for the management of eligible commodities and funds held in the trust in a manner that is consistent with maximizing the value of the trust, as determined by the Secretary.

(2) **ELIGIBLE COMMODITIES.**—The Secretary shall provide—

(A) for the management of eligible commodities in the trust established under this section as to location and quality of eligible commodities needed to meet emergency situations;

(B) for the periodic rotation or replacement of stocks of eligible commodities in the trust to avoid spoilage and deterioration of the commodities;

(C) subject to the need for release of commodities from the trust under subsection (c)(1), for the management of the trust to preserve the value of the trust through acquisitions under subsection (b)(2); and<sup>302-1</sup>

(3) **FUNDS.**—

(A) **EXCHANGES.**—If any commodity held in the trust is exchanged for funds under subsection (b)(1)(D)(ii), the funds shall be held in the trust until the date on which the funds are released in the case of an emergency under subsection (c).

(B) **INVESTMENT.**—The Secretary may invest funds held in the trust in any short-term obligation of the United States or any other low-risk short-term instrument or security insured by the Federal Government in which a regulated insurance company may invest under the laws of the District of Columbia.

(e) **TREATMENT OF TRUST UNDER OTHER LAW.**—Eligible commodities in the trust established under this section shall not be—

(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Food for Peace Act (7 U.S.C. 1691 et seq.); and

(2) subject to any quantitative limitation on exports that may be imposed under section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406).

(f) **USE OF COMMODITY CREDIT CORPORATION.**—

(1) **IN GENERAL.**—Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

(2) **REIMBURSEMENT OF THE TRUST.**—

(A) **IN GENERAL.**—The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Food for Peace Act (7 U.S.C. 1691 et seq.) and the funds shall be available to replenish the trust under subsection (b).

(B) **BASIS FOR REIMBURSEMENT.**—The reimbursement shall be made on the basis of the lesser of—

<sup>302-1</sup> So in original. Probably should strike “; and” and insert a period.

- (i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or
  - (ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the trust.
- (C) SOURCE OF FUNDS.—The reimbursement may be made from funds appropriated for subsequent fiscal years.
- (g) FINALITY OF DETERMINATION.—Any determination by the Secretary under this section shall be final.
- (h) TERMINATION OF AUTHORITY.—
- (1) IN GENERAL.—The authority to replenish stocks of eligible commodities to maintain the trust established under this section shall terminate on September 30, 2012.
  - (2) DISPOSAL OF ELIGIBLE COMMODITIES.—Eligible commodities remaining in the trust after September 30, 2012, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.

### **g. Global Crop Diversity Trust**

#### **FOOD, CONSERVATION, AND ENERGY ACT OF 2008**

#### **SEC. 3202. [22 U.S.C. 2220a note; Public Law 110-246] GLOBAL CROP DIVERSITY TRUST.**

(a) CONTRIBUTION.—The Administrator of the United States Agency for International Development shall contribute funds to endow the Global Crop Diversity Trust (referred to in this section as the “Trust”) to assist in the conservation of genetic diversity in food crops through the collection and storage of the germplasm of food crops in a manner that provides for—

- (1) the maintenance and storage of seed collections;
- (2) the documentation and cataloguing of the genetics and characteristics of conserved seeds to ensure efficient reference for researchers, plant breeders, and the public;
- (3) building the capacity of seed collection in developing countries;
- (4) making information regarding crop genetic data publicly available for researchers, plant breeders, and the public (including through the provision of an accessible Internet website);
- (5) the operation and maintenance of a back-up facility in which are stored duplicate samples of seeds, in the case of natural or man-made disasters; and
- (6) oversight designed to ensure international coordination of those actions and efficient, public accessibility to that diversity through a cost-effective system.

(b) UNITED STATES CONTRIBUTION LIMIT.—The aggregate contributions of funds of the Federal Government provided to the Trust shall not exceed 25 percent of the total amount of funds contributed to the Trust from all sources.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$60,000,000 for the period of fiscal years 2008 through 2012.

## **h. Local and regional food aid procurement projects**

### **FOOD, CONSERVATION, AND ENERGY ACT OF 2008**

#### **SEC. 3206. [7 U.S.C. 1726c] LOCAL AND REGIONAL FOOD AID PROCUREMENT PROJECTS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Agency for International Development.

(2) 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.

(3) ELIGIBLE COMMODITY.—The term “eligible commodity” means an agricultural commodity (or the product of an agricultural commodity) that—

(A) is produced in, and procured from, a developing country; and

(B) at a minimum, meets each nutritional, quality, and labeling standard of the country that receives the agricultural commodity, as determined by the Secretary.

(4) ELIGIBLE ORGANIZATION.—The term “eligible organization” means an organization that is—

(A) described in section 202(d) of the Food for Peace Act (7 U.S.C. 1722(d)); and

(B) with respect to nongovernmental organizations, subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.

(b) STUDY; FIELD-BASED PROJECTS.—

(1) STUDY.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall initiate a study of prior local and regional procurements for food aid programs conducted by—

(i) other donor countries;

(ii) private voluntary organizations; and

(iii) the World Food Program of the United Nations.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing the results of the study conducted under subparagraph (A).

(2) FIELD-BASED PROJECTS.—

(A) IN GENERAL.—In accordance with subparagraph (B), the Secretary shall provide grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects that consist of local or regional procurements of eligible commodities to respond to food crises and disasters in accordance with this section.

(B) CONSULTATION WITH ADMINISTRATOR.—In carrying out the development and implementation of field-based

projects under subparagraph (A), the Secretary shall consult with the Administrator.

(c) PROCUREMENT.—

(1) IN GENERAL.—Any eligible commodity that is procured for a field-based project carried out under subsection (b)(2) shall be procured through any approach or methodology that the Secretary considers to be an effective approach or methodology to provide adequate information regarding the manner by which to expedite, to the maximum extent practicable, the provision of food aid to affected populations without significantly increasing commodity costs for low-income consumers who procure commodities sourced from the same markets at which the eligible commodity is procured.

(2) REQUIREMENTS.—

(A) IMPACT ON LOCAL FARMERS AND COUNTRIES.—The Secretary shall ensure that the local or regional procurement of any eligible commodity under this section will not have a disruptive impact on farmers located in, or the economy of—

(i) the recipient country of the eligible commodity;

or

(ii) any country in the region in which the eligible commodity may be procured.

(B) TRANSSHIPMENT.—The Secretary shall, in accordance with such terms and conditions as the Secretary considers to be appropriate, require from each eligible organization commitments designed to prevent or restrict—

(i) the resale or transshipment of any eligible commodity procured under this section to any country other than the recipient country; and

(ii) the use of the eligible commodity for any purpose other than food aid.

(C) WORLD PRICES.—

(i) IN GENERAL.—In carrying out this section, the Secretary shall take any precaution that the Secretary considers to be reasonable to ensure that the procurement of eligible commodities will not unduly disrupt—

(I) world prices for agricultural commodities;

or

(II) normal patterns of commercial trade with foreign countries.

(ii) PROCUREMENT PRICE.—The procurement of any eligible commodity shall be made at a reasonable market price with respect to the economy of the country in which the eligible commodity is procured, as determined by the Secretary.

(d) REGULATIONS; GUIDELINES.—

(1) IN GENERAL.—In accordance with paragraph (2), not later than 180 days after the date of completion of the study under subsection (b)(1), the Secretary shall promulgate regulations or issue guidelines to carry out field-based projects under this section.

(2) REQUIREMENTS.—

(A) USE OF STUDY.—In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall

take into consideration the results of the study described in subsection (b)(1).

(B) PUBLIC REVIEW AND COMMENT.—In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall provide an opportunity for public review and comment.

(3) AVAILABILITY.—The Secretary shall not approve the procurement of any eligible commodity under this section until the date on which the Secretary promulgates regulations or issues guidelines under paragraph (1).

(e) FIELD-BASED PROJECT GRANTS OR COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall award grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects.

(2) REQUIREMENTS OF ELIGIBLE ORGANIZATIONS.—

(A) APPLICATION.—

(i) IN GENERAL.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall submit to the Secretary an application by such date, in such manner, and containing such information as the Secretary may require.

(ii) OTHER APPLICABLE REQUIREMENTS.—Any other applicable requirement relating to the submission of proposals for consideration shall apply to the submission of an application required under clause (i), as determined by the Secretary.

(B) COMPLETION REQUIREMENT.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall agree—

(i) to collect by September 30, 2011, data containing the information required under subsection (f)(1)(B) relating to the field-based project funded through the grant; and

(ii) to provide to the Secretary the data collected under clause (i).

(3) REQUIREMENTS OF SECRETARY.—

(A) PROJECT DIVERSITY.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), in selecting proposals for field-based projects to fund under this section, the Secretary shall select a diversity of projects, including projects located in—

(I) food surplus regions;

(II) food deficit regions (that are carried out using regional procurement methods); and

(III) multiple geographical regions.

(ii) PRIORITY.—In selecting proposals for field-based projects under clause (i), the Secretary shall ensure that the majority of selected proposals are for field-based projects that—

(I) are located in Africa; and

(II) procure eligible commodities that are produced in Africa.



(B) DEVELOPMENT ASSISTANCE.—A portion of the funds provided under this subsection shall be made available for field-based projects that provide development assistance for a period of not less than 1 year.

(4) AVAILABILITY.—The Secretary shall not award a grant to any eligible organization under paragraph (1) until the date on which the Secretary promulgates regulations or issues guidelines under subsection (d)(1).

(f) INDEPENDENT EVALUATIONS; REPORT.—

(1) INDEPENDENT EVALUATIONS.—

(A) IN GENERAL.—Not later than November 1, 2011, the Secretary shall ensure that an independent third party conducts an independent evaluation of all field-based projects that—

(i) addresses each factor described in subparagraph (B); and

(ii) is conducted in accordance with this section.

(B) REQUIRED FACTORS.—The Secretary shall require the independent third party to develop—

(i) with respect to each relevant market in which an eligible commodity was procured under this section, a description of—

(I) the prevailing and historic supply, demand, and price movements of the market (including the extent of competition for procurement bids);

(II) the impact of the procurement of the eligible commodity on producer and consumer prices in the market;

(III) each government market interference or other activity of the donor country that might have significantly affected the supply or demand of the eligible commodity in the area at which the local or regional procurement occurred;

(IV) the quantities and types of eligible commodities procured in the market;

(V) the time frame for procurement of each eligible commodity; and

(VI) the total cost of the procurement of each eligible commodity (including storage, handling, transportation, and administrative costs);

(ii) an assessment regarding—

(I) whether the requirements of this section have been met;

(II) the impact of different methodologies and approaches on—

(aa) local and regional agricultural producers (including large and small agricultural producers);

(bb) markets;

(cc) low-income consumers; and

(dd) program recipients; and

(III) the length of the period beginning on the date on which the Secretary initiated the procurement process and ending on the date of delivery of eligible commodities;

(iii) a comparison of different methodologies used to carry out this section, with respect to—

- (I) the benefits to local agriculture;
- (II) the impact on markets and consumers;
- (III) the period of time required for procurement and delivery;
- (IV) quality and safety assurances; and
- (V) implementation costs; and

(iv) to the extent adequate information is available (including the results of the report required under subsection (b)(1)(B)), a comparison of the different methodologies used by other donor countries to make local and regional procurements.

(C) INDEPENDENT THIRD PARTY ACCESS TO RECORDS AND REPORTS.—The Secretary shall provide to the independent third party access to each record and report that the independent third party determines to be necessary to complete the independent evaluation.

(D) PUBLIC ACCESS TO RECORDS AND REPORTS.—Not later than 180 days after the date described in paragraph (2), the Secretary shall provide public access to each record and report described in subparagraph (C).

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains the analysis and findings of the independent evaluation conducted under paragraph (1)(A).

(g) FUNDING.—

(1) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(2) FUNDING AMOUNTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

- (A) \$5,000,000 for fiscal year 2009;
- (B) \$25,000,000 for fiscal year 2010;
- (C) \$25,000,000 for fiscal year 2011; and
- (D) \$5,000,000 for fiscal year 2012.

### **i. McGovern-Dole International Food for Education and Child Nutrition Program**

#### **FARM SECURITY AND RURAL INVESTMENT ACT OF 2002**

#### **SEC. 3107. [7 U.S.C. 1736o-1] MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.**

(a) DEFINITION OF AGRICULTURAL COMMODITY.—In this section, the term “agricultural commodity” means an agricultural commodity, or a product of an agricultural commodity, that is produced in the United States.

(b) PROGRAM.—Subject to subsection (1), the Secretary may establish a program, to be known as “McGovern-Dole International Food for Education and Child Nutrition Program”, requiring the procurement of agricultural commodities and the provision of financial and technical assistance to carry out—

- (1) preschool and school food for education programs in foreign countries to improve food security, reduce the incidence of

hunger, and improve literacy and primary education, particularly with respect to girls; and

(2) maternal, infant, and child nutrition programs for pregnant women, nursing mothers, infants, and children who are 5 years of age or younger.

(c) ELIGIBLE COMMODITIES AND COST ITEMS.—Notwithstanding any other provision of law—

(1) any agricultural commodity is eligible to be provided under this section;

(2) as necessary to achieve the purposes of this section, funds appropriated under this section may be used to pay—

(A)(i) the cost of acquiring agricultural commodities;

(ii) the costs associated with packaging, enrichment, preservation, and fortification of agricultural commodities;

(iii) the processing, transportation, handling, and other incidental costs up to the time of the delivery of agricultural commodities free on board vessels in United States ports;

(iv) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(v) the costs associated with transporting agricultural commodities from United States ports to designated points of entry abroad in the case—

(I) of landlocked countries;

(II) of ports that cannot be used effectively because of natural or other disturbances;

(III) of the unavailability of carriers to a specific country; or

(IV) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports; and

(vi) the charges for general average contributions arising out of the ocean transport of agricultural commodities transferred pursuant thereto;

(B) all or any part of the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the Secretary determines that—

(i) payment of the costs is appropriate; and

(ii) the recipient country is a low income, net food-importing country that—

(I) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and

(II) has a national government that is committed to or is working toward, through a national action plan, the goals of the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the followup Dakar Framework for Action of the World Education Forum, convened in 2000;

(C) the costs of activities conducted in the recipient countries by a nonprofit voluntary organization, cooperative, or intergovernmental agency or organization that

would enhance the effectiveness of the activities implemented by such entities under this section; and

(D) the costs of meeting the allowable administrative expenses of private voluntary organizations, cooperatives, or intergovernmental organizations that are implementing activities under this section.

(d) GENERAL AUTHORITIES.—The Secretary shall to—<sup>3107-1</sup>

(1) implement the program established under this section;

(2) ensure that the program established under this section is consistent with the foreign policy and development assistance objectives of the United States; and

(3) consider, in determining whether a country should receive assistance under this section, whether the government of the country is taking concrete steps to improve the preschool and school systems in the country.

(e) ELIGIBLE ENTITIES.—Assistance may be provided under this section to private voluntary organizations, cooperatives, intergovernmental organizations, governments of developing countries and their agencies, and other organizations.

(f) PROCEDURES.—

(1) IN GENERAL.—In carrying out subsection (b), the Secretary shall ensure that procedures are established that—

(A) provide for the submission of proposals by eligible entities, each of which may include 1 or more recipient countries, for commodities and other assistance under this section;

(B) provide for eligible commodities and assistance on a multiyear basis;

(C) ensure that eligible entities demonstrate the organizational capacity and the ability to develop, implement, monitor, report on, and provide accountability for activities conducted under this section;

(D) provide for the expedited development, review, and approval of proposals submitted in accordance with this section;

(E) ensure monitoring and reporting by eligible entities on the use of commodities and other assistance provided under this section; and

(F) allow for the sale or barter of commodities by eligible entities to acquire funds to implement activities that improve the food security of women and children or otherwise enhance the effectiveness of programs and activities authorized under this section.

(2) PRIORITIES FOR PROGRAM FUNDING.—In carrying out paragraph (1) with respect to criteria for determining the use of commodities and other assistance provided for programs and activities authorized under this section, the Secretary may consider the ability of eligible entities to—

(A) identify and assess the needs of beneficiaries, especially malnourished or undernourished mothers and their children who are 5 years of age or younger, and school-age children who are malnourished, undernourished, or do not regularly attend school;

(B)(i) in the case of preschool and school-age children, target low-income areas where children's enrollment and

<sup>3107-1</sup> So in original. Probably should strike "to".

attendance in school is low or girls' enrollment and participation in preschool or school is low, and incorporate developmental objectives for improving literacy and primary education, particularly with respect to girls; and

(ii) in the case of programs to benefit mothers and children who are 5 years of age or younger, coordinate supplementary feeding and nutrition programs with existing or newly-established maternal, infant, and children programs that provide health-needs interventions, including maternal, prenatal, and postnatal and newborn care;

(C) involve indigenous institutions as well as local communities and governments in the development and implementation of the programs and activities to foster local capacity building and leadership; and

(D) carry out multiyear programs that foster local self-sufficiency and ensure the longevity of programs in the recipient country .

(g) **USE OF FOOD AND NUTRITION SERVICE.**—The Food and Nutrition Service of the Department of Agriculture may provide technical advice on the establishment of programs under subsection (b)(1) and on implementation of the programs in the field in recipient countries.

(h) **MULTILATERAL INVOLVEMENT.**—

(1) **IN GENERAL.**—The Secretary is urged to engage existing international food aid coordinating mechanisms to ensure multilateral commitments to, and participation in, programs similar to programs supported under this section.

(2) **REPORTS.**—The Secretary shall annually submit to the Committee on International Relations and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the commitments and activities of governments, including the United States government, in the global effort to reduce child hunger and increase school attendance.

(i) **PRIVATE SECTOR INVOLVEMENT.**—The Secretary is urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs assisted under this section.

(j) **GRADUATION.**—An agreement with an eligible organization under this section shall include provisions—

(1) to—

(A) sustain the benefits to the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under a program under this section terminates; and

(B) estimate the period of time required until the recipient country or eligible organization is able to provide sufficient assistance without additional assistance under this section; or

(2) to provide other long-term benefits to targeted populations of the recipient country.

(k) **REQUIREMENT TO SAFEGUARD LOCAL PRODUCTION AND USUAL MARKETING.**—The requirement of section 403(a) of the Food for Peace Act (7 U.S.C. 1733(a)) applies with respect to the availability of commodities under this section.

(1) FUNDING.—

(1) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$84,000,000 for fiscal year 2009, to remain available until expended.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(3) ADMINISTRATIVE EXPENSES.—Funds made available to carry out this section may be used to pay the administrative expenses of the Department of Agriculture or any other Federal agency assisting in the implementation of this section.