

[AMENDMENT TO SECTION 32]

SEC. 411.⁷⁰

[DETERMINATIONS BY SECRETARY]

SEC. 412. **[7 U.S.C. 1429]** *Determinations made by the Secretary under this Act shall be final and conclusive: Provided, That the scope and nature of such determinations shall not be inconsistent with the provisions of the Commodity Credit Corporation Charter Act [(15 U.S.C. 714 et seq.)].*

[RETROACTIVE EFFECT]

SEC. 413. **[7 U.S.C. 1430]** *This Act shall not be effective with respect to price support operations for any agricultural commodity for any marketing year or season commencing prior to January 1, 1950, except to the extent that the Secretary of Agriculture shall, without reducing price support theretofore undertaken or announced, elect to apply the provisions of this Act.*

[REPEAL OF PREVIOUS LEGISLATION]

SEC. 414.⁷¹ **[7 U.S.C. 1421 note]**

[APPLICATION OF AGRICULTURAL ACT OF 1948; AMENDMENTS TO SUCH ACT AND AGRICULTURAL ADJUSTMENT ACT OF 1938]

SEC. 415. (a) **[7 U.S.C. 1301 note]** *Except as modified by this Act or by Public Law 272, Eighty-first Congress [(63 Stat. 670)], sections 201(b), 201(d), 201(e), 203, 207(a), and 208 of the Agricultural Act of 1948 [(62 Stat. 1250)] shall be effective for the purpose of taking any action with respect to the 1950 and subsequent crops upon the enactment of this Act [enacted on October 31, 1949]. If the time within which any such action is required to be taken shall have elapsed prior to the enactment of this Act, such action shall be taken within thirty days after the enactment of this Act.*

(b) **[7 U.S.C. 1301 note]** *No provision of the Agricultural Act of 1948 [(62 Stat. 1247)] shall be deemed to supersede any provision of Public Law 272, Eighty-first Congress [(63 Stat. 670)].*

(c)⁷²

(d)⁷³

(e)⁷⁴

[DISPOSITION OF COMMODITIES TO PREVENT WASTE]

SEC. 416. **[7 U.S.C. 1431]** (a) *In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world*

⁷⁰Sec. 411 amended sec. 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act and for other purposes", approved Aug. 28, 1935, P.L. 74-320 (7 U.S.C. 612c).

⁷¹Sec. 414 repealed sec. 302 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1302) and any provision of law in conflict with this Act.

⁷²Subsec. (c) amended sec. 301(b)(10) of the Agricultural Act of 1938 (7 U.S.C. 1301(b)(10)).

⁷³Subsec. (d) amended sec. 301(b)(16) of the Agricultural Act of 1938 (7 U.S.C. 1301(b)(16)).

⁷⁴Subsec. (e) repealed secs. 201(c), 205, 206, and 207(c) of the Agricultural Act of 1948 (7 U.S.C. 1301(b)(3)(B) note, 1345 note, 1355 note, and 1343 note).

prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals and facilities, to the extent that they serve needy persons (including infants and children). In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this subsection, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency. In addition, in the case of food commodities disposed of under this subsection, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this subsection the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States.

Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition. Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965 [(42 U.S.C. 3001 et seq.)].

(b)(1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under titles II and III of the Food for Peace Act [(7 U.S.C. 1721 et seq.)] and under the Food for Progress Act of 1985 [(7 U.S.C. 1736o)], as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by

the President to coordinate assistance under the Food for Peace Act [(7 U.S.C. 1691 et seq.)].

(2) As used in this subsection, the term “eligible commodities” means—

(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary determines meet the criteria specified in subsection (a); and

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 403(a) of the Food for Peace Act [(7 U.S.C. 1733(a))] shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period

of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.

(5)(A) Section 406 of the Food for Peace Act [(7 U.S.C. 1736)] shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 406 of the Food for Peace Act [(7 U.S.C. 1736)] in connection with those commodities, shall be in addition to the level of assistance programmed under that Act and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii) Proceeds generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

In addition, proceeds generated in Poland may also be used by governmental and nongovernmental agencies or cooperatives for eligible activities approved by the joint commission established

pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of governmental or private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland;

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture; and⁷⁵

(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for proceeds in amounts that are, in the aggregate, not less than 10 percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater, for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under titles II and III of the Food for Peace Act [(7 U.S.C. 1721 et seq.)], and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985.⁷⁶

(iv) Proceeds generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, or to otherwise carry out the purposes of this subsection.

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).⁷⁷

⁷⁵ The preceding two sentences were added by sec. 2225 of the Omnibus Trade and Competitiveness Act of 1988, P.L. 100-418, Aug. 23, 1988. The left margin of the first new sentence was aligned with the left margin of the clause to effectuate the probable intent of Congress.

⁷⁶ Sec. 1110 of the Food Security Act of 1985, P.L. 99-198, 95 Stat. 1472, Dec. 23, 1985 (7 U.S.C. 1736o).

⁷⁷ Reads "paragraph (5)(a)" in the original. It should probably be "paragraph (5)(A)".

(F)⁷⁸ *The provisions of sections 403(i) and 407(c) of the Food for Peace Act shall apply to donations, sales and barter of eligible commodities under this subsection.*

The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.

(8) *ADMINISTRATIVE PROVISIONS.—*

(A) *EXPEDITED PROCEDURES.—To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.*

(B) *ESTIMATE OF COMMODITIES.—The Secretary shall publish in the Federal Register, not later than October 31 of each fiscal year, an estimate of the types and quantities of commodities and products that will be available under this section for the fiscal year.*

(C) *FINALIZATION OF AGREEMENTS.—The Secretary is encouraged to finalize program agreements under this section not later than December 31 of each fiscal year.*

(D) *REGULATIONS.—The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).*

(9)(A) *Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clauses (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.*

(B) *Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—*

(i) *the quantity of commodities furnished for such sale or barter;*

(ii) *the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;*

(iii) *how such funds and services were used;*

(iv) *the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all com-*

⁷⁸Sec. 1514(5)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3662, Nov. 28, 1990, amended para. (7) by adding at the end thereof subpara. (F). Subpara. (F) was placed after subpara. (E) (vs. after the last sentence of para. (7)) to effectuate the probable intent of Congress. Indentation of subpara. (F) was so in original.

modities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

(II) affect usual marketings of the United States,

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph (7).

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

(11) REQUIREMENTS.—

(A) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the Secretary 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 Secretary 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 subparagraph, the Secretary shall consult with the Committee on Agriculture, and the Com-