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United States
Food Aid Operations

Commodity Acquisition and
Transportation in P.L. 480 and Sec. 416

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The Food Aid Operations Seminar

PREFACE

This publication is the latest in a series of documents published by the International Trade and Development Education Foundation concerning U.S. food aid programs. It is based upon the proceedings of a Foundation-sponsored seminar held in February of 1989 dealing with the operation, acquisition and shipment of commodities under U.S. food aid programs.

The operational aspects of these programs -- involving the annual movement and delivery of millions of tons of food aid -- are of increasing concern. For program managers and participants, these operational activities are the essential component in their participation in P.L. 480 and Section 416. At this writing:

-- Almost all of the $1.7 billion appropriated or used for food aid is devoted to the purchase of commodities and transportation services.

-- U.S. commodity suppliers sell more than $1 billion in products annually to Titles I, II, and III of P.L. 480.

-- Freight services to transport food aid to recipient countries are valued in excess of $400 million per year from P.L. 480, CCC and Maritime Administration budgets, with the majority of that amount going to U.S. flag shipping companies, due to a 75% cargo preference requirement on such shipments.

-- Forwarders and shipping agents are paid between $8 and $10 million (or more) annually in commissions on food aid related business.

-- Additional economic activity on a large scale is generated by food aid programs through railroad and barge movement of food to port of export, purchase of packaging materials, port and terminal handling, storage and other related activities.

The laws, regulations, and procedures dealing with the acquisition and delivery of U.S. food aid are often complex and subject to varying applications and interpretations. Nevertheless, they are the basis for the provision of millions of tons of U.S. food aid annually. As a result, the purpose of the seminar (and this publication) was to provide information on those procedures, laws and regulations.

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INTRODUCTION

Over the past several years, the International Trade and Development Education Foundation has sponsored public policy seminars on a number of subjects relating to international activities. Seminars have focused on the provisions of the 1985 farm legislation, relationships between international development activities and U.S. employment, as well as sessions on nutrition and feeding program activities, Vitamin A usage in development programs throughout the world, and foreign assistance activities and related trade matters. Foundation publications have included a history of P.L. 480, the effects of P.L. 480 on agricultural exports, and a booklet entitled "Why Foreign Aid?", (also available in video). A recent publication, "Reforms Needed in U.S. Assistance to Developing Countries" focuses on changes required in foreign aid.

However, an area of continuing concern is U.S. food aid, and for those private and public entities involved in food aid programs, understanding the "operational aspects" of those programs is essential. That understanding includes activities focusing on commodity procurement, domestic and ocean transport, commodity handling and management, the use of agents, and other factors instrumental in the actual movement and delivery of food aid. These activities are essential to successful food aid programs and at the same time, are the subject of a wide range of procedures, regulations, legal applications and varying degrees of management control. For many private sector commodity and transportation interests, government rationale for its procedures and requirements is often misinterpreted or misunderstood. For many government food aid programmers and managers, the legislative and administrative requirements affecting food aid operations, or the lack thereof, as well as the rationale or motivation of private sector interests, can be of equal concern.

The following chapters describe these activities and related rules and procedures. Every effort has been made to assure that the procedures described in this publication are accurate. However, official procedures and regulations governing the acquisition and shipment of commodities under P.L. 480 and Section 416 are published and implemented by the relevant federal agencies involved in these programs. Questions concerning such procedures should be directed to those agencies.

CHAPTER ONE

Legislative Authority and Provisions Affecting Food Aid Operations

I. General Statutory Authority

A. P.L. 480

The Agricultural Trade Development and Assistance Act of 1954, Public Law 480 - 83rd Congress, as amended, is the statutory basis for the Food for Peace Program. Section 416(b) of the Agricultural Act of 1949, Public Law 81-439, as amended is the statutory basis for commodity donations under the Section 416 program. In enacting the P.L. 480 legislation, the Congress declared it to be the policy of the United States to expand international trade; to develop and expand export markets for U.S. agricultural commodities; to use the agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; to use foreign currencies accruing under the act to foster and encourage the development of private enterprise in developing countries; to enhance food security in developing countries through local food production; and to promote in other ways the foreign policy of the United States.

B. Section 416(b)

The Secretary of Agriculture, through Section 416(b) of the Agriculture Act of 1949, may furnish commodities acquired by the Commodity Credit Corporation through its price support or other operations, for carrying out direct programs of assistance in developing countries and friendly countries, under Title II of the Agricultural Trade Development and Assistance Act of 1954, and under the Food for Progress Act of 1985. Assistance under this authority is coordinated through the mechanism designed by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954.

II. P.L. 480 Provisions

A. Title I Concessional Sales

Under Title I of P.L. 480, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of U.S. agricultural commodities:

-- For dollars on credit terms;

-- To the extent that sales for dollars under the terms applicable to such sales are not possible, for foreign currencies on credit terms and on terms that permit conversion to dollars at the exchange rate applicable to the sales agreement; or

-- For foreign currencies for use under Section 108 on terms that permit conversion to dollars.

B. Title III Food for Development

Title III permits the amount of funds accruing from the local sale of commodities, or the dollar sales value of the commodities themselves, to be used for agreed upon development purposes in lieu of repaying the dollar loan. The President can thus encourage the use of these resources for agricultural and rural development, voluntary family planning, health and nutrition programs, and other agreed purposes.

C. <u>Title II Donation Program</u>

Agricultural commodities made available under Title II may be provided on behalf of the people of the United States, "..... to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States...," Commodities may be furnished for these purposes through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the World Food Program and other multilateral organizations in such manner and upon such terms and conditions as the President deems appropriate. Such commodities may be furnished for direct distribution, sale, barter, or other appropriate disposition.

D. <u>Food for Progress Act of 1985 (Section 110(a) of the Food Security Act of 1985)</u>

Under this authority, the use of P.L. 480 and Section 416(b) commodities is authorized to support commitments by developing countries to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketings, input availability, distribution, and private sector involvement. The commodities may be furnished on a multiyear basis.

III. Delegations of Authority

The delegations of authority for carrying out P.L. 480, Title I, II and III are:

-- Executive Order 12220, Agency for International Development (AID) Delegations of Authority 900 and 901, and Redelegations of Authority 950, 951, 952, and 954.

-- Section 416(b) activities are undertaken by AID in accordance with a Memorandum of Understanding between AID and USDA and AID delegation of authority 902.

IV. Cargo Preference Requirements

A. General

The basic cargo preference law is the Cargo Preference Act of 1954, also known as P.L. 664. The cargo preference law generally requires that a minimum of 50% of any cargo generated by government programs be shipped on privately owned, commercial U.S. flag vessels if available, at fair and reasonable rates for such vessels. The only deviation from this requirement would be the nonavailability of U.S. flag ships or the determination that the rates that they are charging are unfair and unreasonable for U.S. flag ships.

The Cargo Preference Act was amended in 1985 by the Food Security Act of 1985, which established a 75% requirement for the U.S. flag share of P.L. 480 and Section 416 shipments.

B. Role of the Maritime Administration and the Department of Transportation

The 1985 amendment also required that the Department of Transportation be responsible for the payment of the ocean freight differential on the additional 25% of cargo to be moved on U.S. flag vessels. The "ocean freight differential" (OFD) is the difference between the cost of shipping cargo on a U.S. flag vessel as compared to the cost of shipping the same cargo on a foreign flag vessel. (The cost of the OFD for the first 50% of cargoes moving on U.S. flag vessels continues to be charged to the P.L. 480 and CCC budget.)

The Maritime Administration provides guidance and procedures to government agencies involved in P.L. 480 and Section 416 to insure that the cargo preference laws are implemented as intended by the Congress. MARAD determines which programs, projects and contracts are encompassed by the laws, and helps to determine the availability of U.S. flag service when that availability is questioned by another agency. MARAD also provides guidance concerning the reasonableness of ocean freight rates to the federal agencies participating in P.L. 480 and Section 416 programs. It also monitors the compliance of government agencies and commercial shippers subject to the preference statutes and reports annually to the Congress on compliance with the cargo preference laws by federal agencies.

CHAPTER TWO

P.L. 480 Title I/III Program Operations

I. General

Title I and Title III commodity sales are made by private business firms, usually on a bid basis in response to tenders issued in the United States by the importing country.

Unless otherwise specified, all procurement and shipping aspects of the P.L. 480 program are the same whether the agreement is Title I or Title III. Within the U.S. Government, the Foreign Agricultural Service (FAS) of the Department of Agriculture is the agency responsible for administering agreements made under Title I and Title III.

Commodities programed in recent years include wheat, corn, grain sorghum, rice, vegetable oil, wheat flour, dry edible beans, cotton, and tallow.

II. Commodity Purchasing

After a Title I agreement has been signed, the importing country applies to FAS for one or more purchase authorizations (PA's). Each PA includes such details as the particular grade or type of commodity to be purchased, the approximate quantity of the commodity and the maximum dollar amount authorized, the period during which contracts may be entered into, and the period during which deliveries must be made. The conditions under which financing will be made available for the commodity sales and any authorized ocean transportation costs are also outlined in the PA. Normally, the earliest date that contracts may be entered into is seven days after the date the PA is issued. All purchases of food commodities are made on the basis of an invitation for bids (IFB) which has been reviewed and approved by USDA before issuance.

III. Ocean Freight and Shipping

At least 75% of the gross tonnage of commodities bought under Title I and Title III must be shipped on U.S. flag vessels. The American flag Title I/III fleet generally consists of liners and tramp vessels.

Liners: Liners are usually either lash bargeships, containerships or breakbulk vessels that provide common carrier (non-contract) sailings on a regular scheduled basis. Usually these ships make advertised calls at the same ports on every voyage. Generally, liners do not take full shipload lots of cargo, rather, they handle less than shipload lots of packaged goods (foodstuffs in bags, drums, cartons or cotton in bales). They also load and discharge other cargoes and passengers at other load and discharge ports en route to their contracted destination.

Tramps: The tramp fleet consists of either oceangoing barges, tankers or bulk carriers. These vessels generally do not provide common carrier sailings, rather they have single or multi-voyage contracts with a single shipper. They also contract to provide service in the spot market as opportunities arise. These vessels usually carry full shiploads of bulk grains (on occasion bagged rice or flour) and are precluded by contract from topping off their ship with other cargoes.

Arrangement for the ocean transportation of commodities is made either directly by officials of the importing government or by their appointed shipping agents (see below). Public freight invitations for bids are required for both U.S. and non-U.S. flag vessels unless otherwise authorized. The pertinent terms of all proposed charters or liner bookings, regardless of whether any portion of ocean freight is financed by CCC, must be approved by USDA prior to fixture of the vessels.

IV. Commodity and Freight Payment

U.S. commodity suppliers are paid in dollars under letters of credit opened by the importing country through a U.S. commercial bank which holds a CCC letter of commitment. The letters of credit must be opened for 100% of the f.a.s. or f.o.b. invoice value of commodities purchased.

Under Title I and Title III sales agreements, CCC responsibility for ocean freight is generally limited to payment of the ocean freight differential which exists between the cost of U.S. flag and non-U.S. flag shipments. In certain cases, CCC may also finance on credit terms, the balance of freight costs on U.S. flag vessels, as well as foreign flag freight charges to selected countries.

V. Use and Role of Agents

Under Titles I/III of P.L. 480, recipient countries appoint agents to assist them with commodity purchasing and freight arrangements. The appointment of an agent is approved by USDA.

With regard to commodities, the agent prepares the commodity IFB, submits it to USDA for approval, obtains approval, and assures that it is circularized thoroughly throughout the United States to all possible bidders. The agent is then available when offers are submitted on commodities to tabulate and segregate such offers, according to the terms of the tender. Commodity offers will depend on various classes of commodity, various export coasts of the United States, various types of vessels, (e.g. liners, tramps, tankers, barges, etc.), and possibly multiple delivery periods. All of this is tabulated by the agent.

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Concurrent with this work, the agent prepares the freight IFB, again submitting it to, and obtaining approval from, the USDA. The agent circularizes it throughout the United States and in many cases, if the tender requests foreign flag offers, it must be circularized to overseas owners and brokers. The agent again receives these offers, tabulates them according to the specific dates the ship is available, the coastal range from which the ship is being offered and the freight rate quoted.

In conjunction with the recipient country representative, the agent then combines commodity offers and freight offers to arrive at the "lowest landed cost." This analysis must include an understanding of the level of U.S. flag participation USDA has indicated for that specific tender, based upon such factors as what ships are offered, what rates are quoted and overall vessel availability. The results of this analysis and the proposed commodity and freight selections are then submitted by the agent to USDA for approval. After general approval is obtained from USDA to acquire the cargo, and fix the ship, the agent also confirms supplier's contracts, and negotiates the vessel freight rate.*

The agent also confirms the ship fixture, prepares the ship contract and handles the liaison between the ship and the supplier of the commodity. The agent usually employs a port agent in each load port to oversee the recipient country's interests in that port and to obtain daily reports on when the ship arrived, when it started loading, how much it loaded, the date of sailing and any other relevant information. This information is collected by the agent and forwarded to the recipient country principals in Washington and/or overseas. Finally, the agent continues to monitor cargo movement until discharge at the receiving port.

*This procedure is being changed. See Appendix B.

CHAPTER THREE

P.L. 480 Title II Operations

I. U.S. Government Procedures

A. General

Title II of P.L. 480 requires the shipment of a minimum of 1.9 million metric tons of commodities annually through fiscal year 1990, of which 1,425,000 tons must be in non-emergency programs conducted by American voluntary agencies and international agencies.

At the present time, a number of different commodities are purchased or supplied from U.S. government stocks for Title II programs. Among these are wheat, sorghum, corn, flour, bulgur, instant corn-soya masa flour, soy-fortified sorghum grits, yellow degermed cornmeal, corn-soya blend, instant corn-soya blend, vegetable oil, wheat-soya blend, milled rice, soy-fortified bulgur, soy-fortified cornmeal, edible peas, beans, and lentils. These commodities are made available by the Commodity Credit Corporation.

The most important products, in terms of quantities programed, are bulgur, flour, corn-soy blend, cornmeal, and whole grains which are produced mainly in the states of Washington, Texas, Kansas, Wisconsin, Illinois, California, Nebraska, Missouri, and Oklahoma. These production areas and their geographic locations have an important impact on inland freight rates to U.S. ports and the ultimate cost of the commodities when landed at the foreign destination.

Title II commodities are donated through voluntary agencies such as CARE and Catholic Relief Service, and intergovernmental organizations such as the World Food Program (WFP), as well as directly to governments.

B. Role of AID and Other Government Agencies

The Agency for International Development (AID), within the U.S. State Department, issues operating guidelines for the voluntary agencies and the World Food Program. It is also AID to whom these organizations submit program proposals and estimated food requirements. These programs are supplemented by AID's own government-to-government donations. AID reviews the proposals within the context of budget limitations and CCC's information regarding commodity availability. After AID has completed its review, it submits the recommendations for each program to the Food Aid Subcommittee for review and approval.

The Food Aid Subcommittee is made up primarily of representatives from the Department of Agriculture, State Department, AID, Office of Management and Budget, Treasury Department, and Commerce Department. The chairman is a representative of USDA's Foreign Agriculture Service. After the subcommittee's review, a letter is sent to each requesting agency stating which programs, quantities, and specific commodities have been approved. The agencies are authorized to submit individual commodity requests covering these programs to AID for approval who in turn submits them to USDA's Kansas City Commodity Office (KCCO) for procurement and disposition.

C. Cargo Preference

KCCO carries out CCC's legislative authority to supply the commodities for approved programs. Shipments are made according to the requirements of the Cargo Preference Act of 1954 and the Food Security Act of 1985 which designates at least 75% of all Title II, P.L. 480 commodities be shipped on U.S. flag vessels. CCC must also preserve through calendar year 1989, the percentage share or metric tonnage, whichever is lower, of commodities exported from Great Lakes ports during 1984. This must be consistent with the cargo preference requirements of the Merchant Marine Act, 1936, as amended, and without detriment to other port ranges. AID monitors all shipments to assure this requirement is met. Over and above the percentage requirement, U.S. flag vessels are given preference when rates are determined to be reasonable and service is equal to that of a foreign flag carrier.

D. Lowest Landed Cost

Within the parameters of cargo preference legislation, commodities are supplied on the basis of the estimated lowest landed cost to foreign destinations.

The principle of lowest landed cost not only dictates the vendors from which the commodity is procured, but also dictates the coastal range(s) or port(s) through which shipments are exported. In making an offer, a vendor may apply any available transit in order to make his offer as competitive as possible. The offered ocean freight cost is added to the f.a.s. or intermodal price. The lowest combined total cost of the f.a.s., intermodal, or bridgeport price plus the ocean freight to the foreign destination is the lowest landed cost. The coastal range(s) and port(s) to which this lowest cost combination occurs is used for the exporting of P.L. 480 commodities.

E. Invitation for Offers

The first step in the KCCO operation is to issue an invitation to all interested vendors inviting offers for approximate quantities of specific commodities. A list of intended destinations with amounts for each country is included. About 700 invitations are printed and mailed to vendors each month. Usually, vendors are given thirteen days to make offers. During this time, vendors must compute and submit their offers to KCCO for consideration.

The commodity vendors offer product(s) on f.a.s., f.o.b. plant, or bridgeport basis to various coastal ranges and ports. The f.a.s. offered price includes the cost of the commodity, inland freight to the U.S. port, and all applicable port charges. Vendors naturally use the most advantageous port or range of ports in order to offer their lowest prices. However, vendors are encouraged to make offers at various ranges, ports, and f.o.b. points.

Offers to sell to CCC are normally due at KCCO at the time prescribed in the invitation on Monday of the week of purchase. Before the receipt of offers, the quantities to be purchased are grouped by commodity, ocean rates, and service. They are entered into the computer in a format necessary for simultaneous computer analysis of offers, ocean rates, and quantities.

F. Ocean Service

KCCO determines the available ocean service and applicable ocean freight rates during the thirteen days the invitation is open and enters the basic background information into its computer files for use in analyzing bids and determining the lowest-landed cost. Tariff ocean freight rates published in trade journals and filed with the Federal Maritime Commission (FMC) are used to determine ocean rates from all coastal ranges to the destination countries. The ocean rates and service used are generally those of a conference or common carrier offering regular liner service. However, these published rates are preliminary because changes in rates and service may be made at any time until one week prior to the date commodity offers are due. KCCO must be notified of any such changes of rates in writing and the carrier must state in their rate change message to KCCO that the rate will be filed with FMC, within a required period.

G. Bid Evaluation

Prior to the receipt of offers, KCCO calculates prices for the commodities to be purchased. This data is used in the bid evaluation to determine the reasonableness of the prices bid. The basic criteria used in making this calculation are current market prices of raw commodities, by-products, and historical pricing information. If offered prices fall within this constructed price range, they are usually considered acceptable. At the time prescribed in the invitation on the closing day, all offers are opened and evaluation begins.

As stated before, offers are requested on an f.a.s. vessel, f.o.b. plant, or bridgeport basis. If the offer is f.a.s. or bridge, the vendors will indicate their base port and, at their option, differentials to deliver to ports other than the base ports specified in their bid. Evaluation takes into consideration the offered price to port(s) and the ocean rates and service from ports to the foreign destination. In order to minimize vendors' speculative positions in the commodity markets, CCC enters into contracts for acceptable offers the day following receipt of offers.

Innovations in the past several years involving modes of transportation have had a significant impact on movements of export cargoes, including those of the U.S. Department of Agriculture. Shifts in the manner in which processed products are exported for the Title II, P.L. 480 program include increased participation by the inland waterway system, intermodal movements by boxcar and container from vendor plants, and the inclusion of the intermodal bridgeport method of cargo movement. The extremely competitive nature of the ocean transportation industry has also resulted in the development of other than traditional service in order to control or reduce costs. Included is some containerization of cargoes, use of river barges to move cargoes to export points, use of LASH and SEABEE systems, and the use of seagoing barges for entire voyages.

The same competitive situation has resulted in highly restrictive offers of service for carriers. This has increased the number of constraints and variables that must be considered in bid evaluations and thus has made the evaluation significantly more complex. For example, carriers may offer rates that are contingent upon minimum/maximum tonnages, a maximum number of ports a vessel will call within a coastal range, a maximum number of ports of discharge and/or differentials in rates between various ports of call within a coastal range.

H. Port Allocation

If the bid analysis indicates equal cost at more than one port within a port range, KCCO must determine which port will be allocated the tonnage. The port allocations are based on a number of factors, such as consolidation of cargo for ports of call. Port allocations are approved by the Director, KCCO and subsequently furnished to the public via an information release entitled, "Notice of Port Allocations." Immediately upon issuance of the Port Allocation, KCCO offers all commodities purchased for possible booking. Voluntary agencies privately contract with forwarders for the booking of their shipments.

I. Vessel Bookings

Rates and services or program requirements often change after the commodities are purchased, resulting in the ocean booking rates sometimes differing from those used in the bid analysis. KCCO advises the booking agent of the rate and the service used to determine the lowest landed cost (LLC) and the cooperating sponsor's agent is required to book the commodity at that rate or a lower one. Any booking at a higher rate than offered must be approved by USDA. Of course, if better rates become available after the commodity is purchased, the agent may be required to book it at the lower rate. If the rate offered is U.S. flag and the lower rate is foreign flag, KCCO may require the U.S. flag service be utilized. KCCO may communicate directly with the carrier offering the service to determine sailing schedules and their ability to comply with P.L. 480 program requirements. In determining service and booking vessels, transshipments are avoided unless no other service is available.

Agents are required to solicit rates and services from all carriers eligible to provide service from the U.S. port of intermodal point from which the cargo is made available. Contacts with the carriers may be made by telephone or Transportation News Ticker (TNT). Agents must allow sufficient time for carriers to respond to a request for rates and service and must maintain a record of solicitation, rates offered and any negotiations conducted with the carriers.

When rates are solicited from all eligible carriers, but rates are not otherwise negotiated, the carrier that submitted the LLC guideline rate must be given the right of last refusal to carry the cargo at the lowest rate offered at which the cargo can be booked. When rates are negotiated, the right of last refusal does not necessarily mean that the carrier with the LLC guideline rate is the last carrier contacted prior to booking Title II cargo. By definition, the right of last refusal requirement would be satisfied when, in the course of negotiating rates, the carrier with the LLC rate is "countered" by the agent with a rate lower than the LLC, but the carrier refuses and a competing carrier subsequently agrees to contract at the "countered" rate. Once the carrier that submitted the LLC rate refuses to meet a lower rate offered by a competing carrier, the agent is not required to again contact the carrier with the LLC rate. Agents will be permitted to limit individual carrier's participation if there are justifiable reasons for not booking with a specific carrier, such as poor performance or failure to settle claims.

However, the agent must first notify KCCO/AID of the desire to limit a carrier from participation and must submit evidence documenting the carrier's unsuitability to perform. Notifications of unsuitability must be made sufficiently in advance of the booking process for the request to be reviewed and a determination made.

Commodity requests and awards are examined for possible consolidation of cargo for vessel charter. When charterable quantities are purchased at a port or range of ports destined to the same or proximate foreign destinations, KCCO requests the booking agents to consider consolidation of this tonnage with other tonnage for charter booking. If the consolidated tonnage cannot be chartered, it is booked as liner cargo. Confirmed bookings are received by KCCO within one week of offerings. Upon receipt of bookings, shipping instructions are issued to vendors and documents are prepared. (See also, freight arrangement for Section 416, in Chapter Four.)

J. Cargo Monitoring

Through its contract administration and cargo monitoring responsibilities, KCCO controls and monitors the shipment of all commodities until vessel loading is completed and ocean bills of lading are issued.

The Kansas City Commodity Office is responsible for monitoring freight forwarding functions nationwide. AID and the voluntary agencies emplo' commercial freight forwarders whose services include, but are not limited to, calling the commodity forward for vessel lifting, and preparing and securing documentation evidencing the quantity lifted on board. Freight forwarders monitor current information available on vessel status in order to advise KCCO in the event of a major vessel slippage. In that event, KCCO will take steps to protect its commodity and apply for rebooking if it is deemed appropriate.

K. Use of Inventory Commodities

The procedures described above are those followed when purchasing processed commodities to meet specific program requirements. Often, however, substantial quantities of commodities acquired by the Department of Agriculture under its price support programs are also used to meet foreign donation needs.

Good examples are nonfat dry milk, cheese, butteroil, bulk grains, and rice which are acquired under the price support program for each commodity. In shipping such commodities from inventory, KCCO uses the same method described herein for purchasing commodities with the exception that CCC's cost to place commodity "free along side" vessels is used instead of a vendor's bid. Likewise, when bulk grains (i.e., corn, wheat, soybeans or sorghum) are purchased from time to time on an f.o.b. origin, f.o.b. vessel, track, or some other basis, KCCO follows the same procedure.

II. Commodity Supplier Considerations

A. General

A U.S. commodity supplier must be approved to participate in Title II programs. This involves criteria such as the ability to supply commodity consistently, financial stability, compliance with fair hiring practices, and related requirements.

B. Bidding for Title II Awards

A manufacturer generally takes the following steps in developing a bid for a Title II purchase:

First, it is necessary to update rail rates from participating mills to port and bridge locations. For some suppliers, this could involve up to 30 or more ports for each participating mill.

Second, as most bids to the government are on an f.a.s. basis, suppliers contact ports and obtain updated wharfage and unloading rates. It should be noted that although suppliers bid on an f.a.s. basis, they:

-- Do not select the ports or the consignees to which cargo is to be sent. This is done by USDA.

-- Do not bid steamship lines, only ports.

-- Are limited to one bid per port location regardless of the number of carriers that may wish to offer services from that location.

C. Maritime Factors Affecting Bidding

Varying facilities within one port may use different handling rates, and steamship lines may offer rates different than those identified by a port. Thus the commodity bidder must pick and choose, and to control these variables, it is essential that the supplier maintain adequate communication among the parties with interest in bid involvement.

Although steamship lines and manufacturers have no contracts with each other, it is essential that they generally know what the other party is doing. If a supplier wants to offer products on an intermodal basis, the steamship line must know where the mill is located. If a supplier is bidding on an f.a.s. basis at a given port, a steamship line must bid the same port and have some idea about wharfage and handling costs upon which the supplier's bid is based.

D. Commodity Pricing

In pricing a particular commodity, the supplier must establish the price of the raw material at the mill's location, including the cost of by-products. The supplier must then determine the price of additives, vitamins, minerals, bags and government inspection fees. In some instances components such as corn, soy, and soy oil are traded on the commodity exchanges and these prices vary daily.

E. Bid Submissions By Suppliers

If bids are due in the Kansas City Commodity Office on a Monday, then the supplier usually prepares bid forms the preceding Friday and then updates prices after the market closes on the Monday when bids are submitted. Timing is critical and it sometimes may be difficult to get through on the fax lines to KCCO, since other manufacturers are trying to get through at the same time. Suppliers usually have an alternative fax number and a phone contact in the event their bid submissions is near the 3:00 p.m. deadline.

F. Supplier Awards

Awards are available to participants usually on the afternoon after bids are submitted. This announcement enables the manufacturer to calculate grain requirements and fortification/enrichment requirements, and as appropriate, to hedge these needs in the commodity markets. However, it is important to note that the bidder is unprotected from commodity market moves for one trading day.

G. Bag Purchases and Supply

The successful bidder must be concerned with the purchase of bags. As a general rule of thumb, it takes two weeks from placing an order to have bags delivered to a mill. USDA has moved toward standardization in bag printing. Now the only change from order to order, for a given commodity, is the contract number, which must be on the bag. However, no mill has the ability to print bags or is anxious to stencil thousands of bags, and thus, must contend with time delays when ordering bags for each award.

H. Product Delivery by Suppliers

Delivery schedules are prescribed by AID and USDA and suppliers must assure that products leave the mills by a given date or be subject to late fees. Bids are divided into a first and second half delivery period. All commodities produced by a supplier are inspected by the Federal Grain Inspection Service. Analysis "turn around" time is important in order to adhere to shipping schedules.

III. Ocean Freight Provider Considerations

Shipowners participate in the Title II program by offering ship tonnage and rates in response to freight tenders that are issued by the USDA/KCCO or by assigned freight forwarders. Owners participating in Title II programs should have a relatively good idea as to what competitors have ships available to offer, as well as good judgment for the "market" freight rate. As a result, competition is often relative to the owners market and the type of ship. For example, tow and barge combinations generally are competitive in the closer trade areas, i.e., the Caribbean; Central and South America; and the West Coast of Africa. They are considered to be too slow for long hauls, but their slower transit speeds (5 to 8 knots) are less significant for shorter hauls. Tankers are not physically capable of loading bagged goods into their cargo tanks due to their restricted hatch openings. Geared ships usually enjoy an economic advantage over gearless vessels in handling bagged goods.

Sometimes market competition can be determined by the liner service in a trade region. Depending on the destination and discharge port characteristics, some larger bulk vessels cannot compete for certain smaller parcels and therefore, liners can provide competitive service to these countries.

Vessel performance can be affected by a variety of factors. Laydays can be missed when a vessel returning from a prior voyage has encountered unpredictable delays such as storms at sea, rain while working cargoes, port congestion, labor strikes or simply mechanical breakdowns on the ship. In addition, delays in commodity arrival at the loadport or revised port allocations may affect originally scheduled vessel laydays, forcing the vessel into idle periods which the owner had not generally included in pricing calculations.

CHAPTER FOUR

Section 416 Operational Procedures

I. Background

Section 416(b) of the Agricultural Act of 1949, as amended, authorizes the Commodity Credit Corporation (CCC), a corporate agency within the Department of Agriculture, to donate CCC-owned commodities acquired through price support operations. The legislation provides that agricultural commodities and products thereof acquired by the CCC may be donated through foreign governments and public and nonprofit private voluntary organizations, as well as international and local agencies, for assistance to needy persons outside the United States. The law also provides that "the CCC may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery."

II. Applications of Section 416

Section 416(b) donations are temporary assistance intended to meet overseas needs not addressed by other programs. Surplus supplies of U.S. agricultural commodities and products are used to assist needy persons anywhere outside the United States (not prohibited by law) where a need arises. This assistance is to be readily available to any eligible sponsor for humanitarian, emergency or development purposes so long as assistance provided under Section 416(b) does not displace other assistance efforts and is consistent with the policies and objectives of other U.S. foreign aid programs. Eligible sponsors include governments, United Nations agencies, intergovernmental organizations, U.S. private and voluntary organizations, local private and voluntary organizations and other organizations approved by AID.

III. Agreements

Section 416 agreements include types of commodities to be supplied, shipping schedules, and other procedural matters such as cargo claims, cooperating sponsor reporting requirements, and cargo resale provisions. The agreement also specifies who pays the ocean freight cost.

IV. Commodity Ordering and Shipping Procedures - General

After the agreement is signed, the U.S. Embassy in the respective country sends a cable to AID and USDA requesting that the cargo be called forward. On receipt of the call forward, AID (FFP) advises USDA/KCCO of the type and quantity of cargo required, discharge port, shipping schedule, and other applicable shipping terms. After securing the cargo in accordance with the conditions of the call forward, USDA/KCCO releases the cargo to the cooperating sponsor's shipping agent for arranging ocean transportation. The shipping agent obtains U.S. and non-U.S. flag freight offers and then advises USDA/KCCO of the available ships, freight rates as well as other applicable information. USDA/KCCO then decides which flag (U.S. vessels or non-U.S. flag vessels) on which the cargo should be shipped in order to comply with the U.S. cargo preference laws and maximum freight rate to be paid. The freight contract is then concluded and the necessary arrangements are made between USDA/KCCO and the shipping agent for the loading and sailing of the vessel. The freight is paid to the shipowner directly by CCC once the vessel arrives at the discharging port.

A. Solicitation of Ocean Freight:

Section 416(b) cooperating sponsors must provide AID/FVA/FFP/POD written notification of their nomination of an agent, including name, address, contact, phone number and telex number. The notification should be made no later than the signing of the Section 416 agreement. The lack of this required information may delay program implementation.

The USDA/ASCS Processed Commodity Division initiates commodity procurement actions based on schedules provided in signed 416 agreements. Once procurements are finalized, the cooperating sponsor's agent will be advised of export availability by the issuance by USDA/KCCO of a Notice of Availability (CCC-512). The cooperating sponsor, or its agent, will issue a public freight announcement by means of the Transportation News Ticker (TNT), in New York, or any other means of mass communication, subject to AID/OP/TRANS approval prior to publication, to assure the widest possible market coverage with adequate notice to interested parties. AID/OP/TRANS prefers that, whenever possible, standard terminology is used by all program participants and requires that the following items be included, in addition to any other necessary elements:

1. All freight tenders must request offers of both U.S. and foreign flag vessels with such offers to be received and negotiated within the United States.

2. Offered rate(s) must be quoted on the basis of U.S. dollars per metric ton. If destination bagging or inland/internal transportation to a point other than discharge port is required, the rate(s) quoted shall separately state total rate(s) and portion of rate(s) attributable to ocean movement. Any U.S. flag vessel 15 years or older must also furnish a one-way rate in the event that vessel is scrapped or transferred to foreign flag prior to the end of the return voyage. Freight payment procedures, including the naming of the

responsible party, must be included in the freight tender.

3. U.S. flag carriers must specify on freight offers the mode of delivery being offered, either direct breakbulk or container shipment, including container relays, or by breakbulk transshipment and whether transshipment is via U.S. or foreign flag vessel. The booked carrier must agree that any deviation in mode of delivery actually performed from that offered and accepted, without the prior approval of the booking agent, results in an ocean freight rate revision to the lowest rate offered under that tender for an acceptable mode of delivery. The carrier thus agrees to refund the amount of this revision, or to permit the deduction of the amount from any sums remaining to be paid in the event that a deviation is discovered after payment is made.

4. On all ocean cargo movements, the lowest responsive offers received for both U.S. flag and foreign flag service must be presented to USDA/PCD for flag determination. Rate approval from USDA/AID must be obtained prior to confirmation of vessel fixture.

5. All cargoes moving in charterable quantity shall be fixed subject to AID/OP/TRANS and MARAD (U.S. flag vessels for guideline rate) approval. AID/OP/TRANS is solely responsible for requesting guideline rate advice from MARAD on <u>all</u> full cargo/charter movements on U.S. flag vessels. AID/OP/TRANS will communicate MARAD's approval/disapproval to the cooperating sponsor, or its agent. Fixtures shall be on basis of full berth terms (FBT) with no demurrage/despatch or detention charges, unless other terms have been incorporated in the Section

416 agreement. Immediately upon receipt of AID/OP/TRANS approval, the cooperating sponsor, or its agent shall issue an announcement of fixture details on the TNT, or any other means of mass communication subject to AID/OP/TRANS approval.

6. Total commissions or other remuneration earned on U.S. and foreign flag bookings by all parties as result of cargo fixtures to be financed under this program shall not exceed 2 1/2% of the gross freight. The cooperating sponsor, or its agent, shall require liner carrier tariffs on file at the Federal Maritime Commission to reflect a maximum of 2 1/2% commission to be paid on Section 416 cargoes.

7. The following clause will be included in all freight announcements and fixtures: "The United States Department of Agriculture/Kansas City Commodity Office's guidelines for claims for over, short, and damaged cargo documentation shall be fully incorporated in the charter party."

8. The following clause must also be inserted in all ocean freight tenders unless otherwise authorized by AID: "U.S. flag vessels which require prior approval from the Maritime Administration (MARAD) to participate in preference cargoes because of Operating Differential Subsidy (ODS) contractual constraints, or because of reflagging/foreign construction eligibility issues, must obtain such MARAD approval prior to submission of bids. Failure to obtain such approval may result at the sole option of AID in the cancellation of any fixture prior to commencement of loading."

9. If as a result of the Section 416 agreement, the U.S. government will finance the ocean freight differential on U.S. flag vessels, such differential will be determined by the Chief, Transportation Division, AID, and approved by CCC, by which the cost of ocean transportation is higher than would otherwise be the case by reason of the requirement that the commodities be transported on U.S. flag vessels.

B. <u>Ocean Freight Payment Terms:</u>

1. <u>Liner Cargoes - Processed Commodities</u>

Freight payment will be made in accordance with AID Regulation 10 (22 CFR part 210) Section 210.5(d).

In addition, the following documents must be submitted at the same time as the other documents called for in 210.5(d): National Cargo Bureau (NCB) vessel hold inspection and loading certificate.

2. <u>Full/Chartered Cargoes - Bulk Cargoes or Processed Commodities</u>

If the cargo is processed commodities, or bulk cargoes which do not require destination bagging or further distribution by the steamship company to inland points (outside of port area limits), 100% ocean freight is payable within 30 days after receipt by USDA/FAS, Washington, D.C., of the following documentation, in proper form, requesting payment:

-- One copy of completed CCC-512

-- Three copies of freighted "on board" bills of lading, signed by originating carrier

-- Two signed copies of written booking note and/or charter party covering ocean transportation of cargo
-- Payment voucher - SF 1113

If the cargo is bulk commodities which require bagging or stacking for the account of the steamship company or which require further inland distribution as agreed in booking fixture, 90% of freight is payable upon receipt of notice of vessel arrival at destination port(s) and submission of proper documentation as mentioned above, this notice is to be submitted by the cooperating sponsor. The balance of freight of 10% is due and payable upon notification from the cooperating sponsor advising that the vessel has fulfilled all the requirements of the covering charter party (including bagging specifications) in a successful manner.

C. <u>Freight Forwarder/Booking Agent Responsibilities</u>:

1. The agent receives and consolidates from various sources, documents relating to government shipments. It is the responsibility of the agent to distribute the documents as agreed by AID/USDA.

2. The agent is responsible for calling railcars forward and coordinating cargo unloading at the pier in a timely manner. USDA will issue shipper's instructions and coordinate inland cargo movement to the port and act as a liaison between the agent and the commodity supplier.

3. Where required, the agent requests and insures that a Phytosanitary Certificate is issued by the Animal Plant Health Inspection Service (USDA/APHIS/PPQ) and distributes the document as required by AID/USDA.

4. Whenever necessary (in the case of milk products or blended products containing milk), the agent shall complete and distribute as required by AID/USDA a KC-156, Export Certification for Section 416 Commodities as provided by KCCO in lieu of Phytosanitary Certificates.

5. The agent is responsible for verifying the shipper's count versus the receiver's tallied amounts, and must be able to account for losses due to railroad handling or stevedoring losses, and shall forward over, short and damage (OS&D) reports to KCCO/Export Claims Branch.

6. The agent monitors vessel arrivals and liftings through regularly scheduled contact with steamship lines and agents. The agent will be expected to provide up-to-date information as requested.

7. The agent prepares the Shippers Export Declaration, Department of Commerce form 7525-V-Alt as per Department instructions and issues these documents within the required time frame.

8. The agent prepares ocean bills of lading (OBL's) stamped "on board" to be signed by the master for the steamship line or their authorized agent. The agent will also be responsible for verifying all vessel lifting data, ensuring that the vessel name, flag status and quantities/tonnages are correct as evidenced by supporting documents. The agent then distributes OBL's to overseas consignees at the direction of the cooperating sponsor.

9. The agent submits vessel lifting information to USDA-Claims and Collection Division for use in coordinating outturn surveys pursuant to AID regulations.

10. The agent completes the consignee receipt (on a shipment-by-shipment basis) detailing railcar or container information from inland bills of lading, dock receipts and OS&D's. The consignee receipt, copies of the signed Notice to Deliver and OBL's shall be forwarded to USDA not more than 10 days after vessel loading.

11. Discharge Survey Arrangements:

For all shipments under Section 416 USDA/ASCS/PCD/EOB requires immediate notification by telephone as soon as a cargo is lifted. Agents should contact Marketing Technicians at (816) 926-6198.

A standard format is used in providing lifting information to PCD/EOB. It is necessary that complete information be provided, as all data contained thereon are utilized in contracting for discharge surveys. Special note should be given to the following items:

-- The request number must specify type of shipment.

-- The destination is the port and country where vessel liability ends.

-- If a shipment is containerized, the number of containers must be reported by telephone. The container numbers, quantity per container, and seals affixed to the container should be sent with the lifting confirmation.

-- It is necessary that USDA be informed whether or not bulk cargo will be bagged by vessel interests, as the terms of surveying contracts are completely different depending on the bagging requirement.

-- If USDA is advised that there is not more Section 416 cargo to be loaded, USDA will proceed with survey arrangements. If USDA is advised that additional cargo will be loaded at a later date, USDA will not proceed with survey arrangements until notification by agent that the cargo loading is completed. USDA must also be immediately notified of updates pertaining to these cargoes, as this information definitely affects USDA's contract with the surveyor. When an ETA is updated or the discharge port is changed, or when transshipment information becomes available, USDA must have the information promptly to pass on the surveyor in a timely manner.

D. <u>Additional Ocean Transportation Documentation Required</u>

In addition to the submission of the ocean transportation documents which the cooperating sponsor is required to submit to the USDA/FAS, Washington, D.C. under Section 210.5(d), for collection of ocean freight, the cooperating sponsor or its agent, shall submit, as an additional condition for payment:

1. To Agency for International Development, SER/OP/ Transportation Division, Room 1400-J, SA-14, Washington, D.C. 20523, Attention Mr. Robert Goldman - Tel. (703) 874-1300:

-- Public freight announcements, freight offers received (U.S. and foreign flag) and a copy of the booking note and/or charter party covering the ocean transportation of subject cargo.

-- As soon as shipments are effected, furnish OP/TRANS with two copies of the freighted "on board" bill of lading signed by the originating carrier.

2. To U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, Processed Commodities Division/Export Operations Branch, Freight Forwarding Section, Kansas City, Missouri 64141-0205, Tel. (816) 926-6292:

-- A completed CCC-512, duly signed (with copy to USDA/FAS, Washington, D.C.).

-- Five (5) signed, stamped on-board copies of the Ocean Bill of Lading. OBL's must show commodity packaging (50k# Bags) or BULK, net pounds and gross tons. Barge and container identification must be shown on the OBL or as an attachment or rider. OBL's must be freighted.

-- Two (2) copies of all Forwarding Notices (KC-269A). These may be completed in lieu of the consignee's receipt (KC-269B) when the shipment consists of one railcar or is made via truck. Under the section entitled "Warehouse or Consignee's Receipt," the following must be completed: truck or railcar identification, number of units, net and gross pounds, consignee (Cooperating Sponsor), agent's signature and date. Bagged or bulk grain shipments will have no KC-269A.

-- Unloading tallies or dock receipts for railcars which indicate overages or shortages when unloaded.

-- Railroad reports covering amounts and deposition of damaged bags (OS&D) reports.

-- Consignee's receipt showing car numbers shipped, outturn and any exceptions.

CHAPTER FIVE

Commodities, Packaging, Destination Bagging and Shipping

I. Commodities

During the 35-year history of P.L. 480 and throughout the use of Section 416, the availability and application of commodities has varied considerably. In recent years, commodity usage in U.S. food aid programs has been characterized by a concentration on food (rather than non-food) commodities and within that concentration, on basic grains and "products thereof." In addition, supply availabilities, reflecting the U.S. domestic supply situation, have recently limited the use of dairy products in overseas food aid activities. In the opposite extreme, that same U.S. domestic supply situation has even caused periodic additions to the program of surplus (to the U.S. market) commodities, such as raisins and potato flakes. At this writing, commodity considerations for Title I/III, Title II and Section 416 programs include the following:

-- Limitations on dairy products
-- Availability of basic grains
-- Use of processed products
-- Commodity fortification considerations
-- Commodity specifications and inspection requirements

II. Packaging

The Department of Agriculture (ASCS) is responsible for establishing packaging standards and specifications for commodities used in U.S. food aid programs. As a part of this responsibility, USDA monitors the application of packaging specifications and conducts research and testing activities.

Changes in recent years have included revised packaging requirements for dry, processed, grain products, vegetable oils and dairy products. USDA also sets standards and specifications for the bagging of grains in the United States which are shipped abroad for food aid programs.

Considerations involved in commodity packaging include:

-- Durability of the package or container
-- Ease of handling and vessel storage
-- Warehouse and storage potential
-- Shelf life considerations
-- Composition of the packaging
-- Resistance to moisture and infestation
-- Cost
-- Re-use potential of the package or container

In Title II, three basic types of packaging are used. The first is multiwall paper bags, which are used for blended and fortified grain products. The reason for the use of multiwall paper with a plastic liner inside is that the commodities are moisture sensitive. Further, these commodities are also susceptible to infestation, due to their high fat and caloric nature. The mills that participate in the Title II program all have heat-sealed closing units and the bag is completely sealed once it is filled at the mill. The plastic acts as a moisture barrier and the outer ply resists tearing. Second, vegetable oils are packaged in one gallon tins, five gallon pails and 55 gallon drums, depending on program requirements. Whole grains may be bagged in polypropylene woven bags. These types of packaging must perform four functions: protect the commodity; be usable; have utility; and communicate desired messages on instructions.

III. Destination Bagging

Shipment of U.S. food aid commodities in bulk form continues to constitute the major volume of U.S. food aid programs. In many countries, commodities are received in bulk and immediately proceed to processing or bulk storage. In many other countries, however, commodities must be bagged for inland movement, immediate distribution, or storage. Bagging methods differ widely, ranging from traditional hand bagging to new mechanized and mobile bagging systems. In many country program activities, the cost of destination bagging is paid by the U.S. government as part of the ocean freight expense. Considerations involved in destination bagging include:

-- The needs of the receiver
-- The accuracy and efficiency of the bagging methods
-- Type of commodity to be bagged
-- Labor and employment considerations
-- Cost effectiveness and methods of paying for destination bagging
-- Established standards and specifications
-- Inspection and reporting

IV. Shipping and Handling

Movement of U.S. food aid to its final destination involves a complex mix of various modes of storage procedures. Within the United States, rail, barge and truck movement is necessary to position commodities for export. At the same time, many U.S. ports are involved in, and compete for food aid exports. Ocean shipment of commodities includes both U.S. and foreign flag operators, employing a variety of vessel types, ranging from tug-barge combinations to tankers.

The transportation of U.S. food aid has also been affected by various related events, such as rail deregulations, intermodalism, changing vessel types, and differing port and handling capabilities. These changes have had, in turn, an effect on delivery capabilities, timeliness of performance and cost. In recent years, shipping and handling considerations for U.S. food aid shipments have included:

-- Commodity purchase requirements
-- Vendor (supplier) delivery schedules
-- Tender terms and conditions
-- Vessel booking and chartering procedures
-- Rail charges and conditions
-- U.S. port locations and capabilities
-- Vessel condition, size and suitability
-- Commodity condition
-- Ocean freight rates
-- Performance expectations
-- Documentation requirements

CHAPTER SIX

Potential Cost-Saving Suggestions For Food Aid Operations

I. Suggested Improvements in Title I/III Operations

1. Consider futures market purchases by some Title I/III recipient countries.

2. Standardize charter parties with provisions for such items as reasonable load and discharge rate guarantees which in turn, would allow shipowners to offer realistic demurrage/despatch rates that reflect the true cost of vessel operations.

3. Develop criteria and standards for Title I/III shipping agents.

4. Include interest penalties in charter parties for delinquent payment of the 90% ocean freight. Do the same for the 10% balance if laytime calculations take over 30 days. Interest on delinquent demurrage payments should also be included or consider changing USDA rules to allow CCC to guarantee financing of freight charges.

5. Consider C&F bidding for Title I/III tenders.

6. Increase or decrease charges for second port calls to reflect the actual cost of the additional port call instead of holding to the 75-cent payment limit for U.S. flag vessels.

7. Include language in the charter parties for payment of "vessel detention" if the commodity is delivered late.

8. Specify clear criteria for approving or disapproving commodity suppliers.

9. Closely monitor elevator premiums to insure they reflect true costs and are not discriminatory.

10. Revise the liner guideline rates to reflect the real cost of a liner operation.

11. Return to 50% cargo preference requirements.

12. Allow recipient countries to open freight letters of credit for the amount of freight they actually pay (excluding the U.S. flag ocean freight differential).

13. Apply cargo preference on a worldwide basis, instead of on a shipment-by-shipment basis.

14. Permit commodity purchases in one fiscal year with funds obligated in a previous year in order to obtain better prices throughout the year.

II. <u>Suggested Improvements in Title II and Section 416 Operations</u>

1. Issue revised Title II and Section 416 Handbook guidance and regulations reflecting legislative changes over the past ten years.

2. Freight booking contracts should include penalties for delivery delays at destination and load ports due to the fault of carriers, suppliers or receivers.

3. Return to 50% cargo preference requirements.

4. Pre-position food for prompter meeting of emergency and other needs.

5. Require one time bidding to KCCO for ocean freight, to be fixed at rates offered to KCCO, with no retendering or negotiations by freight forwarders.

6. If destination bagging is required, tender terms should clearly specify who will contract for the bagging, what performance is expected and who will control delivery to the warehouse including rail/road transport and stevedoring.

7. Permit commodity purchases in one fiscal year with funds that have been obligated in a previous year in order to regularize the purchasing and pricing process.

8. Establish written criteria for the selection and performance of freight forwarders.

9. Simplify program criteria and procedures for voluntary agency programs.

Appendix A

Specific Provisions of Law Affecting Food Aid Operations

In addition to the basic legislative provisions governing such items as general authorities and program content and titles, there are several provisions which specifically affect program operations. A sampling of these provisions include:

Sec. 102 - Authority given to the Commodity Credit Corporation to serve as purchasing or shipping agent when requested by the purchaser. (Added by Sec. 1201 of the Food and Agriculture Act of 1977.)

Sec. 113 - Requires priority in Title I allocations for food and fiber commodities. (Added by Sec. 204 of the International Development and Food Assistance Act of 1977.)

Sec. 114 - On Title I sales of high protein, blended, or fortified food, repayment of the debt may be forgiven for the recipient country to the extent the product value is attributable to the costs of processing, enrichment, or fortification. (Sec. 205 of the International Development and Food Assistance Act of 1977.)

Sec. 203 - The Commodity Credit Corporation authority to pay costs was expanded to include transportation to points of entry other than ports when a substantial savings in costs or time can be effected. (Added by Sec. 209 of the International Development and Food Assistance Act of 1977.)

Sec. 203 - CCC authority to pay costs was further broadened, in the case of urgent and extraordinary relief requirements, to include transportation to storage and distribution sites and associated storage and distribution costs. (Added by Sec. 305 of the President's Emergency Food Assistance Act of 1984.)

Sec. 204 - The annual appropriation authorization ceiling for Title II programs was changed from a calendar year to a fiscal year basis. (Amendment by Sec. 1101 of the Food Security Act of 1985.)

Sec. 204 - The annual Title II appropriations ceiling was raised from $600 million to $750 million by Sec. 1203 of P.L. 95-113. In 1981 the ceiling was raised again, from $750 million to $1 billion. (Amendment by Sec. 1212 of the Agriculture and Food Act of 1981.)

Sec. 204 - A waiver of the Title II appropriations ceiling is authorized when necessary to meet urgent humanitarian needs. (Added by Sec. 1101 of the Food Security Act of 1985.)

Sec. 304(d) - The CCC was authorized to pay ocean freight charges on Food for Development shipments for countries on the UNCTAD list of relatively least developed countries. (Added by Sec. 202 of the International Development and Food Assistance Act of 1978.)

Sec. 310 - To the maximum extent practicable, private trading firms shall be utilized in barter agreements. (Sentence added by Sec. 1167(c) of the Food Security Act of 1985.)

Sec. 410(a) - Commodities may be provided under P.L. 480 for urgent humanitarian purposes regardless of the normal availability criteria otherwise stated in Sec. 401(a). (Clause added by Sec. 1204 of the Food and Agriculture Act of 1977.)

Sec. 403(b) - P.L. 480 commodities from the CCC inventory shall be valued by the Secretary of Agriculture, in determining reimbursement due the CCC, at not greater than the export market price at the time of P.L. 480 use. (Added by Sec. 1206 of the Food and Agriculture Act of 1977 and by Sec. 1214 of the Agriculture and Food Act of 1981.)

Sec. 408(d) - The Secretary of Agriculture shall issue revised regulations governing operations under Title I every two years. The regulations shall be designed to encourage an increase in the number of exporters participating in P.L. 480. All revised regulations on Title I and III operations shall be transmitted to Congress. (Added by Sec. 1207 of the Food and Agriculture Act of 1977.)

Sec. 480(e) - Bagged commodities under P.L. 480 may be considered exported upon delivery at port. (Added by Sec. 1207 of the Food and Agriculture Act of 1977.)

United States Department of Agriculture

Foreign Agricultural Service

Washington, D.C. 20250

APR 25 1989

APPENDIX B

The Department of Agriculture has adopted a final rule amending the regulations governing ocean transportation bidding procedures for the Public Law 480, Title I program. The final rule requires open and competitive contracting in the procurement of ocean transportation by importing countries when the Commodity Credit Corporation is financing any part of the ocean freight. The rule is designed to keep freight costs of the program as low as possible by ensuring that ocean carriers are given fair opportunity to participate in the carriage of Title I cargoes, and to remove any appearance of conflict of interest and favoritism which could be alleged under a system of negotiated freight rates.

We are enclosing a copy of the final rule published April 10, 1989, in the Federal Register (54 FR 14199). It will become effective with purchase authorizations issued on or after May 25, 1989.

If you have any questions, please contact me on (202) 447-3664 or Donald R. Pickett, Chief, Vessel Approval Branch, on (202) 447-6711.

Sincerely,

Marvin L. Lehrer
Director
P.L. 480 Operations Division

Enclosure

Rules and Regulations

Federal Register
Vol. 54, No. 67
Monday, April 10, 1989

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 17

Financing of Commercial Sales of Agricultural Commodities

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule

SUMMARY: This rule amends the regulations at 7 CFR Part 17 applicable to the financing of the sale and export of agricultural commodities pursuant to Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended ("Pub. L. 480"). This rule requires open and competitive contracting in the procurement of ocean transportation by importing countries when the Commodity Credit Corporation is financing the ocean freight under Title I, Pub. L. 480. The rule is designed to (1) keep freight costs of the program as low as possible by ensuring that ocean carriers are given fair opportunity to participate in the carriage of Title I cargoes, and (2) remove any appearance of conflict of interest and favoritism which could be alleged under a system of negotiated freight rates. A proposed rule on this subject was published at 51 FR 32791 on September 10, 1986.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: Mervin L. Lehrer, Director, Pub. L. 480 Operations Division, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250. Telephone: (202) 447-3664.

Rulemaking Requirements

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "nonmajor." It has been determined that this rule will not result in an annual effect on the economy of $100 million or more; will not cause major increase in costs to consumers, individual industries, Federal, State or local government agencies or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the rule involves foreign affairs functions of the United States and, therefore, neither 5 U.S.C. 553 nor any other provision of law requires publication of a notice of proposed rule making with respect to the subject matter of this rule.

Background

Under Title I of Pub. L. 480, the Commodity Credit Corporation ("CCC") is authorized to finance the sale and exportation of agricultural commodities purchased by friendly countries. CCC's policy is, generally, to pay the ocean freight differential ("OFD") on U.S. flag vessels. OFD is the amount determined to represent the additional freight costs incurred as a result of the requirement to use U.S. flag vessels pursuant to cargo preference legislation. In certain circumstances, CCC may also finance, on credit terms, the non-OFD portion of the freight charges for U.S. flag vessel carriage or the freight charges for foreign-flag vessel carriage.

A proposed rule was published on September 16, 1986 at 51 FR 32791. This rule addressed certain issues regarding the procurement of ocean transportation by participants in the Title I, Pub. L. 480 program.

The proposed rule would have amended existing regulations to authorize the Director, Pub. L. 480 Operations Division, Foreign Agricultural Service (the "Director") to approve the terms of invitations for bids (IFB's) issued by participants soliciting offers from vessel owners/operators to carry cargo under the Pub. L. 480 Title I/III program. As part of the approval process, the Director would have had authority to specify, when USDA is financing ocean freight (e.g., primarily with respect to U.S. flag vessels), whether offers received are to be pursuant to (1) open freight tenders, (i.e., opened publicly and ocean freight contracts made on the basis of such offers without negotiations) or (2) closed freight tenders, (i.e., be opened in private subject to further negotiations).

The proposed rule also provided that, in the case of open freight tenders, no negotiation, clarification or submission of additional information shall be permitted after receipt of the original freight offers unless the Director first determines that such further action is necessary to match the freight offers with the commodity offers, or to respond to unanticipated changes in quantities or locations of the commodities to be purchased. After review of the comments and subsequent experience with cargo preference requirements at the 75 percent level, the final rule differs with respect to the procurement of ocean transportation in that it (1) does not provide for any negotiations after receipt of the original offer and (2) does not provide for closed freight tenders.

The proposed rule also addressed the issue of re-tenders which is further described below.

Summary of Comments on Proposed Rule

Most of the 22 commentors (including 3 responding after the October 16, 1986 deadline for comments) favored the proposed rule, some with modifications. Five requested a 60 day extension to allow additional time for comments. Two were opposed to some or all of the proposal. Significant comments are grouped below by issue.

1. Open Freight Tenders.

Comments received from U.S. flag carrier interests unanimously supported the open tendering system as being the most equitable and competitive. One U.S. flag carrier stated that if all bidders know they only have one chance to submit their best offer, market competitive factors will be in effect and the efficiency of U.S. taxpayers' dollars will be maximized. Another U.S. flag carrier stated that it was very much in favor of the use of "open tenders" since such tenders would be beneficial to all parties concerned in the Pub. L. 480 transactions, owners of vessels would receive a fair and equitable chance to fix vessels, and the government should benefit as a result.

The U.S. Department of Transportation also stated it was in favor of the open tendering system, since that system would contribute to a more competitive attitude among bidders and would, therefore, result in cost reductions to the United States Government as well as equitable treatment of the U.S flag vessel operators.

One commentor criticized the original proposal because it would result in increasing complexity in making freight offers. The commentor stated that to maximize chances of obtaining a freight award without submitting additional information or further negotiation, U.S. flag owners/operators would submit offers encompassing "every conceivable variation of type of vessel, tonnage size, port of loading, coast of loading, and laydays/canceling dates."

While USDA agrees that the complexity in offers would increase, open tenders would be fair to all parties and remove the appearance of favoritism which some have alleged as possible under a closed tender system. Vessel owners would know that in making offers containing multiple contingencies, read in public, no opportunity could exist for the appearance of unfair post-offer negotiations amongst charterers, their agent, brokers, and vessel owners. Further, this would permit the charterer increased options in matching cargo to vessels, maximize purchases, and achieve cargo preference responsibilities at the lowest cost possible.

In addition, while the ability of both USDA and participant/charterers to process offers was at the time of the proposed rule a concern, the advent of sophisticated computer technology has significantly reduced the time required to evaluate commodity and freight offers to achieve a lowest landed cost determination. In fact, USDA has fully computerized its evaluation for the past year.

Another commentor stated that it is the custom of the trade to have closed freight tenders not open freight tenders. USDA agrees that this is true of most commercial U.S. agricultural export trade and further notes that it is the policy of the Title I program to permit normal commercial practice to the extent compatible with safeguarding the public interest. However, USDA firmly believes that due to the nature of the Title I program where public funds are used to finance freight, either in the form of Ocean Freight Differentials (OFD) or occasionally foreign flag carriage, USDA's role in maintaining the integrity of the program outweighs the concerns of this commentor. Open freight tenders will remove the environment and possibility for selective negotiations, favoritism, and the appearance of conflict of interest.

Another commentor noted that the procedure for open freight tenders would not permit participants to give a vessel owner/operater a "last refusal" option to reward or encourage good service. It was argued that when this is not possible, ocean carriers have no incentive to treat Pub. L. 480 business with the same goodwill they would in normal commercial practice. One commentor pointed out that this "manifests itself in operational problems that could be easily resolved, but aren't, because suppliers know that regardless of the quality of service . . . they must be awarded on the next business if they are even a penny cheaper. . ." USDA notes that negotiating with a "last refusal" option could permit favoritism and, therefore, lead to higher freight rates than would be otherwise received under an open bidding process. As a result this option is not consistent with USDA's goals in implementing this rule.

Several commentors stated that open freight tenders would lead to higher U.S. flag freight rates as U.S. vessel owners would be able to take advantage of situations where the number of U.S. flag offers of suitable tonnage is extremely limited. Some suggested an alternative under which original freight offers would be opened publicly, but closed negotiations would then be undertaken with responsive low offerors. This approach would be intended to preserve some of the benefits of open tendering (greater transparency of procedures) with the benefits of closed tenders (greater competition and flexibility in negotiating advantageous terms other than price).

USDA does not agree with these commentors as experience does not support this concern. Since the draft of the proposed regulations in 1986, significant increases in competition have been noted in those markets generally thought of to be limited, namely East and West Africa. Also, where there may be some limited competition, negotiation does not reduce freight rates. To support these facts, USDA recently conducted a study of 19 Purchase Authorizations (PAs) for 10 African countries, covering the period 1985–1988. Only 2 of the 19 tenders had freight offers for only 1 U.S. vessel. In both cases negotiation did not yield any reduction in the freight rate. Of the 17 remaining PAs, 82 percent had offers from 3 or more vessels with the greater freight savings observed in those tenders having the most competition—4 or more offers. Therefore, USDA takes the position that negotiations following either so-called open or closed freight tenders do not necessarily lead to lower freight rates than strict adherence to competitive open tenders. Under an open system, all competitors would essentially be offering their best and last rate.

One agricultural commodity processor organization supported open freight tenders with the stipulation that results be announced before commodity offers are taken. This would enable commodity suppliers to take into account known U.S. flag freight costs from various U.S. ports and coastal ranges. This rule will require the opening and reading in public of all U.S. flag freight offers prior to the receipt of commodity offers. There will be no change, however, to the current system of awarding freight and commodity as soon as possible following the receipt of commodity offers.

Some commentors stated that it was not clear whether USDA intended the open tender procedure to apply to non-U.S. flag vessels whose freight costs were being paid in full by participating countries. USDA hereby reiterates that a regulatory requirement for open tenders would apply only with respect to vessels for which USDA is financing some portion of ocean freight, either in the form of OFD payments or, when specifically approved in a Pub. L. 480 Title I agreement, foreign flag carriage.

In order to clarify the issue of deadlines of the receipt of offers USDA will require that IFBs indicate the same deadline for the receipt of offers for U.S. and foreign flag vessels. The proposed rule only required that the deadline for submission of offers for foreign flag vessels could not be later than that for U.S. flag vessels. This change is made for the purpose of removing further any appearance of conflict of interest because foreign freight offers form an integral part of the calculation of OFD.

2. Closed Freight Tenders

Several comments were received regarding the procedures and mechanisms for conducting closed freight tenders. Because closed freight tenders are not an option in this final rule there is no need for comment on these points.

3. Requirement of USDA Approval of Freight Re-tenders

One commentor opposed this proposal on the grounds that participants should be permitted to re-tender whenever they consider it in their interest. USDA notes that approval is already required as a practical matter before a re-tender may be held. Approval is normally automatic for re-tenders for non-U.S. flag vessels, although USDA may compute OFD based on non-U.S. flag vessel rates offered in the original tender if U.S. flag vessels were fixed on that tender. Approval of re-tenders for U.S. flag vessels may be withheld if USDA believes that the result would be an increase in the U.S. flag rate or a reduced likelihood of meeting cargo preference requirements. The final rule does not differ from the proposed rule in this respect.

This rule also adds certain provisions now appearing as standard language in purchase authorizations. Upon the effective date of this rule, these provisions will be deleted from the purchase authorizations. No public comments were received concerning these provisions and they are adopted without change.

Final Rule

List of Subjects in 7 CFR Part 17

Agricultural commodities, Exports, Maritime carriers.

Accordingly, 7 CFR Part 17, Subpart A is amended as follows:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Secs. 101–115, Pub. L. 480, 83rd Cong., as amended, 68 Stat. 455 (7 U.S.C. 1701 *et seq.*); E.O. 12220, 45 FR 44245.

§ 17.14 [amended]

2. In § 17.14, paragraphs (b) through (o) are redesignated as (c) through (p), and a new paragraph (b) is added to read as follows:

§ 17.14 Ocean Transportation.

* * * * *

(b) *Contracting procedures*—(1) *Invitations for Bids (IFBs).* (i) Public freight "Invitations for Bids" are required in the solicitation of freight offers from all U.S. and foreign flag vessels unless otherwise authorized by the Director, Pub. L. 480 Operations Division, Foreign Agricultural Service (FAS) or in the case of cotton shipments, by the Director, Kansas City ASCS Commodity Office (hereinafter referred to as "the Director" as applicable), except that IFBs for foreign flag vessels are not required if the participant requires the use of vessels under its flag or other foreign flag vessels under its control and CCC is not financing any portion of the ocean freight thereon. Vessels considered to be under the control of the participant include vessels under time charters, bare boat charters, consecutive voyage charters, or other contractual arrangements for the carriage of commodities which provide guaranteed access to vessels. Prior to release to the trade, all freight IFBs must be submitted to the Director for approval. Freight IFBs for both U.S. and non-U.S. flag vessels, except controlled vessels, must be issued by means of the Transportation News Ticker, New York, plus at least one other means of communication, to assure the broadest possible market coverage with adequate notice to interested parties.

(ii) All freight IFBs must:

(A) Specify a closing time for the submission of offers and state that late offers will not be considered;

(B) Provide that offers are required to have a canceling date (last contract layday) no later than the last contract layday specified in the IFB, and that vessels which are offered with a canceling date beyond the laydays specified in the IFB will not be considered, and;

(C) Provide the same deadline for submission of offers from both U.S. flag vessels and non-U.S. flag vessels.

Vessels which are submitted for approval following offers which do not comply with the above IFB requirements will not be approved by the Director.

(2) *Competitive bidding.* When CCC is financing any portion of the freight all offers shall be opened in public in the United States at the time and place specified in the IFB. Offers shall be publicly opened at such time prior to the time for receipt of offers for the sale of commodities as the Director determines appropriate. Only offers which are responsive to the IFB may be considered, and no negotiation, clarification, or submission of additional information shall be permitted.

(3) *Records of offers.* Copies of all offers received must be promptly furnished to the Director, and the Director may require the participant, or its shipping agent, to submit a written certification to the General Sales Manager that all offers received (with the times of receipt designated thereon) were transmitted to the Department. For purposes of this paragraph "time of receipt" shall be the time a hand carried offer, mailed offer, or telegram was received at the designated location for presentation or, if transmitted electronically, the time the offer was received, as supported by evidence satisfactory to the Director.

(4) *Re-tenders.* The Director may permit or require a participant to refuse any and all bids, and in such case a participant may conduct a re-tender with the approval of the Director. The Director shall not approve or require freight re-tenders unless they will increase the likelihood of meeting U.S. flag cargo preference requirements, will permit the desired quantity to be shipped, will likely result in reduced CCC expenditures, or are otherwise determined to be in the best interests of the program. Any re-tendering will be governed by the same requirements as the original tenders.

* * * * *

Signed at Washington, DC on March 28, 1989.

Melvin E. Sims,

General Sales Manager; Vice President, Commodity Credit Corporation; and Associate Administrator, Foreign Agricultural Service.

[FR Doc. 89-8321 Filed 4-7-89; 8:45 am]

BILLING CODE 3410-10-M

Appendix C

International Trade and Development Education Foundation
Food Aid Operations Seminar
February 8, 1989

List of Seminar Registrants

Frederick J. Sands, Lauhoff Grain Co.
Richard Pittelkow, Lauhoff Grain Co.
Alvin C. Scheeter, Lauhoff Grain Co.
James P. Dawson, Lauhoff Grain Co.
James P. Shettig, Crowley Towing & Transportation Co.
Robert E. Stachel, Robert W. Hunt Co.
Mara Russell, CARE
Ted Nickinson, Ryan-Walsh, Inc.
John Loftus, Toledo-Lucas County Port Authority
Dwight E. March, Port of Pensacola
Tufail Ahmad, Euro-America Shipping & Trade, Inc.
Felton Overby, Port of Lake Charles
G.K. Winn, Port of Lake Charles
Mark R. Reynolds, Port of New Orleans
Antero Hietala, Port of New Orleans
Otto Bosman, Protos Shipping Inc.
Liz Sigel, Transportation Institute
Abdoulaye Barry, Private Consulting & Services Firm
Joseph Kearns, D.F. Young, Inc.
Peter M. Kelly, D.F. Young, Inc.
James B. Mead, D.F. Young, Inc.
Ken Szallai, Port of Milwaukee
Charles Baron, Amex International, Inc.
Randy Green, Wheat Export Trade Education Comm.
Charles Nelson, Bunge Corp.
Jonnie Carpenter, D.F. Young, Inc.
Diane Kirkbright, Louis Dreyfus Corp.
William Jakubsen, Georgia Ports Authority
Dan Meehan, Meehan Seaway Services, Ltd.
Chris Karpinski, Ned Chartering & Trading, Inc.
John D. Nelson, Jr., Ned Chartering & Trading, Inc.
Ihsanul Haq, Ned Chartering & Trading, Inc.
Numawar A. Khalid, Ned Chartering & Trading, Inc.
M.A. Halim Chowdhury, Ned Chartering & Trading, Inc.
Vince Zortman, Rice Millers Association
William Amoss, Lykes Bros. Steamship Co., Inc.
H.C. Park, Amex International, Inc.
Ann Telma, Amex International, Inc.
Cliff Syby, Sealand Service
Thomas Little, Dairymen, Inc.
Andrew Koval, Council for International Development
Barbara Munyer, Sealand Service, Inc.
John McLaurin, American President Lines, Ltd.

Doug Cole, American President Lines, Ltd.
Peter Prowitt, American President Companies
Missy Bauman, World Vision
A. Mark Christopher, Herge, Sparks, Christopher & Biondi
John Wise, ADM Milling Co.
Roger Clark, Lykes Bros. Steamship
James Scala, Scala Consulting Service
Joseph Farrell, Waterman Steamship Corp.
Betsy Faga, Protein Grain Products International
Steven McCoy, North American Export Grain Association
Douglas Allred, Louis Dreyfus Corp.
Ravi Singh, Robert H. Wall, Inc.
Edward Blattner, Panalpina, Inc.
Tom Maloney, International Navigation Corp.
Doug Marshall, International Navigation Corp.
James Sullivan, Catholic Relief Services
Esther Adels, ADRA International
Brian Soto, ADRA International
Rodolfo Monsalve, ADRA International
Angie Waring, ADRA International
David Oberlin, Fednav USA, Inc.
Randy Sutton, Union Pacific Railroad
Mike McQuillan, OmniPort, Houston
Ron L. Josias, OmniPort, Houston
Stanley M. Smith, Cargill, Inc.
Thierry Reiter, Joint Procurement Agencies, Inc.
Louis H. Joseph, Joint Procurement Agencies,Inc.
Roger Clark, Lykes Bros. Steamship Co., Inc.
Albert E. May, United Shipowners of America
Mark Aspinwal, United Shipowners of America
Thomas W. Scoville, Joint Maritime Congress
Gloria Rudman, Joint Maritime Congress
Capt. Julian Walters, Joint Maritime Congress
Dorsey Hunt, Sea-Land Service
Gerard Snow, Transportation Institute
Steven Wines, Maritime Institute
Charles Maslin, CARE, New York
Barbara Yearwood, CARE, New York
Manuel Garcia, Wm. H. Muller Shipping Corp., N.Y.
Paul Blizzard, Wm. H. Muller Shipping Corp., N.Y.
Constantine Papavizas, Dyer, Ellis, Joseph & Mills
J.F. Ravener, Connell Rice & Sugar
Robert Leyh, Waterman Steamship
Austin P. Olney, LeBoeuf, Lamb, et al.
Kenneth Killen, Lutheran World Relief
Rebecca Litton, Transportation Institute
Robert Worley, Pine Bluff Warehouse Co.
Joe Fucarino, Universal Transcontinental Corp.
Paul Green, Millers' National Federation
Dave Sauer, Seaway Port Authority of Duluth
Koll Biornstad, Transorient Marine Corp.
Alisan Dobra, Transorient Marine Corp.

Larry Prescott, (Guest of Transorient)
Leonard Seacry, (Guest of Transorient)
Peggy Sheehan, National Cooperative Business Assoc.
Merilee Frets, American Dry Pea, Lentil, Assoc.
Marcus Jacobson, American Dry, Pea & Lentil Assoc.
Gary Pruitt, Great Baton Rouge Port Comm.
W. Sam Coblentz, Ryan-Walsh, Inc.
Robert Powell, Universal Shipping
A. Agne, Universal Shipping
Charles Sykes, CARE
Vince Peterson, U.S. Wheat Associates
Keith Powell, Potomac Marine
Fred Haden, Potomac Marine
Mario Echieverra, Pacific Cargoes
Bob Smith, Lykes Bros. Steamship Co.
Werner Bouchard, International Great Lakes Shipping
Gerard Nederpel, Nectar Projects
Jon Brause, Nectar Projects
Melody Bradley, Port of Pascagoula
Capt. John Graham, Gulf Coast Transit Co.
James Turner, TECO Transport & Trade Co.
Bonnie Green, American President Lines
Robert Lewis, St. Lawrence Seaway Development Corp.
David Monfort, Central Gulf Lines
B. Kanaley, Sea-Land
C. Brown, Sea-Land
E. Aldridge, Sea-Land
Don Walker, Textile Bag Manufacturers Association
Marvin Lehrer, EC/FAS/USDA
Patricia Rader, AID/Africa Bureau
Martin Fitzpatrick, USDA/OT
Ross Coggins, AFR/ECO, Dept. of State
Howard Marks, USDA/OICD
Jim Phippard, Senate Ag Committee
Donna Rosa, AID/FVA/FFP
Robert Hechtman, AID/FVA/FFP
Gary Moser, AID/FVA/FFP, Africa Div.
Jon O'Rourke, AID/FVA/PPM/PAD
David G. Bell, USDA/ASCS/KCCO
Paul Carver, Cong Obey's Office
Janet Breslin, Senate Ag Committee
Viviann Gary, AID/FVA/FFP/ANE
Frank Gillespie, AID/FVA/FFP
Mary Kilgour, AID/FFP
Merle Brown, USDA/ASCS
A. James Firth, USDA/ASCS/CMO
Steven Miteff, USDA/ASCS/CMO
Jack Royer, AID/FVA/FFP
Gerald Pitchford, Committee on Foreign Affairs
Anita Brown, House Committee on AGriculture
John Ziolkowski, Senate Agriculture Committee
Margaret Goodman, House Foreign Affairs Committee

Amy Friedheim, USDA/OT
James Jackson, AID/FVA/FFP
Judith Gilmore, AID/FVA/FFP/LAC
Sam Scott, AID/FVA/FFP/LAC
Jim Durnan, AID/FVA/FFP/LAC
Benton Hoskins, AID/FVA/FFP/LAC
Donald Ferguson, USDA/OICD
Bert Hawkins, USDA/OICD
Christopher Goldthwait, USDA/FAS
Carolyn Weiskirch, AID/Ofc of Program & Policy Coord
Jeanne Markunas, AID/POD/FFP
Herb Smith, AID/POD/FFP
Babette Trevot, AID/POD/FFP
Mary Newton, AID/POD/FFP
Rodrigo Sotela, Minister Counselor, Embassy of Costa Rica
Rasool Bakhsh Baloch, Food & Ag Counsellor, Embassy of Pakistan
Manel DeSilva, Embassy of Sri Lanka
Gaston Pacheco, Embassy of Bolivia
Horacio Bazoberry, Embassy of Brazil
Silcarneyni Gueye, Senegal Embassy
Patricia Nalvarte, Embassy of Peru
Quamrul Hai, Embassy of Bangladesh
Marcia Bonilla, Embassy of Honduras
Abdia Ahmed Mohamed, Embassy of Somali Democratic Republic
Mr. Landivar, Commercial Counselor, Embassy of Ecuador
Javier Baquero, Embassy of Ecuador
Fermina del Carmen Ruchac, BANAFI, El Salvador
Henry Alberto Quezada Coto, Ass't to Food Unit of SETEFE, El Salvador
Francisco Stanley Herrera, Exec. Director, SETEFE, El Salvador
Embassy of Mali, Either Ambassador Samassekou or Counselor Cisse
Mr. Manchique, Third Sec., Embassy of Mozambique
Mr. Sene, Agriculture Counselor, Senegal
Paul Wamambe, Third Secretary, Ag Affairs, Uganda
Abdulaziz Ali Al Zarigah, Attache, Economic Affairs, Embassy of Yemen
Lasarus Kapambwe, Charge d'Affairs, Zambia
Norman Chakanetsa, Counselor, Economic Affairs, Zimbabwe
Henri Biclair Andrianantoandro, Embassy of Madagascar
Ricardo Aguirre, Embassy of Guatemala
E.K.A. Amoa-Awua, Embassy of Ghana

Appendix D

The International Trade and Development Education Foundation

The International Trade and Development Education Foundation was organized as a response to the continuing need for greater U.S. awareness of international activities. The primary impetus behind the Foundation is that the United States, its economy, its social structures and its security, derive significant benefits from our involvement in international development activities, foreign trade and other forms of international involvement. The Foundation recognizes that there is a serious need to inform Americans about the importance of international activities and our reliance upon those actions.

In this context, the Foundation has been impressed with the relationships between U.S. food, development and trade activities abroad, and specific U.S. domestic benefits, such as increased employment, strengthened economic activity, greater personal income, and increased tax revenues. The fact that these relationships exist are not only important reasons for international trade, but also, for maintaining programs of development and food assistance that demonstrate that in helping others, the United States can bring considerable benefit to its own interests as well.

In the area of food aid, the Foundation's Board of Directors is especially qualified. Board members' experience includes:

Daniel E. Shaughnessy (President) - Mr. Shaughnessy is the owner and President of TCR Services, Inc., an international trade consulting firm. Previously, Mr. Shaughnessy was Deputy Assistant Administrator in the USDA Foreign Agricultural Service responsible for P.L. 480 activities and CCC credit programs. He also served as the Executive Director of the Presidential Commission on World Hunger, as Deputy Coordinator for the Food for Peace Program in the Agency for International Development, as Deputy U.S. Government Coordinator for the United Nations World Food Conference and Director of Food Aid and Nutrition Activities for USAID in New Delhi, India. Mr. Shaughnessy also served on the U.S. Senate staff, dealing with food and agriculture matters.

Lewis Gulick - Dr. Gulick has had extensive experience in international development activities, including food aid. He served for 12 years as the senior consultant to the House Foreign Affairs Committee and has traveled extensively throughout the world on development-related assignments. Dr. Culick has been directly involved in all major food aid and development legislation for the past decade and is particularly familiar with relationships between food, agriculture and development activities abroad.

Davis Helberg - Mr. Helberg is Executive Director of the Seaway Port Authority of Duluth, Minnesota, and has considerable experience in operational and transport matters relating to food aid shipments. He has served as a consultant to United Nations and foreign governments on such shipments and is directly involved in the full range of daily transportation industry activities dealing with U.S. food assistance programs.

Raymond Hoehle - Mr. Hoehle has had direct field management experience with food aid programs, having served as an administrator of P.L. 480 Title II programs for CARE. A former Peace Corps volunteer, he also has experience in food processing activities and related technology, through assignments with the USDA agribusiness group and the Congressional Office of Technology Assessment.

Victor Skiles - Mr. Skiles is a retired foreign service officer with a wide range of background in food and development assistance including assignments in East Africa, the Middle East, Asia and Europe. Mr. Skiles was the U.S. representative to the United Nations World Food Program and is active as an advisor to the Foundation.

Charles Sykes - Mr. Sykes is the Assistant Executive Director of CARE with extensive personal experience in food aid program management throughout the world. Mr. Sykes is currently the Director of the CARE Washington liaison office and has served in more than a dozen countries throughout the world.

Herbert Waters - Mr. Waters is a retired U.S. government official with considerable experience in food aid. A former aide to the late Senator Hubert Humphrey, Mr. Waters was instrumental in the initial drafting of P.L. 480 legislation and held Presidential-appointee positions in the Department of Agriculture and Agency for International Development where he was responsible for food aid activities.