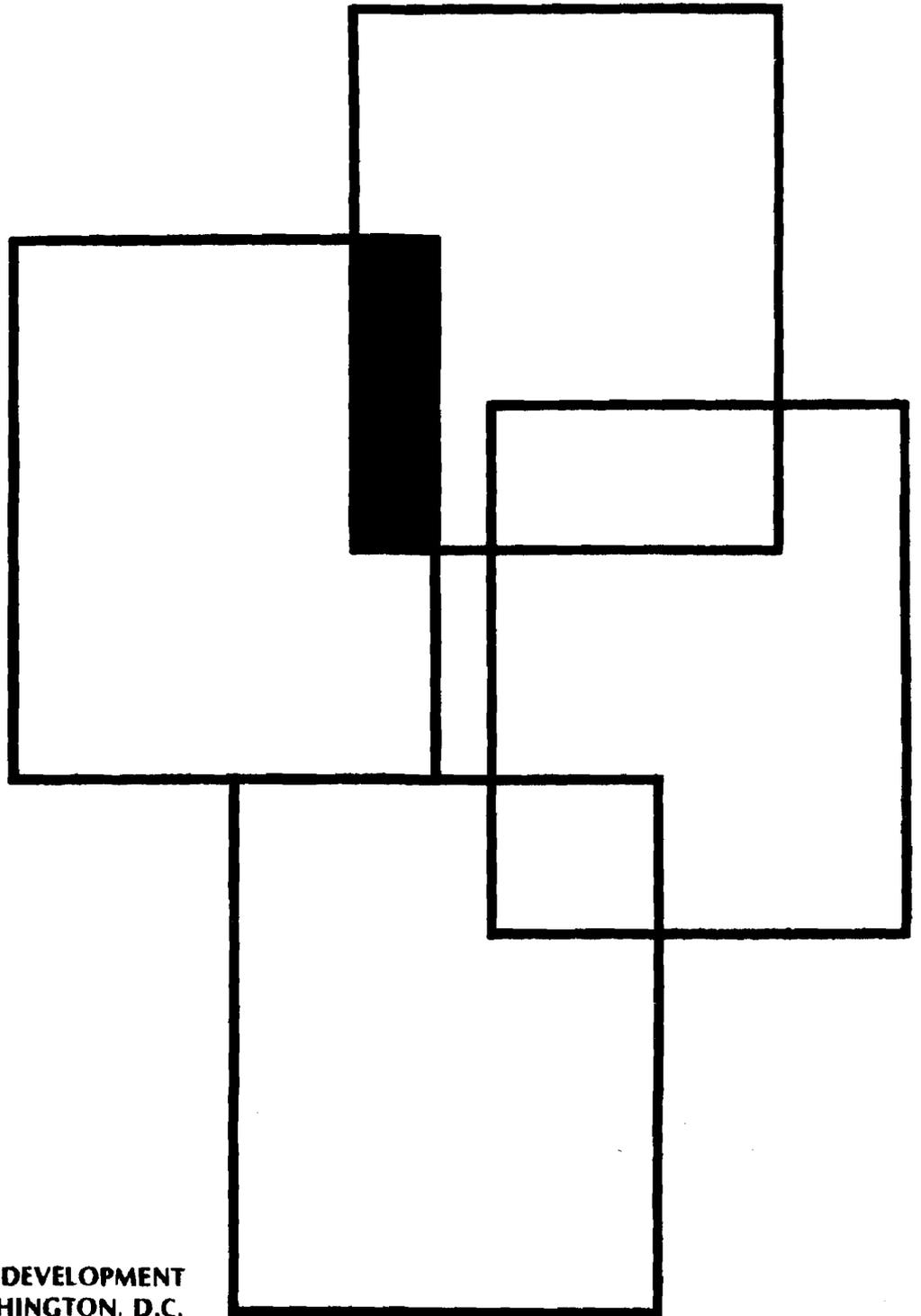


# Food for Peace, Title II



AGENCY for INTERNATIONAL DEVELOPMENT  
WASHINGTON, D.C.

AGENCY FOR INTERNATIONAL DEVELOPMENT

HANDBOOK TRANSMITTAL MEMORANDUM	DATE January 19, 1981	TRANS. MEMO NO. 9:6
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MATERIAL TRANSMITTED

Handbook 9 - Food For Peace (Public Law 480, Titles I, II and III)

Complete Revised and Updated Handbook

This Handbook which previously dealt exclusively with P.L. 480, Title II Foreign Donation Programs has been revised and updated, in its entirety to include, not only the Title II program policy, procedures, and guidelines but also contains the program policy, procedures, and guidelines for implementing and administering P.L. 480, Titles I and III activities. (Procedures and guidelines for implementing P.L. 480, Title I programs, previously contained in Handbook 4 - Nonproject Assistance, Chapter 7, were officially transferred to Handbook 9 on May 1, 1978.)

The revised and updated Handbook incorporates the amendments of: (1) the Public Law 480, Agricultural Trade Development and Assistance Act of 1954, as amended through October 1, 1977, (2) the changes contained in the International Development and Food Assistance Act of 1977 (P.L. 95-88), (3) the Food and Agriculture Act of 1977 (P.L. 95-113 and (4) the amendments to P.L. 480 legislation contained in the International Development and Food Assistance Act of 1978 (H.R. 12222) and the International Development Cooperation Act of 1979, as amended (P.L. 96-53), dated August 14, 1979.

The Handbook is organized into five parts:

- PART I - Contains Chapter 1, Authority; Chapter 2 concerns Allocation and Coordination of Responsibility; and Chapter 3 covers Policy.
- PART II - Provides procedures and guidelines for implementing Title I Concessional Sales programs (Chapter 4); and the new Title III Food for Development activities (Chapter 5).
- PART III - Provides procedures and guidance for implementing the Title II Foreign Donation Programs (Chapters 6 through 12).
- PART IV - Contains new material: Evaluation of P.L. 480 Programs (Chapter 13), and Chapter 14 provides guidance for implementing AAG Audits and Voluntary Agency Internal Reviews.
- PART V - Contains Appendixes and Exhibits.

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## HANDBOOK TRANSMITTAL MEMORANDUM NO. 9:6

Revisions, amendments and significant changes made for updating purposes are highlighted below by Chapter.

PART I

- Chapter 1 - Authority - has been updated and includes, in addition to Title II, the legislative authority for Titles I and III activities.
- Chapter 2 - Concerning Allocation and Coordination of Responsibility, has been revised and updated to include, in addition to Title II, the allocation and coordination responsibilities of Titles I and III activities. NOTE: The Food Aid Subcommittee's Working Group replaces the Interagency Staff Committee (ISC). The Working Group of the Food Aid Subcommittee is Chaired by the Department of Agriculture, and includes representatives of AID/State/OMB/Treasury, and Commerce. The ISC/II Subcommittee is replaced by the Title II Subcommittee. The functions of the Committee remain the same.
- Chapter 3 - This chapter concerning Policy has been updated to include the policy for all P.L. 480 activities (Titles I, II, and III).

PART II - Titles I and III Programs

- Chapter 4 - Updated to reflect legislative and editorial changes. Paragraph 4E2 New Material provides guidance for complying to the requirements of the Bellmon Amendment.
- Chapter 5 - NEW MATERIAL - contains procedures and guidance for implementing and administering the new Food for Development Title III program.

PART III - Title II Foreign Donation Programs

- Chapter 6 - This chapter concerning Program Development of Title II activities has been renumbered from Chapter 4 to Chapter 6. 6B6 & 7 New Material concerns the Bellmon requirement. 6G New Material provides guidance for applying for Title II Outreach Projects (also Exhibit K). Contains editorial changes in language for updating and clarifying.
- Chapter 7 - Concerns Program Implementation. It has been renumbered from Chapter 5 to Chapter 7. 7F3.a. contains New Material concerning independent cargo surveys on all Title II cargoes shipped under Transfer Authorizations with the exception of WFP cargoes. 7E4 New Material authorizes reimbursement costs for repackaging commodities in a Foreign Country because of damage (See AID Regulation 11, Section 211.7(e)). 7G2 New Material provides guidance for overseas milling in exceptional circumstances. Also contains editorial changes in language for updating and clarifying.

AGENCY FOR INTERNATIONAL DEVELOPMENT

HANDBOOK TRANSMITTAL MEMORANDUM	DATE	TRANS. MEMO NO.
	December 11, 1986	9:13R*

MATERIAL TRANSMITTED:

Handbook 9 - Food For Peace, Title II

New Handbook Index

The Master Index has been updated as of August 30, 1986. As a consequence of being a direct extract from that document, this individual handbook index provides additional citations to topics that are also covered in other Handbooks. Included as part of this index are instructions as to how to use the index.

SUPERSEDES:

Any existing index material in this Handbook.

FILING INSTRUCTIONS:

1. Remove superseded material as indicated under SUPERSEDES.
2. File the attached in their appropriate places.
3. Initial the Transmittal Memorandum Checksheet (in the back of the Handbook binder) beside TM 9:13.

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KEEP THIS TRANSMITTAL MEMORANDUM, which has an up-to-date Checklist for this Handbook on the back. File this TM 9:13 in the front of the Handbook binder; discard TM sheet 9:12

\* \* \* \* \*

Address questions about this Handbook to M/SER/IRM/PE.

\* REORDER - Handbook 9 has been reordered in its entirety upto and including TM 9:13.

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CHECKLIST FOR HANDBOOK 9  
FOOD FOR PEACE

AUTHOR OFFICE: FVA/FFP

<u>DATE</u>	<u>MATERIAL TRANSMITTED</u>	<u>TM NO.</u>
Various	Complete Revised Handbook	9:6
1-19-81	Pages F-16 through F-39 of Appendix F	9:7
2-5-82	Pages 7-1, 7-2, and 7-2a of Chapter 7	9:8
11-15-83	Chapter 4 and Chapter 5	9:9
11-15-83	Pages TC-1 through TC-4, TC-9 and TC-10 of Table of Contents	9:10
Aug. '86	New Handbook Index	9:13

## HANDBOOK TRANSMITTAL MEMORANDUM NO. 9:6

- Chapter 8 - Renumbered from Chapter 6 to Chapter 8. This chapter regarding losses, damages, and improper distribution of Title II commodities has been rewritten in its entirety. It contains New Material which clarifies the procedures for implementing Title II inland claims. (Also see Appendix E for detailed guidance concerning documentation requirements for P.L. 480 Ocean Carrier claims.)
- Chapter 9 - Emergency Projects, has been renumbered from Chapter 7 to Chapter 9. New Material, 9A5. Use of Sales Proceeds, has been revised to broaden the use of proceeds from sales in emergency programs to include "in selected country situations the local currencies may be authorized for development purposes that will help alleviate the causes of food shortage for which the commodities are authorized." 9B3b, New Material, regarding reporting and auditing of Title II emergency programs. Paragraph 9C1b has been deleted and New Material substituted concerning Mission's responsibility in requesting emergency assistance. Updating and editorial changes in language to clarify.
- Chapter 10 - Child Feeding, Economic and Social Development. This chapter has been renumbered from Chapter 8 to Chapter 10. Editorial changes made in language for updating and clarifying.
- Chapter 11 - Local Currency Projects - renumbered from Chapter 9 to Chapter 11. Revised and updated to reflect legislative changes. Also contains editorial changes in language for updating and clarifying.
- Chapter 12 - U.N./FAO World Food Program - Renumbered from Chapter 10 to Chapter 12. Changes made in language for updating and clarifying. New Material, 12G4.d.(2), provides guidance for complying with Bellmon requirement.

PART IVNew Material

- Chapter 13 - Evaluation of P.L. 480 Programs - New chapter provides guidance for evaluating P.L. 480 activities required by Public Law 480 legislation, Section 408(c).
- Chapter 14 - Audits (AAG) and Internal Reviews (Voluntary Agency) of P.L. 480 Programs - New Chapter provides guidance for implementing AAG Audit Reports and sets forth the requirement of AID Regulation 11, Section 211.5(c) for conducting and implementing VolAgency Internal Reviews. (Includes suggested Internal Review Checklist to be used as guidance by USAID's and VolAgencies for developing and conducting internal reviews.)

## HANDBOOK TRANSMITTAL MEMORANDUM NO. 9:6

APPENDIXES - PART V

Appendix A - Definitions (Title II) Updated.

Appendix B - 1. Agricultural Trade Development Assistance Act of 1954, as Amended - Updated to include all amendments through August 14, 1979.

2. Delegations of Authority updated --

- a. Executive Order 12220, effective June 27, 1980 <sup>1/</sup>;
- b. IDCA Delegation of Authority No. 5 (revokes State Dept. Del. of Auth. No. 104, except Sec. 2(a) (5));
- c. AID Delegations of Authority 23, 69, 84 and Redlegation of Authority No. 138-3.

Appendix C - AID Regulation 11 - Transfer of Food Commodities For Use In Disaster Relief and Economic Development and Other Assistance - Updated to (1) reflect legislative amendments and includes a new authority (Section 211.7(e)), Repackaging Commodities in a foreign country in certain circumstances; (2) a new provision regarding responsibilities of cooperating sponsors with respect to the conduct of independent cargo surveys in the case of discharge of bulk grain shipments; (3) modifications in recordkeeping requirements for Title II emergency programs; and other minor editorial and other changes in language for updating and clarifying. The revised and updated Regulation received the Agency's clearance and was published as a Final Rule in the Federal Register of June 13, 1979.

Appendix D - Terms and Conditions Governing the Transfer of Agricultural Commodities to the World Food Program (Transfer Authorization Supplemental)

Appendix E - Section 109(a) of P.L. 480

Appendix F - New Material - Marine Claims Procedures (Instructions to assist the USAID's/Missions and Diplomatic Posts as well as the VolAgencies and Intergovernmental Organizations for obtaining required documentation needed by USDA/CCC concerning P.L. 480 Ocean Carrier claims).

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<sup>1/</sup> Revokes Executive Order 10900.

## HANDBOOK TRANSMITTAL MEMORANDUM NO. 9:6

EXHIBITS

- Exhibit A - Suggested Format for Transfer Authorization (Title II) - no change.
- Exhibit B - Form AID 1160-5, Procurement Authorization and U.S. Government Agency Purchase Requisition - no change.
- Exhibit C - Suggested Format for Food for Peace Program Agreement - no change.
- Exhibit D - Program Plan Coverage Outline and Checklist
- Exhibit E - Form AID 1550-3, Title II, P.L. 480 Commodities, Annual Estimates of Requirements - no change.
- Exhibit F - Form CCC-183, Commodity Request for Foreign Distribution (Voluntary Agency) - no change.
- Exhibit G - (1) Sample Format for Monthly Commodity Status Report - no change.  
(2) Monthly Commodity Loss Report - no change.
- Exhibit H - Sample Format for Monthly Recipient Status Report - no change.
- Exhibit I - Sample Format for Report of Loss, Damage, or Misuse of Commodities Donated Under Title II of P.L. 480 - no change.
- Exhibit J - Sample Format for Local Currency Project Agreement - no change
- Exhibit K - Sample Format for P.L. 480, Title II Outreach Projects - New Material
- Exhibit L - Outreach Budget Submission Format - New Material

SUPERSEDES:

Handbook 9 (TM's 9:4 and 9:5)

FILING INSTRUCTIONS:

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\* \* \* \* \*

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HANDBOOK 9 - FOOD FOR PEACE

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  - C - (Suggested Format) Food for Peace Program Agreement
  - D - Operational Plan Coverage Outline
  - E - Form AID 1550-3 -- Title II, PL 480 Commodities - Annual Estimate of Requirements -- FY 19 , and Instructions for Completing Form AID 1550-3
  - F - Form CCC-183 -- Commodity Request for Foreign Distribution (Voluntary Agency)
  - G - Monthly Commodity Status Reports (Sample Format)
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AGENCY FOR INTERNATIONAL DEVELOPMENT

HANDBOOK 9

FOOD FOR PEACE

(PUBLIC LAW 480, TITLES I, II AND III)

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F - Form CCC-183, Commodity Request for Foreign Distribution (Voluntary Agency)
G - Sample Format for Monthly Commodity Status Report
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CHAPTER 1  
AUTHORITY

1A. Statutory Authority (See Appendix B(1))

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. In enacting the legislation, the Congress declared it to be the policy of the United States to use the agricultural productivity of the United States to combat hunger, malnutrition, encourage economic growth and development in developing countries, as well as the expansion of markets not only for U.S. agricultural commodities but also for local foodstuffs produced in developing nations.

1. Concessional Sales Program (Title I)

Under Title I of the Act, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of United States agricultural commodities for dollars on credit terms for foreign currencies. 1/

2. Food for Development Program (Title III)

Title III permits the amount of funds accruing from the local sale of commodities for agreed upon development purpose, including agricultural and rural development, voluntary family planning, health and nutrition programs, to be applied against the repayment obligation of governments receiving concessional financing.

3. Donation Program (Title II)

1. 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 non-profit school lunch and preschool feeding programs outside the United States...", and that "... assistance to needy persons shall insofar as practicable be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance...."

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1/ Section 103(b) required a transition by December 31, 1971 from sales for Foreign currencies to sales for dollars or where such transition was not possible to sales for foreign currencies on credit terms which permit conversion to dollars. (Convertible Local Currency Credit Sales)

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2. To the extent practicable, the services of nonprofit voluntary agencies registered with and approved by AID shall be utilized in carrying out Title II programs. If no United States nonprofit voluntary agency registered with and approved by AID is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by AID. These commodities may be furnished through friendly governments and private or public agencies, including intergovernmental organizations and other multi-national organizations.

3. Section 205 of Title II expresses the sense of the Congress that the United States should encourage other advance nations to increase their contributions for programs of combating hunger and malnutrition, the expansion of international food and agricultural programs, and work for the expansion of the World Food Program beyond its presently established goals.

1B. Delegations of Authority (See Appendix B(2))

Executive Order 12220, effective June 27, 1980 (revokes E.O. 10900), IDCA Delegation of Authority Number 5 (revokes State Department Delegation of Authority 104, except for Section 2(a)(5)); the Agency for International Development (A.I.D.) Delegations of Authority 23, 69, 84, and Redefinition of Authority 138-3 are the delegations of authority for carrying out the functions of Public Law 480, Titles I, II, and III.

1C. AID Regulation 11 (See Appendix C) (P.L. 480, Title II Activities)

Title 22 - Foreign Relations, Chapter II - Agency for International Development, Part 211 - Transfer of Food Commodities for Use In Disaster Relief and Economic Development and Other Assistance, AID Regulation 11 (hereinafter referred to as the Regulation), prescribes the terms and conditions governing the transfer of agricultural commodities to foreign government, voluntary agencies, or intergovernmental organizations pursuant to Public Law 480, Title II, as amended. Transfers of commodities to the World Food Program (WFP) are governed by the Transfer Authorization and Supplement No. 1 thereto (Appendix D) pursuant to Public Law 480, Title II.

1D. Waiver Authority

The Administrator, AID, or his designee, may waive, withdraw, or amend, at any time, any or all of the provisions of the Regulation, as amended, and/or the WFP Supplement to the Transfer Authorization (See Exhibit A) if such provisions are not statutory.

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1E. AID P.L. 480, Handbook 9

The Food For Peace Handbook is an administratively determined compilation of policy, guidance, and procedure. Much of it has been derived from the statutory provisions and interpretation of the intention of the P.L. 480 legislation as well as binding provisions of AID Regulation 11.

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CHAPTER 2  
ALLOCATION AND COORDINATION  
OF RESPONSIBILITY

2A. Coordination

1. The Working Group of the Food Aid Subcommittee

The U.S. development assistance programs and policies are coordinated by the Development Coordinating Committee (DCC), chaired by the Administrator of AID. The DCC established the Food Aid Subcommittee, chaired by the Department of Agriculture, to coordinate Public Law 480 issues. The Food Aid Subcommittee's Working Group, is chaired by the Department of Agriculture and includes representatives of IDCA/AID/State, the Office of Management and Budget (OMB), the Department of Treasury (Treas), and the Department of Commerce (Comm). The Working Group reviews and approves all P.L. 480 programs. The Working Group also has a Title II Subcommittee, chaired by PDC/FFP, which reviews Title II programs and recommends final approval by the Working Group.

2. Title II Subcommittee

The Title II Subcommittee, chaired by the Office of Food for Peace (PDC/FFP/II), reviews and evaluates each Title II program and makes appropriate recommendations to the Working Group. It includes representatives from the U.S. Department of Agriculture (USDA), the Office of Management and Budget (OMB); representatives from AID's Bureau for Program and Policy Coordination (PPC); Geographic Bureaus, including both the country desks and Development Planning Offices; and other AID, IDCA, and State offices, as appropriate.

2B. Responsibilities

1. General

Administrative responsibilities for programs under P.L. 480 are divided among USDA, OMB, AID, IDCA, and the Department of State, as appropriate.

2. USDA

USDA participates in the review and evaluation of all P.L. 480 matters. USDA determines the types and quantities of commodities available for P.L. 480 programs, and arranges the purchasing, processing-packaging, and delivery of commodities to U.S. ports of export. For USDA's responsibility for the administration of ocean carrier claims, refer to the Regulation, Appendix C, Section 211.9, and Appendix F.

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2B.

3. OMB

As a member of the Working Group and the Title II Subcommittee, OMB participates in the review and evaluation of all P.L. 480 proposals. It monitors annual expenditure limitations established by the Presidential budget and influences operational policy directives and program guidelines.

4. AID

a. General

AID has the primary responsibility for the administration of the P.L. 480 program. For Title II programs, AID monitors, advises and assists the cooperating sponsors in their administration of approved programs. Where field reviews, audits, or end-use checks disclose deficiencies, AID insures that program deficiencies are corrected. AID's responsibilities for claims involving the loss or misuse of commodities or funds are discussed in Chapter 8, Claims for Inland and Ocean Carrier Losses, Damages, and Improper Distribution of Title II Commodities.

b. AID/Washington (AID/W)

(1) Office of Food for Peace (Bureau for Private and Development Cooperation (PDC/FFP))

(a) FFP is the focal point for administering AID's P.L. 480 responsibilities. It maintains liaison and coordinates with other U.S. Government agencies, intergovernmental organizations, WFP, private agencies, and U.S. trade and commodity groups.

(b) FFP shares responsibility with the AID Regional & Technical Bureaus for reviewing and evaluating proposals.

(c) FFP presents the proposals to the Working Group.

(d) FFP is responsible for coordination with USDA with respect to the procurement, allocation, and delivery of commodities as appropriate.

(e) FFP maintains liaison with the Department of State through the Bureau of Economic and Business Affairs (EB), Office of Food Policy and Programs (EB/ORF/OFP) on such matters, inter alia, as the Food AID Convention; and through the Bureau of International Organizational Affairs (IO), concerning the WFP, and the Office of the U.S. Coordinator for Refugee Affairs (S/R).

(f) FFP coordinates with USDA on all P.L. 480 programming matters; obtains clearance from USDA and OMB, as appropriate, for messages pertaining to P.L. 480 activities originating with State/AID. Messages

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originating with USDA pertaining to P.L. 480 activities are cleared with State/AID. (See Handbook 17, Chapter 7, and 2 FAM 1261.)

(g) FFP is responsible for arranging reimbursement of overseas freight costs paid by U.S. voluntary agencies for Title II commodity shipments.

(2) Bureau for Program and Policy Coordination (PPC)

PPC coordinates P.L. 480 budget planning and the issuance of instructions for program development and participates in the review of program proposals to insure compliance with AID Policy for grant and loan assistance.

(3) AID Geographic Bureaus (Africa, Asia, Latin America, and the Caribbean, and the Near East)

(a) AID Geographic Bureaus have the principal responsibility for determining, in consultation with State, the extent to which P.L. 480 proposed programs effectively advance U.S. foreign policy objectives and for assuring that each country assistance program indicates the role of P.L. 480 activities in achieving those objectives.

(b) In collaboration with FFP, the Geographic Bureaus evaluate commodity and currency proposals.

(4) The Office of Foreign Disaster Assistance (Bureau for Private and Development Cooperation (PDC/OFDA))

PDC/OFDA is responsible for coordinating U.S. Government resource assistance to victims of disaster in foreign countries and, when possible and as appropriate, for coordinating these efforts with other U.S. Government agencies, and intergovernmental organizations such as the United Nations Disaster Relief Office (UNDRO), and the WFP.

(5) The Office of Commodity Management, Transportation Support Division (SER/COM/TR)

SER/COM/TR is responsible for directing activities pertaining to the transportation of Title II commodities, approved for government-to-government programs and the World Food Program, to the recipient country. This office is also responsible for the planning and scheduling of ocean transportation to meet requirements for specific programs.

(6) The Office of the Auditor General (AG)

AG is responsible for examining and reporting on the planning, implementation, and results of P.L. 480 activities, including evaluating management effectiveness and program operations.

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c. Missions (USAID's or Diplomatic Posts)

(1) For P.L. 480, Titles I and III programs, the Missions (USAID's or Diplomatic Posts) are responsible for:

(a) Assisting host governments to develop and justify program proposals, and provide recommendations for approval/disapproval.

(b) Monitoring host government performance under signed agreements particularly self-help activities and uses of generated local currencies.

(2) With respect to the Title II cooperating sponsors:

(a) Guide and assist in preparing Title II program proposals.

(b) Evaluate program proposals to determine that their implementation will enhance development and humanitarian objectives.

(c) Determine whether program proposal is adequately planned and financed, logistically sound, and whether technical and administrative skills are available to accomplish program objectives.

(d) Monitor the administration, implementation, and operation of programs.

(e) Provide management and administrative support, depending on the needs of the individual program.

(3) With respect to WFP (see Chapter 6A3), assure that the WFP project proposals do not duplicate, overlap, or impinge upon voluntary agency ongoing programs.

5. Responsibilities of Cooperating Sponsors

The Cooperating Sponsor, administering a Title II program, is responsible under the terms of an agreement with AID for program development and operations including proper use of commodities and/or funds from the time it acquires control of them until they are properly utilized. The agreement would be either a Transfer Authorization, referred to as a TA, or a Food for Peace Program Agreement, hereinafter referred to as an Agreement, both of which incorporate by reference or otherwise the terms and conditions reflected in the Regulation.

6. The World Food Program (See Chapter 12 and Appendix D.)

a. Voluntary Pledges - The United States and other member countries of the United Nations and the Food and Agricultural Organization provide the World Food Program (WFP), an intergovernmental activity, with resources

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through voluntary pledges. While the Department of State's Bureau for International Organization Affairs (IO) is the official contact point, the U.S. pledge to WFP is fulfilled by Title II resources.

b. Review of WFP Proposals - WFP proposals for the U.S. commitment of commodities to WFP-sponsored projects are reviewed by the Title II Subcommittee and the Working Group in a process similar to other Title II proposals. Resources are transferred under a special WFP/USG Transfer Authorization (see Appendix D).

c. Administration of Commitments - FFP deals directly with the WFP in administering Title II resource commitments to the WFP.

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## CHAPTER 3

### POLICY

#### 3A. Introduction

1. P.L. 480 is intended to serve multiple objectives of U.S. policy. These are stated in the legislation's preamble and general criteria for P.L. 480 as follows:

"SEC. 2. The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States.

"In furnishing food aid under this Act, the President shall-

" (1) give priority consideration, in helping to meet urgent food needs abroad, to making available the maximum feasible volume of food commodities (with appropriate regard to domestic price and supply situations) required by those countries most seriously affected by food shortages and by inability to meet immediate food requirements on a normal commercial basis;

" (2) continue to urge all traditional and potential new donors of food, fertilizer, or the means of financing these commodities to increase their participation in efforts to address the emergency and longer term food needs of the developing world;

" (3) relate United States assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities;

" (4) give special consideration to the potential for expanding markets for America's agricultural abundance abroad in the allocation of commodities or concessional financing; and

" (5) give appropriate recognition to and support of a strong and viable American farm economy in providing for the food security of consumers in the United States and throughout the world."

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2. In recognition of the recommendations of the 1976 World Food Conference, P.L. 480 legislation urges the President to maintain a significant U.S. contribution of food to needy nations and to encourage other countries to maintain and increase their contributions as well. Titles I, II, and III of P.L. 480 describe different authorities by which the above policy objectives may be accomplished.

3B. Title I

1. Title I authorizes the President to negotiate and carry out agreements with friendly nations to provide for financing the sale of U.S. agricultural commodities on credit terms. In exercising this authority, account is required to be taken of the efforts of friendly countries to help themselves toward a greater degree of self-reliance, including efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth. Also reasonable precautions must be taken to safeguard usual marketings of the United States and to assure that sales under Title I will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries.

2. Maximum precaution must be taken to assure that sales on P.L. 480 credit terms do not displace any sales of U.S. agricultural commodities. Steps must also be taken to assure that the United States obtains a fair share of any increase in commercial purchase of agricultural commodities by the purchasing country. In exercising the authority of Title I, private trade channels are to be used to the maximum extent practicable and special consideration given to the development and expansion of foreign markets for U.S. agricultural commodities.

3C. Title III

1. Although emphasis on development objectives under Title I has been given substantially increased attention, the developmental aspects of P.L. 480 have been especially enhanced by the addition, in 1977, of provisions under Title III of the Act which permit that, for eligible countries, that meet the eligibility requirements of Section 302(b) of the Act, meeting specifically agreed conditions, local currencies accruing from the sale in the recipient country of the commodities provided under a Title I sales agreement may be applied against the dollar repayment obligation under the agreement (or by special provision in the case of the RLDC's, against other P.L. 480 debt). These provisions are implemented with eligible

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countries through a "Food for Development Program" which is formulated by the eligible country (with U.S. assistance as requested) and which is described in Annexes to the standard P.L. 480 Title I agreement.

2. The overall goal of assistance under the provisions of Title III is to increase the access of the poor in the recipient country to a growing and improving food supply through activities designed to improve the production, protection, and utilization of food, and to increase the well-being of the poor in the rural sector of the recipient country. The resources made available shall be used for programs of agricultural development, rural development, nutrition, health services, and voluntary population planning, and the farmer-to-farmer program in those countries which are undertaking (or are seriously prepared to undertake in connection with the provision of agricultural commodities under P.L. 480) self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth, when such programs are directed at and likely to achieve the policy objectives of Sections 103 and 104 of the Foreign Assistance Act of 1961 and are consistent with the policy objectives of P.L. 480.

3. Particular emphasis should be placed on activities which effectively assist small farmers, tenants, sharecroppers, and landless agricultural laborers, by expanding their access to the rural economy through services and institutions at the local level, and otherwise providing opportunities for the poor who are dependent upon agriculture and agriculturally related activities to better their lives through their own efforts.

3D. Title II

1. Title II of P.L. 480 authorizes the donation of food for developmental, nutritional, and urgent or extraordinary relief purposes. Title II programs are to supplement and reinforce other developmental and nutritional activities and are to be conducted within a framework of increasing local participation in management and funding.

2. AID policy is to utilize Title II resources to assist victims when disasters occur in foreign countries. This humanitarian assistance is normally of limited duration and is authorized on the basis that the recipient country lacks the necessary resources and outside help is required. Title II food assistance is one element - sometimes the only element - of a U.S.-contributed share to total disaster relief requirements.

3. AID policy emphasizes the need to concentrate U.S. resources, including P.L. 480 programs, in an integrated approach to solving priority development problems. The emphasis in Title II is on targeting donated commodities for overcoming malnutrition problems of vulnerable groups, and for development activities. Generally,

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program emphases are given to Maternal Child Health (MCH) (including preschool-age child feeding), food-for-work proposals and primary school feeding, in that order. Title II resources are to be concentrated in countries which have a nutrition or health priority, strategy, and/or self-help development plan and are in need of grant resources. Where there is an interest, but no strategy or plan, emphasis is placed on helping develop one.

4. AID views Title II donation assistance to projects as interim assistance to reach specific objectives to combat hunger, alleviate malnutrition, improve economic and social development, and/or increase food production and improve its distribution as defined by the recipient country. To meet the objectives, commitments for program support are, of course, expected from the recipient country and are to be encouraged by the cooperating sponsors. These commitments help to lead to the eventual transfer of full responsibility for the program to the recipient country. Lack of a support commitment on the part of the recipient country may be considered by AID as a failure to accord priority or lack of interest.

5. The services of the voluntary agencies are to be used to the extent practicable to carry out these programs. The need to integrate Title II resources with other AID and other development resources in solving priority development problems requires close collaboration between Mission, recipient country, and voluntary agencies. Dialogue between representatives of the voluntary agency, AID, and the recipient country is a continuing process in the development, approval, and implementation of programs.

6. A major emphasis of AID policy dealing with Title II is the need for close and continuing attention to program management and control. Since Title II deals with the utilization of expensive and perishable resources, effective program management and control is essential. The requirement of sound program management of commodities provided under Title II applies equally to cooperating sponsors and USG Representatives.

7. AID may authorize sales under certain circumstances as follows:

a. Cases where commodities have deteriorated and are unfit for human consumption, but may have other uses; e.g., animal feed (see Appendix C, Section 211.8).

b. To meet famine or other urgent or extraordinary relief requirements. (In such cases the proceeds must be applied to meeting local transportation costs, and/or ameliorate the famine or other conditions that require the sale of the food.)

c. Except to meet famine or extraordinary relief requirements, Section 206 of P.L. 480 allows sales of Title II commodities provided under government-to-government arrangements for (1) alleviating

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the causes of the need for the assistance in accordance with the purposes and policies specified in Section 103 of the Foreign Assistance Act of 1961, or (2) to increase the effectiveness of food distribution and increase the availability of food commodities provided for programs and projects under this Title (see Chapter 11B).

8. Title II resource contributions are made to the multilateral WFP in accordance with U.S. pledges encouraging the maximization of other countries' contributions. AID policy stated herein applies similarly to Title II resources commitments to WFP projects, except as may be modified for the "hard core" least developed countries as recognized by the Committee on Food AID Policies and Programs (CFA).

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## CHAPTER 4

### TITLE I CONCESSIONAL SALES PROGRAM

#### 4A. Introduction and Purpose

The purpose of this chapter is to outline the U.S. Government procedures for administering the P.L. 480, Title I program, and to provide guidance on those phases of the program in which AID plays an important role.

#### 4B. Summary

1. Agreements - Title I of P.L. 480 (Sec. 101 through Sec. 115 and Sec. 401b) authorizes the President to negotiate and carry out agreements with friendly nations to provide for the financing of the sale of U.S. agricultural commodities declared as available for disposition under P.L. 480 by the Secretary of Agriculture. The financing is on a concessional basis--on dollar credit terms *or convertible local currency terms* as favorable to the United States as the economy of such country will permit (Sec. 106 of P.L. 480). Payment may be made *on credit terms no less favorable to the United States than those for development loans made under Section 122 of the Foreign Assistance Act of 1961, as amended.*

2. Special Consideration - Reasonable precautions are to be taken to assure that Title I programs are not approved which displace normal commercial marketings of U.S. agricultural commodities and/or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries. Actual purchases are made through private U.S. trade channels.

3. Early Payment (See 9. Currency Use Payments (CUP)) - The United States may require an early payment in local currency (Currency Use Payments (CUP)) where the local currency is to be used for the following purposes as indicated in P.L. 480:

- Sec. 104(a), Payment of U.S. obligations
- Sec. 104(b), Carrying out programs of U.S. Government Agencies
- Sec. 104(e), Loans to private enterprise
- Sec. 104(h), Financing programs emphasizing maternal welfare, child health, and nutrition and, on a voluntary basis, problems related to population growth.

Such local currency payments are considered advance payments of interest and principal against the earliest installments.

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4C. Definitions (in alphabetical order)

1. Bellmon Requirement - P.L. 480, sec. 401b requires that no agricultural commodity may be financed or otherwise made available under the authority of this Act except upon a determination by the Secretary of Agriculture that (a) adequate storage facilities are available in the recipient Title I country at the time of exportation of the commodity to prevent spoilage or waste of the commodity, and (b) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production or marketing in that country. (See 4E2.)

2. Cargo Preference - A 1954 amendment to the Merchant Marine Act of 1936 (Sec. 901(b)) requires that at least 50 percent of the gross tonnage of P.L. 480 commodities be shipped on privately owned U.S. flag commercial vessels, to the extent that such vessels are available at fair and reasonable rates.

3. Commodity Credit Corporation (CCC) - The CCC is a corporate body and a U.S. Government Agency within the U.S. Department of Agriculture (USDA). It was created for the purpose of (a) stabilizing, supporting, and protecting farm income and prices; (b) assisting in the maintenance of balanced and adequate supplies of agricultural commodities; and (c) facilitating orderly distribution of agricultural commodities. The CCC therefore engages in a number of agricultural export activities under its charter authority. It superintends U.S. operations under the International Grains Arrangement and finances the sale and export of commodities under P.L. 480.

4. CCC Cost - The gross cost to the CCC of financing the sale and export of U.S. agricultural commodities under Title I, P.L. 480. It includes that portion of the cost of the commodities financed by CCC and the transportation differential, if any, of the 50 percent of Title I cargo required to be shipped on U.S. flag vessels.

5. Compliance (Convertibility and Payments) - Convertibility and payment compliance refers to the status of a P.L. 480 recipient country with regard to foreign currency convertibility requirements of foreign agreements and debt payment required by previous credit agreements. A country is in compliance as to convertibility and payment requirements if it has been timely in meeting the convertibility and payment provisions specified in agreements.

6. Compliance (Usual Marketing Requirements) - Usual marketing requirement compliance refers to the status of a P.L. 480 recipient country in regard to the usual marketing requirements of previously signed agreements. A country is in compliance as to usual marketing requirements if it has imported the quantity (or sometimes value) of the commodities specified

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by such agreements as part of its normal commercial imports from friendly countries.

7. Convertible Local Currency Credit Sales (CLCC) - The CLCC is a credit sales agreement in which the installments of principal and interest are payable in foreign currencies that are fully convertible to dollars or other currencies needed by the United States. The payment period can extend to a maximum of 40 years.

8. Currency Use Offset ("Loan Forgiveness") - Currency use offset is a procedure, authorized under P.L. 480, Title III (see Chapter 5), which permits local currency proceeds from the sale of Title I agricultural commodities, that are used for agreed specified development activities, to be considered as a payment of the equivalent dollar amount owed to the United States under the Title I agreement.

9. Currency Use Payments (CUP) - Currency use payments refer to the provision in sales agreements, which require local currencies to be made available for specified uses on demand by the U.S. Treasury. This provision is not included in agreements when it is determined that it would be inconsistent with the objectives of the Act. Such local currency payments are considered advance payments of interest and principal against the earliest installments due under the agreement. CUP is only required in nonexcess currency countries.

10. Dollar Credit Sales (DC) - Dollar credit sales are credit sales to be paid in dollars over a maximum of 20 years. Prior to 1967, the authority for these sales was covered in P.L. 480, Title IV. Now it is under P.L. 480, Title I.

11. Excess-Currency Country - An excess-currency country is a country in which the United States owns local currency in excess of its expected normal requirements in that country for two fiscal years following the year in which the determination is made by the Department of Treasury.

12. Export Limitation Provision - A provision in Title I agreements that limits the recipient country's exports of commodities specified in the agreement that are the same as, or like, the commodities being furnished by the United States under a P.L. 480 agreement.

13. Export Limitation Period - The export limitation period is the period during which the recipient country must restrict exports of commodities specified in the agreement which are considered to be the same as, or like, those supplied under P.L. 480.

14. Export Restrictions (See 12. Export Limitation Provision) - The export of the actual commodities financed is also, of course, prohibited. In addition, some commodities such as processed products which contain the P.L. 480 commodity or a similar commodity may be a restricted export.

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15. Fair Share - The requirement that steps should be taken to assure that the United States benefits equitably from any increase in commercial purchases of agricultural commodities by the recipient country.

16. Initial Payment (IP) - The initial payment is a payment to be made by the importing nation in dollars at time of delivery by the U.S. supplier to the ocean carrier at the port of export. Thus, if a sales agreement provides an IP of 5 percent, CCC finances only 95 percent of the value of the commodities.

17. Local Currency Proceeds - Local currency proceeds are those proceeds which accrue to the recipient country from sales of P.L. 480 commodities. These proceeds may be used to finance self-help measures and/or for agreed economic development purposes. Emphasis is placed on using proceeds for purposes which directly improve the lives of the poorest people and their capacity to participate in the development of their countries.

18. National Advisory Council on International Monetary and Financial Policies (NAC) - The NAC is an interdepartmental committee established by executive order. The NAC members are representatives of the Departments of Treasury, State, and Commerce, the Federal Reserve System, and the Export-Import Bank. Among other functions, the NAC coordinates the policies of all government agencies to the extent that they make foreign loans or engage in foreign monetary transactions. Thus the NAC reviews proposed P.L. 480, Title I, agreements.

19. Negotiating Instructions - The Negotiating instructions are those instructions provided to the U.S. Ambassador which are drafted by USDA, cleared with interested U.S. agencies, authorized by the Coordinator, Food for Peace, with the concurrence of the AID Geographic Bureau, and transmitted by AID to the appropriate U.S. Embassy. Washington approval must be obtained for any change in the negotiating instructions or draft agreement.

20. Ocean Freight Differential (FD) - Ocean freight differential is the amount by which the cost of the ocean freight bill for the portion of commodities required to be carried on U.S. flag vessels exceeds the prevailing cost of carrying the same amount on foreign flag vessels.

21. Private Trade Agreement (PTA) - The PTA is a P.L. 480 agreement negotiated between the Secretary of Agriculture and a private trade entity (PTE), either U.S. or foreign. Under the agreement, the U.S. finances purchases of U.S. agricultural commodities by the PTE for export to a specified friendly country on condition that projects will be developed and executed which will improve the storage and marketing of agricultural commodities or expand private economic enterprise. The agreements, which are subject to the approval by the Working Group and NAC, are negotiated in Washington, D.C., by USDA.

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22. Private Trade Entity (PTE) - The PTE is the private trader with whom the Department of Agriculture directly negotiates a private trade agreement.

23. Purchase Authorization (PA) - The PA is a *financial obligation* document, issued by USDA, after a P.L. 480 agreement has been signed. The PA authorizes the importing government, through its importers or agents, or a PTE to procure certain P.L. 480 commodities from U.S. sources. The PA specifies the grade and type, approximate quantity, maximum value, the percentage of the PA's value to be financed by CCC exclusive of any initial payment, the time span for contracting to purchase, and delivery to vessels of commodities; the method of financing; and certain other provisions and limitations. A PA may be issued for a portion or the total value of one or more of the commodities in an agreement.

24. Section 111 (75/25 Ratio) - The Sec. 111 (75/25 Ratio) is a requirement, stipulated in sec. 111 of the Agricultural Trade Development and Assistance Act of 1954 (as amended by the International Development and Food Assistance Act of 1975), that no more than 25 percent of all Title I food aid commodities be allocated and agreed to be delivered to countries other than those which meet the poverty criterion established for International Development Association financing and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that the use of such food assistance is required for humanitarian food purposes and neither House of Congress disapproves such use by resolution within 30 calendar days. If a reduction below 75 percent becomes necessary because of significantly changed circumstances occurring after the first allocation in which case the President shall report promptly to the Congress such fact and the reasons therefor, the reallocation shall be in conformance, as far as practicable, to the 75/25 ratio.

25. Self-Help Provision - The self-help provisions contained in each P.L. 480 agreement describe the program which the recipient country is undertaking to improve its production, storage, and distribution of agricultural commodities, *and development activities in rural health and education*. An agreement may be terminated whenever the President finds the self-help program is not being adequately developed.

26. Third-Country Consultations - A review by the U.S. Government with the governments of countries which normally make commercial exports to the P.L. 480 recipient nation, or have available for export the same or similar commodities as those being considered for inclusion in an agreement. The purpose of the consultation is to assure the exporting countries that normal patterns of commercial trade will not be unduly disrupted or displaced by our provision of commodities under Title I.

27. Usual Marketing Requirement (UMR) - The usual marketing requirement is the amount of a commodity which the P.L. 480 agreement requires the P.L. 480 recipient nation to import on a commercial basis from friendly

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countries. This amount is normally based on the country's previous 5-year historical commercial imports of the commodity from such countries. Commercial imports can include items supplied under barter or CCC credit sales. (Barter is not presently an active U.S. Government program.)

28. Working Group of the Food Aid Subcommittee of the Development Coordination Committee - A committee responsible for the development, and initial approval of all P.L 480 programs and related negotiating instructions, which are subsequently transmitted to the appropriate U.S. Ambassador. The Working Group, and Food Aid Subcommittee, are chaired by the USDA and regular members include representatives of the Department of Treasury, Department of Commerce, A.I.D., and the Office of Management and Budget (OMB).

#### 4D. Legislative Authority

a. P.L. 480, the Agricultural Trade Development and Assistance Act, is the statutory basis for the Food for Peace, Title I, Program. In addition, Section 1415 of the Supplemental Appropriation Act of 1953, applies to Title I currencies reserved for U.S. uses and development grants. In accordance with Section 1415, foreign credits owed or owned by the U.S. Treasury may be used by Federal agencies only where reimbursement therefor is made to the Treasury from appropriations of the agencies concerned, except that the Appropriation Act may specifically authorize the use of currencies for purposes of 104(b)2 to (1) assist international education and cultural exchange, (2) provide for strengthening of the resources of American schools, colleges, universities, and (3) other public nonprofit educational agencies for international studies and research under programs authorized by certain Acts specified in paragraph 2 of Sec. 104b.

b. Sec. 104, of P.L. 480, authorizes the President to waive the applicability of Sec. 1415 regarding: (1) grants under Sec. 104(f) and (g), (2) not less than 10 percentum of the foreign currencies which accrue pursuant to agreements entered into, on, or before December 31, 1964, and (3) not less than 20 percentum in the aggregate of the foreign currencies which accrue pursuant to agreements entered into thereafter. In any case, where he determines that it would be inappropriate or inconsistent with the purposes of the Title.

#### 4E. Program Policies and Objectives

##### 1. Coordination

P.L. 480, Title I, programs are coordinated insofar as possible with programs carried out under the Foreign Assistance Act of 1961, as amended, and with other programs authorized under P.L 480 in order to assure that the commodities serve as an effective resource input and to further foreign aid objectives.

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2. Bellmon Requirement

a. General

The Bellmon Requirement is an amendment to Sec. 401 of P.L. 480 which requires that no agricultural commodity be financed, or otherwise made available under the authority of this Act, except upon a determination by the Secretary of Agriculture that: (1) adequate storage facilities are available in the recipient Title I country, at the time of exportation of the commodity, to prevent spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production or marketing in that country.

b. Instructions and Guidelines for Implementing the Bellmon Requirement (P.L. 480, Titles I and III)

(1) In order to enable the Secretary of Agriculture to make the determinations required by this provision of the Act, the Embassy is requested to forward information outlined below (para. (2) and (3)) on proposed Title I and Title III programs (including amendments). A determination by the Secretary of Agriculture is necessary before agreements can be signed or commodities shipped.

(2) Adequate Storage Facilities

A statement is needed from the Country Team (CT), with supporting analysis, that adequate storage facilities are expected to be available to handle (including port facilities), store, and distribute recommended program commodities during the proposed delivery periods without spoilage or waste of the commodities. This information statement will have to be updated, at a later date by an operational cable (which also will cover port congestion, etc.) in respect to actual conditions relevant to the specific delivery period prior to issuance of each purchase authorization (PA) by USDA. On the basis of the operational cable and other information available, the Secretary of Agriculture will make a determination and if favorable the purchases will be authorized.

(3) Disincentive to Domestic Production

An analysis is needed of any substantial disincentive effect of supplying requested commodities under Title I (or food for development) programs to the recipient country's domestic production. If analysis indicates no substantial disincentive, Country Team's (CT) recommendations should include statement to that effect. On the other hand, if the CT has reason to conclude that distribution of P.L. 480, Title I, commodities may have a substantial disincentive effect on domestic production of the same or related agricultural commodities in the importing country, the reasons should be fully explained and immediately reported to Washington.

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### 3. Self-Help Measures and Use of Sales Proceeds

a. Section 109 A of P.L. 480 requires that, before entering into agreements for the sale of commodities, consideration be given to the extent to which the recipient country is undertaking self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities. In addition, it is required that particular account be taken to determine the extent to which the measures are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture. Section 109 A was amended in 1981 to include literacy and health measures for the rural poor as subjects for self-help measures.

b. Section 106 B provides that in negotiating agreements, emphasis shall be placed on the use of such proceeds for purposes which directly improve the lives of the poorest of the recipient countries' people and their capacity to participate in the development of their country. Greatest emphasis is required to be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition and population planning in accordance with section 109 of P.L. 480 and which programs are likely to achieve the policy objectives of sections 103 and 104, of the Foreign Assistance Act of 1961 as amended.

c. Additional provisions on self-help legislation were added December 1981. Specifically, they require that:

1 For each agreement and amendment the economic development and self-help measures which the recipient country agrees to undertake shall be described  
A to the maximum extent feasible, in specific and measurable terms, and  
B in a manner which ensures that the needy people in the recipient country will be the major beneficiaries of the self-help measures pursuant to each agreement;

2 The President, to the maximum extent feasible, shall take appropriate steps to assure that in each agreement entered into, and for each amendment to such an agreement, self-help measures agreed to are additional to the measures that the recipient country otherwise would have undertaken irrespective of that agreement or amendment; and

3 The President take all appropriate steps to determine whether the economic development and self-help provisions of each agreement and amendment entered into are being fully carried out.

In negotiations with recipient country on self-help measures for the agreement, this legislative requirement should be kept in mind, and the mission must seek specific commitments or targets as a means to measure the extent to which economic development and self-help measures have been carried out. Specific and measurable targets, by which to measure progress can include physical progress, financial measures, policy changes, price announcements

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with deadlines for completing reasearch studies, funding or completing projects, signing contracts, implementing policy changes. It is expected that targets for the self-help measures will be set so that achieving them will not be automatic, but will require special effort. The specific targets you devise to measure progress need not be included in the agreement itself, but can be put in attached memorandum of understanding signed at the same time as the agreement itself. Note that such attached memorandum of understanding may eventually be transmitted to the U.S. Congress and published in the Treaties and other International Agreements series by the Department of State. The memorandum should also contain provisions for periodic reviews of achievements of self-help goals and expenditures of sales proceeds for project related to self-help measures and other development purposes.

Concerning section 109 D 1 B of PL 480, Mission should indicate how needy people will be major beneficiaries of the self-help measures. This is particularly important for self-help programs where the connection between the measures to be taken and benefits to the needy is not immediately apparent. Preferably this should be done in the agreement itself, but if desired, may be done in the attached memorandum of understanding.

Concerning additionality, this provision is interpreted to require that, to the maximum feasible extent, self-help measures identified in the agreement represent an expanded effort undertaken by the recipient government that would not, as best may be determined, have been implemented in the absence of the agreement or amendment. Intention is that self-help measures are not ones that would have taken place regardless of P.L. 480 AID; but they may include measures previously considered and favored by recipient government but which require the impetus of a P.L. 480 agreement to be implemented.

Determination as to whether economic development and self-help measures are being fully carried out is to be made through the established yearly reporting process for self-help measures and through discussions or consultations on progress which take place during the year between recipient government and mission personnel. Mission should maintain routine consultations with recipient government regarding their progress and establish a timeframe for such consultations in the memorandum of understanding on self-help measures or in the minutes of negotiations if there is no memorandum of understanding. Such consultations should be arranged to enable Mission to cable Washington Bo following August 30 summary of self-help progress todate.

4. In addition, for those countries to which PL 480 section 112 applies, the following additional criteria apply:

The agreement shall specify how the commodities or the proceeds from their sale will be used for specific projects or programs; will be used to benefit the needy people of the recipient country; and shall require a report on such use within six months after the commodities are delivered to the recipient country..

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#### 4F. Budgeting and Programming Process

##### 1. General

Responsibility for advance planning of Title I programs, in connection with the overall foreign assistance program for each cooperating country, rests largely with AID. Prior to submission of the State/AID budget request to OMB for P.L. 480, AID Missions are requested to outline requirements and justify these within the framework of the Country Development Strategy Statement (CDSS) and other program guidance. AID reviews this justification with interagency participation and sends an overall budget request to OMB based on individual country requirements. USDA sends a proposed P.L. 480 budget based on a forecast of availabilities by commodity. The President establishes an annual P.L. 480 expenditure ceiling. To develop the Operational Year Budget (OYB), AID Missions are requested to update and provide further justification for their proposed programs within the AID strategy framework. In collaboration with the Department of State and IDCA, AID participates in the development of the OYB, coordinating with USDA, Treasury, and OMB regarding proposed individual country program levels.

##### 2. Submission of Requests

a. Cooperating country requests are submitted to Washington together with comments and recommendations of the Country Team. Foreign governments may submit requests directly to Washington agencies but no action will be taken until the comments and recommendations of the Country Team are received. Finally, AID or any other member of the Working Group of the Food Aid Subcommittee may propose for Working Group consideration programs supported by field recommendations; however, it is necessary to have a request from the foreign government before actual negotiations begin.

b. The cooperating country request is to be accompanied by background statistical data and estimates required for consideration of Title I requests. In forwarding requests with its recommendations, the Country Team also submits its evaluation of the supporting information. This information is in the form of Supply and Distribution (S&D) tables, includes beginning stocks; production and imports; seed, feed and waste; consumption and ending stocks for the most recent 5 years for which actual data are available, estimated data through the current fiscal year, and projected data for the supply (fiscal) year requested. These tables are required for each commodity requested. In addition, imports by source and exports by destination are reported separately, for the preceding 5 fiscal years, with estimates through the current fiscal year and projected for the supply (fiscal) year requested. If accurate data are not available, Country Team estimates can be supplied together with appropriate explanation. In rare cases calendar year data may be used.

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c. Present requirements are that greater emphasis be placed on the development uses of food aid and that, in allocating Title I commodities, the efforts of recipients to increase domestic agricultural production, especially through small farm agriculture, to improve distribution of food commodities and to reduce their rate of population growth must be taken into consideration (P.L. 480 and P.L. 94-161). Accordingly, each post is expected to include an analysis of the development role of food aid in its CDSS to justify its annual budget proposal for Title I in a "Title I proposal" to be submitted with the Annual Budget Submission.

### 3. Processing of Proposals

#### a. U.S. Department of Agriculture (USDA)

USDA, in consultation with other government agencies concerned, develops and presents Title I Program proposals, based primarily on the request and information received from the Country Team. In developing these requests USDA takes into account the availability of commodities for P.L. 480 programming. Sec. P.L. 480, Sec. 401, authorizes the Secretary of Agriculture, after consulting with other agencies of the government and after considering productive capacity requirements for domestic consumption, stock reserves, farm and consumer price levels, and commercial exports, to determine the quantity and kinds of commodities available for P.L. 480 programs. The proposal includes:

(1) Commodity composition, including dollar value and estimated quantity of each commodity.

(2) Terms and Conditions of long-term credit which may include, but are not limited to, the following:

(a) Interest Rates.

(b) Length of Credit.

(c) Percentage of Initial Payment (IP), if any.

(d) Percentage of Currency Use Payment (CUP) and purpose for which (CUP) to be used.

(e) Supply Period.

(f) Usual Marketing Requirements.

(g) Export Limitations and Prohibitions.

(h) Self-Help Measures.

(i) Economic development purposes for which proceeds accruing to the use of the importing country are to be used.

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(3) Special Conditions, if necessary.

b. Agency for International Development (AID)

The Office of Food for Peace (FFP) represents IDCA/AID in the Food Aid Subcommittee Working Group and presents a coordinated IDCA/AID position with reference to the proposed Title I program after having consulted on the substantive aspects of the proposed program with the Geographic Bureaus. The AID Office of the General Counsel (GC) is responsible for reviewing the legal aspects of Title I agreements. State's Office of Treaty Affairs is responsible for reviewing the format of the agreement and supervises its publication in the Treaty and International Agreement Series (TIAS).

4. Program Approval

The proposed program, as presented or modified, must be approved by the Food Aid Subcommittee Working Group. Negotiating instructions are then prepared by the USDA and authorized by FFP. Authority to negotiate is not given until (a) The Bureau of Economic and Business Affairs (EB) has successfully completed its consultations with third countries on the general terms of the agreement and the level of the Usual Marketing Requirements and (b) clearance is obtained from the National Advisory Council in International Monetary and Financial Policies (NAC).

5. Content of Agreements

a. General

(1) The agreement is composed of a preamble and three parts. Part I - General Provisions, which are standard to all Title I agreements; Part II - Particular Provisions, which will vary according to the composition of commodities and respective costs, the type of financing (i.e., Dollar Credit or Convertible Local Currency Credit) and the terms and conditions of the particular concessional sale; and Part III - Final Provisions, which are standard to all Title I agreements.

(2) There are several reasons why a signed P.L. 480, Title I, agreement might not be fully implemented. Among these are:

(a) By either government if it determines that because of changed conditions the Title I sale is unnecessary or undesirable.

(b) A PA might not be issued by the United States.

(c) U.S. domestic supply situation could be such that the specific commodity could not be exported under P.L. 480 within the provisions of Sec. 401 of P.L. 480.

(d) Either government could terminate the agreement.

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(e) The United States could determine that the self-help program is not being adequately developed.

(3) Title I sales agreements contain provisions that are designed to protect the usual marketings of friendly countries. Based on historical data, the agreement may require the importing country to import commercially from friendly countries a specified quantity of the supplied commodities. This is known as the Usual Marketing Requirement (UMR). The agreement also provides that all possible measures be taken to prevent the resale or transshipment of the commodities supplied under the agreement. Except where such resale or transshipment is specifically authorized by the United States, export of specified commodities which are the same or similar to those supplied under the agreement will also be limited (Export Limitations).

(4) Under each Title I agreement the recipient country agrees to undertake specified Self-Help Measures. Section 109 of P.L. 480 lists appropriate measures, such as expansion of agricultural production and improvement of storage and distribution of agricultural commodities. Self-help measures for each country are agreed upon during the negotiations of the sales agreement and particularly important in emphasizing the developmental impact of the Title I program.

b. Commodities

Sales agreements specify both the dollar value and the estimated maximum quantities of each commodity to be financed. Normally, whichever limit is reached first fulfills the U.S. commitment.

c. Sales Proceeds

(1) Under Title I agreements proceeds derived from the agreement are to be used for the self-help purposes in the agreement and where applicable for uses in specified sectors of economic development as enumerated in the agreement. Each Mission should examine the merits of more active AID participation in the programming of local currencies and encourage their use as another aid tool in those countries where it promises to be effective. The uses of the proceeds for agreed purposes are to be certified by the central governmental audit authority of the importing country, and the U.S. Government has the right to review these records no less than annually.

(2) For detailed discussion of the uses of sales proceeds under Food for Development programs (Title III agreements), see Chapter 5.

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d. Reports

(1) Self-Help and Local Currency Uses/Report

The recipient government furnishes by November 15 of each year a report on the progress made toward the implementation of the self-help measures and uses of the local currency proceeds. An interim report by the USAID is to be submitted to Washington on August 30 of each year. The recipient government is also required to furnish, in accordance with its own budget cycle, a report certified by its highest audit authority on local currency proceeds collected and expended.

(2) The recipient government also furnishes, as a minimum, the following reports on a quarterly basis.

(a) A quarterly report on shipping and arrival of P.L. 480, Title I, commodities.

(b) A quarterly statement on progress in respect to fulfilling usual marketing requirements, and on measures being taken to (1) assure the United States has fair share of any increase in supplying commercial agricultural commodities to recipient government and (2) prevent export of any commodity either the same as, or similar to, those commodities provided under Title I as defined in the agreement.

6. Negotiation of Agreements

a. Negotiation in the Field

In accordance with authority delegated by AID/W to the U.S. Ambassador, he/she directs the negotiation of sales agreements; he/she forms a negotiating team, including a member of the USAID and the Agricultural Attache (if present) to advise him/her. The Ambassador may postpone or suspend negotiations if he/she foresees serious problems, but he/she is required to communicate with Washington if such action is taken. FFP reviews, clears, and obtains appropriate AID Geographic Bureau and Department of State clearances of messages normally drafted by USDA concerned with negotiating instructions or changes in instructions. (See also 2 FAM 1261.) The final telegram must be authorized by FFP.

b. Negotiation in Washington

In rare instances Title I sales agreements may be negotiated in Washington. In these cases a negotiating team is established; it includes representatives from the AID, State, USDA, and other agencies, as appropriate.

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c. Signing of Sales Agreements

Negotiating instructions do not authorize signature of the agreement. AID/W-FFP specifically authorizes signature of each agreement after appropriate concurrences to final changes have been obtained and upon specific request by the U.S. Ambassador. Usually this request must be received in Washington 72 hours (in addition to weekends and U.S. holidays) in advance of the proposed signing.

4G. Program Implementation

1. Purchase Authorization

After the Title I agreement is signed, and upon the application of the importing country, USDA issues the Purchase Authorizations (PA's) which provide for dollar financing of the commodities and reimbursement of the U.S. flag ocean freight differential, if any, on that part of the commodities that are required to be carried on U.S. flag vessels in accordance with the provision of P.L. 664, August 26, 1954. See definition for Purchase Authorization (PA), 4C.23 above.

2. Commodity Procurement by Importers

Importers, authorized by the government of the importing country or a purchasing agency of that country, procure commodities directly from private U.S. suppliers who in return receive payment in dollars from the USDA through U.S. banking channels.

3. Financing Procedures

Financing procedures follow regular commercial practices. The Commodity Credit Corporation issues letters of commitment to U.S. banks designated by participating countries, which constitute commitments by CCC to reimburse U.S. banks for payments made to U.S. exporters under letters of credit.

4. Sales Contracts

Sales made by private U.S. exporters must conform to the terms and conditions of the PA's and USDA Regulations. Sales contracts are awarded conditionally, dependent on the supplier obtaining price approval from USDA.

5. USDA Regulations

USDA issues and administers regulations which set forth the responsibilities of exporters, importers, banking institutions, and foreign governments participating in the Title I program. These are incorporated by reference in all PA's.

6. Letters of Credit (LC's)

The recipient government also makes the arrangement to open the appropriate letters of credit (LC's), in dollars, to cover the estimated cost of transporting the portion of commodities being shipped on U.S. flag vessels. These LC's are made in favor of the suppliers of ocean transportation.

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7. Freight Tenders, and Ocean Transportation

USDA must approve all freight tenders in advance of release to the trade, as well as all bookings and charters of U.S. and non-U.S. flag vessels. The ocean freight differential, if any, is as determined by USDA.

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CHAPTER 5  
TITLE III, FOOD FOR  
DEVELOPMENT PROGRAM

5A. Introduction and Purpose

*This Chapter outlines the U.S. Government procedures for approving and administering the Public Law 480, Title III, Food for Development (FDD) program. It provides guidance on those phases of the program in which AID plays an important role.*

5B. Legislative History and Program Structure

1. *Congress enacted the International Development and Food Assistance Act of 1977 to increase the developmental impact of P.L. 480 food aid. It reflects their concern to provide incentives to developing countries to use P.L. 480 food aid as a development resource and at the same time minimizing any disincentive on local food production of U.S. commodity aid. The Act amends the Agricultural Trade Development and Assistance Act of 1954, as amended (P.L. 480) by adding a new Food for Development Program to Title III of the Act (Sections 301 through 310).*

2. *Provisions of Title III of the Act, as amended, authorizes:*

a. *Commodities made available under Title III programs to be financed by CCC under the authority of Title I.*

b. *Multiyear Food For Development Programs with eligible countries that meet specific criteria. These countries would purchase specific annual values of agricultural commodities that would be delivered over a period of one to five years. Title III permits local currency proceeds utilized for development purposes specified in the Act to be credited against the dollar repayment obligation incurred by certain Title I sales agreements. Thus, Title I sales agreements that include a Title III food for development program annex are referred to as Title I/III sales agreements. In return for these multiyear commitment and loan forgiveness provisions, the recipient country must undertake development effort(s) which complement, but do not replace, other development assistance provided by AID, other donors, or by the foreign government's own development programs. That is, the effort(s) must be additional to what is currently under way, already committed by donors, and specifically included in the recipient country's own development budget.*

c. *Title III programs must support activities designed to increase*  
 1) *the access of the poor to a growing and improving food supply, and*  
 2) *the well-being of the poor in the rural sector of the society. These activities may include agricultural and rural development, nutrition programs, other health services and voluntary family planning programs.*

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Particular emphasis should be placed on policies and associated programs which effectively assist small farmers and landless agricultural laborers. Its aim is to expand their access to the rural economy through services and institutions at the local level, and provide opportunities for the poor, who are dependent upon agriculture and agricultural-related activities to better their lives through their own efforts. Thus, the Food for Development Program added to Title III of the Act, as amended, contains provisions which, in conjunction with Title I sales agreements, are designed to strengthen the impact of U.S. food aid on the "basic needs" of the rural poor in countries receiving such aid.

#### 5C. Title III Eligibility Requirements

Recipient countries with which Title I/III sales agreements are entered into must satisfy all of the terms and conditions applicable to Title I agreements (Chapter 4), plus the following additional eligibility requirements. Each recipient country must:

- 1) Have a need for external resources to improve its food production, marketing, distribution, and storage systems;
- 2) Meet the per capita income criterion (in 1982-83 this was a maximum of \$795) necessary to qualify for development loans from the International Development Association of the International Bank for Reconstruction and Development (the World Bank);
- 3) Be able to use effectively the resources made available by the resale of the food commodities;
- 4) Indicate a willingness to take steps to improve its food production, marketing, distribution, and storage systems.
- 5) Another important Title I/III eligibility requirement, sometimes referred to as the "additionality requirement," is that Title I/III assistance must complement, but not replace, other development resources committed by AID, other donors, or the foreign government itself.

#### 5D. Development and Implementation of a Title I/III Agreement

1. The following written program documents must be prepared by each Title I/III recipient-country:

a. A Program Identification Document (FFD/PID) giving a general description and justification of the proposed Title III program for AID/ Washington Interagency review, and

b. A Program Proposal (FFD/PP), which is a multiyear proposal describing in greater detail the size and nature of the food for development program the foreign government proposes to undertake.

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5D.1.

c. An Annual Report on the activities and progress achieved under the program to date and submitted to the USAID or Diplomatic Post.

## 2. Waiver

Waiver of Title III requirements requested by a least developed country will be considered at the time a Title III proposal is presented for review and approval to the USAID or Diplomatic Post and AID/W.

### Legislation - P.L. 480, Section 304(c) in Summary

For those countries that meet the criteria to qualify as "relatively least developed countries," the President of the United States may waive the requirements with respect to project additionality, as well as the documentation requirements (i.e., the multiyear planning proposal, and the annual progress report). Such waivers are permissible if the President of the United States determines that such requirements cannot be met by a given recipient country, and yet Title III assistance is needed to meet important humanitarian or development objectives. Any such waivers, along with justifications, must be reported annually by the President of the United States to the Congress.

## 3. Evaluation of Title III Programs

a. Recipient Country. Title III legislation requires the recipient country to provide a report annually to the USAID Missions or Diplomatic Posts on the progress achieved under the program. This report should include:

- 1) A comparison of results with projected targets.
- 2) A description of how the commodities were used.
- 3) An accounting for funds generated and their uses.
- 4) The outstanding balances at the end of the most recent (USG) fiscal year.

b. USAID Mission or Diplomatic Post. An annual review is also required by the USAID Missions or Diplomatic Posts of the use of proceeds and how well the country has met the terms of the agreement. The report and/or annual review should recommend any program changes or modifications necessary to accomplish the goals and objectives of the program. The recipient country annual report and the USAID Mission annual review report are to be submitted each year to AID/W-FVA/FFP.

c. AID/W-FVA/FFP. The combined annual progress report and annual review report are the basic documents used by the Interagency Working Group of the Development Coordinating Committee (DCC) for review and approval of the subsequent year's allocation for the Title III program. In addition to these reports, evaluations will be undertaken by AID/W where appropriate to address impact issues that transcend country specific concerns. The impact evaluations will provide guidance for improving and expanding the Title III program generally.

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4. For Complete Guidance in Developing, Approving, Implementing and Administering a Title III Program, See Attachment 4A - AID's P.L. 480 Food for Development (Title III) Program Guidance.

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ATTACHMENT 5A

P.L. 480 FOOD FOR DEVELOPMENT  
(TITLE III)  
PROGRAM GUIDANCE  
January 28, 1983

P.L. 480 FOOD FOR DEVELOPMENT (TITLE III) PROGRAM GUIDANCE

REF: (A) AID CIRC. A-434 - Nov. 1977; (B) AID CIRC. A-481 - Nov. 1978; (C) State 187442 - July 1982; (D) State 021304 - Jan. 1982; (E) AID Policy Discussion Paper: Food Aid and Development, July, 1981; (F) State 170920 - June 1981; (G) State 305746 - Oct. 1982; (H) State 112711 - April 1982.

I. SUMMARY: The purpose of this paper is to encourage and help guide the preparation of Title III-Food for Development (FFD) programs. It identifies criteria for assessing country suitability for a FFD program and the features of Title III that make it a particularly important development resource, outlines the review and approval process, and sets forth the documentation and analytic requirements of Title III. It has been approved by the inter-agency Working Group of the DCC Food Aid Subcommittee (the Working Group), and serves as guidance to Country Team members from the member agencies.

Title III of PL 480 authorizes concessional food sales to eligible recipient countries over a multi-year period with provision for forgiveness of the repayment obligation as agreements on commodity or local currency uses for the approved development program are satisfied. Title III is geared to those low-income (under \$795 per capita income in 1981 terms),

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food-deficit countries which have the potential to significantly raise agricultural production, pursue agricultural based strategies, and are committed to efforts to stimulate rural growth. Consistent with this commitment, Title III's multi-year commodity supply assurance and the potential for forgiveness of loan repayments should provide incentives for recipients to agree to significant policy and institutional reforms and development program improvements.

A Title III program proposal should discuss its relationship to the overall Country Development Strategy as well as to the administration's foreign policy and market development objectives. Where available, the findings and recommendations of any agricultural or food sector studies should form part of the justification of the program. These studies are not preconditions for a program but should be supportive of its development. Missions are encouraged to pursue such analyses with the recipient country government, either as the basis for Title III programs (and other efforts in the food/agriculture sector) or during the implementation of a program in order to strengthen it and follow on activities.

Title III requires the preparation of two program documents -- a Program Identification Document (PID) and a Program Proposal (PP). These will be reviewed first by a Technical Review Committee (TRC) of the Working Group which will be chaired by the appropriate regional bureau of AID. The

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Working Group, chaired by USDA, approves the FFD proposal at both PID and PP stages and instructs the field of further actions.

The first document, the FFD/PID, should present in outline form information on the food gap; production and consumption policies; marketing and distribution problems; and the major elements of the overall program and its sub-activities. In essence, the FFD/PID should summarize the analysis of the food/agriculture sector (focussing on constraints) which justifies the program and orients it. Its general description of reforms and sub-activities will be elaborated on in the FFD/PP.

The FFD/PP should expand on the analyses contained in the FFD/PID. Although the FFD/PP does not have to meet the specific requirements of the Foreign Assistance Act, the feasibility of the program and its components must be demonstrated; thus, AID Handbook 3 guidance for preparing AID Project Papers for development assistance is pertinent. The policy framework relevant to the Title III program must be described, as well as the proposed program and its sub-activities. Logistic support, procurement, commodity management, training and technical assistance needs and sources should be specified. The monitoring and evaluation arrangements should identify the conditions which will justify

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loan forgiveness. An annual report and annual review are required.

Missions are encouraged to explore opportunities to develop Title III programs with their counterparts, and to request TDY assistance from Washington agencies where necessary. This may be particularly useful in conducting the analyses of the food and agriculture sectors in the course of program development.

## II. INTRODUCTION

Food production and consumption prospects are seriously deteriorating in a number of low-income, food deficit countries.<sup>1</sup> The basic causes of continuing hunger and malnutrition in these countries are inadequate food availability and inability of the malnourished to purchase or otherwise acquire the food they need. Unless the production of major staples and/or other agricultural commodities in developing countries improves significantly more than it did during the 1960-75 period, and unless the effective demand of low-income families is increased, a deterioration in per capita

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1. This section draws on Attachment to the Report to Congress on the Developmental Impact of PL 480 dated March 30, 1982, which represented the Administrations's views. It sets forth the context for U.S. efforts to deal with developing country food and agriculture problems, and the principal objectives of such assistance.

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food availability and consumption, especially in low-income countries, may occur.

This is a grim picture, but it is not hopeless. The experience of the last 30 years shows that carefully planned and administered economic assistance, combined with the fundamental efforts that a government and people must themselves undertake, can establish a dynamic, self-sustaining food and agricultural system.

The economic objectives of U.S. food and agricultural assistance are to enable countries to become self-reliant in food, assure food security to their populations and contribute to broadly-based economic growth. These broad objectives entail two major sub-objectives, namely: (i) increased food availability; and, (ii) improved food consumption in rural and urban areas. We will seek to concentrate assistance for food and agricultural development in countries that share these objectives and are committed to an appropriate policy framework.

While food aid alone may be limited in its impact on the policies of recipient governments, Title III can be integrated with other assistance efforts to achieve sustainable improvement in agricultural production and the availability of food.

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### III. PROGRAM DIRECTIONS

A. Program goals and legislative emphasis: The legislation authorizes the use of FFD assistance to support a broad range of development activities. These include programs in agricultural and rural development, nutrition, health services and population planning. Title III's primary focus, however, is on improved food supply through activities designed to improve the production, handling, and utilization of food, emphasizing those activities which assist small farmers, tenants, sharecroppers and landless agricultural laborers.

For most LDCs, more rapid growth in domestic food production, substantial increases in real incomes, more efficient and equitable marketing of food supplies and increased export earnings are crucial to reducing their growing food import dependency and trade deficits. The food and agriculture sectors of practically all the LDCs receiving PL 480 assistance are substantially underdeveloped, and most people in these countries derive their incomes from farming or agriculturally related activities. Often the low farm productivity and low incomes of food consumers are the most serious constraints on development. Therefore, the primary focus of any Title III program in these LDCs should be on activities which support increased food production and food availability to poor consumers. Usually such objectives will already be the focus of other U.S. bilateral assistance.

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Proposals to enhance development through programs which complement direct efforts to increase production and food availability will be considered. Thus, activities in health services and family planning may be appropriate elements of a Title III program. However, the rebuttable presumption for a chronic food deficit recipient seeking Title III assistance is that most resources will be targeted for increased food production and improved consumption.

B. Country Suitability: The programming of Title III resources is most appropriate in an environment where food problems and stagnating economic growth, reflected in food and foreign exchange gaps, will be addressed through an agricultural based development strategy. Title III is most suited to countries where the causes of lagging food and agricultural production are understood by key policy makers in LDCs who are willing to enter into a long range effort -- including policy reforms and program adjustments -- to correct rural-urban imbalances and pursue the broadly-based growth of the rural economy. Beyond meeting statutory eligibility criteria (see Refs A and B), the recipient country government should be committed to, and hopefully have made at least some progress towards:

1. developing the institutional capacity for food and agricultural planning and policy analysis;
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2. developing human resources and institutions which (a) generate and apply innovations designed to raise agricultural productivity and rural incomes; and, (b) evaluate and adapt technologies transferred from developed countries and international institutions;
3. encouraging (a) policy and management reforms that make public enterprises more responsive to market forces; (b) greater private sector initiatives in the same spheres; and (c) the reduction of inappropriate public enterprise roles in the economy.

Title III programs are limited to low income countries (under \$795 per capita income in 1981).

C. Characteristics of Title III Programs

The benefits provided by Title III through loan repayment offset terms and multi-year commodity supply assurances require efforts beyond those expected under Title I. Generally, more extensive analysis and a more carefully delineated proposal than for Title I agreements will be required.

Title III is of course only one of the programs authorized under PL 480. The others are more appropriately used in different circumstances. Thus, Title II Section 206 authorizes programs which have similar characteristics. While these programs must have a sound analytical underpinning, they are geared to situations where the institutional capacities and/or

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infrastructure of the recipient country pose significant impediments to the design and implementation of the relatively more rigorous Title III programs. Further, given other demands on Title II resources, larger Section 206 programs may be difficult to fund. Multi-year commitments under Title I are also possible alternatives to Title III programs, but these also may be subject to funding constraints. Further, all other things being equal, the presumption is that a Title III program will be more appropriate for a low income country than a multi-year Title I agreement, (except where a Title III recipient may be ready to "graduate" to Title I) and that multi-year Title I agreements will be restricted to middle-income countries.

The following discussion highlights those features which distinguish Title III as a development resource.

1. Concessionalality

Each FFD agreement contemplates multiple (two to five) year commodity supply assurances and the potential forgiveness of loan repayments. (RLDCs may receive additional benefits: when Title III local currencies expended in any one year exceed the dollar debt due under the Title III agreement, the excess amount may be considered as payment against any Title I dollar debt due in that year. Further, the law provides that in selected cases, ocean freight/inland transport charges may be financed. Sec. 304(d).) These elements should provide

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considerable incentives for recipient governments to enter into policy dialogues on key constraints in the food and agricultural sectors. 2

## 2. Analysis

Title III is multi-faceted and can support a variety of programs and projects. Since Title III is a long term program, it can be designed to focus on the most fundamental development constraints in the food and agricultural sectors.

Consequently, the program should be to the maximum extent based on careful analysis of the food and agricultural sectors and impediments to growth. Such analysis will of course depend heavily on the availability of data and capabilities of analysts. Preferably, the analysis will identify opportunities to promote food self-reliance and suggest specific reforms and investments. The analysis should to the maximum extent involve the participation of the recipient country, and may in many cases be supported by the work of other donors, such as the food sector strategy studies of the World Food Council.

Where policy reforms have been introduced, but where continuing data and analysis are required to determine

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2. While the law authorizes a waiver of a number of requirements in Title III programs in RLDCs (Sections 303a, b, c; 304(d); and 306) the relationship of these requirements to assuring developmental impact suggests that waivers will be granted only in particularly exceptional cases.

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appropriate follow-on measures as well as to provide a sound basis for determining additional policy thrusts, Title III could be used to support these efforts. A two or three year period of data collection and analysis to monitor policy reforms earlier initiated could be undertaken and, where appropriate, continuation of the Title III program beyond the second or third year might be conditioned upon the government's progress in implementation. Some examples might be developing the recipient country's capacity to assimilate and use agriculture/food sector baseline data; developing or expanding capacity to do policy and program planning in the agricultural sector; or assisting in research and evaluation of the impact of production and pricing policies on marketing and consumption patterns. In short, Title III can support a continuing process of analysis, (and in turn derive strength from that process).

### 3. Greater Opportunities to Program PL 480 Resources

Because of their multi-year availability, Title III commodities and local currency generations can be used to implement the objectives of the agreement. For example, the food can be used in a commodity management system to support development of an efficient stable food market, and enhance food security. Local currencies can be used to finance the construction of grain storage facilities or to repair access roads. In some cases they can defray the cost of

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administrative and technical staff. As in the case of Title I agreements, we should be mindful of the potential disincentive impact that local currency generation may have on the recipient government's own efforts to mobilize domestic resources. See Ref. C.

In addition, because it provides balance-of-payments support over an extended period, Title III provides an opportunity to agree with recipients on uses of equivalent amounts of foreign exchange. While most recipient countries, especially RLDCs, have limited foreign exchange reserves and myriad claims on them, Missions may in appropriate cases -- particularly where the allocation can be associated with an integrated development package -- seek government agreement to allocate foreign exchange to priority activities supportive of the Mission's development strategy.

#### 4. Integration

Title III is a long term development instrument (up to 5 years) and may be renewed. As such, the opportunities for integration with non-food aid programs are substantial. Assurances of commodities and of local currencies to support discrete sub-activities should encourage Missions and recipients to link the Title III program to other elements of the country assistance effort. Ref D elaborates on this important aspect.

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In summary then, each Title III agreement should seek in exchange for balance of payments support, budget support, supply assurances and debt forgiveness some mix of policy reforms and development activities which will significantly move a country towards greater food self-reliance. The precise degree of emphasis on policy change will depend on the circumstances of each case. Some recipients may warrant USG support for having already begun a process of policy reform, and the agreement may serve to sustain that process and highlight complementary local currency uses; other cases may call for a major focus on policy changes at the outset, with active local currency programming receiving less emphasis. As appropriate to the circumstances of the case, the local currencies, the commodities themselves, foreign exchange, or some combination, should be used to finance projects or undertakings that support agreed upon policy reforms. In all cases, Title III proponents should be mindful of the importance of using the assistance to support rational economic policies and to promote reforms in country policies when these are deemed ineffective.

Title III must be documented and managed under more structured procedures than Title I. This will assure adequate assessment of development objectives against which loan forgiveness can be determined. While these procedures may

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appear more demanding, experience proves that their absence will make management and monitoring more difficult.

D. Program Examples

As experience with the program to date demonstrates, Title III programs and/or the integration of Title II resources with developmental assistance, can support development initiatives in the following areas:

1. At the policy level:

- (a) Grain price stabilization programs which reduce inter-seasonal and inter-crop price and supply fluctuations;
  - (b) Pricing policies to rationalize and/or reduce subsidies of food/agricultural production inputs and rationalize domestic terms of trade for food/agricultural products;
  - (c) Production incentives programs for small farmers;
  - (d) Increases in budget allocations to the agricultural sector;
  - (e) Improvement in policies affecting production, marketing and storage and food security generally;
  - (f) Removal of constraints to a more effective participation by the private sector in food and agricultural production and distribution;
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- (g) Establishment or improvement of food reserves in appropriate circumstances;
- (h) Other policy initiatives in high priority food-related sectors, such as nutrition, health or population.

2. At the project level:

- (a) Increased governmental commitments to specific projects: In those instances where significant efforts are being directed to the rural sector, particularly to increase the productivity and income of small farmers, complementary Title III resources may be appropriate, e.g., to support post-harvest food conservation programs.
  - (b) Institutional reforms: Title III resources can help countries develop the institutional capacity for food and agricultural planning and policy analysis; basic and adaptive research, education and training; and, disseminating improved technology and related information in a cost-effective manner. An expanded role for private enterprise should be encouraged, e.g., through financing the processing, preservation and marketing of agricultural commodities and the provision of agricultural inputs. Cooperatives may be of particular value in these activities.
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- (c) Expanded access: Title III activities can help implement legislation and policies in the recipient country designed to enhance the status of the poor and expand their access to the rural economy. For example, local currency generations could finance the procurement of productive land by small farmers and start-up costs of cooperatives and small farmer organizations.
- (d) Other projects: Activities in health, nutrition and population which would promote the objectives of the agreement (See III A. supra).
- (e) Agriculture and food sector analysis: While it must be grounded in appropriate studies, a Title III program can also provide resources to further analyze a country's agricultural and food sector, its weaknesses and strengths, alternative plans for addressing short and long term food needs, etc.
- (f) Voluntary organizations: Local currency generations can support the efforts of cooperatives and other private voluntary organizations in sectors where project activity is appropriate.

See generally Ref. E.

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#### IV. PROGRAM DEVELOPMENT

A. Program requirements and operation: Title III agreements are subject to the availability of U.S. commodities for PL 480 programming; the recipient's continued need for the commodities; a determination by the Secretary of Agriculture that the recipient has the ability to receive, handle, and store the commodities, and that there are no substantial disincentives to production and marketing (Bellmon determination); and continued satisfactory progress by the recipient country under the program as determined by annual reviews. Regarding Bellmon determinations, reference should be made to Ref. E and to a forthcoming message which will provide detailed guidance on analyzing the possible disincentive effects of food aid.

Title III permits the dollar value of the local currency proceeds or the commodities utilized for agreed FFD program purposes to be credited against the dollar repayment obligations of new Title III debt (and existing Title I debt for qualifying RLDCs). The specific conditions for qualifying for and receiving currency use offset (CUO) are to be set forth in Annex A of the Title III agreement. Guidance on the CUO reporting format is contained in Attachment C to this paper. Annex B of the agreement sets forth the specific development program, with annual benchmarks set for the activities to be

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undertaken by the recipient government. This annex is based on information contained in the FFD/PP described below.

Title III is programmed as part of the Title I budget and is subject to Title I rules and regulations. Thus, the agreement should set forth specific and measurable self-help provisions, which taken together will constitute the Food for Development program. Further, the aid should complement, but not replace, other U.S. and other donor assistance, or development efforts of the recipient country itself. A proposed program which, if successfully implemented, gives reasonable assurance (otherwise lacking) that contemplated policy changes and developmental activities will be carried out meets this criterion.

Since FFD programs involve the transfer of commodities, time must be allowed for this process. Typically, it takes 6-10 weeks from the time an agreement is signed for the commodities to arrive. In addition, time is required to distribute and sell the commodities. Thus, a minimum of 3 to 4 months will generally be required before local currencies will become available for FFD program activities. Recipient countries must deposit the local currency, in a special account where practicable, within six months after the date of the arrival of the final shipment of Title III commodities within the program year. (See Ref. C.)

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B. Program Development:

A Title III program should be developed with the participation of the AID Mission, the Agricultural and other appropriate officials of the Country Team and the recipient country. The process should start with a joint review of present and long run food needs of the recipient country, policies and programs aimed at meeting these needs and an assessment of how a Title III program could provide additional assistance in meeting these needs. Country team should bear in mind that whenever a Title III program is suggested to Washington, a discussion of the foreign policy and agricultural export market development rationales for such a program should also be included.

Title III programs should flow from an analysis of the food/agriculture sector. Their conceptual framework should derive from an overall discussion of opportunities for and challenges to increased food self-reliance, including consideration of such factors as the role of food aid as an appropriate program element where there is a food gap; the form in which food aid can best be a part of the overall assistance effort; and the country's macroeconomic situation including foreign exchange needs and availabilities.

It is desirable that Title III proposals flow from a comprehensive study of the food/agriculture sector. Where such

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studies do not now exist, they should be developed as soon as possible to provide a sounder basis for program design and negotiation. Major undertakings to be supported by Title III should be identified, especially those that otherwise would be unlikely in the absence of multi-year food aid. Opportunities for integration of Title III resources should be explored at the overall country strategy, sector, and project levels. (Missions should of course be alert to possible problems involving the timing of flows of funds under separate assistance agreements in integrating at the project level.) We anticipate that support of Title III proposals will be influenced by the extent of integration with other assistance modes as well as their likelihood of having a significant development impact. In addition, Food for Development program proposals should reflect consideration of the Administration's foreign policy and market development objectives.

C. Program Review and Approval:

Title III FFD program proposals should be submitted in the form of a FFD Project Identification Document (PID) followed by a FFD Project Paper (PP). These documents, when submitted to Washington, will be reviewed by the Title III Technical Review Committee (TRC) of the Working Group, chaired by the appropriate regional bureau of AID and composed of officials from AID, State, USDA, Treasury and OMB. The TRC will review

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the proposal (at both PID and PP stages) for conformity and compliance with Title III guidelines, overall conceptual soundness and economic, technical, socio-cultural and institutional feasibility. It will recommend modifications as appropriate, and comment on whether another Title of PL 480 might be a more suitable vehicle of assistance. After completion of each TRC review, the Title III PID or PP, with appropriate recommendations, will be submitted to the Working Group for review and approval/disapproval. If the Working Group approves the PID or PP, appropriate instructions will be sent to the Mission.

#### V. PROGRAM DOCUMENTATION

While the documentation of Title III-FFD proposals is patterned on AID's PID/PP system for DA-funded activities, it is geared to the specific requirements of Title III. The provisions of the FAA, such as Section 611(d) certifications, do not apply to Title III-FFD documentation. Nevertheless, Missions should refer to AID Handbook 3 for general guidance in carrying out examinations of project feasibility, the social soundness and environmental impact of subactivities, cost estimates, etc.

Where Title III programs will be integrated with other proposed USG-funded development activities, Missions should be alert to possibilities of cross-referencing program

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documentation so as to avoid duplication of effort. E.g., the PP for a development project to be supported by local currency generations may be referenced, and a concise summary of the activity may appear in the FFD/PP.

A. FFD Program Identification Document (FFD/PID):

FFD/PIDs should be submitted no later than a Mission's Annual Budget Submission (ABS) to AID/Washington. The FFD/PID should provide the following:

1. Face sheet - (See Attachment A)
  2. Eligibility Evidence: Present data and analysis tending to establish that the country:
    - (a) Needs external resources to improve its food production, marketing distribution and storage systems;
    - (b) Is ready and willing to act to improve such systems;
    - (c) Is able to use effectively the resources generated by the sale of the commodities for the agreed upon development effort;
    - (d) Has the capacity to receive, handle, store and distribute the proposed commodity level;
    - (e) Will not, in the distribution of the commodities, be confronted with a substantial disincentive to or interference with domestic production or marketing; and
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Washington will independently confirm that the country satisfies the statutory requirement of eligibility for IDA loans (currently, under \$795 per capita in 1981 terms.)

3. A summary of the food supply and demand situation.

Include 5 year projections based on trends of the last 5-10 years, identifying food gaps by commodity. Trend analysis is needed to establish UMRs and meet Bellmon requirements (see (e) above).

4. Problem Definition. Drawing on the above analysis, as well as available sector studies, and referring to those policies and institutional arrangements which impact on food availabilities (production and consumption dimensions), the PID should identify the major constraints in the food and agriculture sector -- some or all of which are presumably to be addressed by the Title III program.

5. Program Justification. The PID should reference the recipient country's development plans and priorities relevant to the problems identified, and actions being taken or proposed in support thereof. The relationship of the Title III program to the country's development strategy and other bilateral and multilateral aid (e.g., IMF Standby Agreements), should be described. In addition, the PID should discuss the proposal's

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relationship to the Administration's foreign policy and market development objectives.

6. The Proposed Program.

- (a) Goals/Components. State the goals and objectives of the program, the policy and institutional reform elements, the uses to which local currency generations will be put and the relationship of the latter to program goals. Where the commodities as well are to be programmed in support of program goals, this should be described. While quantification of results is not expected at this stage, the PID should indicate in general terms what the program will accomplish.
- (b) Beneficiary Participation and Impact. This section should explain who will benefit from the FFD program in terms of both the commodities, the use of the local currency proceeds, and other proposed actions of the recipient. It should indicate why the target group or institution has been selected and how the program benefits are expected to flow.
- (c) Estimate of Costs and Funding Sources. The PID should present the best estimate of program costs -- the annual commodity tonnage, local currency contributions, as well as the contribution, in human

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and financial resource terms of the U.S. (through PL 480 and otherwise) the recipient, and other donors.

(d) Program Preparation. Technical assistance requirements for producing the FFD/PP should be stated, as well as a timetable for preparing the FFD/PP.

B. Food for Development Program Paper (FFD/PP): The FFD/PP must provide detailed answers to four basic questions:

- What is the proposed program?
- Does it meet statutory criteria?
- How will the program be implemented and monitored?
- Is the program feasible and manageable?

Generally, the FFD/PP serves to elaborate information outlined in the FFD/PID; to describe with precision how the program will be implemented and evaluated; to show conclusions of analytical and planning efforts that have been undertaken during program development; and to address issues raised at the PID stage. The presumption is that the direction, dimensions and emphasis of the program will be agreed upon by the time of PID approval. Background studies and analyses (economic, technical, socio-cultural, financial, administrative and environmental) should be provided as back-up papers or attachments.

Specifically, the FFD/PP must include the following:

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- (1) Food for Development Program Paper (FFD/PP) face sheet (See Attachment B).
  - (2) Executive Summary - A summary statement of the major problems of the sector and the relevance of the Title III program thereto should be presented.
  - (3) Analysis of the Food and Agriculture sector - The paper should update (and expand as necessary) the analysis in the FFD/PID of the performance of the agriculture sector, the constraints to increased food self-reliance, and note any changes in food needs. Studies funded or produced by the USG, the recipient country or other donors should be cited and drawn on as appropriate. It is important to describe the policy framework relevant to the FFD program. In developing the FFD program in Bangladesh, for example, it was found that analyses of GOB pricing policies on agricultural inputs and farm outputs, subsidies related to these policies, farm cost of production data, and the role of GOB regulatory policy toward the private sector were particularly relevant. In some countries, policies may already be reasonably well defined and the governments may have undertaken a sound course of action. In others, the needed policy changes have
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been identified but the government has not instituted the needed reforms. In still others, the present policies or proposed changes are not so thoroughly understood or identified so as to allow a reliable determination of fully what changes or new actions are desirable. This section should describe the specific situation in the country, confirm the orientation of the Title III program, and lay the foundation for additional analysis during the program's implementation.

- (4) Institutional Environment - This section should describe the institutional environment in which the program will be undertaken: the financial, managerial and other capabilities and weaknesses of implementing agencies and other participants, as well as other factors which will impact on program achievements (e.g., trained manpower, essential infrastructure, availability of equipment and materials, etc.).
- (5) Essential Certifications - To the extent that Washington determined that the PID did not conclusively establish basic eligibility of the recipient and the program (see V A 2 infra), the
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FFD/PP should do so in this section. Further, changed circumstances may require an update.

- (6) Program Description - The PP should present a full description of the overall program. It is assumed that the elements of the development program will consist of a number of commitments of the recipient, extending to policy and institutional reform and specific activities to be funded, at least in part, with local currency generations. These commitments, or self-help measures, will constitute the Food for Development program and will be the reference points for determining compliance with the agreement and, accordingly, program continuation. The program goal, purpose and outputs should be stated; they must relate to sector goals, host country development activities, and the overall strategy within the country. If the activities which Title III will finance are part of a longer term undertaking, describe the total program, its scope and implementation timeframe. If the program is a continuation of an existing activity, refer to the results of any recent evaluations. The extent of its integration with other assistance programs should be set forth, as well as those commitments

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not directly linked to program resources (e.g., programming of foreign exchange related to the balance of payments support provided by the Title III agreement). If the proposed activities require a longer term "operating" phase to generate benefits, or if recurrent cost financing is necessary, discuss these aspects and how they will be addressed in the years following the program. The section should identify the program inputs (commodities, local currency, AID dollar and other). This section should update the budget data contained in the PID by source of financing. Finally, this section should also identify the intended program beneficiaries. Describe how and to what extent various groups will benefit, directly and indirectly, from the programs and its components.

- (7) Implementation Plan - The FFD/PP should discuss how the program is to be carried out, as well as define responsibilities for coordination, management and monitoring. The plan should reflect an awareness of the likely timing of the arrival of commodities and the generation and deposit of local currencies.

This section should present a plan of important actions which must be accomplished annually. It

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should identify the organizational units within the recipient country government which will be responsible for each implementation action. If achieving outputs is sensitive to timely procurement and arrival of goods and services in addition to the commodities, a procurement plan must be included. Arrangements for local procurement, contracting, and securing required technical expertise should be described. The Title III agreement may be signed with one recipient government agency even though the program is co-managed and/or implemented by other agencies. Alternatively, several recipient country agencies may share responsibility for the functional area of which the project is part or be responsible for different subactivities. In programs that have activities in different locations within the host country, regional officials may have responsibilities for implementation. Technical offices in regional or central bureaus of AID and USDA may assist in developing and monitoring the program implementation plan (as well as in program evaluations).

- (8) Annex B - The FFD/PP should include a draft Annex B. Annex B is the specific agreement with the recipient
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government and should outline the activities of the FFD program, necessary conditions precedent and covenants, benchmarks, targets, as well as implementation and monitoring plans. It is presumed that the preparation of a logframe will contribute to the precision and specificity of Annex B. (Annex A to the agreement gives the standard provisions for all Title III agreements and need not be attached to the PP. See Attachment B. to Ref. B for format of Annex A.)

## VI. REPORTS AND REVIEWS

A. Legislative Requirements: Title III requires the recipient to report annually on progress achieved under the program, including a comparison of results with projected targets, a description of how the commodities were used, an accounting for funds generated and their uses, and the outstanding balances at the end of the most recent (USG) fiscal year. An annual review by the USG of the use of proceeds and how well the country has met the terms of the agreement is also required. The report and/or annual review should recommend any program changes or modifications necessary to accomplish the goals and objectives of the Title III program. The combined annual progress report and annual review are the basic documents used by the Working Group for review and approval of

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the subsequent year's allocation for the Title III program. The degree of USG involvement in preparing the annual report will depend upon the management and analytical skills the recipient is able to devote to the task.

B. The Annual Report: Factors that should be covered in the annual progress report are:

- (1) The roles and performance of the cooperating recipient government agencies in fulfilling the terms of the agreement.
  - (2) Discussion of progress and achievements with reference to the agreed-upon goals, self-help measures and benchmarks. (Benchmarks will have to be set with reference to the abbreviated period of implementation to be covered by the first report.) Where there are shortfalls, explanations should be offered. Where policy reform predominates the FFD agreement, the report (and the review) should have a commensurate focus.
  - (3) A detailed description of how commodities were used and an accounting of local currency generations and their uses. The end-of-year balances should appear. The status of loan forgiveness should be presented.
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- (4) Recommendations of the recipient government either for changes in the program or its procedures should be provided.

C. The Annual Review: Factors to be included in the review, the results of which should be recorded and transmitted to Washington, are:

- (1) Review of the uses of proceeds, commodities, unused balances, and compliance with provisions of the agreement. Corrective actions should be described. These actions may include changes in program objectives, new policy initiatives, implementation procedures and program changes.
- (2) Assessment of the recipient government's commitment to the Title III program, particularly with regard to commodity use, policy changes and activities financed by the proceeds should be provided.
- (3) Progress in achieving the program's overall goals.

D. Timing of Reviews: When the Title III agreement is negotiated, the Mission should reach an understanding with the recipient government on the annual review process. The Mission may request Washington assistance to develop the evaluation framework.

The agreement should reflect the legal requirements that the first report be submitted not later than a year after the

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initial delivery of commodities. Since the local currency deposit may not be made until six months after the delivery, and the delivery itself may not occur for several months after the agreement is signed, it is likely that the first report may cover a relatively brief period of program implementation (i.e., local currency disbursements). It is important, however, that the first report be submitted sufficiently early to allow for the Mission's annual review, the submission of the report and review to Washington, and the review and approval thereof -- all without jeopardizing the progress of the program in its second year, i.e., the timely shipment of commodities and generation of local currency. The annual review's conclusions, together with the report, should be received in Washington within 60 days of the submission of the report by the government.

Well prior to the due date of the annual report, the Mission should discuss with the government the schedule and content. Agreement should be reached on the level of Mission participation and concerned Washington agencies and on any technical assistance required.

The first annual review should pay particular attention to administrative, managerial and monitoring arrangements. Subsequent reviews should emphasize program achievements and policy impact.

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Once received in Washington, the report and the Mission assessment thereof shall be reviewed by the TRC and the Working Group. Approval of the evaluation report and the Mission's assessment is required before the next Title III commodity shipments occur.

For budget planning purposes in Washington, PL 480 funds will be earmarked in advance for all Title III programs active during a given fiscal year. If an intervening review determines that insufficient progress is being made which warrants suspending the Title III program, the program could be converted to Title I; more likely the line item in the budget will revert back to the Title I reserve, since non-compliance with the provisions of the Title III agreement would raise serious doubts about suitability of the recipient for out year funding under Title I.



ATTACHMENT B

FOOD FOR DEVELOPMENT PROGRAM PAPER  
FFD-PP

1. COUNTRY:

2. PROGRAM TITLE:

3. ESTIMATED DURATION:

INITIAL FY:

FINAL FY:

4. ESTIMATED COST:

SOURCE OF FUNDING

FISCAL YEAR

TOTAL

FY    FY    FY    FY    FY

A. P.L. 480  
TOTAL \$ VALUE

B. AID DOLLAR ASSISTANCE

C. HOST GOVERNMENT

D. OTHER

5. P.L. 480 ANNUAL COMMODITY INPUT:

YEAR

COMMODITIES

TONNAGE

ESTIMATED \$ VALUE

6. PROGRAM PURPOSE: (BRIEF DESCRIPTION)

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## ATTACHMENT C

### REPORTING FORMAT FOR TITLE III, P.L. 480 CURRENCY USE OFFSET CREDIT

1. Annex A, Item III B for Food Development Program (FFD) agreements require that the government of the importing country report quarterly on deposits of local currencies and disbursements in connection with the FFD program incorporated in the agreement. It is necessary for the USG to determine that the local currency equivalent of the dollars disbursed by CCC has been deposited; to review the disbursements of the importing country and certify that they are eligible for application against Title I payments. The Ambassador should delegate this authority to the proper office. Disbursements in turn must be reported quarterly by the Embassy to USDA's Commodity Credit Corporation. The reports will constitute the required certification that the disbursements were made in accordance with the FFD Agreement.
2. The complete Title I debt will be deemed to be offset when there is full disbursement of the local currencies, which were deposited in the special account in an amount equal to the dollar value of the CCC Credit, regardless of fluctuations of exchange rates that may occur during the life of the program. Full forgiveness does not apply in the case of RLDC's which elect to utilize disbursements from the special account to offset other Title I debts during the fiscal year. The Embassy should certify when local currency generations have been fully disbursed, otherwise only the dollar value at the time of actual disbursement will be applied against the Title I debt. It will be necessary for the Embassy to notify CCC when all of the local currency has been disbursed, otherwise, full forgiveness will not occur.
3. The Embassy is to work with the government of the importing country on a mutually acceptable format to use in reporting deposits and disbursements for eligible uses to the Embassy. If such a format has not been developed, your transmission of copies to Washington would be appreciated.
4. Attached to this message is a reporting format for use by the Embassy in reporting disbursements to the Commodity Credit Corporation.

Following are instructions for its use:

- a. Reports should be submitted under cover of a transmittal airgram, marked for the attention of the Chief, Fiscal Operations Branch, Financial Management Division, Agricultural Stabilization and Conservation Service, (USDA/FOB/ASCS/USDA).
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- b. Items 1 through 3 of the form are self-explanatory.
  - c. In Item 4, insert the current cumulative value of disbursements reports to the Embassy by CCC through form 331, Advice of Payment.
  - d. In Item 5, insert the cumulative value of deposits made to the special account.
  - e. In Item 6, report the figure from Item 8 of the report of the previous quarter. For the initial report this will be zero.
  - f. In Item 7, indicate all disbursements reported by the Government of the importing country for approved eligible uses during the quarter covered by the report, by date of disbursement amount of disbursement and exchange rate in effect on the date of disbursement, and insert their total U.S. dollar equivalent on the indicated line. If the number of disbursements is voluminous, they may be detailed on a separate sheet using the indicated format, and their totals inserted in this time.
  - g. Add Item 6 and 7.
  - h. Subtract Item 8 from Item 5.
  - i. Specific time deadlines have not been established for submission of the subject report. However, reports should be submitted as soon after the close of the reporting quarter as possible.
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CHAPTER 6  
TITLE I I PROGRAM DEVELOPMENT

6A. Types of Programs to be Considered

1. General

AID encourages the development and submission of short-term emergency programs or long-term programs which contribute to economic and social developments. Innovative uses of Title II resources, other than outlined herein, explored by Missions and/or cooperating sponsors, may be submitted to AID/W for consideration. Definitions pertaining to Title II programs are listed in Appendix A.

2. Major Program Categories

a. Emergency

The development, submission, and processing of emergency programs are covered in Chapter 9, Emergency Projects.

b. Regular Feeding Programs

These programs are covered in Chapter 10, Child Feeding and Economic and Social Development.

(1) Child Feeding

- (a) Maternal/Child Health (MCH) Feeding
- (b) Preschool-Age Child Feeding
- (c) Other Child Feeding

(2) Food-for-Work Programs

- (a) Economic Development
- (b) Community development
- (c) Educational development
- (d) Health development

(3) Primary School Feeding

c. Section 204 Projects and Section 206 Programs

These are covered in Chapter 11, Local Currency Projects.

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6A.

3. World Food Program (WFP)

WFP representatives have the responsibility of developing projects for submission to their parent organization which subsequently determines which country or countries will be requested to fulfill project resource requirements from existing pledges to WFP. These programs are covered in Chapter 12, U.N./FAO World Food Program.

6B. Program Limitations

Certain limiting factors must be taken into account by U.S. Missions, Cooperating Sponsors, and Intergovernmental Organization Representatives when preparing or submitting programs to AID/W for review and consideration. Program proposals which require exception to limitations must be accompanied by strong justification and Mission endorsement. These limitations are:

1. Nondisplacement of Other Resources

Normally commodities may not be requested if they will displace resources (cash, commodities, or services) which currently are available or can reasonably be expected in the absence of U.S. Title II assistance. If circumstances exist which justify special consideration, the U.S. Mission should seek AID/W guidance prior to program proposal submission.

2. Countries which Export Same or Similar Commodities

Except for emergencies, commodities which are the same or similar to those which a representative recipient country exports (on a net basis) normally may not be requested. AID/W may consider exempting a country from this limitation if the country has agreed to provide a substantial part of such commodities from indigenous or external commercial sources or if other circumstances exist which justify special consideration.

3. Dependencies

Except for emergencies, use of Title II commodities are not authorized for dependencies, trust territories, etc., of developed countries. If the Mission is in doubt regarding the applicability of this limitation, it may seek guidance from AID.

4. Sales and Other Charges

If in the development of a Title II program, sales or charges other than disposition of spoiled commodities and charges for Maternal Child Health (MCH) and School Feeding (SF) are contemplated, the Mission should seek AID guidance.

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6B.

5. Program Support by U.S. Missions

When reviewing new programs, each Mission must take into account its ability to manage and monitor according to the Mission responsibility outlined in 2B4c. If adequate support does not appear to be possible, AID/W must be notified.

6. Storage Limitations

No agricultural commodity may be provided unless adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity.

7. Disincentive

There must be a determination that distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country.

6C. Submission of Program Proposals and Supporting Documents

1. Government-to-Government Proposals

Government-to-Government proposals, with the exception of emergency and Section 206 proposals, are submitted to AID/W in a form similar to a Project Identification Document (PID) and project papers (PP's).

2. Voluntary Agency and Intergovernmental Organization Programs

a. Project Proposal

Voluntary Agencies and Intergovernmental Organizations submit nonemergency project proposals to Missions in compliance with the Operational Plan format (see Exhibit D).

b. Operational Plans

Operational Plans may be submitted annually, or, if there is an approved multiyear strategy, at 2-, 3-, 4-, or 5-year intervals depending on the program.

c. Narrative and Statistical Summary

After the Mission has examined and concurred with the Operational Plan the Mission prepares a narrative and statistical summary for the Title II portion of the Mission's Annual Budget Submission (ABS). This should relate to the Mission's Country Development Strategy Statement (CDSS). AID/W review of the Mission's Title II program will be based on these ABS materials.

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6C2

d. Annual Estimate of Requirements (AER)

(1) Subsequent to the review and approval of the Title II portion of the ABS, the Voluntary Agencies and Intergovernmental Organizations submit to the Mission an Annual Estimate of Requirements (AER), form AID 1550-3 (see Exhibit E), which is a statistical update of the Operational Plan and the ABS, and which takes into consideration adjustments recommended during the AID/W and Title II reviews.

(2) After the Mission has examined and concurred with the AER, it is signed by the responsible Mission officer. The Voluntary Agency or Intergovernmental Organization then forwards copies of the Mission-signed AER to its home office.

(3) After approval of the AER by the home office, two signed copies are forwarded to AID/W. These copies should arrive in AID/W not later than April 15.

3. Emergency

For submission of emergency relief proposals, see Chapter 9.

4. Mission Responsibilities

Missions are responsible for assuring completion of all project proposals in the form required. Missions should discuss documentation requirements in detail with the cooperating sponsor providing assistance as appropriate. However, the cooperating sponsor is to provide program information for the completion of necessary documentation. In the case of Voluntary Agencies and Intergovernmental Organizations, the cooperating sponsor provides the Operational Plan and AER for Mission approval.

6D. Review of Proposals and Supporting Documents

1. AID/W Review

The project proposal (i.e., a Project Paper in the case of government-to-government proposals, and the ABS and AER in the case of Voluntary Agencies and Intergovernmental Organizations) is reviewed by:

a. The Geographic Bureau to assure that is consistent with U.S. objectives, development policies, and other programs in the country.

b. PDC/FFP to determine that the program as planned is consistent with the Regulation and guidelines, is technically sound, is appropriate for the purpose intended, and is reasonably within the operating capacity of the cooperating sponsor.

c. PPC to assure that it complies with grant assistance policy and it is within the budget.

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6D

## 2. Interagency Review

After AID/W has reviewed and recommended approval of a project proposal, the AID representative on the Title II Subcommittee presents it to that Subcommittee. The Subcommittee evaluates the proposal and, if approved, recommends that it be presented to the Working Group of the Food Aid Subcommittee for concurrence. The AID representative on the Working Group presents the Subcommittee's recommendations to the Working Group for its approval. If the Subcommittee is unable to reach agreement on a project proposal, AID reserves the right to present it to the Working Group for consideration.

## 6E. Implementation Procedures

When the Working Group's (WG) review has been concluded, AID/W will follow one of three mechanisms leading to the final implementation of the proposed project:

(i) The Transfer Authorization (TA) procedure is normally used on all government-to-government projects and may be used in other cases which require inclusion of special and detail provisions. This process includes, when necessary, a Procurement Authorization/Purchase Requisition (PA/PR) to cover inland transportation when the program is approved for a landlocked country (see 1. below).

(ii) This procedure normally uses the multicountry Food for Peace Program Agreement to authorize projects of the U.S. Voluntary Agencies and Intergovernmental Organizations. The Operational Plan and Annual Estimate of Requirements are the controlling implementation documents for this procedure.

(iii) This procedure involves approval of project proposals for the commitment of commodities pledged to the World Food Program (see Chapter 12).

### 1. Transfer Authorization Procedure

#### a. Commodity Transfer Authorization (TA)

##### (1) Procedure

PDC/FFP prepares a Commodity Transfer Authorization (TA) which includes the specific types and amounts of commodity to be shipped, the estimated value of the commodity and transportation costs, a description of program objectives, and the agreed upon terms and conditions for the use of the commodity. TA's incorporate AID Regulation 11 by reference.

##### (2) Purpose

The TA serves as the Food for Peace Agreement between the U.S. Government and the cooperating sponsor, the project authorization document, and the authority for the Commodity Credit Corporation to ship commodities.

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6E1a

(3) Format, Contents, and Approval

The TA is prepared substantially in the format shown in Exhibit A. Often authority to sign agreement is delegated to the Ambassador or the Ambassador's designee. In this case four (4) legible certified true copies of all TA's are to be provided to AID/W, PDC/FFP/POD.

(4) Case Act Requirement

U.S. agreements for \$25 million or more with foreign countries must be provided to the United States Congress. To comply with this Act, when a Title II Transfer Authorization is signed in a host country, the Mission or Embassy provides two (2) legible certified true copies to AID/W-GC for transmittal to the U.S. Department of State, Legal Treaty Affairs (L/T), for their Archives and submission to the U.S. Congress.

b. Arrangements for Ordering and Shipping Commodities

Request for shipments originate with the cooperating sponsors, and are submitted to the Mission for clearance and transmittal to AID/W (see 7B3).

2. Food for Peace Program Agreement Procedure

This procedure is authorized by AID/W when the cooperating sponsor is a Voluntary Agency or an Intergovernmental Organization.

a. Multicountry Agreement

AID and the cooperating sponsor enter into a Food for Peace Agreement covering the transfer, acceptance, and use of commodities for approved programs in recipient countries in accordance with specified legislation, delegation of authority, and the Regulations, as amended (see Exhibit C). This Agreement between AID, as arranged by PDC/FFP, and the cooperating sponsor encompasses all countries within which the cooperating sponsor may be authorized to implement Title II programs. It remains in force until modified by AID or the cooperating sponsor. It is not practicable for the foreign governments to sign this Agreement.

b. Individual Country Agreement

(1) Having entered into a multicountry agreement with AID, the cooperating sponsor, where practicable, is required to enter into a written agreement with the government of the recipient country. This agreement is to include the incorporation by reference or otherwise the terms and conditions of the Regulation.

(2) In addition to the above, the agreement between the cooperating sponsor and the government of the recipient country should specify and delineate matters of interest to both or either parties and should include but not be limited to the following:

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6E2b(2)

- (a) Arrangements for duty-free entry of commodities and waiver of other port charges.
  - (b) Arrangements for payment of program costs such as ocean freight if required, unloading, port fees, if any, inland transportation, warehousing, and the issuance of commodities to recipients.
  - (c) Arrangements for the provisions of funds, equipment, personnel or supplies that will assist in the operations of programs.
  - (d) Permission from the Government of the recipient country for representatives of the cooperating sponsor to have freedom of implementation-related travel, and for such other activities as are needed by the cooperating sponsor to carry out its managerial/supervisory responsibilities.
  - (e) Arrangements, where feasible, for local government confiscation of commodities appearing in unauthorized channels, and for their return to the cooperating sponsor.
  - (f) Arrangements assuring the right of the cooperating sponsor to audit the records and operations pertaining to the receipt, storage, distribution, and use of the commodities including the authority to visit ports, warehouses, and distribution points.
  - (g) Arrangements for adequate program publicity.
  - (h) The inclusion of a statement of special conditions, if any, imposed by the host government relative to the admission, storage, transportation, distribution, or utilization of commodities.
  - (i) Arrangement for a procedure to be followed in the condemnation of food no longer fit for human consumption.
  - (j) Assurance that recipient will receive foods only for participation in AID/cooperating-sponsor approved projects.
- (3) If circumstances preclude the individual country agreement, the Voluntary Agency programs may operate under the provisions of AID Regulation 11, Section 211.3(b), provided the U.S. Mission certifies that the program can/or does operate effectively in the absence of such agreements.

6F. Ordering and Shipping

Following review and approval of the project proposals by AID/W and the Working Group and after the implementation procedures have been completed, the cooperating sponsor may, subject to clearance by the Mission, request USDA to deliver commodities for export (FAS U.S. ports).

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6F

CCC Form 183, Commodity Request for Foreign Distribution, obtainable from the USDA, is used for this purpose. (See Exhibit G.) Orders are placed at quarterly intervals (see 7B) for quantities needed. Upon notice from USDA of the portside delivery schedule, the cooperating sponsor books the cargo and arranges for overland carriers if shipments are to landlocked countries. For shipping controls, see 6C3.

6G. Outreach Projects

These projects provide Title II logistical support grants to enable Voluntary Agencies to develop new methods to reach the neediest and poorest people in areas previously inaccessible due to logistical constraints. To apply for an AID Title II Outreach (Project) specific support grant, Voluntary Agencies will submit a:

1. New or amended AER,
2. A program Description Narrative (see Exhibit K),
3. A detailed budget request (see Exhibit L).

The AER, Budget Request and Program Description Narrative will be reviewed by the Mission, Voluntary Agency Headquarters, and PDC/FFP, taking into consideration comments and recommendations of the Geographic Bureaus. The commodity request will be submitted for approval to the Working Group of the Food AID Subcommittee.

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## CHAPTER 7

### TITLE II PROGRAM IMPLEMENTATION

#### 7A. General

This chapter provides overall instructions for the Mission and the cooperating sponsors for implementing Title II programs under Transfer Authorization and Agreement procedures. (The World Food Programs are covered in Chapter 12 and Appendix D.)

#### 7B. Commodity Orders (Calls-Forward)

##### 1. General

a. Requests for shipment of commodities originate with the cooperating sponsor and are submitted to the Mission for clearance. Normally, Calls-Forward are submitted to cover project requirements for 3 months. However, Missions may justify and recommend Calls-Forward for shorter or longer periods.

b. Calls-Forwards should be made only for authorized commodity amounts and should contain details as to commodity requested, amounts, ports of delivery if needed. Mission should also make statement regarding adequacy of storage and if appropriate information as to port facilities, transportation network, etc.

c. In the instance of a Title II experimental commodity shipment, Missions are notified of FFP intent with the request that such shipment be discussed with the cooperating sponsor, who then initiates the normal Call-Forward process.

##### 2. Program Implementation Under Voluntary Agency Agreements

\*The following outlines the required procedure for implementing voluntary agency Call-Forward requests (Appendix C - AID Regulation 11, Section 211.4(e) (2)):

a. Request for shipment of commodities originate with the voluntary agency and are submitted to the USAID or Diplomatic Post for review and clearance. This request will include a statement that adequate storage facilities are available to accommodate the commodities called forward.

\*Revised

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\*b. The USAID or Diplomatic Post promptly reviews the Call-Forward request, providing clearance with a statement, in writing, that the USAID has cleared the Call-Forward and the date of such clearance, and return request promptly to the voluntary agency. USAID must advise the cooperating sponsor of the approval or disapproval within seven (7) days of receipt of request.

c. The USAID or Diplomatic Post also promptly advises AID/W-FFP of the approved or disapproved Call-Forward request, and includes a statement that adequate storage facilities are available to accommodate the Call-Forward. AID/W-FFP subsequently advises the appropriate voluntary agency home office of this action.

d. After obtaining Mission or Diplomatic Post Clearance, the voluntary agency is responsible for notifying its home office of the USAID approved Call-Forward request which includes the statement that the USAID has cleared the Call-Forward and date of clearance.

e. Upon receipt of the USAID approved Call-Forward request, the voluntary agency home office submits the Call-Forward request to the USDA/ASCS/CMO which includes the statements that USAID has cleared the Call-Forward, and date of clearance. The Call-Forward also includes the statement that adequate storage facilities are available to accommodate the commodities called forward. At the same time, the voluntary agency home office sends a copy of the Call-Forward request to AID/W-FVA Office of Food for Peace, Program Operations Division. Call-Forward requests for which there are no USAID clearance will be held by USDA/ASCS/CMO pending USAID approval which AID/W-FFP will seek by cable. Upon receipt of USAID approval (disapproval) USDA/ASCS/CMO will be advised by AID/W-FFP to take appropriate procurement action.

f. USDA notifies AID/W-FFP and the voluntary agency home office of commodity purchase, determination of port of export, and the estimated time of delivery at port.

g. The voluntary agency home office provide their field representatives, and through them the USAID or Diplomatic Post, with the name of the vessel, ETA, and other pertinent information of shipments booked.

h. At the time of export, applicable ocean bills of lading (B/L) are sent by the cooperating sponsors to USDA, USAID or Diplomatic Post, the consignee, and others as may be determined by the cooperating sponsor and/or requested by the Mission.\*

\*Revised

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### 3. Program Implementation under Transfer Authorization

a. Missions discuss project requirements and assist the cooperating sponsor in developing a commodity shipping schedule. AID/W is advised of appropriate shipping instructions which should include the following:

(1) Name of project, TA number, and name of cooperating sponsor.

(2) Name of each commodity and metric tons desired.

(3) Name of consignee and the full international mailing address (and if applicable, name of "Notify Party," and address) of the consignee is needed to assure timely arrival of ocean bills of lading.

(4) Name of port or ports of discharge with quantity to be unloaded at each port, shipping schedule.

b. FFP coordinates the Call-Forward with USDA which arranges shipment unless otherwise specified in the program approval.

c. The Office of Commodity Management, Transportation Support Division (SER/COM/TR), provides the name of the vessel, ETA, and other pertinent information regarding shipments booked by USDA.

d. At the time of export (loading on ocean carrier) applicable B/L's are sent to the Mission, the consignee, and others, as may be specified in the TA and/or by the Mission in the Call-Forward.

### 4. Delivery Obligation

a. Delivery by the United States to the cooperating sponsor at the point of transfer of title of a quantity or commodity within 5 percent (2 percent in the case of shipments over 10,000 metric tons), plus or minus, of the amount Call-Forward is regarded as completion of delivery.

b. There is no tolerance allowed with respect to the ocean carrier's responsibility to deliver the entire cargo loaded as cited on the B/L.

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7B

5. Diversions Prior to Arrival at Destination

AID/W will seek concurrence from all parties involved when requests are received to divert commodities.

7C. Commodities Borrowed, Transferred, Exchanged, or Diverted After Delivery

1. General

Pursuant to the terms of the Regulations, borrowing, transferring, or exchanging commodities may be authorized by the Mission and/or AID/W on a case-by-case basis.

2. Commodities to be Borrowed

Following receipt of program approval and before arrival of commodities the cooperating sponsor may borrow the same or similar commodities to meet project requirements. Commodities borrowed and used in accordance with the terms of approval will be replaced on an equivalent value basis.

3. Commodities to be Transferred Between Approved Projects

Transfers of commodities between projects (including WFP) may be authorized to improve the efficiency of project operations. Each such transfer is to be approved pursuant to the requirements of Section 5 below and the Regulation.

4. Commodities to be Transferred to Meet Disaster Needs

Transfers of commodities to meet urgent needs may be authorized by the Mission in accordance with procedures outlined in Chapter 9, Emergency Projects.

5. Commodities to be Exchanged

Exchange of commodities for locally produced or other non-Title II commodities normally is not desirable. However, exchange for commodities which cannot be made available by USDA may be authorized by AID/W under well justified circumstances. Consideration is more likely to be favorable if it can be demonstrated that the desired commodities are essential to the success of the project. Each exchange is to meet the requirements of 7C6.

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7C

6. Overall Provisions Applicable to Commodities Borrowed, Transferred, or Exchanged

a. Agreement Among Involved Parties

Approval by AID/W or Missions, of any transaction covered in paragraphs above, is withheld until all parties have agreed. In the case of Voluntary Agency commodities, AID/W agreement will be subject to Voluntary Agency home office concurrence.

b. AID Approval

(1) Missions

Advance approval by the Mission is required for all transactions involving commodities borrowed, transferred, exchanged, or diverted, except those which specifically are reserved for AID/W approval pursuant to (2) below.

(2) AID/W

Advance approval by AID/W is mandatory when:

- (a) Commodity exchanges are requested pursuant to 7C5.
- (b) Replacement of commodities borrowed, transferred, or exchanged is required.
- (c) Commodities are in excess of project needs.
- (d) Expenditure of U.S. funds is required, other than in case of disaster.
- (e) Commodities are to be transferred from one country to another.

c. Establishing Values of Commodities

(1) When commodities are to replace non-Title II commodities, the relative value of the commodities borrowed or exchanged are to be established by qualified independent appraisal. The relative values are to be mutually agreed upon by the Mission and the cooperating sponsor.

(2) The replacement arrangements must provide for delivery to the project of commodities equal in value to those provided by the United States; and the prices established must be fair to both parties without "windfall" benefits to either. Generally, the pricing formula should be based on the most favorable value at the place of exchange.

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d. Identification of Commodities Borrowed or Exchanged

Non-U.S. packaged commodities borrowed or exchanged are to be appropriately identified as having been made available by the people of the United States.

7. Disposal of Excess Stock of Commodities

See Appendix C, Section 211.5(m).

7D. Ocean Carrier Loss and Damage

(Refer to Chapter 8 and the Regulation, Appendix C, Section 211.9, and Appendix F.)

7E. Arrangements for Entry and Handling in Foreign Countries

Commodities are to be admitted duty free and exempt from all taxes in the recipient country.

1. Costs at Discharge Ports

Except as otherwise agreed upon by AID/W and provided in the applicable shipping contract or in 7E3, the cooperating sponsor is responsible for all costs:

- a. Other than those assessed by the delivery carrier either in accordance with its applicable tariff for delivery to the discharge port or in accordance with the applicable charter or booking contract.
- b. For distributing the commodity as provided in the Agreement.
- c. For demurrage, detention, and overtime charges by the delivery carrier.
- d. For obtaining independent discharge survey reports as provided in Section 211.9 of the Regulation.
- e. For wharfage, taxes, dues, and port charges assessed against the cargo whenever assessed and collected by local authorities from the consignee.
- f. For lighterage (when not a custom of the port), and for lightering costs when assessed as a charge separate from the freight rate.

2. Storage Facilities and Transportation in Foreign Countries

Cooperating sponsors make all necessary arrangement for reception, storage, and maintenance of commodities from time of delivery at port of entry.

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Before recommending approval of a proposal to AID/W, the Mission obtains from the cooperating sponsors assurances that adequate provisions have been made for internal transportation, storage, and handling.

### 3. Inland Transportation in Intermediate Countries

In the case of landlocked countries, transportation to a point of entry designated by AID is arranged by the cooperating sponsor unless otherwise provided for in the Agreement, Transfer Authorization, or other program approval document.

### 4. Repackaging Commodities in Foreign Countries (AID Regulation 11, Section 211.7(e))

#### a. Authorization for Reimbursement of Costs

If, because of damage, it is determined by a Voluntary Agency or Intergovernmental Organization that commodities must be repackaged to ensure that the commodity arrives at the distribution point in a wholesome condition, agencies and organizations may incur expenses for such repackaging up to \$500.00 and such costs will be reimbursed to the agency or organization by CCC. If costs will exceed \$500.00 the authority to repackage and incur the costs must be approved by the AID Mission or Diplomatic Post in advance of repackaging unless such prior approval is specifically waived in writing by the AID Mission or Diplomatic Post.

#### b. Method of Reimbursement

(1) Repackaging Required Because of Damage Occurring Prior to or During Discharge from the Ocean Carrier. Costs of such reconstitution or repackaging should be included, as a separate item in claims filed against the ocean carrier (see AID Regulation 11, Section 211.9(b), and Appendix E). Full reimbursement of such costs up to \$500.00 will be made by CCC, Kansas City Commodity Office, upon receipt of invoices or other documents to support such costs. For amounts expended in excess of \$500.00, reimbursement will be made upon receipt of supporting invoices or other documents establishing the costs of repackaging and showing the prior approval of the AID Mission or Diplomatic Post to incur the costs (unless approval waived, see 211.7(e)1).

(2) Repackaging Required because of Damage Caused After Discharge of Cargo from the Ocean Carrier. Costs of such repackaging will be reimbursed to the agency or organization by CCC (USDA-ASCS Financial Management Division, 14th & Independence Avenue, Washington, D.C. 20250) upon receipt of documentation as set forth above.

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7F. Disposition of Commodities Unfit for Authorized Use

(See the Regulation, Appendix C, 211.8)

1. Prior to Delivery to Cooperating Sponsor at Discharge Ports or Point of Entry

a. If the commodity is damaged prior to delivery to a cooperating sponsor other than a Voluntary Agency or an Intergovernmental Organization at the discharge port or point of entry overseas, the Mission immediately arranges for inspection by a public health official or other competent authority. If the commodity is determined to be unfit for human consumption, the Mission disposes of it in accordance with the Regulation, Appendix C, Section 211.8.

b. Voluntary Agencies and Intergovernmental Organizations are responsible for the disposition of commodities damaged prior to delivery in the manner set forth below.

2. After Delivery to Cooperating Sponsor

a. If after arrival it appears that the commodity, or any part thereof, may be unfit for use as authorized, the cooperating sponsor arranges for inspection by a public health official or other competent authority approved by the Mission. If no competent local authority is available, the Mission may determine the condition of the commodities. The cooperating sponsor arranges for recovery of that part designated as suitable for program use. After inspection, the cooperating sponsor notifies the Mission of the quantity and type of commodity determined unfit and the circumstances pertaining to the loss, providing the information as required by Appendix C, Section 211.9(f). The cooperating sponsor proposes for Mission approval a plan of disposal for the commodities determined to be unfit. The proposal will be in the following order of priority:

(1) By donation to an approved livestock or poultry project for use as feed if any such project is under current Mission implementation.

(2) Public sale for the most appropriate use; e.g., animal feed, fertilizer, or industrial use, at the highest obtainable price.

(3) By donation to a governmental or charitable organization for use as animal feed or nonfood use.

(4) If the commodity is unfit for any use, or if disposal in accordance with 7F2a(1), (2), or (3) above is not possible, the commodity

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is to be destroyed, under the observation of a representative of the Mission, if practicable, in such manner as to prevent its use for any purpose.

b. Cooperating sponsors provide adequate security for commodities declared unfit in order to assure that they do not enter into any human food distribution channels.

### 3. Documentation

In order to fully satisfy the requirements of documenting incidents of unfit commodities and assess the need for instituting claims action, the following documentation is required:

a. A survey report, preferably independent, which includes a narrative describing the types and quantities of commodities involved, the circumstances leading to the condition, and assessment of liability if feasible. USDA, Claims and Collection Division, is responsible for contracting with independent cargo surveying firms to obtain discharge reports on all Title II cargoes shipped under Transfer Authorizations with the exception of World Food Program cargoes. In order to develop a competitive bid situation and in an attempt to reduce the cost of surveys, Mission should cable names, addresses, and telex numbers of reputable local surveying firms capable of providing qualitative and quantitative ex-ship's tackle reports in the desired port of discharge.

b. In the unlikely event that the surveying company is unable to have a representative present, it will be necessary for the Embassies/Missions to take one of the following alternative steps:

(1) Contract with a local surveyor at the discharge port. USDA will provide notification in advance if such a need arises and will pay the surveyor's invoice upon receipt from the Embassies/Missions.

(2) If no local surveyor is available, or if step (1) is considered to be not feasible, Embassies/Missions personnel should observe the discharge, prepare an in-depth analysis of what took place, and obtain copies of official port documents.

The in-depth analysis should contain a report on the time of vessel arrival and the time of all examinations made. There should also be a cargo count and a comparison with the bill of lading. Note should be made of overages or shortages; any damaged cargo should be reported both as to quantity and apparent cause of damage; e.g., torn bags, water damage, oil damage, etc. If the facts are available, the reasons for the damage should be reported and any other pertinent factors mitigative

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of damages by the consignees and/or carrier, including the disposition of unfit commodities. The cooperation, or lack thereof, received from the carrier or their agents should be reported and any other information regarding the discharge and handling of the commodity which may be significant.

An effort should be made to obtain documents issued in the particular port such as port authority reports, customs receipts, port trust tally sheets, port health officer's documents, landing certificates and other documents of that nature.

(3) If it is feasible for Embassies/Missions personnel to observe the discharge of the cargo, as a minimum they should try to obtain the documents described in the last paragraph of Step (2) above.

(4) If none of the foregoing is feasible, the Embassies/Missions should advise AID/W that the conditions at the discharge port are such that it is not possible to obtain discharge documents.

c. Where feasible, a certified statement by a public official of laboratory findings or authoritative determination regarding the fitness of the commodity for human consumption.

d. Certificates of disposition are needed in all cases particularly when losses are attributed to the marine carrier. These certificates of disposition support salvage credit granted to the carrier when the damaged commodity is transferred, sold, or donated for use as animal feed or for nonfood use. A certificate of destruction is used to support denial of salvage credit when the damaged commodity serves no useful purpose. Certificates of disposition should accompany the outturn or survey reports when transmitted to AID/W.

## 7G. Overseas Milling, Packaging, and Processing

### 1. Milling and Packaging

Commodity requirements for milled products of whole grains are normally filled with products milled in the United States. This avoids problems and controversy over exchange and milling arrangements and the marking of commodity containers in recipient countries.

### 2. Overseas Milling

a. It is AID policy that when overseas milling of a Title II commodity is approved, the arrangements must be covered by written agreements which specify the extraction rate, the specifications of the milled product for the Title II project use, and the uses which will be made of all by-products, including offal.

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b. Limitations on Payment

Normally, AID/W will not authorize any part of the Title II commodities, other than the offal to be used to pay milling, packaging, and marking costs.

c. Differentials

If the value of the offal is greater than costs described in b above, then the local currency differential normally must be used for specified approved project purposes which will be of benefit to the Title II project. The Mission Director has the authority to approve the use of such funds for activities that improve the effectiveness of the program.

d. Other By-Products

If there is a by-product other than the offal which cannot be utilized on the Title II project, with the approval of the Mission Director, the local currency proceeds from the sale of such product also normally must be used for approved purposes in the interest and benefit of the Title II program.

3. Processing Other Than Milling and Packaging

a. General

When the effectiveness of a project will be improved thereby, cooperating sponsors may package or repackage and arrange for processing commodities alone or in combination with other commodities into end products such as high-protein foods and beverages, pasta, bread, rolls, biscuits, etc.

b. Guidelines

When Title II commodities are processed, packaged, or repackaged overseas, cooperating sponsors follow the provisions of the Regulation (Appendix C, Section 211.6).

c. Financing

Cooperating sponsors are responsible for financing local processing, packaging, and market costs. Commodities are not to be sold, bartered, loaned, exchanged, or otherwise provided to meet these costs.

7H. Publicity

1. Objective

a. The objective of publicity is to assure that the recipients know commodities they receive have been donated by the people of the United States.

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b. Since programs represent the cooperative efforts of the United States, the host country, and generally a U.S. Voluntary Agency or Intergovernmental Organization, it is appropriate that publicity be given all entities involved.

2. Use of Communications Media

a. Program information may be released by the Mission, public and private entities of the host country, and the cooperating sponsor.

b. The following kinds of information should be stressed:

(1) The commodities are furnished by the people of the United States.

(2) The distribution is a result of the cooperation between the U.S. Government and all parties concerned.

(3) Eligible recipients receive commodities without restriction or discrimination as to nationality, race, or political or religious beliefs.

3. Marking on Containers

a. USDA Responsibilities

USDA arranges for the labeling of commodity containers. Such labeling, in addition to specific identification, includes the statement in English and, as far as practicable, in the language of the country of destination, "Furnished by the people of the United States of America; not to be sold or exchanged."

b. U.S. Mission Responsibilities

Missions advise AID/W when standard or special labeling has been deleted, obscured, given minor prominence, or has been subject to misinterpretation.

c. Cooperating Sponsor Identification

Cooperating sponsor markings may be added to containers in a manner that will not detract from the U.S. Government labeling.

7I. Limits on Distribution to Recipients

Reasonable precautions are to be taken to assure that recipients do not receive commodities in excess of the established rations.

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## 7J. Sales and Other Charges

### 1. General

Except in a case of emergency, reasonable precautions must be taken to assure that the commodities provided under Title II do not disrupt or interfere with sales which might otherwise be made.

### 2. Exceptions to Sales Prohibitions

Sales of commodities by the host country, cooperating sponsor, distributing agencies, and recipient agencies are prohibited except under certain conditions. These include:

a. Sales of commodities which are determined to be unfit for human consumption (see 7F).

b. Sales of commodities authorized by AID/W in emergency situations or other urgent or extraordinary relief requirements to assure that the commodities reach the intended recipients, or for certain selected development activities.

c. Section 206 sales programs, see Chapter 3, 3G3, and Chapter 11B, and Appendix E.

### 3. Disposal of Containers

If containers (see Definitions, Appendix A) are not given to eligible recipients free of charge together with the commodities contained therein, cooperating sponsors may dispose of empty containers in accordance with the Regulation, Appendix C, Section 211.5(h)(2). However, no eligible recipient can be denied commodities because of an inability to furnish own receptacle or to purchase the container or other receptacle made available by the distributing agency.

## 7K. Cooperating Sponsors' Records and Accountability Requirements

### 1. General

Cooperating sponsors are required to maintain and to make available records and documents which accurately reflect all transactions pertaining to the receipt, storage, and distribution of commodities.

When monetization of commodities has been approved by AID/W, records should include the receipt and disbursement of any funds accrued in accordance with appropriate AID/W directives. Records must be retained for a period of 3 years from the close of the fiscal year to which they pertain.

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## 2. Records of Transactions and Inventories

a. Cooperating sponsors are required to maintain records and supporting documents which clearly identify arrivals of commodities in foreign countries. These documents show by commodity, quantity, lot number, date, and value, the loss or damage on carriers, and the loss or damage while commodities clear customs. The cooperating sponsor is required to maintain records showing losses in transportation and/or warehousing after the commodity has cleared customs. For further information, see Chapter 8.

b. Physical inventories are reported semiannually or more frequently if required by the Mission and recorded in the commodity status report (CSR) per 5L3. Receipts are obtained and become part of the records of transactions each time commodities are moved from one point of storage to another or to "distribution points." Distribution points are required to maintain complete records of receipts and distributions.

## 3. Liability for Loss and Damage or Improper Distribution

Liability of the cooperating sponsor for loss and damage and for improper distribution, with accompanying procedural instructions, is explained in Chapter 8 and in Appendix C, Section 211.9.

## 7L. Reports

### 1. AID/W

FFP prepares periodic summary reports covering operations utilizing data received from the cooperating sponsor, the Mission, and other sources. Such reports include information tabulated by country and cooperating sponsor, such as the quantities of commodities, CCC costs, the number of recipients by category, and program accomplishments.

### 2. Mission

#### a. Losses, Damage, Misuse, and Diversion (See also Chapter 8)

On receipt of information indicating commodity loss, damage, misuse, or diversion of a serious nature, the Mission informs AID/W of conditions which led to such incidents and of:

(1) Corrective action taken by the cooperating sponsor;

(2) Mission assistance, if any, to the cooperating sponsor in collection of claims against the third party other than ocean carrier; and

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(3) Actions taken by the Mission in cases where cooperating sponsor was at fault.

b. Commodity Transfers

Whenever a Mission initiates authorization to transfer commodities without prior AID/W approval to meet an immediate emergency need, the Mission advises AID/W. (See 9B3.)

c. Allegations

All allegations of a serious nature dealing with operations are to be reported promptly to AID/W; e.g., Congressional inquiries.

3. Cooperating Sponsors

a. Commodity Status Report (CSR)

Cooperating Sponsors (Voluntary Agencies) are required to submit quarterly to Missions and to AID/W CSR's covering projects for the respective periods. The format for CSR appears in Exhibit G.

b. Recipient Status Report (RSR)

Cooperating sponsors (Voluntary Agencies) are required to submit RSR's to the Mission and to AID/W simultaneously with CSR's. The format for the RSR's is in Exhibit H.

c. Loss and Damage Other Than Ocean Carrier Losses

The Regulation requires the cooperating sponsor to inform the Mission of the circumstances leading to diversion, loss or damage to commodities in foreign countries, including information as to when, where, and how losses occurred, type of commodity, quantity, size, and type of container, identification numbers, and other related information, if known. For further information, see Chapter 8 and Appendix C, section 211.9, paragraph (f).

d. Claim Action

All claim action relating to commodities or funds taken by cooperating sponsors and the results thereof must be reported to Missions. See Chapter 8 and Appendix C, Section 211.9.

e. Disaster Operations

To the extent the cooperating sponsors or disaster organizations engage in emergency distributions of commodities which have been approved by Missions, reporting requirements are stated in 9D.

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f. Internal Reviews

(See also the Requirements, Appendix C, Section 211.5(c).)

(1) U.S. Voluntary Agencies

At intervals mutually agreed upon, in writing, by Missions or the Diplomatic Post and the Voluntary Agency as appropriate for good management, the Voluntary Agencies conduct or arrange to have conducted comprehensive internal reviews or a series of examinations which, when combined, will represent a complete review of the Title II program(s) under their jurisdiction. Copies of these comprehensive examinations are submitted to Missions or Diplomatic Posts, AID/W-FFP, and the appropriate AAG as required in 211.10(b)(3).

(2) Other Cooperating Sponsor

In the case of programs administered by cooperating governments and Intergovernmental Organizations, responsibility for conducting internal audit examinations are determined by AID/W on a case-by-case basis.

g. Section 204 Funds

Section 204 local currency projects require special reports as follows (see also Chapter 11):

(1) Quarterly Progress and Financial Reports

The cooperating sponsor submits to the Mission a progress and financial report quarterly in duplicate. The Mission forwards two copies of this report to AID/W, one copy to FM/PAD and the second copy to PDC/FFP/II.

(2) Completion Report

The cooperating sponsor prepares and submits a completion of project report to the Mission within 30 days following completion of the agreed activity. The Mission forwards two copies of this report to AID/W; one copy to FM/PAD and the second copy to PDC/FFP/II.

7M. Project Auditing and Monitoring

1. Cooperating Sponsor

a. Cooperating sponsors are responsible for the efficient operation of the program. They provide adequate supervisory personnel to organize, conduct, review, and control the management and distribution of commodities.

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They conduct internal reviews, make warehouse inspections, prepare physical inventories, and undertake end-use checks in accordance with current AID guidelines and the Regulation.

b. Voluntary Agencies are to be represented by a U.S. citizen who is responsible to the Voluntary Agency and resides in the country of distribution, unless otherwise approved by AID/W.

c. Intergovernmental Organizations are to be represented by a person designated and responsible to the respective organization.

## 2. Missions

Missions shall monitor projects to assure that they are operating satisfactorily. This includes periodic administrative reviews of field operations by the Mission Food for Peace Officer.

### a. Mission Food for Peace Officer (FFPO)

The FFPO is responsible for keeping the Mission Director and AID/W informed regarding the program implementation progress by the cooperating sponsor.

### b. The Mission Controller

Upon the recommendation of the FFPO and the approval of the Mission Director, the Mission Controller processes bills of collection. (See Chapter 8.)

## 3. Other U.S. Government Offices

a. Acting on their own initiative or in response to specific requests from FFP, Geographic Bureaus, or Missions, AID's Auditor General (AG) conducts reviews (audits) of program implementation.

b. The General Accounting Office (GAO) may conduct comprehensive or other reviews of cooperating sponsors' programs implementation and the Mission involvement in such programs.

## 4. World Food Program (WFP) Projects (See 12G2d)

Missions do not have specific responsibilities concerning control, management, or physical accounting of any WFP activity. However, Missions should be aware and knowledgeable of WFP intergovernmental project activity within the country in order that they may respond promptly to AID/W requests for recommendations regarding commodity commitments to WFP and project evaluations. (See Chapters 3 and 12.)

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## 7N. Adjustments, Suspensions, and Terminations of Projects

### 1. Adjustments

AID/W may make adjustments in projects or request the Mission to do so. The cooperating sponsor may propose and the Mission may authorize project adjustments within the terms of the program to adapt to new conditions or improve management of operations. AID/W should be advised of any adjustments.

### 2. Suspensions

Suspensions may be undertaken by the cooperating sponsor, the Mission, or AID/W when serious deficiencies are known. The decision to suspend is taken after consultation among all parties.

### 3. Termination

a. Decision to terminate Title II projects are taken by AID/W pursuant to the terms of the Regulation (see Appendix C, Section 211.11).

b. Projects may be phased out by mutual consent among AID/W, the cooperating sponsor, and officials for the host government.

### 4. Disposal of Excess Stock of Commodities

Title II commodities which have been transferred to the cooperating sponsor shall at the written request of the cooperating sponsor, the Mission, or AID/W be transferred to the U.S. Government by the cooperating sponsor. The cooperating sponsor promptly advises the Mission of the quantities, location, and conditions of such commodities. The Mission determines the most appropriate use of the commodity transferred and with prior AID/W concurrence issues instructions for distribution. (See the Regulation, Appendix C, Section 211.5(m).)

### 5. Responsibility Within the U.S. Government for Clearance of Suspensions and Terminations

FFP is responsible for evaluation and clearance of recommendations or request for suspension or termination of projects and/or programs received from Missions or elsewhere. FFP is also responsible for bringing together the interested offices and agencies of the U.S. Government and, if appropriate, the Voluntary Agencies in reaching a decision.

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CHAPTER 8  
CLAIMS FOR INLAND AND OCEAN CARRIER  
LOSSES, DAMAGES, AND IMPROPER  
DISTRIBUTION OF TITLE II COMMODITIES

8A. General

This Chapter sets forth the procedures for reporting losses, damage, or improper utilization of commodities donated in cooperating countries under Title II of Public Law 480, as amended, and for pursuing, processing, and resolving claims arising from such loss, damage, or improper distribution.

1. Voluntary Agencies and International Governmental Organizations implementing projects under Agreement procedures are responsible for instituting claims for losses or damage while the commodities are in possession of the ocean carrier. They are also responsible for pursuing claims for losses beyond the end of ship's tackle or inland claims.
2. For projects implemented under Transfer Authorization procedures, the Commodity Credit Corporation (CCC) of USDA is responsible for instituting claims for losses or damages to cargo incurred during ocean transportation (except for WFP shipments); AID is responsible for pursuing claims for losses beyond the end of ship's tackle except for commodities contributed to the WFP.

8B. Inland Claims Responsibilities

1. Cooperating Sponsors

a. Surveys on Shipments to Landlocked Countries

The cooperating sponsor (Voluntary Agencies) shall, in the case of landlocked countries, arrange for an independent survey at the point of entry into the country and make a report as set forth in AID Regulation 11, Sec. 211.9(c)(1). CCC will reimburse the cooperating sponsor for the costs of survey as set forth in Section 211.9(c)(1)(iv) of Appendix C. For government-to-government programs, USDA/ASCS/CCC will contract for independent surveyors to obtain the required documentation for Title II government-to-government commodity shipments (See Chapter 7F3b).

b. Reporting Losses to AID Mission or Diplomatic Post

The cooperating sponsor shall promptly notify the AID Mission or the Diplomatic Post, in writing, of the circumstances pertaining

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to any loss, damage, misuse, or improper distribution of commodities occurring within the country of distribution or intermediate country while enroute to a landlocked country of distribution, and shall include information regarding the name of the responsible party, if known, and action taken to recover the loss. Exhibit I contains the sample format for this reporting purpose. The report should be submitted to the Mission FFP Officer (FFPO) in triplicate within 30 days of the discovery of the loss, damage, or misuse.

c. The cooperating sponsor is responsible for reporting losses, damage, and improper distribution; and for instituting claims action against third parties.

## 2. AID Missions or Diplomatic Posts

a. Reviewing reports of loss, damage, and improper distribution submitted by the cooperating sponsor.

b. Instituting and pursuing claims actions against cooperating sponsors, including (1) determination of the validity or propriety of claims; (2) issuance of bills for collection without limitation as to amount, and collection thereof; and their cancellation in whole or part, if and to the extent that the claim, upon reconsideration, is found invalid or inappropriate; (3) compromise of a claim which does not exceed \$20,000, if, pursuant to the compromise, not more than \$10,000 of the claim is relinquished; (4) suspension or termination of collection action for claims not exceeding \$10,000; and (5) transfer of claims to AID/W-PDC/FFP for review and to forward to the Office of Financial Management (FM) for distribution, involving a suspension or termination of collection action, or a compromise, not within the scope of the Mission's responsibility set forth in (3) and (4) above.

c. Monitoring cooperating sponsors' claims against third parties.

d. In addition to receiving information on commodity losses or misuses from the cooperating sponsor, Missions and Diplomatic Posts are to be alert to instances of loss, misuse, and diversion of commodities being revealed from other sources; e.g., from field trip reports, from audit reports and from surveys of ports, warehouses, and storage and distribution centers. However, before instituting claims action against a cooperating sponsor, the Mission must:

(1) Verify and fully document all facts and determine the sponsor's liability or nonliability in accordance with Section 211.9(d) of AID Regulation 11.

(2) The potential claim is reviewed by the Mission Food for Peace Officer and the officer responsible for fiscal management,

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consulting with the cooperating sponsor, if appropriate, and approved by the Mission Director, in accordance with the procedures set forth under 8C below.

(3) The Mission Food for Peace Officer and the official responsible for fiscal management insures that audit reports containing allegations as to commodity losses, misuse, diversions, etc., present sufficient information and evidence to determine adequately the sponsor's liability or nonliability and other information sufficient to institute claims actions.

3. The Office of Food for Peace (PDC/FFP)

a. Monitors, advises and provides guidance on claims actions and indicated claims actions instituted by Missions and Diplomatic Posts.

b. Administering of claims transferred to AID/W, including (1) determination of the validity or propriety of claims asserted or proposed, (2) referral to FM for collection thereof and for proposed suspension or termination of collection action, or (3) referral to the Office of the General Counsel, for proposed compromise or litigation.

4. The Office of Financial Management (FM)

FM is responsible for the accounting and reviewing of these claims referred by PDC/FFP-AID/Washington (HB 19, Chapter 7).

5. The Office of the General Counsel (GC)

The GC is responsible for compromise of claims not exceeding \$20,000, other than those which are the responsibility of a Mission or Diplomatic Post pursuant to 8A2 above and for referral of claims to the Department of Justice for litigation.

8C. Inland Claim Reporting, Reviewing, and Loss Determination

1. Reporting

a. The cooperating sponsor promptly notifies the Mission or the Diplomatic Post of any loss, damage, or misuse of commodities, giving details of the circumstances surrounding such loss, damage or misuse, and the actions taken to effect restitution. Part A of Exhibit I is to be used for this purpose. Exhibit I provides a format for the presentation of what is considered essential information for reporting, controlling, and processing claims for inland losses. Missions, and cooperating sponsors with the approval of Missions, may adapt this format to suit local conditions and facilities.

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b. Cooperating sponsors forward this report in three copies, to the Mission Food for Peace Officer (or the officer designated to perform this function) immediately upon verification of all the facts, or within 30 days after the loss, damage, or misuse has taken place, whichever is sooner. In instances where the cooperating sponsor is unaware of the loss or damage until after 30 days have elapsed, the cooperating sponsor files a report with the Mission Food for Peace Officer immediately upon verification of any alleged loss or damage. In cases where the cooperating sponsor is unable to file a report containing all the required information, an interim report, verifying the alleged loss or damage and containing all available information, is forwarded to the Mission Food for Peace Officer, to be followed as soon as possible by a supplementary report presenting all of the information outlined above.

## 2. Reviewing

a. On receipt of the report described above from the cooperating sponsor, the Mission Food for Peace Officer reviews the report to assure that the information presented is adequate, determines whether the facts on first appearance justify a claim and records this information in Item 1 of Part B of the report (Exhibit I). In cases where the report is inadequate, the Food for Peace Officer requests additional information or documentation from the cooperating sponsor or other sources. On completion of his/her review, including full discussion, consultation, and agreement, with the cooperating sponsor, the Food for Peace Officer inserts his/her comments and recommendations under Item 1 of Part B (Exhibit I) and forwards the report with all supporting documentation to the Mission official responsible for financial management.

b. The Mission official responsible for fiscal management reviews the report provided by the Food for Peace Officer to ascertain whether the circumstances adequately support the issuance of a bill for collection by the Mission. In some cases the Mission may request the Food for Peace Officer to obtain additional information or request that an audit examination be conducted on the facts surrounding the alleged loss.

c. In the event that the Mission Officer responsible for fiscal management concludes that a claim cannot be substantiated, he/she fully describes, under Item 2 of Part B of Exhibit I, the reasons for this conclusion and requests approval of Mission Director to close claim. The report is then retained for administrative purposes by the Food for Peace Officer.

d. No claim shall be asserted unless for each such claim it is determined that the loss, damage, or misuse could have been

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prevented by proper exercise of the cooperating sponsor's responsibility under the terms of the pertinent Food for Peace Agreement. Normal commercial practices in the country of distribution are to be considered in determining whether the cooperating sponsor failed to exercise its responsibility.

8D. Establishment and Followup of Claims Against Cooperating Sponsors

1. Asserting a Claim

In asserting a claim against a cooperating sponsor, consideration should be given to the humanitarian objectives of the program, limitations in administrative capabilities and financial resources of distributing agencies, and the difficulties inherent in distributing food within less developed countries. However, when the official responsible for financial management concludes that claims action against the cooperating sponsor is justified, he/she notes this under Item 2 of Part B of the loss and damage report, Exhibit I.

2. Allowance of Sufficient Time for Comment

Missions should allow sufficient time for cooperating-sponsor representatives to inform their headquarters office in the United States of a potential claim, and formal billings should not be made until headquarters' offices have had a reasonable opportunity to review and comment on all the facts available.

3. Bill of Collection

After sufficient time has elapsed, the Mission officer responsible for fiscal management issues a Bill for Collection (B/C), or other billing document, to the cooperating sponsor for the value of the commodities lost, damaged, or misused, with instructions that payment be made to the servicing U.S. Disbursing Officer (USDO). (See Handbook 19, Chapter 7, Attachment 7A, 7A-8.)

4. Validity of Claim

The Mission Director or Chief of Diplomatic Post, on the advice of the Food for Peace Officer and the Mission Fiscal Management Officer, can determine that a claim for which a Bill for Collection has been issued is in whole or in part invalid, and cancel or reduce the bill for collection accordingly.

5. Compromise of Claim

A Mission Director or Chief of Diplomatic Mission can compromise a claim which does not exceed \$20,000 if, pursuant to the compromise, he/she relinquishes no more than \$10,000 of such claim; or, he/she may suspend or terminate collection action for claims not exceeding \$10,000.

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6. Referral to AID/W

In the event that compromise action is proposed for a claim exceeding \$20,000, or for a claim not exceeding \$20,000 where more than \$10,000 is proposed to be relinquished, the claim must be referred to AID/Washington for action.

8E. Establishment and Followup of Claims Against Third Parties

1. Cooperating Sponsor's Responsibility

a. When a loss, damage, or misuse of commodities occurs in the country of distribution or an intermediate country while the commodity is in the custody of the carrier, warehousemen, a processor, or other parties who are not cooperating sponsors, the cooperating sponsor issues a claim against the third party as recorded under Item 11 of Part A of the report described in Exhibit I. The Mission Food for Peace Officer (FFPO), to whom a copy of the claim is sent, reviews it and forwards it to the Mission officer responsible for fiscal management with appropriate comments and recommendations for further review. The FFPO then files the claim with the report of loss or damage furnished by the cooperating sponsor. In accordance with Section 211.9(e) of AID Regulation 11, the cooperating sponsor may elect not to file a claim if the value of the commodities lost or damaged is less than \$300.00 (and when such action would not be detrimental to the program).

b. The cooperating sponsor is expected to pursue a claim against a third party until payment or other disposition. The FFPO maintains a followup file for each such claim, utilizing Exhibit I and other accounting documentation furnished by the Mission officer responsible for fiscal management, and issues reminder notices to the cooperating sponsor until the claim has been resolved to the satisfaction of the Mission Director. The Mission Controller or officer responsible for fiscal management is expected to assist and advise the Food for Peace Officer in followup activities. The Mission or Diplomatic Post, at its discretion, assists the cooperating sponsor, particularly a registered Voluntary Agency or Intergovernmental Organization, in pursuing claims. In accordance with the Regulation (see Appendix C, section 211.9(e)), the Mission may issue further instructions to the cooperating sponsor when the cooperating sponsor has exhausted all attempts to collect a claim from a third party. Any proposed settlement for less than the full amount due must be approved by the Mission Director or Chief of the Diplomatic Post, with the advice of the Mission FFPO and the officer responsible for fiscal management.

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c. In accordance with Section 211.9(g) of AID Regulation 11, proceeds from claims against third parties are deposited with the United States Disbursing Officer (USDO), American Embassy, preferably, in U.S. dollars with instructions to credit the deposit to CCC Account No. 12X 4336, or in local currency at the official rate applicable to dollar imports of like commodities at the time of deposit with instructions to credit the deposit to treasury sales Account No. 20 FT 401. The Food for Peace Officer makes arrangements to receive reports of collection from the USDO through the Mission officer responsible for fiscal management so that the Mission's claim files may be closed.

d. If settlement has not taken place within a reasonable time, the Food for Peace Officer forwards to the Mission Director, through the Mission officer responsible for fiscal management, a recommendation for further action. This recommendation may be for the Mission to:

(1) Institute claims action against the cooperating sponsor if it has failed to make every reasonable effort to pursue collection or has failed to provide for the right of CCC to assert the claim or,

(2) Close the file against the cooperating sponsor after finding that the cooperating sponsor has exhausted all reasonable attempts to collect the claim. (Note: Until the Mission issues a formal claim against a cooperating sponsor for losses incurred by a third party, a bona fide account receivable is not established in the Mission's accounts. Amounts receivable from third parties by cooperating sponsors are recorded in the followup files established by the FFPO and are identified in the records maintained by the Mission officer responsible for fiscal management.)

## 2. Mission Responsibility

a. The Mission may assume responsibility for the collection of third-party claims when requested by the cooperating sponsor.

b. Where recovery cannot be effected, the Mission may approve a settlement for less than the full amount subject to the same limitations in 8D5.

## 8F. Marine (Ocean Carrier) Claims

### 1. Responsibilities

a. For programs operating under multicountry Food for Peace Program Agreement procedures (see 6G2), the cooperating sponsor is responsible for initiating and pursuing claims for loss and

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damage of commodities incurred while in the custody of the ocean carrier and until unloaded in foreign ports. The cooperating sponsor operating under Agreement procedures promptly informs USDA of all claims action.

b. For programs operating under Transfer Authorization (TA) procedures (see 6E1), FFP-AID/W and USDA retain responsibility for monitoring and handling claims arising from loss or damage of commodities while in the custody of ocean carriers and until loaded in foreign ports. Cooperating sponsors operating under TA procedures promptly forward reports and documentation to the Mission for transmittal to USDA and AID/W-PDC/FFP/FDD. (See Appendix C, AID Regulation 11, Sec. 211.9(g)(iii).)

c. It is essential that cooperating sponsors and Missions act promptly so that all necessary action to obtain restitution for loss and damages takes place within any applicable periods of limitation.

2. Survey and Outturn Reports (Appendix C, AID Regulation 11, Section 211.9(c)(1)(i))

a. All cooperating sponsors must arrange to receive the survey and outturn reports.

b. All cooperating sponsors must arrange for an independent cargo surveyor to attend the discharge of the cargo and to prepare a survey report unless the Mission or Diplomatic Post determines that such a survey report is not feasible. CCC reimburses the cooperating sponsors and Intergovernmental Organizations for the costs incurred by them in obtaining the services of an independent surveyor. For details regarding information to be contained in the survey report and the reimbursement procedure, see Appendix C, AID Regulation 11, Sec. 211.9(c)(iv).

c. For all programs operating under transfer authorizations, except the World Food Program (WFP), CCC arranges for and pays for an independent cargo survey.

d. Survey reports and outturn reports are essential documents that evidence delivery of commodities in good condition and exceptions thereto. Copies of all survey reports and outturn reports, whether or not loss or damage to cargo occurred, are to be submitted promptly to USDA by the cooperating sponsor directly or through the Mission as described in 8G1. If the cooperating sponsor is responsible for initiating claims, copies of the survey report and outturn report transmitted to USDA are to be accompanied by copies of other documents that evidence and support the cooperating sponsor's claim.

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3. Claim Procedures (Ocean Carrier)

For detailed explanation of procedures to be followed by cooperating sponsors in handling claims against ocean carriers, refer to Appendix F and Appendix C, AID Regulation 11, Sec. 211.9(c)(2).

4. General Average (Appendix C, AID Regulation 11, Sec. 211.9(h))

When General Average has been declared, no action is taken by the cooperating sponsor to file or collect claims for marine loss or damage to commodities. However, cooperating sponsors are to furnish USDA, and the Missions, with the following:

- a. Copies of booking confirmations and the applicable bills of lading;
- b. The related outturn and/or survey reports.
- c. Evidence showing the amount of ocean transportation charges paid to the ocean carrier; and
- d. An assignment to CCC of the cooperating sponsor's right to the claim for such loss or damage that may have occurred.

5. Other

Appendix C, AID Regulation 11, Sec. 211.9(c), covers marine claims in considerable detail and should be carefully reviewed by those responsible for monitoring and/or managing marine claim actions.

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CHAPTER 9  
EMERGENCY PROJECTS

9A. General

1. Basis

Emergency assistance may be requested by or offered to any friendly nation or people to meet urgent or extraordinary relief requirements resulting from a natural disaster or man-made disaster, when that nation or its people lack the necessary resources to meet the urgent requirements.

2. Preference for Works Projects

Immediately following a disaster occurrence or in an emergency situation, free food distributions to victims that lack the means to provide for themselves may be proposed. However, whenever possible, commodity assistance in times of emergency should be channeled through works projects. Food assistance in such projects may be used for partial payment of wages to disaster or emergency victims who are employed on work projects. Projects should be designed to remedy the effects of the disaster or to alleviate the causes of emergencies. While the first preference for emergency assistance is works projects, free distribution of commodities to victims is allowed when it is administratively not feasible to organize a work project.

3. Duration

Emergency projects by definition are considered to be temporary and short term in nature, usually less than 9 months. While longer term "emergency needs" may arise from such conditions as drought, crop failure, civil strife, or continued influx of refugees, and displaced persons, these situations are to be approached on a case-by-case basis, and as soon as possible converted from an emergency nature to more regularized social or economic development activities.

4. Sales

The sale of commodities is usually prohibited. Any proposal for the sale of commodities in an emergency context must have strong justification and receive AID/W approval regarding amounts and pricing. Circumstances might include situations where the cooperating government has exhausted all possibilities of obtaining funds for movement and storage of commodities or where sales is the

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only effective distribution mechanism to reach the population in need.

5. Use of Sales Proceeds

Use of proceeds from sales in emergencies is normally limited to the coverage of local transportation costs or project activities directly related to emergency relief or rehabilitation. However, in selected country situations the local currencies may be authorized for development purposes that will help alleviate the causes of food shortage for which the commodities are authorized. Cooperating sponsors are required to maintain records and accounting of such sales as may be stipulated in the applicable Transfer Authorization, Agreement, or other authorizing documents. (See Chapter 11 for Section 206 sales.)

9B. Initiation of Programs

1. U.S. Government

The President, the Secretary of State, or the Administrator of AID may offer or instruct a Mission to offer emergency food assistance.

2. Cooperating Sponsors

Any cooperating sponsor may request food for emergency assistance. In such cases, requests are received by Missions and are forwarded to AID/W with appropriate recommendations.

3. Missions

a. Missions may propose emergency programs for consideration by AID/W prior to the required receipt of formal host-country requests. In the case of a sudden disaster or emergency, a Mission may authorize the immediate distribution of available commodities. Where the distribution of commodities would require replacement, the Mission must obtain AID/W prior approval.

b. At the time that an emergency program under P.L. 480, Title II, is initiated, either on a government-to-government basis or through the instrumentality of a Voluntary Agency, the Mission Director should make a determination regarding the ability of the cooperating sponsor to perform the record-keeping required by AID Regulation 11, Section 211.10. In those instances in which specific record-keeping requirements cannot be followed due to emergency circumstances, the Mission Director should specify exactly which essential information will be recorded in order to fully account for Title II commodities.

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9C. Procedure

1. Missions' Responsibility

a. Proposals

Missions initiate proposals for emergency programs and transmit them to AID/W for review. In addition, Missions evaluate project proposals submitted by cooperating sponsors and make appropriate recommendations to AID/W for approval. Missions also assure that appropriate host-government approval of emergency projects has been obtained and that host-government contributions to such project activities are made available as agreed upon.

b. Requests

When Missions transmit emergency project requests to AID/W for approval the following information should be included:

(1) Location of emergency, nature of the emergency, numbers of people affected, estimated duration of emergency project, daily ration level and total food required. The specific Title II commodities required must be identified.

(2) The data should include Mission knowledge of other donor efforts, the amounts of commodities which have already been transferred for emergency uses and the potential for work projects in the disaster areas.

(3) The administrative provisions for management and control of the emergency program must be reviewed. The cooperating sponsor should prepare for Mission concurrence a distribution plan or outline which shows how and when commodity will be moved from the point of entry to the geographic areas where distribution will take place. Funding or arrangements for intermediate storage and in-country transportation must be identified.

(4) Mission must provide assurance that:

(a) Adequate storage facilities are available in the recipient country at the time of expiration of the commodity to prevent the spoilage or waste of the commodity, and

(b) The distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production of that country.

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c. Supplemental AER

Voluntary Agency requests can be cabled by the Mission for AID/W review and approval based on information requested above. A supplemental AER and amended plan of operations (if necessary) must then be forwarded through the normal channels through Voluntary Agency headquarters to AID/W. Voluntary Agencies Call-Forward commodity authorized for emergency programs using procedures established for regular programs.

d. Transfer Authorizations

Government-to-government, or International Organizations other than the World Food Program, requests normally require more Mission involvement in program design and management. As in the case of Voluntary Agency programs, the approval will be based on a cabled program summary per b. above. AID/W will prepare a Transfer Authorization to be signed by the recipient government specifying terms of the program and reporting requirements. Mission cabled program proposals should include the following additional information:

(1) Recommended program conditions and reporting requirements for Transfer Authorization. (Exhibit A)

(2) USDA, Claims and Collection Division, is responsible for contracting with independent cargo surveying firms to obtain discharge reports on all Title II cargoes shipped under Transfer Authorizations with the exception of World Food Program cargoes. In order to develop a competitive bid situation and in an attempt to reduce the cost of surveys, Mission cable should include names, addresses, and telex numbers of reputable local surveying firms capable of providing qualitative and quantitative ex-ship's tackle reports in the desired port of discharge.

(3) Ocean freight information must include desired shipping schedule, port of discharge, and if shipment should be bagged or bulk with bags to accompany. In order to forward Bills of Lading, international mailing address of consignee and notify party are required. Any limitation on port capacity or any known congestion that will impact on discharge of Title II commodity must be described.

e. Time Constraints

It normally takes 90 days from date of program authorization to arrival of commodity at nearest recipient port. If the commodity is needed sooner arrangements should be made to borrow the same

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or a similar commodity from a local source to be replaced with Title II commodity upon delivery per 9D3 below.

In some circumstances diversion of commodity at U.S. port or onboard ship for another Title II program may be considered. This involves first identifying the correct amount of commodity needed, getting release of the commodity from the regular program cooperating sponsor, determining if the vessel involved can enter the desired port, if storage will permit discharge of this commodity, and payment of a diversion charge. Since diversion is difficult to accomplish, expensive, and not often possible, it should be considered only after all other sources of commodity have proven unfeasible.

2. AID/W

AID/W review and approval for emergency assistance follows the procedures described in 6F and may also include the PDC/Office of Foreign Disaster Assistance (OFDA) participation in the review and approval process. Emergency projects take precedence over all other matters.

9D. Project Implementation Guidelines

1. Mission Responsibility

a. Limited-Term Duration (Up to 9 months)

(1) Monitoring

Missions are responsible for monitoring emergency projects and assuring that resources are effectively used. Cooperating sponsor reports together with Mission field observations and evaluations, appropriately documented, are basic monitoring tools.

(2) Liaison with Cooperating Sponsor

Continued close liaison with the cooperating sponsor can assure maximum effective implementation in resolving problems such as port logistics, warehousing, transportation, and distribution.

(3) End-Use Examinations

The capabilities of the cooperating sponsor and the recipient government, as available, are to be utilized to the extent possible for these purposes. Mission sample checks may be a method to

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evaluate the effectiveness of the cooperating sponsor control systems.

(4) Reporting

Missions are responsible for the preparation and submission of the Final Disaster Summary Report (Report Control Symbol U-1560/1) - See Foreign Disaster Assistance Handbook No. 8, Chapter 7. The final report will include a complete accounting of the Title II assistance provided for the emergency. A copy of the Final Disaster Summary Report to be provided AID/W-PDC/FFP.

b. Longer Term Duration

When conditions exist such as drought, civil strife, etc., that require continued emergency efforts beyond immediate response, Mission responsibilities increase significantly. In order to establish and maintain a commodity pipeline, the implementation process enters new dimensions with regard to the extent of monitoring emphasis and reporting functions supplemental to the Final Disaster Summary Report (Report Control Symbol U-1560/1).

(1) Monitoring

This function covers a multitude of activities which are not limited to the determination of commodity requirements and their actual distribution. This effort is one of project management which includes identifying and reporting anticipated and actual problems and undertaking or catalyzing required actions. It should emphasize such activities as reviewing and evaluating the cooperating sponsor's performance capabilities, the planning process, and the implementation systems employed.

(2) Liaison with Cooperating Sponsor

In the continuing emergency situation liaison with the cooperating sponsor becomes an increasingly important function as the constraints of overextended resources of the cooperating sponsor and recipient government become critical. Effective planning and systems employment are essential as emergency conditions continue and rehabilitation efforts are instituted.

(3) End-Use Examinations

End-use checks should be designed and used primarily as one technique in selective testing and evaluation of the distribution systems employed.

(4) As longer term emergency assistance requires an increased management input at both Mission and AID/W levels, periodic reporting

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becomes supplemental to the Final Disaster Summary Report (Control Symbol U-1560/1) and follows requirements developed on a case-by-case basis to satisfy the needs of both the Mission and AID/W. The method of obtaining reporting information on commodity inventories and distribution is left to the discretion of the Mission, taking into account the need and local circumstances. Reporting requested should meet the tests of utility and feasibility. In longer term emergency situations Mission can anticipate that AID/W will require periodic reports that include information regarding:

- (a) Quantity of commodities received (landed);
- (b) Quantities released for distribution;
- (c) Quantities on hand;
- (d) Quantities released for sale, if authorized by AID/W;
- (e) Application of sales proceeds in the case of (d) above.

2. Commodities Transferred Without AID/W Approval to Meet Urgent Disaster Needs

a. When necessary, commodities may be transferred from existing programs to meet urgent disaster requirements without AID/W approval. In such cases, the Mission must approve the organization responsible for commodity distribution and determine that commodity assistance is necessary and compatible with U.S. interest. Commodity transfers are authorized in writing.

b. Cooperating sponsors are to be informed promptly that commodity replacement cannot be assumed or assured and that in the absence of an AID/W approval the quantities transferred will be deducted from those available for the project from which they are transferred.

c. Quantities of commodities transferred for such emergency purposes should not exceed what would normally be a 60-day supply. Cooperating sponsors of approved projects from which approved commodities are transferred are also required to report promptly on the usage of such commodities and in the event third parties are used, receipts are obtained for commodities delivered.

d. The use of commodities transferred on an emergency basis without AID/W approval remains subject to AID audit and reporting requirements.

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3. Commodities Borrowed for an AID/W-Approved Project

After AID/W approval of an emergency program, but before the arrival of the authorized commodities, the cooperating sponsor may borrow the same or similar commodities from local sources to meet emergency program requirements. Commodities borrowed and used in accordance with the terms of the approved emergency program may be replaced on an equivalent-value basis with Title II commodities from the emergency program. Agreements to borrow and replace commodities must meet tests for real need and exclude any windfall benefits arising from adversity. (See AID Regulation 11, Section 211.5(k).)

4. Commodities to be Transferred Between Approved Projects

Transfers of Title II commodities between approved projects of one or more cooperating sponsors may be authorized for emergency project operations.

5. Agreement Among Involved Entities

Approval by AID of commodity transfers is either withheld until all involved entities have agreed to the transaction or is made subject to agreement. Included in this group are entities such as:

- a. The involved cooperating sponsor(s);
- b. The host-country government or its agencies;
- c. Provincial or state and local governments;
- d. Authorities responsible for egress and ingress permission when transfers are authorized between countries;
- e. Owners of commercial stocks.

6. AID Approval

Except in emergency situations when a transfer of food from ongoing project activities is required, advanced AID/W approval is required. Approval from AID/W is also required when commodities have been transferred on emergency basis and must be replaced and when funds, other than authorized disaster relief funds, are required to effect any transfer.

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7. Establishing Values of Commodities

When Title II commodities are to replace borrowed non-Title II commodities, the value of the commodities borrowed or replaced is established by qualified independent appraisal. Values must be mutually agreed upon by the Mission and cooperating sponsor.

8. Identification of Commodities Borrowed or Exchanged

When possible and appropriate, commodities which have been borrowed from non-U.S. sources for emergency requirements are to be identified as having been made available by the people of the United States.

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CHAPTER 10  
CHILD FEEDING AND ECONOMIC  
AND SOCIAL DEVELOPMENT

10A. General

1. Title II commodities used in support of this Chapter are considered to be a development resource. As such, cooperating sponsor's plans for projects must be developed in conjunction with the Mission and relate to the Mission's Country Development Strategy Statement (CDSS). In those countries without CDSS's, Missions should provide narrative justification for commodity resource input, including a description of the cooperating sponsor's program and how it fits into host-government plans and priorities as well as AID areas of emphasis.
2. As a means of improving program effectiveness, Mission should consider whether commodities should be augmented with funds and technicians, from AID or other sources, for the purpose of concentrating available resources to solve critical development problems in nutrition and health.
3. Programs should provide for increasing assumption of responsibilities for some program aspects by host governments, within the context of their workforce resource and financial resource capabilities, with the long-term objective of carrying them on without U.S. assistance.

10B. Child Feeding Projects

1. Maternal Child Health Projects (MCH)

a. Description

MCH projects are established to provide commodities to the vulnerable, high-risk category of women of child bearing age and their children under the age of six with emphasis on children under the age of three. Attempts should be made to reach these groups in terms of poverty and/or nutritional status, thus the effectiveness and extent of delivery systems will need to be carefully considered in planning programs to reach selected target groups. Child feeding projects are to provide nourishing foods needed by those groups along with education for the mothers in nutrition, child care, and related subjects.

b. Objectives

Studies indicate a direct relationship between nutrition and young children's physical development and ability to resist infection. Therefore, the overall goal is to improve the nutritional status

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of women of child bearing age and their young children. Specific project purposes may include:

- (1) Provision of supplementary food to insure an adequate diet for preschool children and women of child bearing age.
- (2) Education of mothers in nutrition and child care.
- (3) Development of local capacity to operate a self-sustaining maternal-child health program.
- (4) Integration of these services with existing or planned services in MCH health, family planning, education, or other community services.

c. Planning

(1) Since programs designed to reach the most vulnerable groups are faced with widely varying conditions and problems in each country or region, specific approaches needed to achieve objectives may differ significantly. In planning programs, the best analysis feasible should be accomplished to identify problems as a prerequisite to the design of the program to meet specific targets. Consideration should be given to the following items:

(a) Determine whether target groups should be considered as recipients or given a broad coverage.

(b) Determine key problems of the target group that can be addressed concurrently with the food deficit problems.

(c) Define other MCH health, family planning, or community services, existent or planned, that can be integrated to address the problems of the target group.

(2) Missions programming commodities for child feeding activities are to develop multiyear statements in conjunction with the cooperating sponsor and transmit them to AID/W for use in the review of individual proposals. They should clearly relate to the CDSS or narrative justification and to the overall national plan. These statements are to be updated and evaluated annually and should include:

(a) A description of the extent of the food and nutrition problem in the country, particularly how the most vulnerable groups in terms of poverty and health status are affected.

(b) A description of the efforts of the country to deal with the problem within the limits of resources available to it.

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(c) A description of how cooperating sponsor's and other resources can make an impact on the problem; and a description of the strategy to be used to solve the problem. Within this strategy:

- Activities targeted to the rehabilitation of the most severely malnourished children (i.e., those identified as second and third degree malnutrition cases) should be undertaken only in facilities staffed and equipped to service, treat, and followup such cases effectively. As a practical matter, commodities should be directed generally toward systematic preventive work among the vulnerable groups through health clinics, nutrition centers, etc.

- Continued evaluation should be undertaken where bulk distribution for home consumption is considered the most cost effective method to reach the target group. In MCH programs, use of growth charts may be useful to demonstrate that the intended recipient is in fact receiving the proper ration and benefiting from it. The growth chart may be effectively used to establish a contractual understanding with MCH recipients to assure the desired controlled feeding. In such a project a nutritional education component (which might also include elements of health and/or family planning) should be considered essential. The lack of an educational component would give rise to consideration for discontinuing future support.

## 2. Other Child Feeding Projects

### a. Description

Other child feeding projects are established to provide commodities for the following three categories:

#### (1) Preschool Child Feeding (25)

Children under the age of six attending day nurseries, day-care centers, day kindergarten, or similar facilities where food is provided 25 days a month.

#### (2) Other Child Feeding (Institutionalized) (30)

Children 14 years and under in children's hospitals, boarding schools, orphanages, and summer camps where food is provided 30 days per month.

#### (3) Other Child Feeding (Noninstitutionalized) (25)

Children six through 14 years old receiving food 25 days a month at daily organized child feeding facilities.

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b. Objectives

The primary purpose of "other child feeding" projects is to reach the undernourished children who are neither attending schools nor being reached through Maternal Child Health (MCH) feeding projects and to encourage the recipient country to support and assume responsibility for these activities. Priority attention in "other child feeding" programs is to be given to projects targeted to feed the younger child.

10C. Food for Work Projects

Priority is given to sound activities which are consonant with host-government plans and priorities as well as the Mission's program emphasis and strategies as described in the CDSS. In accordance with AID's increased concern for equitable income distribution and small farmer welfare, attention should be given to who benefits from completed food-for-work projects as well as the number of persons employed on the projects. The goal of food-for-work projects is the achievement of needed agriculture/economic, and community improvements by providing commodities to support the labor of unemployed and underemployed local workers.

1. Agriculture/Economic Development and Community Development

a. Description

(1) Agriculture/Economic Development Projects

Desirable projects include, but are not limited to, construction of water production and control projects (wells, dams, reservoirs, ponds, drainage ditches); construction of roads, small bridges, wharves or piers, and fences; improvement of land through clearance, drainage, reforestation, leveling and cultivating; construction and renovation of distribution centers and commodity storage facilities; sustenance of people while engaged in resettlement or land reform activities. Priority is given to projects which will contribute to an increased or improved food supply in areas where the supply is inadequate.

(2) Community Development Projects

Desirable projects include, but are not limited to, construction or renovation of buildings for schools, emergency shelters, child feeding centers, and recreational areas; clearance of debris; and construction of streets in villages or towns.

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b. Objectives of Agriculture/Economic and Community Projects

(1) General

Development projects emphasize public rather than private benefit and are designed to alleviate the causes of the need for assistance. However, development on private lands may be considered if it will result in significant corollary public benefits. Proposals which anticipate development on private lands are to include full explanation of the public benefits.

(2) Target Groups

It is expected that persons who are in a low income status or who are otherwise economically needy are the principal group to engage in the activities authorized. Persons may be selected for work programs from groups of unemployed or underemployed persons.

c. Planning

(1) Distribution of Commodities on Food-For-Work Projects

On food-for-work projects where the workers receive commodities as compensation for work performed, the following guidelines apply unless, in specific cases and for specific reasons, AID/W grants an exception.

(a) Normally, commodities are not used to pay 100 percent of compensation if workers are employed full time over an extended period. Usually, 50 percent of the compensation in commodities is the maximum.

(b) The combination of cash and commodities is to represent a fair and reasonable compensation for tasks performed. The value of the commodity portion of the compensation is to be based on a fair price for each commodity distributed. The recipient government, the cooperating sponsor, and the Mission are to agree on the local value of each commodity.

(c) To reduce the likelihood of the worker selling or exchanging commodities received as compensation for work performed, the quantity of commodities issued to the account of each worker at any one time should not exceed the amount each worker alone, or the worker plus dependents, will consume during a 2-week distribution period.

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(2) Distribution of Commodities for Incentive-Type Work Projects

On projects which emphasize the distribution of commodities as an "incentive" - as distinct from compensation - for work performed, the commodities distributed as an incentive for each day of participation or performance should be at a rate which is considerably less than that which is distributed as compensation.

(3) Optional Basis for Determination of Commodity Distribution

The distribution of commodities in exchange for work on either "compensation" or "incentive" type projects may be based on the food requirements of the worker alone or on the requirements of the worker plus dependents. Each Mission is authorized to determine which of these alternatives it considers to be best suited in the recipient country and to recommend projects on that basis to AID/W.

2. Educational Development Projects

a. Description

Educational development projects are those which improve the self-help capability of individuals. Such activities include, but are not limited to: literacy classes; vocational training and retraining courses, particularly in agriculture and fishing; and training of the handicapped.

b. Objectives

Normally, commodities are used as an incentive to participate in educational development projects. Recipients are persons of low-income status who are willing to participate in organized groups which meet regularly and receive guidance under the supervision of qualified instructors. When participants are the head of family (or principal family provider) their dependents are also eligible for food.

c. Planning

Participants attending training schools usually receive prepared meals at the schools.

3. Health and Sanitation Projects

Health and sanitation projects may include, but are not limited to, instruction and training in responsible parenthood, nutrition, child care, personal hygiene, home sanitation, family health, food handling, environmental sanitation, control of rodents and insects, and control or eradication of disease.

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10D. School Feeding (SF) Projects

1. Description

School feeding projects are established to provide commodities for students from approximately age six through an age level (usually age 14) comparable to that of primary school students in the United States.

2. Objectives

The goal of commodity assistance for school feeding is to encourage recipient countries to provide food to primary school children to improve school attendance by children of the poorest elements of the society and to improve their health, vigor, learning capability, and nutritional status. Emphasis is to be on meeting the needs of the target groups enrolled; i.e., undernourished and malnourished. A further objective is to assist in the establishment of school feeding as a permanent institution supported totally by indigenous resources. Particular planning emphasis should be given to a scheduled assumption of feeding responsibilities by the recipient country in conjunction with the country's nutritional plan and strategy, if defined.

3. Planning

Each participating country should have an overall plan which delineates the short- and long-term goals and the means for attaining them. These plans shall be developed to assure the best use of commodities, considering the need for meeting the minimal nutritional requirements of as many school children as possible. These plans should consider improvement such as:

- a. Increased targeting on children with the greatest nutritional need.
  - b. Better facilities for food preparation and serving.
  - c. More and better educational programs for school authorities, teachers, parents, and students relating to diets and health.
  - d. Increased local contribution (e.g., through school or community gardens).
  - e. Increased community involvement and the participation of parents in food preparation and serving.
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## 10E. Documentation Requirements

Chapter 6, Title II Program Development, covers documentation requirements for all Title II projects. The following paragraphs indicate the type of information to be emphasized and included in project proposals:

### 1. Child Feeding and School Feeding Projects

Mission documentation of child feeding and school feeding projects should be prepared in close collaboration with the cooperating sponsor so that the overall goals in individual countries, and the relationship and contribution of individual projects to their goals, are evident. This can be accomplished either through the CDSS or through a Narrative Justification submitted in lieu of a CDSS. If a recipient country national nutritional education plan exists, a description of how the feeding projects complement the plan should be transmitted to AID/W for use in the review of individual proposals. Documentation should address the planning aspects covered in 10B1c and 10B2c.

### 2. Food-for-Work Projects

#### a. Agricultural/Economic and Community Projects

The following types of information are to be stressed in agriculture/economic and community projects:

(1) Project targets and objectives. (Identify by measurable units -- such as roads to be constructed or repaired; number of schools, health centers, or low-cost housing to be constructed; and land to be cleared or leveled acres to be reforested.)

(2) Geographical location (areas, states, or provinces) and the general categories of work.

(3) Estimated number of man-days required for completion by types or categories of activities.

(4) Estimated number of persons to be employed and monthly average of work-days per worker.

(5) Estimated number of workers and estimated number of dependents who will receive food.

(6) Estimated costs of projects, including separate estimates of the cost of labor, materials, and tools.

(7) Non-U.S. Government inputs and self-help measures.

(8) Methods of control and distribution of commodities at project site.

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(9) Estimated quantity of each commodity for:

(a) Distribution as compensation in kind.

(b) Work and for free distribution, in the case of land reform and settlement projects.

b. Educational, Health, and Sanitation Projects

The following types of information are to be stressed in Educational, Health, and Sanitation projects:

- (1) Projects targets and objectives.
- (2) Types of courses and/or training to be given.
- (3) Identification of local sponsoring groups and/or agencies.
- (4) Average duration of courses (weeks/months).
- (5) Average number of hours per week/month recipients are required to attend classes as a basis for receiving commodities.
- (6) Estimated number of persons who will attend classes.
- (7) Kinds and quantities of commodities required.

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CHAPTER 11  
LOCAL CURRENCY PROJECTS

11A. Section 204 (Purchase and Use of Local Currencies)

1. Policy

Local currency may be purchased under the authority of Section 204 of P.L. 480 (see Appendix A) where the provision of such funds would support selected self-help and economic and social development projects consistent with the objectives contained in this Handbook. Sponsors of Section 204 projects must be Voluntary Agencies experienced in and knowledgeable about Title II commodity programs.

2. Legislation (P.L. 480, Section 204)

P.L. 480, Section 204 states in part:

"...In addition to other funds available for such purposes under any other Act, funds made available under this title may be used in an amount not exceeding \$7,500,000 annually to purchase foreign currencies accruing under Title I of this Act in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance. Provided, however, that such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources."

3. Proposals, Approvals, and Agreements

a. Proposals and Approvals

(1) Section 204 projects may be approved by AID/W or by Missions where discretionary authority has been granted. Limitations on levels of funding are specified at the time discretionary authority is granted.

(2) Section 204 project proposals must be submitted to AID/W in accordance with the basic procedures for developing and submitting project proposals (see Chapter 6).

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(3) Section 204 projects which are approved through a Mission discretionary process must follow the same guidelines, and other appropriate guidance, used for the approval of Section 204 projects in AID/W.

b. Agreements

Section 204 projects must conform to the terms of a Local Currency Project Agreement (Exhibit J). Such agreements may be issued by AID/W or by a Mission Director.

c. Documentation Requirements

If agreement is signed in the field an advisory cable (and signed copies of the agreement) should be sent to PDC/FFP and FM/PAD. It is imperative that FM/PAD have signed copies of all agreements prior to the end of the fiscal year. The advisory cable should contain the following information:

- (1) Project number
- (2) Name of project
- (3) Obligation number
- (4) U.S. dollar equivalent amount
- (5) Objective of project
- (6) Cooperating sponsor
- (7) Accumulated total U.S. dollar equivalent obligated to date.

4. Eligibility for Section 204 Funding

a. Activities Eligible for Section 204 Local Currency Funding

(1) Projects eligible for Section 204 funding include those which directly support feeding program activities, such as but not limited to projects to build central kitchens, purchase cooking equipment, or pay for the construction or purchase of warehouse facilities, storage, transportation costs, or to purchase baking equipment, packaging, food processing, or blending facilities which are publicly owned.

(2) Section 204 funding may be used to pay for specialized personnel, training, and technical expertise, for nutrition education, development of nutritious indigenous foods, food fortification,

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and other nutrition projects. They may also be used in economic development, community and other self-help projects to pay for tools or equipment, building materials, rental fees for heavy equipment, and technical expenses or services when such services are essential and not generally available in the area.

b. Activities Not Eligible for Section 204 Local Currency Funding

The administrative expense of cooperating sponsors are not eligible for Section 204 funding, nor costs of construction, rental or maintenance of any church or sectarian-owned facility used for sectarian purposes, nor the purchase or construction of facilities and equipment which is to be privately owned, nor for nonspecialized labor costs generally available in the area.

5. Title to and Possession of Equipment Purchased Under Section 204

Title to equipment purchased under Section 204 is vested in the host government or the sponsor as specified in the Agreement. Equipment is to be utilized only for the purposes for which it was purchased. If completion or termination of a project occurs within a period less than 3 years, the equipment is to continue to be utilized on activities of general benefit to Title II objectives until expiration of the 3-year period, at which time title passes as specified in the Agreement.

6. Title to and Use of Facilities Financed Under Section 204

Title to facilities financed under Section 204 is vested in the host government except as specifically authorized by the Agreement.

7. Accounting for Section 204 Funds

Funds to implement Section 204 Agreements are provided from the U.S. Disbursing Officer's (USDO) local currency account number 20FT400 (Sales Account, Proceeds to Commodity Credit Corporation). Memorandum accounts under each Local Currency Project Agreement are maintained under AID allocation account 72-12X4336, Commodity Credit Corporation Capital Fund. Advances, when authorized, are charged to this account at the appropriate level and the amount recorded in the memorandum account for the applicable agreement. The advance and other disbursements made by the implementing Mission are paid by the USDO. Charges against the funding allotment held by AID/W are reported in accordance with Handbook 19.

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## 8. Section 204 Project Reports

### a. Quarterly Progress and Financial Reports

The sponsor must submit a quarterly report (Reports Control Symbol W-1570/1) to the Mission on the progress of the agreed activity; a description of any modification in costs, and detailed information on disbursement of funds.

### b. Completion of Project Report

Sponsors must submit a Completion of Project Report (Reports Control Symbol W-1570/2) to the Mission within 30 days following the completion of the agreed activity. This report is to contain a full accounting of the funds made available under the Agreement and an evaluation of the extent to which the agreed activity achieved its objectives.

### c. Certificate of Completion and Acceptance

When engineering services are used, the sponsor furnishes to the Mission a copy of the Certificate of Completion by the engineering firm, a certification by said firm that the construction was in conformity with the budget, and a copy of the Letter of Acceptance by the sponsor of the certificate.

## 9. Section 204 Project Termination

### a. General

The guidelines for suspension and termination of programs as provided in Handbook 19 are applicable as appropriate to Section 204 programs/projects. Specific and special procedures applicable to termination are included in the general provisions of the Agreement.

### b. Cancellation by AID

AID may cancel Section 204 Agreements upon written notice to the sponsor. When the sponsor receives such notice, it cancels obligations and within 90 days repays to the Mission all unexpended funds. Should the funds previously advanced be insufficient to cover the sponsor's obligations, the sponsor may submit to the Mission no later than 90 days after the effective date of such cancellation a written claim covering such obligations.

### c. Termination of Programs

When nonfood-related projects are terminated while the sponsor is in possession of Section 204 local currency, the unexpected balance of

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such funding must be returned to the Mission in accordance with the above provisions or as otherwise determined by AID.

d. Termination Prior to Termination of "Physical Possession" Arrangements

When a program is terminated prior to the expiration of the 3-year equipment use provisions of the Agreement, such equipment or facilities may be disposed of by AID through auction or transfer to the host government or cooperating sponsor unless utilized as stated in 11A5.

11B. Section 206

1. Policy

Section 206(3)(a) of P.L. 480 allows the use of sales proceeds for agriculture, rural development, and nutrition programs designed to alleviate the causes of the need for the assistance. Provision (3)(b) of this Section allows proceeds to be used for increasing the effectiveness of food distribution systems and to increase the availability of Title II food to the neediest individuals in the recipient country. The requirements of Section 206 apply only to nonemergency government-to-government programming and do not apply to sales of food donated to governments for disaster or other urgent or extraordinary relief requirements nor to sales of Title II food by U.S. Voluntary Agencies and the World Food Program. As in the past, all sales of Title II food will be authorized only in exceptional cases.

2. Legislation

"Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this title shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with Section 109 of this Act, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for (a) alleviating the causes of the need for the assistance in accordance with the purposes and policies specified in Section 103 of the Foreign Assistance Act of 1961, or (b) programs and projects to increase the effectiveness of food distribution and increase the availability of food commodities provided under this title to the neediest individuals in the recipient countries.

3. Requirements of Section 206

While the present policy of minimizing sales of donated food remains, sales of food donated to governments for nonemergency programs may be authorized if the following requirements are met:

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a. The country is undertaking self-help measures in accordance with Section 109 of P.L. 480.

b. The specific uses of foreign currency proceeds are set forth in a written agreement with the United States and the recipient country.

c. The currencies will be used for those purposes identified under (3)(a) or (b) of Section 206.

#### 4. Limitations

For example, legislated program limitations severely restrict Title II resources available for government-to-government programming, Section 201(b) of P.L. 480 requires that for Fiscal Year 1981, a minimum of 1.65 million metric tons (grain equivalent) must be distributed under Title II. Within this amount the minimum distributed through nonprofit Voluntary Agencies and the World Food Program must be 1.35 million metric tons in the fiscal year, unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purpose of Title II. The minimum of 1.65 million metric tons of all Title II commodities to be distributed is limited only by the total quantity of commodities determined to be available under Section 401 of P.L. 480, less the quantity required for famine or other urgent or extraordinary relief requirements. It should be noted that the provisions of Section 206 are applicable only to government-to-government programs. Accordingly, any programming under an agreement permitting generation of foreign currency proceeds will depend on the availability in any fiscal year of Title II commodities in excess of those minimum amounts required for distribution by Voluntary Agencies and the World Food Program. In addition, budgetary resources for Title II and program requirements mentioned above will control our ability to finance Section 206 programs.

#### 5. Applicability of Section 202 to Programs Under Section 206

Section 202(a) of P.L. 480 provides, inter alia, that except in cases of emergency, reasonable precautions must be taken to assure that commodities supplied under Title II will not displace or otherwise interfere with sales which might otherwise be made. Similarly, as a matter of policy, the supply of the commodities should not interfere with or displace procurement within the receiving country. Because of the provisions of Section 202, the imposition of a usual marketing requirement (UMR) may be necessary depending on the country and commodity in connection with Section 206 program. Imposition of a UMR would be handled on the

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same basis as Title I: If the recipient country had made commercial purchases of the commodities to be programmed under Title II, it would be required to continue to do so, usually at a level reflecting its average commercial purchases over the last 5 years. UMR could be reduced or eliminated in special cases if justified by the financial condition of the country.

6. Requirement of Section 401

In order to enable the Secretary of Agriculture to make a determination for approving or disapproving Section 206 programs, the recipient government at the time of the program request must provide for inclusion in the program approval documentation (1) a description of available storage facilities, and (2) information that the assistance will not result in a substantial disincentive to domestic production in that country. This information will also be required at the time of the periodic Call-Forwards against approved programs.

7. Use of Section 206 Authority

a. Section (3)(a) authorizes the use of sales proceeds for agriculture, rural development, and nutrition programs designed to alleviate the causes of the need for the assistance. Generally, the need for grant food assistance stems from an inadequate availability of staple grains because of limitations or difficulties with the production, storage, or marketing. Section 206 proposals which include use of local proceeds to directly increase availability of basic staple grains to the general population through carefully targeted project interventions will receive priority consideration. Examples of programs which may meet this criteria are grain reserve and stabilization schemes, prevention of post-harvest losses, or selected extension services which will directly impact on the production of staple grains. Examples of indirect impact on food availability which would not be recommended for consideration include agricultural research and education or rural development in areas which do not directly address food availability. Another priority use of proceeds would be pilot projects to help develop indigenous weaning food. Programs should also attempt to integrate Section 206 and FAA resources to the extent possible. Multidonor efforts which maximize the impact of the Section 206 resource will also receive a preference.

b. The provision that provides for the use of foreign currency proceeds for the purpose of increasing the effectiveness of food distribution programs and increasing the availability of Title II food to the neediest individuals in the recipient country remains in effect. It is AID policy that Section 206 programs of this type may be approved (1) only for countries in which food is being distributed under Title II, and (2) where governments lack resources to increase the effectiveness of approved Title II programs or increase the availability of Title II food to the neediest people.

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11B7

c. Section 206 programs could be considered for countries for which there was a strong justification that the U.S. provide food aid on more generous financial terms (including financing ocean transportation costs) than available under Title I. This guidance remains valid.

#### 8. Sales Proceeds

The Section 206 agreement will provide that the prices at which the commodities will be sold will be agreed upon by the United States and the recipient country consistent with applicable international agreement. Where a commercial market exists, this will usually be the prevailing market price. In addition, the agreement will provide that: The proceeds shall be deposited in the name of the recipient government in a separately identified "Agricultural Commodity Account." The funds should be accounted for in the same manner as "Counterpart funds" (Handbook 19). Information on the use of currencies generated by Section 206 sales must be included in the President's report to the Congress.

#### 9. Timing and Submission of Requests for Section 206 Programs

Section 206 programs may be submitted to Food for Peace at any time, although budgetary constraints already mentioned will limit the number of Section 206 proposals which can be approved. Since these are developmental projects, a PID type presentation is required. If possible, requests should be presented in ABS submissions. Proposals should include the following:

a. A description of the self-help measures carried out by the recipient country. If this has been submitted in other documentation, please reference.

b. The amount and kinds of commodities requested.

c. Historical data covering the past five (5) years on the amount of imports by source and projected for the coming year for commodities requested under Section 206. In these instances in which the recipient country produces the commodities requested, data on beginning stocks, production, consumption, imports for the last three (3) years and projected for the coming year for which the commodity is requested should also be submitted.

d. Proposed use of local currencies for developmental purposes. This is the key part of the Section 206 program proposal provided that the above items have been adequately addressed. Since Section 206 is a developmental program, the proposal for the use of local proceeds will receive the same kind of scrutiny that an AID dollar-funded project paper would. Uses of local proceeds should be related to goals outlined in the Country Development Strategy Statement.

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11B

10. Review and Approval of Section 206 Programs

Section 206 programs will be reviewed and approved by the Working Group of the DCC/Food Aid Subcommittee. The agreement specifying the amount of commodities to be provided, agreed uses of local currency sales proceeds and other terms and conditions will be in the form of a Transfer Authorization to be signed by representatives of both governments.

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## CHAPTER 12

### U. N. / F A O W O R L D F O O D P R O G R A M

#### 12A. Structure

1. The World Food Program (WFP) is an activity of the United Nations (U.N.) and the Food Agricultural Organization (FAO), having been established in April 1962 under separate resolutions of the Conference of the FAO and the General Assembly of the U.N. Participation in the WFP is open to U.N. member countries and to FAO member and associate member countries.
2. The governing body of the WFP is the Committee on Food Aid Policies and Programs (CFA), composed of 30 member countries, 15 elected by ECOSOC and 15 by FAO, and chosen with a view to balanced representation of economically developed and developing countries and other relevant factors. The CFA, which meets every 6 months, provides general guidance on the policy, administration, and operation of the WFP. It also examines and approves the administration and execution of approved projects and other WFP activities.
3. The WFP Secretariat is located in Rome and is responsible for program planning, operations, and evaluation. It consists of a staff headed by an Executive Director appointed for a 5-year term by the Secretary General of the U.N. and the Director General of FAO after consultation with the CFA. To the extent possible, the WFP relies on the existing staff and facilities of the FAO, the U.N., its specialized agencies, and other inter-governmental agencies, as appropriate. WFP assigns project officers to recipient countries when major projects or a group of projects are undertaken.

#### 12B. Objectives

1. The WFP seeks to use food aid as a capital input which, added to other forms of capital and local labor, will yield a lasting gain in the economic and/or social betterment of the recipients.
  2. Through food assistance to children and young people in schools, it seeks to encourage school attendance and assist extension of educational skills to new generations.
  3. On humanitarian grounds, it provides a multilateral response to the needs of victims of emergencies and assists reconstruction following natural disasters.
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## 12C. Resources

1. The WFP resources are obtained through voluntary pledges by U.N. and FAO member countries. Pledges are met with contributions in the form of commodities, acceptable services (principally ocean shipping), and cash. An attempt is made to obtain at least one-third of the total contributions in cash. All pledges of commodities and shipping services are valued in terms of world market prices. The U.S. Government contribution (commodities and ocean transportation) to WFP is made under Title II of P.L. 480. These resources are transferred to the WFP through a WFP/USG Transfer Authorization, as amended, see Appendix D. Resource commitments to WFP projects are in accordance with legislative requirements, policies, and procedures applicable to U.S. bilateral donations programs.

2. Contributions to the WFP are pledged at conferences summoned jointly by the U.N. and FAO. Pledging conferences are convened at 2-year intervals (one year before the old pledges expire) when pledges for an additional 2 years are made. Thus, WFP has always at least 1 year of unused resources on which to draw.

## 12D. Types of WFP Assistance

1. The WFP is authorized to provide on a multilateral basis assistance for:

a. Implementing economic and social development projects, using food as an aid particularly when related to preschool and school feeding, increasing agricultural productivity, labor intensive projects, and the development of human resources.

b. Meeting emergency food needs.

2. Each year an emergency resource reserve is established for use by the Director General of FAO for emergency food needs. Further amounts may be made available by the CFA, if necessary. Any unused balance returns to general WFP resources at the end of each year. Otherwise, WFP resources are used for projects which use food as an aid to economic and social development..

## 12E. Other Significant Features

### 1. Commodity Availability

Commodities are provided by WFP to recipient countries on a grant basis. Ocean freight is paid to ports of entry and, where necessary, inland transport to borders of landlocked recipient countries.

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12E1

WFP cannot contribute technical assistance, capital, or foreign exchange to participating countries.

## 2. Responsibility for Project Execution

Primary responsibility for project execution rests with the recipient country. However, WFP attempts to assure that food supplied under the Program reach their destination and that waste and losses are kept to a minimum. WFP shares responsibility for supervision and execution and is required to take the necessary measures for this purpose, including the use of services of the U.N., FAO, and other intergovernmental agencies.

## 3. Sales Policy

a. Sales of WFP commodities are regarded as exceptions, such decisions being based on one main question: Is the sale absolutely essential to the project?

b. In general, sales are excluded from a proposal if commercial sales would knowingly be displaced. If, despite this, the WFP proposes to go ahead with the sale, then the overriding economic benefits to the receiving country must be adequately explained.

c. If the sale is essential, WFP is expected to explain to the CFA why this is so, and the guidelines below apply:

(1) Where WFP commodities are sold on the open market, the WFP Secretariat carefully analyzes the recipient country's supply pattern for each of the commodities involved and determines whether special safeguards to assure against displacement of commercial marketings are necessary. The results of the Secretariat's analysis, together with the data used, is provided, along with information on special safeguards and on the administrative machinery for implementing the sales.

(2) Where WFP commodities are sold below prevailing local prices, the channels through which such commodities move should be isolated from the usual commercial channels, so far as possible. The WFP is expected to provide information which supports this type of sale.

(3) Proceeds from sales are used only to finance activities under the project, including payment of wages, purchase of local tools, equipment, local ingredients, and inland transportation, if absolutely necessary. Information on the use and control of the proceeds is provided, along with an indication as to how such sales lead to purchases of the same types and quantities of food as were initially supplied under the project.

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12E3(3)

Under these guidelines, sales of commodities are permitted only where such sales are: (a) Inherent to the purpose of the project, or (b) To closed groups or designated beneficiaries. In both instances, the sales take place outside normal commercial markets. WFP seeks to minimize sales of its commodities in the open market and where there is likelihood of such occurrence the general guidelines stated above become applicable.

12F. Procedures

1. Applications for food aid emanate from and are prepared by the government of the recipient country pursuant to instructions and a "pro forma" prescribed by WFP. Prior to submission of the application, the knowledge, skills, and experience of locally available technicians of the U.N., FAO, ILO, and other specialized agencies of the U.N. are drawn upon for preliminary technical evaluation and to assure maximum refinement and improvement at the earliest possible stage. Although not covered in its regulation, the WFP has agreed to consult with and seek the views of the Mission at this stage. In some cases, the WFP may send a technical team to the country to assist in the formulation of the project application. Official requests for WFP assistance are submitted through the UNDP Resident Representative to the Executive Director.
  2. Upon receipt in WFP Headquarters, Rome, the request is evaluated by the WFP Secretariat with the assistance, advice, and recommendations of technicians of the U.N., FAO, and other specialized agencies of the U.N. selected for their particular areas of competence. As considered necessary, technical teams may be sent to the requesting countries to review the proposed project in greater detail.
  3. When the WFP Secretariat is satisfied that the proposed project has good possibilities for development, it forwards a "Project Summary" to the FAO Consultative Subcommittee on Surplus Disposal (CSD), Washington, D.C., for examination by its members to assure that current and developing markets will not be adversely affected. The CSD Secretariat consults its members, including the U.S. Government, and subsequently notifies the WFP either that the project has been cleared or that members have objected.
  4. At approximately the same time as WFP submits the "Project Summary" to the CSD, it requests one or more of the donor countries to agree to supply the commodities. The U.S. Government is provided at this time with three copies of the "Project Summary."
  5. When a proposed project has been cleared technically (12F2) and by the CSD (12F3) and when commodities have been committed by donors (12F4), the project is ready for WFP approval under one of the following procedures:
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12F5

a. The Executive Director may approve projects with a food value not exceeding \$1,000,000. This must be confirmed after the fact by the CFA.

b. Projects with a food value of over \$1,000,000 require the approval of the CFA before implementations are submitted by the Executive Director to the committee for consideration prior to the next session of the CFA.

c. In periods between the biannual sessions of the CFA, a project with a food value of over \$1,000,000 may be submitted to the members of the CFA for their approval by correspondence. If no member objects within 45 days from the date the project proposal is dispatched, the project is considered to be approved. If any member questions the project, the Executive Director is required to hold it for consideration by the CFA at its next session.

6. Upon the approval of a project as outlined in a, b, and c above, the recipient country is notified and a Project Agreement is negotiated and signed by a representative of the recipient country and the Executive Director or his/her designee. Such agreements may provide for WFP assistance during a maximum of 5 years subject to the availability of resources after the end of the then current pledging period.

7. Following signature of the Project Agreement, the government of the recipient country is given time to prepare for the initiation of the project pursuant to the terms of the Agreement. When it has arranged the necessary details, it submits a "Letter of Readiness" to the Executive Director. If in doubt, the Executive Director may require his/her field staff to investigate and assure him/her that all essential arrangements have been completed. Thereafter, the commodities are called forward by WFP from the donor governments as they are needed.

## 12G. U.S. Government Actions and Responsibilities

### 1. Appraisal of Requests for WFP Assistance

a. As mentioned in 12F1, the WFP has agreed to consult with the Missions at an early stage in the development of projects. It is at this point, where a recipient country submits a request to WFP, that the U.S. Government can exert its greatest influence on the technical aspects of the project. Inasmuch as the WFP has the responsibility for assuring that projects are technically sound and carefully planned, the U.S. Government is not entitled to withhold agreement to supply commodities on the basis of technical objection. At these later stages, the only basis on which the

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12G1a

U.S. Government can withhold agreement is a conflict with U.S. policy objectives.

b. The purpose of the consultation is not to seek Missions' approval but to exchange information. Missions should discuss freely any unclassified information which may have an influence on WFP's subsequent decision, including problems, if any, which the WFP proposal might create. On this point, Missions should assure that WFP is not duplicating, overlapping, or impinging upon projects being carried out by Voluntary Agencies or other cooperating sponsors. However, care should be taken to avoid any implication that the U.S. Government is attempting to restrict the activities of WFP. Other considerations to be measured are whether a sufficient degree of self-help is involved and whether the recipient country can continue the project's objectives after WFP aid has ceased.

## 2. Mission Liaison with WFP Representatives

a. It is essential that member nations, of international organizations and U.N. specialized agencies, respect the independence and multilateral character of these agencies. This policy guides the United States in its relations with WFP.

b. As a permanent member of the CFA, the United States is able to make its influence felt in WFP policies and operations. Washington relies heavily on Mission comments on WFP project proposals and field operations in developing U.S. position for the CFA on such matters. It is not always possible for Washington to follow a Mission's recommendations because other considerations may be involved in determining the U.S. position.

c. U.S. relationships to WFP should be viewed primarily in terms of its membership on the WFP governing board rather than as a controller of individual project activities. It is in this spirit that the Mission role should be viewed as one concerned primarily with assuring coordination with ongoing bilateral programs. This includes general knowledge of how WFP/host-country program is functioning as well as developing a close working relationship with WFP representatives to assure reasonably similar distribution policies and host country relationships. This may extend to regular discussion meetings concerning WFP program operations. Such mutual exchanges would also provide an opportunity to keep WFP informed of U.S. bilateral programs. In the context of the above described consultation policy, it is in the early stages of project development, preferably before the host country submits a formal request to WFP, that the Mission can have its greatest influence on the project.

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12G2

d. Missions have no responsibilities concerning control, management, or financial accounting on any WFP activity. Questions of commodity distribution, monitoring, and project control are the responsibility of WFP and the host government.

e. Missions are encouraged to be alert to any WFP program or commodity management shortcomings and call to the attention of WFP representatives any suspected program irregularities or misuse of commodities in connection with WFP projects. If the Mission has reason to believe that a problem is not receiving adequate attention, then the matter should be reported to AID/W. Such reports are taken up promptly with WFP/Rome by AID/W.

### 3. Reporting

a. Missions are requested to keep AID/W informed of all significant developments on WFP matters in their countries.

b. It is particularly important that a report be dispatched promptly when the Mission learns that WFP is considering a program in its country. This report should include:

(1) As much information as is available on the nature of the proposal and the commodity requirements;

(2) The Country Team's views on its desirability;

(3) Comments on whether it will, if approved, supplement or conflict with U.S. objectives and existing or proposed cooperating sponsors' programs or adversely affect current and developing markets, particularly with regard to U.S. exports;

(4) Whether the recipient government has the capability to manage the proposed project; and

(5) Whether the WFP field staff has the capacity to monitor it.

c. Under established procedures (12F4) AmEmbassy Rome (FODAG) forwards one copy of the "Project Summary" to the Mission with a request for comments and recommendations.

d. All reports and other communications on WFP operational matters are to be in the TOAID series and are to include "World Food Program" in the subject. All messages are to be repeated to AmEmbassy Rome "For FODAG." FODAG is the Office of the Counselor for FAO Affairs.

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12G

4. Implementation of U.S. Commodity Shipments (Appendix D)

a. The U.S. Government will implement its commodity and ocean freight commitments to WFP under the authority contained in P.L. 480, Title II. AID has been assigned responsibility for administration, but will carry out this assignment in close cooperation with USDA.

b. Implementation documents include a Commodity Transfer Authorization (TA) and an ocean transportation TA for all or part of each biennial U.S. pledge to WFP, both signed by the Coordinator, Food for Peace. The Commodity TA, when signed by an officially designated representative of WFP, and the Supplement to Transfer Authorization as amended (see Appendix D), constitute the official agreement between the USG and WFP.

c. Under the arrangement described in 12G4b, WFP becomes responsible to the U.S. Government for fulfillment of the agreement but it may and probably will contract separately with the recipient country for part or all of the following:

- (1) Cost of discharge of berthline and charter vessels, lighterage, net demurrage, and any dues to charges levied against the cargo;
- (2) All internal costs of the program including but not limited to warehousing, transportation, and distribution;
- (3) Use of commodities for purpose(s) specified;
- (4) Avoidable losses due to improper actions or inept handling within the recipient country;
- (5) Filing and following through on claims against vessels, carriers, warehousemen, etc., after arrival at port of destination;
- (6) Arrangements to assure that recipients know that U.S. commodities were furnished to WFP by the people of the United States of America.

d. The following information, most of which is incorporated in the Supplement to Transfer Authorization (Appendix D) must be provided by the WFP to enable the U.S. Government to implement shipments:

- (1) A statement covering the location and nature of the program, the purpose for which the U.S. commodities are to be used, and the executing agency in the host country;

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12G4

(2) A statement on any possible disincentive effects on domestic production by WFP food assistance, as well as a statement that WFP reconfirms that adequate storage facilities will be provided by the recipient country.

(3) Quantity of each commodity requested;

(4) Shipping instructions;

(5) Port(s) of destination, name(s) and address(es) of consignee(s), delivery period, packaging specification, and document distribution (bills of lading, charter parties, etc.).

5. Waiver, Amendment, or Termination

See Appendix D, Section X.

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CHAPTER 13  
EVALUATIONS

13A. General

This Chapter provides guidance for evaluating PL 480, Titles II and III activities.

13B. Legislation and Policy

1. The Agricultural Trade Development and Assistance Act of 1954, as amended October 1, 1977, includes a requirement under Section 408 as follows: ". . . (c) Beginning October 1, 1978, and at each five-year interval thereafter, the President shall submit to the Congress a comparative cross-country evaluation of programs conducted under Titles II and III. Such evaluations shall cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and the Caribbean), and shall assess the nutritional and other impacts, achievements, problems, and future prospects for programs under these titles."

2. It is AID policy (a) to utilize evaluation as a fully integrated instrument of program policy and management. (All forms of development assistance are required to be evaluated and the evaluation findings utilized to improve the quality, effectiveness and impact of that assistance) and (b) that AID cannot delegate its official responsibility for evaluation to a contractor or consultant. The role of a contractor or consultant is to collect and analyze data and draw tentative conclusions and inferences from the analysis for presentation to AID. Final evaluative judgments and decisions are made by AID.

3. Within the Executive Branch, the OMB has articulated evaluation policy in Circular-117 which states:

"All agencies of the Executive Branch of the Federal Government will assess the effectiveness of their programs and efficiency with which they are conducted, and seek improvements on a continuing basis so that Federal management will reflect the most progressive practices of both public and business management and result in improved service to the public."

13C. Title II Programs

To the extent feasible, Title II bilateral programs are carried out by nonprofit Voluntary Agencies registered and approved by the Agency for International Development. Title II food is generally distributed directly to the needy through maternal and child health programs, other child feeding programs, food for work projects, and school feeding program. This evaluation section focuses exclusively on Title II of the P.L. 480 legislation as carried out by those agencies.

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13C

## 1. Background

Evaluations of Title II bilateral programs respond to the legislative mandate for comparative cross-country studies. These evaluative studies will enable AID/W-PDC/FFP and other concerned entities to assess the extent to which the Title II programs are effectively designed and implemented. While this Section does not specifically address Evaluations of Title II government-to-government programs and Section 206 programs, the study questions included in the Attachment to this Chapter can easily be adapted for use in assessing these programs also. Evaluations of World Food Program (WFP) programs are performed by the World Food Program Evaluation Office in Rome, not by any one donor, and therefore are not subject to this section.

## 2. Concepts

a. In general, the evaluations will provide the necessary information to: (1) make informed program decisions, and (2) measure performance against expectations agreed upon and finally planned program objectives. Country program evaluations should provide an opportunity for all involved entities at every level to fill the information gaps identified as important to all levels of decision making including those of policy/program.

b. The country-specific Title II evaluations are intended to: (1) clarify current objectives of the Voluntary Agency, Title II programs; (2) review and evaluate the programs in terms of their contribution to planned accomplishments and objectives; (3) confirm the validity of program objectives at both the implementation and impact levels; and (4) recommend any changes in program directions or implementation which would increase its benefits.

c. The evaluation thus can contribute directly to the process which determines in a broader perspective: (1) the important and realistic contributions that should be expected of each Title II program in achieving foreign policy and development objectives; (2) the best Title II program strategies or designs to be employed, given specific circumstances, to achieve these objectives; and (3) the appropriate level of resource or best means available for managing Title II programs.

## 3. Generalized Study Model (Title II)

The following study model is provided to describe the general requirements for in-country evaluations. This logic of the study model is the basis for the means of guiding evaluative studies towards the achievement of the evaluation objectives stated above.

1303

a. Country Context (Problem Analysis)

- (1) Identify problems
- (2) Identify target groups
- (3) Examine etiology of problems

b. Country Context (Policy and Program Analysis)

- (1) Identify major uses of Title II food aid by sponsor
- (2) Analyze perceived objectives for food aid by sponsor
- (3) Analyze policy and program priorities by participating entities
- (4) Examine fit between policy and program priorities and objectives of existing uses of food aid

c. Characteristics and Effectiveness of Specific Programs

- (1) Clarify design and organization of each Title II program
- (2) Compare program design to criteria for a sound program
- (3) Assess the influence of participating entities' policies and operating procedures on the functioning of Title II programs and their results
- (4) Assess the extent to which programs are meeting their objectives (i.e., effectiveness/impact)
- (5) Clarify the roles and responsibilities of participating entities for each Title II program.

d. Use of Evaluative Study Results and Followup

- (1) Report/present study recommendations, findings and methodology
  - (2) Solicit and document feedback from participating organizations
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(3) Examine factors associated with successes and failures of specific programs

(4) Propose redesign of existing programs (as needed) to meet their objectives

(5) Identify and assess new uses of Title II resources to meet development priorities.

#### 4. Implementation of Title II Evaluations

The PDC/FFP/T. II, in conjunction with the Mission, will prepare evaluation schedules to assure timely evaluations of its Title II programs with participating countries.

##### a. Factors that Determine the Nature of the Evaluative Study

There are three major factors that define the nature of a country-specific, Title II program evaluation:

(1) Information Needs - The range of study questions that program decision makers need answers to; the level and quality of the information that will make the information usable by decision makers; and the immediacy with which the information is required.

(2) Availability and Access to Data - The extent to which data needed for the study are already collected or are being collected and the costs associated with collecting unavailable data needed for the study.

(3) Availability of Evaluation Resources - Funds, staff time, data, data processing and office facilities, and transportation that participating entities commit to the evaluation.

When designing a study, all three factors are taken into consideration. The Title II Office anticipates that no two country-specific Title II program evaluation designs will be the same as each of the three factors has a bearing on the design of an evaluative study.

##### b. Pre-Evaluation Conferences (Washington)

Prior to each in-country evaluation effort, AID/W - PDC/FFP holds a pre-evaluation conference with all members of the evaluation team, cognizant representatives of AID Regional and Technical Bureaus and other appropriate AID offices, representatives of other organizations such as the volagencies, as appropriate, and other U.S. Government agencies, as needed. The purpose of the pre-evaluation conference is to assure that the evaluation is thoroughly coordinated among the evaluation team members, AID/W and other government agencies; and,

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to assure that the viewpoints and needs of AID/W and other agencies are thoroughly understood by the evaluation team.

c. Evaluation Preparation

(1) The evaluation team prepares for the evaluation by reviewing the scope of work, applicable portions of P.L. 480, AID Regulation 11, Handbook 9, and program documentation relative to the country to be evaluated. This includes the current country CDSS, ABS, Voluntary Agency operational plans, and regularly received AER, CSR and RSR.

(2) The evaluation team prepares materials needed for the evaluation, such as evaluation plans and checklists, and coordinates with PDC/FFP and the Mission through PDC/FFP.

d. In-Country Coordination

The evaluation team, in conjunction with the Mission FFP officer or responsible person, makes plans for the coordination of meetings to discuss the evaluation with the: AID Mission Director, appropriate ministry representative, in-country Voluntary Agency directors, and other cooperating sponsors.

e. Evaluations

The evaluation team carries out the evaluation in accordance with the study model (see 13C.3) taking into consideration the special needs as developed during the above conferences and coordinating meetings.

f. Preparation of Evaluative Study

Subsequent to the in-country evaluation, a comprehensive evaluative report will be prepared by the evaluation team in accordance with PDC/FFP guidelines. The reports will present the findings of the evaluation in a consistent manner as needed to effectively fulfill the intended purpose of the evaluation.

g. Completion of Evaluation Report

An evaluation report is not considered completed until comments from the USAID Mission, cognizant offices in AID/W and other agencies and Voluntary Agencies have been appended to the report.

h. Project Evaluation Summary (PES)

A PES will be prepared following each evaluation as appropriate.

13D. Title III Activities (See Chapter 53D)

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ATTACHMENT 13A

Title II Evaluation Study Questions

STUDY QUESTIONS & APPRAISAL OF BASIC MINIMUM REQUIREMENTS

REQUIREMENTS TO MEET TITLE II OFFICE INFORMATION NEEDS		<p>CODES:</p> <p><u>Column 1</u> ("Basic Minimum" Status of Operation)</p> <p>B = "Basic Minimum," to be included in all studies</p> <p>D = Inclusion in study design to be decided in discussion with in-country entities</p> <p><u>Column 2</u> (Depth of Analysis)</p> <p>E = Expert Opinion</p> <p>DR = Document Review</p> <p>V = Validation of reported information (i.e., review of methodology, assessment of the quality and representativeness of the data presented)</p> <p>PC = Description of program characteristics (document review, direct observation, interviewing)</p> <p>PO = Analysis of program outcomes (document review, direct observation and/or measurement, interviewing, microstudies)</p> <p>AC = Assessment of the causes of program outcomes or changes over time (document review, direct observation and/or measurement, interviewing, microstudies)</p>
BASIC MINIMUM STATUS OF STUDY QUESTIONS	DEPTH OF ANALYSIS	STUDY QUESTIONS
B	E, DR	<p>I. <u>COUNTRY CONTEXT</u></p> <p>A. <u>PROBLEM ANALYSIS</u></p> <p>1. <u>Existence of Nutrition and Related Problems</u></p> <p>1.1 What are the major nutritional problems of the country? Which of these problems are endemic, cyclical, or acute?</p> <p>1.2 In what parts or socio-cultural/agro-ecological areas within the country are these problems most prevalent?</p>

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
D		1.3 What groups of people are most affected by these problems? Do these groups differ by area? If so, in what ways?
D		1.4 Are related indicators of health and well-being consistent with the nutritional status of these areas and people (e.g., infant mortality rates, birth weights, percentages of premature births)?
B	E, DR	2. <u>Identification of Target Groups</u> 2.1 Which groups within the country have been identified as the "most vulnerable" and "most needy"?
B	E	2.2 What criteria were used in making these decisions?
B	E	2.3 Are these criteria sound given the background information regarding nutrition and related problems?
B	V	2.4 Are the "most vulnerable" and "most needy" identified through the application of these criteria consistent with the groups of people found to be most affected by prevalent nutrition and related problems within the different geographic areas of the country? If not, in what ways do they differ? Should they be consistent -- why/why not?
B	E, DR	3. <u>Etiology of Nutrition and Related Problems of Specific Target Groups</u> 3.1 What are the nutritional deficiencies associated with each nutrition problem?
D		3.2 What are the deficiencies in nutrition practices associated with each problem?
D		3.3 Are there deficiencies in environmental sanitation and other health practices that contribute to each nutritional problem?

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
D		3.4 What economic or social constraints are influencing the causes of each nutritional problem?
D		3.5 Do the causes of nutrition problems vary between socio-cultural/agro-ecological areas within the country? If so, in what ways?
		B. <u>POLICY AND PROGRAM ANALYSIS</u> 1. <u>Policy and Program Priorities by Participating Organization</u>
B	E, DR, V	1.1 What are the country's development policies related to nutrition, food, food aid, agriculture, health, and education as articulated in development plans or official statements?
B	E, DR, V	1.2 What host government priorities are assigned to these policy areas? Is the host government "investment portfolio" (i.e., national budget, donor loans) consistent with these policy priorities?
B	E, DR	1.3 What is the relationship between host government priorities and USAID priorities as reflected in the CDSS and other key Mission documents?
B	E, DR	1.4 What host government, AID Mission, and other donor-supported programs are currently being implemented (planned or discussed) that relate to nutrition or the availability and access of food to those suffering from malnutrition? What priority is given to these programs?
		2. <u>Major Uses of Title II and Food Aid</u>
B	E, DR, V	2.1 What role does food aid currently play in the development programs related to nutrition, availability and access to food, community development, health and education?
D		2.2 How do participating agencies rank or order the importance of food aid programs or projects relative to their other efforts?

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	PC	2.3 What programs are currently and prospectively supported with Title II resources? Which voluntary agency is the sponsor of each program?
B	PC	2.4 What services are offered by each program supported by Title II resources? Who are the intended beneficiaries?
		3. <u>Perceived Objectives for Title II Food Aid of Participating Entities</u>
B	PC	3.1 What accomplishments or benefits are expected by sponsoring Voluntary Agencies from each of the programs that they support?
B	PC	3.2 What accomplishment or benefits are expected by other participating entities (i.e., distributing agencies, related host governments, AID Missions, other donors, local leaders, and residents) from each program?
B	PC	3.3 Do different participating entities share the same objectives for each program? If not, how do their perspectives differ? Do differences influence the contributions made by participating entities positively or negatively?
		4. <u>Fit Between Policy and Program Priorities With Objectives for Use of Title II Food Aid</u>
D		4.1 Do the objectives of Title II-supported programs address the priorities of related development policies and programs? If not, should they?
B	E, PC, V	4.2 Are Title II-supported programs operating in the geographic areas identified by the "Problem Analysis" as having the most severe nutrition problems? Are they operating in geographic areas specified by host government and donor agencies as being priority? If not, should they be?

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
		<p>II. <u>CHARACTERISTICS OF TITLE II FOOD AND PROGRAMS</u></p> <p>A. <u>DESIGN, ORGANIZATION, AND SOUNDNESS OF TITLE II-SUPPORTED PROGRAMS</u></p> <p>1. <u>MCH and Other Child Feeding Programs</u></p> <p>1.1 How many distribution centers offer Title II-supported MCH services? Where are these centers located? With which organization(s) are they associated (e.g., missionary groups, government, etc.)?</p> <p>1.2 What is the range of services offered by these centers?</p> <p>1.3 What accomplishments or benefits are expected from the program? (Same as 1.B.3)</p> <p>1.4 Are these activities and services likely to produce the necessary and sufficient conditions for achieving the accomplishments or benefits expected from the program? Do they address the factors that are central to the etiology of the nutrition problems of beneficiaries?</p> <p>1.5 Have targets been set for service delivery and accomplishments or benefits? What are they?</p> <p>1.6 What types of personnel are responsible for providing Title II-supported services? How many? What is their preparation?</p> <p>1.7 What types of supplies are used in providing services and in what quantity (i.e., per 100 recipients) -- food (ration composition and size), medicines, vaccine, materials, etc.?</p> <p>1.8 Who has the responsibility for each aspect of the management of these resources (e.g., entry and control at port, transportation to distribution warehouses, distribution to centers, distribution to beneficiaries)? Which organizations backstop these functions? How reliably are these functions performed?</p>
B	PC	
B	PC	
B	PC	
B	E, PC	
B	PC	
B	PC, V	
B	PC	
B	PC	

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	PC, V	1.9 Where do service recipients come from? How far do they travel? Are services provided exclusively in the centers? If not, what other delivery mechanisms are employed?
B	PC, V	1.10 How many beneficiaries receive services in the centers (or through other delivery mechanisms)?
B	PC	1.11 What proportion of personnel time is spent providing or supporting Title II program services (in the center; through alternative delivery mechanisms) by type of delivery service? What type of supervision do they receive and with what frequency?
B	PC	1.12 Is the progress of recipients (growth and development, nutritional practices, health protection, etc.) monitored? If so, how, and who is responsible? Are the results shared with the beneficiary? If so, how and when?
B	PC, V	1.13 What are the responsibilities of the beneficiaries for achieving program results? Are these responsibilities spelled out in the form of an agreement or contract with the beneficiary from the start? Is compliance with the agreement monitored? If so, how? How is the agreement enforced?
B	PC	1.14 Are there factors outside of the control of program managers and implementors that can impede/expedite the achievements of program outcomes? If so, what are they, and in what ways do (can) they influence outcomes, and how critical is their influence of these outcomes? Is their influence monitored? If so, by whom and how? What resource is available to managers and implementors to obtain assistance in trying to influence these factors?
		2. <u>School Feeding Program</u>
B	PC	2.1 How many schools offer feeding programs? What grade levels benefit from these programs? What is

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
		the age distribution of the student beneficiaries? With which organization(s) are these schools associated?
B	PC, V	2.2 How many children receive program services? Is there a selection procedure used to determine who should receive services? If so, what criteria are used?
B	PC	2.3 Is the food taken home or eaten at school? What is the composition and size of the ration given to a child?
B	PC, V	2.4 Are other services provided (e.g., classroom nutrition and health education, guidance to parents)?
B	PC	2.5 What accomplishments or benefits are expected from the program? (Same as 1.B.3)
B	E, PC	2.6 Are the feeding program and other services likely to produce the desired results?
B	PC	2.7 Who is responsible for the feeding and other services? How have they been prepared to offer these services? What is the ratio of staff to children? What proportion of their time do they spend on program activities? What type of supervision do they receive and with what frequency?
B	PC	2.8 Who is responsible for each aspect of the food management, from port of entry to food-preparation/distribution? Which organizations backstop these functions performed?
B	PC	2.9 Who finances program resources and other expenses?
B	PC, V	2.10 What are the responsibilities of the parents for achieving program results? Are these responsibilities spelled out in the form of an agreement or contract from the start? Is compliance with the agreement monitored? If so, how? How is the agreement enforced?

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	PC	2.11 Are there factors outside of the control of program managers and implementors that (can) impede/ expedite the achievement of program results? If so, what are they, in what ways do (can) they influence the results, and how critical is their influence to the achievement of these results? What resource is available to managers and implementors to obtain assistance in trying to influence these factors?
		3. <u>Food for Work Projects</u>
B	PC	3.1 What types of projects are supported with Title II resources?
B	PC	3.2 What are the short-term and long-term objectives of each type of project? Are objectives and targets made explicit during the planning stage?
B	PC	3.3 How are project requests initiated? By whom and with what impetus?
B	PC, V	3.4 What criteria are used for selecting projects?
B	PC, V	3.5 Is the feasibility of these projects examined prior to selection? If so, against what criteria and how, and who conducts the assessment? What preparation does this individual have?
B	PC	3.6 Who is responsible for managing FFW projects? How is this decided, by whom, and when?
B	PC, V	3.7 Are these projects supported by specific entities. If so, which ones and how?
B	PC, V	3.8 Are projects supervised? If so, how, with what frequency, and by whom? What authority do supervisors have to suggest changes in the project or to obtain outsider assistance?
B	PC, V	3.9 What types of food rations are provided to project workers (composition, size)? How does the fair market value of food compare to standard wages

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
		3.9 in the project areas? Are cash wages also pro- (Cont.) vided? If so, in what proportion to the value of the food ration?
B	PC, V	3.10 What other resources are provided to the projects? Who pays for and supplies these resources? How reliable is the delivery?
B	PO, V	3.11 How many persons are employed by these projects? How regular is worker attendance? What is the age and sex and, e.g., caste distribution of proj- ect workers? What is the normal employment status of workers?
B	PC	3.12 How does the scheduling of these projects relate to crop cycles or other employment seasons?
B	PC, V	3.13 Do projects provide for the training of workers?
B	PC, V	3.14 Are productivity or production incentives offered by projects?
B	PC, V	3.15 Is progress monitored? If so, how, by whom, and with what frequency?
B	PC, V	3.16 To what extent are community or local organiza- tions involved in FFW projects? What is their involvement (i.e., project identification, proposal formulation, etc.)?
		B. EFFECTIVENESS OF TITLE II-SUPPORTED PROGRAMS
		1. <u>MCH and Other Child Feeding</u>
B	PO	1.1 To what extent have short- and long-term program objectives been met? Illustrative examples:  a. <u>Short term</u>  - Mothers adopt prescribed feeding practices;  - Mothers bring children to center on regular basis;

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	E, AC	<p>1.1 (Cont.)</p> <ul style="list-style-type: none"> <li>- Mothers ensure children are immunized and receive treatment for illnesses opportunistically;</li> <li>- Children's rate of growth (height, weight anthropometric measurements) approximates or reaches normal.</li> </ul> <p>b. <u>Long term</u></p> <ul style="list-style-type: none"> <li>- Children enter normal growth range;</li> <li>- Mothers retain nutritional practices;</li> <li>- Families capable of obtaining or growing/raising adequate food supply on a sustained basis;</li> <li>- "Graduated" children sustain normal growth patterns.</li> </ul> <p>1.2 Which elements of an MCH program, or combination of elements are responsible for positive results? For example:</p> <ul style="list-style-type: none"> <li>- Food ration as an effective incentive for clinic attendance;</li> <li>- Food ration as a means of meeting the nutritional requirements of beneficiaries;</li> <li>- Efficacy of nutrition education in changing nutritional beliefs, attitudes, and practices;</li> <li>- Contractual relationship (and its enforcement) as an effective modifier of nutrition behavior;</li> <li>- Growth surveillance as an effective means of reinforcing positive nutrition behavior, monitoring progress, and identifying family negligence;</li> <li>- Etc.</li> </ul>

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
D		1.3 What is the most cost-effective MCH strategy employed in-country?
D		1.4 What secondary effects (positive, negative) are associated with MCH programs? Illustrative exs.: <ul style="list-style-type: none"> <li>- Better personal hygiene;</li> <li>- Improved child care practices;</li> <li>- Increased/decreased family production of basic food needs or income generating crops;</li> <li>- Reduced prevalence of alcoholism;</li> <li>- Increased prevalence of spacing between births;</li> <li>- Increased community support for health, agricultural, or educational programs;</li> <li>- Increased income generating activity of family members (other than agricultural);</li> <li>- Etc.</li> </ul>
B	PO	2. <u>School Feeding Programs</u> 2.1 To what extent have short- and long-term program objectives been met? Illustrative examples: <ul style="list-style-type: none"> <li>a. <u>Short Term</u> <ul style="list-style-type: none"> <li>- Attendance increased;</li> <li>- Drop out rates decreased;</li> <li>- Increased attention span and decrease in the incidence of in-class naps;</li> <li>- Understanding of basic food requirements and proper personal hygiene acquired;</li> <li>- Students absorb more information.</li> </ul> </li> </ul>

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	E, AC	<p>2.1 b. <u>Long Term</u></p> <ul style="list-style-type: none"> <li>- Students retain more information;</li> <li>- Student growth rates approximate or reach normal;</li> <li>- Parents of students adopt recommended feeding practices.</li> </ul> <p>2.2 Which elements of School Feeding Programs, or combination of elements are responsible for positive results? For example:</p> <ul style="list-style-type: none"> <li>- Food ration as an effective incentive for school attendance;</li> <li>- Food ration as a means of meeting nutritional requirements of school children;</li> <li>- Efficacy of nutrition education in conveying proper food practices;</li> <li>- Parent orientation and responsibility/ involvement as an effective means of introducing improved nutritional practices in the home;</li> <li>- Growth surveillance as an effective means of reinforcing positive nutrition behavior, monitoring progress, and identifying family negligence;</li> <li>- Etc.</li> </ul>
D		<p>2.3 What secondary effects are associated with School Feeding?</p> <ul style="list-style-type: none"> <li>- Initiation of new parent-teacher activities;</li> <li>- Promotion of community support for school improvements and/or nonformal education activities;</li> <li>- Etc.</li> </ul>

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	PO	3. <u>Food for Work</u>
B	PO	3.1 Were projects completed on schedule? Do Title II-supported projects have a better/worse track record than other locally supported projects?
B	PO, V	3.2 Do leading indicators suggest that intended benefits are or will be received by intended beneficiaries? For example: <ul style="list-style-type: none"> <li>- Travel time to service facilities reduced;</li> <li>- Access to markets improved;</li> <li>- Increase in number of hectares available for or under cultivation per family;</li> <li>- Land use practices improved;</li> <li>- Etc.</li> </ul>
B	PO, V	3.3 What benefits were obtained by workers and their families during project implementation? For example: <ul style="list-style-type: none"> <li>- Increase in off-season family income;</li> <li>- New skills acquired;</li> <li>- New work habits acquired (e.g., productivity, quality standards);</li> <li>- Capital accumulation for family investment (e.g., schooling, farm improvements);</li> <li>- Etc.</li> </ul>
D		3.4 Is there evidence of long-term benefits to participating families and communities? For example: <ul style="list-style-type: none"> <li>- Generation of additional self-help projects;</li> <li>- Strengthened community organizations;</li> </ul>

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
D		<p>3.4 (Cont.)</p> <ul style="list-style-type: none"> <li>- Sustained source of family or community income (e.g., family or community livestock enterprise);</li> <li>- Etc.</li> </ul> <p>3.5 What secondary effects (positive, negative) resulted from the project?</p> <ul style="list-style-type: none"> <li>- Change in equity of income or status among families;</li> <li>- Resistance to future outside assistance;</li> <li>- Increased/reduced factionalism;</li> <li>- Etc.</li> </ul>
B	E, V	<p>C. INFLUENCE OF POLICIES AND OPERATING PROCEDURES GUIDELINES OF PARTICIPATING ENTITIES ON TITLE II- SUPPORTED PROGRAM OPERATIONS AND RESULTS</p> <p>1. How do the policies and operating procedures of participating entities influence the following functions and their outcomes (i.e., positive or negative effects):</p> <ul style="list-style-type: none"> <li>- Selection of target groups and sites;</li> <li>- Setting of behavioral change and impact objectives for intended beneficiaries;</li> <li>- Design of program intervention strategy;</li> <li>- Availability of appropriate commodities;</li> <li>- Food management efficiency;</li> <li>- Interface with recipients;</li> <li>- Assessment of results;</li> <li>- Other</li> </ul>

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	V	<p>2. Are modifications in policies or operating procedures justified based on technical evidence? If so, what do these changes imply in terms of administrative capacity, control, and level of effort?</p>
B	E	<p>3. Are new policies or operating procedures required? If so, what is the rationale for their adoption? What do they imply in terms of administrative capacity, control, and level of effort?</p>
B	E	<p>4. What is the reaction of the officials from the respective participating organizations to these proposed changes? Do they agree that they will result in the anticipated improvements in operations and results? Do they feel that they are feasible to adopt? If not, what alternatives do they recommend?</p>
B	E	<p>III. <u>USES OF STUDY FINDINGS</u></p> <p>A. What factors are associated with the successes and failures of the different Title II-supported programs? Are factors related to success readily replicable or are they situationally specific? Are factors related to failures inherent in the program design or are they a function of the specific application? To what extent can they be replicated? To what extent can they be controlled or avoided?</p>
B	E	<p>B. What changes should be made in the design of the different Title II-supported programs based on study findings? What reactions do program managers and implementors have to these changes? Do they feel that they are feasible and will result in anticipated program improvements (i.e., efficiency, effectiveness, impact)? If not, what changes do they recommend that will produce the same improvements?</p>

BASIC MINI- MUM STATUS	DEPTH OF ANAL- YSIS	STUDY QUESTION
B	E	<p>C. Do study findings suggest that new uses of Title II resources should be supported that will achieve priority policy and program objectives? What are the reactions of policy makers and program managers to these proposals?</p>



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CHAPTER 14  
AG AUDITS AND VOLUNTARY AGENCY  
INTERNAL REVIEWS

14A. General

1. The Auditor General of AID is responsible for auditing the programs and operations of the agency, including P.L. 480 (Titles I, II, and III) activities. Under the P.L. 480 Title II program, cooperating sponsors (usually U.S. Voluntary Agencies or cooperating governments) are responsible for program development and operations. This responsibility includes the proper use of commodities and/or funds from the time the Sponsor acquires control of them until they are properly used.
2. To implement this responsibility, AID requires that the Voluntary Agencies conduct mutually agreed upon comprehensive internal reviews and submit reports thereon to appropriate Missions or Diplomatic Posts. In the case of programs administered by cooperating governments and inter-governmental agencies, AID/Washington determines responsibility for conducting internal audits on a case-by-case basis.
3. Even though responsibility for Title II program management vests in the cooperating sponsors, the AID auditor General is responsible for carrying out audits of sufficient scope to be able to form valid judgments concerning program integrity. This Chapter provides (a) a general description of the AG audit process, subsequent distribution of AG audit reports, and procedures for taking corrective action pursuant to audit report recommendation; and (b) guidance on the conduct of Voluntary Agency internal reviews in conformance with AID Regulation 11, Section 211.5(c).

14B. AG Audits of Cooperating Sponsors Title II Programs Implemented Under Transfer Authorizations and Agreement Procedures

1. Audit Notification Letter

The USAID Mission Director, AID Representative, or Diplomatic Officer, including the Food for Peace Officer or other designated U.S. official responsible for ensuring that the Title II programs are efficiently implemented within the restraints of the applicable laws, directives, regulations, and guidelines, are responsible for notifying the Voluntary Agency of a scheduled audit of its P.L. 480 program.

2. Entrance Conference

The cooperating sponsor (Voluntary Agency) will be included by the Mission or Diplomatic Post in the entrance conference which is intended to acquaint managers with the nature and extent of the planned audit to obtain management comments on areas of concern, and coordinate logistics for completing

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the audit. NOTE: Audits of Title II emergency programs will take into account the ability of the cooperating sponsor to perform the record-keeping normally required for nonemergency Title II programs. (See 9B3b and Appendix C, AID Regulation 11, Section 211.10(b)(5)).

### 3. Exit Conferences

a. In light of AID's policy to involve the Voluntary Agencies to the maximum extent possible in all aspects of the Title II programming process, it is essential that the Mission Director, AID Representative, or Diplomatic Officer notify and include the Food for Peace Officer and the Voluntary Agency Representative(s) in the formal or informal Exit Conferences held for the purpose of reviewing the results of AG audits.

b. The responsible AID Mission Director, AID Representative, or Diplomatic Officer will provide Cooperating Sponsors' Representatives and the Food for Peace Officer with the draft audit report for review and comment. Timely comments by either party with respect to the draft will be considered in the final audit report. In those instances where the AID Missions or Diplomatic Posts believe it improper to comply with the above procedure, they will advise PDC/FFP/W regarding the issues for our background and use in discussing the report with the Voluntary Agency headquarters in the United States.

### 4. Coordination and Distribution of Audit Reports

The final audit report is provided, by the AG, to the following:

a. Mission Director (AID Mission or Diplomatic Post). The AID Mission or Diplomatic Post will provide a copy of the report to the Voluntary Agency Country Director, if appropriate.

b. Action Office in AID/W (Geographic or Technical Bureaus).

c. AID/W - Additional 6 copies are distributed by Bureau for Private and Development Cooperation (AA/PDC) as follows: 1 copy for AA/PDC, 1 copy for PDC/PMS, 4 copies for PDC/FFP/W, and 2 copies to be transmitted to the appropriate Voluntary Agency U.S. Headquarters by PDC/FFP as appropriate.

NOTE: For Comprehensive Audits covering other AID activities, only that part of the report pertaining to P.L. 480, Title II, is provided by the AID Missions or Diplomatic Posts and PDC/FFP/W to the Voluntary Agency for review and/or action as appropriate.

### 5. Actions for Clearing and Reporting on Audit Recommendations

a. Action on audit recommendations should be initiated immediately. Reports of action should address each open audit recommendation directly

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and include concise descriptions of (1) the corrective actions taken if the deficiency has been corrected; or (2) the corrective action planned if the deficiency cannot be immediately corrected; or (3) the reason for not taking the action recommended along with any alternative proposals that may be appropriate. Copies of AID Mission or Diplomatic Post reports of actions taken are to be provided to AID/W-PDC/FFP. (AG report transmittal memoranda to action offices include instructions for reporting on the status of open audit recommendations.) The AID Mission or Diplomatic Post are to also provide copies of all correspondence received from the AG with respect to audit recommendations for which they are the action office to AID/W-PDC/FFP.

b. The AID Missions or Diplomatic Posts are responsible for assisting the Voluntary Agency in implementing each open recommendation until such recommendations are properly implemented and closed by the Area Auditor General (AAG). A copy of all Mission responses to the AAG concerning audits of P.L. 480 programs are to be provided AID/W-PDC/FFP.

c. AID/W-PDC/FFP is responsible for providing the AAG with a report of action taken to implement those recommendations directed to FFP for action. A copy of this report is provided to the appropriate VolAgency(ies), AID Mission or Diplomatic Post, Geographic Bureau Desk Officer, AG/PPP/AID/W, and the Food for Peace Officer. The AAG, in turn, notifies PDC/FFP if action taken satisfies the recommendation or whether further action is necessary.

d. Voluntary Agency headquarters makes comments on only those issues relating and directed to the Voluntary Agency headquarters in the United States for action. AID/W-PDC/FFP coordinates with the Voluntary Agency in reporting these actions to the AAG.

e. AID/W-PDC/FFP provides an overall AID/W report of actions taken to implement and clear the audit report findings and recommendations to the AAG, with a copy to the AID Missions or Diplomatic Posts, AID/W Geographic Bureaus and Voluntary Agency headquarters as appropriate.

f. AID/W-PDC/FFP, as the technical backstop office for all P.L. 480 overseas activities, has action responsibility for collaboration and followup with AID Missions or Diplomatic Posts on all open AG recommendations pertaining to P.L. 480 programs directed to them for implementation.

#### 14C. Audits of Other Title II Cooperating Sponsor Programs

AID Regulation 11, Section 211.5(c)(2), states: "In the case of programs administered by cooperating governments and intergovernmental organizations, responsibility for conducting internal audit examinations shall be determined by AID/W on a case-by-case basis."

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#### 14D. AG Audits of Titles I and III Programs

##### 1. Coordination and Distribution of P.L. 480, Titles I and III AG Audit Reports

The final Titles I and III AG Audit Report is provided, by the AG, to the following:

- a. Mission Director (AID Mission or Diplomatic Post).
- b. Action Offices in AID/W (Geographic or Technical Bureau) as appropriate.
- c. AID/W Bureau for Private and Development Cooperation, for distribution as follows:
  - (1) AA/PDC
  - (2) PDC/FFP

##### 2. Action Responsibilities with Respect to Titles I and III AG Audit Reports

Action on AG Audits of P.L. 480, Titles I and III activities, follow much the same procedures as those for implementing P.L. 480, Title II audits.

a. Action on audit recommendations will be initiated immediately. Reports of action address each open audit report recommendation directly, and should include, as applicable, concise descriptions of: (1) the corrective actions taken if the problem noted has been corrected; (2) the corrective action planned if the problem noted in the report cannot be immediately corrected; or (3) the reason for not taking the action recommended along with any alternative proposals that may be appropriate.

b. The Action Office (i.e., AID Mission or Diplomatic Post, Geographic Bureau/AID/W, or AID/W-PDC/FFP) provides an overall "Report of Actions," taken to implement and clear audit report findings and recommendations, to the Area Auditor General (AAG) and to AID/W-PDC/FFP. Copies of AID Mission or Diplomatic Post reports of actions taken are to be provided to AID/W-PDC/FFP. (AG report transmittal memoranda to action offices include instructions for reporting on the status of open audit recommendations.) The AID Missions or Diplomatic Posts are to also provide copies of all correspondence received from AG with respect to the audit recommendations for which they are the action office.

#### 14E. Internal Reviews (Voluntary Agencies)

##### 1. General

Voluntary Agencies are required by AID Regulation 11, Section 211.5(c)(1), to schedule internal reviews at intervals mutually agreed upon, in writing,

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14E1

by the AID Mission, or Diplomatic Post and to conduct or arrange to have conducted comprehensive internal reviews or a series of examinations which, when combined will cover a complete review of their Title II program. The report on the results of internal reviews will be provided to the AID Missions, or Diplomatic Posts with copies to AID/W-PDC/FFP, and the appropriate AAG in accordance with AID Regulation 11, Section 211.10(b)(3 and 4). While the internal review is the responsibility of the Voluntary Agency, the procedure used to conduct the review, together with a schedule or date(s) that the review will be conducted and submitted, must be approved by the AID Mission or Diplomatic Post. Attachment 14A is provided for assisting AID Missions and Voluntary Agencies in developing an internal review that must cover all areas of their Title II program.

## 2. Internal Review Policy

a. It is AID Policy that VolAgency internal reviews, which cover all areas of a P.L. 480, Title II program, may be conducted by the Voluntary Agency themselves or they may choose to use outsiders to conduct the reviews.

b. The review may be performed by Voluntary Agency personnel assigned to the country program or outside groups may be used to conduct the reviews. However, Voluntary Agencies are encouraged to use personnel not directly assigned to a Title II program for conducting internal reviews. (NOTE: CARE usually uses outside groups, and CRS maintains staff that usually conducts the internal reviews of their Title II programs. Other Voluntary Agencies usually perform their internal reviews themselves.)

c. It is the responsibility of the AID Missions to see that (1) the requirement for the internal review is fully met by the Voluntary Agencies, (2) the internal review is conducted and that it covers all areas of the Title II program, and (3) that corrective action has been taken to recommendations made in the report.

d. The Voluntary Agencies together with the AID Missions or Diplomatic Posts will mutually agree, in writing, upon a schedule (dates, etc.) for conducting the internal review and for submitting the internal review report along with a review procedure that will cover all areas of the Title II program.

e. Since the AID Missions are responsible for recommending program approval, control, and overall program monitorship, the AID Mission together with the Voluntary Agency, is therefore responsible for deciding the minimum frequency of internal reviews.

## 3. Mission Reporting Requirements

The Missions or Diplomatic Posts will provide PDC/FFP/W with (a) a copy of the internal review procedure to be used by the VolAgencies and schedule

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(date review will be conducted and report provided AID Mission or Diplomatic Post) covering the Voluntary Agency Title II program, and (b) a copy of the internal review report, and a copy of the report of actions taken on recommendations made in the report.

4. Internal Review Outline/Checklist

Attachment 14A is a general outline (review checklist) that may be used as guidance for the Voluntary Agencies for developing their internal review procedures. (This checklist is for general guidance only and its utilization is not mandatory.)

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ATTACHMENT 14A

SUGGESTED CHECKLIST FOR INTERNAL REVIEWS

OF P.L. 480 TITLE II PROGRAMS OF VOLUNTARY AGENCIES

A. RESPONSIBILITIES AND TIMING

The U.S. Representative of each VOLAG will be responsible for reviewing his/her own operations each year for submission to AID Mission by \_\_\_\_\_ (date) \_\_\_\_\_. For certain aspects of this review, he/she may invite consultants or representatives of other VOLAG's to assist in formulating and reinforcing recommendations.

B. PLACES TO BE REVIEWED

1. Central office of distributing agency (U.S.VOLAG) in (country) if distinct from recipient agency (national counterpart agency).
2. Central office of recipient agency.
3. Ports.
4. Warehouses.
5. Regional offices of distributing or recipient agency.
6. A representative sample of distributing centers in various regions.

C. OVERALL ASSESSMENT OF AGENCY'S CAPABILITY

1. Central office (appearance, size, location equipment, type of records maintained, status of files and reports).
2. Size and capability of staff (American and local) and number of field examiners.
3. Scope and quality of previous internal review and action taken on previous internal review recommendations.
4. Agency agreements and effectiveness of their implementation --
  - a. Summary of agreements:
    - (1) Between distributing agency and host government.

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C4a

(2) Between distributing agency and recipient agencies.

(3) Between distributing or recipient agencies and others.

b. Agreement coverage for the following:

(1) Survey of cargo discharge from ships.

(2) Prompt duty free entry.

(3) Right of distributing agency and AID Mission representatives to examine records of operations, inspect foods in storage and observe food utilization operations.

(4) Distributing Agency authority to travel within the country and make control decisions involving program operations.

(5) Confiscation by police of foods displayed in black markets and return of such food to responsible distributing agency.

(6) Payment of food distribution costs.

(7) Others - specify.

5. General recommendations for improving agency's capability.

D. REVIEW OF AGENCY POLICY AND PROGRAM GUIDELINES AND THEIR IMPLEMENTATION

1. Eligibility of Recipients

a. What written guidelines or requirements have been prepared by the Agency to share with groups soliciting food? Are these guidelines known at all levels? Are they consistent with AID policy as described in the Title II Handbook?

b. What procedures are supposed to be used for approving new projects or terminating others? Are they applied in practice? If not, why not?

c. Select three specific projects belonging to different program categories (MCH, OCF or FFW), and verify how eligibility requirements (including payment of nominal fees, etc.) were applied.

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D1

d. Formulate recommendations for improving eligibility guidelines and their enforcement.

2. Computation of Food Requirements

a. How were rations in the AER determined for each program category?

b. Compare AER rations with rations applied in warehouse dispatch orders, and rations used in practice at three specific projects. Note and explain any discrepancies, indicating most suitable rations.

c. Is information on number of beneficiaries per project updated before warehouse dispatch orders are emitted for a given project?

d. Compare existing stocks at selected project sites and regional warehouses with "normal" distribution rates according to approved rations and number of beneficiaries, and account for any excedents or supposed losses.

e. Formulate recommendations regarding methods of computing, updating and controlling food requirements.

3. Adequacy of Physical Facilities and Equipment

a. Ports.

b. Central warehouse.

c. Regional warehouses.

d. Selected project site food deposits.

e. Feeding centers.

E. REVIEW OF CONTROL DOCUMENTS AND INFORMATION SYSTEM

1. The description of the central and regional office information system will be done by following in theory the "life-cycle" of a typical Title II food shipment, from the shaping of the program plan and AER through final reports on distribution and end-use. Each step will be numbered, and any theoretical gaps in the information "system" noted. Steps to be covered given below, in section F.

2. Theory will be checked against reality by following the "case history" of a specific oil shipment and a specific flour

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E.

shipment, noting points where the information system failed in practice, or where decisions were not taken despite adequate information, indicating why and who was responsible.

3. Specific recommendations will be made for improving the design of the Agency's information system and for enforcing its application.

F. STEPS TO CHECK IN THE "LIFE-CYCLE" OF A SHIPMENT

1. Basis for preparing Annual Budget Submission estimates of foods needed in a future year.
  2. Basis for preparing program plans for AID Mission relationship to overall activities of the Agency.
  3. Basis for submitting Annual Estimates of Requirements.
  4. Basis for submitting Call Forwards.
  5. Shipping documents emitted by VOLAG's home office and their usefulness and timeliness.
  6. Documentation and procedures required for securing port clearance of shipments.
  7. Survey reports and filing of claims for ocean loss.
  8. Control of port losses and claims.
  9. Control of transport to central warehouses.
  10. Control of warehouse inventory and losses.
  11. Control of updated food requirements for each project or region.
  12. Basis for and frequency of warehouse dispatch orders to projects or regions.
  13. Control of inland loss during transport from central warehouse to regions or projects.
  14. Control of warehouse loss at region and project sites.
  15. Method of disposal of damaged commodities.
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F.

16. Claims made for inland losses.

17. Control of distribution from regional warehouses to project sites.

18. Methods of distribution, and control documents at project sites.

19. Frequency and form of end-use checks and inspections, including reports and actions taken.

20. Control and utilization of funds from inscription and container fees.

21. Actions taken to avoid sale or trade of commodities by beneficiaries.

22. End-use reports provided by beneficiaries and by regional offices.

23. Basis for preparing commodity and recipient status reports required by AID Mission.

24. Actions taken to ensure that overall distribution levels are within approved AER limits.

25. Coordination of use of Title II commodities with foods provided by other donor agencies.

a. Distribution of non-Title II foods by same agency;  
and

b. Avoidance of duplication of beneficiaries with other agencies' programs.

G. SUMMARY OF RECOMMENDATIONS

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A P P E N D I X    A  
D E F I N I T I O N S

Lists of definitions of terms, phrases, and abbreviations as used in the Title II handbook.

Terms and Phrases

Activity	An arrangement for the utilization of Title II commodities under an approved project, in which each party to such arrangement (cooperating sponsor, host country government, local entity, food recipients) provides his/her agreed input and exercises his/her rights.
Agreements	The Food for Peace agreement between the cooperating sponsor and the U.S. Government. In most instances, the cooperating sponsor is a U.S. voluntary agency or an intergovernmental organization; e.g., UNICEF.
AID	The Agency for International Development or any successor agency.
AID/W	The Office of AID located in Washington, D.C.
Bill(s) of Lading (B/L)	A receipt for cargo signed by the vessel's master and used as a document of title to the goods by the shipper.
Child Feeding	The category of feeding programs and projects designed to reach women of child bearing age, infants, and children up to the age of 6. Child Feeding Programs include Maternal/Child Health and other child feeding programs and projects including, Preschool Child Feeding, institutionalized and noninstitutionalized programs.
Commodities	Food, transferred or available for transfer to cooperating sponsors under the P.L. 480 legislation.
CCC	The Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

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Cooperating Sponsor	Refers to the foreign government, the U.S. registered voluntary agency, or the inter-governmental organization which enters into an agreement with U.S. Government for the use of P.L. 480, Title II, agricultural commodities and/or funds (including local currencies).
Coordinating Council	A voluntary organization made up of representatives from the U.S. voluntary agencies in a foreign country.
Consular Invoice	An invoice prepared on a special form obtained from a foreign government and signed by its official to secure the importation of goods into that country.
Container(s)	The bag, box, can or other receptacle in which Title II commodities are packaged in the United States or repackaged elsewhere. It does not refer to receptacle(s) provided by carriers to accommodate logistics or special handling; e.g., containerization.
Counterpart	An entity, indigenous to the country in which a Title II program is conducted, which is associated with and is sometimes sponsored by the cooperating sponsor in the implementation of an approved Title II feeding program.
Country Team	The Country Team is headed by the Chief of Diplomatic Mission. Its membership for Title II activity includes the principal officer or his/her designee of each affected U.S. Government agency within the country.
Delivery Survey Report	The same as a Discharge Survey Report except that it covers the cargo when cleared through customs and/or port authorities or other jurisdictions, when applicable, to the point where custody is taken by the cooperating sponsor. (See AID Regulation 11, Sections 211.9(e)(1), 211.9(c)(1)(i), 211.9(c)(1)(v).
Diplomatic Posts	Office of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular offices.
Disaster Relief Organizations	Organizations which are authorized by AID/W, a Mission, or by a Diplomatic Post to assist disaster victims.

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Disaster Victims	Persons who, because of natural or manmade disaster, or extraordinary relief requirements, are in need of assistance.
Discharge Survey	A report prepared by an independent commercial firm based on a thorough examination of the cargo when it is discharged from the vessel at the destination port. Contains an accounting of the quantity discharged in sound and in damaged condition with details relating to the nature and extent of the damaged, as well as the probable cause of damage.
Displaced Persons	Persons in need because they fled from their homes as a result of civil strife and are living in a part of their country of nationality or residence other than that in which they normally earned a livelihood.
Distributing Agencies	Welfare agencies, disaster relief organizations, and public or private agencies which are sponsored by, and responsible to, the cooperating sponsor for handling commodities within the cooperating sponsor's distribution system.
Distribution Centers	The place for which commodities are issued to eligible recipients for consumption elsewhere (usually the recipient's home).
End of Ship's Tackle	This term indicates the point at which responsibilities for cargo may change to or from the carrying vessel. It generally refers to that point in operations where the cargo is picked up or placed at the vessel's side.
Feeding Center	The place where food is prepared and served to and consumed by a group of eligible recipients.
Food for Peace	The term used to describe the program authorized by the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), as amended.
Food for Peace Officer (FFPO)	Advises and assists Mission and counterpart personnel on P.L. 480 matters, and is responsible for Title II projects and activities. An FFPO may be assigned Regional responsibilities.
Friendly Country	A Country which is not "...dominated or controlled by a foreign government or organization controlling a world communist movement."

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General Average	An ocean shipping term for the principle that both the vessel and its cargo share the risk of the voyage and that damage beyond the control of the vessel is shared by the owners of the surviving cargo. (See Handbook 15, Chapter 8E.)
Home Office	Principal office of the U.S. voluntary agency or intergovernmental organization.
Institutions	Nonpenal, public, or nonprofit private establishments that are operated for charitable purposes.
Intergovernmental Organizations	Agencies sponsored and supported by the United Nations Organization (except the World Food Program) which is referred to as an intergovernmental activity) or by two or more nations, one of which is the United States of America.
Maternal/Child Health (MCH)	MCH programs are those designed to provide one or more health related service(s) to women of childbearing age and children under the age of 6. Such programs may integrate several services to include, <u>inter alia</u> , medical care, feeding, nutritional education, family planning, etc.
Maternal Child Health (MCH) Feeding Program	Food distribution projects, preferably a segment of a definite MCH program, in which women of childbearing age and infants up to one year old are the principal clients.
Mission	U.S. Government office in a foreign country which is responsible for AID's administration of Title II projects in the recipient country. It refers to an AID Mission or other AID country organization (see HB 17, Ch 4).
Mission Director	The Director of a Mission or, in the absence of a Mission, an AID Representative, or the principal officer of the Diplomatic Post.
Nonprofit	Means that the residue of income over operating expenses accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.
OMB	Office of Management and Budget
Other Child Feeding Programs	A feeding program designed to reach needy children in institutions or other child feeding facilities with the child as the only client.

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Outturn Report	Generally considered to be a report rendered by an interested party or independent commercial firm based on an examination of the cargo at the time it is discharged from the vessel at the destination port. Contains an accounting of the cargo discharged with general observations as to condition.
Physical Inventory	Includes those quantities of Title II commodities which are in custom warehouses, in cooperating sponsors' warehouses, in storage by the cooperating sponsors' counterpart distributing agencies, or which are in transit in the country from ports to internal warehouses or central points. It does not include stocks at schools, feeding centers, work sites, and institutions for immediate consumption, or stocks in transit from intermediate or central distribution points to recipients for immediate distribution centers.
Preschool Feeding Program	A feeding program conducted, generally through a center, with the preschool age child up to 6 as principal client and the mother involved to the maximum extent possible.
Program	An approved plan for utilizing available Title II commodities in authorized types of feeding arrangements for implementation by an eligible cooperating sponsor supplying Title II commodity assistance to approved categories of recipients.
Project	One part or portion of a cooperating sponsor's approved Title II feeding program in an overseas area or country - such as MCH school feeding, or other child feeding arrangements for approved categories of recipients.
Recipients	Persons eligible to receive commodities for their own use in accordance with the terms and conditions of an Agreement or Authorization.
Recipient agencies	Schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions are sponsored by the cooperating sponsor and who receive commodities for distribution to eligible recipients. A cooperating sponsor may be a recipient agency.
Refugees	Persons in need because they fled or were expelled from their country of nationality or residence and are living in a country other than the one in which they hold or have held citizenship.

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Regulation	In this Handbook "The Regulation" refers to AID Regulation 11, as amended, which is included as Appendix C.
School Feeding Programs	Programs conducted for the benefit of children under the age of 14 years enrolled in schools receiving formal education through the equivalent of the U.S. primary school.
Sponsor	Refers to the entity with which the U.S. Government enters into an agreement involving the use of Section 204, P.L. 480, funds. A sponsor may or may not be a cooperating sponsor.
Staff	Those persons who serve on a paid or volunteer basis as supervisors, managers, teachers, auditors, accountants, nutritionists or dietitians, cooks, dishwashers, janitors, or other persons who serve in some capacity in the management or operations of a central facility engaged in Title II food distribution.
Third Party	An entity or individual other than the U.S. Government or the cooperating sponsor who has assigned or contractual responsibilities for some aspect of an approved Title II feeding program, project or activity.
Transfer	The Food for Peace agreement between a specified Authorization (TA) cooperating sponsor(s) and the U.S. Government. Generally, Transfer Authorizations constitute government-to-government agreements.
USDA	The U.S. Department of Agriculture.
Voluntary Agency	Refers to any voluntary nonprofit agency registered with, and approved by, the Agency for International Development
CFA	The Committee on Food AID Policies and Programs is the governing body that provides general guidance on the policy, administration, and operation of the WFP. It, also, helps evolve and coordinate short-term and longer term food-aid policies recommended by the World Food Conference.
World Food Program	An intergovernmental activity sponsored by the United Nations and the Food and Agriculture Organization and supported through contributions of commodities, services, and funds by donor countries.

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World Food Program  
Transfer  
Authorization

The agreement between the World Food Program and the U.S. Government, as amended, which authorizes the transfer of Title II commodities to the World Food Program.

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APPENDIX B

1. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480)
2. Delegations of Authority
  - a. Executive Order 12220 effective June 27, 1980<sup>1/</sup>
  - b. IDCA Delegation of Authority No. 5 (revokes State Department Delegation of Authority No. 104, except Section 2(a)(5))
  - c. AID Delegations of Authority 23 and 69, 84 and 69.1 (138-3)

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<sup>1/</sup>Revokes Executive Order 10900

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As amended through December 31, 1979 Annotation of related legislation included. Originally enacted July 10, 1954 (68 Stat. 454)

**Agricultural Trade Development and Assistance Act of 1954, as Amended  
Public Law 480 - 83d Congress**

**AN ACT**

**To increase the consumption of United States agricultural commodities in foreign countries, to improve the foreign relations of the United States, and for other purposes.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954."*<sup>1</sup>

SEC. 2. The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States.

Preamble

In furnishing food aid under this Act, the President shall—

(1) give priority consideration, in helping to meet urgent food needs abroad<sup>2</sup>, to making available the maximum feasible volume of food commodities (with appropriate regard to domestic price and supply situations) required by those countries most seriously affected by food shortages and by inability to meet immediate food requirements on a normal commercial basis;

General  
Criteria  
for  
PL 480

(2) continue to urge all traditional and potential new donors of food, fertilizer, or the means of financing these commodities to increase their participation in efforts to address the emergency and longer term food needs of the developing world;

(3) relate United States assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities;

(4) give special consideration to the potential for expanding markets for America's agricultural abundance abroad in the allocation of commodities or concessional financing; and

(5) give appropriate recognition to and support of a strong and viable American farm economy in providing for the food security of consumers in the United States and throughout the world.<sup>3</sup> (7 USC 1691.)

SEC. 3. Pursuant to the World Food Conference recommendation that donor countries provide a total of at least ten million tons of food assistance to needy nations annually, the President is urged to maintain a significant United States contribution to this goal and to encourage other countries to maintain and increase their contributions as well.<sup>3</sup> (7 USC 1691a.)

World  
Food  
Con-  
ference

#### TITLE I

SEC. 101. In order to carry out the policies and accomplish the objectives set forth in Section 2 of this Act, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of agricultural commodities for dollars on credit terms or for foreign currencies.<sup>4</sup> (7 USC 1701.)

Authority  
for  
Agree-  
ments

SEC. 102. For the purpose of carrying out agreements concluded under this Act the Commodity Credit Corporation is authorized to finance the sale and exportation of agricultural commodities whether from private stocks or from stocks of the Commodity Credit Corporation and, when requested by the purchaser of such commodities, may serve as the purchasing or shipping agent, or both, in arranging the purchase or shipping of such commodities.<sup>5</sup> (7 USC 1702.)

Purchas-  
ing  
and  
Shipping  
Agent

SEC. 103. In exercising the authorities conferred upon him by this title, the President shall—

(a) take into account efforts of friendly countries to help themselves toward a greater degree of self-reliance, including efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth;<sup>6</sup>

(b) take steps to assure a progressive transition from sales for foreign currencies to sales for dollars (or to the extent that transition to sales for dollars under the terms applicable to such sales is not possible, transition to sales for foreign currencies on credit terms no less favorable to the United States than those for development loans made under section 122 of the Foreign Assistance Act of 1961, as amended,<sup>7</sup> and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement) at a rate whereby the transition can be completed by December 31, 1971: *Provided*,<sup>8</sup> That except where he determines that it would be inconsistent with the objectives of the Act, the President shall determine the amount of foreign currencies needed for the uses specified in subsections (a), (b), (c), (e), and (h) of Section 104 and in title III, and the agreements for such credit sales shall provide for payment of such amounts in dollars or in foreign currencies upon delivery of the agricultural commodities. Such payment may be considered as an advance payment of the earliest installment;<sup>9</sup>

Converti-  
ble  
local  
Currency  
Credit  
Terms

SEC. 103

(c) take reasonable precautions to safeguard usual marketings of the United States and to assure that sales under this title will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

Usual  
Marketing  
Require-  
ments  
(also see)  
103 N  
Friendly  
Countries  
Definition

(d) make sales agreements only with those countries which he determines to be friendly to the United States: *Provided*, That the President shall periodically review the status of those countries which are eligible under this subsection and report the results of such review to the Congress. As used in this Act, "friendly country" shall not include (1) any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement, or (2) for the purpose only of sales of agricultural commodities for foreign currencies under title I of this Act, any country or area dominated by a Communist government.<sup>10</sup> Notwithstanding any other Act, the President may enter into agreements for the sale of agricultural commodities for dollars on credit terms under title I of this Act with countries which fall within the definition of "friendly country" for the purpose of such sales and no sales under this Act shall be made with any country if the President finds such country is (a) an aggressor, in a military sense, against any country having diplomatic relations with the United States, or (b) using funds, of any sort, from the United States for purposes inimical to the foreign policies of the United States;<sup>11</sup>

Military  
Aggressor

(e) take appropriate steps to assure that private trade channels are used to the maximum extent practicable both with respect to sales from privately owned stocks and with respect to sales from stocks owned by the Commodity Credit Corporation and that small business has adequate and fair opportunity to participate in sales made under the authority of this Act;

Private  
Trade  
Channels

(f) give consideration to the development and expansion of markets for United States agricultural commodities and local foodstuffs by increasing the effective demand for agricultural commodities through the support of measures to stimulate equitable economic growth in recipient countries, with appropriate emphasis on developing more adequate storage, handling, and food distribution facilities;<sup>12</sup>

Expansion  
of  
Markets

(g) obtain commitments from purchasing countries that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this title, without specific approval of the President;

Export  
Limi-  
tations

(h) obtain rates of exchange applicable to the sale of commodities under such agreements which are not less favorable than the highest of exchange rates legally obtainable in the respective countries and which are not less favorable than the highest of exchange rates obtainable by any other nation;

Rates  
of  
Exchange

(i) promote progress toward assurance of an adequate food supply by encouraging countries with which agreements are made to give higher emphasis to the production of food crops than to the production of such non-food crops as are in world surplus;

(j) exercise the authority contained in title I of this Act to assist friendly countries to be independent of domination or control by any

Communist  
Move-  
ment

SEC. 103(j)

world Communist movement. Nothing in this Act shall be construed as authorizing sales agreements, under title I with any government or organization controlling a world Communist movement or with any country with which the United States does not have diplomatic relations;<sup>13</sup>

Diplomatic Relations

(k) whenever practicable require upon delivery that not less than 5 per centum of the purchase price of any agricultural commodities sold under title I of this Act be payable in dollars or in the types or kinds of currencies which can be converted into dollars;

Initial Payment

(l) obtain commitments from friendly purchasing countries that will insure, insofar as practicable, that food commodities sold for foreign currencies under title I of this Act shall be marked or identified at point of distribution or sale as being provided on a concessional basis to the recipient government through the generosity of the people of the United States of America, and obtain commitments from purchasing countries to publicize widely to their people, by public media and other means, that the commodities are being provided on a concessional basis through the friendship of the American people as food for peace;

Case Amendment Marking and Publicity

(m) require foreign currencies to be convertible to dollars to the extent consistent with the effectuation of the purposes of this Act, but in any event to the extent necessary to (1) permit that portion of such currencies made available for payment of United States obligations to be used to meet obligations or charges payable by the United States or any of its agencies to the government of the importing country or any of its agencies, and (2) in the case of excess currency countries, assure convertibility by sale to American tourists, or otherwise, of such additional amount (up to twenty-five per centum of the foreign currencies received pursuant to each agreement entered into after the effective date of the Food for Peace Act of 1966) as may be necessary to cover all normal expenditures of American tourists in the importing country;

Sales to American Tourists

(n) take maximum precautions to assure that sales for dollars on credit terms under this Act shall not displace any sales of United States agricultural commodities which would otherwise be made for cash dollars;

Usual Marketing Requirements Fair Share Provision

(o) take steps to assure that the United States obtains a fair share of any increase in commercial purchases of agricultural commodities by the purchasing country and that commercial supplies are available to meet demands developed through programs carried out under this Act;<sup>14</sup>

(p) Assure convertibility at such uniformly applied exchange rates as shall be agreed upon of up to 50 per centum of the foreign currencies received pursuant to each agreement by sale to United States or purchasing country contractors for payment of wages earned in the development and consummation of works of public improvement in the purchasing country; and

(q) assure convertibility of up to 50 per centum of the foreign currencies received pursuant to each agreement by sale to United States importers for the procurement of materials or commodities in the purchasing country.<sup>15</sup> (7 USC 1703.)

SEC. 104.<sup>16</sup> Notwithstanding any other provision of law, the President may use or enter into agreements with foreign countries or international

SEC. 104

organizations to use the foreign currencies, including principal and interest from loan repayments, which accrue in connection with sales for foreign currencies under this title for one or more of the following purposes:<sup>17</sup>

(a) For payment of United States obligations (including obligations entered into pursuant to other legislation);

U.S.  
uses

(b) For carrying out programs of United States Government agencies to—

(1) help develop new markets<sup>18</sup> for United States agricultural commodities on a mutually benefitting basis. From sale proceeds and loan repayments under this title not less than the equivalent of 5 per centum of the total sales made each year under this title shall be set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and made available in advance for use as provided by this paragraph over such period of years as the Secretary of Agriculture determines will most effectively carry out the purpose of this paragraph: *Provided*, That the Secretary of Agriculture may release such amounts of the foreign currencies so set aside as he determines cannot be effectively used for agricultural market development purposes under this section, except that no release shall be made until the expiration of thirty days following the date on which notice of such proposed release is transmitted by the President to the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations and to the House Committee on Agriculture and the House Committee on International Relations if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.<sup>19</sup> Provision shall be made in sale and loan agreements for the convertibility of such amount of the proceeds thereof (not less than 2 per centum) as the Secretary of Agriculture determines to be needed to carry out the purpose of this paragraph in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities. Such sums shall be converted into the types and kinds of foreign currencies as the Secretary deems necessary to carry out the provisions of this paragraph and such sums shall be deposited to a special Treasury account and shall not be made available or expended except for carrying out the provisions of this paragraph. Notwithstanding any other provision of law, if sufficient foreign currencies for carrying out the purpose of this paragraph in such countries are not otherwise available, the Secretary of Agriculture is authorized and directed to enter into agreements with such countries for the sale of agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this paragraph. In carrying out agricultural market development activities, nonprofit agricultural trade organizations shall be utilized to the maximum extent practicable. The purpose of this paragraph shall include such representation of agricultural industries as may be required during the course of discussions on trade programs relating either to individual commodities or groups of commodities;

Market  
Develop-  
ment

Special  
Account

SEC. 104(b)

(2) finance with not less than 2 per centum of the total sales proceeds received each year in each country activities to assist international educational and cultural exchange and to provide for the strengthening of the resources of American schools, colleges, universities, and other public and nonprofit private educational agencies for international studies and research under the programs authorized by title VI of the National Defense Education Act, the Mutual Educational and Cultural Exchange Act of 1961, the International Education Act of 1966, the Higher Education Act of 1965, the Elementary and Secondary Education Act of 1965, the National Foundation on the Arts and the Humanities Act of 1965, and the Public Broadcasting Act of 1967.<sup>20</sup>

Educational and Cultural Exchange

(3) collect, collate, translate, abstract, and disseminate scientific and technological information and conduct research and support scientific activities overseas including programs and projects of scientific cooperation between the United States and other countries such as coordinated research against diseases common to all of mankind or unique to individual regions of the globe, and promote and support programs of medical and scientific research, cultural and educational development, family planning, health, nutrition, and sanitation.<sup>21</sup>

Medical and Scientific Research

(4) acquire by purchase, lease, rental, or otherwise, sites and buildings and grounds abroad, for United States Government use including offices, residence quarters, community and other facilities, and construct, repair, alter, and furnish such buildings and facilities.<sup>22</sup>

Acquisition of Buildings

(5) finance under the direction of the Librarian of Congress, in consultation with the National Science Foundation and other interested agencies; (A) programs outside the United States for the analysis and evaluation of foreign books, periodicals, and other materials to determine whether they would provide information of technical or scientific significance in the United States and whether such books, periodicals, and other materials are of cultural or educational significance; (B) the registry, indexing, binding, reproduction, cataloging, abstracting, translating, and dissemination of books, periodicals, and related materials determined to have such significance; and (C) the acquisition of such books, periodicals, and other materials and the deposit thereof in libraries and research centers in the United States specializing in the areas to which they relate;

Evaluation of Foreign Books, etc.

(c)<sup>23</sup>

(d) For assistance to meet emergency or extraordinary relief requirements other than requirements for food commodities: *Provided*, That not more than a total amount equivalent to \$5,000,000 may be made available for this purpose during any fiscal year;

Emergency Assistance

(e) For use to the maximum extent under the procedures established by such agency as the President shall designate for loans to United States business firms (including cooperatives) and branches, subsidiaries, or affiliates of such firms for business development and trade expansion in such countries, including loans for private home construction, and for loans to domestic or foreign firms (including cooperatives) for the establishment of facilities for aiding in the utilization, distribution, or other-

Cooley Loans

SEC. 104(e)

wise increasing the consumption of, and markets for, United States agricultural products: *Provided, however,* That no such loans shall be made for the manufacture of any products intended to be exported to the United States in competition with products produced in the United States and due consideration shall be given to the continued expansion of markets for United States agricultural commodities or the products thereof. Foreign currencies may be accepted in repayment of such loans;

(f) To promote multilateral trade and agricultural and other economic development, under procedures, established by the President, by loans or by use in any other manner which the President may determine to be in the national interest of the United States, particularly to assist programs of recipient countries designed to promote, increase, or improve food production, processing, distribution, or marketing in food deficit countries friendly to the United States, for which purpose the President may utilize to the extent practicable the services of nonprofit voluntary agencies registered with and approved by the Agency for International Development:<sup>24</sup> *Provided,* That no such funds may be utilized to promote religious activities;

Promotion  
of Multi-  
lateral  
Trade  
and  
Economic  
Develop-  
ment

(g) For the purchase of goods or services for other friendly countries;

(h) For financing, at the request of such country, programs emphasizing maternal welfare, child health and nutrition, and activities, where participation is voluntary, related to the problems of population growth, under procedures established by the President through any agency of the United States, or through any local agency which he determines is qualified to administer such activities. Not less than 5 per centum of the total sales proceeds received each year shall, if requested by the foreign country, be used for voluntary programs to control population growth;<sup>25</sup>

Family  
Planning

Popula-  
tion  
Control

(i) For paying, to the maximum extent practicable, the costs outside the United States of carrying out the program authorized in Section 406 of this Act;

(j) For sale for dollars to United States citizens and nonprofit organizations for travel or other purposes of currencies determined to be in excess of the needs of departments and agencies of the United States for such currencies. The United States dollars received from the sale of such foreign currencies shall be deposited to the account of Commodity Credit Corporation; and

Sale  
of Foreign  
(excess)  
Currencies  
to U.S.  
Citizens

(k) For paying, to the maximum extent practicable, the costs of carrying out programs for the control of rodents, insects, weeds, and other animal or plant pests;<sup>26</sup>

*Provided, That—*

(1) Section 1415 of the Supplemental Appropriation Act, 1953,<sup>27</sup> shall apply to currencies used for the purposes specified in subsections (a) and (b), and in the case of currencies to be used for the purposes specified in paragraph (2) of subsection (b) the Appropriation Act may specifically authorize the use of such currencies and shall not require the appropriation of dollars for the purchase of such currencies.<sup>28</sup>

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SEC. 104(k)

(2) Section 1415 of the Supplemental Appropriation Act, 1953, shall apply to all foreign currencies used for grants under subsections (f) and (g), to not less than 10 per centum of the foreign currencies which accrue pursuant to agreements entered into on or before December 31, 1964, and to not less than 20 per centum in the aggregate of the foreign currencies which accrue pursuant to agreements entered into thereafter: *Provided, however,* That the President is authorized to waive such applicabilty of Section 1415 in any case where he determines that it would be inappropriate or inconsistent with the purposes of this title.

Supple-  
mental  
Appropri-  
ation Act

(3) No agreement or proposal to grant any foreign currencies (except as provided in subsection (c) of this section), or to use (except pursuant to appropriation Act) any principal or interest from loan repayments under this section shall be entered into or carried out until the expiration of thirty days following the date on which such agreement or proposal is transmitted by the President to the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations and to the House Committee on Agriculture and the House Committee on International Relations,<sup>29</sup> if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

(4) Any loan made under the authority of this section shall bear interest at such rate as the President may determine but not less than the cost of funds to the United States Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having maturity comparable to the maturity of such loans, unless the President shall in specific instances after consultation with the advisory committee established under Section 407 designate a different rate: *Provided, further,* That paragraphs (2), (3), and (4) of the foregoing proviso shall not apply in the case of any nation where the foreign currencies or credits owned by the United States and available for use by it in such nation are determined by the Secretary of the Treasury to be in excess of the normal requirements of the departments and agencies of the United States for expenditures in such nations for the two fiscal years following the fiscal year in which such determination is made. The amount of any such excess shall be devoted to the extent practicable and without regard to paragraph (1) of the foregoing proviso, to the acquisition of sites, buildings, and grounds under paragraph (4) of subsection (b) of this section and to assist such nation in undertaking self-help measures to increase its production of agricultural commodities and its facilities for storage and distribution of such commodities. Assistance under the foregoing provision shall be limited to self-help measures additional to those which would be undertaken without such assistance. Upon the determination by the Secretary of the Treasury that such an excess exists with respect to any nation, the President shall advise the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations and the House Committee on Agriculture and the House Com-

Minimum  
Interest

Self-Help  
(Mondale  
Amend-  
ment)

SEC. 104(k)(4)

mittee on International Relations<sup>29</sup> of such determination; and shall thereafter report to each such committee as often as may be necessary to keep such Committee advised as the extent of such excess, the purposes for which it is used, or proposed to be used, and the effects of such use. (7 USC 1704.)

SEC. 105. Foreign currencies received pursuant to this Act shall be deposited in a special account to the credit of the United States and shall be used only pursuant to Section 104, and any department or agency of the Government using any of such currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used. The President shall utilize foreign currencies received pursuant to this Act in such manner as will, to the maximum extent possible reduce any deficit in the balance of payments of the United States. (7 USC 1705.)

Special  
Account

SEC. 106. (a) Payment by any friendly country for commodities purchased for dollars on credit shall be upon terms as favorable to the United States as the economy of such country will permit. Payment for such commodities shall be in dollars with interest at such rates as the Secretary may determine but not less than the minimum rate required by Section 122 (b)<sup>30</sup> of the Foreign Assistance Act of 1961 for loans made under that section.<sup>31</sup> Payment may be made in reasonable annual amounts over periods of not to exceed twenty years from the date of the last delivery of commodities in each calendar year under the agreement, except that the date for beginning such annual payment may be deferred for a period not later than two years after such date of last delivery, and interest shall be computed from the date of such last delivery. Delivery of such commodities shall be made in annual installments for not more than ten years following the date of the sales agreement and subject to the availability of the commodities at the time delivery is to be made.

Dollar  
Credit  
Sales  
And  
Terms

(b) (1) Agreements hereunder for the sale of agricultural commodities for dollars on credit terms shall include provisions to assure that the proceeds from the sale of the commodities in the recipient country are used for such economic development purposes as are agreed upon in the sales agreement or any amendment thereto. In negotiating such agreements with recipient countries, the United States shall emphasize the use of such proceeds for purposes which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.

Use of  
Sales  
Proceeds  
Provision

(2) Greatest emphasis shall be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning, and to carry out the program described in Section 406(a) (1) of this Act in those countries which are undertaking self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with Section 109 of this Act and which programs are directed at and likely to achieve the policy objectives of Sections 103 and 104 of the Foreign Assistance Act of 1961 and are consistent with the policy objec-

Self-Help

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SEC. 106(a)(2)

tives of this Act pursuant to agreements between the United States and foreign governments under which uses of such proceeds shall be made for such purposes.<sup>32</sup>

(3) In entering into agreements for the sale of agricultural commodities for dollars on credit terms under this title, priority shall be given to countries which agree to use the proceeds from the sale of the commodities in accordance with the country's agricultural development plan which—

(A) is designed to increase the access of the poor in the recipient country to an adequate, nutritious, and stable food supply;

(B) provides for such objectives as—

(i) making farm production equipment and facilities available to farmers,

(ii) credit on reasonable terms and conditions for small farmers, and

(iii) farm extension and technical information services designed to improve the marketing, storage, transportation, and distribution system for agricultural commodities and to develop the physical and institutional infrastructure supporting the small farmer;

(C) provides for participation by the poor, insofar as possible, in the foregoing at the regional and local levels; and

(D) is designed to reach the largest practicable number of farmers in the recipient country.<sup>33</sup> (7 USC 1706.)

SEC. 107. (a) It is also the policy of the Congress to stimulate and maximize the sale of United States agricultural commodities for dollars through the private trade and to further the use of private enterprise to the maximum, thereby strengthening the development and expansion of foreign commercial markets for United States agricultural commodities. In furtherance of this policy, the Secretary of Agriculture is authorized, notwithstanding any other provision of law, to enter into agreements with foreign and United States private trade for financing the sale of agricultural commodities for export over such periods of time and on such credit terms as the Secretary determines will accomplish the objectives of this section. Any agreement entered into under this section shall provide for the development and execution of projects which will result in the establishment of facilities designed to improve the storage or marketing of agricultural commodities, or which will otherwise stimulate and expand private economic enterprise in any friendly country. Any agreement entered into under this section shall also provide for the furnishing of such security as the Secretary determines necessary to provide reasonable and adequate assurance of payment of the purchase price in dollars with interest at a rate which will as nearly as practicable be equivalent to the average cost of funds to the United States Treasury, as determined by the Secretary of the Treasury, on outstanding marketable obligations of the United States having maturities comparable to maturities of credits extended under this section. In no event shall the rate of interest be less than the minimum rate, or the delivery period, deferral of first payment, or term of credit be longer than the maximum term, authorized in Section 106. In carrying out this

Private  
Trade  
Entities

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SEC. 107(a)

Act, the authority provided in this section for making dollar sales shall be used to the maximum extent practicable.

(b) In carrying out the provisions of this section, the Secretary shall take reasonable precautions to safeguard usual marketings of the United States and to avoid displacing any sales of United States agricultural commodities which the Secretary finds and determines would otherwise be made for cash dollars.

PTE  
Usual  
Marketing  
Require-  
ments

(c) The Secretary shall obtain commitments from purchasers that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this section.

Export  
Limita-  
tions

(d) In carrying out this Act, the provisions of Sections 102, 103(a), 103(d), 103(e), 103(f), 103(j), 103(k), 110, 401, 402, 403, 404, 405, 407, 408, and 409 shall be applicable to sales under this section.' (7 USC 1707.)

SEC. 108. The Commodity Credit Corporation may finance ocean freight charges incurred pursuant to agreements for sales for foreign currencies (other than those providing for conversion to dollars as described in Section 103(b) of this Act) entered into hereunder only to the extent that such charges are higher (than would otherwise be the case) by reason of a requirement that the commodities be transported in United States-flag vessels.<sup>34</sup> Such agreements shall require the balance of such charges for transportation in United States vessels to be paid in dollars by the nations or organizations with whom such agreements are entered into.<sup>35</sup> (7 USC 1708.)

Ocean  
Trans-  
portation

SEC. 109. (a) Before entering into agreements with developing countries for the sale of United States agricultural commodities on whatever terms, the President shall consider the extent to which the recipient country is undertaking wherever practicable self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities, including:

Self-Help  
Require-  
ments

(1) devoting land resources to the production of needed food rather than to the production of nonfood crops—especially nonfood crops in world surplus;

(2) development of the agricultural chemical, farm machinery and equipment, transportation and other necessary industries through private enterprise;

(3) training and instructing farmers in agricultural methods and techniques;

(4) constructing adequate storage facilities;

(5) improving marketing and distribution systems;

(6) creating a favorable environment for private enterprise and investment, both domestic and foreign, and utilizing available technical know-how;

(7) establishing and maintaining Government policies to insure adequate incentives to producers;

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SEC. 109(a)

(8) establishing and expanding institutions for adaptive agricultural research;

(9) allocating for these purposes sufficient national budgetary and foreign exchange resources (including those supplied by bilateral, multilateral and consortium aid programs) and local currency resources (resulting from loans or grants to recipient governments of the proceeds of local currency sales);

(10) carrying out voluntary programs to control population growth.<sup>36</sup>

In taking these self-help measures into consideration the President shall take into particular account the extent to which they are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture.<sup>37</sup>

(b) Notwithstanding any other provisions of this Act, in agreements with nations not engaged in armed conflict against Communist forces or against nations with which the United States has no diplomatic relations, not less than 20 per centum of the foreign currencies set aside for purposes other than those in Sections 104(a), (b), (e), and (j) shall be allocated for the self-help measures set forth in this section.

(c) Each agreement entered into under this title shall describe the program which the recipient country is undertaking to improve its production, storage, and distribution of agricultural commodities; and shall provide for termination of such agreement whenever the President finds that such program is not being adequately developed. (7 USC 1709.)

Termination Provision

SEC. 110. Agreements shall not be entered into under this title during any calendar year which will call for an appropriation to reimburse the Commodity Credit Corporation in an amount in excess of \$1,900,000,000 plus any amount by which agreements entered into under this title in prior years have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than authorized for such prior years.<sup>38</sup> (7 USC 1710.)

Appropriation

SEC. 111. Not more than 25 per centum of the food aid commodities provided under this title in each fiscal year shall be allocated and agreed to be delivered to countries other than those which meet the poverty criterion established for International Development Association financing and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that (1) the use of such food assistance is required for humanitarian food purposes, or (2) the quantity of commodities which would be required to be allocated under this section to countries which meet the International Development Association poverty criterion could not be used effectively to carry out the humanitarian or development purposes of this title. A reduction below 75 per centum in the proportion of food aid allocated and agreed to be delivered to countries which meet the International Development Association poverty cri-

75/25 Ratio Food Allocation Provision

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SEC. 111

terion and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.<sup>39</sup> (7 USC 1711.)

SEC. 112.<sup>40</sup> (a) No agreement may be entered into under this title to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such agreement will directly benefit the needy people in such country. An agreement will not directly benefit the needy people in the country for purposes of the preceding sentence unless either the commodities themselves or the proceeds from their sale will be used for specific projects or programs which the President determines would directly benefit the needy people of that country. The agreement shall specify how the projects or programs will be used to benefit the needy people and shall require a report to the President on such use within 6 months after the commodities are delivered to the recipient country.

Human Rights

(b) To assist in determining whether the requirements of Subsection (a) are being met, the Committee on Agriculture, Nutrition, and Forestry of the Senate or the Committee on International Relations of the House of Representatives may require the President to submit in writing information demonstrating that an agreement will directly benefit the needy people in a country.

Information to Congressional Committees

(c) In determining whether or not a government falls within the provisions of Subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

(d) The President shall transmit to the Speaker of the House of Representatives, the President of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, in the annual presentation materials on planned programming of assistance under this Act, a full and complete report regarding the steps he has taken to carry out the provisions of this section. (7 USC 1712.)

Presidential Report

SEC. 113.<sup>41</sup> In the allocation of funds made available under this title, priority shall be given to financing the sale of food and fiber commodities. (7 USC 1713.)

Priority to Food & Fiber

SEC. 114.<sup>42</sup> (a) The Congress declares it to be the policy of the United States to assist developing countries in the transition from food assistance recipients to economic self-sufficiency and to assist those nations which have been recipients of high protein, blended, or fortified foods under title II of this Act to continue to combat hunger and malnutrition among the lower income segments of their population, especially children, through the continued provision of these foods under this title.

High  
Protein &  
Blended  
Food

(b) In implementing the policy declared in Subsection (a), the President, in entering into agreements for the sale of high protein, blended, or fortified foods under this title with countries which (1) give assurance that the benefits of any waiver under this section will be passed on to the individual recipients of such foods, and (2) have a reasonable potential for transition to commercial purchasers of such foods, may make provisions for a waiver of repayment of up to that part of the product value which is attributable to the costs of processing, enrichment, or fortification.

(c) In implementing this section, due care shall be taken to minimize its impact on other commercial and concessional sales of whole grains and, where feasible, agreements under this title utilizing the authority contained in this section will provide for sales of such commodities. (7 USC 1714.)

SEC. 115.<sup>43</sup> (a) No purchases of food commodities shall be financed under this title unless they are made on the basis of an invitation for bid publicly advertised in the United States and on the basis of bid offerings which shall conform to such invitation and shall be received and publicly opened in the United States. All awards in the purchase of commodities financed under this title shall be consistent with open, competitive, and responsive bid procedures, as determined by the Secretary of Agriculture. Commissions, fees, or other payments to any selling agent shall—unless waived by the Secretary—be prohibited in any purchase of food commodities financed under this title.

Invita-  
tion  
for  
Bids

(b) Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid or to be paid by any supplier of a commodity or ocean transportation financed by the Commodity Credit Corporation under this title, to any agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the importing country, shall be reported to the Secretary of Agriculture by the supplier of the commodity or ocean transportation. The report shall identify the person or entity to whom the payment is made and the transaction in connection with which the payment is made. The Secretary shall maintain such information for public inspection, publish a report thereof annually, and forward a copy of the report to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Any supplier of a commodity or ocean transportation who fails to file such a report or who files a false report shall be ineligible to furnish—directly or indirectly—

Commis-  
sions  
and  
Fees

SEC. 115(b)

commodities or ocean transportation financed under this title for a period of five years. (7 USC 1715.)

TITLE II<sup>44</sup>

SEC. 201.<sup>44</sup> (a) The President is authorized to determine requirements and furnish agricultural commodities, on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirement; 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. The Commodity Credit Corporation shall make available to the President such<sup>45</sup> agricultural commodities determined to be available under Section 401 as he may request.

Authority

(b)<sup>44</sup> The minimum quantity of agricultural commodities distributed under this title—(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit agencies and the World Food Program; (2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and (3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this Act pursuant to Section 401, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.<sup>46</sup> (7 USC 1721.)

Minimum Tonnage Requirements

Waiver of Minimum tonnage requirements

SEC. 202.(a) The President may furnish commodities for the purposes set forth in Section 201 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 he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Agency for International Development.<sup>47</sup> If no United States nonprofit voluntary agency registered with and approved by the Agency for International Development<sup>47</sup> is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Agency for International Development.<sup>47</sup> Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergen-

Designation of Sponsors

Use of Foreign Vol. Agencies

Publicity and Marking

SEC. 202(a)

cy, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.<sup>48</sup> (7 USC 1722.)

(b) (1) Assistance to needy persons under this title shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

Distribution  
Priority

(2) In order to assure that food commodities made available under this title are used effectively and in the areas of greatest need, entities through which such commodities are distributed shall be encouraged to work with indigenous institutions and employ indigenous workers, to the extent feasible, to assess nutritional and other needs of beneficiary groups, help these groups design and carry out mutually acceptable projects, recommend ways of making food assistance available that are most appropriate for each local setting, supervise food distribution, and regularly evaluate the effectiveness of each project.<sup>49</sup>

Effective  
Utilization

(3) In distributing food commodities under this title, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to the poorest regions of countries.<sup>50, 51</sup>

SEC. 203. The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification; processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad; transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.<sup>52</sup> (7 USC 1723.)

Packing,  
Processing,  
etc.-Costs

Title II  
Ocean  
Freight  
Charges

SEC. 204. Programs of assistance shall not be undertaken under this title during any calendar year which call for an appropriation of more than \$750,000,000<sup>53</sup> to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this title in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year. In addition to other funds available for such purposes under any other Act, funds made available under this title may be used in an amount not exceeding \$7,500,000 annually to purchase foreign currencies accruing under title I of this Act in order to meet costs (except

Appropriation

Self-Help

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SEC. 204

the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources. (7 USC 1724.)

SEC. 205. It is the sense of the Congress that the President should encourage other advanced nations to make increased contributions for the purpose of combating world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs. It is further the sense of the Congress that as a means of achieving this objective, the United States should work for the expansion of the United Nations World Food Program beyond its present established goals. (7 USC 1725.)

Use  
of  
World  
Food  
Program

SEC. 206.<sup>54</sup> Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this title shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with Section 109 of this Act, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for (A) alleviating the causes of the need for the assistance in accordance with the purposes and policies specified in Section 103 of the Foreign Assistance Act of 1961, or (B) programs and projects to increase the effectiveness of food distribution and increase the availability of food commodities provided under this title to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with this section in the reports required under Section 408 of this Act and Section 657 of the Foreign Assistance Act of 1961.<sup>55</sup> (7 USC 1726.)

Neediest  
Individuals

TITLE III<sup>56, 57, 58</sup>

SEC. 301. (a) In order to establish a strong relationship between United States food assistance and efforts by developing countries to increase the availability of food for the poor in such countries and improve in other ways the quality of their lives, the President is authorized to encourage the use of the resources provided by the concessional financing of agricultural commodities under this Act for agricultural and rural development, including voluntary family planning, health, and nutrition programs, by permitting the funds accruing from the local sale of such commodities or the dollar

Authority

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SEC. 301(a)

sales value of the commodities themselves<sup>59</sup> which are used for such purposes to be applied against the repayment obligation of governments receiving concessional financing under this Act. The agreement between the United States Government and an eligible developing country government which provides for repayment of the obligation to the United States accruing from the concessional sale of United States agricultural commodities by the use in the participating country of funds from the sale of such commodities or of the commodities themselves<sup>59</sup> for specified development purposes shall be called a Food for Development Program.

(b) The overall goal of assistance under this title shall be to increase the access of the poor in the recipient country to a growing and improving food supply through activities designed to improve the production, protection, and utilization of food, and to increase the well-being of the poor in the rural sector of the recipient country. Assistance under this title shall be used for programs of agricultural development, rural development, nutrition, health services, and population planning, and the program described in Section 406(a) (1) of this Act in those countries which are undertaking (or are seriously prepared to undertake in connection with the provision of agricultural commodities under this Act) self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with Section 109 of this Act, when such programs are directed at and likely to achieve the policy objectives of Sections 103 and 104 of the Foreign Assistance Act of 1961 and are consistent with the policy objectives of this Act. Particular emphasis should be placed on activities which effectively assist small farmers, tenants, sharecroppers, and landless agricultural laborers, by expanding their access to the rural economy through services and institutions at the local level, and otherwise providing opportunities for the poor who are dependent upon agriculture and agriculturally related activities to better their lives through their own efforts. (7 USC 1727.)

Food  
for  
Develop-  
ment  
Program

SEC. 302. (a) Whenever the President, in consultation with the government of a developing country, determines that such developing country meets the criteria specified in Subsection (b) of this section and could benefit from the sale of United States agricultural commodities (including processed and blended foods) for the purposes of generating funds or distributing such commodities for agricultural and rural development, and improving food distribution and use within such country, the President may designate such country as eligible for a Food for Development Program.

Designating  
Country  
Eligibility

(b) In order to be eligible for a Food for Development Program under this section, a country must (1) have a need for external resources to improve its food production, marketing, distribution, and storage systems; (2) meet the criterion used to determine basic eligibility for development loans of the International Development Association of the International Bank for Reconstruction and Development; (3) have the ability to utilize effectively the resources made available by the sale of food commodities under this section for the purposes specified in clause (1) of this subsection; and (4) indicate the willingness to take steps to improve its food production, marketing, distribution, and storage systems.

Eligibility  
for Food  
for  
Develop-  
ment Program

SEC. 302

(c) (1) Except as provided in paragraph (2) of this subsection, the aggregate value of all agreements entered into under this title—

(A) for fiscal year 1978, shall be not less than 5 percent.

(B) for fiscal year 1979, shall be not less than 10 percent, and

(C) for fiscal year 1980 and each fiscal year thereafter, shall be not less than 15 percent, of the aggregate value of all agreements entered into under title I of this Act for such fiscal year.

(2) The President may waive the requirement of paragraph (1) of this subsection with respect to a fiscal year if he determines that there are an insufficient number of agricultural and rural development projects which qualify for assistance under this title and that therefore the humanitarian purposes of this Act would be better served by furnishing financing under other provisions of this Act. Any such waiver shall be reported to the Congress, together with a detailed statement of the reasons for the lack of acceptable projects and a detailed description of efforts by the United States Government to assist eligible countries, pursuant to Section 303(a), in identifying appropriate projects for assistance under this title.

(3) Greatest efforts shall be made by relevant United States agencies to encourage maximum utilization of assistance for Food for Development projects under this title, even beyond the minimums required by paragraph (1) of this subsection.

(4) In developing and carrying out Food for Development Programs under this title, consideration shall be given to using the capability and expertise of American agriculture, in partnership with indigenous individuals and organizations in furthering economic development and increased food production.<sup>60</sup> (7 USC 1727a.)

Minimum  
Program-  
ing  
Require-  
ments

Presidential  
Waiver

Maximum  
Effort  
for Food  
for  
Develop-  
ment  
Projects

SEC. 303. (a) A country designated as eligible and wishing to participate in a Food for Development Program shall formulate, with the assistance (if requested) of the United States Government, a multiyear proposal which shall be submitted to the President. Such proposal shall include an annual value or amount of agricultural commodities proposed to be financed under the authority of title I of this Act pursuant to the provisions of this title, and a plan for the intended uses of commodities or the funds generated from the sale of such commodities, on an annual basis.<sup>61</sup> Such proposal shall also specify the nature and magnitude of problems to be affected by the efforts, and shall present targets in quantified terms, insofar as possible, and a description of the relationships among the various projects, activities, or programs to be supported.

(b) The multiyear utilization proposal for a Food for Development Program shall include, but not be limited to, a statement of how assistance under such Program will be integrated into and complement that country's overall development plans and other forms of bilateral and multilateral development assistance including assistance made available under Section 103 of the Foreign Assistance Act of 1961 or under any other title of this Act.

(c) In his review of any utilization proposal for a Food for Development Program, the President shall be satisfied that such assistance is intended to complement, but not replace, assistance authorized by the Foreign Assistance Act of 1961, or any other program of bilateral or multilateral assis-

Plans  
for Food  
for  
Develop-  
ment  
Projects

Multi-  
Year  
Program-  
ing

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SEC. 303(c)

tance, or under the development program of the country desiring to initiate a Food for Development Program. (7 USC 1727b.)

SEC. 304. (a) Whenever a utilization proposal has been agreed upon by the President and the participating country, the Commodity Credit Corporation is authorized to furnish credit under the authority of title I of this Act to the participating country for the purchase of a specific annual value of agricultural commodities to be delivered over a period of from one to five years, subject to the availability of commodities under Section 401 of this Act.

Funding  
Authori-  
zation

(b) Notwithstanding any other provision of this Act, no payment except as provided for under this title shall be required of the recipient government as a part of any agreement to finance the sale of agricultural commodities pursuant to a Food for Development Program.

(c) In making food assistance available under this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the President may waive any requirement contained in Section 303 (a) or (b), in that portion of Section 303 (c) which requires that assistance under this title is intended to complement but not replace any part of the development program of the participating country, or in Section 306, if he finds that such country is unable to meet such requirement, but could use assistance under this title to meet important humanitarian or development objectives of this Act. Such waivers, and the reasons therefor, shall be reported annually by the President to the Congress.

Presi-  
dential  
Waiver  
Require-  
ment

(d) The Commodity Credit Corporation may pay, with respect to commodities made available under this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, freight charges from United States ports to designated ports of entry abroad or to designated points of entry abroad in the case of landlocked countries.<sup>62</sup> (7 USC 1727c.)

Freight  
Lend-  
Locked  
Countries

SEC. 305(a).<sup>63</sup> Funds generated from the sale of agricultural commodities by any participating country under this title shall be held in a special account, where practicable, to be disbursed for the purposes described in the approved Food for Development Program of such country. The amount of funds disbursed for such purposes and in accordance with the agreement shall be deemed payments for the purposes of Section 103(b) of this Act. Disbursements of funds from the special account in an amount equivalent to the dollar value of the credit furnished by the Commodity Credit Corporation under Section 304(a) shall be deemed to be payment of all installments of principal and interest payable thereon for the commodities purchased by the participating country for purposes of this title.<sup>64</sup> (7 USC 1727d.)

Special  
Account

(b) Such disbursements shall be deemed to be payments with respect to the credit furnished pursuant to the agreement or if, in the case of a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the disbursements in a fiscal year are

Repayment  
Obligation

SEC. 305(b)

greater than the amount of the annual repayment obligation which that country would have to meet for that fiscal year under the agreement but for the disbursements in accordance with the Food for Development Program, then the disbursements which are in excess of the amount of that annual repayment obligation may, to the extent provided in the agreement, be considered as payments with respect to the annual repayment obligations of that country for that fiscal year under other financing agreements under this Act.<sup>63</sup> (7 USC 1727d.)

(c) When agricultural commodities made available under this title are used by the participating country in development projects in accordance with the applicable Food for Development Program, the dollar sales value of such commodities shall be applied, in accordance with Subsections (a) and (b) of this section, against repayment obligations of that country under this Act, with the value of the commodities so used being deemed to be disbursements made at the time of such use.<sup>65</sup> (7 USC 1727d.)

SEC. 306. Not more than one year after the initial delivery of commodities to any country under this title and each year thereafter for the period of agreement, the government of the participating country, with the assistance (if requested) of the United States Government, shall submit a comprehensive report to the President on the activities and progress achieved under the Food for Development Program for such country, including, but not limited to, a comparison of results with projected targets, a detailed description of how the commodities were used or<sup>66</sup> a specific accounting for funds generated, their uses, and the outstanding balances at the end of the most recent fiscal year. Such annual report may also include recommendations for modification and improvement in the Food for Development Program of such country. (7 USC 1727e.)

Reporting

SEC. 307. (a) Each year the President shall review all agreements providing for the use under this title of the proceeds from the sale of agricultural commodities, or of the commodities themselves, with respect to which there was not full disbursement during the preceding fiscal year.<sup>67</sup> The results of such review shall be included in the annual report to the Congress required under Section 408(a) of this Act.

Presidential  
Review  
Annual  
Report

(b) If the President finds that the provisions of an agreement are not being substantially met, he shall not extend financing for sales under this title until the end of the following fiscal year or until the situation is remedied, whichever occurs first, unless the failure to meet the provisions is due to unusual circumstances beyond the control of the recipient government. (7 USC 1727f.)

SEC. 308. [This section contains an amendment to Section 407 of the Agricultural Act of 1949, authorizing the Commodity Credit Corporation to make commodities available to relieve distress.]

SEC. 309. [This section contains a revision of Section 416 of the Agricul-

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SEC. 309

tural Act of 1949, which authorizes various methods of disposition by Commodity Credit Corporation of commodities in surplus supply. In this section the Commodity Credit Corporation is authorized "to barter or exchange such commodities for strategic or other materials as authorized by law."

SEC. 310. The Secretary shall, whenever he determines that such action is in the best interest of the United States, and to the maximum extent practicable, barter or exchange agricultural commodities owned by the Commodity Credit Corporation for (a) such strategic or other materials of which the United States does not domestically produce its requirements and which entail less risk of loss through deterioration or substantially less storage charges as the President may designate, or (b) materials, goods, or equipment required in connection with foreign economic and military aid and assistance programs, or (c) material or equipment required in substantial quantities for offshore construction programs. He is hereby directed to use every practicable means, in cooperation with other Government agencies, to arrange and make, through private channels, such barter or exchanges or to utilize the authority conferred on him by Section 4(h) of the Commodity Credit Corporation Charter Act, as amended,<sup>68</sup> to make such barter or exchanges. In carrying out barter or exchanges authorized by this section, no restrictions shall be placed on the countries of the free world into which surplus agricultural commodities may be sold, except to the extent that the Secretary shall find necessary in order to take reasonable precautions to safeguard usual marketings of the United States and to assure that barter or exchanges under this Act will not unduly disrupt world prices of agricultural commodities or replace cash sales for dollars. The Secretary may permit the domestic processing of raw materials of foreign origin. The Secretary shall endeavor to cooperate with other exporting countries in preserving normal patterns of commercial trade with respect to commodities covered by formal multilateral international marketing agreements to which the United States is a party. Agencies of the United States Government procuring such materials, goods, or equipment are hereby directed to cooperate with the Secretary in the disposal of surplus agricultural commodities by means of barter or exchange. The Secretary is also directed to assist, through such means as are available to him, farmers' cooperatives in effecting exchange of agricultural commodities in their possession for strategic materials. Barter or exchange of agricultural commodities under clause (a) of this section shall be limited to exchange for materials which originate in the country to which the surplus agricultural commodities are exported and to arrangements which will prevent resale or transshipment of the agricultural commodities to other countries.<sup>69</sup> (7 USC 1692.)

Barter  
Authority

#### TITLE IV

SEC. 401. (a)<sup>70</sup> After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic re-

Avail-  
ability  
Criteria

SEC. 401(a)

quirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act.<sup>71,72</sup> (7 USC 1731.)

Waiver  
For Human  
itarian  
Purposes

(b) No agricultural commodity may be financed or otherwise made available under the authority of this Act except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with<sup>73</sup> domestic production or marketing<sup>73</sup> in that country. (7 USC 1731.)

Bellmon  
Amend.  
Storage  
and Disin-  
centive

SEC. 402. The term "agricultural commodity" as used in this Act shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of title II of this Act, tobacco or products thereof. The foregoing provision shall not be construed as prohibiting representatives of the domestic wine or beer<sup>74</sup> industry from participating in market development activities carried out with foreign currencies made available under title I of this Act which have as their purpose the expansion of export sales of United States agricultural commodities.<sup>75</sup> Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this Act. In the allocation of funds made available under title I of this Act, priority shall be given to financing the sale of food and fiber commodities.<sup>76</sup> (7 USC 1732.)

Definition  
of Agri-  
cultural  
Commodities

Priority  
to Food  
and Fiber

SEC. 403.(a)<sup>77</sup> There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act including such amounts as may be required to make payments to the Commodity Credit Corporation, to the extent the Commodity Credit Corporation is not reimbursed under Sections 104(j) and 105, for its actual costs incurred or to be incurred. In presenting his budget, the President shall classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

Approp-  
riations

(b) <sup>78</sup>Notwithstanding any other provisions of law, in determining the reimbursement due the Commodity Credit Corporation for all costs incurred under this Act, commodities from the Commodity Credit Corporation inventory, which were acquired under a domestic price support program, shall be

Reimburse  
ment to  
CCC at  
Export  
Market  
Value

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SEC. 403(b)

valued at the export market price therefor, as determined by the Secretary of Agriculture, as of the time the commodity is made available under this Act. (7 USC 1733.)

SEC. 404. (a) The programs of assistance conducted under this Act, and the types and quantities of agricultural commodities to be made available, shall be directed in the national interest toward the attainment of humanitarian and developmental objectives as well as the development and expansion of United States and recipient country agricultural commodity markets. To the maximum extent possible, either the commodities themselves shall be used to improve the economic and nutritional status of the poor through effective and sustainable programs, or any proceeds generated from the sales of agricultural commodities shall be used to promote policies and programs that benefit the poor.<sup>79</sup>

Programing  
to  
Benefit  
Poor

(b) Country assessments shall be carried out whenever necessary in order to determine the types and quantities of agricultural commodities needed, the conditions under which commodities should be provided and distributed, the relationship between United States food assistance and other development resources, the development plans of that country, the most suitable timing for commodity deliveries, the rate at which food assistance levels can be effectively used to meet nutritional and developmental needs, and the country's potential as a new or expanded market for both United States agricultural commodities and recipient country foodstuffs.<sup>79</sup> (7 USC 1734.)

Country  
Assessments

SEC. 405. The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet the needs of their people and in resolving their problems relative to population growth. (7 USC 1735.)

Self-  
Reliance

SEC. 406.(a) <sup>80</sup>In order to further assist friendly developing countries to become self-sufficient in food production, the President is authorized, notwithstanding any other provision of law—

(1) To establish and administer a program of farmer-to-farmer assistance between the United States and such countries to help farmers in such countries in the practical aspects of increasing food production and distribution and improving the effectiveness of their farming operations;

Farmer  
to  
Farmer  
Assistance

(2) To enter into contracts or other cooperative agreements with, or make grants to, land-grant colleges and universities and other institutions of higher learning in the United States to recruit persons who by reason of training, education, or practical experience are knowledgeable in the practical arts and sciences of agriculture and home economics, and to train such persons in the practical techniques of transmitting to farmers in such countries improved practices in agriculture, and to participate in carrying out the program in such countries including, where desirable, additional courses for training or retraining in such countries;

(3) To consult and cooperate with private non-profit farm organizations in the exchange of farm youth and farm leaders with developing coun-

## SEC. 406(a)(3)

tries and in the training of farmers of such developing countries within the United States or abroad;

(4) To conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries;

(5) To coordinate the program authorized in this section with other foreign assistance activities of the United States;

(6) To establish by such rules and regulations as he deems necessary the conditions for eligibility and retention in and dismissal from the program established in this section, together with the terms, length and nature of service, compensation, employee status, oaths of office, and security clearances, and such persons shall be entitled to the benefits and subject to the responsibilities applicable to persons serving in the Peace Corps pursuant to the provisions of Section 612, volume 75 of the Statutes at Large, as amended; and

(7) To the maximum extent practicable, to pay the costs of such program through the use of foreign currencies accruing from the sale of agricultural commodities under this Act, as provided in Section 104(i).

(b) There are hereby authorized to be appropriated not to exceed \$33,000,000 during any fiscal year for the purpose of carrying out the provisions of this section. (7 USC 1736.)

SEC. 407. There is hereby established an Advisory Committee composed of the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Bureau of the Budget,<sup>81</sup> the Administrator of the Agency for International Development, the chairman and the ranking minority member of both the House Committee on Agriculture and the House Committee on Foreign Affairs, and the chairman and the ranking minority member of both the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations, or their designees (who shall be members of such committees or, in the case of members from the Executive Branch, who shall have been confirmed by the Senate). The Advisory Committee shall survey the general policies relating to the administration of the Act, including the manner of implementing the self-help provisions, the uses to be made of foreign currencies which accrue in connection with sales for foreign currencies under title I, the amount of currencies to be reserved in sales agreements for loans to private industry under Section 104(e), rates of exchange, interest rates, and the terms under which dollar credit sales are made, and shall advise the President with respect thereto. The Advisory Committee shall meet not less four times during each calendar year at the call of the Acting Chairman of such Committee who shall preside in the following order: The chairman of the House Committee on Agriculture, the chairman of the Senate Committee on Foreign Relations, the chairman of the Senate Committee on Agriculture and Forestry, and the chairman of the House Committee on Foreign Affairs.<sup>82</sup> (7 USC 1736a.)

Advisory  
Committee

SEC. 408. (a) The President shall make a report to Congress not later than April 1 each year with respect to the activities carried out under this Act during the preceding fiscal year. Such report shall describe the progress of each country with which agreements are in effect under title I in carrying out its agreements under such title. (7 USC 1736b.)

Title  
I  
Report to  
Congress

(b) Not later than September 30 of each year, the President shall submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programming of food assistance under title I for the coming fiscal year. Not later than December 31, March 31, and June 30 of each year, the President shall submit a report to the Congress showing the current status of planned programming of food assistance under title I for the current fiscal year.<sup>83</sup>

Report  
to Con-  
gress  
Global  
Assessment

(c) Beginning October 1, 1978, and at each five-year interval thereafter, the President shall submit to the Congress a comparative cross-country evaluation of programs conducted under titles II and III. Such evaluations shall cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and the Caribbean), and shall assess the nutritional and other impacts, achievements, problems, and future prospects for programs under these titles.<sup>84</sup>

Cross-  
Country  
Evalu-  
ation

(d) (1) Not later than six months following the date of enactment of this subsection, and at each two-year interval thereafter, the Secretary of Agriculture shall issue revised regulations governing all operations under title I of this Act, including operations relating to purchasing countries, suppliers of commodities or ships, and purchasing or shipping agents. The regulations shall include, but not be limited to, prohibitions against conflicts of interest as determined by the Secretary, between (A) recipient countries (or other purchasing entities) and their agents, (B) suppliers of commodities, (C) suppliers of ships, and (D) other shipping interests.

Revised  
Regula-  
tions

(2) The regulations shall be designed to encourage an increase in the number of exporters participating in the program.

(3) All revised regulations governing operations under title I and title III of this Act shall be transmitted to Congress by the Secretary as soon as practicable after their issuance.<sup>85</sup>

(e) Bagged commodities for the purpose of financing by the Commodity Credit Corporation under this Act may, subject to regulations issued by the Secretary of Agriculture, be considered "exported" upon delivery at port, and upon presentation of a dock receipt in lieu of an on-board bill of lading.<sup>85</sup>

Bagged  
Commodi-  
ties

SEC. 409. No agreements to finance sales under title I and no programs of assistance under title II shall be entered into after December 31, 1981. New spending authority provided for title I of this Act by the amendment to this section made by the Food and Agriculture Act of 1977 shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.<sup>86</sup> (7 USC 1736c.)

Expiration  
of  
Program  
Authori-  
zation

Spending  
Authority

SEC. 410. The provisions of Section 620(e) of the Foreign Assistance Act of 1961, as amended (referring to nationalization, expropriation, and relat-

SEC. 410

ed governmental Acts affecting property owned by United States citizens), shall be applicable to assistance provided under title I of this Act.<sup>87</sup> (7 USC 1736d.)

SEC. 411. No agricultural commodities shall be sold under title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized.<sup>88</sup> (7 USC 1736e.)

North  
Vietnam  
Prohibi-  
tion

SEC. 412. The President is authorized and encouraged to seek international agreement, subject to congressional approval, for a system of food reserves to meet food shortage emergencies and to provide insurance against unexpected shortfalls in food production, with costs of such a system to be equitably shared among nations and with farmers and consumers to be given firm safeguards against market price disruption from such a system.<sup>89</sup> (7 USC 1736f.)

Inter-  
national  
Food  
Reserves

SEC. 413. In order to best meet the humanitarian and developmental purposes of this Act, commodities provided under this Act for developmental purposes shall be made available, to the maximum extent practicable, on a multiyear basis when necessary for the most effective accomplishment of these purposes.<sup>90</sup> (7 USC 1736g.)

Multi-  
Year  
Avail-  
ability

APPENDIX

Following is a list of citations to Public Law 480 and all the amendments thereto:

Public Law 83-480(S.2475),68 Stat.454, July 10, 1954, as amended by Public Law 84-25 (S. 752),69 Stat.44, April 25, 1955; Public Law 84-387 (S.2253), 69 Stat. 721, August 12, 1955; Public Law 84-540 (H.R. 10875), 70 Stat. 188, May 28,1956; Public Law 84-962 (S. 3903), 70 Stat. 988, August 3, 1956; Public Law 84-726 (H.R. 11356) 70 Stat. 555, July 18, 1956; Public Law 85-128(S.1314), 71 Stat. 345, August 13, 1957; Public Law 85-141, (S. 2130), 71 Stat.355, August 14, 1957; Public Law 85-477 (H.R. 12181), 72 Stat. 261, June 30, 1958; Public Law 85-931 (S. 3420), 72 Stat.1790, September 6, 1958; Public Law 86-108, (H.R. 7500), 73 Stat.246, July 24, 1959; Public Law 86-341 (H.R. 8609), 73 Stat. 606, September 21, 1959; Public Law 86-472 (H.R. 11510), 74 Stat. 140, May 14, 1960; Public Law 87-28 (S. 1027), 75 Stat. 64, May 4, 1961; Public Law 87-128 (S. 1643), 75 Stat. 294, August 8, 1961; Public Law 87-195 (S. 1983), 75 Stat. 424, September 4, 1961; Public Law 87-703 (H.R. 12391), 76 Stat. 605, September 27, 1962; Public Law 87-839 (S. 3389), 76 Stat. 1074, October 18, 1962; Public Law 88-205 (H.R. 7885), 77 Stat. 379, December 16, 1963; Public Law 88-638 (S. 2687), 78 Stat. 1035, October 8, 1964; Public Law 89-106 (H.R. 5508), 79 Stat. 431, August 4, 1965; Public Law 89-171 (H.R. 7750), 79 Stat. 662, September 6, 1965; Public Law 89-808 (H.R. 14929), 80 Stat. 1526, November 11, 1966; Public Law 90-436 (S. 2986), 82 Stat. 450, July 29, 1968;

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APPENDIX

Public Law 91-524 (H.R. 18546), 84 Stat. 1379, November 30, 1970; Public Law 92-42 (H.R. 1161), 85 Stat. 99, July 1, 1971; Public Law 93-86 (S. 1888), 87 Stat. 237, August 10, 1973; Public Law 94-161 (H.R. 9005), 89 Stat. 849, December 20, 1975; Public Law 95-88 (H.R. 6714), 91 Stat. 533, August 3, 1977; Public Law 95-113, (S.275), September 29, 1977; Public Law 95-424, 92 Stat. 937, October 6, 1978; Public Law 96-53, 93 Stat. 368, August 14, 1979; Public Law 96-72, 93 Stat. 503, September 29, 1979 and Public Law 96-109, 93 Stat. 842, November 9, 1979.

ADDENDUM

Section 214 of Public Law 95-88, 91 Stat. 552 provides: "The President shall conduct a comprehensive study of payment of ocean freight differentials between United States-flag rates and foreign-flag rates, when United States-flag vessels are required to be used, in accordance with Section 901(b) of the Merchant Marine Act, 1936, for the shipment of agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954 and shall recommend possible changes in the method of reimbursement which is now borne by the Commodity Credit Corporation. Such study shall be completed 180 days after the dates of enactment of this section and submitted to the following committees of the Congress: The Senate Committee on Agriculture, Nutrition and Forestry; the Senate Committee on Commerce Science and Transportation; the House Committee on Agriculture; the House Committee on Merchant Marine and Fisheries; and the House Committee on International Relations."

Review  
of Ocean  
Freight  
Differ-  
ential

Section 1209 of Public Law 95-113, 91 Stat. 957 provides: "It is the sense of Congress that there be no discrimination between "price-supported" and "nonprice-supported" commodities in the programing of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480)."

Price  
and  
Nonprice  
Supported  
Commodities

Section 1210 of Public Law 95-113, 91 Stat. 957 provides: " (a) It is the sense of Congress that attention be given to handling, storage, transportation, and administrative procedures in order to make improvements in the operation of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480). Toward this objective, the Secretary of Agriculture shall appoint a special task force to review and report upon the administration of the Act.

Task  
Force  
Review

"(b) Such review shall include, but not be limited to, organizational arrangements for the administration of Public Law 480, or parts thereof, title I allocation criteria and procedures, quality control, including handling and storage through the first stage of distribution in the recipient country, and regulation of businesses and organizations to which services are contracted under Public Law 480.

"(c) Not later than eighteen months following enactment of this Act, the Secretary of Agriculture shall transmit to Congress the report of such task force, along with administrative actions the Secretary has tak-

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SEC. 1210(c)

en or intends to take as a result of such report, and recommendations, if any, for legislative changes." (7 USC 1691 note.)

**EFFECTIVENESS OF FOOD ASSISTANCE IN MEETING  
BASIC FOOD NEEDS**

SEC. 201. The Congress finds that food assistance provided by the United States to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 often is distributed within those countries in ways which do not significantly alleviate hunger and malnutrition in those countries. In order to determine how United States food assistance can be more effectively used to meet the food needs of the poor in developing countries, the President shall submit to the Congress not later than February 1, 1979, a report (1) explaining why food assistance provided to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 is not more successful in meeting the food needs of those suffering from hunger and malnutrition, and (2) recommending steps which could be taken (including increasing the proportion of food assistance which is furnished under titles II and III of that Act) to increase the effectiveness of food assistance under that Act in meeting those needs. (7 USC 1711 note.)

Effective  
Food  
Aid  
Report To  
Congress

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**FOOTNOTES TO AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF  
1954, AS AMENDED (P.L. 480)**

<sup>1</sup>The Food for Peace Act of 1966, Pub. Law 89-808,80 Stat.1526, November 11, 1966, substantially amended Public Law 480. The text herein of titles I, II, and IV is from that Act except as otherwise noted. Public Law 480 was further amended by Public Law 90-436,82 Stat. 450, July 29, 1968; Public Law 91-524,84 Stat. 1379, November 30, 1970; Public Law 92-42,85 Stat. 99, July 1, 1971; Public Law 93-86,87 Stat. 237, August 10, 1973 Public Law 94-161, 89 Stat. 849, December 20, 1975; Public Law 95-88,91 Stat. 545, August 3, 1977; Public Law 95-113,91 Stat. 955, September 29, 1977; Public Law 95-424, 92 Stat. 937, October 6, 1978; Public Law 96-53, 93 Stat. 368, August 14, 1979; Public Law 96-72, 93 Stat. 503, September 29, 1979; Public Law 96-109,93 Stat. 842, November 9, 1979. All the amendments to Public Law 480 appear as an appendix to this compilation.

<sup>2</sup>The International Development and Food Assistance Act of 1978, Public Law 95-424, 92 Stat. 954, October 6, 1978 provided as follows:

**EFFECTIVENESS OF FOOD ASSISTANCE IN MEETING BASIC FOOD NEEDS**

SEC. 201. The Congress finds that food assistance provided by the United States to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 often is distributed within those countries in ways which do not significantly alleviate hunger and malnutrition in those countries. In order to determine how United States food assistance can be more effectively used to meet the food needs of the poor in developing countries, the President, shall submit to the Congress not later than February 1, 1979, a report (1) explaining why food assistance provided to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 is not more successful in meeting the food needs of those suffering from hunger and malnutrition, and (2) recommending steps which could be taken (including increasing the proportion of food assistance which is furnished under titles II and III of that Act) to increase the effectiveness of food assistance under that Act in meeting those needs. (7 USC 1711 note.)

<sup>3</sup>The enumerated provisions of Sec. 2. and all of Sec.3.were added by Public Law 94-161, 89 Stat.851. Sense of Congress Sections (1209 and 1210) were added by Public Law 95-113, both are cited as 7 USC 1691 note. (See Addendum). Section 302 of P.L. 94-161 amended Section 103 of the Foreign Assistance Act by adding a new Subsection (d) as follows: "(d) Foreign currency proceeds from commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section." (7 USC 1691 note.) In addition to the reference to the World Food Conference in Sec. 3. the Congress also enacted the following lanuage in Section 213 of Public Law 94-161,89 Stat. 855, December 20, 1975. "The Congress calls upon the President to strengthen the efforts of the United States to carry out the recommendations of the World Food Conference. The President shall submit a detailed report to the Congress not later than November 1,1976, with respect to the steps he has taken to carry out the recommendations of the World Food Conference, including steps to fulfill the commitment of the United States and to encourage other nations to increase their participation in efforts to improve the food security of the poorest portion of the world's population." (7 USC 1691 a note.) The act of November 9, 1979, Public Law 96-109,93 Stat. 842, amended the Foreign Assistance Act of 1961, Public Law 87-195, 75 Stat. 439, September 4, 1961 by adding:

SEC. 495G. SPECIAL CARIBBEAN HURRICAN RELIEF ASSISTANCE--The President is authorized to furnish assistance on such terms and conditions as he may determine for disaster relief and reconstruction in the Caribbean to assist in alleviating the human suffering caused by recent hurricanes in that region. In addition to

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SEC. 495G

amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section \$25,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in Section 491.

SEC. 2. Priority shall be given to furnishing agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954 to countries in the Caribbean in order to assist in alleviating the human suffering caused by the recent hurricanes in that region.

<sup>4</sup>Section 603 of the Foreign Assistance Act of 1961, Pub. Law 87-195, 75 Stat. 439, as amended (22 USC 2353), provides that "The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954, as amended (7 USC 1691 et seq.), and transfers of fresh fruit and products thereof under this Act, shall not be governed by the provisions of Section 901(b) of the Merchant Marine Act of 1936, as amended (46 USC 1241), or any other law relating to the ocean transportation of commodities on United States flag vessels."

Section 3 of Pub. Law 962, 84th Congress, 70 Stat. 988, August 3, 1956, provides that "Sales of fresh fruit and the products thereof under title I of the Act shall be exempt from the requirements of the cargo preference laws (Public Resolution 17, Seventy-third Congress (15 USC 616a) and Section 901 (b) of the Merchant Marine Act, 1936, (46 USC 1241(b))."

For the text of the Cargo Preference Act, Pub. Law 83-664, 68 Stat. 832, as amended, 75 Stat. 565 (46 USC 1241), and Section 901(b) of the Merchant Marine Act of 1936, 68 Stat. 832, (46 USC 1241(b)). see note 34.

<sup>5</sup>Certain provisos in Section 102 were added by Pub. Law 90-436, 82 Stat. 451, July 29, 1968 and repealed by Pub. Law 95-88, 91 Stat. 545, August 3, 1977. Section 102 was also amended by Pub. Law 95-113, 91 Stat. 955, September 29, 1977, to provide that CCC, when requested, may serve as purchasing or shipping agent, or both.

<sup>6</sup>Section 103(a) was amended by Pub. Law 94-161, 89 Stat. 851, Dec. 20, 1975 to include specific examples of "Self-Reliance".

<sup>7</sup>Section 122 of the Foreign Assistance Act of 1961, as amended (22 USC 2151t), provides in part that "The President is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine, in order to promote the economic development of countries and areas, with emphasis upon assisting long-range plans and programs designed to develop economic resources and increase production capacities." In so doing he must take certain factors into account. Funds, however, shall not ". . . be loaned at a rate of interest of less than 3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum. . ." Currently, the maximum term for loans under this Act is 40 years with a grace period of not to exceed 10 years. Section 102 (b) (2) (B) of Public Law 95-424, 92 Stat. 941, October 6, 1978 Substituted Section "122" for "201".

<sup>8</sup>This proviso was amended and the last sentence added by Public Law 90-436, 82 Stat. 450, July 29, 1968.

<sup>9</sup>Section 103(b) was amended by Pub. Law 94-161, 89 Stat. 851, December 20, 1975 by inserting "and Section 106(b) (2) immediately after 'of Section 104'". Section 193(b) was further amended by Pub. Law 95-88, 91 Stat. 551, August 3, 1977 by deleting "Section 106(b) (2)" and inserting in lieu thereof title III.

<sup>10</sup>Section 103(d) was amended by Pub. Law 95-88, 91 Stat. 545, August 3, 1977 by deleting the (1) Communist, North Vietnam and Cuba restriction (2) the United

Trade  
Restrictions

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SEC. 103(d)

Arab Republic restriction and (3) the Presidential waiver provisos re communist, North Vietnam and Cuba restrictions.

<sup>11</sup>The Foreign Assistance Act of 1966, Pub. Law 89-583, 80 Stat. 795, September 19, 1966, amended subsection (i) of Section 620 of the Foreign Assistance Act of 1961, Pub. Law 87-195, 75 Stat. 444, as amended, to read as follows:

Military  
Aggression

"No assistance shall be provided under this or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which the President determines is engaging in or preparing for aggressive military efforts, or which hereafter is officially represented at any international conference when that representation includes the planning of activities involving insurrection or subversion, which military efforts, insurrection, or subversion, are directed against—

- (1) the United States,
- (2) any country receiving assistance under this or any other Act, or
- (3) any country to which sales are made under the Agricultural Trade Development and Assistance Act of 1954, until the President determines that such military efforts or preparations have ceased, or such representation has ceased, and he reports to the Congress that he has received assurances satisfactory to him that such military efforts or preparations will not be renewed, or that such representation will not be renewed or repeated. This restriction may not be waived pursuant to any authority contained in the Act." (22 USC 2370(i).)

Section 620 of the Foreign Assistance Act of 1961 was further amended by the Foreign Assistance Act of 1967, Pub. Law 90-137, 81 Stat. 459, November 14, 1967. Subsection (j) was amended and a new Subsection (t) was added to read as follows:

"(j) The President shall consider terminating assistance under this or any other Act to any country which permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, and fails to take appropriate measures to prevent a recurrence thereof and to provide adequate compensation for such damage or destruction." (22 USC 2370(j).)

Subsection (s) of Section 620 of the Foreign Assistance Act of 1961, as amended, was added by the Foreign Assistance Act of 1967, Pub. Law 90-37, 81 Stat. 459, and amended by the Foreign Assistance Act of 1969, Pub. Law 91-175, 83 Stat. 820. The amended provision reads as follows:

"(s)(1) In order to restrain arms races and proliferation of sophisticated weapons, and to ensure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans or supporting assistance to any country under this Act, and before making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended:

Sophis-  
ticated  
Weapons  
(Syming-  
ton)

- (A) the percentage of the recipient or purchasing country's budget which is devoted to military purposes;
- (B) the degree to which the recipient or purchasing country is using its foreign exchange resources to acquire military equipment; and
- (C) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country.

(2) The President shall report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this provision." (22 USC 2370(s).)

SEC. 620

"(t) No assistance shall be furnished under this or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, in or to any country which has severed or hereafter severs diplomatic relations with the United States or with which the United States has severed or hereafter severs diplomatic relations, unless (1) diplomatic relations have been resumed with such country and (2) agreements for the furnishing of such assistance or the making of such sales, as the case may be, have been negotiated and entered into after the resumption of diplomatic relations with such country." (22 USC 2370(t).)

Diplomatic Relations Requirement

Section 481 of the Foreign Assistance Act of 1961, which was added by Section 109 of the Foreign Assistance Act of 1971 (22 USC 2291), prohibits the furnishing of assistance under that or any other Act and the making of sales under title I of the Agricultural Trade Development and Assistance Act of 1954 with respect to any country which the President determines has not taken adequate steps to carry out the purposes of that section directed to the control of illicit production, trafficking in and, abuse of dangerous drugs.

Section 639 of the Foreign Assistance Act of 1961, as amended, provides that "No provision of this Act shall be construed to prohibit assistance to any country for famine or disaster relief." (22 USC 2399.)

<sup>12</sup>The language of 103(f) was amended by Section 201 of Public Law 96-53, 93 Stat. 368, August 14, 1979 to read as shown in the text, and replaced the following:

"(f) give special consideration to the development and expansion of foreign markets for United States agricultural commodities, with appropriate emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth;"

Expansion Development Foreign Markets

<sup>13</sup>The last paragraph of Section 102(a) of the Foreign Assistance Act of 1961, as amended by Pub. Law 90-137, 81 Stat. 459, reads as follows:

Diplomatic Relations

"It is further the sense of the Congress that in any case in which any foreign country has severed diplomatic relations with the United States, the President should suspend assistance to such country under this or any other Act, including any program designed to complement assistance under this Act (such as sales of agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954). When diplomatic relations are resumed, a further study should be made on a country-by-country basis to determine whether United States foreign policy objectives would be served by extending assistance under this or any other Act, including any program designed to complement such assistance." (22 USC 2151.)

Also see Section 620(t) of the Foreign Assistance Act of 1961, as amended, quoted in note 9.

<sup>14</sup>Amended by Pub. Law 93-86, 87 Stat. 237, August 10, 1973 to add the following: "and that commercial supplies are available to meet demands developed through programs carried out under this Act;"

<sup>15</sup>Subsections (o), (p), and (q) of Section 103 were added by Pub. Law 90-436, 82 Stat. 450, July 29, 1968.

<sup>16</sup>Pub. Law 85-128, 71 Stat. 345, August 13, 1957 (7 USC 1704a), provides that "Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof."

Report on Use of Foreign Currencies

<sup>17</sup>Pub. Law 89-677, 80 Stat. 955, October 15, 1966, provides "That any foreign currencies held by the United States which have been or may be reserved or set aside for specified programs or activities of any agency of the Government may be used by Federal agencies for any authorized purposes, except (1) that reimbursement shall be

Report Use of Foreign Currencies

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Pub. Law 89-677,80

made to the Treasury from applicable appropriations of the agency concerned, and (2) that any foreign currencies so used shall be replaced when needed for the purpose for which originally reserved or set aside."

<sup>18</sup>Section 203 of Pub. Law 87-128,75 Stat. 306, August 8, 1961 (5 USC 577), provides that "In the conduct of foreign market development programs, the Secretary of Agriculture is authorized to credit contributions from individuals, firms, associations, agencies, and other groups, and the proceeds received from space rentals, and sales of products and materials at exhibitions, to the appropriations charged with the cost of acquiring such space, products, and materials."

<sup>19</sup>The Senate Committee on Foreign Relations and the House Committee of International Relations were added by Pub. Law 94-161,89 Stat. 852, December 20, 1975, amended Section 104 by including "and the House Committee on International Relations" after "The House Committee on Agriculture" each time it appears, and, "and The Senate Committee on Foreign Realitions" after "The Senate Committee on Agriculture and Forestry" each time it appears.

<sup>20</sup>Paragraph (2) of Section 104(b) was amended by Pub. Law 90-436,82 Stat. 450, July 29, 1968. For the text of the Acts referred to in such paragraph, see 20 USC 511;22 USC 2451 note, 20 USC 1171 note; 1001 note, 821 note, 951 note; 47 USC 390 note.

<sup>21</sup>See also the International Health Research Act of 1960, Pub. Law 86-610,74 Stat. 368, July 12, 1960 (22 USC 2103), which authorizes, subject to Section 1415 of the Supplemental Appropriation Act, 1953, the use of title I foreign currencies to advance health science activities. For text of Section 1415, see note 27.

<sup>22</sup>See also Section 209(a) of Pub. Law 87-651,76 Stat. 523, as amended (10 USC 2681), which provides in part as follows:

"(a) In addition to family housing and to community facilities that otherwise may be constucted or acquired by the Department of Defense, the Secretary of Defense may, with the approval of the Director of the Bureau of the Budget,<sup>81</sup> construct, or acquire by lease or otherwise, family housing to be occupied as public quarters, and community facilities, in foreign countries by using foreign currencies that have a value of not more than \$250,000,000 and that were acquired under Sections 1691-1724 of title 7 or through other commodity transactions of the Commodity Credit Corporation.

"(b) The Department of Defense shall pay the Commodity Credit Corporation an amount not to exceed \$6,000,000 a year until the amount due for foreign currencies used for housing constructed or acquired under this section has been liquidated."

Section 420 of the Act of August 10, 1959, 73 Stat. 324, provides as follows:

"In carrying out in a foreign country any project authorized by this Act or any other Military Construction Act heretofore or hereafter enacted, currencies of such country acquired pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480, Eighty-third Congress) shall, to the extent available and feasible, be used in lieu of dollars. The Department of Defense shall reimburse the Commodity Credit Corporation for any foreign currencies so utilized in carrying out such projects." (7 USC 1704b.)

Section 509 of the Act of June 8, 1960, 74 Stat. 186 provides as follows:

"Notwithstanding the provisions of any other law, at least 75 per centum of the total cost of any family housing project or community facility hereafter constructed or acquired in any foreign country by the Department of Defense or any military department shall be paid for from foreign currencies acquired by the Commodity Credit Corporation pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954; except that the following projects authorized pursuant

Health  
Science  
Activities

Military  
Construc-  
tion

Family  
Housing

## SEC. 509

to this Act shall not be subject to this requirement: . . ." (list of projects omitted.) (7 USC 1704b note.)

<sup>23</sup>Pub. Law 94-161, 89 Stat. 852, Dec. 20, 1975 repealed Section 104(c), the so-called "Common Defense Grant" provision.

<sup>24</sup>"Agency for International Development" was substituted for "Advisory Committee on Voluntary Aid" in Section 104(f) by Section 121 of Public Law 96-53, 93 Stat. 366, August 14, 1979.

<sup>25</sup>The last sentence of Section 104(h) was added by Pub. Law 90-436, 82 Stat. 450, July 29, 1968.

<sup>26</sup>Subsection (k) of Section 104 was added by Pub. Law 90-436, 82 Stat. 451, July 29, 1968.

<sup>27</sup>Section 1415 of the Supplemental Appropriation Act 1953, provides that "Foreign credits owed to or owned by the United States Treasury will not be available for expenditure by agencies of the United States after June 30, 1953, except as may be provided for annually in appropriation Acts and provisions for the utilization of such credits for purposes authorized by law are hereby authorized to be included in general appropriation Acts." Public Law 547, 82d Congress, 66 Stat. 662, July 15, 1952 (31 USC 724).

<sup>28</sup>Public Law 91-524, 84 Stat. 1379, November 30, 1970; amended this paragraph by adding "and in the case of currencies to be used for the purposes specified in paragraph (2) of Subsection (b) the Appropriation Act may specifically authorize the use of such currencies and shall not require the appropriation of dollars for the purchase of such currencies."

<sup>29</sup>Public Law 94-161, 89 Stat. 852, Dec. 20, 1975, amended the provision following Section 104(k) to add after "The Senate Committee on Agriculture and Forestry" the following "and The Senate Committee on Foreign Relations" and after "The House Committee on Agriculture" the following "and The House Committee on International Relations."

<sup>30</sup>Section 102(b) (2) (C) Public Law 95-424, 92 Stat. 941, October 6, 1978 substituted "122 (b)" for "201".

<sup>31</sup>See note 7.

<sup>32</sup>Section 211 of The International Development and Food Assistance Act of 1977, Public Law 95-88, 91 Stat. 551, August 3, 1977, further amended Section 106(b) (2) by deleting the following two sentences from the end thereof: "Such uses shall be deemed payments for the purposes of Section 103 (b) of this Act except that for any fiscal year the total value of such payments may not exceed 15 per centum of the total value of all agreements entered into under title I of this Act. Such payments shall be described in the reports required by Section 408 of this Act and Section 657 of the Foreign Assistance Act of 1961."

Subsection 103(e) of the Foreign Assistance Act of 1961, as added by Section 203 of Public Law 94-161, 89 Stat. 851, December 20, 1975, and renumbered by Section 103(d) (2) (e) of Public Law 95-424, 92 Stat. 944, October 6, 1978, provides as follows:

"(e) Local currency proceeds from sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section." (22 USC 2151a (e).)

<sup>33</sup>Pub. Law 94-161, 89 Stat. 852, Dec. 20, 1975, amended SEC. 106(b) by inserting "(1)" after "(b)" and by adding the last sentence of Section 106(b)' (1) and all of paragraphs (2) and (3).

<sup>34</sup>Section 901(b) of the Merchant Marine Act, 1936, 68 Stat. 832, as amended, 75 Stat. 565, provides in part:

Common  
Defence  
Grant

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SEC. 901

"(b) (1) Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: *Provided*, That the provisions of this subsection may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions of Section 901(b) and so notifies the appropriate agency or agencies: *And provided further*, That the provisions of this subsection shall not apply to cargoes carried in the vessels of the Panama Canal Company. . . .

U.S.  
Flag  
Vessels

(2) Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Commerce. The Secretary of Commerce shall review such administration and shall annually report to the Congress with respect thereto." (46 USC 1241(b).)

<sup>35</sup>Section 214, Pub. Law 95-88, 91 Stat. 552, August 3, 1977, requires a Presidential study of payments of ocean freight differentials. See addendum.

Freight  
Differ-  
entials

<sup>36</sup>Clause (10) of Section 109 (a) was added by Pub. Law 90-436, 82 Stat. 450, July 29, 1968.

<sup>37</sup>Pub. Law 94-161, 89 Stat. 853, Dec. 20, 1975, amended Section 109 (a) by adding the final sentence.

<sup>38</sup>Prior to the Food for Peace Act of 1966, authorizations provided dollar limitations only on local currency agreements.

<sup>39</sup>Section III was added to title I by Pub. Law 94-161, 89 Stat. 853, Dec. 20, 1975, and amended by Pub. Law 95-88, 91 Stat. 545, August 3, 1977.

<sup>40</sup>Section 112 was added by Pub. Law 95-88, 91 Stat. 545, August 3, 1977.

<sup>41</sup>Section 113 was added by Pub. Law 95-88, 91 Stat. 546, August 3, 1977.

<sup>42</sup>Section 114 was added by Pub. Law 95-88, 91 Stat. 546, August 3, 1977.

<sup>43</sup>Section 115 was added by Pub. Law 95-113, 91 Stat. 955, September 29, 1977.

<sup>44</sup>Section 604 (c) of the Foreign Assistance Act of 1961, as amended (22 USC 2354), Public Law 87-195, 75 Stat. 439, provides as follows:

"In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended, for transfer by grant under this Act to any recipient country in accordance with its requirements, the President shall, insofar as practicable and when in furtherance of the purposes of this Act, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this Act." In addition Pub. Law 94-161, 89 Stat. 853, Dec. 20, 1975, amended Section 201 by adding "(a)" after "SEC. 201" and added a new Subsection "(b)".

See also note 11.

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SEC.604(c)

<sup>45</sup>The word "as" is included in the Food for Peace Act of 1966, Pub. Law 89-808, 80 Stat. 1534.

<sup>46</sup>Section 201 (b) was amended by Pub. Law 95-88, 91 Stat. 547, August 3, 1977, by adding new paragraphs (1), (2), and (3).

<sup>47</sup>Section 121 of Public Law 96-53, 93 Stat. 366, August 14, 1979, substituted "Agency for International Development" for "Advisory Committee on Voluntary Foreign Aid" and "Advisory Committee".

<sup>48</sup>Section 208 (a) of the International Development and Food Assistance Act of 1977, Public Law 95-88, 91 Stat. 547, August 3, 1977, added the third sentence of Section 202 (a).

<sup>49</sup>Section 202 of Public Law 96-53, 93 Stat. 368, August 14, 1979, amended, SEC. 202 (b) (2) to read as shown in the text.

<sup>50</sup>Section 202 was amended by Pub. Law 95-88, 91 Stat. 547, August 3, 1977, by (1) adding "(a)" after "202," (2) to permit the utilization of foreign nonprofit agencies, (3) deleting the next to the last sentence in Section 202(a), and (4) by adding Subsection 202(b).

<sup>51</sup>Section 208(b) of Pub. Law 95-88, 91 Stat. 548 provides as follows: For purpose of implementing the amendment of Section 202, the President shall issue regulations governing registration with an approval by the Advisory Committee on Voluntary Foreign Aid<sup>47</sup> of foreign nonprofit voluntary agencies. (7 USC 1722 note.)

<sup>52</sup>Section 203 was amended by Pub. Law 95-88, 91 Stat. 548, August 3, 1977, with regard to utilization of points of entry abroad.

<sup>53</sup>Section 204 was amended by Pub. Law 95-113, 91 Stat. 956, September 29, 1977, to increase amount from \$650,000,000 to \$750,000,000.

<sup>54</sup>Pub. Law 94-161, 89 Stat. 854, Dec. 20, 1975, amended new Section 206 and Section 206 was amended by Pub. Law 95-88, 91 Stat. 548, August 3, 1977, to provide for distribution of food to neediest.

<sup>55</sup>Section 203 of Public Law 96-53, 93 Stat. 368, August 14, 1979, amended clause (3) to read as shown in the text. It was previously amended by Section 210 of the International Development and Food Assistance Act of 1977, Public Law 95-88, 91 Stat. 548, August 3, 1977, which read "(3) such agreement provides that currencies will be used for increasing the availability of food commodities provided under this title to the neediest individuals in recipient countries."

<sup>56</sup>Former Sections 301, 302, and 303 of title III were redesignated as Sections 308, 309, and 310, respectively by Pub. Law 95-88, 91 Stat. 548, August 3, 1977.

<sup>57</sup>New Sections 301-307 of title III were added by Pub. Law 95-88, 91 Stat. 548, 549, 560, and 561, August 3, 1977.

<sup>58</sup>Prior Sections 304-308 of title III were repealed by the Food for Peace Act of 1966, Pub. Law 89-808, 80 Stat. 1535, November 11, 1966.

<sup>59</sup>Section 204 of Public Law 96-53, 93 Stat. 369, August 14, 1979, added ", or the dollar sales value of the commodities themselves," in the first sentence and substituted "in the participating country of funds from the sale of such commodities or of the commodities themselves" for " of funds from the sale of such commodities in the participating country" in the second sentence.

<sup>60</sup>Section 205 of Public Law 96-53, 93 Stat. 369, August 14, 1979, added paragraph (4).

<sup>61</sup>Section 204 (b) of Public Law 96-53, 93 Stat. 369, August 14, 1979, deleted "for each year such funds are to be disbursed" in the second sentence.

<sup>62</sup>Section 202 of Public Law 95-424, 92 Stat. 955, October 6, 1978, added Subsection (d).

<sup>63</sup>Section 203 of Public Law 95-424, 92 Stat. 955, October 6, 1978, designated the first paragraph of Section 305 as Subsection "(a)" and added Subsection "(b)".

<sup>64</sup>Section 206 of Public Law 96-53, 93 Stat. 369, August 14, 1979, added the last sentence of Subsection (a).

Providing  
Food to  
Neediest

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<sup>65</sup>Section 204 of Public Law 96-53, 93 Stat. 369, August 14, 1979, added Subsection (c).

<sup>66</sup>Section 207 (a) of Public Law 96-53, 93 Stat. 369, August 14, 1979, added "a detailed description of how the commodities were used or" in the first sentence thereof.

<sup>67</sup>Section 207 (b) of Public Law 96-53, 93 Stat. 369, August 14, 1979, amended the first sentence of Section 307 (a) to read as shown in the text.

<sup>68</sup>15 USC 714b.

<sup>69</sup>Amended by Pub. Law 85-931, 72 Stat. 1791, September 6, 1958; and Pub. Law 90-436, 82 Stat. 451, July 29, 1968, which added the last sentence, Pub. Law 540, 84th Congress 80 Stat. 200, May 28, 1956, as amended by Pub. Law 85-931, 72 Stat. 1791, September 6, 1958, and by Pub. Law 86-341, 73 Stat. 611, September 21, 1959, (7 USC 1856), provides that strategic and other materials acquired by the Commodity Credit Corporation as a result of barter or exchange of agricultural commodities or products, unless acquired for the national stockpile or for other purposes, shall be transferred to the supplemental stockpile established by Section 104(b) of Public Law 480, 83rd Congress and that no strategic or critical material shall be acquired by the Commodity Credit Corporation as a result of such barter or exchange except for such national stockpile, for such supplemental stockpile, for foreign economic or military aid or assistance programs, or for offshore construction programs, or to meet requirements of Government agencies. The reference to Section 104(b) is to the section as it existed prior to its amendment by the Food for Peace Act of 1966. The section provided authority for use of foreign currencies;

"(b) To purchase or contract to purchase, in such amounts as may be specified from time to time in appropriation acts, strategic or other materials for a supplemental United States stockpile of such materials as the President may determine from time to time. Such strategic or other materials acquired under this subsection shall be placed in the above named supplemental stockpile and shall be released therefrom only under the provisions of Section 3 of the Strategic and Critical Materials Stock Piling Act;"

<sup>70</sup>Section 401 of title IV was amended to be 401 (a) and Subsection (b) was added by Pub. Law 95-88, 91 Stat. 551, August 3, 1977.

<sup>71</sup>Section 8 of Pub. Law 85-931, 72 Stat. 1792, September 6, 1958, as amended by Pub. Law 89-808, 80 Stat. 1538, November 11, 1966, provides as follows:

"In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended, extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely from upland or long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act as long as cotton in surplus supply in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act." (7 USC 1701 note.)

Extra  
Long  
Staple  
Cotton

<sup>72</sup>Section 401 (a) of title IV was amended by Pub. Law 95-113, 91 Stat. 956, September 29, 1977, to add the following:

"unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act."

<sup>73</sup>Section 208 of Public Law 96-53, 93 Stat. 370, August 14, 1979, added the words "or interference with" and "or marketing" to the last sentence in 401 (b) and Section 401 (b) of title IV was added by Public Law 95-88, 91 Stat. 551, August 3, 1977.

<sup>74</sup>Section 24 of the Export Administration Act of 1979, Public Law 96-72, 93 Stat. 536, September 29, 1979, added the words "or beer" after wine in the first sentence of Section 402.

<sup>75</sup>Amended by Pub. Law 92-42, 85 Stat. 99, July 1, 1971, to add the following second sentence. See note 74 which amended this sentence.

"The foregoing provisions shall not be construed as prohibiting representatives of the domestic wine industry from participating in market development activities carried out with foreign currencies made available under title I of this Act which have as their purpose the expansion of export sales of United States agricultural commodities."

<sup>76</sup>Section 402 of title IV was amended by Pub. Law 95-113, 91 Stat. 956, September 29, 1977, to add:

"In the allocation of funds made available under title I of this Act, priority shall be given to financing the sale of food and fiber commodities."

<sup>77</sup>Section 403 of title IV was redesignated 403 (a) by Pub. Law 95-113, 91 Stat. 956, September 29, 1977.

<sup>78</sup>Section 403 (b) of title IV was added by Pub. Law 95-113, 91 Stat. 957, September 29, 1977.

<sup>79</sup>Section 209 of Public Law 96-53, 93 Stat. 370, August 14, 1979, amended Section 404 (a) to read as shown in the text and added Subsection (b).

<sup>80</sup>Pub. Law 94-161, 89 Stat. 855, amended SEC. 406 (a) by reassigning authority to administer the section provision from the Secretary of Agriculture to the President, and by amending Subsection (5).

<sup>81</sup>Office of Management and Budget.

<sup>82</sup>Amended by Pub. Law 90-436, 82 Stat. 451, July 29, 1968, and by Pub. Law 94-161, 89 Stat. 854, Dec. 20, 1975.

<sup>83</sup>Section 408 (b) of title IV was amended by Pub. Law 95-88, 91 Stat. 552, August 3, 1977.

<sup>84</sup>Section 408 (c) of title IV was amended by Pub. Law 95-88, 91 Stat. 552, August 3, 1977.

<sup>85</sup>Section 408 (d) and (e) of title IV were added by Pub. Law 95-113, 91 Stat. 957, September 29, 1977.

<sup>86</sup>Section 409 was amended by Pub. Law 95-113, 91 Stat. 957, September 20, 1977, to change the date from December 31, 1977 to December 31, 1981 and to add the following:

"New spending authority provided for title I of this Act by amendment to this section made by the Food and Agriculture Act of 1977 shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts."

<sup>87</sup>Section 620 (e) of the Foreign Assistance Act of 1961, Pub. Law 87-195, 75 Stat. 444, Sept. 4, 1961, as amended (22 USC 2370(e)) reads in part as follows:

"(e) (1) The President shall suspend assistance to the government of any country to which assistance is provided under this or any other Act when the government of such country or any government agency or subdivision within such country on or after January 1, 1962—

Expro-  
piation

(A) has nationalized or expropriated or seized or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(B) has taken steps to repudiate or nulify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(C) has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control

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of property so owned, and such country, government agency, or government subdivision fails within a reasonable time (not more than six months after such action, or, in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity, including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be; and such suspension shall continue until the President is satisfied that appropriate steps are being taken, "and the provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interest of the United States. Such certification shall be reported immediately to Congress."

<sup>88</sup>Added by Pub. Law 93-86, 87 Stat. 237, August 10, 1973.

<sup>89</sup>Pub. Law 94-161, 89 Stat. 855, Dec. 20, 1975, added new Section 412.

<sup>90</sup>Section 210 of Public Law 96-53, 93 Stat. 370, August 14, 1979, added Section 413.

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## Presidential Documents

Title 3—

Executive Order 12220 of June 27, 1980

The President

Agricultural Trade Development

By the authority vested in me as President of the United States of America by the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, *et seq.*) and Section 301 of Title 3 of the United States Code, and in order to provide for the delegation of certain functions to the United States International Development Cooperation Agency and to revise existing delegations, it is hereby ordered as follows:

### 1-1. Department of Agriculture.

1-101. Except as otherwise provided in this Order, the following functions vested in the President by the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter referred to as the Act), are delegated to the Secretary of Agriculture: Title I and IV (7 U.S.C. 1701, *et seq.*, and 1731, *et seq.*).

1-102. The Secretary of Agriculture shall transmit the reports required by the provisions of paragraph 5 of the Act of August 13, 1957 (71 Stat. 345; 7 U.S.C. 1704a).

1-103. The Secretary of Agriculture, after consultation with the Secretary of State, the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency, the Chairman of the Council of Economic Advisers, the Director of the Office of Management and Budget, and the Assistant to the President for National Security Affairs, shall transmit to the Congress all reports required by Section 408 of the Act (7 U.S.C. 1736b).

### 1-2. United States International Development Cooperation Agency.

1-201. Administration of Title II. The functions vested in the President by Title II of the Act (7 U.S.C. 1721, *et seq.*) are delegated to the Director of the United States International Development Cooperation Agency.

### 1-202. Other functions.

(a) The functions vested in the President by the Act of negotiating and entering into agreements with friendly countries are delegated to the Director of the United States International Development Cooperation Agency. Such functions shall be exercised in accord with Section 112b of Title I of the United States Code and applicable regulations and procedures of the Department of State.

(b) The functions delegated to the Director of the United States International Development Cooperation Agency by subsection (a) of this section are exclusive of any functions under Section 104 of the Act (7 U.S.C. 1704) that are delegated to any other agency by this Order and of functions under Section 310 of the Act (7 U.S.C. 1692).

(c) The functions delegated by this Order to the Director of the United States International Development Cooperation Agency may be redelegated to the head of any other Executive agency.

### 1-3. Department of State.

1-301. The Secretary of State shall perform the function of determining which countries are friendly countries within the meaning of Section 103(d) of the Act (7 U.S.C. 1703(d)).

1-302. The functions delegated by this Order to the Secretary of State may be redelegated to the head of any Executive agency.

1-4. Foreign Currencies.

1-401. (a) Foreign currencies which accrue under Title I of the Act (7 U.S.C. 1701, *et seq.*) may be used for the purposes set forth in Section 104 of the Act (7 U.S.C. 1704) in amounts consistent with applicable provisions of law, sales agreements and loan assessments. Except as may be inconsistent with such law or agreements, priority shall be accorded to the sale of such currencies to appropriations or to their sale otherwise for dollars. The Director of the Office of Management and Budget shall fix the amounts of such currencies to be used for the purpose set forth in Section 104 of the Act. The Director of the Office of Management and Budget shall notify the Secretary of the Treasury with respect to any amounts so fixed.

(b) The function vested in the President by the penultimate proviso of Section 104 of the Act (7 U.S.C. 1704) of waiving the applicability of Section 1415 of the Supplemental Appropriation Act of 1953 (31 U.S.C. 724) is delegated to the Director of the United States International Development Cooperation Agency with respect to Section 104(e) of the Act and to the Director of the Office of Management and Budget in all other respects.

1-402. The Secretary of the Treasury shall issue regulations governing the purchase, custody, deposit, transfer and sale of foreign currencies received under the Act.

1-403. The provisions of Sections 1-401 and 1-402 of this Order shall not limit Sections 1-202 and 1-3 of this Order. The provisions of Section 1-402 of this Order shall not limit Section 1-401 of this Order.

1-404. The purposes of the following paragraphs of Section 104 of the Act (7 U.S.C. 1704) shall be carried out as follows:

(a) Those under paragraph (a) by the agencies with authority to pay the United States' obligations abroad.

(b) Those under paragraph (b)(1) by the Department of Agriculture.

(c) Those under paragraph (b)(2) by the agencies with responsibility for such functions.

(d) Those under paragraph (b)(3) of the Act as follows:

(1) Those with respect to collecting, collating, translating, abstracting, and disseminating scientific and technological information by the Director of the National Science Foundation and the head of such other agency or agencies as the Director of the Office of Management and Budget may designate after appropriate consultation:

(2) Those with respect to programs of culture and educational development, health, nutrition, and sanitation by the Director of the International Communications Agency, the Department of State, and the head of any other appropriate agency:

(3) All others by such agency or agencies as the Director of the Office of Management and Budget may designate after appropriate consultation.

(4) The term "appropriate consultation" shall include consultation with the Secretary of State, the Director of the National Science Foundation, and the head of any other appropriate agency.

(e) Those under paragraph (b)(4) by the Department of State and any other agency or agencies designated by the Secretary of State.

(f) Those under paragraph (b)(5) by the Librarian of Congress.

(g) Those under paragraphs (d), (e), (f), (g), and (h) by the United States International Development Cooperation Agency.

(h) Those under paragraph (j) by the Department of the Treasury in consultation with the Department of State.

1-405. The functions vested in the President by Section 104 of the Act (7 U.S.C. 1704) are delegated as follows:

(a) Those under paragraph (f) of determining the manner in which the loans provided for in that paragraph shall be made to the Director of the United States International Development Cooperation Agency.

(b) Those under paragraph (j) of prescribing terms and conditions to the Secretary of the Treasury in consultation with the Secretary of State.

1-406. In negotiating international agreements pursuant to the Act, the Secretary of State shall avoid restrictions which would limit the application of normal budgetary and appropriation controls to the use of foreign currencies accruing under Title I of the Act (7 U.S.C. 1701, *et seq.*) which are available for operations of the United States Government.

1-5. Revocations.

1-501. Executive Order No. 10900 of January 5, 1961, as amended, is revoked.

1-502. The following Executive Orders which have previously been superseded, at least in part, are revoked:

(a) Executive Order No. 10560 of September 9, 1954;

(b) Executive Order No. 10685 of October 27, 1956;

(c) Executive Order No. 10708 of May 6, 1957;

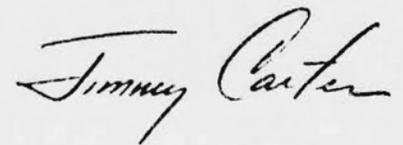
(d) Executive Order No. 10746 of December 12, 1957;

(e) Executive Order No. 10799 of January 15, 1959;

(f) Executive Order No. 10827 of June 25, 1959;

(g) Executive Order No. 10884 of August 17, 1960; and

(h) Executive Order No. 10893, as amended, except Section 201 thereof.



THE WHITE HOUSE,  
June 27, 1980.

AID HANDBOOK 9, App B.2.b	TRANS. MEMO NO. 9:6	EFFECTIVE DATE June 27, 1980	PAGE NO. 5-1
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## IDCA DELEGATION OF AUTHORITY NO. 5

There follows below the text of this Delegation of Authority, as published in the Federal Register of July 10, 1980 (45 F.R. 46581).

**INTERNATIONAL DEVELOPMENT  
COOPERATION AGENCY**

[Delegation of Authority No. 5]

**Delegation of Certain Pub. L. 480  
Authorities to Administrator of Agency  
for International Development**

By virtue of the authority vested in me by Executive Order No. 12220 of June 27, 1980 (hereinafter referred to as the "Executive order"), entitled Administration of the Agricultural Trade Development and Assistance Act of 1954, it is ordered as follows:

**1-1. Concurrent Authority.**

1-101. Notwithstanding any provision of this Delegation of Authority, the Director of the United States International Development Cooperation Agency (hereinafter referred to as "IDCA") may at any time exercise any function delegated by this Delegation of Authority.

**1-2. Functions Delegated to the  
Administrator of the Agency for  
International Development.**

1-201. Exclusive of the functions reserved to the Director of IDCA herein, there are hereby delegated to the Administrator of the Agency for International Development the functions conferred upon the Director of IDCA by Sections 1-103, 1-201, 1-202, 1-401, 1-404, and 1-405 of the Executive Order.

1-202. Except to the extent inconsistent with this Delegation of Authority, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, designations, and other actions made, issued, or entered into prior to the date of the Executive Order and not revoked,

superseded or otherwise made inapplicable before the effective date of this Delegation of Authority shall continue in full force and effect until modified, amended, or terminated by appropriate authority.

**1-3. General Provisions.**

1-301. Any reference in this Delegation of Authority to any act, order, determination, or delegation of authority shall be deemed to be a reference to such act, order, determination, or delegation of authority as amended from time to time.

1-302. The Administrator of the Agency for International Development may to the extent consistent with law:

(a) Delegate or assign any of the functions delegated or assigned to him by this Delegation of Authority to any other officer of a component agency or unit of IDCA or to any officer or executive agency of the Executive Branch; and

(b) Authorize any officer to whom such functions are so delegated or assigned to successively redelegate or reassign any of such functions.

1-303. Functions conferred by this delegation shall be carried out in consultation with the heads of other departments and agencies as required by the Executive Order.

**1-4. Effective Date.**

1-401. This delegation shall be effective as of June 27, 1980.

Dated: July 2, 1980.

Thomas Ehrlich,  
Director, U. S. International Development  
Cooperation Agency.

[FR Doc. 80-20611 Filed 7-9-80; 8:45 am]

## DELEGATION OF AUTHORITY 23 (AS AMENDED)

There follows below the text of AID Delegation of Authority No. 23, originally published in the Federal Register of January 22, 1963 (23 F.R. 563), as revised by amendments and other delegations noted marginally and cited on page 3.

## DEPARTMENT OF STATE

## Agency for International Development

[Delegation of Authority 23]

REGIONAL ASSISTANT ADMINISTRATORS  
AND ASSISTANT ADMINISTRATOR FOR ← Per D/A  
PRIVATE AND DEVELOPMENT COOPERATION 95

## Delegation of Authority

By virtue of the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State and entitled Delegation of Authority, Foreign Assistance Act of 1961 and Certain Related Acts, and to the extent consistent with law, it is hereby directed as follows:

SECTION 1. *Regional Assistant Administrators.* The following functions are hereby delegated to the Assistant Administrator for Near East, the Assistant Administrator for Latin America, the Assistant Administrator for Africa, the Assistant Administrator for Asia, for the countries or areas within their respective responsibilities:

(1) The function of carrying out the purposes described in the following lettered paragraphs of section 104 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), with foreign currencies which accrue under title I of that act, and are made available in consonance with law and the provisions of Executive Order ~~10688~~ 1/

(a) Section 104(c), as the Assistant Administrator shall agree upon with the Department of Defense, or, in the absence of agreement, as determined by the Director of the Bureau of the Budget upon my submission of the issue to said Director;

(b) Section 104(d);

(c) Section 104(e) and section 104(g), including the function of determining the manner in which the loans provided for by section 104(g) shall be made;

(d) Section 104(q).

(2) The function of negotiating, authorizing, executing and implementing such loan and grant agreements and such other documents as may be necessary in carrying-out the function described in paragraph (1) of this section, including authority to amend such agreements or documents, and to make agreements or issue documents ancillary thereto, and to amend or make ancillary agreements relating to loans heretofore entered into under section 104(e) by the Export-Import Bank of Washington.

(3) The function of requesting or authorizing the transfer of agricultural commodities pursuant to sections 201 and 202 of Title II of Public Law 480 (with the exception of the function of signing Transfer Authorizations to be issued to the Commodity Credit Corporation) and the function of requesting or authorizing, pursuant to section 204 of Title II of Public Law 480, the transfer of funds for the purchase, from the United States Treasury, of foreign currencies accruing under Title I of Public Law 480.

(4) The function, pursuant to section 202 of title II, of determining the agencies, including intergovernmental organizations, other than the World Food Program, through which and the manner, terms and conditions upon which, transfers under sections 201 and 202 shall be made, and of authorizing the payment of ocean freight and inland transportation with respect to commodities transferred pursuant to sections 201 and 202, other than those transferred through the World Food Program, upon certification that such payment is necessary to accomplish the purposes of title II of Public Law 480.

(5) The function of determining the agencies, including intergovernmental organizations, through which and the manner, terms and conditions upon which transfers of funds authorized under section 204 of title II of Public Law 480 for the purchase, from the United States Treasury, of foreign currencies accruing under title I shall be

Per  
Amdt.  
10-5-77

Per Delegs.  
← of Auth. 112  
and. 113

Per  
Amdt.  
10-5-77

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Per Amdt. 10-5-77  
Per Del. of Auth. No. 95

made in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under title II ~~is~~ used to carry out more effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance and of determining that such funds are supplemental to and not in substitution for funds normally available for such purposes from other non-United States sources.

Per Del. of Auth. No. 69  
Per Del. of Auth. No. 95

Sec. 2. There is hereby delegated to the Coordinator, Food for Peace, the following functions:

(1) The function of negotiating and entering into sales agreements with friendly nations or organizations of friendly nations, pursuant to title I of Public Law 480, subject to the concurrences required by Department of State Circular No. 175.

Per Amdt. 10-5-77

(2) The function contained in the penultimate proviso of section 104 of Public Law 480 of waiving the applicability of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724) in respect to grants under section 104(e) of Public Law 480.

(3) The function, pursuant to title II of Public Law 480, of signing Transfer Authorizations to be issued to the Commodity Credit Corporation and the function, pursuant to section 204 of title II of Public Law 480, of signing Transfer Authorizations or other appropriate documents to effect the obligation and expenditure of funds authorized under section 204 of title II for the purchase, from the United States Treasury, of foreign currencies accruing under title I and to effect the obligation and expenditure of the foreign currencies so purchased.

Per Amdt. 10-5-77

(4) Deleted

(5) The function, with respect to programs conducted worldwide or in countries in two or more geographic regions, of requesting or authorizing the transfer of surplus agricultural commodities pursuant to sections 201 and 202 of title II of Public Law 480 and of requesting or authorizing, pursuant to section 204 of title II of Public Law 480, the transfer of funds for the purchase of foreign currencies accruing under title I of Public Law 480 from the United States Treasury.

Per Amdt. 10-5-77

(6) The function, with respect to programs conducted worldwide or in countries in two or more geographic regions, pursuant to section 202 of title II, of determining the agencies, including intergovernmental organizations, through which and the manner, terms and conditions upon which, transfers under sections 201 and 202 shall be made and the function, with respect to programs conducted in two or more geographic regions, of determining the agencies, including intergovernmental organization, through which and the manner, terms and conditions upon which transfers of funds authorized under section 204 of title II of Public Law 480 for the purchase, from the United States Treasury, of foreign currencies accruing under title I shall be made in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under title II or III are used to carry out more effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance and of determining that such funds are supplemental to and not in substitution for funds normally available for such purposes from other non-United States sources.

Per Amdt. 10-5-77

(7) The function of determining that it is in furtherance of title II purposes, in accordance with AID Regulation 11, 22 CFR section 211.4(c)(3), to pay or make reimbursement to voluntary agencies for the transportation costs authorized by section 203, PL 480.

Sec. 3. *General provisions.* (1) Any reference in this Delegation of Authority to any Act of Congress, order, determination or delegation of authority shall be deemed to be a reference to such Act of Congress, order, determination or delegation of authority as amended from time to time.

(2) Any officer of AID to whom functions are delegated under this Delegation of Authority may, to the extent consistent with law, redelegate or reassign any of the functions delegated or assigned to him by this Delegation of Authority to his principal deputy and to one other subordinate and to the Director or Deputy Director of any U.S. AID Mission abroad or to the principal United States diplomatic officer in any foreign country. In addition, the Assistant Administrator for each of the Regional

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Bureaus may authorize successive redelegation of the authority to implement such loan.

(3) This Delegation of Authority supersedes Delegation of Authority No. 12 dated February 17, 1962, by the Administrator and any other delegations relating to functions affected by the terms of this Delegation; *Provided, however, That this Delegation of Authority shall not supersede or otherwise affect any authority heretofore delegated to the Directors of A.I.D. Missions, A.I.D. Representatives and A.I.D. Liaison Officers; And provided further, That all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and*

other actions made, issued, or entered into with respect to any function affected by this Delegation of Authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this Delegation of Authority shall continue in full force and effect until amended, modified, or terminated by an officer to whom such authority has been delegated by this Order.

(4) This Delegation of Authority shall be effective immediately.

Dated: December 28, 1962.

BERNARD T. BRENNAN,  
Acting Administrator.

[F.R. Doc. 63-631; Filed, Jan. 21, 1963;  
8:46 a.m.]

Amendment No. 1, 28 F.R. 9264, effective 8-15-63 - Superseded by Amendment 4.

Amendment No. 2, 29 F.R. 13350, effective 9-8-64 - Superseded by Delegation of Authority No. 76.

Amendment No. 3, 30 F.R. 8973, effective 7-6-65.

Amendment No. 4, 30 F.R. 12955, effective 9-30-65.

Delegation of Authority No. 69, 32 F.R. 5475, effective 3-23-67; amended 34 F.R. 15385, effective 9-19-69 (see AID Delegation of Authority No. 69, as amended - To the Assistant Administrator for Private and Development Cooperation).

Delegation of Authority No. 112, 40 F.R. 48955, effective October 12, 1975 - To the Assistant Administrator for Asia.

Delegation of Authority No. 113, 40 F.R. 49582, effective October 12, 1975 - To the Assistant Administrator, Bureau for Near East.

Amended effective October 5, 1977 (42 F.R. 57581).

Amended effective November 16, 1977 (43 F.R. 27627 and 27628).

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## DELEGATION OF AUTHORITY 69

There follows below the text of A.I.D. Delegation of Authority No. 69, originally published in the Federal Register for April 1, 1967 (32 F.R. 5475), as most recently amended November 16, 1977 (43 F.R. 27627 and 27628). The texts of the amendments effective September 19, 1969, and February 2, 1970 as published in the Federal Register of October 2, 1969 (34 F.R. 15385) and February 10, 1970 (35 F.R. 2795), respectively, are shown on the reverse.

**DEPARTMENT OF STATE****Agency for International Development**

(Delegation of Authority No. 69)

Per D/A  
95**ASSISTANT ADMINISTRATOR FOR  
PRIVATE AND DEVELOPMENT  
COOPERATION****Delegation of Authority Regarding  
Food for Peace Functions**

Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State, and in furtherance of my decision relating to the "Reorganization for Increased Emphasis on the Private Sector and the War on Hunger" announced in AID/W Notice of February 10, 1967 by the Assistant Administrator for Administration, it is hereby ordered as follows:

SECTION 1. Delete the title "Assistant Administrator for Material Resources" wherever it appears in Delegation of Authority No. 23, dated December 28, 1962 (28 F.R. 563) as amended, and substitute the title *Assistant Administrator for Private and Development Cooperation*.

Sec. 2. Current redelegations of authority issued prior to this order by the Assistant Administrator for Material Resources based on Delegation of Authority No. 23, as amended, shall continue in effect according to their terms until modified or revoked by the *Assistant Administrator for Private and Development Cooperation (PDC)*.

Sec. 3. The authorities delegated to the *Assistant Administrator, PDC*, pursuant to section 1 hereof may be redelegated to the extent specified in the Delegation of Authority No. 23, and shall be subject to such limitations or restrictions as are provided in such delegations.

Sec. 4. (DELETED)

SEC. 5. Actions, delegations, designations, and redelegations of the Assistant Administrator for Technical Cooperation and Research, and of the Assistant Administrator for Material Resources or by officers of the Offices of Agricultural and Rural Development, Health Services, Food for Peace, Voluntary Foreign Aid, and Office of Industrial Resources, heretofore made in connection with the functions and responsibilities affected by this Delegation shall remain in full force and effect until modified, superseded, or rescinded by the **OFFICIALS DULY AUTHORIZED TO TAKE SUCH ACTION.**

Sec. 6. This delegation of authority is effective immediately.

WILLIAM S. GAUD,  
Administrator.

MARCH 23, 1967.

[F.R. Doc. 67-3596; Filed, Mar. 31, 1967;  
8:47 a.m.]

PAGE NO. 69-2	EFFECTIVE DATE 3-23-77 (as amended 11-16-77)	TRANS. MEMO NO. 9:6	AID HANDBOOK 9, App B.2.c
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[Delegation of Authority 69, Amdt.]

**ASSISTANT ADMINISTRATOR, PDC**

**Delegation of Authority Regarding  
Food for Peace Functions**

Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State (26 F.R. 10608) I hereby amend further Delegation of Authority No. 69, dated March 23, 1967 (32 F.R. 5475) as amended (33 F.R. 919), as follows:

SECTION 1. Delete the title "Assistant Administrator, Office of the War on Hunger," wherever it appears in sections 1, 2, and 3 of Delegation of Authority No. 69, and substitute the title "Coordinator, Food for Peace."

SEC. 2. Actions, delegations, designations, and redelegations of the Assistant Administrator, Office of the War on Hunger heretofore made in connection with the functions and responsibilities affected by this Delegation shall remain in full force and effect until modified, superseded, or rescinded by the Coordinator, Food for Peace.

SEC. 3. This amendment shall not supersede or otherwise affect any authority heretofore delegated to the Regional Assistant Administrators, or to the Directors of A.I.D. Missions, A.I.D. Representatives, and A.I.D. Liaison Officers and such principal diplomatic officers in foreign countries who hold delegations of authority from the A.I.D. Administrator.

SEC. 4. References in any prior Delegation of Authority affected by this amendment to provisions of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) shall be deemed, except as may be inappropriate, to include references thereto, as amended from time to time.

SEC. 5. This Delegation of Authority shall be effective immediately.

Dated: September 19, 1969.

**RUTHERFORD POATS,**  
*Deputy Administrator.*

[F.R. Doc. 69-11752; Filed, Oct. 1, 1969;  
8:48 a.m.]

[Delegation of authority No 69, Amdt. 1]

**ASSISTANT ADMINISTRATOR, PDC**

**Delegation of Authority Regarding  
Food for Peace Functions**

Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State (26 F.R. 10608), I hereby amend further Delegation of Authority No. 69, dated March 23, 1967 (32 F.R. 5475), as amended (33 F.R. 919), (34 F.R. 15385), as follows:

SECTION 1. Delete section 4, Delegation of Authority No. 69, dated March 23, 1967 (32 F.R. 5475).

SEC. 2. Delete the title "Assistant Administrator, Office of the War on Hunger," and the words "or his authorized delegate" from the last three lines in section 5, Delegation of Authority No. 69, dated March 23, 1967 (32 F.R. 5475), and substitute therefor the words: "officials duly authorized to take such action."

SEC. 3. This Amendment to Delegation of Authority No. 69, shall be effective immediately.

Dated: February 2, 1970.

**RUTHERFORD M. POATS,**  
*Acting Administrator.*

[F.R. Doc. 70-1853; Filed, Feb. 9, 1970;  
8:48 a.m.]

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## DELEGATION OF AUTHORITY 84

There follows below the text of Delegation of Authority No. 84 as published in the Federal Register for May 10, 1969 (34 F.R. 7582).

## DEPARTMENT OF STATE

### Agency for International Development

[Delegation of Authority No. 84]

#### DIRECTOR OF MISSIONS

#### Collection of Claims Against Voluntary Agencies

1. Pursuant to the authority vested in me by section 3 of the Federal Claims Collection Act of 1966, 80 Stat. 308 (31 U.S.C. 952), I hereby delegate to the Directors of Missions of the Agency for International Development (A.I.D.) and to the principal diplomatic officers of the United States in countries in which A.I.D. is not represented by a Mission the following functions and authorities with respect to claims against Voluntary Agencies arising under § 211.9 (d) and (e) of A.I.D. Regulation 11 (22 CFR Chapter II Part 211) in the implementation of an assistance program in the country to which such Directors or principal diplomatic officers are accredited:

- (a) Administrative collection.
- (b) Suspension or termination of collection action when the claim does not exceed \$10,000.
- (c) Compromise of any such claim when the claim does not exceed \$20,000 and the amount to be relinquished does not exceed \$10,000.

2. The foregoing authority may be redelegated.

3. The functions and authorities herein delegated shall be exercised in accordance with A.I.D. Regulation 13 (22 CFR Chapter II Part 213) and other Agency regulations, procedures, and policies relating thereto, as amended from time to time.

This Delegation of Authority is effective on the date of its publication in the FEDERAL REGISTER.

Dated: May 2, 1969.

RUTHERFORD POATS,  
Acting Administrator.

[F.R. Doc. 69-5603; Filed, May 9, 1969;  
8:46 a.m.]

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REDELEGATION OF AUTHORITY NO. 69.1  
(Also filed as Redlegation Nos. 23.3 and 95.4)

There follows below the text of this Redlegation of Authority, as published in the Federal Register of June 26, 1978 (43 F.R. 27628).

**DEPARTMENT OF STATE**

Agency for International Development  
(Redlegation of Authority No. 138-3)

BUREAU FOR PRIVATE AND DEVELOPMENT  
COOPERATION; COORDINATOR, FOOD FOR  
PEACE

*Delegation of Authority*

Pursuant to the authority delegated to me by Delegations of Authority No. 23 dated December 28, 1962 (23 FR 563) as amended, Delegation of Authority No. 69 dated March 23, 1967 (32 FR 5475) as amended and Delegation of Authority No. 95 (Revised) dated May 17, 1978, I hereby redelegate to the Coordinator, Food for Peace, the following authorities:

A. All of the authorities delegated to me by the above-mentioned Delegations of Authority Nos. 23, 69, and 95 as amended and revised.

The authorities redelegated herein may be redelegated successively and may be exercised by persons who are performing the functions of the designated officers in an acting capacity.

Actions heretofore taken by the official designated herein are hereby ratified and confirmed.

This redelegation shall become effective immediately.

Dated: June 9, 1978.

ANTHONY M. SCHWARTZWALDER,  
*Acting Assistant Administrator  
for Private and Development  
Cooperation.*

[FR Doc. 78-17607 Filed 6-23-78; 8:45 am]

## AID REGULATION 11

The text of AID Regulation 11, as amended, is given below, based on publication in the Federal Register as follows:

<u>Portion(s) Affected</u>	<u>Effective Date</u>	<u>Citation</u>
Entire regulation	February 13, 1968	33 F.R. 2918
Sections 211.3; 211.5(k)	October 7, 1970	34 F.R. 15751
Section 211.9 (in entirety)	September 19, 1974	39 F.R. 33668
Regulation Revised (in entirety)	November 1, 1976	41 F.R. 47919-47927
Regulation Revised (in entirety)	June 13, 1979	44 F.R. 34034-34045

**DEPARTMENT OF STATE****Agency for International Development****22 CFR Part 211****[A.I.D. Regulation 11]****Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance**

## Sec.

- 211.1 General purpose and scope.
- 211.2 Definitions.
- 211.3 Cooperating sponsor agreements.
- 211.4 Availability of commodities.
- 211.5 Obligations of cooperating sponsors.
- 211.6 Processing, repackaging, and labeling commodities.
- 211.7 Arrangements for entry and handling in foreign country.
- 211.8 Disposition of commodities unfit for authorized use.
- 211.9 Liability for loss and damage or improper distribution of commodity.
- 211.10 Records and reporting requirements of cooperating sponsor.
- 211.11 Termination of program.
- 211.12 Waiver and amendment authority.

Authority: Secs. 105, 201, 202, 203, and 305, Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1705, 1721, 1722, 1723, and 1893; 68 Stat. 454, as amended.

**§ 211.1 General purpose and scope.**

(a) *Terms and conditions.* This Part 211 contains the regulations prescribing the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental

organizations (except the World Food Program and United Nations Relief and Works Agency) pursuant to Title II, the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480, 83rd Congress, as amended).

(b) *Legislation.* The legislation implemented by the regulations in this part is as follows:

(1) Section 2(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides that in furnishing food aid, the President shall:

relate United States food assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities.

(2) Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) The President is authorized to determine requirements and furnish agricultural commodities on behalf of the people of the United States of America, 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. The Commodity Credit Corporation shall make available to the President such agricultural commodities determined to be available under section 401 as he may request.

(b) The minimum quantity of agricultural commodities distributed under this title—(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; (2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and (3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this Act pursuant to section 401, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.

(3) Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) The President may furnish commodities for the purposes set forth in section 201 through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the World Food Program and other multilateral

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organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. If no United States nonprofit voluntary agency registered with and approved by the Advisory Committee on Voluntary Foreign Aid is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate markings on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(b)(1) Assistance to needy persons under this title shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

(2) In order to assure that food commodities made available under this title are used effectively, indigenous workers shall be employed, to the extent feasible, to provide information on nutrition and conduct food distribution programs in the most remote villages.

(3) In distributing food commodities under this title, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to the poorest regions of countries.

(4) Section 203 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification, processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in U.S. ports. Ocean freight charges from U.S. ports to designated ports of entry abroad; transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(5) Section 204 of the Agricultural Trade Development and Assistance Act

of 1954, as amended, provides in part as follows:

Programs of assistance shall not be undertaken under this title during any calendar year which call for an appropriation of more than \$750,000,000<sup>48</sup> to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this title in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year.

In addition to other funds available for such purposes under any other act, funds made available under this title may be used in an amount not exceeding \$7,500,000 annually to purchase foreign currencies accruing under title I of this Act in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies; and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes or the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources.

(6) Section 206 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides in part as follows:

Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this title shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 109 of this Act, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this title to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with the section in the reports required under section 408 of this Act and section 857 of the Foreign Assistance Act of 1961.

(7) Section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act.

(b) No agricultural commodity may be financed or otherwise made available under the authority of this Act except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country.

(8) Section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides, in part, as follows:

The term "agricultural commodity" as used in this Act shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of title II of this Act, tobacco or products thereof. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this Act.

(9) Section 404 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The programs of assistance undertaken pursuant to this Act shall be directed toward the attainment of the humanitarian objectives and national interest of the United States.

(10) Section 405 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet

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the needs of their people and in resolving their problems relative to population growth.

**§ 211.2 Definitions.**

(a) "AID" means the Agency for International Development or any successor agency, including, when applicable, each USAID. "USAID" means an office of AID located in a foreign country. "AID/W" means the Office of AID located in Washington, D.C.

(b) "CCC" means the Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

(c) "Cooperating sponsor" means the foreign government, the U.S. registered nonprofit voluntary agency, the American National Red Cross, or the intergovernmental organization, which enters into an agreement with the U.S. Government for the use of agricultural commodities and/or funds (including local currencies), and which is directly responsible under the agreement for administration and implementation of and reporting on programs involving the use of the commodities and/or funds made available to meet the requirements of eligible recipients. The term also includes foreign nonprofit voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid entering into such agreements following a determination of unavailability of a U.S. registered nonprofit voluntary agency to provide the assistance.

(d) "Diplomatic Posts" means the offices of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular offices.

(e) "Disaster relief organizations" means organizations which are authorized by AID/W, USAID, or by a Diplomatic Post to assist disaster victims.

(f) "Disaster victims" means persons who, because of flood, drought, fire, earthquake, other natural or manmade disasters, or extraordinary relief requirements, are in need of food, feed, or fiber assistance.

(g) "Duty free" means exempt from all customs duties, duties, tolls, taxes or governmental impositions levied on the act of importation.

(h) "Food for Peace Program Agreement" constitutes the agreement between the cooperating sponsor(s) and the U.S. Government. The Food for Peace Program Agreement may be specific, listing the kinds and quantities of commodities to be supplied, program objectives, criteria for eligibility of

recipients, plan for distribution of commodities, and other specific program provisions in addition to the provisions set forth in this part; or it will state that the cooperating sponsor will comply with this part and such other terms and conditions as set forth in other AID programing documents.

(i) "Institutions" means nonpenal, public or nonprofit private establishments that are operated for charitable or welfare purposes where needy persons reside and receive meals, including, but not limited to, homes for the aged, mentally and physically handicapped, refugee camps, and leprosy asylums.

(j) "Intergovernmental organizations" means agencies sponsored and supported by the United Nations organization or by two or more nations, one of which is the United States of America.

(k) "Maternal-child feeding, primary school and other child feeding programs":

(1) Maternal and preschool feeding programs means programs conducted for women of child bearing age, for mothers with preschool children, and for children below the usual enrollment age for the primary grade at public schools.

(2) School feeding programs refers to programs conducted for the benefit of children enrolled in primary schools.

(3) Other child feeding programs refers to programs designed to reach preschool or primary school age, needy children in child care centers, orphanages, institutions, nurseries, kindergartens, and similar activities.

(l) "Nonprofit" means that the residue of income over operating expenses accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.

(m) "Primary School" means a public or nonprofit facility, or an activity within such facility, which has as its primary purpose the education of children at education levels which are generally comparable to those of elementary schools in the United States.

(n) "Recipient agencies" means schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions are sponsored by the cooperating sponsor and who receive commodities for distribution to eligible recipients. A cooperating sponsor may be a recipient agency.

(o) "Recipients" means persons who are in need of food assistance because of their economic condition or who are otherwise eligible to receive commodities for their own use in accordance with the terms and

conditions of the Food for Peace Program Agreement.

(p) "Refugees" means persons who fled or were forced to leave their country of nationality or residence and are living in a country other than that of which they hold or have held citizenship or in a part of their country of nationality or residence other than that which they normally consider their residence, and become eligible recipients.

(q) "USDA" means the U.S. Department of Agriculture.

(r) "Voluntary Agency" means the American National Red Cross and any U.S. or foreign voluntary nonprofit agency registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development.

(s) "Welfare agencies" means public or nonprofit private agencies that provide care, including food assistance, to needy persons who are not residents of institutions.

**§ 211.3 Cooperating sponsor agreements.**

(a) *Food for Peace Program Agreement.* The cooperating sponsor shall enter into a written agreement with AID by assigning a Food for Peace Program Agreement which shall incorporate by reference or otherwise the terms and conditions set forth in this part.

(b) *Individual Country Food for Peace Program Agreement.* Voluntary agencies or intergovernmental organizations shall, in addition to the Food for Peace Program Agreement, enter into a separate written Food for Peace Agreement with the foreign government of each cooperating country. This agreement shall incorporate by reference or otherwise the terms and conditions set forth in this part; Provided, however, that where such written agreement is not feasible or practicable, the USAID or Diplomatic Post shall assure AID/W that the program can be effectively operated without such an agreement.

**§ 211.4 Availability of Commodities.**

(a) *Distribution and use of commodities.* Commodities shall be available for distribution and use in accordance with the provisions of the Food for Peace Program Agreement and this part.

(b) *Transfer of title and delivery.* (1) Unless the Food for Peace Program Agreement provides otherwise, title to the commodity shall pass to the cooperating sponsor at the time and place of delivery f.o.b. or f.a.s. vessels at the U.S. ports except that in the case of

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voluntary agencies and intergovernmental organizations, title may pass at the discretion of USDA at other points in the United States.

(2) Voluntary agencies and intergovernmental organizations shall make the necessary arrangements to accept commodities at the points of delivery designated by the USDA.

(c) *Processing, handling, transportation and other costs.* (1) The United States will pay processing, handling, transportation, and other incidental costs incurred in making commodities available to cooperating sponsors free on board (f.o.b.) or free along side (f.a.s.) vessel at U.S. ports, or free at inland destinations in the United States except as otherwise provided in this paragraph (c).

(2) Voluntary agencies and intergovernmental organizations shall reimburse the United States for expenses incurred at their request and for their accommodation which are in excess of those which the United States would have otherwise incurred in making delivery (i) at the lowest combination of inland and ocean transportation costs to the United States as determined by the United States or (ii) in sizes and types of packages announced as available.

(3) All costs and expenses incurred subsequent to the transfer of title in the United States to cooperating sponsors except as otherwise provided herein shall be borne by them. Upon the determination that it is in the interests of the program to do so, the United States may pay or make reimbursement for ocean transportation costs from U.S. ports to the designated ports of entry aboard; or to designated points of entry abroad in the case (i) of landlocked countries, (ii) where ports cannot be used effectively because of natural or other disturbances, (iii) where carriers to a specific country are unavailable, or (iv) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports.

(d) *Transportation authorization.* A transportation authorization will be issued to cover the ocean freight paid directly by the United States. When CCC contracts for ocean carriage, disbursement to the carriers shall be made by CCC upon presentation of Standard Form 1113 and three copies of 1113A (Public Voucher for Transportation Charges), together with three copies of the related onboard ocean bill of lading, one copy of which must contain the following certification signed by an authorized representative of the steamship company:

I certify that this document is a true and correct copy of the original onboard ocean bill of lading under which the goods herein described were loaded on the above-named vessel and that the original and all other copies thereof have been clearly marked as not to be certified for billing.

.....  
(Name of steamship co.)

By

(Authorized representative)

Such vouchers should be submitted to: Director Ocean Transportation Division, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250. Except for duty, taxes and other costs exempted in § 211.7 (a) and (b) of this part, voluntary agencies booking their own vessels will be reimbursed as provided in AID Regulation 2 (Part 202 of this chapter) for ocean freight authorized by the United States upon presentation to AID/W (or to a U.S. Bank holding an AID Letter of Commitment) of proof of payment to the ocean carrier.

(e) *Shipping instructions—(1) Shipments booked by CCC.* Request for shipment of commodities shall originate with the cooperating sponsor and shall be submitted to USAID or Diplomatic Post for clearance and transmittal to AID/W. AID/W shall, through cables, airmails or letters to USAID or Diplomatic Posts, provide cooperating sponsors (and where applicable voluntary agency headquarters) with names of vessels, expected times of arrival (ETAs), and other pertinent information on shipments booked by CCC. At the time of exportation of commodities, applicable ocean bills of lading shall be sent airmail, or by the fastest means available, by the freight forwarder, representing CCC, to USDA, to USAID or Diplomatic Posts (and where applicable to USAID Controller, voluntary agency headquarters, and voluntary agency field representatives), and to the consignee in sufficient time to advise of the arrival of the shipment.

(2) *Shipments booked by voluntary agency or intergovernmental organization.* Requests for shipment of commodities shall originate with the cooperating sponsor and shall be cleared by the USAID or Diplomatic Post before transmittal to the voluntary agency's or intergovernmental organization's headquarters for concurrence and issuance. USAID or Diplomatic Post shall promptly clear voluntary agency and intergovernmental organization requests for shipment of commodities or, if there is reason for delay or disapproval, advise the cooperating sponsor and AID/W within seven (7) days of receipt of requests for

shipment. After the voluntary agency or intergovernmental organization headquarters concurs in the request and issues the order, the original will be sent promptly to USDA with a copy to the USAID or Diplomatic Posts.

Headquarters of voluntary agencies and intergovernmental organizations which book their own shipments shall provide their representatives and the USAID or Diplomatic Posts with the names of vessels, expected times of arrival (ETAs) and other pertinent information on shipments booked. At the time of exportation of commodities, applicable ocean bills of lading shall be sent airmail or by the fastest means available by the freight forwarder, representing the voluntary agency or intergovernmental organization, to USDA to the USAID or Diplomatic Post (and where applicable to USAID Controller and voluntary agencies' representatives), and to the consignee in the country of destination in sufficient time to advise of the arrival of the shipment. However, voluntary agencies will also forward cable advice of actual exportation to their program directors in countries within the Caribbean area which are supplied by vessels having a rapid and short run from U.S. port to destination.

(f) *Tolerances.* Delivery by the United States to the cooperating sponsor at point of transfer of title within a tolerance of 5 percent (2 percent in the case of quantities over 10,000 metric tons) plus or minus, of the quantity ordered for shipment shall be regarded as completion of delivery. There shall be no tolerance with respect to the ocean carrier's responsibility to deliver the entire cargo shipped and the United States assumes no obligation for failure by an ocean carrier to complete delivery to port of discharge.

#### § 211.5 Obligations of cooperating sponsor.

(a) *Plan of operation.* Each cooperating sponsor shall submit to the USAID or Diplomatic Post for the approval of AID/W, within such times and on the forms prescribed by AID/W, a description of the programs it is sponsoring or proposes to sponsor. This description will provide basic information for preparation and amendment of Food for Peace Program Agreements and Individual Country Food for Peace Program Agreements and will include program purposes and goals, criteria for measuring program effectiveness, and other specific provisions in addition to those set forth in this Part. Further, this description will include information from which it may

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be determined that the distribution of commodities in the recipient country will not result in a substantial disincentive to domestic production and that adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity.

(b) *Program supervision.* Cooperating sponsors shall provide adequate supervisory personnel for the efficient operation of the program, including personnel to plan, organize, implement control, and evaluate programs involving distribution of commodities, and, in accordance with AID guidelines, to make internal reviews, including warehouse inspections, physical inventories, and end-use checks. Maximum use of volunteer personnel shall be encouraged, but U.S. voluntary agencies shall be represented by a U.S. citizen, resident in the country of distribution or other nearby country approved by AID/W, who is appointed by and responsible to the voluntary agency for distribution of commodities in accordance with the provisions of this part. Intergovernmental organizations foreign nonprofit voluntary agencies and the American National Red Cross shall be represented by a person appointed by and responsible to these organizations for the supervision and control of the program in the country of distributions in accordance with the provisions of this part.

(c) *Internal Reviews*—(1) *Voluntary Agencies.* At intervals mutually agreed upon in writing by USAIDs or the Diplomatic Post and the voluntary agency as appropriate for good management, the voluntary agencies shall conduct or arrange to have conducted comprehensive internal reviews or a series of examinations which, when combined, will represent a complete review of the Title II program(s) under their jurisdiction. Copies of reports of these comprehensive examinations shall be submitted to USAIDs or Diplomatic Posts as required in § 211.10(b)(3).

(2) *Other Cooperating Sponsor.* In the case of programs administered by cooperating governments and intergovernmental organizations, responsibility for conducting internal audit examinations shall be determined by AID/W on a case by case basis. For records and reporting requirements for emergency programs see § 211.10(5).

(d) *Commodity requirements.* Each cooperating sponsor shall submit to the USAID or Diplomatic Post, within such times and on the form prescribed by AID/W, estimates of requirements

showing the quantities of commodities required for each program proposed. Requirements shall be summarized for all programs in the country on a form prescribed by AID/W.

(e) *Determination of eligibility.* Cooperating sponsors shall be responsible for determining that the recipients and recipient agencies to whom they distribute commodities are eligible in accordance with the terms and conditions of the Food for Peace Program Agreement and this part. Cooperating sponsor shall impose upon recipient agencies responsibility for determining that the recipients to whom they distribute commodities are eligible. Commodities shall be distributed free of charge except as provided in paragraph (i) of this section, or as otherwise authorized by AID/W.

(f) *No discrimination.* Cooperating sponsors shall distribute commodities only to eligible recipient agencies and eligible recipients without regard to nationality, race, color, sex, or religious or political beliefs, and shall impose similar conditions upon distribution by recipient agencies.

(g) *Public recognition.* To the maximum extent practicable, and with the cooperation of the host government, adequate public recognitions shall be given in the press, by radio, and other media that the commodities have been furnished by the people of the United States. At distribution centers the cooperating sponsor shall, to the extent feasible, display banners, posters, or similar media which shall contain information similar to that prescribed for containers in § 211.6(c). Recipients' individual identification cards shall, insofar as practicable be imprinted to contain such information.

(h) *Containers*—(1) *Markings.* Unless otherwise specified in the Food for Peace Program Agreement, when commodities are packaged for shipment from the United States, bags and other containers shall be marked with the CCC contract number or other identification, the AID emblem and the following information stated in English and, as far as practicable, in the language of the country receiving the commodity:

- (i) Name of the commodity.
- (ii) Furnished by the people of the United States of America.
- (iii) Not to be sold or exchanged (where applicable). Emblems or other identification of voluntary agencies and intergovernmental organizations may also be added.

(2) *Disposal of containers.* Cooperating sponsors may dispose of containers, other than containers

provided by carriers, in which commodities are received in countries having approved Title II programs, by sale or exchange, or distribute the containers free of charge to eligible food or fiber recipients for their personal use. If the containers are to be used commercially, the cooperating sponsor must arrange for the removal or obliteration of U.S. Government markings from the containers prior to such use.

(i) *Use of funds.* In addition to funds accruing to cooperating sponsors from the sale of containers, funds may also be available from charges made in maternal, preschool, school and other child feeding programs where payment by the recipients will be encouraged on the basis of ability to pay. Funds from these sources shall be used for payment of program costs such as transportation, storage, (including the improvement of storage facilities and the construction of warehouses) handling, insect and rodent control, rebagging of damaged or infested commodities, and other program expenses specifically authorized by AID to carry out the objectives of the program for which the commodities were furnished. Funds may also be used for payment of indigenous and/or third country personnel employed by cooperating sponsors or recipient agencies in support of Title II programs. However, such funds may not be used to purchase land for sectarian purposes, to acquire or construct church buildings, or to make alterations in existing church-owned buildings. Actual out-of-pocket expenses incurred in effecting any sale of containers may be deducted from the sales proceeds.

(j) *No displacement of sales.* Except in the case of emergency or disaster situations, the donation of commodities furnished for these programs shall not result in increased availability for export by the foreign country on the same or like commodities and shall not interfere with or displace sales in the recipient country which might otherwise take place. A country may be exempt from this proviso if circumstances warrant. Missions should seek AID/W guidance on this matter.

(k) *Commodities borrowed or exchanged.* After the date of the program approval by AID/W, but before arrival at the distribution point of the commodities authorized herein, the cooperating sponsor may, with prior approval of the USAID or Diplomatic Post, borrow same or similar commodities from local sources to meet program requirements provided that: (1) Such of the commodities borrowed as are used in accordance with the terms of

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the applicable Food for Peace Program Agreement will be replaced with commodities authorized herein on an equivalent value basis at the time and place that the exchange takes place as determined by mutual agreement between the cooperating sponsor and the USAID or Diplomatic Post except, that at the request of the cooperating sponsor the USAID or Diplomatic Post may determine that such replacement may be made on some other justifiable basis; (2) packaged commodities which are borrowed shall be appropriately identified in the language of the country of distribution as having been furnished by the people of the United States; and (3) suitable publicity shall be given to the exchange of commodities as provided in paragraph (g) of this section and containers for borrowed commodities shall be marked to the extent practicable in accordance with § 211.6(c).

(l) *Commodity Transfer.* After the date of program approval by AID/W, but before distribution of the commodities authorized herein by the recipient agency, the USAID or the Diplomatic Post, or the cooperating sponsor with prior approval of the USAID or Diplomatic Post, may transfer commodities between approved Title II programs to meet emergency disaster requirements or to improve efficiency of operation; for example, to meet temporary shortages due to delays in ocean transportation, or to provide for rapid distribution of stocks in danger of deterioration. Transfers may also be made to disaster organizations for use in meeting exceptional circumstances. Commodity transfers shall be made at no cost to the U.S. Government and with the concurrence of the cooperating sponsor or disaster organization concerned. The USAID or the Diplomatic Post may, however, provide funds to pay the costs of transfers to meet extraordinary relief requirements in which case AID/W shall be advised promptly of the details of the transfer. Commodities transferred as described above shall not be replaced by the U.S. Government unless AID/W authorizes such replacement.

(m) *Disposal of excessive stock of commodities.* If commodities are on hand which cannot be utilized in accordance with the applicable Food for Peace Program Agreement, the cooperating sponsor shall promptly advise USAID or the Diplomatic Post of the quantities, location, and condition of such commodities, and, where possible shall propose an alternate use of the excess stocks, USAID or Diplomatic Post shall determine the most

appropriate use of the excess stocks, and with prior AID/W concurrence, shall issue instructions for disposition. Transportation costs and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the cooperating sponsor, except that in case of disaster or emergency, AID/W may authorize the use of disaster or emergency funds to pay for the costs of such transfers.

**§ 211.6 Processing, repackaging, and labeling commodities.**

(a) *Commercial processing and repackaging.* Cooperating sponsors may arrange for processing commodities into different end products and for packaging or repackaging commodities prior to distribution. When commercial facilities are used for processing, packaging or repackaging, cooperating sponsors shall enter into written agreements for such services. Except in the case of commodities and/or containers provided to foreign governments for sale under section 206 of the Act, the agreements must have the prior approval of USAID or Diplomatic Post in the country of distribution. Copies of the executed agreements shall be provided to the USAID or Diplomatic Post. Agreements for such services shall provide as a minimum that:

(1) No part of the commodities delivered to the processing, packaging, or repackaging company shall be used to defray processing, packaging, repackaging, or other costs, except as provided in paragraph (a)(2) of this section.

(2) When the milling of grain is authorized in the cooperating country, the United States will not pay any part of the processing costs, directly or indirectly, except that with the prior approval of AID/W, the value of the offal may be used to offset such part of the processing costs as it may cover.

(3) The party providing such services shall:

(i) Fully account to the cooperating sponsor for all commodities delivered to the processor's possession and shall maintain adequate records and submit periodic reports pertaining to the performance to the agreement;

(ii) Be liable for the value of all commodities not accounted for as provided in § 211.9(g);

(iii) Return or dispose of the containers in which the commodity is received from the cooperating sponsor according to instructions from the cooperating sponsor; and

(iv) Plainly label cartons, sacks, or other containers containing the end

product in accordance with paragraph (c) of this section.

(b) *Use of cooperating sponsor facilities.* When cooperating sponsors utilize their own facilities to process, package, or repackage commodities into different end products, and when such products are distributed for consumption off the premises of the cooperating sponsor, the cooperating sponsor shall plainly label the containers as provided in paragraph (c) of this section, and banners, posters, or similar media which shall contain information similar to that prescribed in paragraph (c) of this section, shall be displayed at the distribution center. Recipients' individual identification cards shall to the maximum extent practicable be imprinted to contain such information.

(c) *Labeling.* If prior to distribution the cooperating sponsor arranges for packaging or repackaging donated commodities the cartons, sacks, or other containers in which the commodities are packed shall be plainly labeled with the AID emblem, in the language of the country in which the commodities are to be distributed with the following information:

(1) Name of commodity;

(2) Furnished by the people of the United States of America; and

(3) Not to be sold or exchanged (where applicable). Emblems or other identification of voluntary agencies and intergovernmental organizations may also be added.

(d) *Where commodity containers are not used.* When the usual practice in a country is not to enclose the end product in a container, wrapper, sack, etc., the cooperating sponsor shall, to the extent practicable, display banners, posters, or other media, and imprint on individual recipient identification cards information similar to that prescribed in paragraph (c) of this section.

**§ 211.7 Arrangements for entry and handling in foreign country.**

(a) *Costs at discharge ports.* Except as otherwise agreed upon by AID/W and provided in the applicable shipping contract or in paragraph (d) and (e) of this section, the cooperating sponsor shall be responsible for all costs, other than those assessed by the delivering carrier either in accordance with its applicable tariff for delivery to the discharge port or in accordance with the applicable charter or booking contract. The cooperating sponsor shall be responsible for all costs for (1) distributing the commodity as provided in the Food for Peace Program Agreement to end users, and (2) for

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demurrage, detention, and overtime, and (3) for obtaining independent discharge survey reports as provided in § 211.9. The cooperating sponsor shall also be responsible for wharfage, taxes, dues, and port charges assessed against the cargo whenever assessed and collected by local authorities from the consignee, and for lighterage (when not a custom of the port), and lightening costs when assessed as a charge separate from the freight rate.

(b) *Duty, taxes, and consular invoices.* Commodities shall be admitted duty free and exempt from all taxes. Consular invoices shall not be required unless specific provision is made in the Food for Peace Program Agreement. If required, they shall be issued without cost to the cooperating sponsor or to the Government of the United States.

(c) *Storage facilities and transportation in foreign countries.* Cooperating sponsors shall make all necessary arrangements for receiving the commodities and assume full responsibility for storage and maintenance of commodities from time of delivery at port of entry abroad or, when authorized, at other designated points of entry abroad agreed upon between the cooperating sponsor and AID. Before recommending approval of a program to AID/W, USAID, or Diplomatic Post shall obtain from the cooperating sponsor, assurance that provision has been made for internal transportation, and for storage and handling which are adequate by local commercial standards. The cooperating sponsor shall be responsible for the maintenance of commodities in such manner as to assure distribution of the commodities in good condition to recipient agencies or eligible recipients.

(d) *Inland transportation in intermediate countries.* In the case of landlocked countries, transportation in the intermediate country to a designated inland point of entry in the recipient country shall be arranged by the cooperating sponsor unless otherwise provided in the Food for Peace Program Agreement or other program document. Voluntary agencies and intergovernmental organizations shall handle claims arising from loss or damage in the intermediate country, in accordance with § 211.9(e). Other cooperating sponsors shall assign any rights that they may have to any claims that arise in the intermediate country to USAID which shall pursue and retain the proceeds of such claims.

(e)(1) *Authorization for Reimbursement of Costs.* If, because of packaging damage, it is determined by a voluntary agency or intergovernmental

organization that commodities must be repackaged to ensure that the commodities arrive at the distribution point in a wholesome condition, voluntary agencies and intergovernmental organizations may incur expenses for such repackaging up to \$500.00 and such costs will be reimbursed to the voluntary agency or intergovernmental organization by CCC. If costs will exceed \$500.00 the authority to repackage and incur the costs must be approved by the USAID or Diplomatic Post in advance of repackaging unless such prior approval is specifically waived in writing by the USAID or Diplomatic Post.

(2) *Method of Reimbursement.* (i) *Repackaging Required Because of Damage Occurring Prior to or During Discharge from the Ocean Carrier.* Costs of such reconstitution or repackaging should be included, as a separate item in claims filed against the ocean carrier (see 211.9(c)). Full reimbursement of such costs up to \$500.00 will be made by CCC, Kansas City Commodity Office, upon receipt of invoices or other documents to support such costs. For amounts expended in excess of \$500.00, reimbursement will be made upon receipt of supporting invoices or other documents establishing the costs of repackaging and showing the prior approval of the USAID or Diplomatic Post to incur the costs (unless approval waived, see § 211.7(e)(1) of this chapter).

(ii) *Repackaging Required Because of Damage Caused After Discharge of the Cargo from the Ocean Carrier.* Costs of such repackaging will be reimbursed to the agency or organization by CCC (USDA-ASCS Financial Management Division, 14th & Independence Avenue, Washington, D.C. 20250) upon receipt of documentation as set forth in § 211.7(e)(2) of this chapter.

**§ 211.8 Disposition of commodities unfit for authorized use.**

(a) *Prior to delivery to cooperating sponsor at discharge port or point of entry.* If the commodity is damaged prior to delivery to the cooperating sponsor (other than a voluntary agency or an intergovernmental organization) at discharge port or point of entry overseas, the USAID or Diplomatic Post shall immediately arrange for inspection by a public health official or other competent authority. If the commodity is determined to be unfit for human consumption, the USAID or Diplomatic Post shall dispose of it in accordance with the priority set forth in paragraph (b) of this action. Expenses incidental to the handling and disposition of the

damaged commodity shall be paid by USAID or the Diplomatic Post from the sales proceeds, from CCC Account No. 20 FT 401 or from special Title II, Pub. L. 480 Agricultural Commodity Account. The net proceeds of sales shall be deposited with the U.S. Disbursing Officer American Embassy, for the credit of CCC Account No. 20 FT 401.

(b) *After delivery to cooperating sponsor.* If after arrival in a foreign country it appears that the commodity, or any part thereof, may be unfit for the use authorized in the Food for Peace Program Agreement, the cooperating sponsor shall immediately arrange for inspection of the commodity by a public health official or other competent authority approved by USAID or the Diplomatic Post. If no competent local authority is available, the USAID or Diplomatic Post may determine whether the commodities are unfit for human consumption, and if so may direct disposal in accordance with paragraphs (b) (1) through (4) of this section. The cooperating sponsor shall arrange for the recovery for authorized use of that part designated during the inspection as suitable for program use. If, after inspection, the commodity (or any part thereof) is determined to be unfit for authorized use the cooperating sponsor shall notify USAID or the Diplomatic Post of the circumstances pertaining to the loss or damage as prescribed in § 211.9(f). With the concurrence of USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use shall be disposed of in the following order of priority:

(1) By transfer to an approved Food for Peace Program for use as livestock feed. AID/W shall be advised promptly of any such transfer so that shipments from the United States to the livestock feeding program can be reduced by an equivalent amount:

(2) Sale for the most appropriate use, i.e., animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold all U.S. Government markings shall be obliterated:

(3) By donation to a governmental or charitable organization for use as animal feed or for other nonfood use: and

(4) If the commodity is unfit for any use or if disposal in accordance with subparagraph (b) (1), (2), or (3) of this section is not possible, the commodity shall be destroyed under the observation of a representative of USAID or Diplomatic Post, if practicable, in such manner as to prevent its use for any purpose. Expenses incidental to the handling and

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disposition of the damaged commodity shall be paid by the cooperating sponsor unless it is determined by the USAID or the Diplomatic Post that the damage could not have been prevented by the proper exercise of the cooperating sponsor's responsibility under the terms of the Food for Peace Program Agreement Actual expenses incurred in effecting any sale may be deducted from the sales proceeds and the net proceeds shall be deposited with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to CCC Account No. 20 FT 401. The cooperating sponsor shall promptly furnish USAID or the Diplomatic Post a written report of all circumstances relating to the loss and damage and shall include in this report, or a supplemental report, a certification by a public health official or other competent authority of the exact quantity of the damaged commodity disposed of because it was determined to be unfit for human consumption.

**§ 211.9 Liability for loss and damage or improper distribution of commodities.**

(a) *Fault cooperating sponsor prior to loading on ocean vessel.* If a voluntary agency or intergovernmental organization books cargo for ocean transportation and is unable to have a vessel at the U.S. port of export for loading in accordance with the agreed shipping schedule, the voluntary agencies and intergovernmental organizations shall immediately notify the USDA. The USDA will determine whether the commodity shall be (1) moved to another available outlet; (2) stored at the port for delivery to the voluntary agencies or intergovernmental organization until a vessel is available for loading; or (3) disposed of as the USDA may deem proper. When additional expenses are incurred by CCC as a result of a failure of the voluntary agency or intergovernmental organization, or their agent; (4) to meet the agreed shipping schedule, or (5) to make necessary arrangements to accept commodities at the points of delivery designated by CCC, and it is determined by CCC that the expenses were incurred because of the fault or negligence of the voluntary agency or intergovernmental organization, or their agents, the voluntary agency or intergovernmental organization shall reimburse CCC for such expenses or take such action as directed by CCC.

(b) *Fault of others prior to loading on ocean vessel.* Upon the happening of any event creating any rights against a warehouseman, carrier, or other person for the loss of or damage to a

commodity occurring between the time title is transferred to a voluntary agency or intergovernmental organization and the time the commodity is loaded on board vessel at designated port of export, the voluntary agencies or intergovernmental organizations shall immediately notify CCC and promptly assign to CCC any rights to claims which may accrue to them as a result of such loss or damage and shall promptly forward to CCC all documents pertaining thereto. CCC shall have the right to initiate and prosecute, and retain the proceeds of all claims for such loss or damage.

(c) *Ocean carrier loss and damage—*  
(1) *Survey and outturn reports.* (i) Cooperating sponsors shall arrange for an independent cargo surveyor to attend the discharge of the cargo and to count or weigh the cargo and examine its condition, unless USAID or the Diplomatic Post determines that such examination is not feasible, or if CCC has made other provisions for such examinations and reports. The surveyor shall prepare a report of his findings showing the quantity and condition of the commodities discharged. The report shall also show the probable cause of any damage noted, and set forth the time and place when the examination was made. If practicable, the examination of the cargo shall be conducted jointly by the surveyor, the consignee, and the ocean carrier, and the survey report shall be signed by all parties. Customs receipts, port authority reports, shortlanding certificates, cargo boat notes, stevedore's tallies, etc., where applicable, shall be obtained and furnished with the report of the surveyor. The cooperating sponsor shall obtain a certification by public health official or similar competent authority as to (a) the condition of the commodity in any case where a damaged commodity appears to be unfit for its intended use; and (b) a certificate of disposition in the event the commodity is determined to be unfit for its intended use. Such certificates shall be obtained as soon as possible after discharge of the cargo. In any case where the cooperating sponsor can provide a narrative chronology or other commentary to assist in the adjudication of ocean transportation claims, such information should be forwarded. Cooperating sponsors shall prepare such a statement in any case where the loss is estimated to be in excess of \$5,000.00. All documentation shall be in English or supported by an English translation and shall be forwarded as set forth in paragraph (c)(1) (iii) and (iv) of this section. The cooperating sponsor may, at his option,

also engage the independent surveyor to supervise clearance and delivery of the cargo from customs or port areas to the cooperating sponsor or its agent and to issue delivery survey reports thereon.

(ii) In the event of cargo loss and damage, the cooperating sponsor shall provide the names and addresses of individuals who were present at the time of discharge and during survey and can verify the quantity lost or damaged. In the case of bulk grain shipments, the cooperating sponsor shall obtain the services of an independent surveyor to (a) observe the discharge of the cargo, (b) report on discharging techniques and furnish information as to whether cargo was carefully discharged in accordance with the customs of the port, (c) estimate the quantity of cargo, if any, loss during discharge through carrier negligence, (d) advise quality of sweepings, (e) obtain copies of port and/or vessel records, if possible, showing quantity discharged, (f) provide immediate notification to cooperating sponsor if additional services are necessary to protect cargo interests or if surveyor has reason to believe that the correct quantity was not discharged. The cooperating sponsor, in the case of damage to bulk grain shipments, shall obtain and provide the same documentation regarding quality of cargo as set forth in § 211.8(a) of this chapter and paragraph (c)(1)(i) of this section. In the case of shipments arriving in container vans, cooperating sponsors shall require the independent surveyor to list the container van numbers and seal numbers shown on the container vans, and indicate whether the seals were intact at the time the container vans were opened, and whether the container vans were in any way damaged.

(iii) Cooperating Sponsors shall send copies of all reports and documents pertaining to the discharge of commodities to USDA.

(iv) CCC will reimburse the voluntary agencies and intergovernmental organizations for the costs incurred by them in obtaining the services of an independent surveyor to conduct examinations of the cargo and render the report set forth above. Reimbursement will be made when the surveyor's invoice or other documents that establish the survey cost are furnished to CCC. However, CCC will not reimburse voluntary agencies or intergovernmental organizations for the costs of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless such deviation from the documentation requirements of

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§ 211.9(c)(1) is justified to the satisfaction of CCC.

(2) *Claims against ocean carriers.* (i) Irrespective of transfer of title to the commodities, CCC shall have the right to initiate and prosecute, and retain the proceeds of, all claims against ocean carriers for cargo loss and damage or cargos for which CCC contracts for ocean transportation.

(ii)(a) Unless otherwise provided in the Food for Peace Program Agreement or other program document, voluntary agencies and intergovernmental organizations shall file notice of any cargo loss and damage with the carrier immediately upon discovery of any such loss and damage and shall promptly initiate claims against the ocean carriers for cargo loss and damage, and shall take all necessary action to obtain restitution for losses within any applicable periods of limitations and shall transmit to CCC copies of all such claims. However, the voluntary agencies or intergovernmental organizations need not file a claim when the cargo loss is not in excess of \$25, or in any case when the loss is in excess of \$25, but not in excess of \$100 and it is determined by the voluntary agencies or intergovernmental organizations that the cost of filing and collecting the claim will exceed the amount of the claim. The voluntary agencies and intergovernmental organizations shall transmit to CCC copies of all claims filed with the ocean carriers for cargo loss and damage, as well as information and/or documentation on shipments when no claim is to be filed. When General Average has been declared, no action will be taken by the voluntary agencies of intergovernmental organizations to file or collect claims for loss or damage to commodities. (See paragraph (c)(2)(iii) of this section.)

(b) *Determination of value.* When payment is made for commodities misused, lost or damaged, the value shall be determined on the basis of the domestic market price at the time and place the misuse, loss or damage occurred, or, in case it is not feasible to obtain or determine such market price, the f.o.b. or f.a.s. commercial export price, of the commodity at the time and place of export, plus ocean freight charges and other costs incurred by the Government of the United States in making delivery to the cooperating sponsor. When the value is determined on a cost basis, the voluntary agencies or intergovernmental organizations may add to the value any provable costs they have incurred prior to delivery by the ocean carrier. In preparing the claim statement, these costs shall be clearly

segregated from costs incurred by the Government of the United States. With respect to claims other than ocean carrier loss and/or damage claims, at the request of the cooperating sponsor and/or upon the recommendation of the USAID or diplomatic Post, AID W may determine that such value may be determined on some other justifiable basis. When replacements are made, the value of commodities misused, lost or damaged, shall be their value at the time and place the misuse, loss, or damage occurred and the value of the replacement commodities shall be their value at the time and place replacement is made.

(c) Amounts collected by voluntary agencies and intergovernmental organizations on claims against ocean carriers not in excess of \$100 may be retained by the voluntary agencies or intergovernmental organizations.

On claims involving loss or damage having a value in excess of \$100 the voluntary agencies or intergovernmental organizations may retain from collections received by them, the larger of (1) the amount of \$100 plus 10 percent of the difference between \$100 and the total amount collected on the claim, up to a maximum of \$350, or (2) actual administrative expenses incurred in collection the claim; provided retention of such expenses is approved by CCC. Collection costs shall not be deemed to include attorneys fees, fees of collection agencies, and the like. In no event will collection costs in excess of the amount collected on the claim be paid by CCC. The voluntary agencies or intergovernmental organizations may also retain from claim recoveries remaining after allowable deductions for administrative expenses of collection, the amount of any special charges, such as handling, packing, and insurance costs, which the voluntary agency or intergovernmental organization has incurred on the lost or damaged commodity and which are included in the claim and paid by the liable party.

(d) The voluntary agencies and intergovernmental organizations may redetermine claims on the basis of additional documentation or information, not considered when the claims were originally filed when such documentation or information clearly changes the ocean carriers liability. Approval of such changes by CCC is not required regardless of amount. However copies of redetermined claims and supporting documentation or information shall be furnished to CCC.

(e) Voluntary agencies of intergovernmental organizations may negotiate compromise settlements of

claims regardless of the amount thereof, except that proposed compromise settlements of claims having a value in excess of \$5,000 shall not be accepted until such action has been approved in writing, by CCC. When a claim is compromised, the voluntary agency or intergovernmental organization may retain from the amount collected, the amounts authorized in (c)(2)(ii)(c) of this section and in addition, an amount representing the percentage of the special charges described in (c)(2)(ii)(c) of this section as the compromised amount is to the full amount of the claim. When a claim is not in excess of \$600, the voluntary agencies or intergovernmental organizations may terminate collection activity on the claim according to the standards set forth in 4 CFR 104.3 (1972). Approval of such termination by CCC is not required but the voluntary agencies or intergovernmental organizations shall notify CCC when collection activity on a claim is terminated.

(f) All amounts collected in excess of the amounts authorized herein to be retained shall be remitted to CCC. For the purpose of determining the amount to be retained by the voluntary agencies or intergovernmental organizations from the proceeds of claims filed against ocean carriers, the word "claim" shall refer to the loss and damage to commodities which are shipped on the same voyage of the same vessel to the same port destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier. If a voluntary agency or intergovernmental organization is unable to effect collection of a claim or negotiate an acceptable compromise settlement within the applicable period of limitation or any extension thereof granted in writing by the liable party or parties, the rights of the voluntary agencies or intergovernmental organizations to the claim shall be assigned to CCC in sufficient time to permit the filing of legal action prior to the expiration of the period of limitation or any extension thereof. Voluntary agencies or intergovernmental organizations shall promptly assign their claim rights to CCC upon request. In the event CCC effects collection or other settlement of the claim after the rights of the voluntary agency or intergovernmental organization to the claim have been assigned to CCC, CCC shall, except as shown below, pay to the voluntary agency or intergovernmental organization the amount the agency or organization would have been entitled to retain had they collected the same amount. However, the additional 10

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percent on amounts collected in excess of \$100 will be payable only if CCC determines that reasonable efforts were made to collect the claim prior to the assignment, or if payment is deemed to be commensurate with the extra efforts exerted in further documenting claims. Further, if CCC determines that the documentation requirements of § 211.9(c)(1) have not been fulfilled and the lack of such documentation has not been justified to the satisfaction of CCC, CCC reserves the right to deny payment of all allowances to the voluntary agency.

(g) When voluntary agencies or intergovernmental organizations fail to file claims, or permit claims to become time-barred, or fail to provide for the right of CCC to assert such claims, as provided in this § 211.9 and it is determined by CCC that such failure was due to the fault or negligence of the voluntary agency or intergovernmental organization, the agency or organization shall be liable to the United States for the cost and freight (C&F) value of the commodities lost to the program.

(iii) If a cargo loss has been incurred on a voluntary agency or intergovernmental organization shipment, and general average has been declared, the voluntary agency or intergovernmental organization shall furnish to the Chief Claims and Collections Division, Kansas City ASCS, Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas, ZIP 66208, with a duplicate copy to AID/W-PDC/FFP/POD, (a) copies of booking confirmations and the applicable on-board bill(s) of lading, (b) the related return or survey report(s), (c) evidence showing the amount of ocean transportation charges paid to the carrier(s), and (d) an assignment to CCC of the cooperating sponsor's rights to the claim(s) for such loss.

(d) *Fault of cooperating sponsor in country of distribution.* If the cooperating sponsor improperly distributes a commodity or knowingly permits it to be used for a purpose not permitted under the Food for Peace Program Agreement or this part, or causes loss or damage to a commodity through any act or omission or fails to provide proper storage, care, and handling, the cooperating sponsor shall pay to the United States the value of the commodities lost, damaged, or misused (or may, with prior USAID approval, replace such commodities with similar commodities of equal value), unless it is determined by AID that such improper distribution or use, or such loss or damage, could not have been prevented by proper exercise of the cooperating

sponsor's responsibility under the terms of the agreement. Normal commercial practices in the country of distribution shall be considered in determining that there was a proper exercise of the cooperating sponsor's responsibility. Payment by the cooperating sponsor shall be made in accordance with paragraph (b) of this section.

(e) *Fault of others in country of distribution and in intermediate country.* (1) In addition to survey and/or return reports to determine ocean carrier loss and damage, the cooperating sponsor shall, in the case of land-locked countries, arrange for an independent survey at the point of entry into the country and to make a report as set forth in § 211.9(c)(1). CCC will reimburse the cooperating sponsor for the costs of survey as set forth in § 211.9(c)(1)(iv).

(2) Upon the happening of any event creating any rights against a warehouseman, carrier or other person for the loss of, damage to, or misuse of any commodity, the cooperating sponsor shall make every reasonable effort to pursue collection of claims against the liable party or parties for the value of the commodity lost, damaged, or misused and furnish a copy of the claim and related documents to USAID or Diplomatic Post. Cooperating sponsors who fail to file or pursue such claims shall be liable to AID for the value of the commodities lost, damaged, or misused: *Provided, however,* That the cooperating sponsor may elect not to file a claim if the loss is less than \$300 and such action is not detrimental to the program. Cooperating sponsors may retain \$100 of any amount collected on a claim. In addition, cooperating sponsors may, with the written approval of the USAID or Diplomatic Post, retain special costs such as legal fees that they have incurred in the collection of a claim. Any proposed settlement for less than the full amount of the claim must be approved by the USAID or Diplomatic Post prior to acceptance. When the cooperating sponsor has exhausted all reasonable attempts to collect a claim, it shall request the USAID or Diplomatic Post to provide further instructions.

(f) *Reporting losses to USAID or Diplomatic Post.* The cooperating sponsor shall promptly notify USAID or the Diplomatic Post in writing of the circumstances pertaining to any loss, damage, or misuse occurring within the country of distribution or intermediate country and shall include information as to the name of the responsible party; kind and quantities of commodities; size, and type of containers; the time and place of misuse, loss, or damage; the

current location of the commodity; and the Food for Peace Program Agreement number, the CCC contract numbers, if known, or if unknown, other identifying numbers printed on the commodity containers; the action taken by the cooperating sponsor with respect to recovery or disposal; and the estimated value of the commodity. If any of the above information is not available, an explanation of its unavailability shall be made by the cooperating sponsor. Proceeds from sale and the disposition of the proceeds if any, should also be reported.

(g) *Handling claims proceeds.* Claims against ocean carriers shall be collected in U.S. dollars (or in currency in which freight is paid, or a pro rata share of each) and shall be remitted (less amounts authorized to be retained) by voluntary agencies and intergovernmental organizations to CCC. Claims against voluntary agencies and intergovernmental organizations shall be paid to CCC or AID/W in U.S. dollars. Amounts paid by other cooperating sponsors and third parties in the country of distribution shall be deposited with the U.S. Disbursing Officer, American Embassy, preferably, in U.S. dollars with instructions to credit the deposit to CCC Account No. 12X4336, or in local currency at the official exchange rate applicable to dollar imports at the time of deposit with instructions to credit the deposit to Treasury sales account 20FT401.

(h) *General average.* CCC shall (1) be responsible for settling general average and marine salvage claims, (2) retain the authority to make or authorize any disposition of commodities which have not commenced ocean transit or of which the ocean transit is interrupted, and receive and retain any monetary proceeds resulting from such disposition, (3) in the event of a declaration of general average, initiate and prosecute, and retain all proceeds of, cargo loss and damage claims against ocean carriers and (4) receive and retain any allowance in general average. CCC will pay any general average or marine salvage claims determined to be due.

#### § 211.10 Records and reporting requirements of cooperating sponsor.

(a) *Records.* Cooperating sponsors shall maintain records and documents in a manner which will accurately reflect all transactions pertaining to the receipt, storage, distribution, sale and inspection of commodities. This shall include a periodic summary report and records of receipt and disbursement of any funds accruing from the operation of the

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program. Such records shall be retained for a period of 3 years from the close of the U.S. fiscal year to which they pertain.

(b) *Reports.* Cooperating sponsors shall submit reports to the USAID or Diplomatic Post, at such times and on such forms as prescribed by AID. The following is a list of the principal types of reports that are to be submitted:

(1) Periodic summary reports showing receipt, distribution, and inventory of commodities and proposed schedules of shipments or call forwards.

(2) In the case of Title II sales agreements under section 208 of the Act, the foreign government is directly responsible for reporting on programs involving the use of funds for purposes specified in the agreement.

(3) Reports relating to progress and problems in the implementation and operation of the program, and inspection reports, as may be required from time to time by AID/W, or as may be agreed upon between the USAID or Diplomatic Post and the cooperating sponsor and approved by AID/W.

(4) Reports of all comprehensive internal reviews prepared in accordance with § 211.5(c) shall be submitted to the USAID or Diplomatic Post for review as soon as completed and in sufficient detail to enable the USAID or Diplomatic Post to assess and to make recommendations as to the ability of the cooperating sponsors to effectively plan, manage, control and evaluate the Food for Peace programs under their administration.

(5) Emergency programs. At the time that an emergency program under Pub. L. 480, Title II is initiated, either on a government-to-government basis or through an intergovernmental organization or a voluntary agency, the Mission should (i) make a determination regarding the ability of the cooperating sponsor to perform the record-keeping required by § 211.10, and (ii) in those instances in which those specific record-keeping requirements cannot be followed, due to emergency circumstances, specify exactly which essential information will be recorded in order to account fully for Title II commodities.

(c) *Inspection and audit.* Cooperating sponsors shall cooperate with and give reasonable assistance to U.S. Government representatives to enable them at any reasonable time to examine activities of the cooperating sponsors, processors, or others, pertaining to the receipt, distribution, processing, repackaging, and use of commodities by recipients; to inspect commodities in storage, or the facilities used in the

handling or storage of commodities; to inspect and audit records, including financial records and reports pertaining to storage, transportation, processing, repackaging, distribution and use of commodities; the deposit of and use of any Title II generated local currencies; to review the overall effectiveness of the program as it relates to the objectives set forth in the Food for Peace Program Agreement; and to examine or audit the procedure and methods used in carrying out the requirements of this Part. Inspections and audits of Title II emergency programs will take into account the circumstances under which such programs are carried out.

#### § 211.11 Termination of program.

All or any part of the assistance provided under the program, including commodities in transit, may be terminated by AID at its discretion if the cooperating sponsor fails to comply with the provisions of the Food for Peace Program Agreement, this part, or if it is determined by AID that the continuation of such assistance is no longer necessary or desirable. Under such circumstances title to commodities which have been transferred to the cooperating sponsor shall at the written request of USAID, the Diplomatic Post, or AID/W, be retransferred to the U.S. Government by the cooperating sponsor. Any excess commodities on hand at the time the program is terminated shall be disposed of in accordance with § 211.5(1). If it is determined that any commodity to be supplied under the Food for Peace Program Agreement is no longer available for Food for Peace Programs, such authorization shall terminate with respect to any commodities which, as of the date of such determination have not been delivered f.o.b. or f.a.s. vessel, provided every effort will be made to give adequate advance notice to protect cooperating sponsors against unnecessarily booking vessels.

#### § 211.12 Waiver and amendment authority.

AID may waive, withdraw, or amend, at any time, any or all of the provisions of this Part 211 if such provision is not statutory and if AID determines it is in the best interest of the U.S. Government to do so. Any cooperating sponsor which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto may at the discretion of AID be suspended or disqualified from further participation in any distribution program. Reinstatement

may be made at the option of AID. Disqualification shall not prevent AID from taking other action through other available means when considered necessary.

Dated: May 31, 1979.

Robert H. Nooter,  
*Acting Administrator.*

(FR Doc. 79-18317 Filed 6-12-79; 8:45 am)  
BILLING CODE 4710-02-M

WORLD FOOD PROGRAM

S U P P L E M E N T (as amended)  
To Transfer Authorization

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A P P E N D I X D

W O R L D F O O D P R O G R A M

SUPPLEMENT AS AMENDED TO STANDARD TITLE II TRANSFER AUTHORIZATION

I. General Purpose and Scope

(a) Terms and conditions. This Supplement contains the regulations prescribing the terms and conditions governing the transfer of agricultural commodities to the World Food Program pursuant to Title II, the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480, 83rd Congress, as amended) (1) to meet famine or other urgent or extraordinary relief requirements; (2) to combat malnutrition especially in children; (3) to promote economic and community development in friendly developing areas; (4) for needy persons, nonprofit school lunch programs, and preschool feeding programs outside the United States.

(b) Legislation. The legislation implemented by the regulations in this part is as follows:

(1) Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"The President is authorized to determine requirements and furnish agricultural commodities, on behalf of the people of the United States of America, 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 non-profit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such agricultural commodities determined to be available under Section 401 as he may request."

(2) Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The President may furnish commodities for the purpose set forth in Section 201 through such friendly governments and such agencies, private or public, including intergovernmental organizations, intergovernmental activities such as the World Food Program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. The

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assistance to needy persons, shall insofar as practicable be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made."

(3) Section 203 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which, as applicable to WFP, provides as follows:

"The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs of packaging, enrichment, preservation, and fortification; processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports and ocean freight charges from United States ports to designated ports of entry abroad; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto."

(4) Section 205 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"It is the sense of the Congress that the President should encourage other advanced nations to make increased contributions for the purpose of combating world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs. It is further the intent of the Congress that as a means of achieving this objective, the United States should work for the expansion of the United Nations World Food Program beyond its present established goals."

(5) Section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity."

(6) Section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The term 'agricultural commodity' as used in this Act shall include

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any agricultural commodity produced in the United States or product thereof produced in the United States; Provided, however, That the term 'agricultural commodity' shall not include alcoholic beverages, and for the purposes of Title II of this Act, tobacco or products thereof. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this Act."

(7) Section 404 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The programs of assistance undertaken pursuant to this Act shall be directed toward the attainment of the humanitarian objectives and national interest of the United States."

(8) Section 405 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet the needs of their people and in resolving their problems relative to population growth."

II. Definitions

(a) "AID" means the Agency for International Development or any successor agency, including, when applicable, each USAID. "USAID" means an office of AID located in a foreign country. "AID/W" means the Office of AID located in Washington, D.C.

(b) "Commodities" means food or feed transferred or available for transfer to cooperating sponsors under any of the legislation referred to in this part and food or feed exchanged for such transferred commodities as provided in this Supplement.

(c) "CCC" means the Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

(d) "WFP" means the World Food Program which enters into an agreement with the U.S. Government for the use of agricultural commodities and which is directly responsible under the agreement for administration and implementation of programs involving the use of the commodities made available to meet the requirements of eligible recipients.

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## II

(e) "WFP Project Agreement" means the WFP/Host Country agreement which incorporates the obligations of the WFP and of the recipient government. It may have the form of a single project agreement or of a Basic Agreement supplemented by a Plan of Operations.

(f) "USDA" means the U.S. Department of Agriculture.

(g) "Diplomatic Posts" means the offices of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular Offices.

(h) "Disaster relief organizations" means organizations which are authorized by UN/WFP, AID/W, USAID, or by a Diplomatic Post to assist disaster victims.

(i) "Disaster victims" means persons who, because of flood, drought, fire, earthquake, other natural or man-made disasters, or extraordinary relief requirements, are in need of food or feed assistance.

(j) "Maternal child feeding, school and other child feeding programs"

(1) Maternal and preschool feeding programs means programs conducted for women of childbearing age and for children below the usual enrollment age for the primary grade at public schools.

(2) School feeding programs refers to programs conducted for the benefit of children enrolled in schools.

(3) Other child feeding programs refers to programs designed to reach preschool or school age needy children in summer camps, child care centers, orphanages, day playgrounds, nurseries, and similar activities.

(k) "Needy persons" means individuals who are in need of food assistance because of their economic condition.

(l) "Nonprofit" means that the residue of income over operating expenses (exclusive of administrative expenses) accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.

(m) "Recipients" means persons who are eligible to receive commodities for their own use in accordance with the terms and conditions of the WFP Project Agreement, the TA and this Supplement.

(n) "Refugees" means persons who are in need because (1) they fled or were expelled from their country of nationality or residence and are living in a country other than the one in which they held or have held citizenship, or (2) they fled from their homes as a result of civil or international strife and are living in a part of their country of nationality or residence other than that in which they normally earned a livelihood.

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## II

(o) "School" means a public or nonprofit private facility, or an activity within such facility, which has as its primary purpose the education (except theological education) of children at educational levels which are comparable to high school or under in the United States.

(p) "Transfer Authorization (TA)" constitutes the agreement between the WFP and the U.S. Government. The TA lists the kinds and quantities of commodities to be supplied, program objectives, criteria for eligibility of recipients, and other specific program provisions in addition to the provisions set forth in this Supplement.

(q) "Voluntary agency" means the American National Red Cross and any U.S. voluntary nonprofit agency registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development.

(r) "Institutions" means nonpenal, public or nonprofit private establishments that are operated for charitable or welfare purposes where needy persons reside and receive meals, including, but not limited to, homes for the aged, mentally and physically handicapped, refugee camps, and leprosy asylums.

(s) "Welfare agencies" means public or nonprofit private agencies that provide care, including food assistance, to needy persons who are not residents of institutions.

(t) "Recipient agencies" means schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions are sponsored by WFP and who receive commodities for distribution to eligible recipients.

(u) "World Food Program" is an intergovernmental activity sponsored jointly by the United Nations and the Food and Agriculture Organization and supported through contributions of commodities, services and funds by the United States and other donor countries. U.S. commodities and services to the World Food Program are provided under the authority of Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended.

## III. Contribution of Commodities and Ocean Transportation

(a) Distribution and use of commodities. Commodities shall be available for distribution and use in accordance with the provisions of the WFP Project Agreement, the TA and this Supplement.

(b) Transfer of title and delivery. Unless the TA provides otherwise title to the commodity shall pass to the WFP at the time and place of delivery f.o.b. or f.a.s. vessels at U.S. ports.

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III

(c) Processing, handling, transportation and other costs. The United States will pay processing, handling, transportation, and other incidental costs incurred in making commodities available to the WFP free on board (f.o.b.) or free along side (f.a.s.) vessel at U.S. ports and such costs and expenses will be charged to the U.S. Commodity Pledge to the WFP.

All costs and expenses incurred subsequent to the transfer of title in the United States to the WFP shall be borne by the WFP, except all or part of ocean transportation costs from U.S. ports to designated ports of entry abroad.

(d) Transportation Authorization. A transportation authorization will be issued to cover the ocean freight paid directly by the United States. When CCC contracts for ocean carriage, disbursement to the carriers shall be made by CCC upon presentation of Standard Form 1113 and three copies of 1113A (Public Voucher for Transportation Charges), together with three copies of the related on-board ocean bill of lading, one copy of which must contain the following certification signed by an authorized representative of the steamship company:

I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON-BOARD OCEAN BILL OF LADING UNDER WHICH THE GOODS HEREIN DESCRIBED WERE LOADED ON THE ABOVE-NAMED VESSEL AND THAT THE ORIGINAL AND ALL OTHER COPIES THEREOF HAVE BEEN CLEARLY MARKED AS NOT TO BE CERTIFIED FOR BILLING.

\_\_\_\_\_  
(Name of Steamship Company)

BY: \_\_\_\_\_  
(Authorized Representative)

Such vouchers should be submitted to:

Director, Ocean Transportation Division  
Foreign Agricultural Service  
U.S. Department of Agriculture  
Washington, D.C. 20250

Ocean transportation costs will be charged to the U.S. shipping pledge to the WFP.

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### III

(e) Losses prior to ocean transit. CCC retains the authority to make or authorize any disposition of commodities which have not commenced ocean transit and receive and retain any monetary proceeds resulting from such disposition. As reimbursements are received, the United States reduces the charge against the U.S. pledge to the WFP by the amount of such collections applicable to items charged as U.S. contributions.

(f) Shipping instructions. Shipments booked by CCC. Requests for shipment of commodities shall originate with WFP/Rome and shall be submitted to AID/W. AID/W shall, through cables, airgrams or letters to WFP/Rome and USAID or Diplomatic Posts, provide names of vessels, expected time of arrival (ETAs), and other pertinent information on shipments booked by CCC. At the time of exportation of commodities, applicable ocean bills of lading shall be sent air mail or by the fastest means available by the freight forwarder, representing CCC, to USDA, to USAID or Diplomatic Posts, to WFP/Rome and to the consignee in sufficient time to advise of the arrival of the shipment.

(g) Tolerances. Delivery by the United States to the WFP at point of transfer of title within a tolerance of 5 percent (2 percent in the case of quantities over 10,000 metric tons) plus or minus, of the quantity ordered for shipment shall be regarded as completion of delivery. There shall be no tolerance with respect to the ocean carrier's responsibility to deliver the entire cargo shipped and the United States assumes no obligation for failure by an ocean carrier to complete delivery to port of discharge.

### IV. Obligations of the WFP

(a) Plan of operation. The WFP shall submit to AID/W within such times and on the forms prescribed, a description of the programs it is sponsoring or proposes to sponsor. This description will provide basic information for USG clearance as to project objectives, possible displacement of U.S. commercial markets, possible conflict with U.S. objectives and/or U.S. P.L. 480 programs in the recipient country, or applicable U.S. laws and AID regulations.

(b) Program supervision. The WFP shall be represented by a person appointed by and responsible to WFP for the supervision and control of the program in the country of distribution in accordance with the provisions of the TA and this Supplement. The WFP representative may be resident or regional.

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#### IV

(c) Determination of eligibility. WFP shall be responsible for determining that the recipients and recipient agencies to whom they distribute commodities are eligible in accordance with the terms and conditions of the WFP Project Agreement, the TA and this Supplement. WFP shall impose upon recipient agencies responsibility for determining that the recipients to whom they distribute commodities are eligible.

(d) No discrimination. The WFP shall distribute commodities only to eligible recipient agencies and eligible recipients without regard to nationality, race, color, or religious or political beliefs, and shall impose similar conditions upon distribution by recipient agencies.

(e) Public recognition. To the maximum extent practicable, and with the cooperation of the host government, adequate public recognition shall be given by the press, by radio, and other media that the commodities have been furnished by the people of the United States. To the extent feasible, the information prescribed for containers in Section V.(b) should be publicized at distribution centers by display banners, posters or similar media.

#### (f) Containers.

1. Markings. Unless otherwise specified in the TA, when commodities are packaged for shipment from the United States, bags and other containers shall be marked with the CCC Contract Number or other identification, the AID emblem, and the following information stated in English and, as far as practicable, in the language of the country receiving the commodity:

- (1) Name of the commodity
- (2) World Food Program
- (3) Furnished by the people of the United States of America
- (4) Not to be sold or exchanged (where applicable).

2. Disposal of containers. The WFP may dispose of Title II containers, other than containers provided by carriers, in which commodities are received in countries having approved WFP programs, by sale or exchange, or distribute the containers free of charge to eligible food or feed recipients for personal use of the recipients. If the containers are to be used commercially, WFP must arrange for the removal or obliteration of U.S. Government markings from the containers prior to such use.

(g) Use of funds. In addition to funds accruing to the WFP from the sale of containers, funds may also be available from charges made in maternal, preschool, school, and other child feeding programs where payment by the recipients may be encouraged on the basis of ability to pay. Funds from these sources shall be used for payment of project costs such as transportation, storage, handling, insect and rodent control, rebagging of damaged or infested commodities, and other program expenses specifically authorized by AID/W to carry out the objectives of the program for which the commodities were furnished. Funds may also be used for payment of indigenous and/or third country personnel including those

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IV(g)

employed to make internal audits and inspections. However, such funds may not be used to purchase land, to acquire or construct buildings, or to make alterations in existing buildings. Actual out-of-pocket expenses incurred in effecting any sale of containers may be deducted from the sales proceeds.

(h) No displacement of sales. The donation of commodities furnished for WFP programs shall not result in increased availability for export by the recipient country of the same or like commodities and shall not interfere with or displace sales in the recipient country which might otherwise take place. This requirement may be waived by AID/W to meet emergency or disaster situations.

(i) Commodities borrowed or exchanged. After the date of program approval by AID/W, but before arrival at foreign destination of commodities authorized in the TA, the WFP may, with prior approval of the USAID or Diplomatic Post, borrow same or similar commodities from any local sources to meet program requirements provided that: (1) such commodities are used in accordance with the terms of the applicable TA and will be replaced on an equivalent value basis at the time and place that the exchange takes place, as determined by mutual agreement between the WFP and the recipient country; (2) packaged commodities which are borrowed shall be appropriately identified in the language of the country of distribution as having been furnished by the people of the United States; and (3) suitable publicity shall be given to the exchange of commodities as provided in paragraph (e) of this section and containers for borrowed commodities shall be marked to the extent practicable in accordance with paragraph (f) 1. of this section. Transfers of commodities may be made between approved Title II programs to meet emergency disaster requirements or to improve efficiency of operation (for example, to meet temporary shortages due to delays in ocean shipments or inland transportation, or to provide for more rapid distribution of stocks in danger of deterioration). Such transfers must be made at no cost to the U.S. Government and with the concurrence of the WFP and the approval of the USAID or Diplomatic Post. Commodities transferred as described above shall not be replaced by the U.S. Government unless AID/W authorized such replacement in advance.

(j) Disposal of excessive stock of commodities. If commodities are on hand which cannot be utilized in accordance with the applicable WFP Project Agreement, the WFP shall promptly advise USAID or the Diplomatic Post of the quantities, location, and condition of such commodities, and, where possible shall propose an alternate use of the excess stocks. USAID or Diplomatic Post shall determine the most appropriate use of the excess stocks, and with prior AID/W concurrence, shall issue instructions for disposition. Transportation costs and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the agencies involved.

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V. Processing, Repackaging, and Labeling Commodities

(a) Commercial processing and repackaging. The WFP may arrange for processing commodities into different end products and for packaging or repackaging commodities prior to distribution. When commercial facilities are used for processing, packaging, or repackaging, the WFP shall enter into written agreements for such services which shall provide as a minimum that:

(1) No part of the commodities delivered to the processing, packaging, or repackaging company shall be used to defray processing, packaging, repackaging, or other costs, except as provided in subparagraph (2) of this paragraph.

(2) When the milling of grain is authorized in the cooperating country, the United States will not pay any part of the processing costs, directly or indirectly, except that the value of the offal may be used to offset such part of the processing costs as it may cover.

(3) The party providing such services shall:

(i) Fully account to the WFP for all commodities delivered to the processor's possession and shall maintain adequate records and submit periodic reports pertaining to the performance of the agreement;

(ii) Be liable for the value of all commodities not *accounted for*;

(iii) Return or dispose of the containers in which the commodity is received from the WFP according to instructions from the WFP;

(iv) Plainly label cartons, sacks, or other containers containing the end product in accordance with paragraph (b) of this section.

(b) Labeling. If prior to distribution the WFP arranges for packaging or repackaging donated commodities, the containers in which the commodities are packed shall be plainly labeled with the AID emblem and in the language of the country in which the commodities are to be distributed, with the following information:

- (1) Name of commodity.
- (2) World Food Program.
- (3) Furnished by the people of the United States of America.
- (4) Not to be sold or exchanged (where applicable).

In case this is not feasible or practicable (c) below applies if approved in advance by the USAID or the Diplomatic Post.

(c) Where commodity containers are not used. When the usual practice in a country is not to enclose the end product in a container, the WFP shall, to the extent practicable, display banners, posters, or other media, similar to that prescribed in paragraph (b) of this section.

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## VI. Arrangements for Entry and Handling in Recipient Country

(a) Costs at discharge ports. Except as otherwise agreed upon by AID/W and provided in the applicable shipping contract, the WFP shall be responsible for all costs (1) beyond the end of ship's tackle in the case of packaged cargo, (2) beyond the discharge end of discharge spout in the case of bulk cargo discharged mechanically, (3) accruing from the time discharging commences in the case of bulk cargo bagged in the ship's hold, or discharged in bulk by slings, (4) for distributing the commodity as provided in the WFP Project Agreement, the TA and this Supplement to end users and (5) for demurrage, detention, and overtime. The WFP shall also be responsible for wharfage, taxes, dues, and port charges assessed against the cargo whenever stated separately in the applicable tariff or shipping contract, and for lighterage (when not a custom of the port) and lightening costs when assessed as a charge separate from the freight rate.

(b) Duty, taxes and consular invoices. Commodities shall be admitted duty free and exempt from all taxes. Consular invoices shall not be required unless specific provision is made in the WFP Project Agreement and the TA. If required, they shall be issued without cost to the WFP or to the Government of the United States.

(c) Storage facilities and transportation in recipient countries. The WFP shall make all necessary arrangements for receiving the commodities and assume full responsibility for storage and maintenance of commodities from time of delivery at port of entry abroad and shall be responsible for the maintenance of commodities in such manner as to assure distribution of the commodities in good condition to recipient agencies or eligible recipients.

(d) Inland transportation in intermediate countries. In the case of landlocked countries, transportation costs in the intermediate country to designated inland point of entry in the recipient country shall be arranged by the WFP which shall report all loss and damage in the intermediate country as provided in Section VII (b).

## VII. Disposition of Commodities Unfit for Authorized Use After Delivery to the WFP

(a) If after arrival in a foreign country it appears that the commodity, or any part thereof, may be unfit for the use authorized in the WFP Project Agreement and the TA, the WFP shall immediately arrange for inspection of the commodity by a public health official or other competent authority. If no competent local authority is available, WFP and the USAID or Diplomatic Post may determine whether the commodities are unfit for human consumption, and if so may direct disposal in accordance with subparagraphs (1) through (4) of this paragraph. The WFP shall arrange for the recovery for authorized

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## VII (a)

use of that part designated during the inspection as suitable for program use. If, after inspection, the commodity (or any part thereof) is determined to be unfit for authorized use, the WFP shall notify the USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use, the WFP shall notify the USAID or the Diplomatic Post of the circumstances pertaining to the loss or damage as prescribed in paragraph VIII.(b). With the concurrence of USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use shall be disposed of in the following order of priority:

(1) By transfer to an approved WFP or bilateral Food for Peace Project for use as livestock feed. AID/W shall be advised promptly of any such transfer so that TAs from the United States to the livestock feeding program can be reduced by an equivalent amount.

(2) Sale for the most appropriate use, i.e. animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold all U.S. Government markings shall be obliterated.

Proceeds from such sales shall be deposited in a special account and utilized with the concurrence of WFP and the USAID or the Diplomatic Post to further the objectives of the project.

(3) By donation to a governmental or charitable organization for use as animal feed or for other non-food use.

(4) If the commodity is unfit for any use, or if disposal in accordance with subparagraph (1), (2), or (3) of this paragraph is not possible, the commodity shall be destroyed, under the observation of a representative of the WFP and USAID or Diplomatic Post if practicable, in such manner as to prevent its use for any purpose.

(b) Expenses incidental to the handling and disposition of the damaged commodity shall be paid by the recipient country or WFP. Actual expenses incurred in effecting any sale may be deducted from the sales proceeds. The WFP shall promptly furnish AID/W and USAID or the Diplomatic Post a written report of all circumstances relating to the loss and damage and shall include in this report, or a supplemental report, a certification by a public health official or other competent authority of the exact quantity of the damaged commodity disposed of because it was determined to be unfit for human consumption.

## VIII. Liability for Loss and Damage or Improper Distribution of Commodities

### (a) Ocean carrier loss and damage, general average and salvage

(1) Outturn reports for claims against ocean carriers. The WFP shall obtain an outturn report immediately following each vessel's discharge. The report shall show the quantity and condition of the commodities delivered and

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the amount of shortage or damage, if any. Wherever possible, reports showing damage or short outturn must be certified by an independent cargo surveyor. The WFP shall obtain a certification by a public health official or similar competent authority of the condition of the commodity in any case where a damaged commodity appears to be unfit for its intended use and a certificate of disposition of any commodity determined to be unfit for its intended use.

(2) Claims against ocean carriers

(i) WFP shall have the right to initiate, prosecute and collect for its own use all claims against ocean carriers for cargo loss and damage on shipments for the WFP and will not look to the U.S. Government for replacement under the pledge.

(ii) In order that claims against ocean carriers may be filed promptly by WFP, USDA shall furnish to WFP:

(A) Copy of Form CCC-512, Notice of Commodity Availability, stating the export value per pound, f.o.b. or f.a.s. vessel at the U.S. port of export, of the commodity delivered to WFP pursuant to the TA.

(B) Copy of ocean bill of lading on the applicable shipment.

(C) Copy of paid freight voucher for the applicable shipment.

(D) Such other similar documents that may be required for pursuance of claims against ocean carriers.

(3) General average and salvage. WFP shall be responsible for settling and paying any general average and marine salvage claims and shall receive and retain any allowance in general average and any salvage proceeds.

This amendment shall be effective as of May 1, 1972, and shall apply to Cargo Booking Confirmations (Form EMS-393) issued by USDA on and after May 1, 1972, on WFP shipments and Charter Party Agreements entered into by USDA on and after such date in connection with WFP shipments. The terms and conditions of the Supplement to TA signed by WFP and AID, on September 19, 1969, shall remain in full force and effect except as amended herein.

IX. Records and Reporting Requirements of the WFP

The WFP shall undertake to ensure that the commodities contributed by the USG are distributed and utilized in a manner consistent with the provisions set forth in the TA and this Supplement, that losses due to improper actions and/or handling within the recipient country are avoided, and that adequate records are developed for this purpose and maintained by WFP or recipient country. Upon its request, the USG shall be given access to and the right to examine WFP records. Should the USG find at any time that WFP reports to the

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IX

CFA on this program are inadequate for U.S. purposes, the WFP shall undertake to provide the U.S. Government with such additional information as the U.S. Government may request relating to the handling and disposition of the commodities authorized. It is expected that the foregoing normally will satisfy U.S. review requirements. However, should special circumstances arise which appear to the U.S. Government to warrant additional review and/or audit of the program, the U.S. Government then may seek WFP's concurrence in the implementation of the required action by either WFP or U.S. Government personnel.

X. Waiver, Amendment, or Termination

(a) AID may waive, withdraw, or amend, at any time, any or all of the provisions of this Supplement if such provision is not statutory and if AID determines it is in the best interest of the U.S. Government to do so.

(b) All or any part of the assistance provided under the program, including commodities in transit, may be terminated by AID at its discretion if the WFP fails to comply with the provisions of the TA and this Supplement, or if it is determined by AID that the continuation of such assistance is no longer necessary or desirable. Under such circumstances title to commodities which have been transferred to the WFP shall, at the written request of AID/W, be retransferred to the U.S. Government by the WFP. Any excess commodities on hand at the time the program is terminated shall be disposed of in accordance with Section IV.(f)2.(j). If it is determined that any commodity to be supplied under the Food for Peace Program Agreement is no longer available for Food for Peace projects, such authorization shall terminate with respect to any commodities which, as of the date of such determination, have not been delivered f.o.b. or f.a.s. vessel.

19 September 1969

Date

(Signed by Irwin R. Hedges and  
Francisco Aquino, as amended  
July 3, 1972)

/s/ Irwin R. Hedges

Irwin R. Hedges

Acting Assistant Administrator  
For War on Hunger

Signature for the Administrator

/s/ Francisco Aquino

For The World Food Program

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APPENDIX E

SECTION 109(a) of Public Law 480

SECTION 109. (a) Before entering into agreements with developing countries for the sale of United States agricultural commodities on whatever terms, the President shall consider the extent to which the recipient country is undertaking wherever practicable self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities, including:

- (1) devoting land resources to the production of needed food rather than to the production of nonfood crops--especially nonfood crops in world surplus;
- (2) development of the agricultural chemical, farm machinery and equipment, transportation and other necessary industries through private enterprise;
- (3) training and instructing farmers in agricultural methods and techniques;
- (4) constructing adequate storage facilities;
- (5) improving marketing and distribution systems;
- (6) creating a favorable environment for private enterprise and investment, both domestic and foreign, and utilizing available technical know-how;
- (7) establishing and maintaining Government policies to insure adequate incentives to producers;
- (8) establishing and expanding instructions for adaptive agricultural research;
- (9) allocating for these purposes sufficient national budgetary and foreign exchange resources (including those supplied by bilateral, multilateral, and consortium aid programs) and local currency resources (resulting from loans or grants to recipient governments of the proceeds of local currency sales);
- (10) carrying out voluntary programs to control population growth.

In taking these self-help measures into consideration the President shall take into particular account the extent to which they are being carried out in ways designed to contribute directly to development progress in poor rural areas and enable the poor to participate actively in increasing agricultural production through small farm agriculture.

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A P P E N D I X F

INSTRUCTIONS TO VOLUNTARY AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS  
CONCERNING THE FILING, PURSUIT, ADJUDICATION AND COLLECTION OF  
OCEAN TRANSPORTATION CLAIMS ARISING FROM SHIPMENT OF TITLE II,  
PUBLIC LAW 480 COMMODITIES

HEADQUARTERS SECTION

PART 1

GENERAL PROVISIONS

1. PURPOSE AND COVERAGE

To provide instructions to all voluntary agencies and intergovernmental organizations for the control, adjudication, collection, or other authorized disposition of ocean carrier cargo loss and/or damage claims involving Commodity Credit Corporation owned commodities transferred to agencies for various uses authorized by Title II, Agricultural Trade Development and Assistance Act of 1954, Public Law 480, as amended.

2. AUTHORITIES FOR ASSIGNED CLAIMS RESPONSIBILITIES

A. Section 105, 201, 202, and 203, Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1705, 1721, 1722, 1723, and 1731.

B. Agency for International Development Regulation 11, Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance, as Amended.

3. DEFINITIONS, ABBREVIATED TERMS, NAMES, ETC., USED IN THIS INSTRUCTION

A. Administrative Allowance.

Amount authorized to be retained from claim recoveries by voluntary agencies or intergovernmental organizations.

B. Agency for International Development

AID, USAID, or AID/W, as applicable.

C. AID Regulation 11.

Regulations.

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D. Commodity Credit Corporations.

CCC

E. Chief, Claims and Collections Division, Kansas City  
ASCS Commodity Office.

Chief, C&CD

NOTE: Chief, C&CD is a Claims Official  
of CCC.

F. Voluntary Agencies and Intergovernmental Organizations.

Agency or Agencies.

G. American Carriage of Goods by Sea Act.

COGSA

H. Claim Value.

CCC's monetary interest in the claim.

4. ADDRESS OF CHIEF, C&CD

Mr. David G. Bell  
Chief, Claims & Collections Division, KCCO  
P. O. Box 8377  
Shawnee Mission, Kansas 66208

PART 2 INITIAL DISTRIBUTION TO CCC OF DOCUMENTATION -- BEFORE  
CLAIM IS FILED

5. BILL OF LADING

A. Send two signed copies to the Kansas City ASCS Commodity Office  
PROMPTLY after the lifting of Title II commodities.

B. Do not send additional copies to Chief, C&CD.

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PART 3 DETERMINATION OF OCEAN CARRIER LIABILITY

6. SUPPORTING DOCUMENTATION

- A. Obtain the necessary documentation from your overseas Missions. Documentation requirements are enumerated in the Field (or Mission) Section of these Instructions.
- B. Promptly evaluate the documentation and determine if a loss occurred. If a loss has been sustained, determine if it is an ocean carrier (marine) loss or an inland loss, bearing in mind the burden of proof is on the claimant. Under the provisions of COGSA, the ocean carrier is generally responsible only for those losses which occur while the cargo is in the custody and control of the vessel (or, in some cases, lighters). Any losses occurring after the cargo leaves the vessel's control and custody (such as those occurring in Customs or Port Authority warehouses, in transit from quay to shed, etc.) should be treated as inland losses.

7. COMPUTATION OF OCEAN CARRIER CLAIMS

- A. Use the delivered value of the commodity, computed as follows:
    - 1. Determine the FAS value of the shipment.
    - 2. Add the freight paid on the shipment.
    - 3. Divide such sum by the number of net pounds in the shipment to arrive at a price per pound delivered value.
    - 4. Multiply the price per pound delivered value by the number of pounds lost or damaged.
  - B. Include, at agency's option and as a separate item, special charges authorized by the Regulations.
  - C. Include, as a separate item, any costs incurred by the agency or USAID to reconstitute cargo damaged by the ocean carrier.
    - 1. The June 1979 amendment to Regulations (Paragraph 211.7(e)(1) and (2) authorizes direct reimbursement to agency by CCC of costs incurred for repackaging. (See Paragraph 10.)
    - 2. When ocean carrier is determined by agency to have caused damage which requires such costs, these costs should be included in the claims filed against the ocean carrier.
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- D. If commodities are damaged and determined by competent authority to be unfit for human consumption and the commodities are sold or otherwise disposed of pursuant to the Regulations, credit the claim by the U. S. dollar equivalent of the NET proceeds of the sale. If the unfit commodity is not sold but is donated for some useful purpose, allow the carrier a credit of \$.02 per pound for the amount donated to the extent the quantity is included in the claim.
  - E. Do not allow salvage credit for unfit commodities which are disposed of by destruction.
  - F. Do not allow salvage allowances other than those shown above without authorization from Chief, C&CD.
8. FILING CLAIMS AGAINST OCEAN CARRIER
- A. File claims PROMPTLY in the name of the agency in every instance when a marine loss has been sustained EXCEPT:
    - 1. When general average has been declared (See Part 8).
    - 2. When the agency chooses not to file for losses valued at \$100 or less. (See Regulation 11, paragraph 211.9 (c) (2) (ii) (a)).
  - B. File claims in writing setting forth the pertinent facts in such manner and in sufficient detail to clearly show a reasonable basis for the conclusions reached.
  - C. Support the claims with the required documentation including, but not limited to:
    - 1. Ocean Bill of Lading.
    - 2. Survey Report.
    - 3. Outturn Report, if available.
    - 4. Shortlanding Certificates, if applicable.
    - 5. Unfitness Certificate or Chemical Analysis Report, if applicable.
    - 6. Disposition Certificate, if applicable.
    - 7. Notice of Protest to Carrier.
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- D. File ONE claim for each voyage of the same vessel to the same ocean port of discharge, regardless of the kinds of Title II commodities shipped, regardless of the number of different bills of lading issued by the carrier, and regardless of the country of distribution.
- E. Promptly transmit a copy of the claim (and all subsequent revisions) to the Chief, C&CD, at time of filing with carrier. A copy of the survey invoice or certified statement that payment of the survey fees was made by your agency and documents supporting the claim (or any revision) should accompany the copy of the claim. Also forward any narrative analysis received from your overseas Missions which has a bearing on the particular claim or which contains pertinent information about port conditions. Show the name of the vessel and CCC contract number on the claim transmitted. Also, notify Chief, C&CD, when no claim is to be filed. See 8A2.
- F. If the original Survey Report, Public Health Certificate, Certificate of Disposition and the Shortlanding Certificate cannot be obtained, submit a legible signed copy of these documents with a statement that the originals could not be obtained.

9. REIMBURSEMENT FOR SURVEY FEES PAID

- A. All survey fees for discharge surveys on voluntary agency shipments will be reimbursed to the agency by CCC.
- B. CCC will also reimburse agencies for the cost of delivery surveys which the agency determines necessary to control Title II cargo and/or prevent losses in the port area.
- C. Eligible reimbursement for survey fees will be made by CCC upon receipt of:
  - 1. Claim statement or advice that no claim will be filed, and
  - 2. Original or signed duplicate copy of the survey report and invoices or certified statements (See Exhibit 1), stating the amount of the survey fee which was paid by the agency.
- D. CCC will not reimburse agencies for the cost of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless such deviations from the documentation requirements of paragraph 211.9 (c) (1) of the Regulations is justified to the satisfaction of CCC.

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10. REIMBURSEMENT FOR COSTS OF REPACKAGING OF CARGOES IN DESTINATION COUNTRY REQUIRED BECAUSE OF DAMAGE CAUSED BY OCEAN CARRIER
    - A. See Regulation 11, Paragraph 211.7(e)(1) and (2)(i).
    - B. If cargo is damaged while in the control and custody of ocean carrier, and repackaging costs must be incurred to ensure that the commodity remains wholesome until it reaches the destination point, CCC will reimburse the agencies for such costs if they were incurred on or after June 13, 1979, and upon receipt of proper documentation.
      1. If costs are \$500 or less, forward invoices or other documents to support such costs.
      2. If costs are more than \$500, also forward written authorization (or waiver) by USAID or Diplomatic Post authorizing payment of costs. Such authorization must be obtained prior to incurring costs in excess of \$500.00.
    - C. Include the cost of repackaging cargoes in claims filed against the ocean carrier. (See Paragraph 7.)
    - D. Documents set forth in subparagraphs B1 and B2 above should be forwarded to Chief, C&CD, at the time claim documents are submitted or as soon thereafter as possible. If expenses were paid in a currency other than U. S. dollars, include information as to the exchange rate at the time the expenses were incurred.
  11. REIMBURSEMENT FOR COSTS OF REPACKAGING CARGOES IN DESTINATION COUNTRY BECAUSE OF DAMAGE CAUSED AFTER DISCHARGE OF THE CARGO FROM THE OCEAN CARRIER
    - A. See Regulation 11, Paragraph 211.7(e) (1) and (2) (ii).
    - B. If cargo is damaged after discharge and such damage is not the responsibility of the ocean carrier, and it is necessary to repackage the cargo to ensure its arrival at the destination point in wholesome condition, CCC, Washington, will reimburse agencies for such costs if they were incurred on or after June 13, 1979, and upon receipt of proper documentation.
      1. If costs are \$500 or less, forward invoices or other documents to support costs.
      2. If costs are more than \$500, also forward written authorization by USAID or Diplomatic Post (or waiver) authorizing the payment of costs. Such authorization must be obtained prior to incurring costs in excess of \$500.
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C. Submit documents listed in subparagraphs B1 and B2 above to:

Director, Financial Management Division  
U. S. Department of Agriculture, ASCS  
Room 6096-S  
14th & Independence Avenue  
Washington, D. C. 20250

Paragraphs 12 - 14 (RESERVED)

PART 4

COLLECTION OF CLAIMS

15. GENERAL COLLECTIONS RESPONSIBILITY OF AGENCY

- A. Agencies must actively and aggressively pursue collection of marine claims, using every reasonable effort short of litigation. Such active and aggressive pursuit of claims not only includes timely follow-ups with the ocean carrier, but also requires a concerted effort to obtain all the facts, and clarify discrepancies.
- B. Agencies may be held liable for losses sustained by CCC as provided in paragraph 211.9 (c) (2) (ii) (g) of the Regulations if a claim becomes time-barred or sufficient time is not allowed for CCC to initiate appropriate action for filing of legal action, or if agency fails to pursue claims or fails to provide for the right of CCC to assert such claims.

16. CONTROL OF CLAIMS

Keep claims under follow-up control.

A. Expiration of Time Within Which to File Suit.

- 1. If collection is not received within 8 months after discharge of the commodity at foreign port of destination, obtain at least a 6-month VALID extension of suit time from the carrier.
  - 2. Agency shall obtain extensions of suit time at such intervals as will assure that CCC has, at all times, at least 3 months within which to file suit against the carrier. CCC will not police the obtaining of such time extensions.
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#### 17. CARRIER IGNORES CLAIM OR DISPUTES CLAIM IN WHOLE OR IN PART

- A. If agency determines upon review that the claim is valid in the full amount billed, reassert the claim. It is not necessary to consult with CCC.
- B. If agency determines that the claim should be reduced or withdrawn in its entirety on the basis of facts or information not considered when the initial determination of liability was made by the agency--not necessary to consult with CCC:
  1. Reassert claim in the reduced amount. (If reduced to zero, advise the carrier accordingly.)
  2. Request carrier to promptly submit his/her check for the reduced amount.
  3. Promptly notify Chief, C&CD, of the action taken in 1 and 2 above.
- C. If carrier ignores claim or otherwise refuses to pay and all reasonable efforts have been made to obtain all available documentation and facts and to effect collection, handle as provided in Part 7. EXCEPTION: On claims valued at \$600 or less, agencies may terminate collection activity without approval of CCC. However, Chief, C&CD, should be notified when collection activity on a claim has been terminated.
- D. Agency shall resolve questions of fact with the carrier to the extent possible. If agency is unable to resolve factual disputes, attempt to obtain a compromise offer. Submit all compromise offers on claims in excess of \$5,000 to Chief, C&CD, along with agency recommendations as to acceptability as provided in Part 6. When such compromise offers are forwarded, also ensure that all correspondence and additional documentation which CCC may not have is also forwarded.

#### 18. REQUEST FOR STATUS

CCC may, from time to time, request the status of individual claims. Upon receipt of such a request, the agency shall advise CCC of the progress of their settlement negotiations, as well as any monetary changes in the claim which have arisen from additional information or documentation which may have been received.

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PART 5

DISPOSITION OF COLLECTIONS

19. COLLECTIONS RECEIVED BY AGENCY

A. In U. S. Dollars.

Remit PROMPTLY to Chief, C&CD, the full amount received less deductions authorized by the Regulations. Transmit the check with an explanatory letter identifying claim(s) and deduction(s).

B. In Foreign Currency in Which Freight is Paid.

1. Deposit with the U. S. Disbursing Officer, American Embassy, as provided in paragraph 211.9(g) of the Regulations.
2. CCC will, upon receipt of advice of deposit, remit to the agency any amount due the agency.

20. ADMINISTRATIVE ALLOWANCE

- A. An administrative allowance of \$100 may be retained by the agency from the proceeds of a claim. For the purpose of determining administrative allowances, a claim is defined as those losses occurring on the same voyage of the same vessel to the same port.
- B. If separate claims are filed by agencies for losses from the same voyage of the same vessel to the same port, only one administrative allowance is allowed.
- C. If claim proceeds are less than \$100, retain full amount of claim proceeds.

21. COLLECTION ALLOWANCE

- A. Retain from CCC's interest in the collection 10% of the difference between the administrative allowance of \$100 and the total amount collected on a claim, up to a maximum of \$350,  
  
OR
  - B. Retain the actual administrative expenses incurred to collect the claim.
    1. Authorization must be requested from Chief, C&CD, and approval must be obtained prior to retention of actual expenses.
    2. Do not delay transmittal of claim recovery to CCC pending approval by CCC of actual administrative expenses.
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3. Upon approval of amounts due an agency for actual expenses, CCC will issue a sight draft to the agency.

## 22. SPECIAL CHARGES

- A. The Regulations provide that agencies may include charges such as insurance, packing, handling, etc., as a separate item when claims are filed.
- B. These special charges shall not, for claims filed after June 13, 1979, include expenses incurred for repackaging or reconstituting damaged cargo in the destination country. (See Paragraph 23.)
- C. Special charges included in a claim and paid by the liable party may be retained by agency.
- D. If the claim is compromised, retain an amount representing the percentage of the special charges as the compromised amount is to the full amount of the claim. EXCEPTION: If the carrier specifically refuses to pay such special charges or the claim is compromised by the amount of such charges, NO portion of such charges may be retained by the agency.

## 23. EXPENSES INCURRED IN DESTINATION COUNTRY FOR REPACKAGING AND/OR RECONSTITUTION

- A. Reconstitution expenses incurred prior to June 13, 1979, and reconstitution expenses incurred after June 13, 1979, which have not been properly supported to allow for direct reimbursement by CCC are expenses to the agency. If these expenses are included in a claim against the ocean carrier and are included in the claim collection, a percentage of these expenses may be retained by the agency to the same extent as the final collection amount is to the final claim amount. For purposes of determining the amount to be retained, treat reconstitution expenses as a Special Charge (see paragraphs 22.B, C, & D and Column E of Exhibit 2).
- B. Reconstitution expenses incurred on or after June 13, 1979, are eligible for 100% reimbursement to the agency by CCC. See Paragraph 10. If these expenses have been properly supported and if these expenses have been reimbursed to the agency by CCC, these costs are an asset of CCC. If so, the agency may not retain any amounts collected for such costs (except 10% collection allowance) since total reimbursement by CCC will have been previously made. Thus for the purpose of determining amounts to be retained by the agency, do not include these previously reimbursed reconstitution costs in either columns of E or F of Exhibit 2.

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- C. If a claim includes reconstitution expenses and documentation has been forwarded to CCC requesting reimbursement and, prior to the actual receipt of the reimbursement from CCC, the claim is paid by the carrier:
1. Compute collection allowances as shown in B above, and
  2. Advise CC of above action again requesting reimbursement of the reconstitution expenses.

## 24. COLLECTIONS RECEIVED BY CCC ON CLAIMS ASSIGNED TO CCC

- A. Will be deposited by CCC and amounts owing the agency for allowable deductions will be remitted by CCC to the agency.

NOTE:

CCC will endeavor to collect the full amount of the claim including the handling and miscellaneous expenses claimed by the agency. However, if the carrier refuses to pay these additional charges and the agency is unable to support the charges to the satisfaction of the carrier or, in the case of litigation, to the satisfaction of the court, these unpaid charges will not be remitted to the agency.

- B. See subparagraph 37B concerning the payment of 10% collection allowance.
- C. CCC reserves the right to deny payment of all allowances in cases where CCC determines that the documentation requirements of paragraph 211.9 (c) (1) of the Regulations have not been fulfilled, and the failure to provide such documentation has not been justified to the satisfaction of CCC.

25 - 29 (RESERVED)

## PART 6 REFFERRAL OF CLAIM TO CCC--CLAIM RIGHTS NOT ASSIGNED

## 30. REFERRED FOR ADVICE ON FURTHER HANDLING

- A. Although the agency is expected to resolve questions of fact with the carrier to the extent possible, it is recognized that there will be instances when the agency will be in doubt as to the course of action to take in a particular case.
- B. Referrals should set forth a complete description of the claim, the problem involved, the carrier's position in the matter,

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and the agency's comments and recommendations. Pertinent documents which CCC may not have should also be forwarded.

31. REFERRED FOR CONSIDERATION OF COMPROMISE OFFER

- A. Agency should keep the following factors in mind in negotiating compromise settlements with carriers:
1. Collections Policy of CCC. In general, to collect claims in full through administrative action.
  2. Authority to Compromise Claim. Limited to the following:
    - a. Debtor's inability to pay.
    - b. Real doubt as to the Government's ability to prove its claim in court for the full amount because of the legal issues involved.
    - c. A bona fide dispute as to the facts.
- B. Request carrier to support any compromise offer with documentary evidence to support his contention that he is not liable for the full amount of the claim.
- C. Submit applicable correspondence and documentation and agency's recommendation as to acceptability of a compromise offer on ALL referrals to CCC.
- D. Do not refer a compromise offer to CCC if the claim value is \$5,000 or less except in unusual or unique situations. Agency has authority to settle such claims without obtaining the approval of CCC. However, CCC should be promptly notified when such a compromise offer is accepted.

32. WHERE TO REFER

Chief, C&CD.

33. RESPONSIBILITY OF AGENCY AFTER REFERRAL OF CLAIM TO CCC

- A. Agency has the overall responsibility to collect a claim until such time as its claims rights are assigned to CCC.
- B. Agency shall take the necessary action to ensure that the claim does not become time-barred during the period in which CCC has a claim under consideration.
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PART 7

ASSIGNMENT OF CLAIMS RIGHTS TO CCC

36. WHEN TO ASSIGN

- A. Assign after agency has exhausted all reasonable efforts short of litigation to effect collection. This should include efforts to compromise claims where compromise settlements are warranted.
- B. Assign if collection has not been effected within TWENTY-FOUR (24) MONTHS following the date the claim was filed. EXCEPTIONS:
  - 1. No useful purpose would be served by deferring referral until twenty-four months have elapsed.
  - 2. Twenty-four months have elapsed and settlement is expected to be completed within the immediate future.

37. WHAT TO REFER

- A. Assignment of agency's claims rights to CCC properly completed in the format shown in Exhibit 3.
- B. Copy of complete claim file. NOTE: CCC will review this file upon receipt of an assignment of claim rights to determine if the file contains evidence that the claim was actively and aggressively pursued by the agency. This review and the documentation in the file shall be the basis on which a determination is made by CCC whether or not the agency shall receive the additional 10% collection allowance upon collection by CCC.

38. WHERE TO REFER

Chief, C&CD

39. RESPONSIBILITY OF AGENCY AFTER CLAIMS RIGHTS ASSIGNED TO CCC

- A. Do not take any further action on the claim unless requested to do so by CCC.
- B. If the carrier incorrectly submits funds to agency after rights have been assigned, agency should NOT deposit such collections. In such cases, notify Chief, C&CD, and take action in accordance with his/her instructions.

40. (RESERVED)

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PART 8 GENERAL AVERAGE

41. CCC RESPONSIBILITY

- A. CCC is responsible for general average contributions on all Title II, Public Law 480 cargoes shipped by agencies.
- B. CCC is responsible for filing and pursuit of cargo loss and/or damage claims in all cases when general average has been declared.

42. AGENCY RESPONSIBILITY

When general average has been declared, the agency responsibility is limited to PROMPTLY transmitting the following documents to Chief, C&CD:

- A. Copy(ies) of ocean bill(s) of lading, along with copy(ies) of the booking contract(s). If there is no written booking agreement, provide CCC with advice as to whether freight was prepaid or collect.
- B. Original survey report and originals of all documentation pertaining to any loss or damage. If originals cannot be obtained, send legible, signed copies with a statement that originals cannot be obtained. Do not delay transmittal of copies to CCC pending receipt of original documents.
- C. Assignment of agency's claims rights to CCC properly completed in the format shown in Exhibit 3.

43 - 44 (RESERVED)

PART 9 AGENCY RESPONSIBILITY FOR OBTAINING DOCUMENTATION AT THE DISCHARGE PORT

45. GENERAL

The most important facet in a successful claims program is the timeliness, clarity and adequacy of the documentation upon which the claim is based. In properly documenting a marine claim, it is imperative that proof be obtained which shows the quality and quantity of cargo at the time the carrier's liability ends -- normally at the time of discharge (ex-ship's tackle). It is also equally important that agencies promptly mitigate damages and provide documentation, taken on a timely basis, which supports shortlandings, unfitness, remaining contents in reconstituted bags, amounts of cargo donated for animal feed or sold for salvage, etc. In short, the success or failure of efforts by agencies and/or CCC to pursue claims from a position of strength depends upon the efforts and actions of agency personnel at ports of discharge.

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46. SUGGESTED HEADQUARTERS ACTION

- A. Carefully read and understand the documentation requirements set forth in the Regulations and in the Field (or Mission) Section of these Instructions.
- B. Transmit the Field (or Mission) Section of these Instructions to all agency overseas posts utilizing Title II, Public Law 480 cargoes.  
NOTE: The Instructions may be supplemented and/or elaborated upon by agency headquarters.
- C. Ensure that overseas posts understand the requirements of Regulations and Instructions.
- D. Review documentation submitted from overseas posts for compliance with Instructions.
- E. When applicable, advise overseas posts of inadequacies in documentation submitted by them and reiterate necessity for timely detailed documentation.
- F. Require overseas posts to furnish complete narrative analyses in situations where proper documentation cannot be obtained.
- G. Advise Chief, C&CD, of situations which prohibit overseas posts from compliance with the Regulations and/or Instructions.
- H. Request the assistance of Chief, C&CD, in any instance where the proper documentation of marine losses appears to warrant such action.
- I. Ensure that correspondence from Chief, C&CD, which requests clarification of documents or which notes inadequacies in documentation is promptly forwarded to overseas posts, and that overseas posts take prompt and affirmative action.

47 - 50 (RESERVED)

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EXHIBIT 1

CERTIFICATION OF SURVEY FEE PAID

I hereby certify that \_\_\_\_\_ (name of agency) has incurred and paid

\$ \_\_\_\_\_ in marine survey fees for the attached survey report

in connection with the discharge of \_\_\_\_\_ (number of bags, etc.) of

\_\_\_\_\_ (commodity) loaded onboard the \_\_\_\_\_ (name of vessel) .

\_\_\_\_\_  
(signature)

(Name & Title)

NOTE: This form is to be completed and forwarded to Chief, C&CD, after survey fees have been paid by the agency. It may be signed either by agency headquarters personnel or by overseas personnel with knowledge of payment. It need not be signed by the surveyor.

**COLLECTION WORKSHEET**

EXHIBIT 2

VESSEL NAME AND VOLAGENCY CLAIM NUMBER	VOLAGENCY CLAIM AMOUNT	AMOUNT COLLECTED (INCLUDING E AND F)	PERCENT- AGE OF CLAIM COLLECTED (B ÷ A)	VOLAGENCY ADMIN. FEE (\$100.00)	RECONSTITUTION COSTS NOT PREVIOUSLY REIMBURSED BY CCC	VOLAGENCY EXPENSES INCLUDED IN CLAIM (MULTIPLY X C)	COLLECTION ALLOWANCE B-D-E-F X 10%	TOTAL RETAINED BY VOLAGENCY (D + E + F + G)	TOTAL DUE CCC (B - H)
	A	B	C	D	E	F	G	H	

MAXIMUM OF \$250 PLUS E AND F, NOT TO EXCEED TOTAL AMOUNT COLLECTED.

App F to HB 9, p.17  
(TM 9.7.7)

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EXHIBIT 3

A S S I G N M E N T

TO WHOM IT MAY CONCERN:

\_\_\_\_\_, does hereby  
(Name of Agency)

assign, transfer and set over to Commodity Credit Corporation, an agency and instrumentality of the United States of America, within the United States Department of Agriculture, all of its rights, title and interest in and to the following described claim filed against

\_\_\_\_\_  
(Name of Vessel and Vessel's Owner) B/L No. \_\_\_\_\_

Claim No. \_\_\_\_\_ covering a  
(Agency's Claim Number or Shipment No.)

shipment of \_\_\_\_\_ moving from \_\_\_\_\_  
(Commodity)

to \_\_\_\_\_ on \_\_\_\_\_  
(Date)

Contract No. \_\_\_\_\_

\_\_\_\_\_

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INSTRUCTIONS TO ALL VOLUNTARY AGENCIES AND INTERGOVERNMENTAL  
ORGANIZATIONS CONCERNING THE DOCUMENTATION REQUIREMENTS  
OF AID REGULATION 11 AS THEY APPLY TO THE DISCHARGE OF  
TITLE II PUBLIC LAW 480 COMMODITIES

FIELD (OR MISSION) SECTION

PART I            GENERAL PROVISIONS

1.    PURPOSE AND COVERAGE

To provide instructions and to supplement existing procedures concerning the documentation requirements of AID Regulation 11 as it applies to the discharge and delivery of Title II, Public Law 480 commodities. In short, these instructions provide valuable information regarding the type of documentation necessary to pursue marine claims from a position of strength.

2.    AUTHORITIES FOR ASSIGNED CLAIMS RESPONSIBILITIES

- A.    Sections 105, 201, 202, and 203, Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1705, 1721, 1722, 1723, and 1731.
- B.    Agency for International Development Regulation 11, Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance, as amended.

3.    DEFINITIONS, ABBREVIATED TERMS, NAMES, ETC., USED IN THIS INSTRUCTION

A.    Agency for International Development

AID, USAID, or AID/W, as applicable.

B.    Marine Loss

A loss of Title II, Public Law 480 Commodity which occurs while the cargo is in the custody and control of the ocean carrier or his/her servants or agents. Losses assessed against the ocean carrier NORMALLY must be noted upon discharge, and elaborated upon when cargo can be reconstituted.

C.    Inland or Interior Loss

A loss of Title II, Public Law 480 Commodity which occurs after the cargo leaves the custody and control of the ocean carrier.

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3.

D. American Carriage of Goods by Sea Act

COGSA. Law which covers all shipments of Title II, Public Law 480 commodities.

E. AID Regulation 11

The Federal Regulations which are printed in the Federal Register and have the effect of the law. These Regulations are made a part of these Instructions as Exhibit 1. For the purpose of these Instructions, most references to the Regulations will be to Paragraph 211.9 (c) which sets forth the requirements for documenting ocean carrier cargo losses and damages.

F. Commodity Credit Corporation

CCC

G. Overseas Offices or Missions of Voluntary Agencies and Intergovernmental Organizations

Agencies

Part 2

SURVEY AND SURVEY REPORTS

4. A. As used in the Regulations and these Instructions, a survey is an examination or inspection of Title II, Public Law 480 cargo made by an independent expert to determine the quality and quantity of commodities at the time of examination.

B. As used in the Regulations and these Instructions, a survey report is the written evaluation or report of the examination of cargo which factually states conditions at the time of examination, and accurately and independently states the quality and quantity of Title II cargoes at the time of examination.

5. PURPOSE

Survey Reports document the quality and quantity of cargo to fix responsibility for losses occurring while cargo is in the custody and control of the vessel so that claims for such losses may be pursued from a position of strength and knowledge.

6. AUTHORITY AND RESPONSIBILITY TO OBTAIN

A. Agencies are given the authority under Paragraph 211.9 (c) of the Regulations to engage the services of an independent cargo surveyor to document the quality and quantity of cargo discharged from the vessel.

6.

- B. Agencies are required under Paragraph 211.9 (c) of the Regulations to engage the services of an independent cargo surveyor and to obtain discharge survey reports on all shipments of Title II, Public Law 480 cargo unless:
1. USAID or the Diplomatic Post determines, in writing, that such surveys are not feasible in the specific port area, or
  2. CCC has made other provisions for such examinations and reports.  
NOTE: If CCC makes such arrangements, USAID and agencies have been or will be notified of such arrangements in writing.
- C. In addition to (but not as a substitute for) a discharge survey, agencies are given the option to engage an independent cargo surveyor to supervise clearance and delivery of cargo and to issue survey reports thereon.

## 7. COSTS OF SURVEYS

- A. Agencies should determine the costs to be charged by surveyors in advance of their employment. Agencies should determine if such fees are equitable for such services in the particular port area.
- B. Upon receipt of an invoice from the surveyor, agencies should determine that the report furnished is acceptable for the purpose intended and, if so, pay the bill and so advise agency headquarters of the amount of the survey fee paid.
- C. CCC will reimburse agency headquarters for the cost of discharge surveys.
- D. CCC will also reimburse agency headquarters for the cost of a delivery survey which the agency determines is necessary to control cargo and/or to prevent losses in the port area.
- E. CCC will not reimburse agency headquarters for the cost of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless such deviation from the documentation requirements of Paragraph 211.9 (c) (1) of AID Regulation 11 is justified to the satisfaction of CCC.
- F. In the case of cargoes moving into landlocked countries, agencies shall arrange for an independent survey at the point of entry into the country. CCC will reimburse agency headquarters for the cost of this survey PROVIDED that a timely discharge survey at the ocean port was prepared and forwarded.
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## 8. APPLICATION FOR SURVEY

- A. Agencies should notify surveyors in advance of vessel arrival and instruct surveyors to survey a specific quantity of cargo for the account of the agency. The surveyor should understand that if cargo in excess of the bill of lading quantity is discharged, such cargo should also be surveyed.
- B. Such notification should be, if at all possible, in writing.

## 9. TIME AND PLACE OF SURVEY

- A. In order to fix responsibility for losses occurring while in the custody and control of the vessel (his/her agents or servants), it behooves the surveyor to examine cargo immediately before (if possible), during, and immediately after cargo is discharged from the vessel.
- B. COGSA states that the ocean carrier's liability ends "...ex-ship's tackle..."; it is therefore imperative that the quantity and condition of cargo be evaluated "...ex-ship's tackle...".
- C. The survey should continue through the time of reconstitution of damaged commodity, if any, to ensure that specific quantities lost from slack and torn containers may be properly and accurately recorded.

## 10. FORMAT OF DISCHARGE SURVEY REPORTS

- A. The format of the surveyor's report is relatively unimportant as long as facts, figures and dates are shown, and are shown in a logical presentation.
- B. The surveyor's report should correspond in length to the severity of losses. For instance, if the surveyor observed the discharge of a shipment and no losses were noted, the surveyor's report would be quite short. On the other hand, if considerable losses and damages are noted, the surveyor's report should elaborate in full detail.

## 11. CONTENT OF SURVEY REPORTS

- A. Data Regarding the Shipment
    - 1. Name of the Vessel,
    - 2. Manifested Quantity,
    - 3. Name of Commodity,
    - 4. Stowage Location,
    - 5. Port of Discharge.
-

11.

B. Dates, Times and Places of:

1. Vessel Arrival,
2. Vessel Commencing Discharge,
3. Request by Agency for Survey,
4. Surveyor Viewing Cargo,
5. Cargo Reviewed By Customs,
6. Cargo Delivered to Consignee,
7. Reconstitution of Damaged Commodity.

C. Amount of Cargo

1. Discharged from the Vessel in Sound Condition (bags or cartons),
2. Discharged from the Vessel in Torn and Slack (T&S) condition (bags or cartons),
3. Estimated quantity (pounds) in T&S bags,
4. Discharged from the Vessel in Damaged Condition (bags or cartons),
5. Not Discharged from the Vessel (bags or cartons),
6. Remaining in T&S bags after reconstitution,
7. Slack from T&S bags after the reconstitution,
8. Determined Unfit for Human Consumption (bags, cartons and/or pounds),
9. Destroyed or Donated for Animal Feed.

D. Narrative Analysis of Who Did What When.E. Narrative Analysis of How, When and Where Losses Occurred. Surveyor's opinions are solicited; however, they should be clearly noted as such. For example, if the surveyor notes 119 bags of cargo wet at discharge, the surveyor's report should contain information similar to the following:

1. Upon discharge of corn soya blend from Hatch No. 4 on November 16, 1976, we noted 119 bags (as per attached tally) discharged wet. These bags were segregated and samples gave a positive saline reaction. No explanation was given by vessel personnel or is advanced by surveyors as to how bags became wet. Commodity was analyzed by the Health Authorities on November 18, 1976, and declared unfit for human consumption. Unfitness Certificate No. 123456 is attached to this report. The remaining contents of 119 bags weighing 860 pounds were fit for animal consumption and donated to the XYZ pig breeding farm.

OR

2. Upon discharge of bags of sorghum grits from Hatch No. 4 on November 16, 1976, 119 bags were discharged wet, torn and slack. These bags were segregated and tests gave a negative saline reaction. Vessel personnel advised that the bags could have been loaded wet as heavy showers occurred at the loading port
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11.E.2

of Corpus Christi. In our opinion the bags became wet because of inadequate dunnage to protect the cargo. Bags were lying on the hatch floor and what little dunnage was available was green and oozing. A representative sample of damaged cargo was drawn by surveyors, in the presence of ship's agents, on November 16, 1976, and forwarded to independent chemists, Jones & Jones, for analysis. Their report has yet to be received.

F. Comments and Analysis of:

1. Quality of Stevedore Labor,
2. Quality of Discharging Techniques,
3. Acceptability of Dock and Storage Area for Foodstuffs,
4. Quality of Stowage Onboard Vessel.

G. Stroke Tallies substantiating quantity shown in C 5.

H. List of Persons who witnessed vessel discharge and/or who can testify as to the factual situation when the vessel's liability ended.

12. AGENCY COMMUNICATION AND CONTRACT WITH SURVEYOR

- A. Agencies should employ independent professional surveyors who will not only observe discharge and prepare a report, but who will also provide other services which will be of major worth. For instance, a surveyor should "supervise" the discharge of cargo rather than simply observe it. This does not imply that he/she should attempt to tell all concerned what to do, but it does imply that he/she would not stand idly by allowing cargoes to be damaged through destructive practices.
- B. The surveyor should be the eyes and ears of the agencies at the ports of discharge and should make recommendations to the agencies which could possibly result in fewer losses to the program. Surveyor's should or could (depending upon the discretion of the agency) be given the responsibility of ensuring that suspect cargoes are promptly analyzed by proper Health Authorities, and be given the responsibility for obtaining various Port Certificates for unfitness, donations, Shortlandings, etc.
- C. A professional job is expected from a professional firm. The port area is the surveyor's work area and he/she should know better than anyone what actions or inactions should be taken to ensure that cargo moves through the port with the fewest losses possible and, when losses do occur, what actions, inactions, statements or documents are available and need to be obtained to substantiate a claim against the liable party.

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12 .

- D. Agencies should make surveyors aware that their reports will be utilized to document marine claims against steamship companies. Surveyors should be made to understand that they may be called upon in the future:
  - 1. To clarify certain unclear issues with regard to the discharge of cargo and/or their report,
  - 2. To furnish depositions for use in litigation of cargo loss and damage claims,
  - 3. To appear, in rare instances, as a witness in a United States' court.
- E. Agencies should work closely with the surveying firm to ensure that all services expected by the agency are understood by the surveyor, and to ensure that the surveyor is providing the timely high quality service for which funds are being expended.
- F. It is necessary that the agencies exercise leadership in ports of discharge and insist that the independent surveyor prepare reports that are complete as to the losses sustained, the nature and cause of the loss, how the loss was determined, and most importantly to ensure that the reports are based on examination of the cargo which was done no later than ex-ship's tackle.
- G. If agencies are unable to locate an independent surveying firm in or near the port of discharge, or if agencies have reason to question the integrity or competency of the only surveyor in the area, agencies should consult with USAID as to how best to comply with the Regulations relating to the documenting of marine losses. The results of such discussion should be forwarded in detail to agency headquarters.

### 13. JOINT SURVEY

- A. A joint survey, arranged for in advance by the agency and local agents of the carrier, is acceptable and, in some cases, desirable. The cost of the survey should be shared by the agency and the carrier's agent. Such joint surveys should eliminate factual disputes regarding losses sustained ex-ship's tackle.
  - B. In no case is a document prepared solely on behalf of the carrier to be substituted in lieu of the independent survey prepared on behalf of the agency.
  - C. If agencies enter into joint survey agreements, the headquarters office should be made aware of details.
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#### 14. IMPORTANT CONCERNS OF CCC

- A. The regulations specifically provide that agencies will engage an independent surveyor to determine the amount and condition of the cargo upon discharge from the vessel. Generally speaking, we have found that agencies have not always employed an independent surveyor and/or that the documentation obtained is not contemporaneous with the discharge of the vessel. We have found, for example, that some agencies depend upon the carrier to furnish them with survey or outturn reports. In other cases, agencies have obtained only customs or port authority reports. While we are in favor of obtaining all possible information concerning a loss, including the carrier's survey or outturn reports, statements from the consignees, statements from port authorities, customs authorities or any other such supporting documentation, the furnishing of these documents does not negate the agencies' responsibility to obtain an independent survey. Documentation as discussed above should be considered as additional information instead of as a substitute for an independent survey report. It is imperative that agencies exert aggressive action to engage independent surveyors, at each port of discharge, who are competent, well recognized experts in preparing and/or obtaining proper documentation.
- B. The importance of timely independent documentation cannot be overemphasized. American law provides that the ocean carrier cannot be held liable for losses occurring after the cargo leaves the control and custody of the carrier. Documentation prepared upon delivery of cargo, subsequent to the cargo leaving control and custody of the carrier, creates a number of problems. Normally such documentation includes losses that occurred in the port area and/or in customs clearance. The inclusion of such losses in claims against the ocean carrier creates severe factual disputes which delay settlement of the claims to the monetary disadvantage of the Government and the agencies. In addition, it results in a reduction of the interior losses which agencies are required to report to the USAID Mission in accordance with the provisions of the Regulations. Therefore, the USAID Missions are deprived of accurate loss information which is necessary for them to properly carry out their responsibilities with regard to the program.
- C. However, the most important problem with untimely documentation is that the lack of timely documentation results in a claims prosecution program that is less than ideal. The burden of proof is upon the claimant to prove that the losses claimed are the liability of the carrier. In the absence of firm evidence to prove that the losses occurred when the cargo was in the control and custody of the carrier, successful litigation is virtually impossible. When we are denied the possibility of legal action to enforce collection, we are deprived of one of our most important tools of collection. Our many years of claims experience have proven vividly that the

14.C.

best loss prevention device is a strong and effective claims collection program. In other words, if we are given the tools in the way of timely complete documentation to aggressively and effectively collect claims for losses from ocean carriers, carriers will take more care and concern in the stowage, carriage, and discharge of Title II cargo, and agency programs will benefit by receiving more usable commodities in the recipient countries.

Paragraphs 15 and 16 (Reserved)

## Part 3

## MITIGATION OF DAMAGES

## 17. DEFINITION

A. Dictionary defines "to mitigate" as

1. To lessen in force or intensity,
2. To moderate the severity of anything distressing.

B. With reference to these Instructions, mitigation of damages applies to the expending of prompt and proper efforts to ensure that losses caused by the ocean carrier are kept to a minimum by the reconstruction and utilization of as much good commodity as possible.

## 18. PURPOSE

A. Title II commodities are made available to relieve human suffering and for the feeding of indigent and starving people. From a humanitarian and program point of view, damages must be mitigated to ensure that as much commodity reaches the intended program participant as possible.

B. In any claim situation, and specifically concerning the pursuit and adjudication of ocean transportation claims, a commonly accepted and universal premise of all law is that the injured party must take reasonable actions to ensure that the loss does not increase. If damages increase because of the injured party's failure to take actions which a normally reasonable and prudent person would take in similar circumstances, such increased damages are not legally claimable against the ocean carrier. From a claims point of view, damages must be promptly mitigated to determine exact losses attributable to the ocean carrier.

## 19. RESPONSIBILITY FOR

A. Agencies have the primary responsibility to ensure that damages are promptly mitigated.

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19.

- B. Agencies may utilize the services of an independent surveyor to assist in mitigation of damages.
  - 1. This aspect of the surveyor's services should be specifically agreed upon between agency and surveyor in advance. (See Paragraph 12 of these Instructions.)
  - 2. The cost of reconstitution materials and contract labor shall not be included in the cost of the survey report. The above expenses shall be reported separately to agency headquarters for inclusion in the claim against the ocean carrier.
- C. The agencies' responsibility for prompt and proper mitigation of damages in the Title II Program must be taken very seriously in view of:
  - 1. The fact that foodstuffs are susceptible to spoilage.
  - 2. The fact that most port areas do not have sophisticated equipment and facilities.
  - 3. The fact that port areas are generally unclean areas.
  - 4. The fact that pilferage by humans and destruction of cargo by animals is a way of life in some port areas.

20. COSTS OF REPAIRING PACKAGING DAMAGE

- A. If agencies determine that repackaging is necessary to ensure that commodities arrive at the distribution point in wholesome condition, costs up to and including \$500 may be incurred without prior approval of USAID or the Diplomatic Posts.
- B. Costs in excess of \$500 may be incurred with the prior approval of USAID or the Diplomatic Post.
- C. Invoices or other documents supporting these costs should be forwarded to the headquarters office of the agency. In accordance with Paragraph 211.7(e), properly supported costs will be reimbursed to agency headquarters by CCC.
- D. Agencies should clearly distinguish between reconstitution costs incurred because of damage caused by the ocean carrier and costs incurred because of damage at a subsequent time.

21. EXAMPLES OF PROPER AND IMPROPER MITIGATION OF DAMAGES

- A. Ocean carrier discharged 300 bags of corn soy blend in slack and torn condition on November 18, 1976. At discharge the surveyor
-

## 21.A.

estimated that the slack and torn bags were missing 1/6 of their contents. Cargo remaining in torn and slack bags was not contaminated with foreign substance and not suspected to be unfit for human consumption. Remaining cargo was reconstituted into 230 bags (50 pounds each) on November 20, 1976. Damages in this situation were properly mitigated. The loss of 70 bags of cargo due to slackage is well documented as being for the account of the ocean carrier. Collection of such a claim should not pose any problem.

- B. Ocean carrier discharged 300 bags of corn soy blend in slack and torn condition on November 18, 1976. At discharge the surveyor estimated that the slack and torn bags were missing 1/6 of their contents. Cargo remaining in torn and slack bags was not contaminated with foreign substance and was not suspected to be unfit for human consumption. Remaining contents in torn and slack bags were not reconstituted until December 20 when such remaining contents (which were determined fit for human consumption) were filled into 200 bags (50 pounds each). Damages in this situation were not promptly and properly mitigated as 33 days elapsed between the time the carrier's liability ended and the time cargo was reconstituted. The loss of 100 bags of cargo due to slackage will be claimed and pursued against the ocean carrier. However, such a claim would probably be compromised as:

1. We do not know the exact amount of slackage loss at time of discharge, and
2. Additional losses to the 300 bags of cargo could have easily occurred after the cargo left the custody of the vessel.

- C. Ocean carrier discharged 300 bags of corn soy blend in slack and torn condition on November 18, 1976. At discharge the surveyor estimated that the slack and torn bags were missing 1/6 of their contents. Cargo remaining in torn and slack bags was not contaminated with foreign substance and was not suspected to be unfit for human consumption. Remaining contents of the slack and torn bags were not reconstituted until January 5, 1977. At that time, the local health authorities condemned the cargo as unfit for human consumption. The loss of 50 bags of commodity due to slackage is properly claimable against the ocean carrier. The loss of the remaining contents which were unfit for human consumption is not properly claimable against the ocean carrier as damages in this situation were not promptly and properly mitigated.

## 22. CCC CONCERNS AND PAST DEFICIENCIES

- A. In the past, too many situations similar to the example shown in Paragraph 21 C of these Instructions have been noted. In many of these instances, cargo remained unreconstituted in slack and torn bags for as long as six months before any action was taken. Such failure on the agencies' part to promptly and properly mitigate damages deprives indigent people of badly needed food, and places
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22.A.

agency headquarters in a position of justifying to CCC why a claim for such additional losses arising from agency fault and negligence should not be pursued by CCC against the agency. We have no desire to file and pursue claims against an agency. We do, however, have a firm commitment to reducing losses to a minimum and to being in a position to pursue claims against liable parties from a position of strength. We request on current shipments that the agency responsibilities regarding mitigation of damages be kept firmly in mind and that agencies take actions which would, under the circumstances, be attributable to a reasonable and prudent person.

B. In some instances, extenuating circumstances occur which prevent agencies from promptly and properly mitigating damages. It is also possible that because of actions or inactions of the ocean carrier or his/her agents that the ocean carrier could conceivably remain liable for the entire 300 bag loss detailed in the example in Paragraph 21 C. In these instances, it is imperative that agencies provide a narrative commentary and chronology of events which either:

1. Justifies why losses could not be properly mitigated and/or
2. Explains circumstances which would allow the claimant to sustain the burden of proof on a claim against the ocean carrier for the entire loss.

23. AGENCY DECISIONS REGARDING UTILIZATION OF COMMODITIES

- A. Agencies have the final decision as to whether to utilize cargoes in approved programs.
- B NOTHING in these Instructions should be construed as requiring or even suggesting that less than wholesome food products be placed into distribution channels.

Paragraphs 24 - 25 (RESERVED)

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PART 4 DOCUMENTATION NECESSARY TO PROVE COMMODITIES  
UNFIT FOR HUMAN CONSUMPTION

The following Instructions relate to the documentation necessary to prove the ocean carrier liable for the loss of commodities which arrive in a condition which renders them unfit for human consumption. Commodities which deteriorate and become unfit for human consumption after they leave the custody of the vessel are considered as interior losses and are not discussed herein. It is imperative that the determination of unfitness of commodities be issued by an individual or entity who is legally qualified either by position or education to make such a determination. For instance, a good faith statement by an agency representative or even a surveyor does not, in and of itself, prove unfitness because such persons are not legally qualified to make a statement.

## 26. CERTIFICATION BY PORT HEALTH AUTHORITIES

If the discharge port employs an individual whose responsibility is to make determinations of fitness and unfitness of incoming cargoes, agencies should:

- A. Promptly notify him/her of the discharge of suspect commodities,
- B. Request that he/she review and analyze such suspect commodities,
- C. Obtain a written statement or certificate from the health authorities which includes, but need not be limited to:
  1. Name of the vessel,
  2. Date of discharge from the vessel,
  3. Date of examination of suspect cargo,
  4. Place of examination,
  5. Amount (bags, cartons and/or points) of cargo examined,
  6. Amount of cargo fit for human consumption,
  7. Amount of cargo unfit for human consumption,
  8. Reason(s) why cargo is unfit for human consumption,
  9. Advice as to whether cargo is fit for animal consumption,
  10. Signature and title of person making determinations.

## 27. ANALYSIS BY INDEPENDENT CHEMIST OR PRIVATE LABORATORY

If the discharge port does not employ a health official, or if the agency deems it appropriate, employ (or have the surveyor employ) an independent chemist or private laboratory to analyze suspect cargoes.

- A. Samples of suspect cargoes:
    1. Must be representative of the quantity of suspect cargo. For instance, a one or two pound sample taken from one bag of commodity
-

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27.A.1

would not be representative for an analysis which could result in the contents of 50 bags not being utilized in the program.

2. Should, if at all possible, be drawn jointly by the agency (or surveyor) and the vessel's agents.
  3. Should be properly indentified as to which samples came from which cargoes,
  4. Should be properly sealed to protect the integrity of the sample,
  5. Should be promptly forwarded to the chemist or laboratory.
- B. The report from the chemist or private laboratory should clearly identify each of the samples analyzed, and should contain similar information to that enumerated in Paragraph 26 C.
- C. The cost of such an analysis and report from the chemist or private laboratory will be reimbursed to the agency headquarters by CCC. Therefore, this cost could be included in the cost of the survey report.

28. CARGOES "OBVIOUSLY" UNFIT FOR HUMAN CONSUMPTION

What is obvious to one individual at a point and place in time is not similarly obvious to another some six months later and thousands of miles away. It is therefore necessary that even "obviously" unfit cargoes be documented as such.

- A. Agencies should obtain documentation as detailed in Paragraph 26 or 27, OR
- B. Obtain a statement similar to that required in Paragraph 26 C which is signed by an agency representative and a representative of the vessel which specifically states that both individuals agree that the cargo is unfit for human consumption.

29. TIMELINESS OF DOCUMENTATION

As has been stated throughout these instructions, the MOST IMPORTANT element of a successful claims prosecution program is the obtaining of documentation which is based upon the analyses of cargo at the time the ocean carrier's liability ends, i.e., at ship's tackle. This is especially true in documenting a claim for unfitness. Survey reports should state that a certain quantity of cargo is suspected as being unfit for human consumption.

- A. If possible, cargo should be reviewed and analyzed by proper authorities in vessel's holds or immediately upon discharge.

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29.

- B. If port conditions or customs do not allow for such prompt review, analyses should be made as soon as possible after discharge.
- C. In cases where cargoes are noted by the surveyor as being damaged on board the vessel and where such cargoes are later declared unfit for human consumption, a cause-effect relationship exists between carrier damage and declaration of unfitness. The key to this cause-effect relationship is the time involved between discharge and the declaration of unfitness. For instance:
  - 1. If damaged cargo is discharged on November 20, and the same cargo is declared unfit for human consumption on November 25, the cause-effect relationship can normally be established, and collection for such losses can be pursued from a position of strength.
  - 2. If that same damaged cargo is declared unfit on December 15, the cause-effect relationship grows thin and collection possibility decreases considerably.
  - 3. If the damaged cargo is not determined unfit until January 25, the cause-effect relationship is gone and little if any hope exists for collection. In both the latter examples, the question arises as to whether the agency properly and promptly mitigated the damages. A narrative statement should be forwarded in these cases to agency headquarters explaining why damaged cargoes were not promptly analyzed and/or reconstituted.

Paragraphs 30 - 33 (RESERVED)

PART 5

CARGOES MANIFESTED BUT  
NOT DISCHARGED

#### 34. SHORTLANDING OF CARGO

The failure of an ocean carrier to discharge cargo which was loaded onto the vessel is a serious breach of the contract of carriage between the agency and the ocean carrier. Losses of cargo due to shortlanding are vigorously pursued, and full payment for such losses is demanded.

- A. Various documents are issued at ports which document shortlandings. Some are appropriately called Shortlanding Certificates; others have less descriptive titles. Agencies (or surveyors acting on behalf of agencies) should obtain copies of such official port certifications which show the quantity of cargo shortlanded.
- B. Paragraph 11 describes the contents of a survey report. Specific quantities of cargo discharged should be noted and tallies verifying

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34.B.

the quantity discharged should be included. The surveyor should be specifically advised of this responsibility and should ensure sufficient labor is engaged to obtain an accurate discharge tally.

- C. In the event that cargo reported as shortlanded is subsequently located, documentation to show the recovery of such cargo should be issued and forwarded to agency headquarters on the earliest possible date. Documentation to reflect such recovery is required so that the carrier's liability may be appropriately reduced and so that agency headquarters and/or CCC will not be pursuing a claim for shortages where shortages no longer exist.

PART 6 MISCELLANEOUS DOCUMENTS AND REQUIREMENTS - SPECIALIZED SITUATIONS

37. NOTICE OF PROTEST

- A. COGSA requires that the agency notify the ocean carrier, within three (3) days after discharge, that shortages and/or damages to Title II cargoes have occurred.
- B. Agencies shall notify the carrier or his/her agents in writing.
- C. Such notification should include:
1. Date of Notification,
  2. Name of the Vessel,
  3. Description of Cargo,
  4. Estimation of Quantity Lost or Damaged.

38. BULK CARGOES

- A. Documenting shortages on shipments of whole grains and edible oil in bulk has long been a major problem because most discharge ports do not have adequate facilities to properly measure the quantity of cargo discharged from the vessel. Thus, the determination of the amount discharged is generally made after discharge, and after cargo is bagged. With non-standardized quantities of bulk grains being loaded into bags at a time and place subsequent to the time when the vessel's liability ends, shortage claims are very difficult to collect. Additional factors such as the fact that bulk grains will gain or lose weight depending upon relative moisture in the air, and the fact that discharge port scales are often not properly maintained and therefore are of questionable accuracy make the pursuit of such shortage claims far from a rewarding task.
- B. Notwithstanding the above, agencies remain responsible for ensuring that survey reports and applicable port documents are obtained on

38.B.

each shipment. The June 1979 amendment to the Regulations (Paragraph 211.9(c)(1)(ii)) reduces the survey requirements necessary to determine the quantity of bulk cargo discharged. Agencies' responsibilities are clearly listed in the regulations. Agencies should insist that the surveyor prepare a narrative stating, in his/her opinion, when, where and how shortages may have occurred.

39. CONTAINERIZED CARGOES

Many ocean carriers are now shipping cargoes in containers rather than break bulk. Generally speaking, the use of containers reduces the amount of handling that individual bags of cargo must receive thereby reducing the possibility of losses. When Title II, Public Law 480 cargoes arrive in container vans, the agency shall:

- A. Require the surveyor to list the container van numbers and the appropriate seal numbers,
- B. Require the surveyor to advise whether the container vans were in any way damaged,
- C. Forward information (either in the survey report or in a narrative statement) as to when and where the seals on the vans were broken and by whom,
- D. Request that the surveyor attend the discharge of the container vans from the vessel, if possible, as well as at the time cargo is removed from the container van.
- E. Ensure that the surveyor prepares a survey report in accordance with Paragraph 11.

40. EXCESS-LANDED CARGOES

- A. Definition: Cargoes which are discharged at port in excess of the manifested bill of lading quantity.
  - B. When agencies are made aware of excess-landed cargo, take appropriate action to ensure that sound cargo is utilized in the Title II Program. In many cases, agencies must communicate with local agents of the steamship company to have entry documents changed. Also, in many cases the agency is called upon to spend additional time to obtain the use of such commodity. Such additional time and effort is required to ensure that wholesome foodstuffs do not sit rotting in a port area for want of proper documents.
  - C. Document the receipt of such excess-landed cargo and advise agency headquarters noting the following:
-

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40.C.

1. First notification of excess cargo (date, time, how notified),
2. All actions taken to obtain excess cargo,
3. Date and place when commodity made available to agency,
4. Condition of cargo,
5. Disposition of cargo.

41. DISPOSITION OF CARGOES DETERMINED UNFIT FOR HUMAN CONSUMPTION

- A. Ensure that commodities are utilized neither for human consumption nor for purposes contrary to the best interests of the United States.
- B. Obtain a statement showing the disposition of commodities in any case where commodities are not utilized for the purpose intended. The statement should include the date, quantity of commodity and name of purchaser or donee, along with the following:
  1. If sold, a copy of the sales invoice, showing the sales price and the rate of exchange plus documentation showing that the sales proceeds were deposited with the U.S. Disbursing Officer to CCC Account Number 20FT401.
  2. If donated, a copy of the receipt signed by the donee.
  3. If destroyed, a copy of the destruction certificate showing the names of the individuals witnessing the destruction.

42. LIGHTERAGE

Lighterage is a method of discharging cargoes from a heavy draft vessel which cannot (because of shallow-draft port conditions) or does not (for whatever reasons) come into the port area and discharge cargoes onto the dock area. When cargoes are lightered ashore, the mother vessel discharges cargo into a smaller vessel (a lighter) and the lighter carries the cargo ashore and places the cargo onto the docks. Generally speaking, the discharge of Title II cargoes via lighters should be avoided, if possible, because individual bags of cargo are handled one additional time, thus increasing the possibility of damage. Also, in some ports, lighterage vessels do not provide adequate security for cargoes either from the elements or from pilferage. Over the years, records show considerably increased damage to cargo when it is necessary to discharge via lighters.

- A. Responsibility for lighterage losses must be determined by the local laws and customs of the port. As a general rule, the person requesting and paying for lighters is responsible for lighterage losses. Thus, if the ocean carrier chooses to discharge cargo into lighters, the ocean carrier is responsible for all losses until cargo is placed upon a fit wharf. Thus, the losses would be considered a marine

## 42.A.

loss and such losses should be documented in the normal manner and forwarded to agency headquarters. If the agency chooses to have cargoes discharged into lighters and pays for the services of the lighterage company, losses onboard lighters would be considered as interior losses and claims should be filed against the lighterage company by the field or mission and reported to USAID.

- B. If the ocean carrier is responsible for lighterage losses, obtain survey reports and other applicable documents discussed herein at the time cargo is discharged from the lighters.
- C. If the ocean carrier is not responsible for lighterage losses, obtain survey reports to document marine losses showing the condition of the cargo when it is discharged into lighters.
- D. At ports where lighterage is a commonly utilized method of discharge, it is imperative that agencies determine, under local law, who is responsible for lighterage losses and proceed accordingly. Agencies should prepare a statement of the results of their investigation and decision in this regard, discuss the situation with USAID, if necessary, and forward the statement of conditions to the agency headquarters.

## 43. CARRIER OUTTURN REPORT

- A. Definition: A document prepared by the vessel or the vessel's agents showing, in their opinion, the quality and quantity of cargo discharged from the vessel.
- B. Agencies should attempt to obtain a copy of the outturn report.
- C. Agencies should compare the outturn report with the independent survey report, note discrepancies, and, through communication with the surveyors and the vessel's agents, attempt to resolve discrepancies. If discrepancies cannot be resolved, communications should be initiated to determine why discrepancies exist.
- D. Agencies should advise agency headquarters of the results of such communications.
- E. Agencies should not substitute the vessel's outturn report for the required independent survey report.

## 44. OFFICIAL PORT RECORDS

- A. Some ports of discharge prepare a complete set of documents showing the quantity and quality of cargo when it is received by the port.
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44.

- B. When such documents can be obtained, agencies should obtain and forward such documents.
- C. Agencies should not substitute official port records for the independent survey report. EXCEPTION: See Paragraph 6 B 1.

#### PART 7 TRANSMISSION OF DOCUMENTS

##### 45. WHAT AND WHERE TO SUBMIT

- A. Forward the originals of all documents, if available, including, but not limited to, survey reports, carrier outturn reports and various port documents to agency headquarters along with any documents required by agency headquarters, but not covered herein. If originals are not available, forward legible signed copies.
- B. When forwarding documents or correspondence prepared in a language other than English, also forward a literal English translation.

##### 46. WHEN TO SUBMIT

- A. To the extent practicable, all documentation concerning the marine loss and damage of a Title II shipment should be submitted as a package to agency headquarters as soon as all such documents are available.
- B. In all cases, submit whatever documentation has been obtained within three (3) months after the discharge of the vessel. If documentation is not complete as of this date, advise agency headquarters of reasons for delay and advise which documents are yet to be submitted.

#### PART 8 GENERAL

##### 47. CCC RESPONSIBILITY AND GOALS

CCC-Claims Division is concerned firstly with preventing losses; secondly, with keeping losses (when they do occur) to a minimum with prompt and proper salvage and reconstitution to the extent practicable; and thirdly, with collecting for marine losses. When the agencies communicate with surveyors and tell them what is necessary, and when the receipt of timely detailed accurate survey reports becomes the rule in the Title II program, we believe the amount of losses to the program will be considerably smaller than we have today. We believe that when these comprehensive reports are received on all discharges of Title II commodities, we will

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47.

have sufficient information to correctly identify the party responsible for causing losses to cargo, and will have the wherewithal to pursue such losses (if they are marine losses) from a position of strength. If losses are determined to be inland losses, AID will have specific information upon which to take whatever action they deem necessary.

In summary, timely detailed complete and accurate documentary evidence at discharge is necessary to pursue claims from a position of strength. When this type of documentation is obtained, steamship companies are going to become well aware that any damages they cause to Title II commodities will be recovered through the claims process. When this occurs, Title II cargoes are going to receive better care and custody and more cargo will be available to feed hungry and indigent people. That is the purpose of the program, and that is what we are striving for.

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[ S U G G E S T E D F O R M A T ]

DEPARTMENT OF STATE  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
Washington, D.C. 20523

(TA/C-Commodity)

TRANSFER AUTHORIZATION

Program Classification

Executive Vice President  
Commodity Credit Corporation  
U.S. Department of Agriculture  
Washington, D.C. 20250

A.I.D. No. \_\_\_\_\_

Program Approval Date \_\_\_\_\_

Program Title: \_\_\_\_\_

In accordance with the provisions of Title II, P.L. 480, as amended, Section 2 of Executive Order 10900 and Department of State Delegation of Authority 104, effective September 30, 1961, the Commodity Credit Corporation is hereby authorized to transfer and deliver \_\_\_\_\_ in an amount not to exceed \$ \_\_\_\_\_, pursuant to the following instructions:

1. Quantity - metric tons not to exceed:

<u>Previous Total</u>	<u>Increase</u>	<u>Decrease</u>	<u>Total to Date</u>
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2. Commodities to be provided as follows:

Code No.	Commodity	Quantity MT	CCC Value \$	Export Market Value \$
_____	_____	_____	_____	_____

3. Estimated ocean transportation costs:

4. Specifications:

5. Shipping instructions:

- a. Delivery Schedule:
- b. Port(s) of Discharge:
- c. Consignee:
- d. Send copies of bills of lading to:

[ S U G G E S T E D F O R M A T ]

6. Program Objectives and use of Commodities and conditions of transfer:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature for the Coordinator, FFP  
and/or as delegated

REQUEST AND ACCEPTANCE: The assistance described in this authorization is requested and the terms and conditions of this Agreement and of A.I.D. regulation 11, 41 F.R. 47919-47927, November 1, 1976 (attached and incorporated herein by reference), except as otherwise specifically provided herein, are accepted.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
/ (For The Government Of)

\_\_\_\_\_  
/(Or Other Cooperating Sponsor)

1/ Please type official's  
name and title below signature

<b>PROCUREMENT AUTHORIZATION AND U.S. GOVERNMENT AGENCY PURCHASE REQUISITION</b>		1. PROCUREMENT AUTHORIZATION & REQUISITION NO.			
(U.S. Government Agency to procure - insert name and address)		2. TYPE OF AUTHORIZATION <input type="checkbox"/> ORIGINAL OR <input type="checkbox"/> AMENDMENT NO. _____			
TO:		3. COUNTRY		4. APPROPRIATION SYMBOL	
FROM: DEPARTMENT OF STATE AGENCY FOR INTERNATIONAL DEVELOPMENT WASHINGTON, D. C. 20523		5. LOAN OR GRANT NO.		6. COMMODITY CODE	
<b>AUTHORITY TO PROCURE:</b> You are hereby authorized to procure the commodities and commodity-related services described herein for the country specified in block 3, from the source specified in block 8, for delivery in the period specified in block 9A and to submit reimbursement claims prior to date stated in block 9B.		7. ALLOTMENT SYMBOL		8. SOURCE	
		9A. DELIVERY PERIOD      9C. In accordance with the Loan or Grant Agreement, except as A.I.D. may otherwise agree in writing, no disbursement shall be made against documentation <input type="checkbox"/> received <input type="checkbox"/> submitted after date shown in block 9B. The authorized procuring agency must submit final status of this PA/PR not later than 30 days after terminal disbursement date.			
9B. TERMINAL DISBURSEMENT DATE.					
10. ITEMS (A)		PREVIOUS TOTAL (B)	INCREASE (C)	DECREASE (D)	NEW TOTAL (E)
TOTAL VALUE					
VALUE AUTHORIZED TO AGENCY					
AID/W OR MISSION USE ONLY					
11. QUANTITY/DESCRIPTION/SPECIFICATIONS/INSTRUCTIONS/SPECIAL PROVISIONS					
12. AID CLEARANCES			15. FOR THE ADMINISTRATOR, AID		
13. DATE OF ORIGINAL ISSUANCE		14. DATE OF THIS ISSUANCE			
16. APPLICABLE REGULATIONS: This Authorization is subject to the provisions of the Federal Procurement Regulations (FPR) System, as amended at any time up to the date of this issuance, and to the Special Provisions cited in Block 11.					
17. ACCEPTANCE: The Borrower-Grantee hereby acknowledges receipt of this Authorization and confirms that the assistance described herein, to be furnished through the U.S. Government Agency indicated above, has been requested by F/R# _____ and is to be furnished in accordance with and subject to the terms and conditions set forth herein.					
_____ DATE			_____ FOR THE BORROWER-GRANTEE		

[ S U G G E S T E D F O R M A T ]

UNITED STATES DEPARTMENT OF STATE  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
OFFICE OF FOOD FOR PEACE

Food for Peace Program Agreement  
FOR DISTRIBUTION AND USE OF P.L. 480, TITLE II, FOOD  
COMMODITIES OUTSIDE THE UNITED STATES

In order to effectuate the program for the utilization of food commodities outside the U.S., the Agency for International Development (A.I.D.) and:

\_\_\_\_\_  
(Name of Cooperating Sponsor)

\_\_\_\_\_  
(Street and No.)

\_\_\_\_\_  
(City) (State) (Country)

(hereinafter referred to as "cooperating sponsor") do covenant and agree as follows:

A.I.D. agrees to authorize the transfer of commodities to the cooperating sponsor in accordance with the provisions of Title II, P.L. 480, as amended; the Delegation of Authority in Section 2 of Executive Order 10900; Department of State. Delegation of Authority No. 104, effective September 30, 1961; A.I.D. Delegations of Authority 23, dated May 6, 1966; and 69, dated March 23, 1967, as amended, and A.I.D. Regulation 11, as revised, covering "Transfer of Food Commodities for Use in Disaster Relief, Economic Development, and Other Assistance." A copy of A.I.D. Regulation 11, effective November 1, 1976, is attached hereto and made a part hereof. It is understood that A.I.D. will give the cooperating sponsor written notice of any modification or amendment of the Regulations, and reasonable opportunity to conform to any amendment which requires modification of its operations.

The cooperating sponsor agrees to accept transfer of Title II commodities for utilization in accordance with approved programs under Title II, P.L. 480, 83rd Congress, as amended, and the A.I.D. Regulations and related procedures.

Exh C, HB 9  
(TM 9:6)

This Agreement shall become effective on the date it is signed and shall continue until terminated as provided herein. Either party hereto may, by giving at least 30 days' written notice, terminate this Agreement: Provided, That upon receipt of evidence that the terms and conditions of the Regulations have not been fully complied with by the cooperating sponsor, A.I.D. may terminate this Agreement immediately by notice in writing to the cooperating sponsor. Upon any termination of this Agreement, the cooperating sponsor agrees to comply with the instructions of A.I.D. for the utilization of all commodities remaining in its possession or control in accordance with the Regulations and any amendment thereto, and any instructions or procedures issued in connection therewith.

No member of or delegate to the Congress, or Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

AGENCY FOR INTERNATIONAL DEVELOPMENT

COOPERATING SPONSOR

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

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EXHIBIT D

OPERATIONAL PLAN COVERAGE OUTLINE

The following outline and checklist is proposed for use by cooperating sponsors and Missions when preparing and reviewing the Operational Plan (OP). Each Operational Plan should include the information asked for in paragraph I. below, Elements of Operations, for the country program.

I. Elements of Operations

A. Identification

1. Name of cooperating sponsor, country, date submitted, name and address of counterpart(s).
2. Name and address of the American citizen representative directly responsible for Title II program supervision, indicating whether (a) he/she is devoting full time to Title II activities, or (b) he/she has assigned duties for other activities. List the supervisory staff, by function, including both U.S. citizens and nationals of cooperating country.

B. Area - Scope - Conditions of Operations

1. Describe for each program category (i.e., Maternal Child Health, Food-for-Work, School Feeding, Other Child Feeding, etc.) the problem that the program addresses, and outline the program's proposed response to this problem.
  2. Describe for each program category (a) the overall objectives and purpose of each program, (b) the benchmark indicators that will be used by the cooperating sponsor to objectively measure progress toward achievement of those purposes, and (c) the important assumptions related to achieving the purposes that were made while planning the program. (Although not required, cooperating sponsors are encouraged to submit as an appendix to this Operational Plan completed Logical Framework Matrix Worksheets for each program category included in the Operational Plan. See AID Handbook 3, Appendix 3E, for Logical Framework guidance.)
  3. Will the program be countrywide or limited to certain provinces, states, cities, or other administrative or geographical areas?
  4. Describe the normal distribution method at the project level in making food available to each category of recipients.
  5. Describe the participation by the cooperating-country government and any special conditions relative to admission, storage, transportation, distribution, or utilization or losses of commodities.
  6. Explain arrangements to avoid possible duplication of distribution among the several programs.
-

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I.

C. Control and Receipting - Records Procedures and Audits

Describe records used to control commodity distribution to provide accountability from the time the commodity arrives in country until it reaches the eligible recipient. Maintenance of records will be in compliance with AID Regulation 11, Section 211.10(a).

D. Port Facilities - Practices

1. Are offloading facilities at ports adequate to handle the foods.
2. Will the cooperating government permit cargo "surveys" by the cooperating sponsor or an independent organization?
3. Do port "charges" other than "duty" present a problem?

E. In Country Storage and Transportation

- \* 1. Provide a statement describing available port, central and outlying storage facilities including location and capacity. State specifically if available storage facilities are adequate to prevent commodity spoilage and waste or will the facilities available create special problems. \*
2. What, if any, are the main problems related to inland transportation?
  3. Will the distributing agency retain control of foods during transportation and in storage?

F. Processing - Reprocessing - Repackaging

Contract arrangements that combine Title II commodities with other ingredients to produce a new end product require prior Mission approval and must be in accordance with AID Regulation 11, Section 211.6. (Copies of Contracts are to be attached.)

G. Financing

1. How will costs of administration, storage, transportation, processing, repackaging, special labels, issuance of informative materials, etc. (and for institutions, feeding centers, MCH centers, etc., the cost of food preparation and serving), be financed?
2. If commodity containers are to be sold, explain plan for sale, and method of control and utilization of the salvage fund.

H. Acceptability of Available Foods

1. Provide justification for use of whole grain, if desired, in lieu of processed products.

\* Revised

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I.H.

2. Comment as to expected acceptability by each category of recipient of each available food.

I. Program Publicity

1. Explain methods of educating recipients on source of foods, program requirements, and preparation and use of foods.

2. Explain plans for program publicity including any factors that may adversely affect publicity.

II. Contributions to Program

Financial, human resource, commodity, and in-kind contributions from all sources should be detailed including the name of the source, estimates of the amount, and the role the contribution plays in the program.

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TITLE II, P.L. 480 COMMODITIES  
INSTRUCTIONS FOR COMPLETING FORM AID 1550-3  
ANNUAL ESTIMATE OF REQUIREMENTS

**Block**

1. **Country:** Enter name of country covered by the estimate.
2. **Cooperating Sponsor:** Enter name or initials of Cooperating Sponsor.
3. **Recipient Categories:** List each recipient category. The proposed food recipient should not be included under more than one recipient category. The following recipient categories have been preprinted on the form for ease of reference. You will note that the "Number Feeding Days Per Month" has been shown in parentheses following the category.
  - Maternal Child Health-Mother (30)** - Include women of child bearing age attending out-patient clinics, first aid stations, family planning centers, or other paraprofessionally staffed facilities where at least one primary program is to provide medical, health, family planning, nutrition, or related education and/or assistance and where food is distributed 30 days each month.
  - Maternal Child Health-Child (30)** - Include children under the age of six years living in the area serviced by the above-described health-related facility where food is provided 30 days a month.
  - Preschool Child Feeding (25)** - Include children under the age of six years attending day nurseries, day care centers, day kindergartens, or similar facilities where food is provided 25 days a month.
  - Other Child Feeding (30)** - Include institutionalized fourteen year olds and under receiving food 30 days a month in children's hospitals, boarding schools, orphanages, summer camps, etc.
  - Other Child Feeding (25)** - Include noninstitutionalized children from age six through fourteen years receiving food 25 days a month in daily organized child feeding facilities.
  - School Feeding (20)** - Include only primary school children ages six to fourteen years attending day school. (Ration to be calculated on the basis of 20 days per month.)
  - Food-for-Work** - Include workers and dependents in agriculture, economic, community, and health development projects where the ration is fixed for a minimum number of days worked each month.
  - Other** - List by definitive title any other recipient group which cannot be categorized in any of the above groups and/or whose number of feeding days per month is different from the prescribed number.
- 3a. **Number Feeding Days Per Month:** Indicate the number of feeding days per month for the additional recipient groups which have been entered under Block 3: Recipient Categories.
4. **Number Recipients:** Indicate the total recipients in each recipient category regardless of whether they receive one or more commodities.
5. **Number Months Operating:** Indicate the number of months during the fiscal year in which the cooperating sponsors proposes to serve each recipient category.
- 5a. **Number Distributions Per Year:** Enter the number of times distribution will be made to each recipient category during the fiscal year.
6. **Proposed Distribution:** Indicate in columns:
  - 6a. The name or initials of the commodity and its general specification (i.e., soy fortified, all purpose, instant, etc.).
  - 6b. **Number Recipients:** Enter the number of recipients only if less than the number indicated in Block 4.
  - 6c. **Rate KGs:** Enter the rate per month (in kilograms) at which the commodity will be distributed to each recipient.
  - 6d. **(000) Kilograms:** Enter the total quantity, in thousands of kilograms, of each commodity to be distributed to each category. The figure is to be derived by multiplying the number of recipients by the number of months of operation by the rate per month and rounding to the nearest thousand kilograms.
  7. **Total Recipients:** Enter the sums of the figures posted in columns 4 and 6.b.
  8. **Total Requirements for FY 19 :** For each commodity, enter the sum of the entries in Block 6d.
  9. **Quantity on Hand September 30, 19 :** Enter the total quantity on hand (in metric tons: i.e.: thousands of kilograms) in warehouses on September 30, of the past fiscal year. (Do not include commodities delivered to the warehouses of recipient institutions or individuals for their own utilization.)
  10. **Quantity Received October 1 through February 28, 19 :** Enter total quantity (in metric tons) actually received during the period October 1 through February 28, of the current fiscal year.
  - 10a. **From Prior Year Approval:** Enter quantity received during this period from prior fiscal year approval.
  - 10b. **From Current Year Approval:** Enter quantity received during this period from current fiscal year approval.
  11. **Quantity on Hand February 28, 19 :** Enter total quantity on hand (in metric tons) in warehouses as of February 28, of current fiscal year which have not been delivered to recipient institutions or individuals for their own utilization.
  12. **Quantity Due or Rec'd. for Current FY Program After Feb. 19 :** Indicate by commodity, the quantity (in metric tons) of food for the current fiscal year program due to be received, or actually received, after February 28, of the current fiscal year.
  13. **Total Line 11 Plus Line 12:** Enter appropriate totals.
  14. **Projected Distribution March 1 Through September 30, 19 :** Enter the quantity of each commodity (in metric tons) to be distributed during the seven-month period March 1, through September 30, of the current fiscal year.
  15. **Estimated Inventory, September 30, 19 :** Line 13, minus line 14, equals line 15.
  16. **Desired Operating Reserve:** The cooperating sponsor should indicate on this line that quantity of each commodity which is needed to insure continued distribution on an orderly basis to all eligible participating outlets. In determining this quantity, consideration must also be given to the storability of the commodity. Each operational reserve must be justified.
  17. **Adjusted Total Requirements FY 19 :** Line 8, minus line 15, plus line 16.
  18. **Submitted by (Field Representative):** Signature and title of U.S. citizen representative of the cooperating sponsor submitting the Estimate. If the U.S. citizen representative does not sign, please explain fully, and indicate responsibility of the person signing instead. Also indicate data submitted.
  19. **Reviewed and Recommended by U.S. AID or Embassy:** Signature and title of U.S. AID or Embassy official reviewing and recommending the Estimate. Enter date recommended.
  20. **Cooperating Sponsor Approval:** Signature and title of person approving Estimate for home office of sponsor in U.S. Enter date approved.
  21. **ISC/AID/Washington Approved:** Signature and title of AID/Washington official approving the Estimate. Enter date approved by FFP/AID.



**COMMODITY REQUEST FOR FOREIGN DISTRIBUTION  
(Voluntary Agency)**

**SECTION A - REQUEST FOR COMMODITY AND DELIVERY INSTRUCTIONS**

1. FROM (NAME AND ADDRESS OF REQUESTING AGENCY)		2. DESTINATION (COUNTRY)	3. PERIOD OF EXPORT	4. QUARTER REQUESTED
		5. SEND CONSIGNEE'S RECEIPT TO:		
6. Agency Number				
7. Commodity - Pack Size				
8. Quantity (lbs.)				
9. Port(s) of Discharge				
10. Agency Markings				

11. REMARKS - Specific Port of Export (If required, state reason)

*On behalf of the agency named above, the undersigned hereby request the commodity shown above for distribution and use outside the U. S. in accordance with Food Donation Programs under Title II PL-480, 83rd Congress, as amended.*

12. SIGNATURE OF AGENCY REPRESENTATIVE	13. DATE

**SECTION B - USDA APPROVAL. The above request is approved subject to the provisions of the Applicable Food Donation Program and related Notice of Availability.**

14. APPROVED FOR USDA	15. DATE	16. CCC NO.

ORIGINAL

SAMPLE FORMAT

COUNTRY \_\_\_\_\_  
 AGENCY \_\_\_\_\_  
 DATE \_\_\_\_\_  
 SIGNATURE \_\_\_\_\_  
 NAME and TITLE \_\_\_\_\_

MONTHLY COMMODITY STATUS REPORT  
 FOR THE MONTH OF \_\_\_\_\_, 19

Page 1 of 2

	COMMODITIES - QUANTITIES IN LBS. - NET WEIGHT								
	1.	2.	3.	4.	5.	6.	7.	8.	Total
A. Physical Inventory beginning of month(1/)									
B. Receipts	////////////////////////////////////								
1. Arrivals according to B/L (i.e. Totals from item G, page 2)									
2. Commodities delivered by shipping companies and applied to cover previous shortages									
3. Loans returned from other agencies									
4. Commodities borrowed									
TOTAL RECEIPTS DURING MONTH									
C. Distribution During Month by Program	////////////////////////////////////								
<u>Food For Development</u>									
Maternal and Child Health (101)									
School Feeding (102)									
Other Child Feeding (103)									
Food For Work (104)									
<u>Emergency</u>									
Refugee (201)									
Disaster (202)									
<u>Welfare</u>									
General Relief (301)									
TOTAL DISTRIBUTIONS DURING MONTH									
D. Balance According to Documentation									
E. Physical Inventory at end of month(1/)									
F. Difference between D and E									
a. Ocean Freight Losses									
b. <u>Internal Losses</u> . Lost or damaged in agency warehouses, customer warehouses, or internal transport.									
c. Repayment of Commodities borrowed from other Agencies									
d. Loans made to other Agencies									
e. TOTAL DIFFERENCES ACCOUNTED FOR (a-d)									
f. TOTAL DIFFERENCES UNACCOUNTED FOR									
<p>(1/) Physical inventory includes commodities in customs warehouses, in co-sponsors warehouses, in storage by co-sponsors counterpart distributing agencies and which are in transit in country from ports to internal warehouses or central points. It does not include stocks at schools, feeding centers, work sites, etc. for immediate consumption or stocks in transit from intermediate distribution points to recipients for immediate consumption.</p>									





Exh G(2), HB 9  
(TM 9:6)

COMMODITY CODES

- 005 - Bulgur
- 007 - Corn
- 009 - Cornmeal
- 011 - CSB (Corn-Soy-Blend)
- 012 - CSB, Instant
- 013 - CSM, Instant
- 014 - CSM (Corn-Soy-Milk)
- 015 - Grain Sorghum
- 018 - Non-Fat Dried Milk
- 019 - Rolled Oats
- 021 - Rice, Milled
- 023 - Soy Fortified Bulgur
- 025 - Soy Fortified Cornmeal
- 027 - Soy Fortified Flour 6%
- 029 - Soy Fortified Flour 12%
- 031 - Soy Fortified Rolled Oats
- 032 - Soy Fortified Sorghum Grits
- 033 - Full Fat Soy Flour
- 035 - Defatted Soy Flour
- 039 - Veg. Oil, Soybean Salad
- 040 - Veg. Oil, Peanut
- 041 - Wheat
- 043 - Wheat Flour
- 045 - Wheat Rolled
- 046 - Whey Soy Drink Mix
- 047 - WSB (Wheat-Soy-Blend)

LOSS LOCATION CODES

- 1 - Lost during ocean transport
- 2 - Lost during in-country transport
- 3 - Lost in Customs warehouse
- 4 - Lost in Agency warehouse
- 5 - Other

LOSS TYPE CODES

BAG FAILURES WITH SPILLAGE (Contents not contaminated, deteriorated, or infested)

Damaged Bags

- 101 - Mechanically ripped, torn, cut or punctured
- 102 - Burst
- 103 - Loosened adhesive when bag is water damaged
- 104 - Punctured by insects
- 105 - Other bag damage problem

Defective Bags

- 110 - Leaking longitudinal or side seam
- 111 - Leaking closure, bottom
- 112 - Leaking closure, top
- 113 - Corners peeling
- 114 - Wrinkled along fold, bottom
- 115 - Wrinkled along fold, top
- 116 - Tapered closure
- 117 - Loosened adhesive when bag is not water damaged

Exposed Stitching

- 118 - Tape improperly positioned, top
- 119 - Tape wrinkled, top
- 120 - Tape not adhering, top
- 121 - Tape improperly positioned, bottom
- 122 - Tape wrinkled, bottom
- 123 - Tape not adhering, bottom
- 124 - Other defect or stitching problem

MOLDY BAGS

- 201 - Combined with spilled commodity
- 202 - Spilled commodity absent

SHORT WEIGHT BAGS

- 301 - Quantity received less than specified weight  
(Note: Include number of bags affected on reverse side)

CONTAMINATED but NOT INFESTED

- 401 - Soiled by rodents, birds, or animals
- 402 - Mixed with water
- 403 - Mixed with chemicals, pesticides, petroleum products, etc.
- 404 - Contains rope spores in original bag
- 405 - Contains noxious seeds (Original bag or bulk grains)
- 406 - Other Contamination problem

DETERIORATED but NOT INFESTED or CONTAMINATED  
(Commodity is discolored and/or tastes or smells unclean, stale or musty)

- 501 - 523 Deteriorated and Bag Failure  
(Note: Use suffixes 01-23 from 100 series i.e.,  
Deteriorated and Corners Peeling = 500 + 13 = 513)
- 525 - Undamaged and opened bags
- 526 - Undamaged and unopened bags
- 527 - Patched, taped, overslipped, or rebagged commodity

INFESTED WITH INSECTS

- 601 - 623 Infested and Bag Failure  
(Note: Use suffixes 01-23 from 100 series i.e.,  
Infested and Burst = 600 + 02 = 602)
- 625 - Undamaged and opened bags
- 626 - Undamaged and unopened bags
- 627 - Patched, taped, overslipped, or rebagged commodity

INFERIOR GRADE

- 701 - Excess dockage
- 702 - Excess broken kernels
- 703 - Excess other grain or leguminous seeds
- 704 - Other problem affecting grade

OTHER UNSPECIFIED REASON FOR LOSSES

- 801 - Specify Reason \_\_\_\_\_

SAMPLE FORMAT

MONTHLY RECIPIENT STATUS REPORT

FOR THE MONTH OF \_\_\_\_\_, 19\_\_

Country \_\_\_\_\_  
 Agency \_\_\_\_\_  
 Date \_\_\_\_\_  
 Signature \_\_\_\_\_  
 Name and Title \_\_\_\_\_

Program by Category of Recipients	No. of Recipients Reached During the Month	COMMODITIES - QUANTITIES IN LBS - NET WEIGHT								
		1.	2.	3.	4.	5.	6.	7.	8.	9.
Food For Development		////////////////////////////////////								
Maternal and Child Health (101)										
School Feeding (102)										
Other Child Feeding (103)										
Food for Work (104)										
Emergency		////////////////////////////////////								
Refugee (201)										
Disaster (202)										
Welfare		////////////////////////////////////								
General Relief (301)										
		////////////////////////////////////								

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SAMPLE FORMAT <sup>1/</sup>

Budget Bureau No. 24-R0063  
Approval Expires:  
(Date)

REPORT OF LOSS, DAMAGE, OR MISUSE OF COMMODITIES DONATED UNDER  
TITLE II OF P.L. 480

Instructions for the use of Part A

- Item 1 - Insert name of cooperating sponsor filing report.
- Item 2 - Insert name of country in which loss took place.
- Item 3 - Insert title of food donation project in which the lost or damaged commodities were to be utilized.
- Item 4 - Insert identifying number of project, if a number has been assigned by the Mission.
- Item 5 - Insert description of commodities alleged to be lost, damaged, or misused; types, sizes, and quantities of containers; CCC contract number, if known, or other identifying numbers or marks on containers; quantities by weight of commodities lost, damaged, or misused; and the estimated value of the commodities involved, based on the landed cost, including ocean freight charges.
- Item 6 - Insert time and place of the alleged loss, damage, or misuse.
- Item 7 - Insert current location of the commodities, or disposition of the commodities.
- Item 8 - Identify the persons, agency, carrier, warehouse, or processor having possession of the commodities at the time of the alleged loss, damage, or misuse.
- Item 9 - Detail the nature and extent of loss, damage, or misuse.
- Item 10 - Detail the circumstances under which the commodities were lost, damaged, or misused, including any extenuating circumstances to be taken into consideration.
- Item 11 - Detail the actions taken by the cooperating sponsor to the effect recovery, disposal, and restitution, including the amounts and disposition of any proceeds received from the sale or exchange of containers or damaged commodities and of any restitution from other sources.

---

<sup>1/</sup> Not available from AID/W as an AID form. Local reproduction authorized as necessary.

Item 12 - Detail the amount and status of any claim established or to be established against the parties deemed by the cooperating sponsor to be responsible for the loss, damage, or misuse.

The responsible representative of the cooperating sponsor signs and dates the report in the space provided at the end of Part A.

Part A - To be Completed by Cooperating Sponsor

1. Name of Cooperating Sponsor \_\_\_\_\_ 2. Country \_\_\_\_\_

3. Project Title \_\_\_\_\_ 4. Project No. \_\_\_\_\_

5. Description of Commodities	Types, Sizes, & Quantities of Containers	CCC Contract No.	Quantity by Weight	Estimated Value

6. Time and Place of Loss, Damage, or Misuse:

---

7. Current Location or Disposition of Commodities:

---

8. Persons or Agency Having Possession of Commodities at Time of Loss, Damage, or Misuse:

---

9. Nature and Extent of Loss, Damage, or Misuse.

---

10. Details of Circumstances Under Which Loss, Damage, or Misuse Took Place:

---

11. Actions Taken to Effect Recovery, Disposal, or Restitution, Including Details of Amounts and Disposition of Any Cash Proceeds:

---

12. Details of Any Claims Established or To Be Established Against Parties Deemed Liable For The Loss, Damage, or Misuse:

---

Date Submitted \_\_\_\_\_ Signature \_\_\_\_\_  
 Title \_\_\_\_\_

---

Part B - To Be Completed by Mission or Diplomatic Post

1. Review comments by Food for Peace Officer

(Check one)

Claim Against  Cooperating Sponsor  
 Third Party by Cooperating Sponsor  
 Name of Third Party \_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Title \_\_\_\_\_

---

2. Review comments by Controller

Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Title \_\_\_\_\_

---

3. \*Bill for Collection No. \_\_\_\_\_ Date \_\_\_\_\_ Amount \_\_\_\_\_

Claims Action	Date	Amount
First Determination of Value		
Redetermination of Value		
Compromised		
Suspended		
Terminated		
Collection (V. No.        )		
Accountability transferred to _____		

Remarks :

\*To be completed by the office having accountability

- -

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EXHIBIT J

SAMPLE

Appropriation No. \_\_\_\_\_ Agreement No. \_\_\_\_\_  
 Allotment Symbol \_\_\_\_\_

LOCAL CURRENCY PROJECT AGREEMENT

BETWEEN

UNITED STATES OF AMERICA

AND

\_\_\_\_\_

THIS AGREEMENT is between the Government of the United States of America, Department of State, Agency for International Development (hereinafter called A.I.D.), and \_\_\_\_\_

\_\_\_\_\_ (hereinafter called the Grantee):

WITNESSETH THAT:

WHEREAS, Section 204 of Public Law 480, as amended, authorizes the use of Title II, P.L. 480, funds to purchase foreign currencies accruing under Title I of P.L. 480 in order to meet costs designed to assure that commodities made available under Title II of P.L. 480 are used to carry out more effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance; and

WHEREAS, it has been determined that such assistance should be made available to the Grantee in order to meet the costs of an agreed activity designed to more effectively carry out the purposes for which commodities under Title II of P.L. 480 have been, and are being, made available to the Grantee for use in support of \_\_\_\_\_

NOW, THEREFORE, the parties hereto mutually agree as follows:

SECTION I - RESPONSIBILITIES

A. A.I.D. will:

Grant to the Grantee, pursuant to the conditions outlined herein, up to the \_\_\_\_\_ equivalent of \_\_\_\_\_ U.S. dollars to assist said Grantee to meet the full requirements of the \_\_\_\_\_ program(s). These funds may be utilized during the period beginning on the effective date of this grant and ending \_\_\_\_\_ years from said effective date and shall be limited to procurement in the categories detailed below (hereinafter called the "agreed activity"):

<u>Item</u>	<u>Estimated Cost</u>

All references to dollars in this Agreement are the U.S. dollar equivalents of local currency units, calculated at \_\_\_\_\_.

The amounts set forth for the major activity categories listed above may be increased or decreased within twenty percent (20) of the amounts shown; the prior written approval of A.I.D. must be obtained for greater adjustments or transfers, and the total value may, in no case, exceed the total local currency grant covered by this Agreement.

B. The Grantee will:

Carry out the agreed activity in accordance with and subject to the conditions of this Agreement, with the above-listed commodities to be procured on the basis of competitive bids subject to the approval of the Director, A.I.D. Mission. It is understood that title to all property financed from funds made available under this Agreement will be vested in the \_\_\_\_\_ or such other agency of the Government of \_\_\_\_\_ as agreed by the Director, A.I.D. Mission.

SECTION II - GENERAL PROVISIONS

A. The "General Provisions" appended to this Agreement are incorporated by reference as a part of this Agreement.

B. The terms listed below, as used in the General Provisions, shall, for the purpose of this Agreement, mean as follows:

"Cooperating country" shall mean \_\_\_\_\_.

"Director, A.I.D. Mission" shall mean the "Director, U.S. A.I.D. Mission" to \_\_\_\_\_, c/o American Embassy, \_\_\_\_\_.

C. Exceptions to General Provisions:

Signed at \_\_\_\_\_ on \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

FOR: Agency for International  
Development

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

FOR: \_\_\_\_\_

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the \_\_\_\_\_ named as the Grantee herein; that \_\_\_\_\_ who signed this Agreement on behalf of the Grantee was then the \_\_\_\_\_ of said \_\_\_\_\_; that said Agreement was duly signed for and on behalf of said \_\_\_\_\_ by authority of its governing body, and is within the scope of its authority and powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

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LOCAL CURRENCY FOOD PROJECT AGREEMENT

GENERAL PROVISIONS

1. Responsibilities of the Grantee

a. Budget: Grantee shall prepare a budget covering major expenditure items essential for the implementation of the agreed activity. This budget shall be submitted to the Director, A.I.D. Mission, for his approval within 60 days from the effective date of this Agreement.

b. Engineering: Grantee shall engage the services of a local engineering firm, approved by the Director, A.I.D. Mission, to prepare detailed design plans and specification, bid documents, evaluate bids, recommend awards, and supervise construction.

An entity is deemed a local firm if it meets the conditions listed below in subparagraphs (1) and (2) and either (3) or (4), as follows:

- (1) Is legally incorporated or domiciled in the country in which the services to be procured are to be performed;
- (2) Has its principal place of business in such country;
- (3) Is more than 50% beneficially owned by a firm or firms of such country and/or the U.S. and/or by citizens of such country and/or U.S. citizens; or
- (4) Is determined by the Director, A.I.D. Mission, to be an integral part of the local economy.

c. Contract Approval: Grantee may contract for goods and services required to implement the agreed activity following its normal procurement practices provided: (1) the Director, A.I.D. Mission, approves the general procurement practices of the Grantee, and (2) before entering into any contracts, other than contracts under the local currency equivalent of \$2,500.00, or contracts for equipment and supplies, the Grantee shall advise A.I.D., in writing as to the names and addresses of the proposed contractors, and the firm names (if any) under which the principal owners of proposed contracting firms formerly conducted their business during the preceding five (5) years; and the Grantee shall allow the Director, A.I.D. Mission, minimum of thirty (30) days within which to express its disapproval of any such contractors. The Grantee shall not enter into contracts to carry out the said projects with any person or firm who is disapproved by the Director, A.I.D. Mission.

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d. Source of Goods: All commodities, including equipment, material, and supplies, authorized to be procured with funds under this Agreement shall be procured in the cooperating country. A commodity will not be eligible for financing with funds made available under this Agreement if it contains any components from countries not included in A.I.D. Geographic Code 935.

e. Limitation on Use of Funds: No part of the funds made available by this Agreement may be used for the administrative or personnel costs of Grantee or for the construction or maintenance of any church-owned or -operated edifice or any other edifices to be used for sectarian purposes, or for the advancement or support of any religious faith or teaching, nor shall such funds be used in any manner which is discriminatory as to race, creed, color, or national origin, provided, however, that such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources.

f. Refund in Case of Unauthorized Expenditures: To the extent that the Grantee expends funds provided by this Agreement for purposes not authorized by the Agreement, as determined by A.I.D. it will promptly refund or pay to A.I.D. an amount equal to such unauthorized expenditure(s).

g. Unexpended Funds: In the event the full amount obligated by A.I.D. by this Agreement is not expended or committed by the Grantee for the agreed activity during the period specified in the Agreement, the difference or surplus shall be promptly refunded to A.I.D.

h. Use of A.I.D. Emblem: All goods and construction financed under this Agreement must be appropriately identified with the official A.I.D. emblem. This identification may vary, depending on the size and nature of the item involved, but must be large enough to be visible at a reasonable distance and appropriate to the agreed activity.

i. Publicity: Grantee shall arrange for suitable publicity, both during the construction phase and after **completion, of the financing of the agreed activity by the United States of America.**

j. Examination of Records: A.I.D. or its duly authorized representatives shall have access to and the right to examine any books, documents, papers, and records of the Grantee pertaining to work under this Agreement during the term of this Agreement and until the expiration of three (3) years after final or terminal payment under this Agreement.

k. Access to Contractor and Subcontractor Records: Grantee shall obtain in writing from any contractor or subcontractor the right to have access to and to examine any books, documents, papers, and records of any contractor or subcontractor in connection with any capital construction utilizing funds available under this Agreement; and A.I.D. or its duly authorized representatives shall have access to these records via the Grantee until the expiration of three (3) years after final or terminal payment under this Agreement.

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1. Project Review and Inspection: Grantee shall provide assistance to A.I.D. or its representatives to enable them at any reasonable time to physically examine and inspect any and all projects implemented as a part of the agreed activity under this Agreement.

2. Fiscal Procedures, Reports, Documentation Requirements, and Termination

a. Disbursement of Funds: The funds obligated by this Agreement shall be disbursed by the United States Disbursing Officer, American Embassy, in the cooperating country for direct costs incurred by the Grantee in carrying out the approved activity, and within the limitations set forth in this Agreement.

b. Advance of Funds - Imprest Fund: Upon request by the Grantee, A.I.D. may make an initial advance of such amount as is approved by the Director, A.I.D. Mission, subject to the Grantee furnishing a fidelity bond, satisfactory to the Director, A.I.D. Mission, or other security acceptable to and approved in writing by the Director, A.I.D. Mission. The Grantee will submit to the Director, A.I.D. Mission, Voucher Form SF 1034, in original and three copies, properly executed, requesting advance of funds in the approved amount. Thereafter, A.I.D. will reimburse the Grantee an amount equal to reported expenditures in order to replenish the advance fund on an imprest basis. A.I.D. will replenish the fund on a quarterly basis (or other agreed interval) upon submission of documents prescribed in (c) below until such time as the total of reimbursements effected, added to the initial advance, equals the amount of the grant. Thereafter, vouchers for expenditures submitted by the Grantee will not be reimbursed, but will be applied to liquidate the remaining outstanding advance. In the event the total amount of subsequent vouchers is insufficient to liquidate the amount of the outstanding advance, the Grantee will promptly refund the difference to A.I.D.

c. Voucher Procedure: Grantee will submit to the Director, A.I.D. Mission, Voucher Form SF 1034, in original and three copies, properly executed, in the amount of the expenditures made during the period covered by the voucher, which voucher form shall be supported by an original and two copies of a certified fiscal report rendered by the Grantee in a form and manner satisfactory to A.I.D. and which will be determined after signature of this Agreement. Said fiscal report shall include a certification signed by an authorized representative of the Grantee as follows:

"The undersigned hereby certifies: (1) that payment of the sum claimed under the attached voucher is proper and due under the terms of the Agreement; and (2) that the information in this fiscal report is correct and such detailed supporting information as A.I.D. may require will be furnished by the Grantee promptly to A.I.D. upon request.

BY \_\_\_\_\_

TITLE \_\_\_\_\_

FOR \_\_\_\_\_

(Grantee) Date \_\_\_\_\_"

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d. Final Voucher: Grantee shall submit Voucher Form SF 1034, properly executed, marked "NO PAY" and/or "FINAL VOUCHER," to the Director, A.I.D. Mission, not later than two (2) years after the effective date of the Agreement supported by the documents specified in (c) above and accompanied, when appropriate, by a refund check for the balance of the funds remaining on hand.

e. Books and Records: Grantee shall maintain or cause to be maintained an accounting system reflecting on a current basis the status of funds granted by A.I.D. for the agreed activity.

f. Quarterly Progress and Financial Reports: Grantee shall submit quarterly to the Director, A.I.D. Mission, a "Progress and Financial Report." This report will contain brief information on the physical progress of the agreed activity; a description of any modification in estimated costs of the agreed activity or other alternations deemed essential by the Grantee, any major problems encountered in procurement of equipment, supplies and services, and/or construction activities; and detailed information on commitments and disbursements of funds made available to the Grantee.

g. Completion Report: Grantee will prepare and submit to the Director, A.I.D. Mission, within thirty (30) days following completion of the agreed activity a Completion of Project Report. This report will contain a full accounting of the funds made available to the Grantee under this Agreement and an evaluation of the extent to which the agreed activity has achieved, or is achieving, the purpose for which such funds were expended under this Agreement.

h. Certificate of Completion and Acceptance: When contract engineering services are used, Grantee shall furnish to the Director, A.I.D. Mission, a copy of the Certificate of Completion presented to the Grantee by the local engineering firm for all construction aspects of the agreed activity and a certification by said firm that the construction was in conformity with the budget and a copy of the Letter of Acceptance by the Grantee of said Certificate.

i. Cancellation by A.I.D.: A.I.D. may cancel this Agreement upon written notice to the Grantee. When Grantee receives such notice of revocation, it shall take immediate action to cancel obligations wherever possible. No further reimbursement shall be made after such notice of cancellation is given and the Grantee shall, within ninety (90) days after the effective date of such cancellation, repay to A.I.D. all unexpended funds previously advanced by A.I.D. to the Grantee which are not otherwise legally committed. Should the funds previously advanced by A.I.D. to the Grantee be insufficient, by reason of A.I.D. cancellation of this Agreement, to cover Grantee's obligations pursuant to the aforementioned legally binding transactions, the Grantee may submit to A.I.D. no later than ninety (90) days after the effective date of such cancellation, a written claim covering such obligations. Subject to the limitations contained in this Agreement, A.I.D. shall determine the amount or amounts to be paid by A.I.D. to the Grantee under such claim.

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j. Notices: Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, or telegram, or registered mail as follows:

To A.I.D.:  
To Grantee:

or to such other addressees as either of the parties shall designate by notice given as herein required. Notices hereunder shall be effective when received.

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EXHIBIT K

( S U G G E S T E D F O R M A T )

P.L. 480 Title II Outreach Project  
(sample language, for illustrative purposes only)

Provide narrative proposal incorporating, as appropriate, information such as:

1. Target Group
  - A. Economic Condition:
  - B. Location:
  - C. Degree of Vulnerability/Malnourishment:
  - D. Numbers to be Reached:
2. Additionality (why cannot be reached without additional resources)
3. Developmental Objective such as:
  - A. Provision of Integrated Services:
    - (1) Nutrition Education:
    - (2) Health Services:
    - (3) Family Planning:
    - (4) Other:
  - B. Community Development:
    - (1) Irrigation Projects:
    - (2) Cooperatives:
    - (3) Reforestation:
    - (4) Other:
4. Implementation Plan
  - A. Centers/Schools/Sites:
    - (1) Location:
    - (2) Recipients:
  - B. Operating Schedule:

Example

I. Purpose of Grant

To assist in providing integrated health services to 10,000 pre-school children and 2,000 pregnant and lactating mothers in remote mountain area of Bavaria.

II. Objectives of Grant

In coordination with the Ministry of Health of the GOB provide supplemental food and nutrition education to 12,000 mothers and preschool children in 30 rural health clinics in the provinces of Walu and Tabia.

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### III. Implementation Plan

GOB is expanding its rural health program to the provinces of Walu and Tabia, where serious problems of malnutrition exist. It is estimated that 25% of the under-five population in this area suffers from serious malnutrition. This means that the target child vulnerable population is 10,000. At present, this group is not being reached with health services. Over the next three years the GOB intends to build a network of 30 clinics in this remote area to provide basic health services such as immunization, health/nutrition education, deworming and referral.

Grantee will assist the nutrition education component by the provision of supplementary food, weight charts and educational materials on preparation of food. Food will also be used as an inducement to attract mothers in an area unaccustomed to attendance at clinics. Clinics will be built and staffed by the GOB. USAID will assist with the training of clinic workers. This grant will provide support for transportation of commodities from the port to the clinics, provision of storage facilities, fumigation costs and costs for additional end-use checkers. Detail budget follows.

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EXHIBIT L

OUTREACH BUDGET  
SUBMISSION FORMAT  
(line items for estimated expenditures)

Prior Year Expenditures and Current Request

1. P.L. 480 Title II Commodity Movement Costs:
  - A. Contracting Direct Movement of Commodity:
  - B. Leasing of Transportation:
  
2. Commodity Storage Costs:
  - A. Direct Storage Charges:
  - B. Renting Storage Facilities:
  - C. In/Out Movement Costs:
  
3. Commodity Management Costs: (When not included in 1 and 2 above)
  - A. Fumigation:
  - B. Repacking or Restoration:
    - (1) Materials:
    - (2) Labor:
  
4. Commodity Administration Costs:
  - A. Additional Office Expenses Directly Related to Commodity Management:
    - (1) Office Space:
    - (2) Supplies and Equipment:
  - B. Additional Staff Required for Commodity Management:
    - (1) Local National Commodity Management Officer:
    - (2) Warehouse Manager:
  
5. Maintenance and Operating Costs for Commodity Movement Trucks:
  - A. Staffing:
    - (1) Truck Drivers:
    - (2) Mechanics:
  - B. POL:
  - C. Spare Parts:
  
6. Associated Indirect Costs:

TOTAL:  
Volag Funded (10 Percent or more):  
Grant Request (up to 90 percent):

List volag and host government budgets for Title II feeding programs for two previous years in country, if applicable, and current year as projected.

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## SPECIAL CASES

Although the majority of the location citations follow the pattern described previously, there are these exceptions:

- o In some of the Handbooks, a majority of the text is reprinted from the Foreign Affairs Manual (FAM). All FAM citations are marked by a '#' sign before the section number.
- o A major portion of Handbook 14 is composed of the Federal Acquisition Regulation (FAR). All citations to this publication are cited as 14:FAR(section number).
- o Three Handbook supplements that are basically separate volumes are cited as, 1B: (Procurement Policy), 3A: and 3B: (Project Managers Guidebook).
- o In Handbooks which contain both Parts as well as Chapters, the Roman numeral Part number is separated from the Arabic Chapter number by a dash (-). For example: 21:I-2A8, a citation to Chapter 2 of Part I of Handbook 21.

## CROSS REFERENCES

These references provide direction for selection of index terms:-

A 'see' reference points from an unused term to the one that is used.

'x' is the reverse of see (do not bother to look) and provides a guide to terms that are not used in the index.

'see also' points to terms that are closely related.

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Host country capabilities

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local currency project agreement 9:11A3b  
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AID Regulation No.11 9:App.C

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 x Commodity disposition

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9:1	<input checked="" type="checkbox"/>	9:26	<input type="checkbox"/>	9:51	<input type="checkbox"/>
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