

110TH CONGRESS
2D SESSION

H. J. RES. 88

Amending the Food, Conservation, and Energy Act of 2008 to reinsert the trade title contained in the conference report to accompany H.R. 2419 of the 110th Congress (Report 110–627).

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2008

Mr. PETERSON of Minnesota introduced the following joint resolution; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JOINT RESOLUTION

Amending the Food, Conservation, and Energy Act of 2008 to reinsert the trade title contained in the conference report to accompany H.R. 2419 of the 110th Congress (Report 110–627).

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That, effective on the date of the enactment of the Food,
4 Conservation, and Energy Act of 2008, the Food, Con-
5 servation, and Energy Act of 2008 is amended by insert-
6 ing after title II the following new title:

1 **“TITLE III—TRADE**
 2 **“Subtitle A—Food for Peace Act**

3 **“SEC. 3001. SHORT TITLE.**

4 “(a) IN GENERAL.—Section 1 of the Agricultural
 5 Trade Development and Assistance Act of 1954 (7 U.S.C.
 6 1691 note; 104 Stat. 3633) is amended by striking ‘Agri-
 7 cultural Trade Development and Assistance Act of 1954’
 8 and inserting ‘Food for Peace Act’.

9 “(b) CONFORMING AMENDMENTS.—

10 “(1) IN GENERAL.—Each provision of law de-
 11 scribed in paragraph (2) is amended—

12 “(A) by striking ‘Agricultural Trade Devel-
 13 opment and Assistance Act of 1954’ each place
 14 it appears and inserting ‘Food for Peace Act’;
 15 and

16 “(B) in each section heading, by striking
 17 **‘AGRICULTURAL TRADE DEVELOP-**
 18 **MENT AND ASSISTANCE ACT OF**
 19 **1954’** each place it appears and inserting
 20 **‘FOOD FOR PEACE ACT’.**

21 “(2) PROVISIONS OF LAW.—The provisions of
 22 law referred to in paragraph (1) are the following:

23 “(A) The Agriculture and Food Act of
 24 1981 (Public Law 97–98; 95 Stat. 1213).

1 “(B) The Agricultural Act of 1949 (7
2 U.S.C. 1421 et seq.).

3 “(C) Section 9(a) of the Military Construc-
4 tion Codification Act (7 U.S.C. 1704c).

5 “(D) Section 201 of the Africa: Seeds of
6 Hope Act of 1998 (7 U.S.C. 1721 note; Public
7 Law 105–385).

8 “(E) The Bill Emerson Humanitarian
9 Trust Act (7 U.S.C. 1736f–1 et seq.).

10 “(F) The Food for Progress Act of 1985
11 (7 U.S.C. 1736o).

12 “(G) Section 3107 of the Farm Security
13 and Rural Investment Act of 2002 (7 U.S.C.
14 1736o–1).

15 “(H) Sections 605B and 606C of the Act
16 of August 28, 1954 (commonly known as the
17 ‘Agricultural Act of 1954’) (7 U.S.C. 1765b,
18 1766b).

19 “(I) Section 206 of the Agricultural Act of
20 1956 (7 U.S.C. 1856).

21 “(J) The Agricultural Competitiveness and
22 Trade Act of 1988 (7 U.S.C. 5201 et seq.).

23 “(K) The Agricultural Trade Act of 1978
24 (7 U.S.C. 5601 et seq.).

1 “(L) The Export-Import Bank Act of 1945
2 (12 U.S.C. 635 et seq.).

3 “(M) Section 301 of title 13, United
4 States Code.

5 “(N) Section 8 of the Endangered Species
6 Act of 1973 (16 U.S.C. 1537).

7 “(O) Section 604 of the Enterprise for the
8 Americas Act of 1992 (22 U.S.C. 2077).

9 “(P) Section 5 of the International Health
10 Research Act of 1960 (22 U.S.C. 2103).

11 “(Q) The Foreign Assistance Act of 1961
12 (22 U.S.C. 2151 et seq.).

13 “(R) The Horn of Africa Recovery and
14 Food Security Act (22 U.S.C. 2151 note; Pub-
15 lic Law 102–274).

16 “(S) Section 105 of the Mutual Edu-
17 cational and Cultural Exchange Act of 1961
18 (22 U.S.C. 2455).

19 “(T) Section 35 of the Foreign Military
20 Sales Act (22 U.S.C. 2775).

21 “(U) The Support for East European De-
22 mocracy (SEED) Act of 1989 (22 U.S.C. 5401
23 et seq.).

24 “(V) Section 1707 of the Cuban Democ-
25 racy Act of 1992 (22 U.S.C. 6006).

1 “(W) The Cuban Liberty and Democratic
2 Solidarity (LIBERTAD) Act of 1996 (22
3 U.S.C. 6021 et seq.).

4 “(X) Section 902 of the Trade Sanctions
5 Reform and Export Enhancement Act of 2000
6 (22 U.S.C. 7201).

7 “(Y) Chapter 553 of title 46, United
8 States Code.

9 “(Z) Section 4 of the Strategic and Crit-
10 ical Materials Stock Piling Act (50 U.S.C. 98c).

11 “(AA) The Food, Agriculture, Conserva-
12 tion, and Trade Act of 1990 (Public Law 101–
13 624; 104 Stat. 3359).

14 “(BB) Section 738 of the Agriculture,
15 Rural Development, Food and Drug Adminis-
16 tration, and Related Agencies Appropriations
17 Act, 2001 (Public Law 106–387; 114 Stat.
18 1549A–34).

19 “(c) REFERENCES.—Any reference in any Federal,
20 State, tribal, or local law (including regulations) to the
21 ‘Agricultural Trade Development and Assistance Act of
22 1954’ shall be considered to be a reference to the ‘Food
23 for Peace Act’.

1 **“SEC. 3002. UNITED STATES POLICY.**

2 “Section 2 of the Food for Peace Act (7 U.S.C. 1691)

3 is amended—

4 “(1) by striking paragraph (4); and

5 “(2) by redesignating paragraphs (5) and (6)

6 as paragraphs (4) and (5), respectively.

7 **“SEC. 3003. FOOD AID TO DEVELOPING COUNTRIES.**

8 “Section 3(b) of the Food for Peace Act (7 U.S.C.

9 1691a(b)) is amended by striking ‘(b)’ and all that follows
10 through paragraph (1) and inserting the following:

11 “‘(b) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that—

13 “‘(1) in negotiations at the Food Aid Conven-
14 tion, the World Trade Organization, the United Na-
15 tions Food and Agriculture Organization, and other
16 appropriate venues, the President shall—

17 “‘(A) seek commitments of higher levels of
18 food aid by donors in order to meet the legiti-
19 mate needs of developing countries;

20 “‘(B) ensure, to the maximum extent
21 practicable, that humanitarian nongovernmental
22 organizations, recipient country governments,
23 charitable bodies, and international organiza-
24 tions shall continue—

1 “(i) to be eligible to receive resources
 2 based on assessments of need conducted by
 3 those organizations and entities; and

4 “(ii) to implement food aid programs
 5 in agreements with donor countries; and

6 “(C) ensure, to the maximum extent prac-
 7 ticable, that options for providing food aid for
 8 emergency and nonemergency needs shall not
 9 be subject to limitation, including in-kind com-
 10 modities, provision of funds for agricultural
 11 commodity procurement, and monetization of
 12 commodities, on the condition that the provision
 13 of those commodities or funds—

14 “(i) is based on assessments of need
 15 and intended to benefit the food security
 16 of, or otherwise assist, recipients, and

17 “(ii) is provided in a manner that
 18 avoids disincentives to local agricultural
 19 production and marketing and with mini-
 20 mal potential for disruption of commercial
 21 markets; and’.

22 **“SEC. 3004. TRADE AND DEVELOPMENT ASSISTANCE.**

23 “(a) Title I of the Food for Peace Act (7 U.S.C. 1701
 24 et seq.) is amended in the title heading, by striking
 25 **‘TRADE AND DEVELOPMENT ASSISTANCE’**

1 and inserting **‘ECONOMIC ASSISTANCE AND**
 2 **FOOD SECURITY’.**

3 “(b) Section 101 of the Food for Peace Act (7 U.S.C.
 4 1701) is amended in the section heading, by striking
 5 **‘TRADE AND DEVELOPMENT ASSISTANCE’**
 6 and inserting **‘ECONOMIC ASSISTANCE AND**
 7 **FOOD SECURITY’.**

8 **“SEC. 3005. AGREEMENTS REGARDING ELIGIBLE COUN-**
 9 **TRIES AND PRIVATE ENTITIES.**

10 “Section 102 of the Food for Peace Act (7 U.S.C.
 11 1702) is amended—

12 “(1) in subsection (a)—

13 “(A) by striking paragraph (1); and

14 “(B) by redesignating paragraphs (2) and
 15 (3) as paragraphs (1) and (2), respectively; and

16 “(2) by striking subsection (c).

17 **“SEC. 3006. USE OF LOCAL CURRENCY PAYMENTS.**

18 “Section 104(c) of the Food for Peace Act (7 U.S.C.
 19 1704(c)) is amended—

20 “(1) in the matter preceding paragraph (1), by
 21 inserting ‘, through agreements with recipient gov-
 22 ernments, private voluntary organizations, and co-
 23 operatives,’ after ‘developing country’;

24 “(2) by striking paragraph (1);

25 “(3) in paragraph (2)—

1 “(A) in subparagraph (C), by striking
2 ‘and’ at the end;

3 “(B) in subparagraph (D), by striking the
4 period at the end and inserting ‘; and’; and

5 “(C) by adding at the end the following:

6 ““(E) the improvement of the trade capac-
7 ity of the recipient country.’;

8 “(4) in paragraph (3), by striking ‘agricultural
9 business development and agricultural trade expan-
10 sion’ and inserting ‘development of agricultural busi-
11 nesses and agricultural trade capacity’;

12 “(5) in paragraph (4), by striking ‘, or other-
13 wise’ and all that follows through ‘United States’;

14 “(6) in paragraph (5), by inserting ‘to promote
15 agricultural products produced in appropriate devel-
16 oping countries’ after ‘trade fairs’; and

17 “(7) by redesignating paragraphs (2) through
18 (9) as paragraphs (1) through (8), respectively.

19 **“SEC. 3007. GENERAL AUTHORITY.**

20 “Section 201 of the Food for Peace Act (7 U.S.C.
21 1721) is amended—

22 “(1) by striking paragraph (1) and inserting
23 the following:

1 “(1) address famine and food crises, and re-
 2 spond to emergency food needs, arising from man-
 3 made and natural disasters;’;

4 “(2) in paragraph (5)—

5 “(A) by inserting ‘food security and sup-
 6 port’ after ‘promote’; and

7 “(B) by striking ‘; and’ and inserting a
 8 semicolon;

9 “(3) in paragraph (6), by striking the period at
 10 the end and inserting ‘; and’; and

11 “(4) by adding at the end the following:

12 “(7) promote economic and nutritional security
 13 by increasing educational, training, and other pro-
 14 ductive activities.’.

15 **“SEC. 3008. PROVISION OF AGRICULTURAL COMMODITIES.**

16 “Section 202 of the Food for Peace Act (7 U.S.C.
 17 1722) is amended—

18 “(1) in subsection (b)(2), by striking ‘may not
 19 deny a request for funds’ and inserting ‘may not use
 20 as a sole rationale for denying a request for funds’;

21 “(2) in subsection (e)(1)—

22 “(A) in the matter preceding subparagraph
 23 (A), by striking ‘not less than 5 percent nor
 24 more than 10 percent’ and inserting ‘not less
 25 than 7.5 percent nor more than 13 percent’;

1 “(B) in subparagraph (A), by striking ‘;
2 and’ and inserting a semicolon;

3 “(C) in subparagraph (B), by striking the
4 period at the end and inserting ‘; and’; and

5 “(D) by adding at the end the following:

6 ““(C) improving and implementing meth-
7 odologies for food aid programs, including needs
8 assessments (upon the request of the Adminis-
9 trator), monitoring, and evaluation.’; and

10 “(3) by striking subsection (h) and inserting
11 the following:

12 ““(h) FOOD AID QUALITY.—

13 ““(1) IN GENERAL.—The Administrator shall
14 use funds made available for fiscal year 2009 and
15 subsequent fiscal years to carry out this title—

16 ““(A) to assess the types and quality of
17 agricultural commodities and products donated
18 for food aid;

19 ““(B) to adjust products and formulations
20 (including the potential introduction of new
21 fortificants and products) as necessary to cost-
22 effectively meet nutrient needs of target popu-
23 lations; and

24 ““(C) to test prototypes.

25 ““(2) ADMINISTRATION.—The Administrator—

1 “(A) shall carry out this subsection in
 2 consultation with and through independent enti-
 3 ties with proven expertise in food aid com-
 4 modity quality enhancements;

5 “(B) may enter into contracts to obtain
 6 the services of such entities; and

7 “(C) shall consult with the Food Aid Con-
 8 sultative Group on how to carry out this sub-
 9 section.

10 “(3) FUNDING LIMITATION.—Of the funds
 11 made available under section 207(f), for fiscal years
 12 2009 through 2011, not more than \$4,500,000 may
 13 be used to carry out this subsection.’.

14 **“SEC. 3009. GENERATION AND USE OF CURRENCIES BY PRI-**
 15 **VATE VOLUNTARY ORGANIZATIONS AND CO-**
 16 **OPERATIVES.**

17 “Section 203(b) of the Food for Peace Act (7 U.S.C.
 18 1723(b)) is amended by striking ‘1 or more recipient coun-
 19 tries’ and inserting ‘in 1 or more recipient countries’.

20 **“SEC. 3010. LEVELS OF ASSISTANCE.**

21 “Section 204(a) of the Food for Peace Act (7 U.S.C.
 22 1724(a)) is amended—

23 “(1) in paragraph (1), by striking ‘2002
 24 through 2007’ and inserting ‘2008 through 2012’;
 25 and

1 “(2) in paragraph (2), by striking ‘2002
2 through 2007’ and inserting ‘2008 through 2012’.

3 **“SEC. 3011. FOOD AID CONSULTATIVE GROUP.**

4 “Section 205 of the Food for Peace Act (7 U.S.C.
5 1725) is amended—

6 “(1) in subsection (b)—

7 “(A) in paragraph (5), by striking ‘and’ at
8 the end;

9 “(B) in paragraph (6), by striking the pe-
10 riod and inserting ‘; and’; and

11 “(C) by inserting at the end the following:

12 “‘(7) representatives from the maritime trans-
13 portation sector involved in transporting agricultural
14 commodities overseas for programs under this Act.’;
15 and

16 “(2) in subsection (f), by striking ‘2007’ and
17 inserting ‘2012’.

18 **“SEC. 3012. ADMINISTRATION.**

19 “Section 207 of the Food for Peace Act (7 U.S.C.
20 1726a) is amended—

21 “(1) in subsection (a)(3), by striking ‘and the
22 conditions that must be met for the approval of such
23 proposal’;

24 “(2) in subsection (c), by striking paragraph
25 (3);

1 “(3) by striking subsection (d) and inserting
2 the following:

3 “(d) **TIMELY PROVISION OF COMMODITIES.**—The
4 Administrator, in consultation with the Secretary, shall
5 develop procedures that ensure expedited processing of
6 commodity call forwards in order to provide commodities
7 overseas in a timely manner and to the extent feasible,
8 according to planned delivery schedules.’; and

9 “(4) by adding at the end the following:

10 “(f) **PROGRAM OVERSIGHT, MONITORING, AND**
11 **EVALUATION.**—

12 “(1) **DUTIES OF ADMINISTRATOR.**—The Ad-
13 ministrator, in consultation with the Secretary, shall
14 establish systems and carry out activities—

15 “(A) to determine the need for assistance
16 provided under this title; and

17 “(B) to improve, monitor, and evaluate
18 the effectiveness and efficiency of the assistance
19 provided under this title to maximize the impact
20 of the assistance.

21 “(2) **REQUIREMENTS OF SYSTEMS AND ACTIVI-**
22 **TIES.**—The systems and activities described in para-
23 graph (1) shall include—

24 “(A) program monitors in countries that
25 receive assistance under this title;

1 “(B) country and regional food aid impact
2 evaluations;

3 “(C) the identification and implementa-
4 tion of best practices for food aid programs;

5 “(D) the evaluation of monetization pro-
6 grams;

7 “(E) early warning assessments and sys-
8 tems to help prevent famines; and

9 “(F) upgraded information technology
10 systems.

11 “(3) IMPLEMENTATION REPORT.—Not later
12 than 180 days after the date of enactment of the
13 Food, Conservation, and Energy Act of 2008, the
14 Administrator shall submit to the appropriate com-
15 mittees of Congress a report on efforts undertaken
16 by the Administrator to conduct oversight of non-
17 emergency programs under this title.

18 “(4) GOVERNMENT ACCOUNTABILITY OFFICE
19 REPORT.—Not later than 270 days after the date of
20 submission of the report under paragraph (3), the
21 Comptroller General of the United States shall sub-
22 mit to the appropriate committees of Congress a re-
23 port that contains—

24 “(A) a review of, and comments address-
25 ing, the report described in paragraph (3); and

1 “(B) recommendations relating to any ad-
 2 ditional actions that the Comptroller General of
 3 the United States determines to be necessary to
 4 improve the monitoring and evaluation of as-
 5 sistance provided under this title.

6 “(5) CONTRACT AUTHORITY.—

7 “(A) IN GENERAL.—Subject to subpara-
 8 graphs (B) and (C), in carrying out administra-
 9 tive and management activities relating to each
 10 activity carried out by the Administrator under
 11 paragraph (1), the Administrator may enter
 12 into contracts with 1 or more individuals for
 13 personal service to be performed in recipient
 14 countries or neighboring countries.

15 “(B) PROHIBITION.—An individual who
 16 enters into a contract with the Administrator
 17 under subparagraph (A) shall not be considered
 18 to be an employee of the Federal Government
 19 for the purpose of any law (including regula-
 20 tions) administered by the Office of Personnel
 21 Management.

22 “(C) PERSONAL SERVICE.—Subparagraph
 23 (A) does not limit the ability of the Adminis-
 24 trator to enter into a contract with any indi-
 25 vidual for personal service under section 202(a).

1 ““(6) FUNDING.—

2 ““(A) IN GENERAL.—Subject to section
3 202(h)(3), in addition to other funds made
4 available to the Administrator to carry out the
5 monitoring of emergency food assistance, the
6 Administrator may implement this subsection
7 using up to \$22,000,000 of the funds made
8 available under this title for each of fiscal years
9 2009 through 2012, except for paragraph
10 (2)(F), for which only \$2,500,000 shall be
11 made available during fiscal year 2009.

12 ““(B) LIMITATIONS.—

13 ““(i) IN GENERAL.—Subject to clause
14 (ii), of the funds made available under sub-
15 paragraph (A), for each of fiscal years
16 2009 through 2012, not more than
17 \$8,000,000 may be used by the Adminis-
18 trator to carry out paragraph (2)(E).

19 ““(ii) CONDITION.—No funds shall be
20 made available under subparagraph (A), in
21 accordance with clause (i), unless not less
22 than \$8,000,000 is made available under
23 chapter 1 of part I of the Foreign Assist-
24 ance Act of 1961 (22 U.S.C. 2151 et seq.)
25 for such purposes for such fiscal year.

1 “(g) PROJECT REPORTING.—

2 “(1) IN GENERAL.—In submitting project re-
 3 ports to the Administrator, a private voluntary orga-
 4 nization or cooperative shall provide a copy of the
 5 report in such form as is necessary for the report to
 6 be displayed for public use on the website of the
 7 United States Agency for International Develop-
 8 ment.

9 “(2) CONFIDENTIAL INFORMATION.—An orga-
 10 nization or cooperative described in paragraph (1)
 11 may omit any confidential information from the copy
 12 of the report submitted for public display under that
 13 paragraph.’.

14 **“SEC. 3013. ASSISTANCE FOR STOCKPILING AND RAPID**
 15 **TRANSPORTATION, DELIVERY, AND DIS-**
 16 **TRIBUTION OF SHELF-STABLE PRE-**
 17 **PACKAGED FOODS.**

18 “Section 208(f) of the Food for Peace Act (7 U.S.C.
 19 1726b(f)) is amended—

20 “(1) by striking ‘\$3,000,000’ and inserting
 21 ‘\$8,000,000’; and

22 “(2) by striking ‘2007’ and inserting ‘2012’.

23 **“SEC. 3014. GENERAL AUTHORITIES AND REQUIREMENTS.**

24 “(a) IN GENERAL.—Section 401 of the Food for
 25 Peace Act (7 U.S.C. 1731) is amended—

1 “(1) by striking subsection (a);

2 “(2) by redesignating subsections (b) and (c) as
3 subsections (a) and (b), respectively; and

4 “(3) in subsection (b) (as so redesignated), by
5 striking ‘(b)(1)’ and inserting ‘(a)(1)’.

6 “(b) CONFORMING AMENDMENTS.—

7 “(1) Section 406(a) of the Food for Peace Act
8 (7 U.S.C. 1736(a)) is amended by striking ‘(that
9 have been determined to be available under section
10 401(a))’.

11 “(2) Subsection (e)(1) of the Food for Progress
12 Act of 1985 (7 U.S.C. 1736o(e)(1)) is amended by
13 striking ‘determined to be available under section
14 401 of the Food for Peace Act’.

15 **“SEC. 3015. DEFINITIONS.**

16 “Section 402 of the Food for Peace Act (7 U.S.C.
17 1732) is amended—

18 “(1) by redesignating paragraphs (3) through
19 (8) as paragraphs (4) through (9), respectively; and

20 “(2) by inserting after paragraph (2) the fol-
21 lowing:

22 ““(3) APPROPRIATE COMMITTEE OF CON-
23 GRESS.—The term “appropriate committee of Con-
24 gress” means—

1 “(A) the Committee on Agriculture, Nu-
2 trition, and Forestry of the Senate;

3 “(B) the Committee on Agriculture of the
4 House of Representatives; and

5 “(C) the Committee on Foreign Affairs of
6 the House of Representatives.’.

7 **“SEC. 3016. USE OF COMMODITY CREDIT CORPORATION.**

8 “Section 406(b)(2) of the Food for Peace Act (7
9 U.S.C. 1736(b)(2)) is amended by inserting ‘, including
10 the costs of carrying out section 415’ before the semicolon.

11 **“SEC. 3017. ADMINISTRATIVE PROVISIONS.**

12 “Section 407(c) of the Food for Peace Act (7 U.S.C.
13 1736a(c)) is amended—

14 “(1) in paragraph (4)—

15 “(A) by striking ‘Funds made’ and insert-
16 ing the following:

17 “‘(A) IN GENERAL.—Funds made’;

18 “(B) in subparagraph (A) (as so des-
19 ignated)—

20 “(i) by striking ‘2007’ and inserting
21 ‘2012’; and

22 “(ii) by striking ‘\$2,000,000’ and in-
23 serting ‘\$10,000,000’; and

24 “(C) by adding at the end the following:

1 “(B) ADDITIONAL PREPOSITIONING
2 SITES.—

3 “(i) FEASIBILITY ASSESSMENTS.—

4 The Administrator may carry out assess-
5 ments for the establishment of not less
6 than 2 sites to determine the feasibility of,
7 and costs associated with, using the sites
8 to store and handle agricultural commod-
9 ities for prepositioning in foreign countries.

10 “(ii) ESTABLISHMENT OF SITES.—

11 Based on the results of each assessment
12 carried out under clause (i), the Adminis-
13 trator may establish additional sites for
14 prepositioning in foreign countries.’; and

15 “(2) by adding at the end the following:

16 “(5) NONEMERGENCY OR MULTIYEAR AGREE-
17 MENTS.—Annual resource requests for ongoing non-
18 emergency or ongoing multiyear agreements under
19 title II shall be finalized not later than October 1 of
20 the fiscal year in which the agricultural commodities
21 will be shipped under the agreement.’.

1 **“SEC. 3018. CONSOLIDATION AND MODIFICATION OF AN-**
2 **NUAL REPORTS REGARDING AGRICULTURAL**
3 **TRADE ISSUES.**

4 “(a) ANNUAL REPORTS.—Section 407 of the Food
5 for Peace Act (7 U.S.C. 1736a) is amended by striking
6 subsection (f) and inserting the following:

7 ““(f) ANNUAL REPORTS.—

8 ““(1) ANNUAL REPORT REGARDING AGRICUL-
9 TURAL TRADE PROGRAMS AND ACTIVITIES.—

10 ““(A) ANNUAL REPORT.—Not later than
11 April 1 of each fiscal year, the Administrator
12 and the Secretary shall jointly prepare and sub-
13 mit to the appropriate committees of Congress
14 a report regarding each program and activity
15 carried out under this Act during the prior fis-
16 cal year.

17 ““(B) CONTENTS.—An annual report de-
18 scribed in subparagraph (A) shall include, with
19 respect to the prior fiscal year—

20 ““(i) a list that contains a description
21 of each country and organization that re-
22 ceives food and other assistance under this
23 Act (including the quantity of food and as-
24 sistance provided to each country and or-
25 ganization);

1 “(ii) a general description of each
2 project and activity implemented under
3 this Act (including each activity funded
4 through the use of local currencies);

5 “(iii) a statement describing the
6 quantity of agricultural commodities made
7 available to each country pursuant to—

8 “(I) section 416(b) of the Agri-
9 cultural Act of 1949 (7 U.S.C.
10 1431(b)); and

11 “(II) the Food for Progress Act
12 of 1985 (7 U.S.C. 1736o);

13 “(iv) an assessment of the progress
14 made through programs under this Act to-
15 wards reducing food insecurity in the pop-
16 ulations receiving food assistance from the
17 United States;

18 “(v) a description of efforts under-
19 taken by the Food Aid Consultative Group
20 under section 205 to achieve an integrated
21 and effective food assistance program;

22 “(vi) an assessment of—

23 “(I) each program oversight,
24 monitoring, and evaluation system im-
25 plemented under section 207(f); and

1 “(II) the impact of each pro-
 2 gram oversight, monitoring, and eval-
 3 uation system on the effectiveness and
 4 efficiency of assistance provided under
 5 this title; and

6 “(vii) an assessment of the progress
 7 made by the Administrator in addressing
 8 issues relating to quality with respect to
 9 the provision of food assistance.

10 “(2) ANNUAL REPORT REGARDING THE PROVI-
 11 SION OF AGRICULTURAL COMMODITIES TO FOREIGN
 12 COUNTRIES.—

13 “(A) ANNUAL REPORT.—Not later than
 14 February 1 of each fiscal year, the Adminis-
 15 trator shall prepare and submit to the appro-
 16 priate committees of Congress a report regard-
 17 ing the administration of food assistance pro-
 18 grams under title II to benefit foreign countries
 19 during the prior fiscal year.

20 “(B) CONTENTS.—An annual report de-
 21 scribed in subparagraph (A) shall include, with
 22 respect to the prior fiscal year—

23 “(i) a list that contains a description
 24 of each program, country, and commodity

1 approved for assistance under section 207;
2 and
3 “(ii) a statement that contains a de-
4 scription of the total amount of funds ap-
5 proved for transportation and administra-
6 tive costs under section 207.’.

7 “(b) CONFORMING AMENDMENT.—Section 207(e) of
8 the Food for Peace Act (7 U.S.C. 1726a(e)) is amended—
9 “(1) by striking ‘TIMELY APPROVAL.’ and all
10 that follows through ‘The Administrator’ and insert-
11 ing ‘TIMELY APPROVAL.—The Administrator’; and
12 “(2) by striking paragraph (2).

13 **“SEC. 3019. EXPIRATION OF ASSISTANCE.**

14 “Section 408 of the Food for Peace Act (7 U.S.C.
15 1736b) is amended by striking ‘2007’ and inserting
16 ‘2012’.

17 **“SEC. 3020. AUTHORIZATION OF APPROPRIATIONS.**

18 “Section 412 of the Food for Peace Act (7 U.S.C.
19 1736f) is amended by striking subsection (a) and inserting
20 the following:

21 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated—

23 “(1) for fiscal year 2008 and each fiscal year
24 thereafter, \$2,500,000,000 to carry out the emer-

1 agency and nonemergency food assistance programs
 2 under title II; and

3 ““(2) such sums as are necessary—

4 ““(A) to carry out the concessional credit
 5 sales program established under title I;

6 ““(B) to carry out the grant program es-
 7 tablished under title III; and

8 ““(C) to make payments to the Commodity
 9 Credit Corporation to the extent the Commodity
 10 Credit Corporation is not reimbursed under the
 11 programs under this Act for the actual costs in-
 12 curred or to be incurred by the Commodity
 13 Credit Corporation in carrying out such pro-
 14 grams.’.

15 **“SEC. 3021. MINIMUM LEVEL OF NONEMERGENCY FOOD AS-**
 16 **SISTANCE.**

17 ““Section 412 of the Food for Peace Act (7 U.S.C.
 18 1736f) is amended by adding at the end the following:

19 ““(e) MINIMUM LEVEL OF NONEMERGENCY FOOD
 20 ASSISTANCE.—

21 ““(1) FUNDS AND COMMODITIES.—Of the
 22 amounts made available to carry out emergency and
 23 nonemergency food assistance programs under title
 24 II, not less than \$375,000,000 for fiscal year 2009,
 25 \$400,000,000 for fiscal year 2010, \$425,000,000 for

1 fiscal year 2011, and \$450,000,000 for fiscal year
2 2012 shall be expended for nonemergency food as-
3 sistance programs under title II.

4 “(2) EXCEPTION.—The President may use less
5 than the amount specified in paragraph (1) in a fis-
6 cal year for nonemergency food assistance programs
7 under title II only if—

8 “(A) the President has made a determina-
9 tion that there is an urgent need for additional
10 emergency food assistance;

11 “(B) the funds and commodities held in
12 the Bill Emerson Humanitarian Trust have
13 been exhausted; and

14 “(C) the President has submitted to Con-
15 gress a supplemental appropriations request for
16 a sum equal to the amount needed to reach the
17 required spending level for nonemergency food
18 assistance under paragraph (1) and the amount
19 exhausted under paragraph (2)(B).

20 “(3) NOTIFICATION TO CONGRESS.—If the
21 President makes the determination described in
22 paragraph (2)(A), the President shall submit to
23 Congress written notification that the determination
24 has been made.’.

1 **“SEC. 3022. COORDINATION OF FOREIGN ASSISTANCE PRO-**
 2 **GRAMS.**

3 “Section 413 of the Food for Peace Act (7 U.S.C.
 4 1736g) is amended—

5 “(1) by striking ‘To the maximum’ and insert-
 6 ing the following:

7 “‘(a) IN GENERAL.—To the maximum’; and

8 “(2) by adding at the end the following:

9 “‘(b) REPORT REGARDING EFFORTS TO IMPROVE
 10 PROCUREMENT PLANNING.—

11 “‘(1) REPORT REQUIRED.—Not later than 90
 12 days after the date of enactment of the Food, Con-
 13 servation, and Energy Act of 2008, the Adminis-
 14 trator and the Secretary shall submit to each appro-
 15 priate committee of Congress a report that contains
 16 a description of each effort taken by the Adminis-
 17 trator and the Secretary to improve planning for
 18 food and transportation procurement (including ef-
 19 forts to eliminate bunching of food purchases).

20 “‘(2) CONTENTS.—A report required under
 21 paragraph (1) should include a description of each
 22 effort taken by the Administrator and the Sec-
 23 retary—

24 “‘(A) to improve the coordination of food
 25 purchases made by—

1 “(i) the United States Agency for
2 International Development; and

3 “(ii) the Department of Agriculture;
4 “(B) to increase flexibility with respect to
5 procurement schedules;

6 “(C) to increase the use of historical anal-
7 yses and forecasting; and

8 “(D) to improve and streamline legal
9 claims processes for resolving transportation
10 disputes.’.

11 **“SEC. 3023. MICRONUTRIENT FORTIFICATION PROGRAMS.**

12 “Section 415 of the Food for Peace Act (7 U.S.C.
13 1736g–2) is amended—

14 “(1) in subsection (a)—

15 “(A) in paragraph (1), by striking ‘Not
16 later than September 30, 2003, the Adminis-
17 trator, in consultation with the Secretary’ and
18 inserting ‘Not later than September 30, 2008,
19 the Administrator, in consultation with the Sec-
20 retary’; and

21 “(B) in paragraph (2)—

22 “(i) in subparagraph (A), by adding
23 ‘and’ after the semicolon at the end; and

24 “(ii) by striking subparagraphs (B)
25 and (C) and inserting the following:

1 “(B) assess and apply technologies and
 2 systems to improve and ensure the quality, shelf
 3 life, bioavailability, and safety of fortified food
 4 aid agricultural commodities, and products of
 5 those agricultural commodities, using rec-
 6 ommendations included in the report entitled
 7 “Micronutrient Compliance Review of Fortified
 8 Public Law 480 Commodities”, published in
 9 October 2001, with implementation by inde-
 10 pendent entities with proven experience and ex-
 11 pertise in food aid commodity quality enhance-
 12 ments.’;

13 “(2) by striking subsection (b) and redesign-
 14 nating subsections (c) and (d) as subsections (b) and
 15 (c), respectively; and

16 “(3) in subsection (c) (as redesignated by para-
 17 graph (2)), by striking ‘2007’ and inserting ‘2012’.

18 **“SEC. 3024. JOHN OGONOWSKI AND DOUG BEREUTER**

19 **FARMER-TO-FARMER PROGRAM.**

20 “(a) MINIMUM FUNDING.—Section 501(d) of the
 21 Food for Peace Act (7 U.S.C. 1737(d)) is amended in the
 22 matter preceding paragraph (1)—

23 “(1) by striking ‘not less than’ and inserting
 24 ‘not less than the greater of \$10,000,000 or’; and

1 “(2) by striking ‘2002 through 2007’ and in-
 2 serting ‘2008 through 2012’.

3 “(b) AUTHORIZATION OF APPROPRIATIONS.—Section
 4 501(e) of the Food for Peace Act (7 U.S.C. 1737(e)) is
 5 amended by striking paragraph (1) and inserting the fol-
 6 lowing:

7 ““(1) IN GENERAL.—There are authorized to
 8 be appropriated for each of fiscal years 2008
 9 through 2012 to carry out the programs under this
 10 section—

11 ““(A) \$10,000,000 for sub-Saharan Afri-
 12 can and Caribbean Basin countries; and

13 ““(B) \$5,000,000 for other developing or
 14 middle-income countries or emerging markets
 15 not described in subparagraph (A).’.

16 **“Subtitle B—Agricultural Trade**
 17 **Act of 1978 and Related Statutes**

18 **“SEC. 3101. EXPORT CREDIT GUARANTEE PROGRAM.**

19 “(a) REPEAL OF SUPPLIER CREDIT GUARANTEE
 20 PROGRAM AND INTERMEDIATE EXPORT CREDIT GUAR-
 21 ANTEE PROGRAM.—Section 202 of the Agricultural Trade
 22 Act of 1978 (7 U.S.C. 5622) is amended—

23 “(1) in subsection (a)—

24 “(A) by striking ‘GUARANTEES.—’ and all
 25 that follows through ‘The Commodity’ in para-

1 graph (1) and inserting ‘GUARANTEES.—The
2 Commodity’; and

3 “(B) by striking paragraphs (2) and (3);

4 “(2) by striking subsections (b) and (c);

5 “(3) by redesignating subsections (d) through
6 (l) as subsections (b) through (j), respectively; and

7 “(4) by adding at the end the following:

8 ““(k) ADMINISTRATION.—

9 ““(1) DEFINITION OF LONG TERM.—In this
10 subsection, the term “long term” means a period of
11 10 or more years.

12 ““(2) GUARANTEES.—In administering the ex-
13 port credit guarantees authorized under this section,
14 the Secretary shall—

15 ““(A) maximize the export sales of agricul-
16 tural commodities;

17 ““(B) maximize the export credit guaran-
18 tees that are made available and used during
19 the course of a fiscal year;

20 ““(C) develop an approach to risk evalua-
21 tion that facilitates accurate country risk des-
22 ignations and timely adjustments to the des-
23 ignations (on an ongoing basis) in response to
24 material changes in country risk conditions,

1 with ongoing opportunity for input and evalua-
 2 tion from the private sector;

3 ““(D) adjust risk-based guarantees as nec-
 4 essary to ensure program effectiveness and
 5 United States competitiveness; and

6 ““(E) work with industry to ensure, to the
 7 maximum extent practicable, that risk-based
 8 fees associated with the guarantees cover, but
 9 do not exceed, the operating costs and losses
 10 over the long term.’.

11 ““(b) FUNDING LEVELS.—Section 211 of the Agricul-
 12 tural Trade Act of 1978 (7 U.S.C. 5641) is amended by
 13 striking subsection (b) and inserting the following:

14 ““(b) EXPORT CREDIT GUARANTEE PROGRAMS.—
 15 The Commodity Credit Corporation shall make available
 16 for each of fiscal years 1996 through 2012 credit guaran-
 17 tees under section 202(a) in an amount equal to but not
 18 more than the lesser of—

19 ““(1) \$5,500,000,000 in credit guarantees; or

20 ““(2) the sum of—

21 ““(A) the amount of credit guarantees that
 22 the Commodity Credit Corporation can make
 23 available using budget authority of \$40,000,000
 24 for each fiscal year for the costs of the credit
 25 guarantees; and

1 “(B) the amount of credit guarantees that
 2 the Commodity Credit Corporation can make
 3 available using unobligated budget authority for
 4 prior fiscal years.’.

5 “(c) CONFORMING AMENDMENTS.—Section 202 of
 6 the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is
 7 amended—

8 “(1) in subsection (b)(4) (as redesignated by
 9 subsection (a)(3)), by striking ‘, consistent with the
 10 provisions of subsection (c)’;

11 “(2) in subsection (d) (as redesignated by sub-
 12 section (a)(3))—

13 “(A) by striking ‘(1)’ and all that follows
 14 through ‘The Commodity’ and inserting ‘The
 15 Commodity’; and

16 “(B) by striking paragraph (2); and

17 “(3) in subsection (g)(2) (as redesignated by
 18 subsection (a)(3)), by striking ‘subsections (a) and
 19 (b)’ and inserting ‘subsection (a)’.

20 **“SEC. 3102. MARKET ACCESS PROGRAM.**

21 “(a) ORGANIC COMMODITIES.—Section 203(a) of the
 22 Agricultural Trade Act of 1978 (7 U.S.C. 5623(a)) is
 23 amended by inserting after ‘agricultural commodities’ the
 24 following: ‘(including commodities that are organically

1 produced (as defined in section 2103 of the Organic Foods
2 Production Act of 1990 (7 U.S.C. 6502)))’.

3 “(b) FUNDING.—Section 211(c)(1)(A) of the Agricul-
4 tural Trade Act of 1978 (7 U.S.C. 5641(c)(1)(A)) is
5 amended by striking ‘\$200,000,000 for each of fiscal years
6 2006 and 2007’ and inserting ‘\$200,000,000 for each of
7 fiscal years 2008 through 2012’.

8 **“SEC. 3103. EXPORT ENHANCEMENT PROGRAM.**

9 “(a) IN GENERAL.—Section 301 of the Agricultural
10 Trade Act of 1978 (7 U.S.C. 5651) is repealed.

11 “(b) CONFORMING AMENDMENTS.—The Agricultural
12 Trade Act of 1978 is amended—

13 “(1) in title III, by striking the title heading
14 and inserting the following:

15 **“‘TITLE III—BARRIERS TO**
16 **EXPORTS’;**

17 “(2) by redesignating sections 302 and 303 (7
18 U.S.C. 5652 and 5653) as sections 301 and 302, re-
19 spectively;

20 “(3) in section 302 (as redesignated by para-
21 graph (2)), by striking ‘, such as that established
22 under section 301,’;

23 “(4) in section 401 (7 U.S.C. 5661)—

1 “(A) in subsection (a), by striking ‘section
2 201, 202, or 301’ and inserting ‘section 201 or
3 202’; and

4 “(B) in subsection (b), by striking ‘sections
5 201, 202, and 301’ and inserting ‘sections 201
6 and 202’; and

7 “(5) in section 402(a)(1) (7 U.S.C.
8 5662(a)(1)), by striking ‘sections 201, 202, 203, and
9 301’ and inserting ‘sections 201, 202, and 203’.

10 **“SEC. 3104. FOREIGN MARKET DEVELOPMENT COOP-**
11 **ERATOR PROGRAM.**

12 “(a) REPORT TO CONGRESS.—Section 702(c) of the
13 Agricultural Trade Act of 1978 (7 U.S.C. 5722(c)) is
14 amended by striking ‘Committee on International Rela-
15 tions’ and inserting ‘Committee on Foreign Affairs’.

16 “(b) FUNDING.—Section 703(a) of the Agricultural
17 Trade Act of 1978 (7 U.S.C. 5723(a)) is amended by
18 striking ‘2002 through 2007’ and inserting ‘2008 through
19 2012’.

20 **“SEC. 3105. FOOD FOR PROGRESS ACT OF 1985.**

21 “(a) IN GENERAL.—The Food for Progress Act of
22 1985 (7 U.S.C. 1736o) is amended by striking ‘2007’ each
23 place it appears and inserting ‘2012’.

24 “(b) DESIGNATION OF PROJECT IN SUB-SAHARAN
25 AFRICA.—The Food for Progress Act of 1985 (7 U.S.C.

1 1736o) is amended in subsection (f) by adding at the end
 2 the following:

3 ““(6) PROJECT IN MALAWI.—

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

8 ““(i) to promote sustainable agri-
 9 culture; and

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

12 ““(B) USE OF ELIGIBLE COMMODITIES.—

13 Of the eligible commodities used to carry out
 14 this section during the period in which the
 15 project described in subparagraph (A) is carried
 16 out, the President shall carry out the project
 17 using eligible commodities with a total value of
 18 not less than \$3,000,000 during the course of
 19 the project.’.

20 **“SEC. 3106. MCGOVERN-DOLE INTERNATIONAL FOOD FOR**
 21 **EDUCATION AND CHILD NUTRITION PRO-**
 22 **GRAM.**

23 “Section 3107 of the Farm Security and Rural In-
 24 vestment Act of 2002 (7 U.S.C. 1736o–1) is amended—

1 “(1) in subsections (b), (c)(2)(B), (f)(1), (h),
 2 (i), and (l)(1), by striking ‘President’ each place it
 3 appears and inserting ‘Secretary’;

4 “(2) in subsection (d), by striking ‘The Presi-
 5 dent shall designate 1 or more Federal agencies’ and
 6 inserting ‘The Secretary shall’;

7 “(3) in paragraph (f)(2), by striking ‘imple-
 8 menting agency’ and inserting ‘Secretary’; and

9 “(4) in subsection (l)—

10 “(A) by striking paragraph (1) and insert-
 11 ing the following:

12 “‘(1) USE OF COMMODITY CREDIT CORPORA-
 13 TION FUNDS.—Of the funds of the Commodity Cred-
 14 it Corporation, the Secretary shall use to carry out
 15 this section \$84,000,000 for fiscal year 2009, to re-
 16 main available until expended.’;

17 “(B) in paragraph (2), by striking ‘2004
 18 through 2007’ and inserting ‘2008 through
 19 2012’; and

20 “(C) in paragraph (3), by striking ‘any
 21 Federal agency implementing or assisting’ and
 22 inserting ‘the Department of Agriculture or any
 23 other Federal agency assisting’.

1 **“Subtitle C—Miscellaneous**

2 **“SEC. 3201. BILL EMERSON HUMANITARIAN TRUST.**

3 “Section 302 of the Bill Emerson Humanitarian
4 Trust Act (7 U.S.C. 1736f–1) is amended—

5 “(1) in subsection (a)—

6 “(A) by striking ‘establish a trust stock’
7 and inserting ‘establish and maintain a trust’;
8 and

9 “(B) by striking ‘or any combination of the
10 commodities, totaling not more than 4,000,000
11 metric tons’ and inserting ‘any combination of
12 the commodities, or funds’;

13 “(2) in subsection (b)—

14 “(A) in paragraph (1), by striking sub-
15 paragraph (D) and inserting the following:

16 ““(D) funds made available—

17 ““(i) under paragraph (2)(B);

18 ““(ii) as a result of an exchange of
19 any commodity held in the trust for an
20 equivalent amount of funds from the mar-
21 ket, if the Secretary determines that such
22 a sale of the commodity on the market will
23 not unduly disrupt domestic markets; or

1 “(iii) to maximize the value of the
2 trust, in accordance with subsection
3 (d)(3).’; and
4 “(B) in paragraph (2)(B)—
5 “(i) in clause (i)—
6 “(I) by striking ‘2007’ each place
7 it appears and inserting ‘2012’;
8 “(II) by striking ‘(c)(2)’ and in-
9 serting ‘(c)(1)’; and
10 “(III) by striking ‘and’ at the
11 end;
12 “(ii) in clause (ii), by striking the pe-
13 riod at the end and inserting ‘; or’; and
14 “(iii) by adding at the end the fol-
15 lowing:
16 ““(iii) from funds accrued through the
17 management of the trust under subsection
18 (d).’;
19 “(3) in subsection (c)—
20 “(A) by striking paragraphs (1) and (2)
21 and inserting the following:
22 ““(1) RELEASES FOR EMERGENCY ASSIST-
23 ANCE.—
24 ““(A) DEFINITION OF EMERGENCY.—

1 “(i) IN GENERAL.—In this para-
 2 graph, the term “emergency” means an ur-
 3 gent situation—

4 “(I) in which there is clear evi-
 5 dence that an event or series of events
 6 described in clause (ii) has occurred—

7 “(aa) that causes human
 8 suffering; and

9 “(bb) for which a govern-
 10 ment concerned has not chosen,
 11 or has not the means, to remedy;
 12 or

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

18 “(ii) EVENT OR SERIES OF
 19 EVENTS.—An event or series of events re-
 20 ferred to in clause (i) includes 1 or more
 21 of—

22 “(I) a sudden calamity, such as
 23 an earthquake, flood, locust infesta-
 24 tion, or similar unforeseen disaster;

1 “(II) a human-made emergency
2 resulting in—

3 “(aa) a significant influx of
4 refugees;

5 “(bb) the internal displace-
6 ment of populations; or

7 “(cc) the suffering of other-
8 wise affected populations;

9 “(III) food scarcity conditions
10 caused by slow-onset events, such as
11 drought, crop failure, pest infestation,
12 and disease, that result in an erosion
13 of the ability of communities and vul-
14 nerable populations to meet food
15 needs; and

16 “(IV) severe food access or
17 availability conditions resulting from
18 sudden economic shocks, market fail-
19 ure, or economic collapse, that result
20 in an erosion of the ability of commu-
21 nities and vulnerable populations to
22 meet food needs.

23 “(B) RELEASES.—

24 “(i) IN GENERAL.—Any funds or
25 commodities held in the trust may be re-

1 leased to provide food, and cover any asso-
2 ciated costs, under title II of the Food for
3 Peace Act (7 U.S.C. 1721 et seq.)—

4 ““(I) to assist in averting an
5 emergency, including during the pe-
6 riod immediately preceding the emer-
7 gency;

8 ““(II) to respond to an emer-
9 gency; or

10 ““(III) for recovery and rehabili-
11 tation after an emergency.

12 ““(ii) PROCEDURE.—A release under
13 clause (i) shall be carried out in the same
14 manner, and pursuant to the same author-
15 ity as provided in title II of that Act.

16 ““(C) INSUFFICIENCY OF OTHER
17 FUNDS.—The funds and commodities held in
18 the trust shall be made immediately available
19 on a determination by the Administrator that
20 funds available for emergency needs under title
21 II of that Act (7 U.S.C. 1721 et seq.) for a fis-
22 cal year are insufficient to meet emergency
23 needs during the fiscal year.

24 ““(D) WAIVER RELATING TO MINIMUM
25 TONNAGE REQUIREMENTS.—Nothing in this

paragraph requires a waiver by the Administrator of the Agency for International Development under section 204(a)(3) of the Food for Peace Act (7 U.S.C. 1724(a)(3)) as a condition for a release of funds or commodities under subparagraph (B).’; and

“(B) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

“(4) in subsection (d)—

“(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting the subparagraphs appropriately;

“(B) by striking the subsection designation and heading and all that follows through ‘provide—’ and inserting the following:

“(d) MANAGEMENT OF TRUST.—

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

“(2) ELIGIBLE COMMODITIES.—The Secretary shall provide—’;

1 “(C) in paragraph (2) (as redesignated by
2 subparagraph (B))—

3 “(i) in subparagraph (B) (as redesign-
4 nated by subparagraph (A)), by striking
5 ‘and’ at the end; and

6 “(ii) in subparagraph (C) (as redesign-
7 nated by subparagraph (A)), by striking
8 the period at the end and inserting ‘; and’;
9 and

10 “(D) by adding at the end the following:

11 ““(3) FUNDS.—

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

18 ““(B) INVESTMENT.—The Secretary may
19 invest funds held in the trust in any short-term
20 obligation of the United States or any other
21 low-risk short-term instrument or security in-
22 sured by the Federal Government in which a
23 regulated insurance company may invest under
24 the laws of the District of Columbia.’; and

1 “(5) in subsection (h), in each of paragraphs
 2 (1) and (2), by striking ‘2007’ each place it appears
 3 and inserting ‘2012’.

4 **“SEC. 3202. GLOBAL CROP DIVERSITY TRUST.**

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

12 “(1) the maintenance and storage of seed col-
 13 lections;

14 “(2) the documentation and cataloguing of the
 15 genetics and characteristics of conserved seeds to en-
 16 sure efficient reference for researchers, plant breed-
 17 ers, and the public;

18 “(3) building the capacity of seed collection in
 19 developing countries;

20 “(4) making information regarding crop genetic
 21 data publicly available for researchers, plant breed-
 22 ers, and the public (including through the provision
 23 of an accessible Internet website);

24 “(5) the operation and maintenance of a back-
 25 up facility in which are stored duplicate samples of

1 seeds, in the case of natural or man-made disasters;
 2 and

3 “(6) oversight designed to ensure international
 4 coordination of those actions and efficient, public ac-
 5 cessibility to that diversity through a cost-effective
 6 system.

7 “(b) UNITED STATES CONTRIBUTION LIMIT.—The
 8 aggregate contributions of funds of the Federal Govern-
 9 ment provided to the Trust shall not exceed 25 percent
 10 of the total amount of funds contributed to the Trust from
 11 all sources.

12 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
 13 is authorized to be appropriated to carry out this section
 14 \$60,000,000 for the period of fiscal years 2008 through
 15 2012.

16 **“SEC. 3203. TECHNICAL ASSISTANCE FOR SPECIALTY**
 17 **CROPS.**

18 “Section 3205 of the Farm Security and Rural In-
 19 vestment Act of 2002 (7 U.S.C. 5680) is amended by
 20 striking subsection (d) and inserting the following:

21 ““(d) ANNUAL REPORT.—Not later than 180 days
 22 after the date of enactment of the Food, Conservation, and
 23 Energy Act of 2008 and annually thereafter, the Secretary
 24 shall submit to the appropriate committees of Congress
 25 a report that contains, for the period covered by the re-

1 port, a description of each factor that affects the export
 2 of specialty crops, including each factor relating to any—

3 “‘(1) significant sanitary or phytosanitary
 4 issue; or

5 “‘(2) trade barrier.

6 “‘(e) FUNDING.—

7 “‘(1) COMMODITY CREDIT CORPORATION.—The
 8 Secretary shall use the funds, facilities, and authori-
 9 ties of the Commodity Credit Corporation to carry
 10 out this section.

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

14 “‘(A) \$4,000,000 for fiscal year 2008;

15 “‘(B) \$7,000,000 for fiscal year 2009;

16 “‘(C) \$8,000,000 for fiscal year 2010;

17 “‘(D) \$9,000,000 for fiscal year 2011; and

18 “‘(E) \$9,000,000 for fiscal year 2012.’.

19 **“SEC. 3204. EMERGING MARKETS AND FACILITY GUAR-**
 20 **ANTEE LOAN PROGRAM.**

21 “Section 1542 of the Food, Agriculture, Conserva-
 22 tion, and Trade Act of 1990 (7 U.S.C. 5622 note; Public
 23 Law 101–624) is amended—

24 “(1) in subsection (a), by striking ‘2007’ and
 25 inserting ‘2012’;

1 “(2) in subsection (b)—

2 “(A) in the first sentence, by redesignating
3 paragraphs (1) and (2) as subparagraphs (A)
4 and (B), respectively, and indenting appro-
5 priately;

6 “(B) by striking ‘A portion’ and inserting
7 the following:

8 “‘(1) IN GENERAL.—A portion’;

9 “(C) in the second sentence, by striking
10 ‘The Commodity Credit Corporation’ and in-
11 serting the following:

12 “‘(2) PRIORITY.—The Commodity Credit Cor-
13 poration’; and

14 “(D) by adding at the end the following:

15 “‘(3) CONSTRUCTION WAIVER.—The Secretary
16 may waive any applicable requirements relating to
17 the use of United States goods in the construction
18 of a proposed facility, if the Secretary determines
19 that—

20 “‘(A) goods from the United States are
21 not available; or

22 “‘(B) the use of goods from the United
23 States is not practicable.

1 “(4) TERM OF GUARANTEE.—A facility pay-
 2 ment guarantee under this subsection shall be for a
 3 term that is not more than the lesser of—

4 “(A) the term of the depreciation schedule
 5 of the facility assisted; or

6 “(B) 20 years.’; and

7 “(3) in subsection (d)(1)(A)(i) by striking
 8 ‘2007’ and inserting ‘2012’.

9 **“SEC. 3205. CONSULTATIVE GROUP TO ELIMINATE THE USE**
 10 **OF CHILD LABOR AND FORCED LABOR IN IM-**
 11 **PORTED AGRICULTURAL PRODUCTS.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) CHILD LABOR.—The term ‘child labor’
 14 means the worst forms of child labor as defined in
 15 International Labor Convention 182, the Convention
 16 Concerning the Prohibition and Immediate Action
 17 for the Elimination of the Worst Forms of Child
 18 Labor, done at Geneva on June 17, 1999.

19 “(2) CONSULTATIVE GROUP.—The term ‘Con-
 20 sultative Group’ means the Consultative Group to
 21 Eliminate the Use of Child Labor and Forced Labor
 22 in Imported Agricultural Products established under
 23 subsection (b).

24 “(3) FORCED LABOR.—The term ‘forced labor’
 25 means all work or service—

1 “(A) that is exacted from any individual
2 under menace of any penalty for nonperform-
3 ance of the work or service, and for which—

4 “(i) the work or service is not offered
5 voluntarily; or

6 “(ii) the work or service is performed
7 as a result of coercion, debt bondage, or
8 involuntary servitude (as those terms are
9 defined in section 103 of the Trafficking
10 Victims Protection Act of 2000 (22 U.S.C.
11 7102)); and

12 “(B) by 1 or more individuals who, at the
13 time of performing the work or service, were
14 being subjected to a severe form of trafficking
15 in persons (as that term is defined in that sec-
16 tion).

17 “(b) ESTABLISHMENT.—There is established a group
18 to be known as the ‘Consultative Group to Eliminate the
19 Use of Child Labor and Forced Labor in Imported Agri-
20 cultural Products’ to develop recommendations relating to
21 guidelines to reduce the likelihood that agricultural prod-
22 ucts or commodities imported into the United States are
23 produced with the use of forced labor and child labor.

24 “(c) DUTIES.—

1 “(1) IN GENERAL.—Not later than 2 years
2 after the date of enactment of this Act and in ac-
3 cordance with section 105(d) of the Trafficking Vic-
4 tims Protection Act of 2000 (22 U.S.C. 7103(d)), as
5 applicable to the importation of agricultural prod-
6 ucts made with the use of child labor or forced
7 labor, the Consultative Group shall develop, and sub-
8 mit to the Secretary, recommendations relating to a
9 standard set of practices for independent, third-
10 party monitoring and verification for the production,
11 processing, and distribution of agricultural products
12 or commodities to reduce the likelihood that agricul-
13 tural products or commodities imported into the
14 United States are produced with the use of forced
15 labor or child labor.

16 “(2) GUIDELINES.—

17 “(A) IN GENERAL.—Not later than 1 year
18 after the date on which the Secretary receives
19 recommendations under paragraph (1), the Sec-
20 retary shall release guidelines for a voluntary
21 initiative to enable entities to address issues
22 raised by the Trafficking Victims Protection
23 Act of 2000 (22 U.S.C. 7101 et seq.).

24 “(B) REQUIREMENTS.—Guidelines re-
25 leased under subparagraph (A) shall be pub-

1 lished in the Federal Register and made avail-
2 able for public comment for a period of 90
3 days.

4 “(d) MEMBERSHIP.—The Consultative Group shall
5 be composed of not more than 13 individuals, of whom—

6 “(1) 2 members shall represent the Department
7 of Agriculture, as determined by the Secretary;

8 “(2) 1 member shall be the Deputy Under Sec-
9 retary for International Affairs of the Department of
10 Labor;

11 “(3) 1 member shall represent the Department
12 of State, as determined by the Secretary of State;

13 “(4) 3 members shall represent private agri-
14 culture-related enterprises, which may include retail-
15 ers, food processors, importers, and producers, of
16 whom at least 1 member shall be an importer, food
17 processor, or retailer who utilizes independent, third-
18 party supply chain monitoring for forced labor or
19 child labor;

20 “(5) 2 members shall represent institutions of
21 higher education and research institutions, as deter-
22 mined appropriate by the Bureau of International
23 Labor Affairs of the Department of Labor;

24 “(6) 1 member shall represent an organization
25 that provides independent, third-party certification

1 services for labor standards for producers or import-
2 ers of agricultural commodities or products; and

3 “(7) 3 members shall represent organizations
4 described in section 501(c)(3) of the Internal Rev-
5 enue Code of 1986 that have expertise on the issues
6 of international child labor and do not possess a con-
7 flict of interest associated with establishment of the
8 guidelines issued under subsection (c)(2), as deter-
9 mined by the Bureau of International Labor Affairs
10 of the Department of Labor, including representa-
11 tives from consumer organizations and trade unions,
12 if appropriate.

13 “(e) CHAIRPERSON.—A representative of the Depart-
14 ment of Agriculture appointed under subsection (d)(1), as
15 determined by the Secretary, shall serve as the chair-
16 person of the Consultative Group.

17 “(f) REQUIREMENTS.—Not less than 4 times per
18 year, the Consultative Group shall meet at the call of the
19 Chairperson, after reasonable notice to all members, to de-
20 velop recommendations described in subsection (c)(1).

21 “(g) NONAPPLICABILITY OF FACA.—The Federal
22 Advisory Committee Act (5 U.S.C. App.) shall not apply
23 to the Consultative Group.

24 “(h) ANNUAL REPORTS.—Not later than 1 year after
25 the date of enactment of this Act, and annually thereafter

1 through December 31, 2012, the Secretary shall submit
 2 to the Committees on Agriculture and Foreign Affairs of
 3 the House of Representatives and the Committee on Agri-
 4 culture, Nutrition, and Forestry of the Senate a report
 5 describing the activities and recommendations of the Con-
 6 sultative Group.

7 “(i) TERMINATION OF AUTHORITY.—The Consult-
 8 ative Group shall terminate on December 31, 2012.

9 **“SEC. 3206. LOCAL AND REGIONAL FOOD AID PROCURE-**
 10 **MENT PROJECTS.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) ADMINISTRATOR.—The term ‘Adminis-
 13 trator’ means the Administrator of the Agency for
 14 International Development.

15 “(2) APPROPRIATE COMMITTEE OF CON-
 16 GRESS.—The term ‘appropriate committee of Con-
 17 gress’ means—

18 “(A) the Committee on Agriculture, Nutri-
 19 tion, and Forestry of the Senate;

20 “(B) the Committee on Agriculture of the
 21 House of Representatives; and

22 “(C) the Committee on Foreign Affairs of
 23 the House of Representatives.

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

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

6 “(B) at a minimum, meets each nutri-
7 tional, quality, and labeling standard of the
8 country that receives the agricultural com-
9 modity, as determined by the Secretary.

10 “(4) ELIGIBLE ORGANIZATION.—The term ‘eli-
11 gible organization’ means an organization that is—

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

14 “(B) with respect to nongovernmental or-
15 ganizations, subject to regulations promulgated
16 or guidelines issued to carry out this section,
17 including United States audit requirements that
18 are applicable to nongovernmental organiza-
19 tions.

20 “(b) STUDY; FIELD-BASED PROJECTS.—

21 “(1) STUDY.—

22 “(A) IN GENERAL.—Not later than 30
23 days after the date of enactment of this Act,
24 the Secretary shall initiate a study of prior local

1 and regional procurements for food aid pro-
2 grams conducted by—

3 “(i) other donor countries;

4 “(ii) private voluntary organizations;

5 and

6 “(iii) the World Food Program of the
7 United Nations.

8 “(B) REPORT.—Not later than 180 days
9 after the date of enactment of this Act, the Sec-
10 retary shall submit to the appropriate commit-
11 tees of Congress a report containing the results
12 of the study conducted under subparagraph
13 (A).

14 “(2) FIELD-BASED PROJECTS.—

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

23 “(B) CONSULTATION WITH ADMINIS-
24 TRATOR.—In carrying out the development and
25 implementation of field-based projects under

1 subparagraph (A), the Secretary shall consult
2 with the Administrator.

3 “(c) PROCUREMENT.—

4 “(1) IN GENERAL.—Any eligible commodity
5 that is procured for a field-based project carried out
6 under subsection (b)(2) shall be procured through
7 any approach or methodology that the Secretary
8 considers to be an effective approach or methodology
9 to provide adequate information regarding the man-
10 ner by which to expedite, to the maximum extent
11 practicable, the provision of food aid to affected pop-
12 ulations without significantly increasing commodity
13 costs for low-income consumers who procure com-
14 modities sourced from the same markets at which
15 the eligible commodity is procured.

16 “(2) REQUIREMENTS.—

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

23 “(i) the recipient country of the eligi-
24 ble commodity; or

1 “(ii) any country in the region in
2 which the eligible commodity may be pro-
3 cured.

4 “(B) TRANSSHIPMENT.—The Secretary
5 shall, in accordance with such terms and condi-
6 tions as the Secretary considers to be appro-
7 priate, require from each eligible organization
8 commitments designed to prevent or restrict—

9 “(i) the resale or transshipment of
10 any eligible commodity procured under this
11 section to any country other than the re-
12 cipient country; and

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

15 “(C) WORLD PRICES.—

16 “(i) IN GENERAL.—In carrying out
17 this section, the Secretary shall take any
18 precaution that the Secretary considers to
19 be reasonable to ensure that the procure-
20 ment of eligible commodities will not un-
21 duly disrupt—

22 “(I) world prices for agricultural
23 commodities; or

24 “(II) normal patterns of commer-
25 cial trade with foreign countries.

1 “(ii) PROCUREMENT PRICE.—The
2 procurement of any eligible commodity
3 shall be made at a reasonable market price
4 with respect to the economy of the country
5 in which the eligible commodity is pro-
6 cured, as determined by the Secretary.

7 “(d) REGULATIONS; GUIDELINES.—

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

14 “(2) REQUIREMENTS.—

15 “(A) USE OF STUDY.—In promulgating
16 regulations or issuing guidelines under para-
17 graph (1), the Secretary shall take into consid-
18 eration the results of the study described in
19 subsection (b)(1).

20 “(B) PUBLIC REVIEW AND COMMENT.—In
21 promulgating regulations or issuing guidelines
22 under paragraph (1), the Secretary shall pro-
23 vide an opportunity for public review and com-
24 ment.

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

6 “(e) FIELD-BASED PROJECT GRANTS OR COOPERA-
 7 TIVE AGREEMENTS.—

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

12 “(2) REQUIREMENTS OF ELIGIBLE ORGANIZA-
 13 TIONS.—

14 “(A) APPLICATION.—

15 “(i) IN GENERAL.—To be eligible to
 16 receive a grant from, or enter into a coop-
 17 erative agreement with, the Secretary
 18 under this subsection, an eligible organiza-
 19 tion shall submit to the Secretary an appli-
 20 cation by such date, in such manner, and
 21 containing such information as the Sec-
 22 retary may require.

23 “(ii) OTHER APPLICABLE REQUIRE-
 24 MENTS.—Any other applicable requirement
 25 relating to the submission of proposals for

1 consideration shall apply to the submission
 2 of an application required under clause (i),
 3 as determined by the Secretary.

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

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

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

16 “(3) REQUIREMENTS OF SECRETARY.—

17 “(A) PROJECT DIVERSITY.—

18 “(i) IN GENERAL.—Subject to clause
 19 (ii) and subparagraph (B), in selecting
 20 proposals for field-based projects to fund
 21 under this section, the Secretary shall se-
 22 lect a diversity of projects, including
 23 projects located in—

24 “(I) food surplus regions;

1 “(II) food deficit regions (that
 2 are carried out using regional pro-
 3 curement methods); and

4 “(III) multiple geographical re-
 5 gions.

6 “(ii) PRIORITY.—In selecting pro-
 7 posals for field-based projects under clause
 8 (i), the Secretary shall ensure that the ma-
 9 jority of selected proposals are for field-
 10 based projects that—

11 “(I) are located in Africa; and

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

14 “(B) DEVELOPMENT ASSISTANCE.—A por-
 15 tion of the funds provided under this subsection
 16 shall be made available for field-based projects
 17 that provide development assistance for a period
 18 of not less than 1 year.

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

24 “(f) INDEPENDENT EVALUATIONS; REPORT.—

25 “(1) INDEPENDENT EVALUATIONS.—

1 “(A) IN GENERAL.—Not later than No-
 2 vember 1, 2011, the Secretary shall ensure that
 3 an independent third party conducts an inde-
 4 pendent evaluation of all field-based projects
 5 that—

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

8 “(ii) is conducted in accordance with
 9 this section.

10 “(B) REQUIRED FACTORS.—The Secretary
 11 shall require the independent third party to de-
 12 velop—

13 “(i) with respect to each relevant mar-
 14 ket in which an eligible commodity was
 15 procured under this section, a description
 16 of—

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

21 “(II) the impact of the procure-
 22 ment of the eligible commodity on
 23 producer and consumer prices in the
 24 market;

1 “(III) each government market
 2 interference or other activity of the
 3 donor country that might have signifi-
 4 cantly affected the supply or demand
 5 of the eligible commodity in the area
 6 at which the local or regional procure-
 7 ment occurred;

8 “(IV) the quantities and types of
 9 eligible commodities procured in the
 10 market;

11 “(V) the time frame for procure-
 12 ment of each eligible commodity; and

13 “(VI) the total cost of the pro-
 14 curement of each eligible commodity
 15 (including storage, handling, transpor-
 16 tation, and administrative costs);

17 “(ii) an assessment regarding—

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

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

22 “(aa) local and regional ag-
 23 ricultural producers (including
 24 large and small agricultural pro-
 25 ducers);

1 “(bb) markets;

2 “(cc) low-income consumers;

3 and

4 “(dd) program recipients;

5 and

6 “(III) the length of the period

7 beginning on the date on which the

8 Secretary initiated the procurement

9 process and ending on the date of de-

10 livery of eligible commodities;

11 “(iii) a comparison of different meth-

12 odologies used to carry out this section,

13 with respect to—

14 “(I) the benefits to local agri-

15 culture;

16 “(II) the impact on markets and

17 consumers;

18 “(III) the period of time required

19 for procurement and delivery;

20 “(IV) quality and safety assur-

21 ances; and

22 “(V) implementation costs; and

23 “(iv) to the extent adequate informa-

24 tion is available (including the results of

25 the report required under subsection

1 (b)(1)(B)), a comparison of the different
2 methodologies used by other donor coun-
3 tries to make local and regional procure-
4 ments.

5 “(C) INDEPENDENT THIRD PARTY ACCESS
6 TO RECORDS AND REPORTS.—The Secretary
7 shall provide to the independent third party ac-
8 cess to each record and report that the inde-
9 pendent third party determines to be necessary
10 to complete the independent evaluation.

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

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

22 “(g) FUNDING.—

23 “(1) COMMODITY CREDIT CORPORATION.—The
24 Secretary shall use the funds, facilities, and authori-

1 ties of the Commodity Credit Corporation to carry
2 out this section.

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

6 “(A) \$5,000,000 for fiscal year 2009;

7 “(B) \$25,000,000 for fiscal year 2010;

8 “(C) \$25,000,000 for fiscal year 2011; and

9 “(D) \$5,000,000 for fiscal year 2012.

10 **“Subtitle D—Softwood Lumber**

11 **“SEC. 3301. SOFTWOOD LUMBER.**

12 “(a) IN GENERAL.—The Tariff Act of 1930 (19
13 U.S.C. 1202 et seq.) is amended by adding at the end
14 the following new title:

15 **““TITLE VIII—SOFTWOOD** 16 **LUMBER**

17 **““SEC. 801. SHORT TITLE; TABLE OF CONTENTS.**

18 “(a) SHORT TITLE.—This title may be cited as the
19 “Softwood Lumber Act of 2008”.

20 “(b) TABLE OF CONTENTS.—The table of contents
21 for this title is as follows:

““TITLE VIII—SOFTWOOD LUMBER

““Sec. 801. Short title; table of contents.

““Sec. 802. Definitions.

““Sec. 803. Establishment of softwood lumber importer declaration program.

““Sec. 804. Scope of softwood lumber importer declaration program.

““Sec. 805. Export charge determination and publication.

““Sec. 806. Reconciliation.

““Sec. 807. Verification.

“Sec. 808. Penalties.

“Sec. 809. Reports.

1 **“SEC. 802. DEFINITIONS.**

2 “In this title:

3 ““(1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means the Committee on Finance of the
6 Senate and the Committee on Ways and Means of
7 the House of Representatives.

8 ““(2) COUNTRY OF EXPORT.—The term “coun-
9 try of export” means the country (including any po-
10 litical subdivision of the country) from which
11 softwood lumber or a softwood lumber product is ex-
12 ported before entering the United States.

13 ““(3) CUSTOMS LAWS OF THE UNITED
14 STATES.—The term “customs laws of the United
15 States” means any law or regulation enforced or ad-
16 ministered by U.S. Customs and Border Protection.

17 ““(4) EXPORT CHARGES.—The term “export
18 charges” means any tax, charge, or other fee col-
19 lected by the country from which softwood lumber or
20 a softwood lumber product, described in section
21 804(a), is exported pursuant to an international
22 agreement entered into by that country and the
23 United States.

24 ““(5) EXPORT PRICE.—

1 “(A) IN GENERAL.—The term “export
2 price” means one of the following:

3 “(i) In the case of softwood lumber
4 or a softwood lumber product that has un-
5 dergone only primary processing, the value
6 that would be determined F.O.B. at the fa-
7 cility where the product underwent the last
8 primary processing before export.

9 “(ii)(I) In the case of softwood lum-
10 ber or a softwood lumber product described
11 in subclause (II), the value that would be
12 determined F.O.B. at the facility where the
13 lumber or product underwent the last pri-
14 mary processing.

15 “(II) Softwood lumber or a softwood
16 lumber product described in this subclause
17 is lumber or a product that underwent the
18 last remanufacturing before export by a
19 manufacturer who—

20 “(aa) does not hold tenure
21 rights provided by the country of ex-
22 port;

23 “(bb) did not acquire standing
24 timber directly from the country of
25 export; and

1 “(cc) is not related to the per-
 2 son who holds tenure rights or ac-
 3 quired standing timber directly from
 4 the country of export.

5 “(iii)(I) In the case of softwood lum-
 6 ber or a softwood lumber product described
 7 in subclause (II), the value that would be
 8 determined F.O.B. at the facility where the
 9 product underwent the last processing be-
 10 fore export.

11 “(II) Softwood lumber or a softwood
 12 lumber product described in this subclause
 13 is lumber or a product that undergoes the
 14 last remanufacturing before export by a
 15 manufacturer who—

16 “(aa) holds tenure rights pro-
 17 vided by the country of export;

18 “(bb) acquired standing timber
 19 directly from the country of export; or

20 “(cc) is related to a person who
 21 holds tenure rights or acquired stand-
 22 ing timber directly from the country
 23 of export.

1 “(B) RELATED PERSONS.—For purposes
2 of this paragraph, a person is related to an-
3 other person if—

4 “(i) the person bears a relationship
5 to such other person described in section
6 152(a) of the Internal Revenue Code of
7 1986;

8 “(ii) the person bears a relationship
9 to such other person described in section
10 267(b) of such Code, except that “5 per-
11 cent” shall be substituted for “50 percent”
12 each place it appears;

13 “(iii) the person and such other per-
14 son are part of a controlled group of cor-
15 porations, as that term is defined in sec-
16 tion 1563(a) of such Code, except that “5
17 percent” shall be substituted for “80 per-
18 cent” each place it appears;

19 “(iv) the person is an officer or di-
20 rector of such other person; or

21 “(v) the person is the employer of
22 such other person.

23 “(C) TENURE RIGHTS.—For purposes of
24 this paragraph, the term “tenure rights” means

1 rights to harvest timber from public land grant-
 2 ed by the country of export.

3 ““(D) EXPORT PRICE WHERE F.O.B.
 4 VALUE CANNOT BE DETERMINED.—

5 ““(i) IN GENERAL.—In the case of
 6 softwood lumber or a softwood lumber
 7 product described in clause (i), (ii), or (iii)
 8 of subparagraph (A) for which an F.O.B.
 9 value cannot be determined, the export
 10 price shall be the market price for the
 11 identical lumber or product sold in an
 12 arm’s-length transaction in the country of
 13 export at approximately the same time as
 14 the exported lumber or product. The mar-
 15 ket price shall be determined in the fol-
 16 lowing order of preference:

17 ““(I) The market price for the
 18 lumber or a product sold at substan-
 19 tially the same level of trade as the
 20 exported lumber or product but in dif-
 21 ferent quantities.

22 ““(II) The market price for the
 23 lumber or a product sold at a dif-
 24 ferent level of trade than the exported

1 lumber or product but in similar
2 quantities.

3 “(III) The market price for the
4 lumber or a product sold at a dif-
5 ferent level of trade than the exported
6 lumber or product and in different
7 quantities.

8 “(ii) LEVEL OF TRADE.—For pur-
9 poses of clause (i), “level of trade” shall be
10 determined in the same manner as pro-
11 vided under section 351.412(c) of title 19,
12 Code of Federal Regulations (as in effect
13 on January 1, 2008).

14 “(6) F.O.B.—The term “F.O.B.” means a
15 value consisting of all charges payable by a pur-
16 chaser, including those charges incurred in the
17 placement of merchandise on board of a conveyance
18 for shipment, but does not include the actual ship-
19 ping charges or any applicable export charges.

20 “(7) HTS.—The term “HTS” means the Har-
21 monized Tariff Schedule of the United States (19
22 U.S.C. 1202) (as in effect on January 1, 2008).

23 “(8) PERSON.—The term “person” includes
24 any individual, partnership, corporation, association,
25 organization, business trust, government entity, or

1 other entity subject to the jurisdiction of the United
2 States.

3 ““(9) UNITED STATES.—The term “United
4 States” means the customs territory of the United
5 States, as defined in General Note 2 of the HTS.

6 **“SEC. 803. ESTABLISHMENT OF SOFTWOOD LUMBER IM-
7 PORTER DECLARATION PROGRAM.**

8 ““(a) ESTABLISHMENT OF PROGRAM.—

9 ““(1) IN GENERAL.—The President shall estab-
10 lish and maintain an importer declaration program
11 with respect to the importation of softwood lumber
12 and softwood lumber products described in section
13 804(a). The importer declaration program shall re-
14 quire importers of softwood lumber and softwood
15 lumber products described in section 804(a) to pro-
16 vide the information required under subsection (b)
17 and declare the information required by subsection
18 (c), and require that such information accompany
19 the entry summary documentation.

20 ““(2) ELECTRONIC RECORD.—The President
21 shall establish an electronic record that includes the
22 importer information required under subsection (b)
23 and the declarations required under subsection (c).

24 ““(b) REQUIRED INFORMATION.—The President
25 shall require the following information to be submitted by

1 any person seeking to import softwood lumber or softwood
2 lumber products described in section 804(a):

3 ““(1) The export price for each shipment of
4 softwood lumber or softwood lumber products.

5 ““(2) The estimated export charge, if any, ap-
6 plicable to each shipment of softwood lumber or
7 softwood lumber products as calculated by applying
8 the percentage determined and published by the
9 Under Secretary for International Trade of the De-
10 partment of Commerce pursuant to section 805 to
11 the export price provided in subsection (b)(1).

12 ““(c) IMPORTER DECLARATIONS.—Pursuant to pro-
13 cedures prescribed by the President, any person seeking
14 to import softwood lumber or softwood lumber products
15 described in section 804(a) shall declare that—

16 ““(1) the person has made appropriate inquiry,
17 including seeking appropriate documentation from
18 the exporter and consulting the determinations pub-
19 lished by the Under Secretary for International
20 Trade of the Department of Commerce pursuant to
21 section 805(b); and

22 ““(2) to the best of the person’s knowledge and
23 belief—

1 “(A) the export price provided pursuant
 2 to subsection (b)(1) is determined in accordance
 3 with the definition provided in section 802(5);

4 “(B) the export price provided pursuant
 5 to subsection (b)(1) is consistent with the ex-
 6 port price provided on the export permit, if any,
 7 granted by the country of export; and

8 “(C) the exporter has paid, or committed
 9 to pay, all export charges due—

10 “(i) in accordance with the volume,
 11 export price, and export charge rate or
 12 rates, if any, as calculated under an inter-
 13 national agreement entered into by the
 14 country of export and the United States;
 15 and

16 “(ii) consistent with the export
 17 charge determinations published by the
 18 Under Secretary for International Trade
 19 pursuant to section 805(b).

20 **“SEC. 804. SCOPE OF SOFTWOOD LUMBER IMPORTER DEC-**
 21 **LARATION PROGRAM.**

22 “(a) PRODUCTS INCLUDED IN PROGRAM.—The fol-
 23 lowing products shall be subject to the importer declara-
 24 tion program established under section 803:

1 “(1) IN GENERAL.—All softwood lumber and
2 softwood lumber products classified under sub-
3 heading 4407.10.00, 4409.10.10, 4409.10.20, or
4 4409.10.90 of the HTS, including the following
5 softwood lumber, flooring, and siding:

6 “(A) Coniferous wood, sawn or chipped
7 lengthwise, sliced or peeled, whether or not
8 planed, sanded, or finger-jointed, of a thickness
9 exceeding 6 millimeters.

10 “(B) Coniferous wood siding (including
11 strips and friezes for parquet flooring, not as-
12 sembled) continuously shaped (tongued,
13 grooved, rabbeted, chamfered, v-jointed, beaded,
14 molded, rounded, or the like) along any of its
15 edges or faces, whether or not planed, sanded,
16 or finger-jointed.

17 “(C) Other coniferous wood (including
18 strips and friezes for parquet flooring, not as-
19 sembled) continuously shaped (tongued,
20 grooved, rabbeted, chamfered, v-jointed, beaded,
21 molded, rounded, or the like) along any of its
22 edges or faces (other than wood moldings and
23 wood dowel rods) whether or not planed, sand-
24 ed, or finger-jointed.

1 “(D) Coniferous wood flooring (including
2 strips and friezes for parquet flooring, not as-
3 sembled) continuously shaped (tongued,
4 grooved, rabbeted, chamfered, v-jointed, beaded,
5 molded, rounded, or the like) along any of its
6 edges or faces, whether or not planed, sanded,
7 or finger-jointed.

8 “(E) Coniferous drilled and notched lum-
9 ber and angle cut lumber.

10 “(2) PRODUCTS CONTINUALLY SHAPED.—Any
11 product classified under subheading 4409.10.05 of
12 the HTS that is continually shaped along its end or
13 side edges.

14 “(3) OTHER LUMBER PRODUCTS.—Except as
15 otherwise provided in subsection (b) or (c), softwood
16 lumber products that are stringers, radius-cut box-
17 spring frame components, fence pickets, truss com-
18 ponents, pallet components, and door and window
19 frame parts classified under subheading
20 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of
21 the HTS.

22 “(b) PRODUCTS EXCLUDED FROM PROGRAM.—The
23 following products shall be excluded from the importer
24 declaration program established under section 803:

1 “(1) Trusses and truss kits, properly classified
2 under subheading 4418.90 of the HTS.

3 “(2) I-joist beams.

4 “(3) Assembled box-spring frames.

5 “(4) Pallets and pallet kits, properly classified
6 under subheading 4415.20 of HTS.

7 “(5) Garage doors.

8 “(6) Edge-glued wood, properly classified
9 under subheading 4421.90.97.40 of the HTS.

10 “(7) Complete door frames.

11 “(8) Complete window frames.

12 “(9) Furniture.

13 “(10) Articles brought into the United States
14 temporarily and for which an exemption from duty
15 is claimed under subchapter XIII of chapter 98 of
16 the HTS.

17 “(11) Household and personal effects.

18 “(c) EXCEPTIONS FOR CERTAIN PRODUCTS.—The
19 following softwood lumber products shall not be subject
20 to the importer declaration program established under sec-
21 tion 803:

22 “(1) STRINGERS.—Stringers (pallet compo-
23 nents used for runners), if the stringers—

1 “(A) have at least 2 notches on the side,
2 positioned at equal distance from the center, to
3 properly accommodate forklift blades; and

4 “(B) are properly classified under sub-
5 heading 4421.90.97.40 of the HTS.

6 “(2) BOX-SPRING FRAME KITS.—

7 “(A) IN GENERAL.—Box-spring frame
8 kits, if—

9 “(i) the kits contain—

10 “(I) 2 wooden side rails;

11 “(II) 2 wooden end (or top)
12 rails; and

13 “(III) varying numbers of wood-
14 en slats; and

15 “(ii) the side rails and the end rails
16 are radius-cut at both ends.

17 “(B) PACKAGING.—Any kit described in
18 subparagraph (A) shall be individually pack-
19 aged, and contain the exact number of wooden
20 components needed to make the box-spring
21 frame described on the entry documents, with
22 no further processing required. None of the
23 components contained in the package may ex-
24 ceed 1 inch in actual thickness or 83 inches in
25 length.

1 “(3) RADIUS-CUT BOX-SPRING FRAME COMPO-
 2 NENTS.—Radius-cut box-spring frame components,
 3 not exceeding 1 inch in actual thickness or 83 inches
 4 in length, ready for assembly without further proc-
 5 essing, if radius cuts are present on both ends of the
 6 boards and are substantial cuts so as to completely
 7 round 1 corner.

8 “(4) FENCE PICKETS.—Fence pickets requir-
 9 ing no further processing and properly classified
 10 under subheading 4421.90.70 of the HTS, 1 inch or
 11 less in actual thickness, up to 8 inches wide, and 6
 12 feet or less in length, and having finials or decora-
 13 tive cuttings that clearly identify them as fence pick-
 14 ets. In the case of dog-eared fence pickets, the cor-
 15 ners of the boards shall be cut off so as to remove
 16 pieces of wood in the shape of isosceles right angle
 17 triangles with sides measuring $\frac{3}{4}$ of an inch or
 18 more.

19 “(5) UNITED STATES-ORIGIN LUMBER.—Lum-
 20 ber originating in the United States that is exported
 21 to another country for minor processing and im-
 22 ported into the United States if—

23 “(A) the processing occurring in another
 24 country is limited to kiln drying, planing to cre-
 25 ate smooth-to-size board, and sanding; and

1 “(B) the importer establishes to the satis-
2 faction of U.S. Customs and Border Protection
3 upon entry that the lumber originated in the
4 United States.

5 “(6) **SOFTWOOD LUMBER.**—Any softwood lum-
6 ber or softwood lumber product that originated in
7 the United States, if the importer, exporter, foreign
8 processor, or original United States producer estab-
9 lishes to the satisfaction of U.S. Customs and Bor-
10 der Protection upon entry that the softwood lumber
11 entered and documented as originating in the United
12 States was first produced in the United States.

13 “(7) **HOME PACKAGES OR KITS.**—

14 “(A) **IN GENERAL.**—Softwood lumber or
15 softwood lumber products contained in a single
16 family home package or kit, regardless of the
17 classification under the HTS, if the importer
18 declares that the following requirements have
19 been met:

20 “(i) The package or kit constitutes a
21 full package of the number of wooden
22 pieces specified in the plan, design, or
23 blueprint necessary to produce a home of
24 at least 700 square feet produced to a
25 specified plan, design, or blueprint.

1 “(ii) The package or kit contains—

2 “(I) all necessary internal and
3 external doors and windows, nails,
4 screws, glue, subfloor, sheathing,
5 beams, posts, and connectors; and

6 “(II) if included in the purchase
7 contract, the decking, trim, drywall,
8 and roof shingles specified in the plan,
9 design, or blueprint.

10 “(iii) Prior to importation, the pack-
11 age or kit is sold to a United States re-
12 tailer that sells complete home packages or
13 kits pursuant to a valid purchase contract
14 referencing the particular home design,
15 plan, or blueprint, and the contract is
16 signed by a customer not affiliated with
17 the importer.

18 “(iv) Softwood lumber products en-
19 tered as part of the package or kit, wheth-
20 er in a single entry or multiple entries on
21 multiple days, are to be used solely for the
22 construction of the single family home
23 specified by the home design, plan, or blue-
24 print matching the U.S. Customs and Bor-
25 der Protection import entry.

1 “(B) ADDITIONAL DOCUMENTATION RE-
 2 QUIRED FOR HOME PACKAGES AND KITS.—In
 3 the case of each entry of products described in
 4 clauses (i) through (iv) of subparagraph (A) the
 5 following documentation shall be retained by
 6 the importer and made available to U.S. Cus-
 7 toms and Border Protection upon request:

8 “(i) A copy of the appropriate home
 9 design, plan, or blueprint matching the
 10 customs entry in the United States.

11 “(ii) A purchase contract from a re-
 12 tailer of home kits or packages signed by
 13 a customer not affiliated with the importer.

14 “(iii) A listing of all parts in the
 15 package or kit being entered into the
 16 United States that conforms to the home
 17 design, plan, or blueprint for which such
 18 parts are being imported.

19 “(iv) If a single contract involves
 20 multiple entries, an identification of all the
 21 items required to be listed under clause
 22 (iii) that are included in each individual
 23 shipment.

24 “(d) PRODUCTS COVERED.—For purposes of deter-
 25 mining if a product is covered by the importer declaration

1 program, the President shall be guided by the article de-
2 scriptions provided in this section.

3 **“SEC. 805. EXPORT CHARGE DETERMINATION AND PUBLI-**
4 **CATION.**

5 ““(a) DETERMINATION.—The Under Secretary for
6 International Trade of the Department of Commerce shall
7 determine, on a monthly basis, any export charges (ex-
8 pressed as a percentage of export price) to be collected
9 by a country of export from exporters of softwood lumber
10 or softwood lumber products described in section 804(a)
11 in order to ensure compliance with any international
12 agreement entered into by that country and the United
13 States.

14 ““(b) PUBLICATION.—The Under Secretary for
15 International Trade shall immediately publish any deter-
16 mination made under subsection (a) on the website of the
17 International Trade Administration of the Department of
18 Commerce, and in any other manner the Under Secretary
19 considers appropriate.

20 **“SEC. 806. RECONCILIATION.**

21 ““The Secretary of the Treasury shall conduct rec-
22 onciliations to ensure the proper implementation and oper-
23 ation of international agreements entered into between a
24 country of export of softwood lumber or softwood lumber
25 products described in section 804(a) and the United

1 States. The Secretary of Treasury shall reconcile the fol-
 2 lowing:

3 “(1) The export price declared by a United
 4 States importer pursuant to section 803(b)(1) with
 5 the export price reported to the United States by the
 6 country of export, if any.

7 “(2) The export price declared by a United
 8 States importer pursuant to section 803(b)(1) with
 9 the revised export price reported to the United
 10 States by the country of export, if any.

11 **“SEC. 807. VERIFICATION.**

12 “(a) IN GENERAL.—The Secretary of Treasury shall
 13 periodically verify the declarations made by a United
 14 States importer pursuant to section 803(c), including by
 15 determining whether—

16 “(1) the export price declared by a United
 17 States importer pursuant to section 803(b)(1) is the
 18 same as the export price provided on the export per-
 19 mit, if any, issued by the country of export; and

20 “(2) the estimated export charge declared by a
 21 United States importer pursuant to section
 22 803(b)(2) is consistent with the determination pub-
 23 lished by the Under Secretary for International
 24 Trade pursuant to section 805(b).

25 “(b) EXAMINATION OF BOOKS AND RECORDS.—

1 “(1) IN GENERAL.—Any record relating to the
2 importer declaration program required under section
3 803 shall be treated as a record required to be main-
4 tained and produced under title V of this Act.

5 “(2) EXAMINATION OF RECORDS.—The Sec-
6 retary of the Treasury is authorized to take such ac-
7 tion, and examine such records, under section 509 of
8 this Act, as the Secretary determines necessary to
9 verify the declarations made pursuant to section
10 803(c) are true and accurate.

11 **“SEC. 808. PENALTIES.**

12 “(a) IN GENERAL.—It shall be unlawful for any per-
13 son to import into the United States softwood lumber or
14 softwood lumber products in knowing violation of this title.

15 “(b) CIVIL PENALTIES.—Any person who commits
16 an unlawful act as set forth in subsection (a) shall be lia-
17 ble for a civil penalty not to exceed \$10,000 for each
18 knowing violation.

19 “(c) OTHER PENALTIES.—In addition to the pen-
20 alties provided for in subsection (b), any violation of this
21 title that violates any other customs law of the United
22 States shall be subject to any applicable civil and criminal
23 penalty, including seizure and forfeiture, that may be im-
24 posed under such custom law or title 18, United States

1 Code, with respect to the importation of softwood lumber
 2 and softwood lumber products described in section 804(a).

3 ““(d) FACTORS TO CONSIDER IN ASSESSING PEN-
 4 ALTIES.—In determining the amount of civil penalties to
 5 be assessed under this section, consideration shall be given
 6 to any history of prior violations of this title by the person,
 7 the ability of the person to pay the penalty, the seriousness
 8 of the violation, and such other matters as fairness may
 9 require.

10 ““(e) NOTICE.—No penalty may be assessed under
 11 this section against a person for violating a provision of
 12 this title unless the person is given notice and opportunity
 13 to make statements, both oral and written, with respect
 14 to such violation.

15 ““(f) EXCEPTION.—Notwithstanding any other provi-
 16 sion of this title, and without limitation, an importer shall
 17 not be found to have violated subsection 803(c) if—

18 ““(1) the importer made an appropriate inquiry
 19 in accordance with section 803(c)(1) with respect to
 20 the declaration;

21 ““(2) the importer produces records maintained
 22 pursuant to section 807(b) that substantiate the
 23 declaration; and

1 “(3) there is not substantial evidence indi-
 2 cating that the importer knew that the fact to which
 3 the importer made the declaration was false.

4 **“SEC. 809. REPORTS.**

5 “(a) SEMIANNUAL REPORTS.—Not later than 180
 6 days after the effective date of this title, and every 180
 7 days thereafter, the President shall submit to the appro-
 8 priate congressional committees a report—

9 “(1) describing the reconciliations conducted
 10 under section 806, and the verifications conducted
 11 under section 807;

12 “(2) identifying the manner in which the
 13 United States importers subject to reconciliations
 14 conducted under section 806 and verifications con-
 15 ducted under section 807 were chosen;

16 “(3) identifying any penalties imposed under
 17 section 808;

18 “(4) identifying any patterns of noncompliance
 19 with this title; and

20 “(5) identifying any problems or obstacles en-
 21 countered in the implementation and enforcement of
 22 this title.

23 “(b) SUBSIDIES REPORTS.—Not later than 180
 24 days after the date of the enactment of this title, and every
 25 180 days thereafter, the Secretary of Commerce shall pro-

1 vide to the appropriate congressional committees a report
2 on any subsidies on softwood lumber or softwood lumber
3 products, including stumpage subsidies, provided by coun-
4 tries of export.

5 ““(c) GAO REPORTS.—The Comptroller General of
6 the United States shall submit the following reports to the
7 appropriate congressional committees:

8 ““(1) Not later than 18 months after the date
9 of the enactment of this title, a report on the effec-
10 tiveness of the reconciliations conducted under sec-
11 tion 806, and verifications conducted under section
12 807.

13 ““(2) Not later than 12 months after the date
14 of the enactment of this title, a report on whether
15 countries that export softwood lumber or softwood
16 lumber products to the United States are complying
17 with any international agreements entered into by
18 those countries and the United States.’”.

19 ““(b) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date that is 60 days
21 after the date of the enactment of this Act.’”.

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