

Public Law 95-501
95th Congress

An Act

To strengthen the economy of the United States through increased sales abroad of United States agricultural commodities.

Oct. 21, 1978

[S. 3447]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Act of 1978".

Agricultural
Trade Act of
1978.

7 USC 1761 note.

TITLE I—INTERMEDIATE CREDIT

SEC. 101. Section 4 of the Food for Peace Act of 1966 is amended to read as follows:

7 USC 1707a.

"SEC. 4. (a) Commercial export sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its export credit sales program.

Export sales.

"(b) (1) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation.

"(2) No export sale may be financed under this subsection unless the Secretary of Agriculture determines that the sale will—

"(A) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities without displacing normal commercial sales; or

"(B) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, United States agricultural commodities.

"(3) Consistent with the provisions of paragraph (2) of this subsection, intermediate credit financing under this subsection may be made available for the following uses:

"(A) to establish reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

"(B) the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

"(C) where determined feasible, for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities to finance all or part of such facilities); and

"(D) to meet credit competition for agricultural export sales.

"(4) Intermediate credit financing under this subsection may not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling.

Terms of credit.

“(5) The terms of credit for export sales financed under this subsection shall include the following terms:

“(A) Repayment shall be in dollars with interest at a rate equal, as nearly as practicable, to the rate charged by the Commodity Credit Corporation for financing under the Corporation's short-term export credit sales program.

“(B) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require an initial payment from the purchaser at the time of sale or shipment of the agricultural commodity.

“(6) The Secretary shall, wherever feasible, obtain commitments from purchasers that will prevent resale or transshipment to other nations of agricultural commodities purchased with financing provided under this subsection.

Review.

“(7) (A) Agreements to finance export sales of agricultural commodities entered into under this subsection, except agreements to finance export sales for the establishment of reserve stocks, shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

“(B) Agreements to finance export sales of agricultural commodities under this subsection for the establishment of reserve stocks shall be subject to such other terms and conditions as the Secretary may deem necessary and appropriate. No such agreement may become effective or be carried out until the expiration of thirty days following the date on which a detailed summary of such proposed agreement, together with a determination by the President that such financing is not adverse to the interests of United States producers of agricultural commodities, is transmitted by the Secretary to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

“(8) The provisions of the cargo preference laws shall not apply to export sales financed under this subsection.

“(9) The authority provided under this subsection shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

“(c) The term ‘agricultural commodity’ as used in this section includes any agricultural commodity or product thereof.”

Presidential
determination.
Transmittal to
congressional
committees.

“Agricultural
commodity.”

TITLE II—COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES; CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES

7 USC 1707b.

SEC. 201. (a) To develop new market opportunities for the sale of United States agricultural commodities and to maintain and expand existing foreign markets for such commodities, the Secretary of Agriculture may provide Commodity Credit Corporation financing to exporters of such commodities who wish to provide deferred payment terms to buyers in other nations in order to meet sales competition from other nations or to make additional export sales. Except as otherwise provided in section 202 of this title, financing under this section shall be available only with respect to sales to those nations that are

eligible for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(b) Exporters who are willing to sell United States agricultural commodities to foreign buyers on deferred payment terms of not to exceed three years and who must provide such deferred payment terms in order to meet sales competition from other nations, or to make additional export sales, may apply to the Commodity Credit Corporation for financing such sales. Financing under this section shall not be provided by the Corporation until the applicant's export sales plan has been approved by the Corporation and the applicant has established to the satisfaction of the Corporation that exports have been made in accordance with the approved plan.

(c) Repayment to the Commodity Credit Corporation shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan. Interest rates on such financing shall be no higher than those charged for financing under the short-term export credit sales program conducted by the Corporation.

Repayment in dollars.

(d) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the sale.

Performance guarantee.

(e) Financing agreements with exporters entered into under this section shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

Review.

(f) The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

SEC. 202. Notwithstanding any other provision of law, in order to expand and develop markets for United States agricultural commodities, the Commodity Credit Corporation may provide financing for commercial sales of agricultural commodities out of private stocks on terms of not to exceed three years to the People's Republic of China under (1) the short-term export credit sales program conducted by the Corporation, and (2) the deferred payment sales program for exporters established under section 201 of this title.

7 USC 1707c.

DEFINITION

SEC. 203. The term "agricultural commodity" as used in this title includes any agricultural commodity or product thereof.

7 USC 1707d.

TITLE III—AGRICULTURAL COUNSELORS

SEC. 301. Title VI of the Act of August 28, 1954 (68 Stat. 908-910, as amended; 7 U.S.C. 1761-1768), is amended by—

(1) amending the title designation to read as follows:

"TITLE VI—FOREIGN MARKET DEVELOPMENT";

(2) inserting immediately before section 601 the subtitle designation as follows:

“Subtitle A—General Provisions; Agricultural Counselors and Agricultural Attachés”;

7 USC 1761.

(3) in section 601, striking out “agricultural products” wherever that phrase appears therein and inserting in lieu thereof “agricultural commodities”, and striking out “said products” and inserting in lieu thereof “such commodities”;

7 USC 1762,
1764, 1765.

(4) in sections 602(a), 602(e), 604, and 605, striking out “this title” wherever that phrase appears therein and inserting in lieu thereof “this subtitle”;

7 USC 1762.

(5) amending section 602(b) to read as follows:

“(b) Officers or employees assigned or appointed to posts abroad under this subtitle shall have the designation of Agricultural Counselor, Agricultural Attaché, or such other titles or designations that shall be agreed to by the Secretary of State and the Secretary of Agriculture, and shall be accorded the same rank and privileges as those of other counselors or attachés in United States embassies. An Agricultural Counselor shall be appointed in any nation—

Agricultural
Counselor.

“(1) to which a substantial number of governments with which the United States competes directly for agricultural markets in such nation assign agricultural representatives with the diplomatic status of counselor or its equivalent; or

“(2) in which—

“(A) the potential is great for long-term expansion of a market for United States agricultural commodities, and

“(B) competition with other nations for existing and potential agricultural markets is extremely intense.

Not less than ten Agricultural Counselors shall be appointed within three years after the date of enactment of the Agricultural Trade Act of 1978.”; and

Ante, p. 1685.

7 USC 1764.

(6) adding at the end of section 604 a new subsection (c) as follows:

Availability of
Federal agency
services,
personnel, and
facilities.

“(c) Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to officers and employees appointed and assigned to a post abroad under this subtitle in the performance of the functions of such officers and employees. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.”.

TITLE IV—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

SEC. 401. Title VI of the Act of August 28, 1954, as amended by title III of this Act, is further amended by—

(1) adding immediately after section 605 a new subtitle B as follows:

“Subtitle B—United States Agricultural Trade Offices

Agricultural
Trade Offices,
establishment.
7 USC 1765a.

“SEC. 605A. (a) For the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities, the Secretary of Agriculture, after consultation with the Secretary of State, shall establish not less than six nor more than twenty-five United States Agricultural Trade Offices in other nations.

“(b) each United States Agricultural Trade Office shall be directed and administered by an Agricultural Trade Officer who by reason of training, experience, and attainments is qualified to carry out the pur-

poses of this subtitle. Such Officer shall be appointed by the Secretary of Agriculture.

Appointment.

“(c) Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer (1) may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of such title, or (2) may be paid at a rate in excess of the highest rate paid to an Agricultural Counselor or Attaché, as the case may be, who is appointed under subtitle A of this title to the nation in which such Officer is to serve.

5 USC 5101 *et seq.* 5332 note.

Ante, p. 1688.

“(d) Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attaché or other senior representative of the Secretary of Agriculture in each nation in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of the United States diplomatic mission fully and currently informed with respect to all activities and operations of such Office.

Transmittal of information.

“(e) Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

“(f) To carry out the functions of United States Agricultural Trade Offices, the Secretary of Agriculture may appoint such other personnel as the Secretary determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

“(g) No employee of any United States Agricultural Trade Office may engage in any business, vocation, or other employment, or have other interests, that are inconsistent with official responsibilities.

“(h) Upon the request of the Secretary of Agriculture, the Secretary of State shall request for Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

Diplomatic privileges and immunities.

“SEC. 605B. The functions of each United States Agricultural Trade Office shall be to—

Functions.
7 USC 1765b.

“(1) increase the effectiveness of agricultural export promotion efforts through consolidation of activities, providing services and facilities for foreign buyers and United States trade representatives, and coordination of market development activities sponsored by the Department of Agriculture;

“(2) establish goals by nation or region and agricultural commodity for developing, expanding, and maintaining markets for United States agricultural commodities;

“(3) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

“(4) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market development activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports;

"(5) develop and maintain a current listing of trade, government, and other appropriate organizations for each agricultural commodity area and make such listing available to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(6) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

7 USC 1691 note.

"(7) provide practical assistance for the use of the programs under the Agricultural Trade Development and Assistance Act of 1954, the export credit sales program, the export incentives program, and related programs of the United States Government where use of such programs will serve as a market development tool for United States agriculture;

"(8) supervise project agreements with United States cooperators, coordinate the activities of the United States Agricultural Trade Office with those of the cooperators, and submit annual recommendations to the Secretary of Agriculture on the efficacy of cooperator programs;

Publication.

"(9) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means; and

"(10) perform such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, determines to be necessary and proper for achieving the purposes of this subtitle.

Consultation.

7 USC 1765c.

"Sec. 605C. Each United States Agricultural Trade Office shall carry out its functions under section 605B in the nation where the United States Agricultural Trade Office is located and in such other nations as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subtitle.

7 USC 1765d.

22 USC 292.

"Sec. 605D. Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926, to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

7 USC 1765e.

"Sec. 605E. United States Agricultural Trade Offices shall be centrally located in the cities of assignment to facilitate foreign trade meetings and foreign trade reliance on such offices for assistance in marketing activities.

7 USC 1765f.

"Sec. 605F. Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

7 USC 1765g.

7 USC 1764.

7 USC 1766.

Supra.

"Sec. 605G. The provisions of section 604(a) of this title shall apply with respect to personnel appointed and assigned under this subtitle."

(2) redesignating section 606 as section 606A and inserting immediately after new section 605G, as added by this section, the subtitle designation and new section 606 as follows:

"Subtitle C—Representation Allowances, Regulations, General Provisions, and Authorization for Appropriations

7 USC 1765h.

"Sec. 606. Any Agricultural Trade Officer and the senior representative of the Secretary of Agriculture assigned to a nation under subtitle A of this title may, under regulations prescribed by the Secretary

of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer or senior representative can effectively use such funds to further the purposes of this title, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the nation where such Agricultural Trade Officer or senior representative is assigned.”;

(3) redesignating sections 602(d), 602(f), and 603 as sections 606B, 606C, and 606D, respectively, and inserting the redesignated sections immediately after section 606A, as redesignated by paragraph (2) of this section; 7 USC 1762, 1763, 1766a, 1766b, 1766c.

(4) in section 606C, as redesignated by paragraph (3) of this section, striking out “subsection” wherever that word appears therein and inserting in lieu thereof “section”; *Supra.*

(5) redesignating section 602(e) as 602(d); and 7 USC 1762.

(6) adding at the end thereof a new section 609 as follows:

“SEC. 609. The term ‘agricultural commodity’ as used in this title includes any agricultural commodity or product thereof.”. “Agricultural commodity.” 7 USC 1769.

TITLE V—REORGANIZATION

SEC. 501. (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise such functions and perform such duties related to foreign agriculture and agricultural stabilization and conservation, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture. 7 USC 2211a.

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof a new paragraph (69) as follows:

“(69) Under Secretary of Agriculture for International Affairs and Commodity Programs.”.

(c) The designation of “Assistant Secretary of Agriculture for International Affairs and Commodity Programs” shall not be used after the date of enactment of this Act. 7 USC 2211a note.

TITLE VI—GENERAL PROVISIONS AND REPORTS

IMPLEMENTATION OF THIS ACT; REGULATIONS

SEC. 601. (a) The Secretary of Agriculture shall implement the provisions of this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs. 7 USC 1761 note.

(b) The Secretary may issue such regulations as may be necessary to carry out the provisions of this Act.

ANNUAL REPORT ON EXPORT PROMOTION

SEC. 602. The Secretary of Agriculture shall submit to Congress each year a report providing a comprehensive statement of the activities and accomplishments of the Department of Agriculture, including specifically those of the United States Agricultural Trade Offices, in developing, maintaining, and expanding foreign markets for United States agricultural commodities. Submittal to Congress. 7 USC 1765b-1.

INTERAGENCY TASK FORCE ON EXPORT SALES REPORTING

7 USC 612c-3
note.

7 USC 612c-3.
Legislative
recommendations
to congressional
committees.

SEC. 603. The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing the effectiveness of the export sales reporting provisions of section 812 of the Agricultural Act of 1970. The Secretary shall submit, not later than January 3, 1979, a report of the findings of the task force, including legislative recommendations for improving such reporting provisions, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

REPORT ON TITLE IV OF THE TRADE ACT OF 1974

Submittal to
Congress.
19 USC 2431
note.
19 USC 2431.

SEC. 604. Within six months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report detailing the effect on United States agriculture of title IV of the Trade Act of 1974, including a recommendation as to whether the provisions of such title should be repealed or amended.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1338, Pt. I (Comm. on Agriculture) and No. 95-1338, Pt. II (Comm. on International Relations) both parts accompanying H.R. 10584; and No. 95-1755 (Comm. of Conference).

SENATE REPORTS: No. 95-1142 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-1315 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 8, considered and passed Senate.

Sept. 25, H.R. 10584 considered and passed House; passage vacated and S. 3447, amended, passed in lieu.

Oct. 11, Senate agreed to conference report.

Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, VOL. 14, No. 43:

Oct. 21, Presidential statement.