

Title III – Trade

(1) General authority

The House bill clarifies that Title II emergency and nonemergency assistance is to be implemented by the Administrator of the U.S. Agency for International Development (USAID). The objectives of Title II programs are modified to include building resilience to mitigate food crises and reducing the need for future emergency aid. (Section 3001)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 3001)

The Managers modified the general authorities in Title II of the Food for Peace Act to place a greater emphasis on projects which focus on building resiliency in the recipient population where food shortfalls and droughts are common. This change is intended to prompt USAID to require measurable outcomes in multiyear projects in order to reduce dependency on foreign aid.

(2) Support for eligible organizations

The House bill amends section 202(e)(1) of the Food for Peace Act by reducing the maximum allowable cash assistance available for administrative costs in non-emergency programs from 13% to 11% of the total funds made available for the program. (Section 3002)

The Senate amendment amends Section 202(e)(1) to increase the maximum allowable cash assistance available for administrative costs in non-emergency programs from 13% to 15% of the total funds made available for the program. It also allows funds to be used for activities that “enhance” food aid projects. (Section 3001)

The Conference substitute adopts the Senate provision with an amendment. The amendment increases the maximum allowable cash assistance available for administrative costs to 20% of the total funds made available for the program. The amendment also revises the list of purposes for which the cash assistance may be used. (Section 3002)

The Managers expect that additional funds made available under this provision will provide increased flexibility to USAID. The Managers understand that an array of programs and tools are needed to balance the diverse and complex food aid demands of various countries and regions. As such, the Managers sought to provide additional cash assistance to accompany current monetization policy. The increased flexibility gained by additional cash assistance will allow USAID to better respond and prioritize food aid needs in real time and is intended to assist in the transition of programs from emergency interventions to programs which build resiliency in instances of protracted humanitarian crises.

(3) Food aid quality

The House bill amends section 202(h) of the Food for Peace Act by requiring the Administrator to consult with the Secretary in performing the requirements of this subsection related to food aid quality by establishing a mechanism for USDA and USAID to evaluate food aid commodities and implement appropriate changes; by instructing the agencies to update program guidance on the use of new commodities; and by limiting the available funding for these purposes to \$1 million. (Section 3003)

The Senate amendment replaces and expands Section 202(h)(1) to require that the Administrator use funds available to carry out Title II to assess types and quality of agricultural commodities donated as food aid; adjust products and formulation as necessary to meet nutrient needs of target populations; test prototypes; adopt new specifications or improve existing specifications for micronutrient food aid products based on the latest development in food and nutrition science; develop new program guidance for eligible organizations to facilitate improved matching of products to purposes; develop improved guidance on how to address nutritional efficiencies among long-term recipients of food aid; and evaluate the performance and cost-effectiveness of new/modified food products and program approaches to meet nutritional needs of vulnerable groups. It also extends authority to fund this section for fiscal years 2014 through FY2018. (Section 3002)

The Conference substitute adopts the Senate provision. (Section 3003)

In May 2011, the Government Accountability Office (GAO) completed a report which cites deficiencies in the nutrition and quality controls of U.S. food aid commodities. Included in that report are recommendations that USAID review food aid packaging, track food aid quality throughout the supply chain, and ensure that available food aid commodities meet the nutritional needs of recipients. The Managers expect USAID to set verifiable goals and to maximize strong public-private partnerships with food manufacturers and other stakeholders to more quickly address the deficiencies highlighted in the May 2011 report by using currently available studies on food aid quality and nutrition. The Managers encourage USAID to establish multi-year approaches to the procurement of high-value products. Longer term procurement, to the extent practicable, is expected to encourage investment of specialized equipment needed to deliver critical products in a timely and cost-effective manner. In recognition of the importance associated with close collaboration between USDA and USAID on approving new products, the Managers expect both agencies to adopt clear guidelines to facilitate the swift adoption of new products in order to quickly capture the benefits of the research and testing under this section.

(4) Food Aid Consultative Group

The House bill amends Section 205 of the Food for Peace Act by reauthorizing the Food Aid Consultative Group (the “Group”) through December 31, 2018. Section 205 is also amended by adding representatives from the processing sector to the Group. The provision further requires the Administrator to consult with the Group on the implementation of food aid quality provisions and requires the Administrator to provide the Group at least 45 days for review and comment before a proposed regulation handbook or guideline, or revision thereof, becomes final. (Section 3005)

The Senate amendment reauthorizes FACG through December 31, 2018. (Section 3004)

The Conference substitute adopts the House provision. (Section 3005)

The Managers note that while USAID places significant burdens for the success of programs upon implementing partners and other stakeholders, feedback from these groups through the Food Aid Consultative Group (FACG) is not adequately incorporated into program guidelines. Before new guidance is finalized, the Managers expect USAID to give sufficient notice to stakeholders when changes are made to the Food for Peace Guidelines and require new guidance to be promulgated in a timely manner after any

changes to the Food for Peace Act.

(5) Oversight, monitoring, and evaluation

The House bill amends Section 207 (c) by requiring that all regulations and revisions to agency guidance necessary for implementation of the Federal Agricultural Reform and Risk Management Act be issued within 270 days of enactment.

The provision removes authority for purchasing new computer systems, removes obsolete reporting requirements, and provides \$10 million per year for monitoring and evaluation. Further, the provision requires a report on the extent of monitoring and evaluation required by eligible organizations participating in Food for Peace programs. (Section 3006)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment. The amendment provides \$17 million per year for monitoring and evaluation for each of fiscal years 2014 through 2018, and permits up to \$500,000 of those funds in each fiscal year to be used for maintaining information technology systems. (Section 3006)

The Managers understand that monitoring is essential to ensuring that USAID's food aid programs in developing countries are implemented as intended. As such, the Managers want to convey their strong support for the Famine Early Warning Systems Network (FEWS Net). FEWS Net is an integral component of our nation's ability to effectively and efficiently respond to crisis situations worldwide.

The Managers also expect USAID to complete development of IT systems without additional Food for Peace resources. Funding is continued for additional monitoring and evaluation of programs at a level which reflects resources available for Food for Peace programs. The Managers note that in 2009 the GAO concluded that monitoring of programs was inconsistent and that program management was not modified to reflect information gained from the monitoring and evaluation conducted by or for USAID. The Managers expect USAID to make improvements in program guidance based on the monitoring and evaluation conducted.

(6) General monetization provisions

The House bill amends section 403 of the Food for Peace Act by requiring USDA and USAID to seek information on the potential benefits of monetization to local economies. The provision clarifies that implementing partners should sell monetized commodities at "fair market value." The Secretary and the Administrator are also instructed to coordinate assessments which guide the use of monetization to ensure consistency across programs. The provision requires USAID to issue a report detailing the use of funds made available for implementing partners, including funds for administrative and indirect costs. (Section 3008)

The Senate amendment amends Section 403 of the Food for Peace Act to require that the rate of return for a commodity monetized (sold in recipient countries) be at least 70 percent. The "rate of return" is defined as equal to the proportion that the proceeds the implementing partners generate through monetization bears to the cost to the federal government to procure and ship the commodities to a recipient country for monetization. (Section 3007)

The Conference substitute adopts the House provision with an amendment. The amendment strikes the clarification regarding monetizing commodities at fair market

value and the provision requiring that the Secretary and Administrator coordinate assessments. The amendment revises the report on use of funds to require that the Administrator report on the amount of funds spent on each project; how the funds were used; the rate of return on monetized commodities; and for rates of return less than 70 percent, the reason for such rate of return. (Section 3008)

In June 2011, GAO reported on inefficiencies and adverse impacts of monetization. The Managers agree that both USDA and USAID should have consistent policies governing both agencies' monetization activities. The Managers expect USAID to consider the full impact of monetization when considering a proposal under Food for Peace. The Managers note existing requirements for USDA and USAID to approve only those sales which will not disrupt the usual marketing and processing of commodities in the recipient country. The Managers support the use of a variety of food assistance modalities in responding to emergency and non-emergency food aid needs, including the use of monetized in-kind commodities. However, the Managers are aware of concerns with lack of accountability and efficiency, including low rates of return realized on monetized commodities. As such, the report requested in this Act seeks to enhance transparency and increase accountability while ensuring rates of return which reflect reasonable market prices on monetized commodities. This is a part of the Managers' larger effort to provide greater flexibility to USAID and USDA so the agencies have the ability to use the most effective food assistance tool in each situation.

(7) Additional prepositioning sites and testing

The House bill allows the Administrator discretion to establish additional prepositioning sites based on the results of assessments of need, technology, feasibility, and cost. Funding for prepositioning is increased to \$15,000,000 per year. (Section 3009)

The Senate amendment allows funds to be used for the testing of food aid shipments. (Section 3009)

The Conference substitute adopts the House provision. (Section 3009)

The Managers note the rapid response which was possible due to prepositioned commodities when USAID responded to a natural disaster in 2013 in the Philippines. The Conference substitute clarifies existing authority for USAID to consider additional prepositioning sites, and the Managers expect that additional funds ensure USAID will be able to effectively deploy and manage critical commodities ahead of any future crisis. The Managers also note USAID's efforts to field additional food aid products and expect prepositioning these products will be useful in responding quickly to acute humanitarian needs.

(8) Annual report on food aid programs and activities

The House bill amends section 407(f) of the Food for Peace Act by requiring the annual report regarding food aid programs and activities to include information on the actual beneficiaries of the programs and by specifying the report include the McGovern-Dole International Food for Education and Child Nutrition Program. (Section 3010)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 3010)

(9) Funding

The House bill amends section 412 of the Food for Peace Act by reducing the authorization for appropriations from \$2.5 to \$2 billion per year. (Section 3012)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate position.

(10) Safebox funding

The House bill requires a minimum of \$400 million be expended for nonemergency assistance in each of fiscal years 2014 through 2018. (Section 3012)

The Senate amendment repeals Section 412(e) and requires that of funds made available under the Food for Peace Act, not less than 20% nor more than 30% shall be expended for nonemergency food aid under Title II. Further, the amount made available to carry out nonemergency food aid programs under Title II shall not be less than \$275 million for any fiscal year. (Section 3011)

The Conference substitute adopts the Senate provision with an amendment. The amendment sets the minimum level of nonemergency assistance at \$350,000,000. (Section 3012)

The Managers affirm the importance of maintaining strong development programs in support of building resilient communities and reducing dependency on foreign assistance. The Managers expect this flexibility to help USAID efficiently and effectively allocate funds in a timely manner. By including a percentage structure to be applied to annual appropriations, the managers intend to provide USAID the flexibility to respond to urgent situations when needed or to allocate additional funds for development in years without significant emergency needs.

(11) Farmer-to-Farmer program

The House bill provides for the Farmer-to-Farmer program not less than the greater of \$15,000,000 or 0.5 percent of the funds made available to carry out the Act. (Section 3014)

The Senate amendment provides for the Farmer-to-Farmer program not less than the greater of \$10,000,000 or 0.6 percent of the funds made available to carry out the Act. (Section 3014)

The Conference substitute adopts the House provision with an amendment. The amendment provides not less than the greater of \$15,000,000 or 0.6% of the funds made available to carry out this Act for the Farmer-to-Farmer program. The amendment adds a GAO report to review the program and provide recommendations to improve the monitoring and evaluation of the program. (Section 3014)

(12) Flexibility of CCC funds

The Senate amendment revises Section 406 of the Food for Peace Act to permit the use of funds available under the Act to pay costs of up to 20% of activities conducted in recipient countries by nonprofit voluntary organizations, cooperative, or intergovernmental organizations. (Section 3008)

The House bill contains no comparable provision.

The Conference substitute adopts the House position.

(13) Coordination of foreign assistance programs report

The Senate amendment strikes the language requiring a report on improved

procurement planning. (Section 3012)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 3015)

(14) Prohibition on assistance for North Korea

The Senate amendment states that Title II funds cannot be used to provide assistance to North Korea. The President can waive this funding prohibition if the President determines and certifies to the House and Senate Agriculture Committees, the House Foreign Affairs Committee and the Senate Foreign Relations Committee that the waiver is in the national interest of the United States. (Section 3015)

The House bill contains no comparable provision.

The Conference substitute adopts the House position.

(15) Export Credit Guarantee programs

The House bill amends section 211 of the Agricultural Trade Act of 1978 by reauthorizing funding for the Export Credit Guarantee Program through 2018. (Section 3101)

The Senate amendment extends funding through fiscal year 2018 and reduces the amount of allowable credit guarantees to \$4.5 billion. (Section 3101)

The Conference substitute adopts the House provision with an amendment. The amendment removes outdated language applicable to previous fiscal years and allows the Secretary to implement the program in a manner consistent with WTO obligations by including language authorizing the Secretary to adjust the program; reducing the maximum tenor for loan guarantees made available under the program to 24 months; striking a provision requiring that the Secretary maximize the amount of credit guarantees made available each fiscal year; and by striking a provision restricting the Secretary's ability to adjust program fees. (Section 3101)

The Managers affirm the importance of export programs that yield mutual benefits for both American agriculture and international trading partners. The Managers are aware of outstanding questions generated by the World Trade Organization dispute WTO/DS267, and the Conference substitute includes reforms to improve existing programs. It is the Managers' strong intent that any discretion provided to the Administration with regard to dispute WTO/DS267 be used to reach a negotiated solution to the dispute.

(16) Food for Progress

The Senate amendment permits use of funds available under the Food for Peace Act to pay costs of up to 20% of activities conducted in recipient countries by nonprofit voluntary organizations, cooperative, or intergovernmental organizations. It requires that the rate of return for a commodity monetized (sold in recipient countries) be at least 70%. The "rate of return" is defined as equal to the proportion that the proceeds the implementing partners generate through monetization bears to the cost to the federal government to procure and ship the commodities to a recipient country for monetization. (Section 3201)

The House bill contains no comparable provision.

The Conference substitute adopts the House position.

(17) Spiny Dogfish study

The House bill requires the Secretary of Agriculture to conduct a study on the market for the U.S. Atlantic Spiny Dogfish. (Section 3205)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 3205)

(18) Global Crop Diversity Trust

The House bill amends section 3202(c) of the Food, Conservation, and Energy Act of 2008 by reauthorizing USAID to make a contribution of up to \$50 million over 5 years to the Global Crop Diversity Trust. (Section 3206)

The Senate amendment reauthorizes U.S. contribution to the Global Crop Diversity Trust for fiscal years 2014-2018 at current levels. (Section 3206)

The Conference substitute adopts the Senate provision. (Section 3206)

(19) Undersecretary for Foreign Agricultural Services

The House bill amends Subtitle B of the Department of Agriculture Reorganization Act of 1994 by adding a new section allowing USDA to establish the position of Under Secretary for Foreign Agricultural Services, which would be appointed by the President with the advice and consent of the Senate. (Section 3207)

The Senate amendment requires the Secretary, in consultation with the House and Senate Agriculture Committees and House and Senate Appropriations Committees to propose a plan for reorganization of the trade functions of USDA, including the establishment of an Under Secretary of Agriculture for Trade and Foreign Agricultural Affairs. The Secretary is required to report on the plan 180 days after the farm bill's enactment, and within one year of submission of the report, the Secretary shall implement the reorganization plan including establishment of the Under Secretary position. (Section 3209)

The Conference substitute adopts the Senate provision. (Section 3208)

The Managers recognize that international trade is critically important to the economic vitality of the U.S. agriculture and food industry and a major engine of U.S. economic growth. Trade currently accounts for more than 25 percent of U.S. farm receipts, and the production from one out of every three acres planted is exported. Our vast and efficient export system, including handling, processing and distribution of our food and agricultural products, creates millions of U.S. jobs and helps feed hundreds of millions all over the globe. Our \$32 billion net trade balance in agriculture and food products in 2012 represented the single largest contribution to our balance of payments.

The trade organizational structure at USDA has remained unchanged since it was last reorganized in 1978. Over this period, the value and nature of U.S. agriculture exports has changed dramatically. In 1978, U.S. agriculture exports totaled \$29 billion, whereas in 2012 they reached \$136 billion. Meanwhile, over the last 30 years the challenges that U.S. agriculture faces in global markets have increased and markedly changed from primarily tariff barriers to phytosanitary and other non-tariff trade barriers.

The Managers agree that an Under Secretary for Trade and Foreign Agricultural Affairs will provide a singular focus on trade and foster more effective coordination of transparent, rules-based trade policies in other USDA agencies. Such a position will bring unified, high level representation to key trade negotiations with senior, foreign officials and within the Executive Branch. Furthermore, the creation of this Under Secretary

position will help streamline management, create greater efficiencies and enhance emphasis in the Office of the Under Secretary responsible for key domestic programs.

Given the importance of this provision, the Managers expect USDA to keep Congress regularly informed as to the progress on the preparation of the reorganization report and, once completed, its efforts to implement the reorganization plan within the statutory deadlines.

(20) USDA certificates of origin

The House bill requires the Secretary of Agriculture to seek to ensure that USDA certificates of origin are accepted by any country with which the United States has entered into a Free Trade Agreement providing preferential duty treatment. (Section 3208)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate position.

(21) Local and regional food aid procurement projects

The Senate amendment establishes a local and regional procurement program with appropriations of \$60 million authorized for each of fiscal years 2014 through 2018. Preference in carrying out this program may be given to eligible organizations that have, or are working toward, projects under the McGovern-Dole International Food for Education and Child Nutrition Program. (Section 3207)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. The amendment authorizes appropriations of \$80,000,000 for each of fiscal years 2014 through 2018. (Section 3207)

The Managers further note that the Local and Regional Procurement (LRP) pilot program authorized by Section 3206 of the Food, Conservation, and Energy Act of 2008 was completed, with 23 field-based projects carried out in 2009-2011 by the UN World Food Program and PVOs. A study of the projects was undertaken by a consortium of PVOs participating in the pilot and economists at Cornell University, as well as an independent study conducted as required in the legislation. The statutorily required study found that in the majority of circumstances, food aid commodities procured locally or regionally were both less costly for some commodities and delivered more quickly than comparable commodities sourced in the United States and shipped to the study countries. However, the Managers note the absence of any comparison to prepositioned commodities when reviewing timeliness of deliveries. The Managers further note on page 1 of the study, that “LRP may pose risks for local markets and vulnerable households”, indicating care should be taken in pursuing the most appropriate areas in which to implement LRP projects. In support of the broader emphasis on building resiliency, the Managers expect USDA to give priority to projects with the greatest long-term developmental benefits.

Section 3207 extends the LRP pilot program into an authorized program to improve U.S. international food assistance, by providing a new, more flexible programming tool. The Managers intend for the new program to complement existing food aid programs, especially the McGovern-Dole program, and to fill in nutritional gaps for targeted populations or food availability gaps generated by unexpected emergencies. To be eligible for this program, such gaps should be readily addressable by procurement

from local or regional food supplies. In order to facilitate meeting the latter objective, some portion of available funds should be reserved for dispersal during the second half of each fiscal year, to be available to address emergencies occurring after program proposal deadlines expire. If, as certified by the Administrator, no such emergencies occur, the conference substitute provides authority for the Secretary to award reserved funds to augment projects approved earlier in the fiscal year.

(22) Donald Payne Horn of Africa Food Resilience Program

The Senate amendment establishes a pilot program to effectively integrate all U.S.-funded emergency and long-term development activities that aim to improve food security in the Horn of Africa. It authorizes \$10 million to carry out the pilot project, subject to appropriations, and also requires the USAID Administrator to report to appropriate committees of Congress on the outcomes of the project. (Section 3208)

The House bill contains no comparable provision.

The Conference substitute adopts the House position.