FOOD FOR PEACE (P.L. 480, Titles II and III)
[FORMERLY USAID HANDBOOK 9]
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Reference 3 A Manual for Food Needs Assessment (PN ABB 175)

Reference 4 Food Aid Management Plan for USAID Missions (PN ABK 424)

DEFINITIONS

Lists of definitions of terms, phrases, and abbreviations as used in the Title II handbook.

Terms and Phrases

Activity	An arrangement for the utilization of Title II commodities under an approved project, in which each party to such arrangement (cooperating sponsor, host country government, local entity, food recipients) provides his/her agreed input and exercises his/her rights.
Agreements	The Food for Peace agreement between the cooperating sponsor and the U.S.Government. In most instances, the

	cooperating sponsor is a U.S. voluntary agency or an intergovernmental organization; e.g., UNICEF.
AID	The Agency for International Development or any successor agency.
Bill(s) of Lading (B/L)	A receipt for cargo signed by the vessel's master and used as a document of title to the goods by the shipper.
Child Feeding	The category of feeding programs and projects designed to reach women of child bearing age, infants, and children up to the age of 6. Child Feeding Programs include Maternal/Child Health and other child feeding programs and projects including, Preschool Child Feeding, institutionalized and noninstitutionalized programs.
Commodities	Food, transferred or available for transfer to cooperating sponsors under the P.L. 480 legislation.
CCC The Commodity Credit Corporation,	a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.
Cooperating Sponsor	Refers to the foreign government, the U.S. registered voluntary agency, or the intergovernmental organization which enters into an agreement with U.S. Government for the use of P.L. 480, Title II, agricultural commodities and/or funds (including local currencies).
Coordinating Council	A voluntary organization made up of representatives from the U.S. voluntary agencies in a foreign country.
Consular Invoice	An invoice prepared on a special form obtained from a foreign government and signed by its official to secure the importation of goods into that country.
Container(s)	The bag, box, can or other receptacle in which Title II commodities are packaged in the United States or repackaged elsewhere. It does not refer to receptacle(s) provided by carriers to accommodate logistics or special handling; e.g., containerization.
Counterpart	An entity, indigenous to the country in which a Title II program is conducted, which is associated with and is sometimes sponsored by the cooperating sponsor in the implementation of an approved Title II feeding program.
Country Team	The Country Team is headed by the Chief of Diplomatic Mission. Its membership for Title II activity includes the principal officer or his/her designee of each affected U.S. Government agency within the country.
Delivery Survey Report	The same as a Discharge Survey Report except that it covers the cargo when cleared through customs and/or

	port authorities or other jurisdictions, when applicable, to the point where custody is taken by the cooperating sponsor. (See AID Regulation 11, Sections 211.9(e) (1), 211.9(c)(1)(i), 211.9(c)(1)(v).
Diplomatic Posts	Office of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular offices.
Disaster Relief Organizations	which are authorized by AID/W, a Organizations Mission, or by a Diplomatic Post to assist disaster victims.
Disaster Victims Persons	who, because of natural or manmade disaster, or extraordinary relief requirements, are in need of assistance.
Discharge Survey	A report prepared by an independent commercial firm based on a thorough examination of the cargo when it is discharged from the vessel at the destination port. Contains an accounting of the quantity discharged in sound and in damaged condition with details relating to the nature and extent of the damaged, as well as the probable cause of damage.
Displaced Persons	Persons in need because they fled from their homes as a result of civil strife and are living in a part of their country of nationality or residence other than that in which they normally earned a livelihood.
Distributing Agencies	Welfare agencies, disaster relief organizations, and public or private agencies which are sponsored by, and responsible to, the cooperating sponsor for handling commodities within the cooperating sponsor's distribution system.
Distribution Centers	The place for which commodities are issued to eligible recipients for consumption elsewhere (usually the recipient's home).
End of Ship's Tackle	This term indicates the point at which responsibilities for cargo may change to or from the carrying vessel. It generally refers to that point in operations where the cargo is picked up or placed at the vessel's side.
Feeding Center	The place where food is prepared and served to and consumed by a group of eligible recipients.
Food for Peace	The term used to describe the program authorized by the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), as amended.
Food For Peace Officer personnel	Advises and assists Mission and counterpart (FFPO) on P.L. 480 matters, and is responsible for Title II projects and activities. An FFPO may be assigned Regional responsibilities.
Friendly Country	A Country which is not "...dominated or controlled by a foreign government or organization controlling a world communist movement."

General Average	An ocean shipping term for the principle that both the vessel and its cargo share the risk of the voyage and that damage beyond the control of the vessel is shared by the owners of the surviving cargo. (See Handbook 15, Chapter 8E.)
Home Office Principal	office of the U.S. voluntary agency or intergovernmental organization.
Institutions	Non-penal, public, or nonprofit private establishments that are operated for charitable purposes.
Intergovernmental Agencies	sponsored and supported by the United Organizations Nations Organization (except the World Food Program) which is referred to as an intergovernmental activity) or by two or more nations, one of which is the United States of America.
Maternal/Child Health MCH	programs are those designed to provide one or more health related (MCH) service(s) to women of childbearing age and children under the age of 6. Such programs may integrate several services to include, inter alia, medical care, feeding, nutritional education, family planning, etc.
Maternal Child Health Food	distribution projects, preferably a segment of a definite (MCH) Feeding Program MCH program, in which women of childbearing age and infants up to one year old are the principal clients.
Mission	U.S. Government office in a foreign country which is responsible for AID's administration of Title II projects in the recipient country. It refers to an AID Mission or other AID country organization (see HB 17, Ch. 4).
Mission Director	The Director of a Mission or, in the absence of a Mission, an AID Representative, or the principal officer of the
Diplomatic	Post.
Nonprofit	Means that the residue of income over operating expenses accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.
OMB	Office of Management and Budget
Other Child Feeding	A feeding program designed to reach needy children in institutions Programs or other child feeding facilities with the child as the only client.
Regulation	In this Handbook "The Regulation" refers to AID Regulation 11, as amended, which is included as Appendix C.
School Feeding Programs	Programs conducted for the benefit of children under the age of 14 years enrolled in schools receiving formal education through the equivalent of the U.S. primary school.
Sponsor	Refers to the entity with which the U.S. Government enters into an agreement involving the use of Section 204, P.L.

	480, funds. A sponsor may or may not be a cooperating sponsor.
Staff	Those persons who serve on a paid or volunteer basis as supervisors, managers, teachers, auditors, accountants, nutritionists or dietitians, cooks, dishwashers, janitors, or other persons who serve in some capacity in the management or operations of a central facility engaged in Title II food distribution.
Third Party	An entity or individual other than the U.S. Government or the cooperating sponsor who has assigned or contractual responsibilities for some aspect of an approved Title II feeding program, project or activity.
Transfer The Food for Peace	agreement between a specified Authorization (TA) cooperating sponsor(s) and the U.S. Government. Generally, Transfer Authorizations constitute government-to-government agreements.
USDA	The U.S. Department of Agriculture.
Voluntary Agency	Refers to any voluntary nonprofit agency registered with, and approved by, the Agency for International Development.
CFA	The Committee on Food AID Policies and Programs is the governing body that provides general guidance on the policy, administration, and operation of the WFP. It, also, helps evolve and coordinate short-term and longer term food-aid policies recommended by the World Food Conference.
World Food Program	An intergovernmental activity sponsored by the United Nations and the Food and Agriculture Organization and supported through contributions of commodities, services, and funds by donor countries.
World Food Program	The agreement between the World Food Program and Transfer Authorization the U.S. Government, as amended, which authorizes the transfer of Title II commodities to the World Food Program.

CHAPTER 1 AUTHORITY

1A. Statutory Authority

The Agricultural Trade Development and Assistance Act of 1954, as amended, or Public Law 480 (P.L. 480), is the primary statutory basis for the Food for Peace Program. In enacting the legislation, Congress declared it to be the policy of the U.S. to use its abundant agricultural productivity to promote the foreign policy of the U.S. by enhancing the food security of the developing world through the use of agricultural commodities and local currencies accruing under this Act to combat world hunger and malnutrition and their causes; promote broad-based, equitable and sustainable development; expand international trade; develop and expand export markets; and foster and encourage the development of private enterprise and democratic participation in developing countries.

1. Title I - Trade and Development Assistance

Title I provides for the sale of agricultural commodities to developing countries for dollars on credit terms, or local currencies. This program is implemented by the Secretary of Agriculture, who is granted the authority to negotiate and execute agreements with developing countries to finance the sale and exportation of agricultural commodities to such countries.

2. Title II - Emergency and Private Assistance

Title II establishes a program to provide agricultural commodities to foreign countries to (a) address famine or other urgent or extraordinary relief requirements; (b) combat malnutrition, especially in children and mothers; (c) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity; (d) promote economic and community development; (e) promote sound environmental practices; and (f) carry out feeding programs. The Administrator of the U.S. Agency for International Development (USAID) administers the program.

3. Title III - Food for Development

Title III establishes a program under which agricultural commodities are to be donated to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. The Administrator of USAID is authorized to negotiate and execute Title III agreements with least developed countries which will provide commodities to such countries on a grant basis.

4. Section 416(b)

Section 416(b) of the Agricultural Act of 1949, as amended, authorizes the Secretary of Agriculture to make overseas donations of agricultural commodities acquired through Commodity Credit Corporation's price support to developing and friendly countries.

5. Food for Progress

The Food for Progress Act (Section 1110 of the Food Security Act of 1985, as amended) authorizes the use of Title I and Section 416 resources to assist emerging democracies and developing countries that are committed to introducing or expanding free enterprise elements in their agricultural economies. The Secretary of Agriculture implements the program.

1B. Executive Order No. 12752

Executive Order 12752 was signed by President George Bush on February 25, l991 to implement P.L. 480 and the Food for Progress Act. The Executive Order established programs under Title I, Title II and Title III, and delegated authority for implementation of Title I to the Secretary of Agriculture and Titles II and III to the Administrator of USAID.

To ensure policy coordination of assistance provided under P.L. 480 and the Food for Progress Act, a Food Assistance Policy Council comprised of senior representatives of the Department of Agriculture, USAID, the Department of State and the Office of Management and Budget was established. The consultation about commodities available under Section 401(a) of P.L. 480 is undertaken through this Council, and the Council prepares the annual report required under Section 407(g).

Responsibility for determination of human rights violations is delegated to the Secretary of State. Responsibility for submission of an annual World Food Day report assessing progress toward food security in each country receiving U.S. food assistance is delegated to the USAID Administrator. The authority to waive payments of principal and interest due under Title I dollar sales agreements is delegated to the Secretary of Agriculture, in consultation with the Council and the Department of the Treasury. The authority to transfer up to 15 percent of funds available in any fiscal year from one title of the Act to any other title is delegated to the Director of the Office of Management and Budget, in consultation with the Council.

The authority to administer Title V - Farmer-to-Farmer Program (FTF) - is delegated to the Administrator of USAID.

Authority for the Food for Progress Act is delegated to the Secretary of Agriculture.

1C. A.I.D. Regulation 11

USAID regulation entitled "Transfer of Food Commodities for Use in Disaster Relief and Economic Development and Other Assistance" (Regulation 11) (22 C.F.R. part 211) prescribe the terms and conditions governing the transfer of agricultural commodities to foreign governments, voluntary agencies, and intergovernmental organizations (except the World Food Program) under P.L. 480, Title II, as amended.

1D. Delegations of Authority Nos. 401 and 902

Delegation No. 401 assigns to USAID/W-AA/Bureau for Management (M) the contract functions related to procurement of ocean transportation services and the authority to sign grants and cooperative agreements to implement the P.L. 480, Farmer to Farmer (FTF) program.

Delegation No. 902 assigns all other food aid responsibilities to the following:

For P.L. 480, Title II programs - the USAID/W-Bureau for Humanitarian Response (BHR) has the responsibility for these activities; and the USAID/W-Regional Bureaus, with BHR clearance, has responsibilities for P.L. 480, Title III activities. These are (a) authorization of the donation of agricultural commodities; (b) negotiation, execution and implementation of donation agreements in accordance with the terms of the authorization; (c) amendment of any authorization and of any donation agreement; and (d) findings, determinations and actions required under Title IV of P.L. 480 that relate to donations and agreements for specific countries and the terms and conditions thereof.

CHAPTER 2

ALLOCATION AND COORDINATION OF RESPONSIBILITY

2A. Coordination

1. Food Assistance Policy Council

Under Executive Order No. 12752 of February 25, 1991 the President established the Food Assistance Policy Council to ensure effective interdepartmental policy coordination in food assistance programs among the Department of Agriculture (USDA), USAID, the Department of State, and the Office of Management and Budget (OMB). The Council is to advise the President on appropriate policies under the Agricultural Trade Development Act of 1954 (P.L. 480), as amended, the Food for Progress Act of 1985, and Section 416(b) of the Agricultural Act of 1949, as amended. (Although not mentioned in the Executive Order, Section 416(b) itself states that assistance will be coordinated through P.L. 480 mechanisms).

The Council is made up of senior representatives of USDA, OMB, the Department of State and USAID. The Deputy Administrator represents USAID. Meetings of the Council shall be called by the Secretary of Agriculture or can be requested by any of the senior representatives.

2. Food Aid Consultative Group

Under Section 205 of P.L. 480, the Food Aid Consultative Group was established to regularly review the effectiveness of regulations and procedures governing emergency and private food assistance programs being implemented under Title II. It can also address other issues under Title II which involve private voluntary organizations (PVOs), cooperatives or indigenous non-governmental organizations (NGOs).

The USAID Administrator (A/USAID) or his representative chairs the Group which is to include the USDA Under Secretary for International Affairs and Commodity Programs; the Inspector General of USAID; a representative of each PVO or cooperative participating in programs or receiving funds from USAID to establish programs under Title II; and representatives from African, Asian and Latin American indigenous NGOs determined appropriate by the A/USAID.

2B. Responsibilities

1. General

The Agricultural Act of 1949, P.L. 480, the Food Security Reserve Act of 1980, and the Food for Progress Act of 1985 delineated policy and operational responsibilities among all departments and agencies concerned with food assistance programs during the past three decades. These responsibilities were redefined by the 1990 amendments to P.L. 480.

2. The President

The Food Security Reserve Act of 1980 (Public Law 96-494, Sections 301 and 302, as amended): the President establishes a wheat reserve that can be used under P.L. 480 to provide emergency food assistance to developing countries. The function for maintaining the reserve has been delegated to the Secretary of Agriculture, but the President has retained authority to make the findings necessary to release stocks for humanitarian purposes.

3. Office of Management and Budget

Executive Order No. 12752: The Director of OMB or his designeeparticipates in the policy coordination efforts of P.L. 480 programs undertaken by the Food Assistance Policy

Council. OMB sets the budget planning target for P.L. 480, makes recommendations to the President for the budget level of P.L. 480, and issues the OMB #mark# which, is the starting point for developing the President's budget to the Congress and USAID's Congressional Presentation. The OMB also determines the amount of foreign currencies generated under P.L. 480 Title I programs to be used under Section 104(c)(8) of P.L. 480 to make payment of U.S. obligations abroad.

4. Department of Agriculture

Title I of P.L. 480: Effective January 1, 1991, Congress provided USDA all authority for the concessional sales of agricultural commodities to developing countries. Sales may be for dollars on long-term credit or for payment in local currency which is owned by the U.S. Government (USG) and programmed by USDA. The Secretary of Agriculture has the responsibility to negotiate and execute agreements under Title I.

Section 416(b) of the Agricultural Act of 1949: The Secretary of Agriculture is authorized to donate surplus agricultural commodities for programs in developing countries and friendly countries.

Food for Progress Act: Section 1110 of the Food Security Act of 1985, as amended, authorizes the use of Title I and Section 416 resources to assist emerging democracies and developing countries that are committed to expanding free enterprise undertakings in the agricultural sectors of their economies. Executive Order 12752, Section 4(g) delegates to the Secretary of Agriculture all of the President's functions under the Food for Progress Act.

5. U. S. Agency for International Development

Food aid responsibilities within USAID are established by Delegations of authority (Nos. 401 and 902) from the Administrator, and by the Functional Statements of the Bureau for Policy and Program Coordination (PPC), and the Bureau for Management (M). Food aid responsibilities are as follows:

a. Bureau for Policy and Program Coordination (PPC)

The Bureau for Policy and Program Coordination (PPC) performs the same functions regarding food aid programs as it does with respect to other Agency programs. PPC must take the lead and collaborate with the - the Bureau for Humanitarian Response (BHR) and the Regional Bureaus - in preparing food aid policies and maintaining policy liaison with other agencies of the USG, international organizations and other donors. PPC will determine, based on the standards in Section 302 of P.L. 480, the countries that are #least developed# and therefore eligible to participate in the Title III program.

b. Bureau for Management (M)

The Bureau for Management (M), in consultation with PPC:

~ Performs the same budget functions with respect to food aid as it does for other assistance resources available to USAID, including,
- preparation of guidance on the budget process;
- management of budget-year request for the Agency;
- preparation and monitoring of the Operational Year Budget (OYB); and
-representation of USAID on budget issues.

~ Exercises all functions relating to procurement of ocean transportation for agricultural commodities - (OP/TRANS).

~ Signs grants and cooperative agreements for the Farmer-to-Farmer Program (FTF) authorized under Title V of P.L. 480.

~ Provides guidance and support to BHR/Food for Peace (FFP) in the administration of grants and cooperative agreements signed by BHR/FFP providing assistance to PVOs and cooperatives under section 202(e) of P.L. 480.

c. Bureau for Humanitarian Response (BHR)

Within USAID/W, BHR, in consultation with M, PPC, and Regional Bureaus performs all other food aid functions. BHR has operational responsibility and monitors food aid, except Title III of P.L. 480. The following are BHR's principal responsibilities to:

~ Represent USAID on the Food Aid Consultative Group required under Section 205 of P.L. 480.

~ Provide support to the Administrator and Deputy Administrator who are the Agency's representatives on

the Food Assistance Policy Council established under Executive Order 12752.

~ Coordinate regular and emergency operational food aid matters with USDA, State, and other federal agencies as well as with private and public international organizations, including the World Food Program (WFP).

~ Prepare and issue (with clearance from the Regional Bureaus, M and PPC) regulations, handbook materials and other operational guidance required for food aid programs, including Title III of P.L. 480, designed to accomplish statutory and policy objectives of these programs and establish Agency procedures and requirements with respect to accountability for food aid activities.

~ Advise Bureau for Management (M) regarding food aid budgets based on field submissions for Title II and Regional Bureau recommendations for Title III of P.L. 480, and monitor implementation of food aid budgets.

BHR advice and recommendations for adjustments during a fiscal year will be based on total food aid budget availabilities, the need to accommodate emergencies, changes in commodity and transport availability and costs, liaison with USDA and the private sector regarding their agricultural activities, and compliance with food aid legislation.

~ Perform all functions and exercise all authorities under or relating to Title II of P.L. 480 and any other food aid program, except Title III of P.L. 480.

The BHR memorandum approving regular and emergency Title II or other food aid activities should include a description of the Field Post's plan for implementing or monitoring thebe cleared by the appropriate Regional Bureau, activity, and identify the resources it will use for this purpose. If there is no Field Post in the country, the memorandum should include a description of how the program will be monitored, which is prepared by BHR in collaboration with and cleared by the appropriate Regional Bureau.

~ Sign and administer grants and cooperative agreements under section 202(e), "Support for Private Voluntary Organizations and Cooperatives," of P.L. 480.

~ In consultation with the appropriate Regional Bureau, resolve audit findings and recommendations regarding Title II and other food aid activities and collaborate, as appropriate, with Regional Bureaus in the resolution of audit findings and recommendations regarding Title III donations.

~ Coordinate with USDA and Bureau for Management (M) in the procurement of agricultural commodities and ocean transportation for all food aid programs.

~ Implement the Farmer-to-Farmer (FTF) program authorized under Title V of P.L. 480.

~ As required under applicable legislation or

Executive Order, prepare annual reports to Congress on food assistance.

The following procedures are used by BHR in processing P.L. 480 Title II and Title III budget requests:

Title II

Title II - Budget Request: Based on the Annual Budget Submission (ABS) received from each USAID Mission or Field Post and other sources of information, BHR prepares the Title II budget, including an unallocated reserve, with clearance by the Regional Bureaus. Clearance of the Title II budget by a Regional Bureau means that the Bureau will commit the resources to implement or monitor Title II activities effectively in countries included in the budget for which the Bureau is responsible. BHR/FFP and each Regional Bureau will negotiate differences that might arise in the preparation of the budget. BHR will submit the total Title II request and country levels to M/FA/B for approval.

Title II - Congressional Presentation: M/FA/B provides BHR with the final budget pass-back level. BHR will coordinate with the Regional Bureaus the review of country allocations within the pass-back level.

Title II - Operational Year Budget: M/FA/B will establish a preliminary OYB for Title II programs with concurrence by BHR and the Regional Bureaus. Allocations during the fiscal year that are different from amounts in the OYB, and allocations from the Title II reserve, will be proposed by BHR to M/FA/B with clearance by the Regional Bureaus. When necessary, BHR will recommend releases from the emergency wheat reserve established under sections 301 and 302 of the Food Security Reserve Act of 1980.

Title III

Title III - Budget Request: After a Regional Bureau approves the ABS from a USAID Mission and submits it to M/FA/B, the Title III component will be forwarded to BHR for review and advice in the preparation of a proposed Title III budget. BHR review takes into account applicable legislation, commodity and shipping availability and liaison with the private sector to ensure that programs complement normal commercial trade, and the relationship between Title III and Title II allocations as well as activities conducted by USDA, including Title I sales, Section 416 donations and export credit and enhancement programs. BHR and each Regional Bureau will negotiate differences that might arise in this review, and Bureau for Management (M) will resolve any outstanding issues.

Title III - Congressional Presentation: M/FA/B provides BHR and the Regional Bureaus with the final budget pass-back level, including preliminary country allocations. BHR and the Regional Bureaus review the allocations and will submit the proposed final levels to M/FA/B for approval.

Title III - Operational Year Budget: M/FA/B will establish an OYB for Title III programs with concurrence by BHR and the Regional Bureaus. BHR will convene a committee consisting of a representative (the Food Aid Coordinator) from each Regional Bureau and a representative from M/FA/Budget to monitor implementation of the Title III budget. This committee will advise M/FA/B regarding proposed reallocations during a fiscal year.

d. USAID Regional Bureaus AFR/ANE/ENI/LAC

Each Regional Bureau has authority and responsibility to:

~ Issue, if needed, supplementary guidance for Title III programs within the region, provided that it is consistent with the Title III operational guidance issued by BHR and that the supplementary guidance is cleared by BHR.

~ Participate in the food aid budget process.

~ Approve and implement Title III donations to eligible countries in their respective geographic areas, with clearance by BHR based on compliance with applicable legislation, commodity availability, and liaison with the private sector to ensure that programs complement normal commercial trade. The Regional Bureau will decide how the Title III donation should be integrated into the country's development plan and USAID's strategy for it, and any other development issues related to the donation.

~ Make the findings and determinations and provide the reports required under Title IV of P.L. 480 with respect to donations under Title III, subject to clearance by BHR.

~ Furnish BHR with the information needed to prepare annual reports required under applicable legislation and the Executive Order.

~ Review and clear all Title II and other food aid activities within the geographic area except those conducted by WFP and agencies of the UN.

~ Ensure that each USAID Mission has the resources necessary to implement and/or monitor food aid activities effectively in the country where the post is located. This should be established, in consultation with BHR when the Regional Bureau reviews the ABS from the USAID Mission and periodically thereafter as necessary when the food aid activity is approved and while it is being implemented.

~ Resolve, in consultation with BHR, audit findings and recommendations regarding Title III donations; collaborate as appropriate with BHR in the resolution of audit findings and recommendations regarding other food aid activities within the regional geographic area; and ensure that USAID Missions implement effectively the actions agreed upon to resolve and close audit recommendations.

e. USAID, USAID MISSIONS AND/OR FIELD POSTS Except for donations through WFP or other UN agencies, no food aid activity may be conducted in a country without the clearance of the principal USAID Mission or Embassy Officer in the country and the appropriate Regional Bureau. USAID Missions or Field Posts are responsible for preparing requests for P.L. 480 Title III and clearing requests for Title II programs. All food aid programs must include monitoring plans, and arrangements for audit that are acceptable to the USAID Inspector General (IG).

Title II

The ABS from each USAID Mission or Field Post will contain estimates of requirements for regular Title II programs anticipated in the country. The ABS also will include a description of the resources required by the USAID Mission or Field Post to implement and monitor Title II activities.

Title II - Government-to-Government Emergency Programs:

~ Assist host government to develop program proposals for emergency assistance that can be submitted with the principal USAID or Embassy Officer's recommendation to USAID/W for approval.

~ Monitor host government performance under approved programs, particularly activities involving the generation and use of local currencies.

~ Ensure that agricultural commodities made available are used effectively and in the areas of greatest need.

~ Assure that recipient country reports on generation and use of local currencies are current.

~ Report to USAID/W as required on overall progress of the program.

Title II - Regular Programs

~ Determine whether a Cooperating Sponsor's (i.e., PVO or cooperative) program proposal is adequately planned and financed and logistically sound, and whether technical and administrative skills are available to accomplish program objectives.

~ Guide and assist the Cooperating Sponsor as necessary in the preparation of workable Title II program proposals.

~ Clear Cooperating Sponsor proposals and comment on the sponsor's operational plan's relationship and consistency with the USAID Mission's development strategy prior to their being submitted to USAID/W-BHR/FFP. Along with this clearance the USAID Mission or Field Post sends to USAID/W-BHR/FFP a plan with a description of the resources it will use for monitoring the activity and accepts responsibility for doing so, including providing management and administrative support if required.

~ Report to USAID/W-BHR/FFP on the progress of the program and assure that Cooperating Sponsor reporting requirements are met.

Title II - World Food Program/Other UN Agencies (See Chapter 10)

~ The USG makes voluntary pledges of Title II resources to global WFP activities biannually. USAID Mission or Field Posts are responsible for providing comments to BHR/FFP about proposed food aid programs that utilize U.S. donated commodities and are conducted by WFP or other UN agencies.

~ All USAID Missions or Field Posts are to notify USAID/W-BHR/FFP when the principal USAID or Embassy Officer perceives that WFP or other UN food aid programs are not being properly planned, implemented or monitored, or impinge upon USG bilateral food aid activities.

~ More specific guidance on monitoring and reporting upon WFP and UN agency food aid programs will be given to those USAID Missions or Field Posts where such programs constitute critical components in the food requirements of a given populace.

Title III

USAID Missions or Field Posts should:

~ First establish that the intended recipient country is an eligible least developed country as determined by USAID/W-PPC and that there are no policy considerations that would prohibit assistance under Title III.

~ In accordance with guidance issued by BHR and the Regional Bureau, document intended use of Title III resources in the Mission's Strategic Plan (Title III is viewed as a long-term development instrument, up to five years and renewable) and prepare the Title III proposals.

~ Include proposed Title III estimates of requirements in their ABS to Regional Bureaus.

~ Once Title III proposed programs are approved, adapt the Title III Agreement format developed by the General Counsel (GC) for sales of Title III commodities to generate and use local currency proceeds, or if the commodities are put to other uses, consult with the Regional Legal Advisor (RLA) or GC/BHR to revise the Title III Agreement accordingly.

~ Each year assess the recipient country's performance in meeting program and policy performance indicators and achieving the Title III program's outputs, purposes and objectives. These Annual Progress Reports must be submitted to USAID/W before each subsequent year's funding can be approved.

Audits

USAID Missions or Field Posts are to implement the actions approved to resolve and close audit recommendations with respect to food aid activities in the country, whether the action is approved by the USAID Mission or Field Post itself or referred

to USAID/W and approved by the appropriate Regional Bureau with respect to Title III donations, or by BHR for Title II and other food aid activities.

f. USAID Inspector General (IG)

The Inspector General (IG) is the principal advisor to the A/USAID regarding audit policy. Food aid programs must include arrangements for audit that are acceptable to the IG. The Administrator will decide any issues related to audit that cannot be resolved.

6. Cooperating Sponsors

Once the underlying Non-Governmental Organization (NGO) program agreement, host country agreement, and any recipient agency agreements are signed, responsibilities for getting Title II programs underway are:

~ A Non-Governmental Cooperating Sponsor such as a PVO, cooperative or intergovernmental organization has the responsibility of preparing and submitting two documents covering regular or emergency Title II programs for USAID Mission or Field Post approval and USAID/W review: the Operational Plan (OP), and the Annual Estimate of Requirements (AER).

~ A Governmental Cooperating Sponsor is only eligible to receive Title II commodities in an emergency situation. A governmental Cooperating Sponsor prepares and submits a program plan akin to an NGO Operational Plan (OP). Based upon the information in this plan, as approved, the USAID Mission or Field Post or BHR/FFP will then prepare a Transfer Authorization (TA) describing the food assistance to be utilized for the Cooperating Government's signature.

Once the program is approved and is underway, the Cooperating Sponsor is responsible for the implementation of the terms of their approved plans and agreements, which include proper use and accountability of all Title II commodities or funds made available to meet the agreed requirements of eligible recipients, and a system of timely and thorough reporting on program implementation which lends itself to external audit.

CHAPTER 3

POLICY

3A. Statutory Policy

The U.S. food aid program is primarily administered under P.L. 480. This act has had several amendments, the most recent being in the Agricultural Development and Trade Act of 1990. The three major titles dealing with food aid underwent major revision and changes in policy direction and are now entitled:

Title I -Trade and Development Assistance

Title II -Emergency and Private Assistance Programs

Title III - Food for Development Program

P.L. 480 cites enhancement of food security in the developing world as U.S. policy, as follows:

> It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of agricultural commodities and local currencies accruing under the Act to:
>
> combat world hunger and malnutrition and their causes;
>
> promote broad-based, equitable, and sustainable development, including agricultural development;
>
> expand international trade;
>
> develop and expand export markets for United States agricultural commodities; and
>
> foster and encourage the development of private enterprise and democratic participation in developing countries.

The 1990 legislation for the first time defines food security as:

> Access by all people at all times to sufficient food and nutrition for a healthy and productive life.

3B. USAID Policy Determinations

While the foregoing statutory definition of food security is used for P.L. 480 Title II and Title III programs, USAID's Policy Determination No. 19 (PD-19) of April 13, 1992 incorporated the fundamental concepts of this and the International Bank for Reconstruction and Development (IBRD) and Food Agricultural Organization (FAO) definitions to set forth USAID's basic definition of food security as follows:

> "When all people at all times have both physical and economic access to sufficient food to meet their dietary needs for a productive and healthy life."

Within the context of this definition of food security, three distinct variables are recognized by USAID as central to achievement of the policy of enhancing food security in the developing world: availability, access and utilization. PD-19 explains how complementary programming of monetary resources under Development Assistance (DA), the Development Fund for Africa (DFA), and the Economic Support Fund (ESF) and P.L. 480 resources, as part of country program strategies, may overcome constraints to these variables in attaining food security policy objectives. Thus, both P.L. 480 and other USAID programs may improve the food security in countries where assistance is contemplated by addressing constraints such as those below which would impede progress toward this objective.

Availability of Food: Inappropriate agricultural practices and technologies; inappropriate economic policies (e.g., pricing, tariffs, taxes); inadequate agricultural inputs; dysfunctional transportation and distribution systems; ineffective private sector marketing systems; inability to predict, assess and cope with emergency situations; natural disasters and climatic constraints; and population growth rates that offset increased production and/or imports.

Access to Food: Insufficient economic growth leading to a lack of job opportunities and economic incentives; inadequate training or job skills; lack of credit or other means to improve asset and income status; inappropriate national economic policies; and food losses associated with ineffective harvesting and storage.

Utilization of Food: Nutrient losses due to food preparation; inadequate knowledge and practice of health techniques, including child care and sanitation; and cultural practices that limit consumption by certain groups or family members.

3C. Title I - Trade and Development Assistance

Title I provides for the sale of agricultural commodities on concessional terms to developing countries either in dollars or for local currencies. To qualify, a country must have a shortage of foreign exchange and be unable to meet all of its food needs through commercial channels. Under Section 104(c) proceeds from local currency payments can be used to support agricultural development; trade development and promotion; loans for agribusiness; loans for agricultural facilities including cooperatives; private sector agricultural trade development; and agricultural research; and to make payments for U.S. Government (USG) obligations. A.I.D. no longer has any operational responsibility for either P.L. 480, Title I, or Section 416(b) of the Agricultural Act of 1949 under which U.S. agricultural surpluses can be donated to assist developing countries and friendly countries.

3D. Title II - Emergency and Private Assistance Programs

Legislative and USAID operational policies governing the planning, implementation and monitoring of Title II undertakings are set forth in USAID Regulation 11. It is USAID's position that it probably will be necessary to deviate from very few requirements of Regulation 11 itself to accommodate any other than the most unusual situations.

It is USAID policy that the services of private voluntary organizations (PVOs) and cooperatives are to be used as Cooperating Sponsors to the maximum extent practicable to carry out Title II regular or emergency programs. While PVOs and cooperatives no longer need be registered with USAID to be eligible for Title II programs, a nongovernmental organization is eligible to implement regular Title II programs only after it has entered into a Food for Peace Agreement with USAID that incorporates the terms and conditions of Regulation 11; foreign PVOs and cooperatives are also eligible to be Cooperating Sponsors. However, in approving proposals, preference may be given to registered PVOs and cooperatives over those that are not. Governments are to be used as Cooperating Sponsors only in emergency programs.

As stated in Regulation 11, the USAID Mission or Field Post has to assure proper management and exercise oversight of Title II programs in-country as well as provide assurance of linkages between Title II activities and the USAID Mission's strategic objectives. USAID/W-BHR encourages a continuing dialogue between USAID Missions or Field Posts, voluntary agencies and responsible personnel in the recipient country to assure that Title II resources are integrated with other development resources in solving priority problems in malnutrition and development. USAID/W-BHR/FFP cables Title II program guidance updating for each fiscal year is sent to USAID Missions or Field Posts for required review, comment and certification on each Cooperating Sponsor's Title II Program submission.

3E. Title III - Food for Development

Legislative policy underlying the restructuring of Title III in 1990 concentrates this newly designed grant component of P.L. 480 on least developed countries (LDCs) meeting IBRD poverty criteria or having chronic food deficits. Those LDCs accorded priority consideration under Title III must have the greatest need for food; the capacity to use food aid effectively; a commitment to policies to promote food security; and a long-term plan for broad-based, equitable and sustainable development.

As stated in the legislation, a country is eligible to receive grant food aid under Title III if it meets the poverty criterion established by the IBRD for Civil Works Preference (per capita annual income of $610 or less). A country not meeting the poverty criterion is still eligible if it meets the following food deficit criteria:

daily per capita calorie consumption of less than 2300;

child mortality rate under age five greater than 100 per 1000 live births; and

inability to meet its food security requirements from domestic production or from imports due to a shortage of foreign exchange earnings.

Meeting the statutory country eligibility criteria is a first requirement for a Title III program. Once this is met, a Title III proposal must meet the criteria that USAID program policy sets for use of other types of assistance. These include program prioritization, the meeting of concentration and focus requirements, program integration, and proposal review and approval by the same mechanisms undergone by Development Assistance (DA), Development Fund for Africa (DFA), and Economic Support Fund (ESF) funded project proposals.

Title III legislation encourages a comprehensive approach to improving food security citing a wide range of eligible development activities for which Title III donations may be used, including balance of payments support; promotion of specific policy reforms; establishment of security food stocks to meet emergencies; improvement of rural infrastructure; support of nutrition intervention and other child survival activities; privatization; support of Peace Corps activities that relate to agricultural production; support of non-governmental organizations (NGOs), PVOs, and cooperatives; and other appropriate food security measures.

The legislation requires that at least ten percent of local currency generated under a Title III program be used to support indigenous NGOs and cooperatives active in rural development, agricultural education, production and other activities to assist poor people.

The nature of the activities for which Title III support can be used are long range and therefore Title III proposals must be for multi-year programs - up to five years. P.L. 480 legislation emphasizes the integration of Title III projects into the development strategy, objectives and programs of the USG and the Cooperating Country. Accordingly, proposals should include total program needs over the life of the project and be incorporated into the Country Program Strategic Plan. Title III resources can be combined with DA, DFA, ESF and other food aid to maximize the developmental impact.

USAID Missions or Field Posts have overall responsibility for designing, developing, implementing and reporting on Title III programs. It is USAID policy that an Annual Progress Report

(APR) which assesses recipient country accomplishments in meeting agreed Title III project and policy performance indicators and achieving the project's outputs, purpose and objectives, be submitted by the USAID Mission or Field Post and reviewed by USAID/W (appropriate Regional Bureau, BHR, PPC) before new funding can be approved for a subsequent year. In view of the degree of involvement of USAID Missions or Field Posts in Title III programs from concept through development and implementation to final evaluation and audit, it has been Agency policy to limit Title III programs to countries with USAID Missions.

Cabled Title III program guidance updating for each fiscal year is sent to USAID Missions or Field Posts.

3F. Local Currency

P.L. 480 and the Agriculture Act of 1949, Section 416(b) permit the generation of local currency as a statutory end in itself, and not just a by-product of the sale of food aid. Guidelines for generation, use and accountability of local currency are set forth in USAID policy determination No. 19 and State 204855. The statutory objectives of monetized P.L. 480 Title III programs, as well as P.L. 480 Title II and Section 416(b) assistance, would not be satisfied unless the local currency proceeds were used for their intended purposes.

These intended purposes are defined in the legislation:

P.L. 480 Title III, Section 306(b), identifies 13 specific economic development purposes for which local currency proceeds may be used;

P.L. 480 Title II regular programs require that local currencies generated be used for the purposes specified in Section 203(d) of P.L. 480.

P.L. 480 Title II emergency food aid programs require that the food (if not distributed to needy people) may be sold, as long as the local currency is then used for emergency purposes;

Section 416(b) stipulates that sales proceeds may be used either for costs incidental to moving the Section 416(b) commodities or for activities that are consistent with providing food assistance to needy people.

USAID may share responsibility in the joint programming of P.L. 480 generated local currencies, but retains the responsibility for the accountability (ensuring the use for agreed-upon purposes) of P.L. 480 Title III generated funds. P.L. 480 local currency generations should not be commingled with other local currencies associated with U.S. assistance. P.L. 480-generated local currencies should be deposited in a special account; at a minimum, the program agreement must require that reports on a special account be submitted to the USAID Mission on a quarterly basis.

Key distinguishing characteristics of policy regarding local currency generated from the sale of P.L. 480 and Section 416(b) commodities are listed as follows:

P.L. 480 prohibits the use of local currency derived from the sale of food commodities to finance the production for export of agricultural commodities that would compete in the world market with similar items produced in the U.S. if such competition would cause "substantial injury" to U.S. producers.

P.L. 480 requires 10 percent of the local currency generated under Title III to be used to support indigenous NGOs, but only if the Title III local currency is deposited into a separate account [Section 306(b)].

P.L. 480 requires separate accounts for Title III programs to the extent determined appropriate by the Administrator. If local currency is generated in a food aid program, it must be deposited into a separate, interest-bearing account. If the requirement for a separate account is waived, USAID must still be able to verify that an equivalent amount of local currency was used for specific economic development purposes [Section 304(a)].

P.L. 480 requires consultations with the International Monetary Fund (IMF), World Bank and other donors to ensure that the use of P.L. 480 local currency for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country [Section 403(b)].

Programming local currency is permissible to support (a) developmentally sound projects under Title III; (b) nonemergency Title II programs; (c) projects and programs that pertain to emergencies; and (d) projects that pertain to food assistance to needy people under Section 416(b) agreements.

Programming local currency to support particular sectors of the government's budget is permissible under Title III agreements; and to support the agriculture sector only under Section 416(b) agreements. The agreement between the Cooperating Country and USAID Mission concerning use of local currency for specific sector support should specify the format and frequency of reports.

Programming local currency to reduce the government's debt may be permissible under Title III if this use can be justified under one of the specific economic development purposes described in Section 306(a) of P.L. 480; this use is not permissible under Title II or Section 416(b).

Programming local currency to establish an endowment is permissible under Title II and Title III, but only if established by an NGO (and not by a host country); this use is not permissible under Section 416(b).

Programming local currency to help fund USAID Mission operating expenses is not permitted under P.L. 480 or Section 416(b).

3G. Title V - Farmer-to-Farmer Program

P.L. 480 created the Farmer-to-Farmer Program (FTF). The 1990 amendment restates the policy objectives of this program and expands objectives and target groups, as well as the financing to be made available under P.L. 480. The legislative intent is to assist developing countries, middle income countries and emerging democracies to increase farm production and the incomes of farmers.

The program envisages U.S. farmers, agriculturists, agribusinesses, universities and non-profit farm organizations volunteering to work with individual farmers and farm organizations in Cooperating Countries to improve the operations of food systems from production through distribution on a people-to-people basis. P.L. 480 requires that not less than 0.2 percent of the amounts made available each fiscal year from 1991 to 1995 shall be used to carry out FTF, with not less than 0.1 percent to be used for this program in developing countries.

CHAPTER 4

STRUCTURE AND OBJECTIVES

4A. Introduction

USAID and the U.S. Department of Agriculture (USDA) share the responsibility for administering five U.S. food assistance programs: (1) concessional loans in support of trade and development assistance (Title I); (2) donated agricultural commodities in support of emergency and non-emergency food aid programs (Title II); (3) grant food to the least developed countries (Title III); (4) donated surplus agricultural commodities to relieve temporary commodity shortfalls [Section 416(b)]; and (5) supported progress toward democracy and open market systems (the Food for Progress program). The following sections briefly discuss major elements of each program. Parts II through IV of Handbook 9 address in detail those programs for which USAID has responsibility.

4B. Title I - Trade and Development Assistance

1. Objectives

Title I of P.L. 480 focuses on the market development aspects of the U.S. food aid program. By investing in agriculture, trade promotion, and public infrastructure, and by assisting countries with temporary foreign exchange constraints in participating in international markets, USDA uses Title I programs to help countries meet their long-term food security requirements. Priority is given to countries that (a) demonstrate the greatest need for food; (b) undertake economic reforms to promote food security, alleviate poverty, and promote development; and (c) have the demonstrated potential to become commercial markets for competitively priced U.S. commodities in the future.

2. Structure

USDA has assumed full management of the Title I concessional loan program, under which countries pay for commodities in U.S. dollars at concessional interest rates with a maximum 30-year loan term and a maximum 7-year grace period. On an exceptional basis, the Secretary of Agriculture may choose to accept repayments of loans in local currencies, which may, in turn, be used in the recipient country to support activities that promote agricultural development and trade and/or to pay for USG obligations. Sales are made by private business firms usually on a bid basis in response to tenders issued in the U.S. by the importing country. The annual funding level is set by law. It is usually required that ocean freight be paid by the importing country except for the difference in shipping costs for the quantity of commodity shipped on U.S. versus foreign flag vessels. This freight differential is paid by the Commodity Credit Corporation (CCC). In contrast to previous Title I programs, the new legislation does not require that local currency generations be programmed.

3. Operational Responsibility

Congress has provided USDA with all authority for the concessional sale of agricultural commodities to developing countries. USAID no longer has any operational responsibility for Title I, either in Washington, DC or in the field. The Agency preference is that USAID not manage USDA programs. Any exception to this policy would call for extraordinary circumstances and the following criteria would apply. It must be understood, moreover, that meeting these criteria is a necessary but not sufficient condition for approval, and USAID concurrence should not be assumed.

Criteria

(a) The Missions's proposal or endorsement of a USDA request that USAID manage a Title I program, detailing the length of involvement and the specific responsibilities to be maintained, must conform with the "monitoring" section of USAID Delegation of Authority 902 (Appendix E).

(b) It must be determined that the Title I activity is vital for achieving the USAID Missions or Field Post's objectives in the country or USAID or USG interest there or in the region.

(c) The Title I program and/or uses of local currency generations must fit within the Mission's strategic objectives and be in conformity with the focus and concentration mandate of the Agency.

(d) USDA must have no or inadequate capability to manage the program on its own without USAID involvement.

(e) The USAID Mission must fully explore and/or negotiate reimbursement by USDA to USAID for the costs of implementing or monitoring the USDA program.

(f) The USAID Mission or Field Post must have a food aid management plan in place approved by USAID/W and have available the human and financial resources needed for effective management of the Title I program.

(g) The impact of the proposed Title I activity on the Mission's operating expenses and/or staffing is not expected to result in a need for increased staff or funding.

(h) The USAID Mission or Field Post must identify the program benefits related to USAID and USAID Mission objectives, expected program impact, detailed and measurable benchmarks and evaluation plans.

4. Procedures

If a USAID Mission is requesting exception to USAID's policy of non-involvement in USDA programs, the following procedure should be followed:

A USAID Mission or Field Post will direct to the appropriate Regional Bureau its request to begin or continue managing a Title I program or indicate its concurrence in a USDA or State request for the USAID to do so. The USAID Mission or Field Post will describe briefly the proposed program including USAID's projected life of program involvement, its importance to the Mission's assistance strategy, USAID's management capacity in place, USDA's capability, and USAID resources needed to implement or monitor the activity effectively. This request should indicate, particularly for new activities, the proposed costs USDA may pay, if any, for the USAID Mission or Field Post's management. If the request is endorsed by the Regional Bureau, the Bureau will prepare an action memorandum signed by the Assistant Administrator that sets forth the information provided to it and its reason(s) for supporting the request. The signed action memorandum will be directed to the Assistant Administrator for Management (M), the Assistant Administrator for Policy and Program Coordination (PPC), and the Bureau for Humanitarian Response (BHR) for concurrence. BHR will negotiate with USDA about the arrangements for USAID participation.

4C. Title II - Emergency and Private Assistance

1. Objectives

The objectives of agricultural commodities provided under this title to foreign countries on behalf of the people of the U.S. are to (a) address famine or other urgent or extraordinary relief requirements; (b) combat malnutrition, especially in children and mothers; (c) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity; (d) promote economic and community development; (e) promote sound environmental practices; and (f) carry out feeding programs.

2. Structure

Under Title II, which is managed by USAID, the U.S. Government (USG) donates agricultural commodities to support emergency and development programs. In many cases, food is distributed to individuals through direct relief, emergency feeding and disaster assistance programs. In other cases, food is combined with other program elements and targeted to certain beneficiary groups, such as in maternal-child health (MCH), school feeding (SF) and food for work (FFW) programs. In still other programs, P.L. 480 commodities are imported and sold on the local market (monetized) providing an additional supply of food locally and generating local currencies which are then used to support local development efforts, community projects, and feeding programs. Emergency assistance is provided through governments and public or private agencies, including intergovernmental organizations such as the World Food Program (WFP) and other multilateral organizations. Non-emergency assistance is provided through private voluntary organizations (PVOs) or cooperatives that are, to the extent practicable, registered with USAID or through intergovernmental organizations, such as WFP.

3. When to Choose Title II

The United States (U.S.) P.L. 480, Title II food assistance is often an essential response to extraordinary emergency events affecting developing countries. Important elements that can contribute to the U.S.'s ability to respond rapidly and responsibly to emergencies when they do arise are contact, cooperation and coordination with other donors in the host country, and on-going food needs and/or early warning systems. The first improves the coordination of emergency requests and responses and the second helps to identify, define and quantify the emergency food need. While some forms of emergency assistance can only be called forward when an emergency has officially been declared by the host country government, U.S. emergency food aid assistance can be activated without such an official declaration. The USAID Mission or Embassy can start the process by submission of an emergency request to USAID/W-BHR/FFP outlining in detail the cause, extent and magnitude of the emergency need as well as the appropriate U.S. response.

Objectives (b) through (f) of the legislation (see 4C.1., above) can often only or most efficiently be met through regular planned development feeding programs implemented by PVOs and cooperatives operating in developing countries. In recent years the legislation has expanded the authority for sale or barter and for the use of the proceeds for economic and community development, thus broadening the ways in which food can contribute to meeting nutrition, relief and economic development needs. Grant resources are also available to support the programs and to increase their efficiency and impact. If eligible PVOs or cooperatives are available and/or have requested USAID support of feeding or food supported programs to meet objectives of the legislation and of USAID and the USAID Mission's development strategy, Title II resource support should be considered and requested.

4. Procedures for Requesting Title II

The Administration may make a decision to offer emergency assistance and inform the USAID Missions of such decision. Cooperating Sponsors may also make a determination that emergency assistance is needed. Requests for U.S. food support should in these instances be directed to USAID Missions for transmittal to USAID/W-BHR/FFP. As stated above, USAID Missions may also initiate the emergency response process by transmitting an emergency food request to USAID/W-BHR/FFP. These procedures are detailed in Chapter 7 of this Handbook.

Procedures for initiating a regular Title II program are presented in detail in Chapters 5 and 6 of this Handbook. Regular Title II programs should be an integral part of the USAID Mission and host country development strategies, and, as such, planning should begin with the Country Development Strategic Statement (CDSS) and programs should be included in the Annual Budget Submission (ABS) and Congressional Presentation (CP). Cooperating Sponsors, on the other hand, are required to submit Operational Plans (OPs) either on a yearly or multi-year basis which detail the proposed program goals, implementation and management. (Again, see Chapters 5 through 11 of this Handbook for details on Title II program development, proposal submission, implementation, management and reporting requirements.)

5. Reference Materials

Chapters 5 through 11 of Handbook 9
Regulation 11 (Appendix B)
Food Aid Management Plan for USAID Missions
Commodities Reference Guide
Monetization Field Manual

4D. Title III - Food for Development

1. Objectives

The new Title III Food for Development Program, established by Congress in the 1990 Amendment to P.L. 480, focuses on the use of Title III commodities as a prominent, integral part of the USAID Mission's Country Assistance Strategy and the recipient country's Development Plan. The fundamental objective of Title III is food security. The program is grant funded; encourages multi-year commitments; allows USAID Missions or Field Posts to approve the Cooperating Country's negotiation of sale of the Title III commodities through governmental or non-governmental entities; and offers flexibility in the choice of programming options to achieve development objectives. Title III stresses three such objectives: a) the enhancement of food security; b) the privatization of food and agricultural distribution systems; and c) support of nutrition improvement and child survival initiatives.

2. Structure

A country is eligible to receive grant food aid under Title III if it meets the poverty criteria established by the International Bank for Reconstruction and Development (IBRD) for Civil Works Preference. A country not meeting the poverty criterion is still eligible if it meets all of the following food deficit criteria: a) daily per capita calorie consumption is less than 2300; b) child mortality rate under age 5 is greater than 100 per 1000 live births; and c) inability to meet its food security requirements from domestic production or from imports due to a shortage of foreign exchange earnings.

Meeting the statutory country eligibility criteria is only the first requirement for a Title III program. Section 202(c) of the legislation further states that USAID should give priority to those countries that (1) demonstrate the greatest need for food; (2) demonstrate a capacity to use food assistance effectively; (3) have demonstrated a commitment to policies to reduce measurably hunger and malnutrition; and (4) have a long-term plan for broad-based, equitable and sustainable development. In addition, USAID applies programming criteria similar to those for requesting other USAID resources. Along with the proposed use of Title III commodities being documented in the Mission's Strategic Plan, these criteria include program prioritization, the meeting of concentration and focus requirements, program integration, and proposal review and approval. Unlike Title II, where the USAID Mission's role is basically one of management and oversight, USAID Missions are directly involved in Title III programs from concept through development and implementation to final evaluation and audit. Because of management, monitoring and reporting requirements, implementation of Title III programs has been limited to countries with USAID Missions. Title III program implementation requirements are detailed in Chapters 12 and 13 of this Handbook.

Under Title III, the United States Government (USG) will donate agricultural commodities without charge and will arrange for and pay the costs of purchasing, processing, handling and transporting the commodities to the port of discharge in the recipient country, or point of entry in a landlocked country. The recipient country shall arrange for and pay the cost of handling, transporting and distributing Title III commodities within its borders. Local currency generated by sale of Title III commodities can be used to pay these costs.

3. When to Choose Title III

Congress purposely provided considerable flexibility to USAID in using Title III resources. Missions may use Title III agreements as an important tool for advancing policy dialogue; program the commodities as balance of payments assistance to support policy reform; sell the commodities to governmental or non-governmental entities and jointly program the sales proceeds for specific development activities, for sector support, or to support policy reform; distribute the commodities in direct feeding programs; use the commodities to establish emergency food reserves; or design the program for any combination of these options. USAID Missions can also combine, in one project, Title III resources with Development Assistance (DA), Development Fund for Africa (DFA), Economic Support Fund (ESF) and other food aid to maximize the developmental impact of U.S. assistance.

In using Title III to pursue policy reform, priority should be given to policy changes in the areas of food security, private sector, and nutrition - including child survival -initiatives. Policy reform programs should be structured in a manner commensurate with host country and USAID Mission implementation capabilities. Policy initiatives should be targeted to specific reforms, and the country's progress in implementing the reforms as well as the impacts of the reforms themselves should be measurable.

The use of Title III resources to advance policy dialogue and reforms may, but need not be, linked to local currency programming. If commodities are sold (under Title III most are), the sale may be through the private or public sector; the sales proceeds may be owned by the host country and the sales proceeds may be used for a variety of economic development program and policy initiatives of which a listing of illustrative examples are cited in Section 306(a) of the Title III legislation. Title III can also be considered as Balance of Payments assistance to support policy reform initiatives, preferably in combination with some of the other suggested uses set forth in Section 306(a). P.L. 480 requires that, to the extent practicable, 10 percent of local sales proceeds be used to support indigenous non-governmental organizations (NGOs) and cooperatives whose activities benefit poor people in the recipient country.

4. Procedures for Requesting Title III

USAID has sole authority and responsibility for implementing Title III, and the USAID Administrator (A/USAID) has delegated responsibility for approvals of Title III programs to the Regional Bureau Assistant Administrators, with clearance by the Assistant Administrator of BHR. Development of a Title III proposal for submission to the Regional Bureau is detailed in Chapter 12 of this Handbook. This should begin with a joint USAID Mission/recipient country review of the present and long-run food import needs and food security potential of the recipient country; the policies and programs aimed at meeting its food needs; the ways in which a Title III program could provide assistance in enhancing food security and the country's capacity to use food assistance effectively; and the manner in which Title III could fit into the broader development strategies of the USAID Mission and the recipient country.

Title III proposals should flow from an analysis of the country's food security situation, including the roles that food aid and the private sector can play in enhancing food security. The USAID "Manual for Food Needs Assessment" (FNA) and its accompanying software has proven to be very useful in this analysis (available USAID/W-PPC/CDIE Locator Number PN ABB 175). On the basis of this analysis, the USAID Mission should identify the primary host country organizations involved in the program and the specific undertakings to be supported by Title III. The program proposal should be about 25 single-spaced pages (exclusive of annexes) and should cross-reference existing policy and strategy statements and program documents as much as possible. The current CDSS and Action Plan could be incorporated by reference in the Title III proposal, as could project documentation for approved projects to be supported by Title III resources. Program objectives should be clearly defined, and performance indicators should be plausible, independent, objectively verifiable, targeted, accessible, comprehensive and compatible.

Title III programs also require: (a) commodity needs analysis; (b) the usual marketing requirements (UMR) analysis; and (c) storage and disincentive analysis. When a Title III project involves the sale of commodities, the project description should explain the organization designated to manage the sale, how the sale will be conducted, how the sales price is determined, and the acceptable terms of sale. Local currency proceeds will be placed in a separate interest-bearing account. These proceeds are to be jointly programmed by the recipient country and USAID Mission for project or sector support.

A Title III Model Agreement has been devised for the majority of Title III programs which involve sales of the donated commodities and use of local currency proceeds for agreed upon program purposes (Appendix H). If a Title III program includes the donation of any or all of the commodities for direct feeding programs, the development of emergency food reserves, or solely as balance of payments assistance in support of policy reform measures, the model format must be further revised by the General Counsel of BHR (GC/BHR) prior to USAID Mission negotiation and signing.

5. Reference Materials

Chapters 12 and 13 of Handbook 9

Food Aid Management Plan for USAID Missions

USAID Manual for Food Needs Assessment (FNA)

Monetization Field Manual

Commodities Reference Guide

4E. Section 416(b)

1. Objectives

The intent of Section 416 of the Agricultural Act of 1949 is twofold: one, to prevent the waste of commodities, whether private stocks or acquired through price-support operations by CCC, before they can be disposed of in normal domestic channels without impairment to the price-support program or sold abroad at competitive world prices; and, two, in so doing, to use such commodities to feed needy persons, whether domestically or under Title II and the Food for Progress Act activities.

2. Structure

Section 416(b) authorizes the use of commodities in developing countries in Title II and Food for Progress programs, and for such other purposes as approved by the Secretary of Agriculture. USDA is responsible for the management and programming of the 416(b) commodities.

3. Section 416(b) Operational Responsibilities

All Section 416(b) program responsibilities belong to USDA and their country or regional agricultural attaches, as appropriate. As in the case of Title I, any exceptional cases that entail any use of Section 416(b) commodities which are to be managed by USAID Missions will be decided on a case-by-case basis. The same criteria as in 4B.3., above, are necessary, but not in themselves sufficient for approval of such programs by USAID/W: (a) a USAID Mission proposal or endorsement of a USDA request that USAID Mission manage a 416(b) program must detail the length of involvement and specific responsibilities to be maintained; (b) the proposal must show how the activity is vital for the field, USAID or USG interests in the country or region; (c) the activity must fit within the USAID Mission's strategic objectives; (d) USDA must have no on-the-ground capability to manage the program on its own without USAID Mission involvement; (e) reimbursement of costs of implementing or monitoring the program by USAID must be explored and/or negotiated; (f) a USAID Mission food aid management plan must be in place; (g) increased staff must not be required to manage the activity and (h) the USAID Mission must identify program benefits that will result from USAID management of the Section 416(b) food program.

A USAID Mission or Field Post must direct to the appropriate Regional Bureau its request to begin managing a 416(b) program or indicate its concurrence with a USDA or Department of State request for USAID to do so. The USAID Mission or Field Post must describe the proposed program, including USAID Mission's projected life of program involvement, its importance to the USAID Mission's assistance strategy, USAID Mission's management capacity in place, USDA's capability and the USAID Mission's resources needed to implement or monitor the activity effectively. This request should indicate the proposed costs USDA will pay for USAID management of the program. If the request is endorsed by the Regional Bureau, the Bureau will prepare an action memorandum for signature by the Assistant Administrator which will be directed to M, PPC and BHR for concurrence and BHR will negotiate with USDA on the arrangements for USAID participation in a 416(b) activity.

4F. Food for Progress

1. Objectives

Section 1110 of the Food Security Act of 1985 covers the Food for Progress legislation, which authorizes the President to enter into agreements to provide food to countries that make commitments to promote the implementation of private, free-enterprise agricultural policies for agricultural development. The Food for Progress program provides commodity assistance in recognition of developing countries' progress toward democracy and open market systems, as well as assistance for emerging democracies.

2. Structure

The Food for Progress program is managed by USDA and the commodities provided are from those budgeted for Title I and Section 416(b). Criteria for selection are political commitment to reform and implement policy decisions on free market principles and private sector involvement; in-country capacity to carry out agricultural reform; evidence of policies conducive to improvements in agriculture; potential for economic growth, and potential or existence of other donor support. The Food for Progress food assistance option is essentially targeted by USDA for programs in countries that can be classified as developing or evolving democracies.

CHAPTER 5

TITLE III FOOD FOR DEVELOPMENT PROGRAM

5A. Introduction and Purpose

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

5B. Legislative History and Program Structure

1. Congress enacted the Title III "Food for Development" program (Secs. 301-307 of P.L. 480) in 1977 to increase the developmental impact of P.L. 480 food aid. It did so to provide incentives to developing countries to use P.L. 480 food aid as a development resource. The key incentive for the recipient country under Title III is that, in return for carrying out agreed developmental activities, the United States Government will offset all or part of the recipient government's Title I repayment obligations.

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

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

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

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

Particular emphasis should be placed on policies and associated programs which effectively assist small farmers, tenants, sharecroppers and landless agricultural laborers. Its aim is to expand their access to the rural economy through services and institutions at the local level, and provide opportunities for the poor, who are dependent upon agriculture and agricultural-related activities to better their lives through their own efforts.

5C. Title III Eligibility Requirements

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

1. Have a need for external resources to improve its food production, marketing, distribution, and storage systems;

2. Meet the per capita income criterion (in Fiscal Year 1988 this was a maximum of $835) necessary to qualify for development loans from the International Development Association of the International Bank for Reconstruction and Development (the World Bank);

3. Be able to use effectively the resources made available by the resale of the food commodities;

4. Indicate a willingness to take steps to improve its food production, marketing, distribution, and storage systems.

5D. Development

1. The Title III proposal should be brief and clearly written, and it should include as its centerpiece [1] the proposed self help measures, and [2] a plan which describes how the recipient is to earn offset [i.e. through the use of commodities or through the use of local currency]. Section 303[a] of the Act sets out the features which should be common to all Title III proposals. They are:

An annual quantity and value of commodities to be financed under the Title I agreement;

A plan for the uses of the commodities or the proceeds generated from their sale [which will be formalized in Annex B];

A description of the nature and magnitude of the problems to be affected by the effort undertaken through the agreement;

A list of targets to be achieved; and

A description of the relationships among the various projects, activities, or programs to be supported.

In addition, the legislation mandates that a multiyear utilization program must include a statement of how the proposed program will be integrated into and complement the country's overall development plan and other forms of bilateral and multilateral assistance.

2. Timing

a. Country teams may submit Title III Food for Development (FFD) proposals including draft Annex B at any time during the fiscal year. Ideally they should be submitted prior to the beginning of the fiscal year and no later than the end of the first quarter of the fiscal year in which it is to be signed. Because of the PL-480 requirement to load commodities at U. S. ports not later than the end of the supply period [almost always the fiscal year] and because of the complexity of Title III agreement negotiations, Missions should expect that proposals received in Washington after October 31 will be considered for signing and implementation in the following fiscal year, [i.e., FY 90 for proposals received after October 31, l988].

b. Country teams should submit draft Negotiating Instruction (See Attachment B, Chapter 4) for DCC approval not later than 60 days prior to expected date of authority to negotiate. Where the intention is to negotiate the agreement within 60 days of the submission of the proposal, draft language for the self-help measures of the Title I portion of the agreement and a draft Negotiating Instruction must be included as part of that proposal. Country teams are reminded that each agreement's specific language must be approved in Washington before formal negotiations can be authorized. Attachment B typically defines policy commitments the recipient government is undertaking and briefly describes the projects, programs or activities to be funded by L/C generations, indicating by project, program or activity both annual budget levels and annual benchmark targets.

c. Waiver

For those countries that meet the criteria to qualify as "relatively least developed countries," the President of the United States may waive, under Section 304 (c) of P.L. 480, the requirements with respect to project additionality, as well as the documentation requirements (i.e., the multi-year planning proposal, and the annual progress report). Such waivers are permissible if the President determines that such requirements cannot be met by a given recipient country, and yet Title III assistance is needed to meet important humanitarian or development objectives. Any such waivers, along with justifications, must be reported annually by the President to the Congress. For these countries, also, the CCC may pay the freight charges for transporting the Title III commodity to the port or point of entry in the receiving country.

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

3. Evaluation of Title III Programs

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

(1) A comparison of results with projected targets.

(2) A description of how the commodities were used.

(3) An accounting for funds generated and their uses.

(4) The outstanding balances at the end of the most recent (USG) fiscal year.

b. USAID Mission or Diplomatic Post. An annual review is also required by the USAID Missions or Diplomatic Posts of the use of proceeds and how well the country has met the terms of the agreement. The report and/or annual review should recommend any program changes or modifications necessary to accomplish the goals and objectives of the program. The recipient country annual report and the USAID Mission annual review report are to be submitted, by December 15, each year to AID/W-FVA/FFP.

c. AID/W-FVA/FFP. The combined annual progress report and annual review report are the basic documents used by the Interagency Working Group of the Food Aid

Subcommittee of the Development Coordinating Committee (DCC) for review and approval of the subsequent year's allocation for the Title III program. In addition to these reports, evaluations will be undertaken by AID/W where appropriate to address impact issues that transcend country specific concerns. The impact evaluations will provide guidance for improving and expanding the Title III program generally. (See also Chapter 17 of this Handbook dealing with evaluation.)

4. For further guidance in developing and approving, implementing and administering a Title III program, See the attached "Revised PL-480, Title III Program Guidance, FY 1989 and Future Years"

(SEE END OF CHAPTER 5 HARD COPY FOR "REVISED PL 480, TITLE III PROGRAM GUIDANCE, FY 1989 and FUTURE YEARS - THIS MATERIAL IS NOT ON DISKETTE)

CHAPTER 6 TITLE II PROGRAM DEVELOPMENT

6A. Types of Programs to be Considered

1. General

AID encourages the development and submission of various Title II programs, direct Title II feeding activities which support development and nutritional objectives, programs using Title II food and/or local currency which contribute to economic and community development, emergency programs, and other innovative uses of Title II resources, such as but not limited to those supporting sectoral policy reform or economic structural adjustment. Definitions pertaining to Title II programs are listed in Appendix B, AID Regulation 11.

2. Program Activities

a. Emergency Programs

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

b. Direct Feeding Programs

These programs are covered in Chapter 10, Direct Feeding in Support of Development and Nutritional Objectives, and include but are not limited to:

(1) Child Feeding and Child Survival

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

(2) Food-for-Work Programs

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

(3) Programs in Support of Policy Reform and Structural Adjustment

c. Section 206 Programs and Programs Involving Monetization

These are covered in Chapter 11, Local Currency Projects.

3. World Food Program (WFP)

The U.S. Government contributes resources to the World Food Program through Title II and Section 416. WFP representatives have the responsibility for developing projects for submission to their parent organization, which subsequently determines which donor country or countries will be requested to fulfill project resource requirements from existing pledges to WFP. These programs are covered in Chapter 12, U.N./FAO World Food Program.

6B. Program Guidelines

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

1. Food Needs Assessment Emergency Direct Feeding

A food needs assessment should be undertaken to determine the level of food needs and the appropriate commodities. Consideration should be given to both the overall consumption requirements of the recipients as well as the food supplies at their disposal (from production stocks or purchases). See both the Commodity Reference Guide and the Manual for Food Needs Assessment as well as Chapter 3, Item G for more detail.

2. Nondisplacement of Other Resources

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

3. Countries Which Export The Same or Similar Commodities

Except for emergencies, commodities which are the same as those which a recipient country exports (on a net basis) normally will not be provided. AID/W may exempt a country from this condition if the country has agreed to provide a substantial part of such commodities from indigenous or external commercial sources or if other circumstances, such as the degree of recipient government support for Title II feeding activities, exist which justify special consideration.

4. Sales and Other Charges

If sales or charges other than those described in Chapter 11, those necessary for the disposition of spoiled commodities, or token charges for Maternal Child Health (MCH) and School Feeding (SF), are contemplated, the Mission should seek AID Washington guidance.

5. Monitoring and Management by U.S. Missions

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

6. Bellmon Requirements

As called for under Section 401 (b) of the P.L. 480 legislation, proposals must address the adequacy of storage conditions and no agricultural commodity may be provided unless adequate storage facilities are available in the recipient country at the time of exportation of the commodity from the United States. This requirement is necessary to prevent the spoilage or waste of the commodity. There must also be a determination that distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic agricultural production in that country. (See Appendix A-I.a. P.L. 480 legislation for specific Bellmon Amendment requirements.)

7. Nondisplacement of Sales

As provided in Section 202(a), except in the case of emergency, reasonable precaution should be taken to assure that Title II commodities will not displace or interfere with sales which might otherwise be made.

6C. Submission of Program Proposals and Supporting Documents

1. Government-to-Government Proposals

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

2. Voluntary Agency, Cooperative, and Inter-governmental Organization Programs

a. Project Proposal and Operational Plans

Voluntary Agencies, Cooperatives and Inter-governmental Organizations must submit nonemergency project proposals to Missions in compliance with the Operational Plan format (see Appendix B, AID Regulation 11, Appendix II). Under this format each cooperating sponsor shall submit to the USAID or Diplomatic Post for the approval of AID/W, a description of the program it is sponsoring or proposes to sponsor. Operational plans emphasize detailed descriptions of target groups, analysis of the problems feeding programs will address, justification for ration selection and size, identification of complementary components and services necessary for achieving project objectives, and monitoring and evaluation procedures.

The Operational Plan must be submitted annually, or if there is approved multi-year strategy, at 2-, 3-, 4, or 5-year intervals depending on program. Within the overall objectives of the approved program, elements of the program may be changed by written agreement of the authorized representatives of the cooperating sponsor, on the one hand, and AID and CCC, within their respective areas of responsibility, on the other, without formal amendment of the agreement. In case of a conflict between the text of the agreement and the approved plan of operation the text of the agreement prevails.

b. Timing of Operational Plans

Operational Plans may be submitted annually, or, on a multi-year basis. The multi-year plan of operation will be required for all regular Title II PVO programs as part of the proposal submission along with the annual submission of an AER (see below).

Operational plans are to be submitted to AID/W no later than the Mission Action Plan covering the following fiscal year's program. Once a multi-year operational plan has been approved, only an updating will be required on an annual basis, unless there has been a significant change from the approved plan in program directives, methodology, design or magnitudes. Updates should be submitted each year for review with the AERs.

c. Narrative and Statistical Summary

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

d. Annual Estimate of Requirements (AER)

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

(2) After the Mission has examined and concurred with the AER, it is signed by the responsible Mission officer. The Voluntary Agency or Intergovernmental Organizations then forwards copies of the Mission-signed AER to its home office for signing and submission to FVA/FFP AID/Washington.

(3) After approval of the AER and operational plan by by the voluntary agency headquarters office, two signed copies are forwarded to AID/W-FVA/FFP. These copies should arrive in AID/W-FVA Office of Food for Peace not later than April 15.

3. Emergency Programs

For submission of emergency proposals, see Chapter 9.

4. Mission Responsibilities for Project Proposals

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

6D. Review of Program Proposals and Supporting Documents

1. AID/W Review

The project proposal (i.e., a Program Plan as described above in the case of government-to-government proposals, and the ABS and AER in the case of voluntary agencies, cooperatives and Intergovernmental Organizations) is reviewed by:

a. (1) FVA/FFP to determine that the program as planned is consistent with appropriate Regulations and guidelines, is technically sound, is appropriate for the purpose intended, and is reasonably within the operating capacity of the cooperating sponsor.

(2) FVA/FFP in compliance with Section 208 of the Agricultural Trade Development Assistance Act of 1954, as amended (P.L. 480), must respond as follows:

(A) "If a proposal to make agricultural commodities available under this title is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate United States Government field Mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the United States Government field Mission, a decision on the proposal shall be provided within 45 days after receipt by AID/W. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

(B) "Notice and Comment.--Not later than 30 days before the issuance of a final guideline to carry out this title, the President shall (1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment; (2) make the proposed guideline available, on request, to the agencies, cooperatives, and others; and (3) take any comments received into consideration before the issuance of the final guideline.

(C) Deadline for Submission of Commodity Orders.--Not later than 15 days after receipt of a call forward from a field Mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation."

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

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

2. Interagency Review

After AID/W has reviewed and recommended approval of a project proposal, the proposal is placed before the Title II DCC Food Aid Subcommittee Working Group by FVA for review and approval. If the Working Group is unable to reach agreement on a project proposal, it is forwarded to the full DCC Subcommittee for consideration and decision.

6E. Implementation Procedures

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

The Transfer Authorization (TA) is normally used on all government-to-government projects and may be used in other cases which require inclusion of special and detailed provisions. This process includes, when necessary, provision for paying the costs of inland transportation, destination bagging, or other related matters.

For Regular P.L. 480, Title II programs, the multi-year operational program plan is submitted by the U.S. Voluntary Agencies and Intergovernmental Organizations. The Operational Plan and Annual Estimate of Requirements are the controlling implementation documents for this procedure.

The WFP project approval is used for the commitment of commodities pledged to the World Food Program (see Chapter 12).

1. Transfer Authorization Procedure

a. Transfer Authorization (TA)

(1) General

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

(2) Purpose

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

(3) Format, Contents, and Approval

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

(4) Case Act Requirement

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

b. Arrangements for Ordering and Shipping Commodities

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

2. Food for Peace Program Agreement Procedure

This procedure is authorized by AID/W when the cooperating sponsor is a voluntary agency, cooperative or an Inter-governmental Organization.

a. Multicountry Agreement

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

b. Individual Country Agreement

(1) Having entered into a multicountry agreement with AID, the cooperating sponsor, where practicable, is required to enter into a written agreement with (1) the government of the recipient country, and (2) the recipient agency involved in

implementing the program. This agreement is to include the incorporation by reference or otherwise, the terms and conditions of AID Regulation 11.

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

(a) Arrangements for duty-free entry of commodities and waiver of other port charges.

(b) Arrangements for payment of program costs such as ocean freight if required, unloading, port fees, if any, inland transportation, warehousing, and the issuance of commodities to recipients.

(c) Arrangements for the provisions of funds, equipment, personnel or supplies that will assist in the operations of programs.

(d) Permission from the government of the recipient country for representatives of the cooperating sponsor to have freedom of implementation-related travel, and for such other activities as are needed by the cooperating sponsor to carry out its managerial/supervisory responsibilities.

(e) Arrangements, where feasible, for local government confiscation of commodities appearing in unauthorized channels, and for their return to the cooperating sponsor.
(f) Arrangements assuring the right of the cooperating sponsor to audit the records and operations pertaining to the receipt, storage, distribution, and use of the commodities including the authority to visit ports, warehouses, and distribution points.

(g) Arrangements for adequate program publicity.

(h) The inclusion of a statement of special conditions, if any, imposed by the host government relative to the admission, storage, transportation, distribution, or utilization of commodities.

(i) Arrangement for a procedure to be followed in the condemnation of food no longer fit for human consumption.

(j) Assurance that recipient will receive foods only for participation in AID/cooperating- sponsor approved projects.

(3) If circumstances preclude the individual country agreement, voluntary agency programs may operate under the provisions of AID Regulation 11, Section 211.3(b), provided the U.S. Mission certifies that the program can and/or does operate effectively in the absence of such agreements.

6F. Ordering and Shipping

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

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

6G. Title II Institutional Support Grants

The following guidance pertains to the Title II Institutional Support Grant Project Authority established in March l989 and extending through l992. This guidance is provisional and will be amended when the new Project Authority governing DA-funded assistance to PVOs implementing Title II programs is established in l992.

1. General Description of Title II Institutional Support Grants

Title II Institutional Support Grants provide development assistance (DA) funds to PVO Cooperating Sponsors to assist them in defraying key headquarters and field costs including logistics, such as inland transportation and storage, that cannot be covered through the PVOs' own resources, USAID Missions, or other donor funds, and to enhance the PVOs' institutional capacity to design and manage programs that emphasize the developmental and humanitarian uses of food commodities. In addition, a limited amount of funds is available under this program for PVOs who require support for the design and initiation of Title II food programming.

Funds are used predominantly to cover start-up costs and other one-time expenses not likely to be funded otherwise. Alternative sources of funding must be found to cover continuing operating costs. Cooperating Sponsors with Title II Institutional Support Grants provide a minimum of 25 percent of the total estimated costs of the program in cash or in kind from non-U.S. Government sources, excluding the value of food and ocean freight.

Cooperating Sponsors are encouraged to optimize Title II Institutional Support Grant funding to leverage other resources from public and private sources, as well as complementary existing support from USAID Missions. PVOs must consult with USAIDs as they plan Title II Institutional Support Grant activities and prepare proposals. USAIDs should ensure that PVO proposals are consistent with the Title II Institutional Support Grant guidelines which are published annually by FVA/PPM, and are complementary to AID's development policies and priorities.

2. Goals and Objectives

The goal of the Title II Institutional Support Grant Program is to provide broad support to Cooperating Sponsors, as partner organizatrions with AID, to achieve mutually important objectives in the developmental and humanitarian uses of food commodities provided under P.L. 480, Title II in order to alleviate the underlying causes of hunger and malnutrition.

The program's primary objective, in addition to responding to unmet logistical requirements, is to further strengthen the institutional capacity of Cooperating Sponsors to:

a. design and institutionalize the disaster preparedness, humanitarian and developmental uses of food aid;

b. maximize the effectiveness and efficiency of existing Title II country programs, particularly as relates to fiscal and programmatic accountability;

c. enhance exiting programs or begin programs in new countries as appropriate with the approval of USAID Missions and the FVA Bureau;

d. enhance headquarters and field program planning, implementation, monitoring and evaluation capacilities; and

e. build the capacity of new U.S. PVOs and indigenous PVOs/NGOs and private sector organizations capable of handling and managing commodities.
The Title II Institutional Support Grant Program also encourages joint country-level and area planning among Cooperating Sponsors, particularly to develop coordinated management of food assistance where possible; the use of umbrella arrangements for food management; provision of technical assistance in programming and management by established PVOs to new or "embryonic" PVOs desiring to become involved in Title II food assisted activities; and increased use of monetization.

3. <u>Title II Institutional Support Grant Coverage</u>

Four categories of costs are covered by Title II Institutional Support Grants. These include:

a. Program Costs
b. Indirect Costs
c. Procurement Costs
d. Evaluation

4. <u>Eligibility</u>

To be eligible for a Title II Institutional Support Grant, an organization must be a U. S. private voluntary organization (PVO) registered with AID and a qualified Cooperating Sponsor of P.L. 480, Title II programs in accordance with the policies and procedures specified elsewhere in Handbook 9, and must have an established track record in the planning, management, reporting and evaluation of food-assisted development programs, or have created the capacity for such, through the successful implementation of predecessor (Outreach/Enhancement) grant activities.

CHAPTER 7

EMERGENCY PROGRAMS

7A. Authority

Title II of P.L. 480 authorizes as a first priority the establishment of programs to address famine or other urgent or extraordinary relief requirements. P.L. 480 goes on to statethat notwithstanding any other provision of law, the Administrator of USAID (A/USAID) may provide agricultural commodities to meet emergency food needs under Title II through governments and public or private agencies, including intergovernmental organizations such as the World Food Program (WFP) and other multilateral organizations, in such manner and on such terms and conditions as the A/USAID determines appropriate to respond to the emergency. Emergency assistance may be requested by or offered to any nation or people to meet urgent or extraordinary relief requirements resulting from natural or man-made disasters when that nation or its people lack the necessary resources to meet the urgent requirements.

7B. Introduction

Emergency situations were originally perceived and defined as extraordinary occurrences that resulted in temporary and short-term (less than nine months) needs. During the 1980s disaster situations developed that have permanently changed this original concept. One perception that changed involved the dramatic difference between coping with an emergency caused by natural disaster (e.g., crop failure from drought or pests) and responding to the needs of refugees displaced by civil war orpolitical persecution, situations in which relief is much harder to achieve. Refugees and displaced persons are among the most vulnerable of the poor, open to hunger and malnutrition in their flight from violence, political upheaval or social turmoil. Food aid provided to refugees has grown dramatically in recent years and progress is being made in coordinating and focusing the delivery of food aid to refugee populations. With a greater understanding of the intrinsic extended, rather than short-term, nature of many refugee and displaced person situations, public voluntary organizations (PVOs) and development agencies are developing new approaches to provision of relief.

Another aspect of emergency assistance that has become more fully understood is that donors like USAID can respond quickly to disasters caused by drought, pestilence or other natural causes when governments are stable enough to reach out for assistance to international markets or international donor agencies, when basic marketing and distribution systems are untouched by civil war and when family and community structures are intact. In regions like the Horn of Africa, on the other hand, civilian populations have endured years of suffering caused not only by drought and pestilence, but also by the trauma of civil war and political unrest. In these countries provision of emergency assistance is a daunting logistical task in the face of ongoing strife.

Food aid emergencies are increasingly becoming commonplace. According to the World Food Program (WFP), an estimated 35.1 million people in 46 countries will need about 4.5 million tons of emergency food assistance in 1994; Africa’s emergency needs in 1994 are doubled those of 1993. Present estimates for the Greater Horn of Africa alone for CY 1994 approximate 2.5 million metric tons.

The growing challenge is the increasing inability of existing mechanisms and emergency food resources to meet the rising number of food emergencies.

7C. General Definition of Emergency

Food aid emergencies are generally defined as: urgent situations in which there is clear evidence that an event has occurred which caused human suffering and which the government concerned has not the means to remedy; and it is a demonstrably abnormal event which produces dislocation in the life of a community on an exceptional scale.

The provision of Title II emergency food assistance can be considered in situations where there has been a U.S. mission disaster declaration or a determination from a respected international organization (United Nations or the International Committee of the Red Cross) which certifies that an emergency situation exists. USAID Missions are reminded that the normal time frame from commodity ordering and procurement in the U.S. through vessel discharge at the nearest port of entry requires 90-120 days. To address sudden onset emergencies, local commodity procurement(s) and/or diversions, often employing other donor resources, are frequently resorted to.

1. Characteristics of an Emergency Situation:

   a. Human suffering demanding urgent action.

   b. Dislocation of community economic activities, social life or both on an exceptional scale.

   c. The suffering, disruption and food scarcity which is observed is clearly the result of a particular event, or a series of events, which is not the "normal" state of everyday life.

   d. The Government concerned has insufficient resources to provide the remedy: without outside assistance the immediate physical, social and economic survival of the afflicted are severely at risk.

2. Countries will qualify for emergency food assistance if:

   a. Food aid is appropriate to the particular local situation.

   b. Food aid cannot be supplied from other donors/programs.

   c. Timely delivery of the food assistance can be distributed to the target areas. Delivery to the port or inland point of entry does no good without sufficient infrastructure to deliver commodities to the most needy either in urban areas or up-country.

7D. Early Warning and Food Needs Assessment

While disasters obviously cannot be planned for, often the situations that might lead to the need for emergency foodassistance can be identified and monitored. Some important elements that will contribute to the ability to respond rapidly and responsibly to emergencies when they do arise are (a) ongoing contact, cooperation and coordination with PVOs and other donors in the host country and (b) on-going food needs assessments (FNAs) and/or early warning systems (EWS). The first improves the coordination of emergency requests and responses and the second helps to identify, define and quantify the emergency food need.

EWS can be used to make both strategic and tactical decisions. A strategic early warning refers to the use of an EWS to identify at a general level a food deficit situation of such magnitude that internal resources are likely to be insufficient to meet the food needs of the at-risk populations. In this situation an EWS would identify food shortages in the following crop year based on some preselected set of indicators. This identification could be based on the failure of rains or the meteorological forecast of such a failure, poor crop yields, rising commodity prices in the market place, etc. Tactical uses of an EWS might include making more specific decisions on the size and location of populations at risk. EWS can be formalized, such as USAID's Famine Early

Warning System (FEWS), or informal - the collection and analysis of information gathered from many sources, non-governmental organizations (NGOs) working in-country, the country'sagricultural and nutritional agencies, etc.

Closely tied to the EWS is the FNA methodology which has been developed to estimate country food availability and food deficits. Experience over the years has led the U.S. to attempt to systematically verify country food balances rather than to rely solely on estimates done by countries seeking food assistance or even those generated by other donors or international organizations. Failure to verify has led to over or under-provision of food aid. To assist USAID Missions in performing FNAs USAID/W has developed A Manual for Food Needs Assessment: Conceptual Framework and Software Documentation (document locator PN ABB 175), which is available from USAID/W-PPC/CDIE/DI/DISC.

The manual describes the FNA methodology for determining theaggregate food needs of a country or region. The information generated by the FNA can assist in determining the aggregate level of commodity shortfalls or surpluses so that action can be taken.

As emergency activities often include assistance from other donors as well as the U.S., it is important that procedures for general information exchange, mutual reporting and sharing of information on food aid needs be established whenever possible with other bilateral donors and multinational organizations such as the World Food Program (WFP). This same type of network should be established with PVOs and other NGOs operating programs in country.

7E. Types of Emergency Programs

1. Short-Term

Short-term emergency needs may occur as a result of manyfactors, such as cyclones, hurricanes, floods, limited or short-term drought, crop destruction by pests, etc. These types of occurrences are often the hardest to predict or plan for and usually call for a rapid, although time-limited, response. The primary objective in such cases is to deliver the food as rapidly as possible. Delays in response may mean that assistance could arrive too late to fill the original need and donor food could arrive as new crops are being harvested, resulting in a disruption in the country's internal markets and a competition between local production and donor imports. Some options and alternatives to avoid this in these types of emergencies are:

a. If possible, for example in the case of a drought or crop failure being predicted by an EWS and/or FNA, submit the request for assistance early. USAID Missions do not have to wait for a formal declaration of disaster from a country to begin the process of requesting food assistance. (Such a declaration is required before requesting assistance from the USAID/W-BHR-Office of Foreign Disaster Assistance (OFDA), however).

b. After the date of the program approval by USAID/W-BHR, but before the authorized commodities arrive at the distribution point, the Cooperating Sponsormay, with prior approval of USAID Mission or the Diplomatic Post, borrow the same or similar commodities from available sources or transfer commodities between approved Title II programs.

c. Immediately following the disaster occurrence, free food distributions to victims that lack the means to provide for themselves will probably be the programming choice. However, where possible commodity assistance in times of emergency should be channeled through works projects. Food assistance in such projects may be used for partial payment of wages to disaster or emergency victims who are employed on work projects, or may be used as an incentive measure and temporary nutritional support to people engaged in self-help activities. Projects should be designed to remedy the effects of the disaster or to alleviate the causes of emergencies.

d. In countries where PVOs or cooperatives are implementing ongoing regular Title II programs, their programming choice to meet the disaster requirements may be a retargeting or expansion of their ongoing programs, such as maternal-childhealth (MCH), food for work (FFW) or other child feeding (OCF). This type of reprogramming has the benefit of being a quick-response mechanism as infrastructure and staff are in place and commodities (which may have to be replaced or augmented) are already in-country.

e. Some circumstances, such as (a) the need for an extremely rapid response; (b) unavailability of a culturally or indigenously acceptable commodity in the U.S.; (c) unavailability of suitable commodities for transfer, borrowing or diversion; and/or (d) an opportunity for a large cost savings, may strongly argue for a trilateral food aid transaction. In these transactions, food from a third country could be exchanged for a commodity(ies) from the U.S. However, these exchanges are often intricate, involving written agreements from three countries (including the U.S.), shipping contracts, commodity inspections, etc. Approval from USAID/W-BHR to even begin such negotiations must be obtained as the first step and strong justification must exist and be presented for this mechanism of assistance. Also, adequate staff must be available to oversee the complexoperation.

2. Long-Term or Complex

Complex emergencies are those situations, such as refugee or displaced persons programs, protracted or cyclical drought, civil war and political unrest, for which there are no short-term relief solutions. Today approximately 20 million people are estimated to be refugees and another 20 million to be internally displaced within their own countries. In other regions the results of recurring drought and pestilence has been exacerbated by civil unrest. Following are some of the points that may pertain to programs targeted to these types of complex emergency needs:

a. USAID Missions should initiate and/or support EWS and FNAs, the first to help indicate whether there is an emergency situation developing and whether it is growing, the second to assist in determining a country's structural and/or emergency food deficit and its commercial and/or donor import needs, over both the short and long-term.

b. Support of regular NGO programs targeted at drought preparedness and famine prevention in non-emergencyyears provides sound infrastructures and experienced Cooperating Sponsors to help implement U.S. emergency responses.

c. If and as soon as possible, emergency food assistance should be evolved from direct food relief distributions to FFW, training incentive programs and/or agricultural recovery programs to try to avoid a dependence upon free imported donor food.

d. In some programs, where civil war and political unrest have compounded the effects of drought and pestilence, the emphasis will have to be solely or primarily on logistics, i.e., trying to get donor relief to the intended target populations.

e. It is U.S. established policy and practice that, when possible, refugee programs involving cross-border populations be handled on a multilateral basis, i.e., under the supervision and coordination of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Program (WFP).

7F. Guidelines

1. Program Support

a. Sales (Monetization)

The sale of commodities in emergency situations is approved on a case-by-case basis. Any proposal for the sale of commodities in an emergency context must have strong justification and receive USAID/W approval regarding amounts and pricing. Circumstances might include situations where the Cooperating Sponsor has exhausted all possibilities of obtaining funds for movement and storage of commodities or where sales are the only effective distribution mechanism to reach the population in need. Use of proceeds from sales in emergencies is normally limited to the coverage of local or inland transportation costs or project activities directly related to emergency relief or rehabilitation. When proceeds are used for inland transportation costs, Cooperating Sponsors are expectedto augment such funds with funding from their own resources to the extent possible. In selected country situations the local currencies may be authorized for development, relief and rehabilitation purposes that will help alleviate the cause of food shortage for which the commodities are authorized. Cooperating Sponsors are expected to maintain records and accounting for such sales as stipulated in the applicable Transfer Authorization (TA) or Operational Plan (OP). (See Chapter 8 of this Handbook and the Monetization Field Manual for more details on monetization programs.)

b. Internal Transportation, Storage and Handling
An annual dollar internal transportation, storage and handling (ITSH) budget is established to help defray the internal logistical costs of emergency programs. If other sources of support have been examined and are limited, a request for ITSH funds may be made with the emergency project proposal. This fund is limited and justification for such funding must be strong.

c. Office of Foreign Disaster Assistance (OFDA)
OFDA grants support humanitarian activities ofCooperating Sponsors throughout the world when providing emergency relief and rehabilitation for disaster victims. Decisions to award grants are made on a case-by-case basis with USAID Mission participation. The structure and capabilities of the Cooperating Sponsors to initiate and carry out the anticipated disaster relief and rehabilitation activities are critical considerations for approval. A formal disaster declaration must be made before BHR/OFDA assistance can be approved.

2. Options for Overcoming Time Constraints

It is estimated that a minimum of 60 through 120 days are required to purchase, ship to U.S. port(s), and deliver bulk commodities to destination countries, and a minimum of 90 through 120 days for processed commodities. A longer period will be needed for processed commodities and/or special packaging. If the commodity is needed sooner, arrangements should be made to (a) borrow the same or a similar commodity from a local source to be replaced with the Title II commodity upon delivery; (b) transfer commodities between approved Title II programs; or (c) divert commodities in transit to another Title II program.

a. Borrowing Commodities

After a Title II program is approved by USAID/W-BHR/FFP, but before commodities arrive at distribution points, a Cooperating Sponsor may borrow the same or similar commodities from a nearby available source (e.g., local supply, another PVO or multilateral program) to use in its Title II program. A Cooperating Sponsor must obtain approval from USAID Mission or the Diplomatic Post before borrowing commodities. Borrowed commodities must be used in accordance with the terms of the approved emergency program and, whenever possible, shall be given suitable publicity through

the media, at distribution sites or on containers, as having been provided through the friendship of the American people through the Bureau for Humanitarian Response, Office of Food for Peace (BHR/FFP).
The amount of commodities transferred to replace the borrowed commodities shall be established by mutual agreement between USAID/W-BHR/FFP and the Cooperating Sponsor and will be determined on the basis of an equivalent value at the time and place of transfer oron some other justifiable basis. For instance, if non-Title II commodities are borrowed and replaced, their value should be established by a qualified independent appraisal.
Agreements to borrow and replace commodities must meet tests for real need and exclude any windfall benefits arising from adversity.

b. Transferring Commodities
USAID Mission or the Diplomatic Post (or the Cooperating Sponsor with prior written approval from USAID Mission) may transfer commodities between approved Title II programs (before they are distributed) to meet emergency disaster requirements or to improve the efficiency of the program operation. Commodities should be transferred only in quantities necessary to sustain the Title II program until the authorized shipments arrive, usually a 60-day supply.
Transfers are made with the concurrence of the Cooperating Sponsor concerned and shall not be replaced by the U.S. Government (USG) unless USAID/W-BHR/FFP authorizes such replacement. The Cooperating Sponsorof the transferred commodities should ensure that the revised uses of the commodities, i.e., transfer to another program, are properly documented for purposes of audit and reporting requirements. The transfer shall be made at no cost to the USG, but USAID Mission may decide to pay the costs of transfers to meet emergency relief purposes with its available funds. In such cases, USAID Mission shall advise USAID/W-BHR/FFP promptly of the details of the transfer.

Since USAID/W-BHR approves emergency programs as expediently as possible, transfer between programs should not be necessary that often. Although USAID/W-BHR/FFP is not required to be informed in most cases, involving USAID/W-BHR/FFP from the beginning may greatly assist any transfer between programs, especially if additional funds or replacement commodities are contemplated.

c. Diverting Commodities

In some circumstances diversion of commodities at U.S. ports or on board ship en route to another Title IIprogram may be considered. This involves first identifying the correct amount of commodities needed; obtaining release of the commodity from the regular program Cooperating Sponsor; and determining if the vessel involved can enter the desired port, if vessel stowage will permit discharge of the commodity and if payment of a diversion charge is necessary. Since diversion is difficult to accomplish, it should be considered only after all other sources of a commodity have proven infeasible.

7G. Preparation and Submission of Requests

1. Initiation of Emergency Programs

a. The President, the Secretary of State or the A/USAID may make a determination that emergency assistance is needed and/or warranted under particular circumstances in a particular location and may offer, or instruct a Mission to offer, emergency food assistance.

b. A host-country government, PVO, cooperative or international organization may request food for emergency assistance. In such cases, requests are received by USAID Missions and are forwarded to USAID/W-BHR/FFP with appropriate recommendations. A perspective Cooperating Sponsor may also approach USAID/W-BHR/FFP seeking approval to start an emergency program. In such cases USAID/W-BHR/FFP will transmit the request to the USAID Mission for comment and recommendations.

c. USAID Missions may propose emergency programs for consideration by USAID/W-BHR/FFP prior to the required receipt of a formal request. In the case of a sudden disaster or emergency, a USAID Mission may authorize the immediate distribution of available commodities with concurrence of the owner of the commodities. Where the distribution of commodities would require replacement, the USAID Mission must obtain USAID/W-BHR/FFP prior approval.

2. Program Approval Procedure

In the majority of cases USAID Missions will be transmitting requests for emergency programs to USAID/W-BHR/FFP. When transmitting a request from a Cooperating Sponsor, whether governmental or non-governmental, USAID Missions will be responsible for evaluating and approving the requests and making appropriate recommendations on program content to USAID/W-BHR/FFP. In this process USAID Missions must make a determination regarding the capability and capacity of the Cooperating Sponsor to implement the emergency assistance and to perform the record-keeping required by Regulation 11. If the Cooperating Sponsor is a non-governmental entity, USAID Missions will assure that appropriate host-government approval of the emergency projects has been obtained. When USAID Missions transmit emergency project requests to USAID/W-BHR/FFP for approval the following information should be included:

a. a Food Needs Assessment (FNA). This assessment can be undertaken on a national level or disaggregated to cover a region of particular concern. It should compare overall food needs with existing orprojected food supplies from all sources (domestic production, stocks and imports) and quantify the remaining food deficit by commodity. During an emergency or disaster situation the information necessary for a full needs assessment may not be available on a timely basis. If there is clear evidence of a need for external assistance, USAID Missions should submit partial requests based on preliminary estimates of the harvest to ensure that the food arrives when needed. Production information can then be refined as the growing season progresses and food aid to fill any remaining needs can be requested at that time. (See the Manual for Food Needs Assessment for more detail.)

b. location and nature of the emergency, number of people affected, estimated duration of emergency project, daily ration level and total quantity of commodity required. (The specific Title II commodities required must be identified.)

c. a description of the program and proposed interventions and components, including the target population and areas, ration composition,complementary program inputs and the intervention strategy to alleviate the emergency needs.

d. infrastructure already existing or being planned for administration/implementation of the program, as well as the monitoring systems in place or planned (a time-phased implementation plan should be included).

e. Mission knowledge of other donor efforts and potential for donor coordination, the amounts of commodities that have already been transferred for emergency use and the potential for work projects in the disaster areas.

f. the administrative provisions for management and control of the emergency program. (The Cooperating Sponsor should prepare for USAID Mission concurrence a distribution plan or outline that shows how and when commodities will be moved from the point of entry to the geographic areas where distribution will take place; and funding or arrangements for intermediate storage and in-country transportation must be identified.)

g. USAID Mission assurance that (1) adequate storage facilities are available in the recipient country at the time of arrival of the commodity to prevent spoilage or waste and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production of that commodity. A disincentive analysis may not be necessary if USAID Mission or the U.S. Department of Agriculture (USDA) has already completed one for another program relevant to the one at issue. Also, following consultation with USAID/W-BHR/FFP, commodities could be provided

to meet emergency food needs without this analysis if necessary to respond to the emergency. (See Regulation 11 preamble and Section 211.5(m).)

f. in those instances in which specific record-keeping requirements cannot be followed due to emergency circumstances, the USAID Mission should specify exactly which essential information will be recorded in order to fully account for Title II commodities and comply with Regulation 11 requirements.

3. PVO and Cooperative Emergency Requests

Private Voluntary Organization (PVO) and cooperative requests can be cabled by the Mission to USAID/W-BHR/FFP for review and approval. The information requested in 7F.2, above, should be included. A supplemental Annual Estimate of Requirements (AER) and new or amended Operational Plan (OP), which are the required documents for approval, must then be forwarded through the normal channels through voluntary agency headquarters to USAID/W-BHR.

4. Government and International Organization Requests

As in the case of PVO and cooperative programs, the approval will be based on a cabled program summary containing the information requested in 7F.2, above. If approved, USAID/W-BHR/FFP will prepare a Transfer Authorization (TA) to be signed by the recipient government or international organization specifying terms of the program and reporting requirements. USAID Mission cabled program proposals for these sponsors should include, in addition to the information requested in 7F.2, above, the following:

a. the names, addresses and telex numbers of reputable local surveying firms capable of providing qualitative and quantitative ex-ship's tackle reports in the desired port of discharge, if applicable. This information is needed because USDA, Claims and Collection Division, usually is responsible for contracting with independent cargo surveying firms, on a competitive basis where possible, to obtain discharge reports on all Title II cargoes shipped under TAs (with the exception of WFP cargoes).

b. the desired shipping schedule, port of discharge, commodity specifications and whether the shipment should be bagged or bulk with bagging at destination. In order to forward Bill of Ladings (B/Ls), the detailed international mailing address of the consignee and "Notify Party" with exact street address are required. Any limitation on port capacity or known congestion that will impact on the discharge of the Title II commodity must be described.

7H. Project Implementation Guidelines

1. Monitoring

USAID Missions are responsible for monitoring emergency projects and assuring that resources are effectively used. Clearance of the program indicates that the USAID Mission or Field Post has developed a plan and identified the resources necessary for implementing and monitoring the activity effectively, and accepts responsibility for doing so. Project management includes identifying and reporting anticipated and actual problems and undertaking or catalyzing required actions. Monitoring should emphasize such activities as reviewing and evaluating the Cooperating Sponsor's performance capabilities, the planning process and the implementation systems employed. Cooperating Sponsor reports, together with USAID Mission field observations and evaluations, appropriately documented, are basic monitoring tools. In particular, USAID Missions are responsible for identifying the extent and type of monitoring needed to assure proper accounting for commodities and sales proceeds.

2. Liaison with Cooperating Sponsor

Continued close liaison with the Cooperating Sponsor can assure maximum effective implementation in resolving problems such as port logistics, warehousing, transportation and distribution. In a protracted or complex emergency situation, liaison with the Cooperating Sponsor becomes an increasingly important function as monitoring the constraints on and over-extension of resources of the Cooperating Sponsor and recipient government become critical, and/or attempts at rehabilitation and/or famine mitigation activity (FMA) projects are instituted.

3. End-Use Examinations
The capabilities of the Cooperating Sponsor and the recipient government, as available, are to be utilized to the extent possible for these purposes. USAID Mission sample checks may be a method to evaluate the effectiveness of the Cooperating Sponsor control systems.

4. Reporting

USAID Missions are responsible for the preparation and submission of interim reports and a final emergency program report. The final report should include a completeaccounting of the Title II assistance provided for the emergency. While the method of obtaining reporting information on commodity inventories and distribution is left to the discretion of the USAID Mission, taking into account the need and local circumstances, reporting should be as complete and comprehensive as possible. In protracted or complex emergency situations USAID Missions can anticipate that USAID/W-BHR/FFP will require periodic reports from the Cooperating Sponsor(s) on (a) quantity of commodities received (landed) or subject to claims; (b) quantities released for distribution; (c) quantities on hand; (d) quantities released for sale if authorized; (e) application of sales proceeds, if any; (f) losses and claims; and (g) logistical constraints, problems and solutions.

CHAPTER 8
TITLE II PROGRAM SUPPORT

8A. Introduction

Title II of P.L. 480 contains different objectives that have evolved and been refined over the life of the P.L. 480 program. While there has been no change in the primary objectives of TitleII to meet famine or other urgent or extraordinary relief requirements and to combat malnutrition and increase food security, mechanisms for achieving these objectives have expanded and become more flexible. Congress and the Agency understand that with this flexibility there exists the need for increased support to enable the food emergency and development programs to be implemented effectively. Among the tools available to increase the outreach of U.S. food programs are (a) authority to monetize Title II food and use the local currency generated to support the feeding program and implement development activities; (b) Section 202(e) grants to assist private voluntary organizations private voluntary organizations (PVOs) and cooperatives to establish new programs or meet specific costs; and (c) Institutional Support Grants (ISGs) to increase PVO and cooperative management capacity at the headquarters level to carry out Title II food aid programs, as well as other grants to PVOs. These support mechanisms are discussed in detail below.

8B. Monetization Projects

1. Definition

Monetization is a term describing the sale of Title II donated foods for local currencies. Monetization is an option when local currency is needed to achieve objectives of the program that could not be reached with only the donated commodities. Monetization may be partial, involving sales of only a portion of the commodities allocated to a project or program, or full, when the entire amount of the commodity is sold. Monetization is authorized for Title II regular and emergency food aid projects carried out by private voluntary agencies and cooperatives.

2. Authority

Private voluntary organizations and cooperatives are allowed to monetize U.S. agricultural commodities under Section 203 of P.L. 480. The legislation provides that:

An agreement may be entered into between USAID and a PVO or cooperative under which food may be provided for sale or barter in the recipient country.

In carrying out such programs, USAID shall permit PVOs and cooperatives to sell, in recipient countries, an amount of commodities equal to not less than 10 percent of the aggregate amounts of all commodities distributed under non-emergency programs for each fiscal year.

A PVO or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under P.L. 480 Title II shall include in such proposal a description of the intended uses of any foreign currency proceeds that may be generated through the sale, in the recipient country, of any commodities provided.

Foreign currencies generated from any partial or full sale or barter of commodities by a PVO or cooperative under a non-emergency food assistance agreement may be used to (a) transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under Title II; (b) implement income generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within the recipient country; or (c) be invested, and any interest earned on such investment may be used for the purposes for which the assistance was provided to that organization.

Monetized proceeds may be used to pay regional office costs that are allocable to Title II monetization and distribution programs in the region. Monetized proceeds may also be used to pay indirect headquarters costs. PVOs should use the same indirect cost rate for monetization activities that has been approved for Foreign Affairs Appropriation (FAA) grant projects. If a non-governmental Cooperating Sponsor does not have an indirect cost rate approved by USAID, it should consult the Bureau For Humanitarian Response, Office of Food for Peace (BHR/FFP) which will coordinate efforts by the Cooperating Sponsor and USAID's overhead branch to develop one. If the Cooperating Sponsor's indirect cost rate approved by USAID is applied to country offices as well as headquarters costs for FAA grants, the Cooperating Sponsor may use the same rate to calculate the amount of monetized proceeds that may be used for indirect costs of country offices that are allocable to the Title II program there. Otherwise, non-governmental Cooperating Sponsors should include in their Operational Plan (OP) an indirect cost item for each office calculated in accordance with the Cost Principles for Nonprofit Organizations in Office of Management and Budget (OMB) Circular A-122 which will be reviewed and approved by USAID/W-BHR/FFP as part of the Title II Operational Plan (OP).

USAID/W-BHR/FFP may authorize monetization of Title IIcommodities at any time for emergency program uses, when such monetization is considered appropriate and essential. Use of emergency local currency generations is not constrained by the authority and requirements of Title II, Section 203, or many of the requirements of Regulation 11. However, local currencies generated in such cases should directly address the emergency food need or its underlying causes.

3. Program Guidelines

The guiding principle of partial monetization is that the sales proceeds generated should complement and strengthen the Title II program. Partial monetization should assist in achieving the fundamental objectives of the projects being implemented. To ensure this impact, funds generated by commodities for a specific project should be used for that project. Title II food aid is provided on a grant basis and is intended to focus on food security by compensating for distributional and structural inequities in developing countries. Therefore, it is targeted to selected groups that do not have access to adequate food supplies, including those that lack the income to purchase food. Full monetization programs should also complement Title II food aid projects to the extent possible and contribute to thegoals and objectives of the Cooperating Sponsor's overall program. Following are important elements to be considered in the design and review of any monetization program:

Alternative sources of funds must be explored and found to be unavailable. Sales proceeds should not substitute for commitments from the host government, PVOs, or cooperatives.

To maximize the U.S. Government (USG) resource and its impact on project goals, the PVO or cooperative should attempt to sell commodities at market value. The

minimum acceptable sales price is the free alongside ship (f.a.s. - all costs prior to loading of the commodity) value. The USAID Mission or U.S. Embassy should approve the price at which the commodity will be sold to assure full value is received. (Note: If the local market price is highly subsidized, monetization at that price would not be acceptable.)

PVOs or cooperatives must ensure that all resources generated from commodity sales - less estimated transaction costs - will be used to finance approved project costs and that they will be able to maintain accurate records of proceeds and uses.

Depending on the volume of sales and choice of commodities to be sold, monetization of grant commodities could have disincentives for local production and marketing. Accordingly, a disincentive analysis is a requirement. However, if USAID or the U.S. Department of Agriculture (USDA) has completed such an analysis for another program that is relevant to the program proposed by the Cooperating Sponsor, this may be used in lieu of a new analysis. In addition, USAID/W-BHR/FFP has the authority to provide commodities to meet emergency food needs without a disincentive analysis if emergency needs, response time and conditions preclude such an analysis.
The USAID Mission must certify that the volume of commodities sold will generally comprise such a small percentage of commercial imports that no Usual Marketing Requirement (UMR) computation/analysis has been completed. UMR means the intended tonnage to be sold does not threaten normal patterns of trade. In most cases where a UMR analysis is required, the sales of Title II commodities are subject to consultation in the Food and Agricultural Organization (FAO) of the United Nations (UN) Consultative Subcommittee onSurplus Disposal (CSD) based on the UMR established by USDA.
For the purposes of coherent programming, projects involving monetization should be planned, justified and reviewed on the basis of life-of-project needs. Consistent with this, these projects should have a specific implementation timetable, with clearly defined starting and termination dates. As in all food aid projects, annual levels will be contingent on commodity availabilities and yearly approvals.

4. Project Proposal Submission

Monetization programs will generally be implemented by the participating PVO or cooperative that has title to the food. The participating organization must have demonstrated the capacity to administer the level of monetization proposed for a food aid project. The monetization proposal should be included or addended to the Title II Operational Plan (OP) or Multi-Year Operational Plan (MYOP) and, therefore, will or should have as its basic objectives and goals those of the OP or MYOP itself. Following is an outline of a monetization proposal.

a. Summary and Description

Describe (1) how monetization will support the OP or MYOP goals and objectives; (2) the planned uses of the proceeds; and (3) the advantages of monetization. In order to ensure program impact Cooperating Sponsors should periodically undertake impact assessments of their Title II programs (every three to five years).

Internal transport is one of the most important and largest costs associated with project food aid. These costs must be met if food is to reach the targeted groups. Therefore, payment of the costs of internal transport of grant commodities is the priority use of local currencies generated by monetization. Local currencies can also be used to support the objectives of the food aid. Some examples of this use would be provision of inputs such as scales, growth surveillance charts, nutrition education materials and teachers, and oral rehydration therapy (ORT) in maternal-child health (MCH) programs; cash supplements or payments to workers in food for work (FFW) programs; and inputs such as tools, supplies and materials for community projects. Title II local currency generations may also be used by the Cooperating Sponsor to cover in-country overheadoperating, administrative or personnel costs of project implementation.

For both 100 percent monetization programs, which are to support development activities or special commodity sales arrangements, and partial monetization activities, which often support operating and ancillary costs of a food distribution program, the PVO/Cooperating Sponsor must consult with USAID/W-BHR/FFP to ensure that the proposed activities have Mission support.

Monetization proposals should state what commodity will be sold, how the sale will take place (e.g., private/public sector auctions, sealed bids, government purchase, or open competition), and who will oversee the process. Proposals should also describe the uses of the local currency generations. The local currency proceed budget should be incorporated into the overall OP or MYOP budget.

b. Description of the Sales Procedures
Explain the sales mechanisms and procedures, identify the buyer(s) and attest to the capability of thebuyer(s) to handle the sales and deposit the proceeds expeditiously. Specify the required tonnage over the life of the proposal, the estimated dollar value of the commodities, the proposed delivery schedule, the sales price and the estimated amount of local currency that will be generated in U.S. dollar equivalent.

c. Price and Market Analyses
Based on an analysis of the market there should be a description of the sales price anticipated and an explanation of how the price was determined. Sufficient information should be included to support the premise that the sale will generate enough revenue to make a monetization program justifiable. USAID/W-BHR/FFP will review the proposal based on this information. When the sales agreement is finalized (prior to the actual call forward of the commodity), if the sales price is less than the originally quoted price in the OP or MYOP the Cooperating Sponsor must consult with the USAID Mission. The Cooperating Sponsor should be advised to confirm the current f.a.s. price (all costs prior to loading of the commodity) for the specific commodity to be monetized prior to negotiation of price. If the negotiated price is belowthe f.a.s. dollar value of the commodity, USAID/W-BHR/FFP must be consulted to determine what options are available.

The commodity(ies) selected should be appropriate for the local market, be in demand and not be competitive with local production. Market demand surveys and analyses, including timing of the proposed sale, must be done prior to monetization proposal submission so that a Bellmon Certification can be made and appropriate shipping schedules set to guarantee proceed generations when needed for essential program support.
The timing of the actual sale and the delivery of the commodity must be considered in the design of any project. The sale must be timed so that once the sales agreement is signed, the commodity can be called forward to arrive in-country at the optimal time (e.g., when buyer(s) liquidity position is good, when local production is not competing for purchase and when proceed generations are necessary).

d. Sales Proceed Management
Identify the financial institution and special account in which the proceeds will be deposited. If possible,this should be an interest-bearing account. Detail the monitoring and evaluation plan that has been established for proceed tracking and list the reporting schedule for proceed deposits and expenditures.

e. Line Item Budget

Include a detailed line item budget showing estimated receipts and expenditures over the life of the project. This line item budget should also be incorporated into the OP or MYOP.

5. Mission Certification

USAID Mission or the Field Post should review the financial and management systems and capability of the food aid sponsor and recipient agencies to handle the local currency generated. Adequate standards must be at a minimum those established for Operational Program Grants (OPGs). (See Handbook 13.) If adequate, the USAID Mission or Field Post should certify that it is. If systems are inadequate, the USAID Mission or Field Post should consult with the Cooperating Sponsor regarding the improvements required and how they might be achieved. These should be outlined in the OP/MYOP and the USAID Mission or Field Post should provideits opinion on whether the improvements will be in place in time for the proposed commodity sale. Before a call-forward of the commodity to be monetized the USAID Mission or Field Post should review and certify that the sponsor and local recipient agencies have adequate systems in place.

6. Reporting Requirements
A monetization program progress and implementation reporting section should be included in the Annual Progress Report (APR) due in BHR/FFP on December 31. (See Chapter 9 for a discussion of this reporting requirement.) Cooperating Sponsors should provide the following information: (a) quantity of commodities approved for sale in the fiscal year just ended; (b) amount of funds generated; (c) amount of local currency proceeds disbursed; (d) how the local currencies were used; (e) an estimate of the amount of local currency proceeds that will be used in current and next fiscal years; and (f) the results accruing from the use of the local currencies.

7. Reference Materials

For a fuller discussion of some elements discussed above, see the Monetization Field Manual, August 1988. Also see Section B, Comments and Responses of Regulation 11.

8C. Section 202(e) Grants

1. Authority

Section 202(e) of P.L. 480 states that of the funds made available in each fiscal year under Title II to PVOs and cooperatives, not less than $10 million and not more than $13.5 million shall be made available to assist such organizations and cooperatives in (a) establishing new Title II programs and (b) meeting specific administrative, management, personnel and internal transportation and distribution costs for carrying out Title II programs in foreign countries. In order to receive these funds a PVO or cooperative must submit a request for such funds to USAID/W-BHR/FFP. Such request shall include a specific explanation of (a) the program costs to be offset by such funds; (b) the reason why such funds are needed in carrying out the particular assistance program; and (c) the degree to which such funds will improve provision of food assistance toforeign countries (particularly those in sub-Saharan Africa suffering from acute, long-term food shortages).

2. Priorities and Restrictions in the Use of 202(e) Funds

According to USAID/W-BHR/FFP guidance, the priorities for Section 202(e) funding are (listed in descending order):

direct program costs of a Title II program, including internal transport, distribution, storage and other program implementation costs, if other sources of funding have been considered and sought and are found inadequate for program operation;

improvement and strengthening of program administration and management oversight and monitoring (commodity tracking, warehousing, transport, etc.);

efforts to improve efficiency through evaluation;
costs of implementing audit and evaluation recommendations;
and

dollar costs of development programs financed by monetized proceeds.

Section 202(e) funding will not be approved for the following types of activities:

costs that can be financed from other sources, such as monetization, Title II Institutional Support Grants (ISGs), other donor contributions, etc.;

costs of development projects that are not supported by other Title II resources; and

feasibility studies to explore possible new Title II activities (these studies are covered by ISGs).

A Section 202(e) proposal will be evaluated by:

how it relates to the program priorities given above;

how it describes the relationship of the proposed activities to be funded to the overall Title II program;

the clarity and completeness of the submission; and

the relationship of the funding being requested tooverall program size.

3. Grant Proposal Submission

Because Section 202(e) funds are provided on an annual basis, a new proposal must be submitted each year, whether as an addendum to a new OP or MYOP or with submission of a Multi-Year Update. The proposal should not exceed ten pages in length and should include the following elements:

a brief summary of the Title II program that the Section 202(e) funding will support;

a detailed narrative describing activities the Section 202(e) funds will support, including a description of how these activities were covered in the past if applicable;

the program costs to be offset by such funds, the reason why such funds are needed to carry out a particular assistance program and the degree to which such funds will improve the provision of food assistance (particularly in countries in sub-Saharan Africa);

a detailed line item budget and a narrative justifyingthe level of funding; and

for requests which include capital expenditures (e.g., vehicles, warehouses or computer systems), provide detailed justification (e.g., describe the size of the motor pool, age of the vehicles, use of the vehicles by the program, plans for maintenance and replacement, and a cost analysis of buying versus leasing or contracting); if current request is only for one tranche of a long-term procurement plan, describe the overall plan, including projected size and cost.

8D. Institutional Support Grants

1. Introduction

Title II ISGs are made available from Development Assistance (DA) dollar resources appropriated under the Foreign Assistance Act to assist PVOs and Cooperative Development Organizations (CDOs) implementing (or intending to implement) programs under P.L. 480 Title II. They are awarded on a competitive basis and are aimed at supportingefforts to (a) increase internal capacity at the central or regional management level to carry out Title II food aid programs and (b) carry out feasibility studies aimed at initiating Title II activities in new countries. ISGs should complement (rather than overlap with) Title II Section 202(e) grants which fund in-country Title II operating costs.

2. Objectives

The overall goal of ISGs is to strengthen the capacity of PVOs/CDOs to make effective use of food aid resources, to enhance food security by addressing the key causes of hunger, malnutrition and vulnerability to disasters, and to improve their ability to manage Title II commodities. Consistent with legislation and USAID policy, the major objectives are to support PVO/CDO efforts to:

strengthen and maintain its centralized or regional institutional capacity to manage and account for Title II commodities;

improve and maintain centrally or regionally directed central management practices and build organizational expertise in the use of Title II food aid as aninstrument for effective emergency relief and/or achieving food security; and

carry out feasibility studies aimed at initiating Title II activities in new countries.

Title II ISGs may be authorized for up to a maximum of five years with a level not to exceed $1 million per year for the USG contribution. Funding will be provided on an annual basis, subject to satisfactory progress reviews, availability of funds and attainment of benchmark indicators.

3. Eligibility Criteria

To be eligible for a Title II ISG, an organization must meet each of the following criteria:

be a PVO/CDO registered with USAID;

be a Title II Cooperating Sponsor or present evidence of its ability to implement a Title II food aid program; and

provide at least a 25 percent contribution (cash orin-kind) toward the annual costs of the proposed program.

4. Grant Proposal Submission

Proposals, not including appendices, should not exceed 25 pages and should include the following:

a. Executive Summary

Briefly describe the program to be supported, including its goal, purpose, focus, location, funding and management.

b. Eligibility

Describe the status of the organization with regard to registration with USAID/W-PVC as a PVO or a CDO and as a Title II Cooperating Sponsor.

c. Background and Capability

Briefly describe the organization and its worldwide operations, including its general purpose annual budget, breadth and scope of operations, major sectoractivities, approach and method of operation and organizational structure.

d. Relationship to Current Title II Program

Briefly describe the relationship of the proposed Title II ISG program and activities to current Title II programs.

e. Program Description

State the broad development objective that is being addressed and relate it to the Title II program. Identify the specific management problem(s) in relation to Title II food aid to be addressed.

f. Financial Plan

This section should provide summary costs estimates and a brief narrative description of the financial plan. For each year, PVO/CDOs must provide an amount that is equal to at least 25 percent of the total budget from non-USG sources. Refer to Handbook 13 and OMB Circular A-122 for eligibility and valuation of PVO/CDO in-kind or cash expenditures.

8E. Other Resources Available

1. Grants Reserved for Registered PVOs

a. Operation Program Grants

OPGs enable registered PVOs to carry out specific field projects in individual countries and occasionally in regions. OPGs are primarily funded by USAID Missions and sometimes by USAID/W Regional Bureaus. Cofinancing or "umbrella" grants are a variation of the OPG program. Costs of all projects supported by these grants are shared by PVOs. USAID funding is limited to a maximum of 75 percent of total program costs. The remaining 25 percent must come from non-USAID sources and may be a combination of cash or in-kind contributions obtained by the PVO. USAID Missions have the authority to negotiate cash levels in individual cases. Since OPGs are PVO-initiated field programs,with USAID's management of the grant relationship performed at the USAID Mission level, PVOs should usually begin by having early consultations with the appropriate USAID Mission to discuss the activity to be undertaken - purpose and description; any preliminary indications of host country interest and intent; background information relevant to the proposed project; and a rough cost estimate and proposed source of the non-USAID share. An initial discussion may also be undertaken with the PVO liaison officer in the relevant USAID/W Regional Bureau.

b. Matching Grants

Matching Grants support PVO field-oriented programs designed to be executed in a number of countries. Matching grants provide USAID funds for up to 50 percent of program costs and are available to registered PVOs that have proven experience in the sector and activities proposed for support and can raise the necessary private resources. The Matching Grant program is designed to consolidate multiple grant relationships with a PVO, provide for better program integration, reduce overlapping administrative procedures, and allow maximum program flexibility.Since the USAID Mission plays a key role in assessing country development priorities, proposals for this program should be prepared in consultation with the USAID Mission.

Parallel funding of Matching Grants and OPGs to the same PVO in the same country is not permitted unless agreed to by the USAID Mission. Funding is limited to private and voluntary organizations with demonstrated development track records and is usually awarded for a multi-year period. Proposals are reviewed annually within a specified, common time frame and compete equally for funds available. Requirements stipulate that PVOs' matching resources be cash.

c. Child Survival Grants

Child Survival Grants are intended to address the special health needs of children and mothers by fostering the use of simple, available technologies that enhance child survival prospects in poor countries, with particular emphasis on ORT and immunizations. Proposals for these grants are reviewed annually and grants are awarded by the Bureau for Humanitarian Response, Office of Private and VoluntaryCooperation (BHR/PVC) in USAID/W.

2. Grants Not Reserved for Registered PVOs

a. The Farmer-to-Farmer Program

The Farmer-to-Farmer (FTF) Program envisions the transfer of short-term technical assistance, on a people-to-people basis, to farmers in host countries. The Agricultural Trade and Development Act of 1990 targets emerging democracies and middle-income countries as well as developing countries. The legislation envisions utilization of U.S. farmers, agriculturalists, PVOs, land grant universities, cooperatives, non-profit farm organizations and private agribusinesses. A competitive program was instituted in 1991 to broaden the participation of the various types of organizations and to elicit new creative approaches to this developmental concept. Inquiries on this program should be made to the BHR-Office of Private and Voluntary Cooperation (PVC), USAID/W.

b. Development Education Grants

These grants facilitate public discussion within theU.S. on hunger and related issues. Funds are limited and awards are made to non-profit U.S. organizations with demonstrated ability or clear potential to carry out development education programs. All grant awards require at least a 50 percent match by the applicant that may include cash, in-kind contributions, or a combination. Inquiries on this program should also be made to the BHR/Office of Private and Voluntary Cooperation (PVC), USAID/W.

c. Cooperative Initiatives Grant Program

Under this program small grants are awarded to cooperatives on a competitive basis to initiate new programs in developing countries that will strengthen the private sector through cooperative development, particularly the U.S. cooperative community. Inquiries should be addressed to the BHR/Office of Private and Voluntary Cooperation (PVC), USAID/W.

d. Foreign Disaster Assistance Grants

Foreign Disaster Assistance Grants support the extensive humanitarian activities of U.S. PVOs throughout the world in providing emergency relief andrehabilitation for disaster victims. Decisions to award grants to PVOs are made on a case-by-case basis with USAID Mission participation. The structure and capabilities of the organizations to launch and carry out anticipated activities are critical considerations in awarding these grants. Inquiries for this assistance should be directed to the BHR/Office of U.S. Foreign Disaster Assistance (OFDA), USAID/W.

CHAPTER 9

TITLE II PROGRAM IMPLEMENTATION

9A. Introduction

This chapter provides overall instructions for the USAID Mission and Cooperating Sponsors for implementing Title II programs. (World Food Program (WFP) activities are covered in Chapter 11and Appendix C, and Title III program implementation in Chapter 13.)

9B. Responsibilities

The General Accounting Office (GAO) has pointed out that many problems in implementing food aid programs arise through a lack of proper identification and assignment of responsibility for monitoring the many phases of food aid activities overseas. Following is a break-down of responsibilities for program implementation:

Development of private voluntary organization/Cooperative Development Organization (PVO/CDO) direct feeding programs such as maternal-child health (MCH), food for work (FFW), and school feeding (SF), and related support programs such as monetization and Section 202(e) grant requests are normally the responsibility of the concerned PVO/CDO. Agency participation in the process will vary from USAID Mission to USAID Mission and program to program depending on relative capabilities and size of Mission and CooperatingSponsor field staffs. USAID Missions will normally be more involved in the development of emergency programs, whether the Cooperating Sponsor is a government entity or a nongovernmental organization (NGO). In all cases, the USAID Mission should be involved in such issues as (a) commodity selection and mix; (b) monetization for ancillary costs and developmental activities; (c) evaluation and monitoring plans; (d) compatibility with USAID Missions' country strategy, Development Assistance (DA) programs, etc; and (e) promotion of collaborative programs among food aid implementers. USAID Mission staff may also be involved in reviewing and analyzing the program design at various stages of its development.

Operational Plans (OPs) and Multi-Year Operational Plans (MYOPs) are prepared for development programs, and are amended if/when necessary by the Cooperating Sponsor. Transfer Authorizations (TAs) will be prepared for emergency programs by the USAID/W-Bureau For Humanitarian Response, Office of Food for Peace (BHR/FFP) based on the program design and information submitted by the USAID Mission and Cooperating Sponsor. In its review and approval process, the USAID Mission will be responsible for such activities as (a) analyzing the Cooperating Sponsor's monetization and feeding programs; (b) coordinating and assuring nonduplication of the Cooperating Sponsor's activities with the USAID Mission's Development Assistance (DA) and other donor and host government programs and projects; (c) coordinating the Cooperating Sponsor program levels and commodities with the Annual Budget Submission/Annual Estimate of Requirements (ABS/AER) guidance from USAID/W-BHR's Office of Food for Peace (BHR/FFP); and (d) executing relevant agreements. Chapters 5, 6 and 7 describe and provide guidance on types of Title II programs and the program submission process.

In most cases, it is the responsibility of the Cooperating Sponsor to prepare and submit call-forwards for P.L. 480 commodities as necessary. An exception would be overseas based Cooperating Sponsors where in this case, USAID Missions are responsible for notifying BHR/FFP of callforwards approvals on their behalf. It is the responsibility of the USAID Mission to review and approve call-forward requests within seven days of submission by Cooperating Sponsors. Before each call-forward is approved, it must be verified by the USAID Mission that a storage analysis and disincentive assessment have been made. It is also the responsibility of the USAID Mission, as well as the Cooperating Sponsor, to track shipments and arrivals.

Title II compliance requirements are clearly spelled out inRegulation 11. Cooperating Sponsors have primary responsibility for implementing, monitoring, reporting on and auditing their Title II program activities, commodities and funds. However, USAID Missions are expected to monitor Cooperating Sponsor's management of the commodities and use of sales proceeds and grant funds.

While Cooperating Sponsors have primary responsibility for monitoring commodities from the point of arrival to final distribution to targeted beneficiaries or sale, regulations require USAID Mission approval of certain actions, such as (a) loans, transfers, exchanges and diversions of
commodities and (b) reconstitution costs over $500.

Monitoring losses and claims is a function of the USAID Mission. (See Chapter 10 for detailed instructions on claims procedures.) Regulations require that Cooperating Sponsors obtain prior USAID Mission approval for disposal of commodities unfit for human consumption. Approval is also required to waive internal loss claims over $500. Procedures must be established by the Cooperating Sponsor and the USAID Mission for reporting damaged and missing commodities, filing claims and tracking claim receipts.

Monitoring the use of sales proceeds from monetization forancillary costs and developmental activities and the fulfillment of requirements for the deposit and use of the proceeds are USAID Mission responsibilities.

When grant proposals are received it is the responsibility of the USAID Mission to assess the Cooperating Sponsor's systems, procedures and infrastructure and to develop monitoring and reporting requirements, ensure compliance, arrange reimbursement procedures and ensure reconciliation of reported disbursements with expenditures.

No food aid activity may be conducted in a country without the clearance of the principal USAID Mission officer or U.S. Government (USG) representative in the country. Such clearance will indicate that the USAID Mission or Field Post has developed a management plan and has identified and will use the resources necessary for implementing and monitoring the activity. When it clears a food aid activity, the USAID Mission or Field Post will send to BHR/FFP and the Regional Bureau a copy of the plan for implementing and monitoring the activity and a description of the resources it will use for this purpose. The USAID Mission or Field Post's management plan is required notwithstanding any implied commitment of resources by the approval of a MYOP or AER. (See the Food Aid Management Plan (FAMP) for USAID Missionsfor assistance.)

9C. Title II Commodities

1. Commodity Selection

The U.S. Department of Agriculture (USDA) provides an annual docket which lists the types of commodities and tonnages available for each title of P.L. 480. This docket varies from year to year depending on availability of U.S. produce.

When formulating a ration or selecting commodities for distribution or sale, certain factors should be considered by the Cooperating Sponsor and USAID Mission:

When appropriate, especially for emergency programming, a food needs assessment (FNA) should be undertaken to determine the level of food needs and the appropriate commodities. Consideration should be given to both the overall consumption requirements of the recipients aswell as the food supplies at their disposal (from production stocks or purchases). (See both the Commodities Reference Guide and the Manual for Food Needs Assessment for assistance.)

Normally, commodities may not be requested if they will displace resources (cash, commodities or services) that currently are available from other non-USAID sources or can reasonably be expected in the absence of U.S. Title II assistance.

Except for emergencies, commodities that are the same as those that a recipient country exports
(on a net basis) normally will not be provided. However, a country may be exempt from this condition if the country has agreed to provide a substantial part of such commodities from indigenous or external commercial sources or if other circumstances, such as the degree of recipient government support for Title II feeding activities, justify special consideration.

As provided under P.L. 480, except in the case of emergencies, reasonable precaution should be taken to assure that Title II commodities will not displace or interfere with sales that might otherwise be made.

BHR/FFP's Program Operations Division (FFP/POD) will either answer or refer to the USDA any questions on nutritional components of commodities that cannot be resolved by reference to the Commodities Reference Guide and/or the Official United States Standards for Grain and Rice. The former may be obtained from USAID/W-PPC/CDIE and the latter from the Federal Grain Inspection Service, USDA, P.O. Box 96454, Washington, DC 20090-6454.

2. Call-Forwards (Commodity Ordering/Shipping)

Normally, call-forwards are submitted to cover project requirements for three months. However, Cooperating Sponsors or USAID Missions may justify and recommend call-forwards for shorter or longer periods. Call-forwards should be made only for commodity amounts authorized on the AER and should confirm details as to commodity type, specifications, packaging, amounts, and ports of delivery, and delivery timeframe. There are basically two procedures for calling forward commodities under Title II programs, one applicable to Cooperating Sponsors who have their own freight forwarder and the other to bilateral emergency or other programs for which USAID/W-M/OP/TRANS will contract shipping.

a. Cooperating Sponsor Shipments [Regulation 11, Section 211.4(e)(1)]

Under the first procedure, requests for shipment of commodities originate with the Cooperating Sponsor and are submitted to USAID Mission or the Diplomatic Post for review and clearance. This request should include a statement on the adequacy of storage facilities available to accommodate the commodities being called forward. USAID Mission or the Diplomatic Post promptly reviews the call-forward request, providing a dated clearance in writing, and returns the request to the Cooperating Sponsor. USAID Mission must advise the Cooperating Sponsor of approval or disapproval within seven (7) working days of receipt of the request. USAID Mission or the Diplomatic Post also promptly advises BHR/FFP of the approved or disapproved call-forward request and whether internal transport and storage facilities are available to accommodate the call-forward. BHR/FFP subsequently advises the appropriate Cooperating Sponsor Headquarters of this action. At the same time, after receiving

USAID Mission or Diplomatic Post clearance, the Cooperating Sponsor is responsible for notifying its headquartersoffice of the USAID-approved call-forward request.

Once the Cooperating Sponsor's field office notifies their respective Headquarters office or nominated, U.S. freight agent of the USAID Mission's call forward approval, the Cooperating Sponsor's Headquarters office or freight agent, as applicable, submits the call forward request to FFP/POD.

All Cooperating Sponsor program calls forward for a given export period should be received by BHR/FFP on or far in advance of the fourth day of each month for subsequent submission to USDA no later than the fourth day of the month. However, if the fourth day falls on a weekend or is a Federal holiday, then Cooperating Sponsors should submit call forward requests to BHR/FFP no later than the preceeding, third weekday of the month that is not a Federal holiday.

Upon BHR/FFP's receipt of the USAID Mission's call-forward approval and the Cooperating Sponsor's call forward request, and provided the Cooperating Sponsor's program has been formally approved by BHR/FFP, FFP/POD must promptly submit the Cooperating Sponsor's call forward request to USDA no later than 15days from the date of receipt. FFP/POD provides copies of processed call forward requests to the Cooperating Sponsor's Headquarters office or freight agents after submission to USDA. In cases where the Cooperating Sponsor's program is not approved, and BHR/FFP had not received the USAID Mission's call forward approval, FFP/POD notifies the cooperating sponsor's Headquarters office and the USAID Mission that the Cooperating Sponsor's call forward request would be held pending formal approval of their program and receipt of the Mission's call forward approval. In addition, FFP/POD notifies the Cooperating Sponsor that the 15-day processing requirement of their call forward request does not take effect until their program is formally approved by BHR/FFP.

USDA's Kansas City Commodity Office (KCCO) procures commodities for P.L. 480 programs on a monthly basis. Once purchases are completed, KCCO notifies FFP/POD, Cooperating Sponsor Headquarters and freight forwarders, and M/OP/TRANS, as appropriate, of commodity purchases including commodity type and tonnage, port declarations, and estimated times of arrival at U.S. ports(s). The Cooperating Sponsor is then responsible for booking a vessel to transport thecommodities in accordance with guidelines promulgated by OP/TRANS. In cases where bids for commodities are above constructed price or no bids are received, KCCO either re-tenders for the required commodity, or requests BHR/FFP and Cooperating Sponsors to prioritize commodity purchases to assure that immediate purchase requirements are met, particularly for emergency programs. BHR/FFP and KCCO may also examine commodity swaps within program call forward approvals as alternatives for meeting emergency food aid prepositioning requirements when commodity purchases are not possible due to commodity supply or cost constraints, or when the minimum 45-day lead time required by KCCO to complete procurement of commodities is not practical for emergency programs. It is estimated that a minimum of 60 through 120 days are required to purchase, ship to U.S. port(s), and deliver bulk commodities to destination countries, and a minimum of 90 through 120 days for processed commodities. The following example illustrates the procurement process from the time of call forward submission to USDA through delivery overseas: (a) FFP/POD submits a cooperating sponsor's call forward request to USDA on July 2nd; (b) KCCO schedules the commodity procurement in August; (c) venders ship thecommodities to U.S. port(s) in October; (d) and under optimum conditions, the requested commodities arrive overseas by mid-October through November.

Cooperating Sponsor's freight forwarders, and OP/TRANS, as appropriate for emergency bilateral shipments, are responsible for booking vessels for commodity export. Further, Cooperating Sponsors initiating P.L. 480, Title II programs for the first time must nominate a U.S.-based freight agent to assist with the management of the respective Cooperating Sponsor's freight forwarding requirements. Cooperating Sponsors' freight agents, or as appropriate, OP/TRANS furnishes Cooperating Sponsor Headquarters offices with commodity shipment details such as the estimated times of arrival overseas, vessels, metric tons, and type of commodity being shipped. The Cooperating Sponsors' Headquarters office then conveys the shipping details to their respective field office, who in turn, shares the information with the USAID Mission or Diplomatic Post representative. Exceptions to this process include indigenous Cooperating Sponsors who have requested the USDA Commodity Credit Corporation (CCC) to conduct discharge surveys on their behalf, or where M/OP/TRANS arranges the ocean transportation requirements. In those instances, FFP/POD and M/OP/TRANS, as appropriate, provide cable notification to USAID Missions of scheduled Cooperating Sponsor shipments and other pertinent shipping details prior to export. At the time of export, or unless otherwise stipulated, ocean bills of lading are issued by the Cooperating Sponsors' freight agents and OP/TRANS, as applicable, and are forwarded to the Cooperating Sponsors Headquarters and field offices and/or consignees, and the USAID Mission or Diplomatic Post representative. (See Exhibit G)

In addition, Cooperating Sponsors' freight agents must submit copies of Bills of Ladings (B/Ls) to M/OP/TRANS for purposes of maintaining records relating to cargo preference requirements and reporting to the U.S. Maritime Administration.

b. USAID Shipping [Regulation 11, Section 211.4(e)(2)]

For those programs for which USAID/W will arrange the ocean transportation through OP/TRANS, primarily bilateral emergency programs operating under a Transfer Authorization (TA), the call-forward procedure differs in some respects. In these cases, USAID Missions should discuss project requirements and assist the Cooperating Sponsor in developing a commodity shipping schedule. BHR/FFP and M/OP/TRANS are advised of the appropriate shipping instructions, which should include in the call forward request:

the name of the project, the TA number, and the name of the Cooperating Sponsor;

the commodity specifications, bagging instructions if applicable and metric tons desired;

the name of the consignee and the full international mailing address, including the exact street address in the country of destination, the telephone number of consignee and, if applicable, the name and address of Notify Party . This information is needed to assure timely arrival of ocean B/Ls; and

the name of port or ports of discharge with the quantity to be unloaded at each port and the exact shipping schedule desired.

FFP/POD will coordinate the call-forward with USDA/KCCOand M//OP/TRANS which will arrange purchase and shipment of the requested commodities. M/OP/TRANS will provide the name of the vessel, estimated time of arrival (ETA) and other pertinent information regarding shipments booked by the M/OP/TRANS appointed freight forwarder.
At the time of export (i.e., loading on ocean carrier) applicable B/Ls are sent to the Mission, the consignee and others, as specified in the TA and/or by the USAID Mission in the call-forward. (See Exhibit G.)

c. Bellmon Determination

Section 403 of P.L. 480 requires that before P.L. 480 food aid can be supplied, it must be determined that (1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent spoilage or waste and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country. Sufficient information to make a determination on these two conditions must be included in every call-forward approval submitted by theMission. Making the determination based on this information is the responsibility of BHR/FFP. Refer to "Background Paper and Guide to Addressing Bellmon Amendment Concerns on Potential Food Aid Disincentives and Adequacy of Storage Facilities" included as part of the Monetization Field Manual (1988) for assistance.

3. Commodity Shipment

a. Transfer of Title [Regulation 11, Section 211.4 (b)]
Title to the Title II commodities is transferred to non-governmental Cooperating Sponsors at the point where the ocean carrier takes possession of the cargo (generally free alongside ship (f.a.s.) or free on board (f.o.b.) vessel at U.S. port). Governmental Cooperating Sponsors take title at the destination port of entry, upon completion of discharge by the ocean carrier, or at the destination point of entry for landlocked countries upon completion of delivery by the inland carrier. Except as USAID Mission or BHR/FFP may otherwise agree in writing, the Cooperating Sponsor must retain title to commodities, monetized proceeds and program income transferred to a recipient agencyfor distribution or use. If a Cooperating Sponsor wishes to transfer title to a recipient agency, the Cooperating Sponsor must demonstrate that it and the recipient agency have established appropriate and effective procedures for pursuing claims against third parties for loss, damage or misuse of the commodities, monetized proceeds or program income. The quantity of commodity delivered by the U.S. to the Cooperating Sponsor at the point of title transfer must be within 5 percent (2 percent in the case of shipments over 10,000 metric tons), plus or minus, of the amount called forward. Such amounts are regarded as completion of

delivery. There is no tolerance allowed with respect to the ocean carrier's responsibility to deliver the entire cargo loaded as cited on the B/L. Bulk cargo to be bagged at its destination shall be subject to standards and specifications prescribed by BHR/FFP, as appropriate.

b. Arrival at Port of Entry [Regulation 11, Section 211.7)]
Commodities, except when being imported to be monetized, are to be admitted duty free and exempt from all taxes in the recipient country. Except asotherwise agreed upon by BHR/FFP and provided in the applicable shipping contract, the Cooperating Sponsor is responsible for all costs other than those assessed by the delivery carrier, either in accordance with its applicable tariff for delivery to the discharge port or in accordance with the applicable charter or booking contract. The Cooperating Sponsor or its designated agent or consignee is also responsible for distributing the commodity as provided in the agreement; and depending on the type of transportation arrangements made between the Cooperating Sponsor and their freight forwarders and ocean carriers, the Cooperating Sponsor is responsible for demurrage, detention and overtime charges by the delivery carrier; for wharfage, taxes, dues and port charges assessed against the cargo whenever assessed and collected by local authorities from the consignee; and for lighterage (when not a practice of the port) and lightering costs when assessed as a charge separate from the freight rate.

Cooperating Sponsors make all necessary arrangements for reception, storage and maintenance of commodities from time of delivery at port of entry. Before recommending approval of a proposal to BHR/FFP, the USAID Mission obtains from

the Cooperating Sponsorassurance that adequate provisions have been made for internal transportation, storage and handling (ITSH).
For shipments to landlocked countries, Cooperating Sponsors are responsible for arranging the transportation and adequate provision for commodity security to a point of entry designated by the Cooperating Sponsor and the USAID Mission, unless other provisions for those requirements are stipulated in the Cooperating Sponsor's program agreement, TA, or other dully authorized program approval document. Further, when through bills of ladings (TBLs) are utilized by

Cooperating Sponsors to ship commodities through landlocked countries to final destination points, ocean carriers are held responsible and accountable for transport, security, and delivery of commodities from the point of export in the U.S. through final delivery overseas.

c. Survey Reports [Regulation 11, Section 211.9(c)]

In order to fully satisfy the requirements for documenting incidents of unfit commodities and/or assessing the need for instituting claims action, survey reports are required. (See Chapter 10 fordetails on claim and loss procedures.) Nongovernmental Cooperating Sponsors shall arrange for an independent cargo surveyor to attend the discharge of the cargo and to count or weigh the cargo and examine its condition, unless USAID Mission, BHR/FFP or the Diplomatic Post determines that such examination is not feasible or if Commodity Credit Corporation (CCC) has made other provisions for such examinations and reports. CCC will reimburse a non-governmental Cooperating Sponsor for the costs incurred by it in obtaining the services of an independent surveyor to conduct examinations of the cargo and render the required reports. Reimbursement by CCC will be made upon receipt by CCC of the survey report and the surveyor's invoice or other documents that establish the survey cost. However, CCC will not reimburse a non-governmental Cooperating Sponsor for the costs of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken at the time of discharge unless such deviation is fully justified to the satisfaction of CCC.

CCC normally will contract for the survey of cargo on shipments for which M/OP/TRANS contracts for the ocean transportation services. In order to develop acompetitive bid situation and in an attempt to reduce the cost of surveys, Missions should cable names, addresses and telex number of reputable local surveying firms capable of providing qualitative and quantitative ex-ship's tackle reports in the desired port of discharge. Also, if the USAID Mission or a Diplomatic Post desires that CCC limit its consideration to only certain selected surveyors, the USAID Mission or the Diplomatic Post should furnish FFP/POD with a list of eligible surveyors to be forwarded to CCC. Surveyors may be omitted for consideration, for instance, for foreign relations considerations, conflicts of interest and/or lack of demonstrated capability to carry out surveying responsibilities properly. USAID/W-FFP/POD will furnish CCC's surveying requirements to the USAID Mission or a Diplomatic Post upon request. Alternatively, if CCC is unable to find a surveyor at a port to which a shipment has been consigned, CCC may request that FFP/POD contact the USAID Mission or the Diplomatic Post to arrange for a survey. The surveyor's bill for such services shall be submitted to USAID Mission or the Diplomatic Post for review.

In the unlikely event that the surveying company is unable to have a representative present at discharge,it will be necessary for Cooperating Sponsors or Embassies or USAID Missions to take one of the following alternative steps:

> Cooperating Sponsor (or Embassy or USAID Mission) personnel should observe the discharge, prepare an in-depth analysis of what took place and obtain copies of official port documents. The in-depth analysis should contain a report on the time of

vessel arrival and the time of all examinations made. There should also be a cargo count and a comparison with the B/L. Note should be made of overages and shortages and any damaged cargo should be reported, as to both quantity and apparent cause of damage (e.g., torn bags, water damage, oil damage, etc.). The cooperation, or lack thereof, received from the carrier or its agents should be reported and any other significant information regarding the discharge and handling of the commodity should be noted. An effort should be made to obtain documents issued in the particular port, such as port authority reports, customs receipts, port tally sheets, port health officer's documents, landing certificates and other documents of that nature. If it is not feasible for Cooperating Sponsor (U.S. Embassy or USAID Mission) personnel to observe the discharge of the cargo, as a minimum the preceding documents should be obtained.

If it is not possible to send a representative to observe the discharge or to obtain any port documents, USAID/W-BHR/FFP should be advised that the conditions at the discharge port are such that it is not possible to obtain discharge documents or to observe discharge.

4. Commodities Borrowed, Transferred, Exchanged or Diverted

a. Diversion

Emergency or other urgent needs may call for the diversion of Title II commodities from one Title II program to another either prior to loading or on board ship. USAID/W-BHR/FFP will seek concurrence from all parties involved when requests are received to divert commodities.

b. Borrowed and Exchanged Commodities

After the date of program approval by BHR/FFP, but before authorized commodities arrive at the distribution point, the Cooperating Sponsor may, with prior approval of USAID Mission or the Diplomatic Post, borrow the same or similar commodities from available sources to meet program requirements provided that (1) borrowed commodities that are used in accordance with the terms of an OP or TA will be replaced with commodities transferred by BHR/FFP (the amount of commodities transferred to replace borrowed commodities shall be established by mutual agreement between the Cooperating Sponsor and USAID Mission or the Diplomatic Post and will be determined on the basis of equivalent value at the time and place of transfer or on some other justifiable basis proposed by the Cooperating Sponsor and acceptable to USAID Mission or the Diplomatic Post); (2) packaged commodities that are borrowed are appropriately identified as having been provided by the people of the U.S.; and (3) suitable publicity is given to the exchange of commodities and containers are marked, to the extent practicable, with the USAID emblem. [Regulation 11, Section 211.5(n)]

c. Transfers

After the date of program approval by BHR/FFP, but before distribution of the commodities, USAID Mission or the Diplomatic Post (or the Cooperating Sponsor with prior approval of USAID Mission or the Diplomatic Post) may transfer commodities between approved Title II programs to meet emergency disaster requirements or to improve efficiency of operation, such as to meet temporary shortages due to delays in ocean transportation or provide for rapid distribution of stocks in danger of deterioration. Commodity transfers shall be made at no cost to the U.S. Government (USG) and with the concurrence of the Cooperating Sponsor. BHR/FFP shall be advised promptly of the details of the transfer. Commodities will not be replaced by the USG unless BHR/FFP authorizes such replacement. [Regulation 11, Section 211.5(o)]

d. Disposal of Excessive Stock [Regulation 11, Section 211.5(p)]

If commodities are on hand that cannot be utilized in accordance with the approved OP or TA, the Cooperating Sponsor shall promptly advise USAID Mission or the Diplomatic Post of the quantities, location andcondition of such commodities, and where possible, shall propose an alternate use of the excess stocks. USAID Mission or the Diplomatic Post shall determine the most appropriate use of the excess stocks, and with prior BHR/FFP concurrence, shall issue instructions for disposition. Transportation costs and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the Cooperating Sponsor, except that in cases of disaster or emergency, BHR/FFP may authorize the use of disaster or emergency funds to pay for the costs of such transfers.

Following are the terms and conditions applicable to the above:

Approval by BHR/FFP and the USAID Mission of borrowed, transferred or exchanged commodities will be withheld until all parties have agreed. In the case of Cooperating Sponsor commodities, USAID/W BHR/FFP agreement will be subject to Cooperating Sponsor Headquarters concurrence.

Advance approval by the USAID Mission is required for all transactions involving commoditiesborrowed, transferred and exchanged and advance approval by BHR/FFP is mandatory when (1) replacement of commodities borrowed, transferred or exchanged is required; (2) reason for transfer or exchange is that commodities are in excess of project needs; (3) expenditure of U.S. funds is required; or (4) commodities are to be transferred from one country to another.

When commodities are to replace non-Title II commodities, the relative value of the commodities borrowed or exchanged are to be established by qualified independent appraisal. The relative values are to be mutually agreed upon by the Mission, with guidance from BHR/FFP, and the Cooperating Sponsor. The replacement arrangements must provide for delivery to the project of commodities equal in value to those provided by the U.S., and the prices established must be fair to both parties without "windfall" benefits to either. Generally, the pricing formula should be based on the most favorable value at the place of exchange. Non-U.S. packaged commodities borrowed or exchanged are to be appropriately identified as having been made available by the people of the U.S.

5. Commodity Packaging

a. Packaging in the U.S.

Unless otherwise specified in the Cooperating Sponsor's OP or TA, or other approved program documentation, Title II commodities will be packaged using either standard or abbreviated markings depending on the end use of the commodity and program design. For example, for commodities to be used for free distribution overseas, Cooperating Sponsor call forward requests generally indicate standard markings should be displayed on the commodity packaging which consists of the following:

1. Commodity name
2. Net weight (in kilograms and pounds)
3. Contract number

4. The letters "USA"
5. The USAID emblem
6. The words "Not To Be Sold Or Exchanged"
7. Use no hooks (for bags only)
8. Geometric symbols (for multiwall paper bags only)

Cooperating Sponsors' call forward requests for commodities that are to be sold overseas for monetization programs will generally indicate abbreviated markings to be displayed on packaging which consists of the following:

1. Commodity name
2. Net weight (in kilograms and pounds)
3. Contract numbers
4. Use no hooks (for bags only)

b. Repackaging Commodities in Foreign Countries
(Regulation 11, Section 211.6)

Cooperating Sponsors or their designees may arrange for processing commodities into different end products and for packaging or repackaging commodities prior to distribution. Commodities may be bartered, or monetized proceeds or program income may be used to offset such costs if provided for in the OP or TA or approved by USAID Mission or the Diplomatic Post. When commercial facilities are used for processing, packaging or repackaging, Cooperating Sponsors or their designees shall enter into written agreements for such services and copies of the agreements must be providedto USAID Mission or the Diplomatic Post. Except as BHR/FFP otherwise agrees, the executed agreements shall provide as a minimum that the party providing such services shall: (1) fully account to the Cooperating Sponsor for all commodities; (2) be liable for the value of all commodities not accounted for; (3) return or dispose of the containers in which the commodity is received according to instructions from the Cooperating Sponsor; and (4) plainly label new containers with the USAID emblem and, insofar as practicable, with the following information in the language of the country: (a) name of commodity; and (b) "Not to be sold or exchanged" (where applicable). Emblems or other identification of non-governmental Cooperating Sponsors also may be added. When the usual practice in a country is not to enclose the end product in a container, the Cooperating Sponsor shall, to the extent practicable, display and imprint on individual recipient identification cards the same information.

When Cooperating Sponsors utilize their own facilities to process, package or repackage commodities into different end products, and when such products are distributed for consumption off the premises of the Cooperating Sponsor, the Cooperating Sponsor shallplainly label the containers as instructed above and include this same information on banners, posters or similar media displayed at the distribution center.

If, because of damage, it is determined by a Cooperating Sponsor or intergovernmental organization that commodities must be repackaged to ensure that the commodity arrives at the distribution point in a fit condition, agencies and organizations may incur expenses for such repackaging up to $500 and such costs will be reimbursed to the Cooperating Sponsor or organization by the CCC. If costs will exceed $500, the authority to repackage and incur the costs must be approved by the USAID Mission or the Diplomatic Post in advance of repackaging. (See 211.7(e) of Regulation 11.)

c. Disposal of Containers

Cooperating Sponsors may dispose of containers, other than containers provided by carriers, in which commodities are received in countries having approved Title II programs by sale or exchange or by distribution free of charge to eligible recipients for their personal use. If the containers are to be used commercially, the Cooperating Sponsor must arrange for the removal or obliteration of the USG markings. Income from sales may be used only for the purposes described in the OP or TA, or otherwise approved by the USAID Mission or Diplomatic Post.

6. Publicity

The objective of publicity is to assure that the recipients know commodities they receive have been donated by the people of the U.S. Since programs represent the cooperative efforts of the U.S., the host country and the Cooperating Sponsor, it is appropriate that publicity be given to all entities involved. Program information may be released by the USAID Mission, public and private entities of the host country and the Cooperating Sponsor. The following should be stressed: (1) the commodities are furnished by the people of the U.S.; (2) the distribution is a result of the cooperation of the U.S. and all parties concerned; and (3) eligible recipients receive commodities without restriction or discrimination as to nationality, race or political or religious beliefs.

9D. Title II Management and Reporting

1. Management Procedures

Establishment of oversight and monitoring procedures by the USAID Mission is essential to good food aid management, as is establishment of an atmosphere of day-to-day consultation and collaboration with Cooperating Sponsors and other food donors. Collaboration might include periodic meetings of donors and Cooperating Sponsors to discuss the country's

current and short- and long-term food security prospects. Oversight and monitoring should include establishment of agreed-to procedures for loss reporting and tracking, regularly scheduled visits to distribution centers and warehouses, and established time tables for submission of required reports and program documentation.

In order to effectively implement their Title II program, Cooperating Sponsors shall provide adequate supervisory personnel for the efficient operation of the program, including personnel to (a) plan, organize, implement, control and evaluate programs involving distribution of commodities or use of monetized proceeds and program income;(b) make warehouse inspections, physical inventories and end-use checks of food or funds; and (c) review books and records maintained by recipient agencies that receive monetized proceeds and/or program income.

Cooperating Sponsors and recipient agencies shall cooperate with and assist USG representatives to enable them at any reasonable time to:

Examine activities and records of the Cooperating Sponsor, recipient agencies, processors, or others, pertaining to the receipt, storage, distribution, processing, repackaging, sale and use of commodities by recipients;

Inspect commodities in storage, or the facilities used in the handling or storage of commodities;

Examine and audit books and records, including financial books and records and reports pertaining to storage, transportation, processing, repackaging,

distribution, sale and use of commodities and the deposit and use of any monetized proceeds and program income;
Review the overall effectiveness of the program as it relates to the objectives set forth in the OP or TA; and

Examine or audit the procedures and methods used in carrying out the requirements of legislation and Regulation 11.

2. Title II Reporting and Documentation

Attachment B of the Food Aid Management Plan for USAID Missions (PN-ABK-424), February 1992, provides a framework and an illustrative list of documentation and reporting requirements for Title II food aid programs, which would be useful in assigning responsibility and scheduling submissions. Following is a listing and brief explanation of required Title II reporting.

a. Operational Plans and Multi-Year Operational Plans

Each Cooperating Sponsor shall submit to the USAID Mission for its review, comment and transmittal to BHR/FFP an OP describing the program it is sponsoring or proposing to sponsor. (See Chapter 6 of this Handbook for a complete explanation of the content andprocedures for submission, processing and approval.)

b. Annual Estimate of Requirements (AER)

An AER, which is the statistical breakdown of the annual Title II commodity requirements must also be submitted with the OP or MYOP. (See Chapter 6.)

c. Commodity and Recipient Status Reports

The Commodity Status Report (CSR) is a statistical report covering commodity receipt and distribution on a monthly basis and the Recipient Status Report (RSR) delineates the number of recipients provided with food in each program category. Attached to the CSR is a "Commodity Loss Status Report" which lists quantities and types of commodity losses. (See Exhibits D and E.) These reports are to be submitted quarterly to the USAID Mission and BHR/FFP.

d. Loss Reports

Cooperating Sponsors are to submit on a quarterly basis reports regarding loss, damage or misuse of commodities or monetized proceeds in the country of distribution.(See Chapter 10 of this Handbook for details on reporting and handling losses and claims.)

e. Unfit Commodity Reporting

Whenever it is determined that commodities are unfit for authorized use they shall be disposed of in accordance with the priorities established in Regulation 11. (See Chapter 10 for details on this procedure and reporting.)

f. Annual Progress Report

Cooperating Sponsors operating under approved OPs or MYOPs are required to submit an annual report by December 31 of each year to BHR/FFP summarizing how the program is progressing against planned objectives and benchmarks. The Annual Progress Report (APR) should first be submitted to the Mission for review and comment. The reporting cycle should be on a fiscal year basis. While the APR need not be lengthy, the following subjects should be covered:

Program Objectives (as listed in the MYOP);

Program Benchmarks (what benchmarks or targets wereestablished);

Program Progress/Constraints. Discuss progress and achievements as compared with stated objectives and benchmarks. Discuss results and impact and any constraints encountered in achieving objectives or benchmarks;

Logistics Operations. Identify any particular problem in delivery of food to intended recipients;

Other Issues. Discuss any of the following as appropriate: targeting strategies, rations, project components, adequacy of funding/manpower, integration with USAID Mission and host country priorities, and involvement of program beneficiaries;

Linkage to and Impact on Food Security;

Budget Balance Sheet. This balance sheet should reflect all funds and in-kind contributions used to support the Title II program during the year. Overages or shortfalls in planned expenditures should be explained;

Follow-Up Actions to Evaluation Recommendations and Audit Findings;

Outstanding Claims and Major Losses;

Any Modifications to Program Planned;

Data Collection Systems in Place;
Section 202(e) Grant Implementation (if appropriate); and

Monetization Program Implementation (if appropriate).

g. Audits

(1) Non-Governmental Cooperating Sponsors [Regulation 11, Section 211.5(e)]

A non-governmental Cooperating Sponsor shall arrange for periodic audits to be conducted in accordance with Office of Management and Budget (OMB) Circular A-133. Non-governmental recipient agencies shall be treated as sub-recipients underthis Circular. The Cooperating Sponsor may satisfy these audit responsibilities with respect to recipient agencies by (a) relying on independent audits of recipient agencies or on appropriate procedures performed by the Cooperating Sponsor's internal audit or program staff; (b) expanding the scope of the independent financial and compliance audit of the Cooperating Sponsor to encompass testing of recipient agency charges; or (c) a combination of these procedures. The Generally Accepted Commodity Accounting Principles (GACAP) issued by Food Aid Management (FAM), an association of Cooperating Sponsors, may be used for commodity accounting. If the Cooperating Sponsor elects to use GACAP, the independent public accountant retained to perform the audit under OMB Circular A-133 may find it necessary to make certain disclosures in the Cooperating Sponsor's financial statement noting the departure from Generally Accepted Accounting Principles.

(2) Governmental Cooperating Sponsors

A governmental Cooperating Sponsor shall ensure that an audit satisfactory to USAID/BHR or theAgency is conducted annually with respect to donated commodities and monetized proceeds. The audit shall be a financial audit performed by the country's principal government audit agency or another audit agency or firm acceptable to the Agency. Both the auditor and the auditing standards to be used by the Cooperating Sponsor must be acceptable to USAID. Recipient agencies that receive less than $25,000 of donated commodities and/or monetized proceeds are excluded from the Cooperating Sponsor's audit responsibility. (See 211.5(c)(2) of Regulation 11.)

Chapter 14 of this Handbook covers audit responsibilities and requirements in detail.

9E. Suspension, Termination and Expiration of Program

1. Termination or Suspension by USAID

All or any part of the assistance provided under the program, including commodities in transit, may be terminatedor suspended by USAID at its discretion if BHR/FFP or the USAID Mission determines that a Cooperating Sponsor has failed to comply with the provisions of the approved OP or TA or Regulation 11, or that the continuation of such assistance is no longer necessary or desirable.

If the USAID Mission is proposing such action, a cable should be sent to BHR/FFP explaining the reason(s) for the proposed termination or suspension. Such communication should indicate that the proposed action has been discussed with the principal U.S. Embassy Officer and, if appropriate, with the Cooperating Sponsor and the host country. Embassy/Cooperating Sponsor/host country reactions and views of the proposed action should be communicated to USAID/W-BHR/FFP, along with an analysis and commentary on any possible negative foreign policy or domestic repercussions that may result from the termination or suspension. BHR/FFP will review the proposal and make a judgment on the appropriateness and rationale of the termination or suspension, seeking concurrence from the Regional Bureau concerned. If BHR/FFP is proposing such action, it will notify the USAID Mission of the proposed termination or suspension and the reason(s) therefor.

In such instances and if possible, BHR/FFP will provide anon-governmental Cooperating Sponsor with written notice of the Agency's intention to terminate or suspend the program, together with an explanation of the reason(s) for the Agency's action at least 30 days prior to the date, indicated in the notice, when the program will be terminated or suspended. Comments provided by the non-governmental Cooperating Sponsor prior to the effective date of the termination or suspension shall be considered by BHR/FFP in determining whether to rescind the notice.

When a program is terminated or suspended, title to commodities that have been transferred to the Cooperating Sponsor, or monetized proceeds, program income and real or personal property procured with monetized proceeds or program income shall, at the written request of USAID Mission, the Diplomatic Post or USAID/W-BHR/FFP, be transferred to the USG by the Cooperating Sponsor or shall otherwise be transferred by the Cooperating Sponsor as directed by USAID/W-BHR/FFP. Any excess commodities still on hand at the time the program is terminated shall be disposed of in accordance with Section 211.5(o) and (p) of Regulation 11 (Appendix B) or as otherwise instructed by USAID Mission or the Diplomatic Post. If it is determined that any commodity authorized to be supplied under the OP or TA is no longer available for BHR/FFP programs, suchauthorization shall terminate with respect to any

commodities which, as of the date of such determination, have not been delivered f.o.b. or f.a.s. vessel, provided that every effort will be made to give adequate advance notice to protect Cooperating Sponsors against unnecessarily booking vessels.
[Regulation 11, Section 211.11(a)]

2. Termination or Suspension by Cooperating Sponsors

Circumstances may arise that compel a Cooperating Sponsor to make a determination that, because of a specific cause, continuation of Title II assistance is no longer necessary, desirable or possible. In such instances, the Cooperating Sponsor should provide BHR/FFP, USAID Mission and/or the Diplomatic Post with an explanation of the reason(s) it believes the program must be terminated or suspended and its proposed plans, procedures and time frame for such termination or suspension. If the justification is compelling, and BHR/FFP and the USAID Mission concur with the planned termination or suspension, instructions as to disposition of programmed commodities, monetized proceeds, program income and real or personal property procured with monetized proceeds or program income will be provided to the Cooperating Sponsor.

3. Expiration of Program

Upon expiration of the approved program under circumstances other than those discussed above, the Cooperating Sponsor shall deposit any remaining monetized proceeds or program income, with instructions to credit the deposit to CCC Account No. 2OFT401, with the U.S. Disbursing Officer (USDO), American Embassy, or the Cooperating Sponsor shall obtain approval from BHR/FFP for the use of such monetized proceeds or program income, or real or personal property procured with such proceeds or income, for purposes consistent with those authorized for support from BHR/FFP.
[Regulation 11, Section 211.11(b)]

CHAPTER 10

COMMODITY LOSSES, DAMAGE AND CLAIMS

10A. Introduction

This chapter sets forth the procedures for reporting, handling and monitoring losses, damage or improper utilization and distribution of Title II commodities donated for programs in Cooperating Countries, along with the claim procedures and regulations related thereto.

10B. Prior to Loading on Ocean Vessel

1. Fault of Cooperating Sponsor

A Cooperating Sponsor and USAID/W-BHR/FFP shall agree on a schedule for shipping commodities. A non-governmental Cooperating Sponsor that books cargo for ocean transportation must notify the U.S. Department of Agriculture (USDA/Kansas City, Agricultural Stabilizatiion and Conservation Service (ASCS)), Commodity Credit Corporation (CCC) immediately if the vessel does not arrive at the U.S. port of export in accordance with the agreed-on shipping schedule. USDA/ASCS/CCC will then determine whether the commodity shall be (a) moved to another outlet; (b) stored at port until a vessel is available; or (c) alternately used. When the Commodity Credit Corporation (CCC) incurs additional expenses because the nongovernmental Cooperating Sponsor, or its agent, fails to meet the agreed-on shipping schedule or to make necessary arrangements to accept commodities at the points of delivery and CCC determines that the expenses were incurred because of fault or negligence, the Cooperating Sponsor will have to reimburse CCC for such expenses. [Regulation 11, Section 211.9(a)]

2. Fault of Others

A non-governmental Cooperating Sponsor shall immediately notify CCC if there is loss or damage of commodities that is caused by the act of a third party between the time title is transferred to the Cooperating Sponsor and the time the commodities are loaded. The Cooperating Sponsor shall assign to CCC any claim it has against the third party and forward to CCC all documents relating to the loss. [Regulation 11, Section 211.9(b)]

10C. Marine (Ocean Carrier) Claims

1. Responsibilities

Under programs for which the Cooperating Sponsor books cargo, the Cooperating Sponsor is responsible for initiating and pursuing claims for loss and damage of commodities incurred while in the custody of the ocean carrier. The Cooperating Sponsor will promptly inform USDA/Kansas City, Agricultural Stabilization and Conservation Service (ASCS) Commodity Office of all claims action and will actively pursue collection, using every reasonable effort short of litigation. CCC will initiate appropriate action for filing of legal action if necessary.

Under programs for which USAID books cargo, USAID/W-BHR/Office of Food for Peace (FFP) and U.S.Department of Agriculture (USDA-ASCS/CCC) retain responsibility for monitoring and handling claims arising from loss or damage of commodities while in the custody of ocean carriers. Cooperating Sponsors for which USAID/W-BHR/FFP books shipping should promptly forward reports and documentation to the Mission for transmittal to USDA-ASCS/CCC and USAID/W-Bureau for Humanitarian Response, Office of Food for Peace, Program Operations Division (POD).

2. Survey and Outturn Reports

Non-governmental Cooperating Sponsors shall arrange for an independent cargo surveyor to attend the discharge of the cargo and to count or weigh the cargo and examine its condition, unless the Mission or Diplomatic Post determines that such examination is not feasible, or if CCC has made other provision for such examinations and reports. If practicable, the examination of the cargo shall be conducted jointly by the surveyor, the consignee and the ocean carrier and the survey report shall be signed by all parties. Whenever a damaged commodity appears unfit for its intended use, the Cooperating Sponsor shall obtain (l) a certification by a public health official, or similar competent authority, regarding the condition of the commodity and (2) a certificate of disposition if the commodity is determined to be unfit for its intended use. A narrative chronology and other commentary to assist in the adjudication of ocean transportation claims should be provided to CCC if possible. This statement is mandatory where the loss is estimated to be in excess of $5,000. Cooperating Sponsors shall send to USDA/ASCS/CCC copies of all reports and documents pertaining to the discharge of commodities. For those surveys arranged by CCC, the Cooperating Sponsor may obtain a copy of the report from the local USAID Mission. CCC will reimburse a nongovernmental Cooperating Sponsor for the costs incurred by it in obtaining the services of an independent surveyor to conduct examinations of the cargo and render the report. However, CCC will not reimburse a non-governmental Cooperating Sponsor for the costs of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken at the time of discharge, unless such deviation is justified to the satisfaction of CCC.

CCC normally will contract for the survey of cargo on shipments for which USAID contracts for the ocean transportation services. Survey contracts normally will be let on a competitive bid basis. However, if USAID Mission or a Diplomatic Post desires that CCC limit its consideration to only certain selected surveyors, USAID Mission or the Diplomatic Post should furnish USAID/W-BHR/FFP with a list of eligible surveyors for forwarding to CCC. Surveyors may be omitted from the list based on foreign relations considerations, conflicts of interest and/or lack of demonstrated capability to carry out surveying responsibilities properly. USAID/W-BHR/FFP will furnish CCC's surveying requirements to the USAID Mission or a Diplomatic Post upon request. If CCC is unable to find a surveyor at a port to which a shipment has been consigned, CCC may request USAID/W-BHR/FFP to contact USAID Mission or the Diplomatic Post to arrange for a survey. CCC will pay the cost of the survey.
It is essential that Cooperating Sponsors and USAID Missions act promptly to obtain discharge documents so that all necessary action to obtain restitution for loss and damage may take place promptly. (See Section 211.9(c)(1) of Regulation 11 for details on survey and outturn report procedures and requirements, as well as Chapter 9C.3. of this Handbook.)

3. Claims Against Ocean Carriers

Whether or not title to commodities has transferred from CCC to the Cooperating Sponsor, if USAID/W-BHR/FFP contracted for the ocean transportation CCC shall have the right to initiate, prosecute and retain the proceeds of all claims against ocean carriers for cargo loss and/or damage.

Unless otherwise provided in the Operational Plan (OP) or Transfer Authorization (TA), when Cooperating Sponsors contract for the ocean transportation, they shall file notice of any cargo loss and/or damage with the ocean carrier immediately upon discovery of any such loss and/or damage, promptly initiate claims against the ocean carrier for cargo loss and/or damage, take all necessary action to obtain restitution for losses within any applicable periods of limitations, and transmit to CCC copies of all such claims. However, the non-governmental Cooperating Sponsor need not file a claim when the cargo loss and/or damage is not in excess of $100 or when the loss is between $100 and $300 and it is determined by the non-governmental Cooperating Sponsor that the cost of filing and collecting the claim will exceed the amount of the claim. Amounts collected by non-governmental Cooperating Sponsors on claims against ocean carriers not in excess of $200 may be retained by the non-governmental Cooperating Sponsor. On claims having a value in excess of $200, $200 plus 10 percent of the difference between $200 and the total amount collected on the claim, up to a maximum of $500, or, if approved by CCC, actual administrative expenses incurred in collection of the claim, may be retained. All amounts collected in excess of the amounts authorized shall be remitted to CCC.

When non-governmental Cooperating Sponsors fail to file claims, permit claims to become time barred, or fail to provide for the right of CCC to assert such claims, and it is determined by CCC that such failure was due to the fault or negligence of the non-governmental Cooperating Sponsor, the agency or organization shall be liable to the U.S. for the cost and freight value of the commodities lost.

USAID will initiate and prosecute claims against ocean carriers and defend claims by such carriers arising from or relating to affreightment contracts booked by USAID where the claims involve entitlement to freight and related costs from the U.S. Government (USG). Proceeds of such claims received by USAID shall be returned to CCC.

See Section 211.9(c) (2) of Regulation 11 for regulations and requirements pertaining to claims against ocean carriers. Also see Appendices F and G, Instructions to All Voluntary Agencies and Intergovernmental Organizations Concerning the Filing, Pursuit, Adjudication and Collection of Ocean Transportation Claims Arising from Shipment of Title II and Title III Public Law 480 Commodities and Instructions to All Voluntary Agencies and Intergovernmental Organizations Concerning the Documentation Requirements and Applicable Program Agreements as They Apply to the Discharge of Title II and Title III Public Law 480 Commodities.

10D. Inland Claims

1. Surveys on Shipments to Landlocked Countries

In addition to survey and/or outturn reports to determine ocean carrier loss and damage, the Cooperating Sponsor should, in the case of landlocked countries, arrange for an independent survey at the point of entry into the recipient country and make a report containing basically the same type of information as is to be contained in a discharge report. (See Section 211.9(c)(1) of Regulation 11.) CCC will reimburse the Cooperating Sponsor for the costs of the survey. USDA/ASCS/CCC will contract for independent surveyors to perform such a survey in the case of those shipments for which USAID has contracted the ocean transportation.

2. Reporting Losses to USAID or Diplomatic Posts

a. Cooperating Sponsor Responsibility

The Cooperating Sponsor is responsible for providing USAID Mission or the Diplomatic Post with a quarterly report regarding any loss, damage or misuse of commodities, monetized proceeds or program income. The report must be provided within 30 days after the close of the calendar quarter and shall contain the following information, except for commodity losses of less than $500: (a) who had possession; (b) who might be responsible; (c) kind and quantity of commodity; (d) size and type of containers; (e) time and place of the loss; (f) current location of commodities; (g) project name and number; (h) CCC contract number; (i) identifying numbers printed on the commodity containers;

(j) action taken or being taken by the Cooperating Sponsor with respect to recovery or disposal; and (k) the estimated value of the loss. If any of this information is not available, the Cooperating Sponsor shall explain why it is not. (See Exhibit F.)

The report simply may identify separately commodity losses valued at less than $500 and indicate the estimated value of the commodities lost, damaged or misused and the action taken by the Cooperating Sponsor with respect to recovery or disposal. However, the Cooperating Sponsor shall inform USAID Mission or the Diplomatic Post if it has reason to believe there is a pattern or trend in the loss, damage or misuse of such commodities. USAID Mission or the Diplomatic Post may require additional information about any commodities lost. A copy of any claim made by the Cooperating Sponsor during the reporting period should be attached to the loss report. (See section on claims, 11D.3., below.)

If any commodity, monetized proceeds or program income is lost or misused under circumstances that give a Cooperating Sponsor reason to believe that the loss or misuse has occurred as a result of criminal activity, the Cooperating Sponsor shall promptly report these circumstances to the USAID/W Inspector General (IG) through USAID/W-BHR/FFP, USAID Mission or the Diplomatic Post and, subsequently, to the appropriate authorities of the Cooperating Country, unless instructed not to do so by USAID Mission and USAID/W-BHR/FFP.

b. Mission Responsibility

It is the responsibility of USAID Mission or the Diplomatic Post to review the reports of loss, damage and improper distribution submitted by the Cooperating Sponsors, including the actions being taken by the Cooperating Sponsor for restitution or rectification, such as claims against third parties. The reports should be commented on, agreement given, if appropriate, to the actions being taken, and a system established for follow-up of reported losses and claims. Instances of loss, especially in the case of landlocked countries or widely scattered programs, can be numerous. A ledger system for tracking these reported losses and regularly scheduled meetings with Cooperating Sponsors to review status of outstanding claims are good management tools for monitoring Title II commodity losses or misuse.

3. Claims

a. Fault of Others (Third Party Claims)

If a Cooperating Sponsor determines that it has basis for a claim against a person or a governmental or nongovernmental organization based on an event for which the person or organization is responsible that resulted in the damage, loss or misuse of any commodity, monetized proceeds or program income, the Cooperating Sponsor shall file a claim against the liable party or parties for the value of the commodities, monetized proceeds or program income lost damaged or misused, and shall make every reasonable effort to collect the claim. Reasonable attempts to collect a claim shall not be less than the follow-up of the initial billing with three progressively stronger demands at not more than 30-day intervals. If these efforts fail to elicit a satisfactory response, legal action in the judicial system of the Cooperating Country should be pursued unless: (l) liability of the third party is not provable; (2) the cost of pursuing the claim would exceed the amount of the claim; (3) the third party would not have enough assets to satisfy the claim after a judicial decision favorable to the Cooperating Sponsor; (4) maintaining legal action in the country's judicial system would seriously impair the Cooperating Sponsor's ability to conduct an effective program in the country; or (5) it is inappropriate for reasons relating to the judiciary or judicial system of the country.

The Cooperating Sponsor must review each and every loss to make a determination if a claim is warranted against a third party, and loss reports when submitted should include the reason(s) for either instituting or not instituting claim action. It becomes extremely important that consultation and discussions with the USAID Mission take place on a regular basis to review the criteria that are being used to determine if claim action is justified. The individual country and program circumstances, of course, will vary, but should be agreed upon and a working framework should be established for making decisions on claims actions. For example, bandit attacks on trucks or small amounts of a commodity lost because of minor in-transit damage, might be, and in the case of the bandit attacks, would be unclaimable. However, in other instances, even small amounts of loss, particularly on a continuing basis because of inefficient handling by recipient agencies, would call for claim or restitution action and/or suspension of shipments to that center or intensive training of center personnel.

A copy of the claim and related documents shall be provided to USAID Mission or the Diplomatic Post. Cooperating Sponsors who fail to file or pursue such claims shall be liable for the value of the commodities, monetized proceeds or program income lost, damaged or misused. If a decision has been made not to file a claim the Cooperating Sponsor must give a full and satisfactory justification for not filing. If the USAID Mission disagrees, they should consult and discuss the matter with the Cooperating Sponsor until a mutually satisfactory course of action is agreed upon.

Cooperating Sponsors may elect not to file a claim if the loss is less than $500 and such action is not detrimental to the program. Cooperating Sponsors may retain $150 of any amount collected on an individual claim. In addition, Cooperating Sponsors may, with the written approval of USAID Mission or the Diplomatic Post, either retain special costs such as reasonable legal fees that they have incurred in the collection of a claim, or pay such legal fees with monetized proceeds or program income. Calculation of the amount of a claim against a third party is based on the value of the commodities, monetized proceeds or program income lost, damaged or misused as a result of a specific event. An individual claim may not be broken down artificially to enlarge the amount that may be retained as an administrative allowance. For example, if a Cooperating Sponsor has a contract with a carrier to transport commodities, and losses occur during a single shipment of commodities from points A to B, the Cooperating Sponsor has one claim against the carrier and the amount of the claim will be based on the total value of the commodities lost during the shipment from A to B even though some of the loss might have occurred on each of several trucks or by subcontractors used by the carrier to satisfy its contract responsibility to transport the commodities.

Any proposed settlement for less than the full amount of the claim must be approved by USAID Mission or the Diplomatic Post prior to acceptance. When the Cooperating Sponsor has exhausted all reasonable attempts to collect a claim, it shall request that USAID Mission or the Diplomatic Post provide further instructions. The principal USAID Mission or Embassy Officer, with the advice of the officer responsible for P.L. 480 Title II programs and the officer responsible for fiscal management, should approve or disapprove any proposed settlement of a Cooperating Sponsor's claim against a third party for less than the full amount due, regardless of the amount of the claim or the amount relinquished. Third-party claims need not be referred to USAID/W-BHR/FFP for action regardless of the amount unless USAID Mission or the Diplomatic Post has accepted assignment of a claim or claims from a Cooperating Sponsor. (See below.)

If a Cooperating Sponsor has made a decision not to take legal action, the reasons must be submitted in writing to USAID Mission or the Diplomatic Post for review and approval. USAID Mission or the Diplomatic Post may ask that the Cooperating Sponsor obtain and submit the opinion of competent legal counsel to support its decision. A

Cooperating Sponsor also may request approval to terminate legal action after it has commenced if it is apparent that any of the circumstances described in the first paragraph of this section are applicable or if, for some other reason, it appears appropriate to terminate legal action prior to judgement. In each instance, USAID Mission or the Diplomatic Post must provide the Cooperating Sponsor with a written explanation of its decision on the matter within 45 days from the date the request is received, or inform the Cooperating Sponsor, in writing, of the reasons why USAID Mission or the Diplomatic Post will need more time to make a decision. If USAID Mission or the Diplomatic Post approves a Cooperating Sponsor's decision not to take further action on a claim because maintaining legal action in the country's judicial system would seriously impair the Cooperating Sponsor's ability to conduct an effective program in the country, or it is inappropriate for reasons relating to the judiciary or judicial system of the country, the Cooperating Sponsor shall assign the claim to USAID Mission and shall provide to USAID Mission all documentation relating to the claim. When USAID Mission or the Diplomatic Post takes an assignment of a claim or claims from a Cooperating Sponsor, USAID Mission or the Diplomatic Post shall consult USAID/W-BHR/GC regarding the appropriate action to take on the assigned claim(s) unless standing guidance is in effect.

As an alternative to legal action in the judicial system of the country with regard to claims against a public entity of the government of the Cooperating Country, the Cooperating Sponsor and the Cooperating Country may agree to settle disputed claims by an appropriate administrative procedure and/or arbitration. This alternative may be established in the Country Food for Peace (FFP) Agreement or by a separate formal understanding and must be submitted to USAID Mission or the Diplomatic Post for review and approval. Resolution of disputed claims by any administrative procedure or arbitration agreed on by the Cooperating Sponsor and the Cooperating Country should be final and binding on the parties.

b. Fault of the Cooperating Sponsor [Regulation 11, Section 211.9(d)]

If a commodity, monetized proceeds or program income is used for a purpose not permitted under the program Operational Plan (OP), Transfer Authorization (TA) or Regulation 11, or if a Cooperating Sponsor causes loss or damage to a commodity, monetized proceeds or program income through any act, omission or failure to provide proper storage, care and handling, the Cooperating Sponsor shall pay to the U.S. the value of the commodities, monetized proceeds or program income lost damaged or misused, unless USAID determines that such improper distribution or use, loss or damage could not have been prevented by proper exercise of the Cooperating Sponsor's responsibility under the OP, TA and Regulation 11. In determining whether there was a proper exercise of the Cooperating Sponsor's responsibility, USAID/W-BHR/FFP and the USAID Mission should consider normal commercial practices in the country of distribution and the problems associated with carrying out programs in developing countries. If these circumstances do not mitigate or apply to the losses sustained, and such losses appear to be clearly caused by the Cooperating Sponsor's failure to adequately protect or handle the Title II commodities, proceeds or income that has been transferred to it for agreed-to purposes, issuance of a Bill of Collection shall be considered. Payment by the Cooperating Sponsor shall be made in dollars or USAID Mission or the Diplomatic Post may agree to permit a Cooperating Sponsor to replace commodities lost, damaged or misused with similar commodities of equal value.

The USAID Mission initially has the authority and responsibility for determining the validity or propriety of claims against Cooperating Sponsors. Missions are cautioned not to automatically issue a Bill of Collection against a non-governmental Cooperating Sponsor. It is suggested that they consult with USAID/W-BHR/GC prior to such issuance to examine the options for restitution (e.g., enhancement activities, commodity replacement, project amplification, increased Cooperating Sponsor shared support of projects). It is often easier and of more value to the field program to agree on a solution before a Bill of Collection is issued. When a Bill of Collection has been issued, but USAID Mission or the Diplomatic Post is considering compromising such claim against a Cooperating Sponsor, the claim should be forwarded to USAID/W-BHR/GC only if the amount of the claim determined to be valid by the Mission exceeds $20,000, or the amount of the valid claim to be relinquished exceeds $10,000. In other words, the claim amount subject to these limits is not the initial amount of the potential claim based on the total value of lost, damaged or misused commodities, but rather only the amount of the claim determined by the Mission to be valid.

Whether a claim for inland losses, which is normally pursued by the Cooperating Sponsor against the negligent third party, should also be asserted by USAID Mission against a Cooperating Sponsor through a Bill of Collection, depends on whether the USAID Mission has determined that the Cooperating Sponsor is responsible, at least in part, for such losses or has failed to make every reasonable effort to pursue collection of claims against the negligent third party. For example, the Cooperating Sponsor may have been negligent in selecting disreputable transport or warehousing companies, in storing commodities or in supervising or correcting employees of recipient agencies, or the Cooperating Sponsor may have let third-party claims languish to the point that enforcement is difficult or impossible, as where statues of limitations applicable to such claims have run out or the negligent companies have gone bankrupt or been dissolved. As with all potential claims
against Cooperating Sponsors, USAID Mission or the Diplomatic Post should take no action against the Cooperating Sponsor unless they have determined that the loss could have been prevented by proper exercise of the Cooperating Sponsor's responsibilities under the terms of the pertinent agreement, giving due consideration to, among other things, (1) normal commercial practices in the country of distribution; (2) the humanitarian objectives of the program; (3) limitations inherent in the administrative capabilities and financial resources of the Cooperating Sponsor; and (4) difficulties inherent in distributing food within less developed countries.

c. Claim Proceeds

Claims against ocean carriers shall be collected in U.S. dollars (or in the currency in which freight is paid, or a pro rata share of each) and shall be remitted (less amounts authorized to be retained) by non-governmental Cooperating Sponsors to CCC.

Claims against non-governmental Cooperating Sponsors shall be paid to CCC or USAID/W-BHR/FFP for transmittal to USDA/ASCS/CCC in U.S. dollars.

Amounts paid by third parties in the country of distribution shall be deposited with the U.S. Disbursing Officer (USDO), American Embassy, preferably in U.S. dollars, with instructions to credit the deposit to Treasury sales account 12X4336, or in local currency with instructions to credit the deposit to CCC Account No. 20FT401. Any conversion required for these deposits shall be at the highest rate of exchange legally obtainable on the date of deposit unless USAID agrees otherwise in writing.

With respect to monetized proceeds and program income, amounts recovered should be deposited into the special interest-bearing account established for the monetized proceeds, if applicable, and may be used for purposes of the approved program.

Value of the commodity(ies) for claim purposes may be established by the per unit Bill of Lading (B/L) value at the time of shipment, which is the commodity plus freight value, unless justification for a depreciated or appreciated value is given and accepted by USAID/BHR/FFP.

10E. Disposition of Unfit Commodities

1. Prior to Delivery

If the commodity is damaged prior to delivery to a governmental Cooperating Sponsor at the discharge port or point of entry overseas, USAID Mission or the Diplomatic Post shall immediately arrange for inspection by a public health official or other competent authority. A nongovernmental Cooperating Sponsor shall arrange for such an inspection under these circumstances. A commodity that is determined to be unfit for authorized use shall be disposed of in accordance with the priorities set forth in Section 10E.2, below. Expenses incidental to the handling and disposition of the damaged commodity shall be paid by USAID Mission or the Diplomatic Post from the sales proceeds, from CCC Account No. 20FT401, or from the Title II account. The net proceeds of sales shall be deposited with the USDO, American Embassy, for the credit of CCC Account No. 20FT401.

2. After Delivery

If after arrival in a foreign country it appears that all or part of the commodities may be unfit for the use authorized in the OP or TA, the Cooperating Sponsor shall immediately arrange for inspection of the commodity by a public health official or other competent authority approved by USAID Mission or the Diplomatic Post. If no competent local authority is available, USAID Mission or the Diplomatic Post may determine whether the commodities are unfit and, if so, may direct disposal.

A Cooperating Sponsor shall dispose of commodities determined to be unfit for authorized use in the following order of priority:

Sale for the most appropriate use (e.g., animal feed, fertilizer, industrial use) at the highest obtainable price. When the commodity is sold, all USG markings shall be obliterated, removed or crossed out.

Transfer to an approved FFP program for use as livestock feed. USAID/W-BHR/FFP shall be advised promptly of any such transfer so that shipments from the U.S. to the livestock feeding program can be reduced an equivalent amount.

Donation to a governmental or charitable organization for use as animal feed or other non-food use.

If the commodity is unfit for any of the disposal priorities listed above, the commodity shall be destroyed in such a manner as to prevent its use for any purpose. Commodities valued at $500 or more shall be destroyed under the observation of a representative of USAID Mission or the Diplomatic Post if practicable. When the Cooperating Sponsor informs USAID or the Diplomatic Post of its intention to destroy commodities, the Cooperating Sponsor shall indicate the kind and amount of commodities that will be destroyed, the manner of destruction, the representative(s) of local authorities who will witness the destruction, and the date when the commodities will be destroyed.

The concurrence of USAID Mission or the Diplomatic Post should be requested for disposition of commodities valued at $500 or more. If USAID Mission or the Diplomatic Post does not respond to the Cooperating Sponsor's request for concurrence within 15 days, the Cooperating Sponsor may dispose of the commodities in the manner described in its request and inform USAID or the Diplomatic Post of its action.

Expenses incidental to the handling and disposition of the damaged commodity shall be paid by the Cooperating Sponsor unless it is determined by USAID Mission or the Diplomatic Post that the damage could not have been prevented by the proper exercise of the Cooperating Sponsor's responsibility under the terms of the OP or TA. Actual expenses incurred, including third party costs in selling the commodities, may be deducted from the sales proceeds and, except for monetization programs, the net proceeds shall be deposited with the USDO, American Embassy, with instructions to credit the deposit to CCC Account No. 2OFT401. In monetization programs, net proceeds shall be deposited in the special account used for the approved program.

The Cooperating Sponsor shall furnish USAID Mission or the Diplomatic Post with a written report on the unfit commodities, containing as much detail as possible on causes, and identifying the commodity kind and quantity and the time and place of damage, if ascertainable. The report shall enclose a certification by a public health official or other competent authority of the exact quantity of the damaged commodity disposed of, because it was determined to be unfit for any use, and the manner in which the commodities were destroyed.

CHAPTER 11

THE WORLD FOOD PROGRAM

11A. Structure

The World Food Program (WFP) is a joint activity of the United Nations (UN) and the Food Agricultural Organization (FAO), having been established in April 1962 under separate resolutions of the Conference of the FAO and the General Assembly of the UN. Participation in WFP is open to UN member countries and to FAO member and associate member countries.

The governing body of the WFP is the Committee on Food Aid Policies and Programs (CFA), which is jointly established by the UN and FAO through the election of members. It is composed of 42 countries that are members of the UN or FAO. Twenty-seven members are from developing countries and fifteen members are from economically developed countries. The U.S. is always a member. The CFA, which meets every six months, provides general guidance on the policy, administration and operation of WFP. It also examines and approves the administration and execution of approved projects and other WFP activities.

The WFP Secretariat is located in Rome and is responsible for program planning, operations and evaluation. It consists of a staff headed by an Executive Director appointed for a five-year term by the Secretary General of the UN and the Director General of the FAO after consultation with the CFA. To the extent possible, WFP relies on the existing staff and facilities of the FAO, the UN and its specialized agencies, such as the UN International Children's Emergency Fund (UNICEF), and other international agencies. WFP assigns project officers to recipient countries when major projects or a group of projects are undertaken. WFP's senior representative in each country in which there is a program is the Director of Operations.

11B. Objectives

WFP uses food aid as a capital input to support economic and social development efforts targeted toward those most in need. Projects are designed with three major objectives in mind: (1) national capacity building, (2) sustainability of projects and (3) protection of the environment. WFP also coordinates multilateral responses to emergency situations, whether they be
natural or man-made. Since May of 1993 WFP has been the sole UN agency with a mandate to deliver food. The UN High Commissioner for Refugees (UNHCR) is in the process of transferring all food aid planning and delivery responsibilities to WFP.

11C. Resources

WFP resources are obtained through voluntary pledges by UN and FAO member countries. Pledges are met with contributions in the form of commodities, services (principally ocean shipping) and cash. An attempt is made to obtain at least one third of the total contributions in cash. The U.S. Government (USG) contributions to WFP are made through P.L. 480 Title II, Office of Foreign Disaster Assistance (OFDA) cash grants, State/Refugee Programs (RP) cash grants, State/Bureau for International Organization (IO) cash grants for administrative expenses and USDA Section 416. Title II resources are transferred to WFP through a WFP/USG Transfer Authorization (TA). Contributions to WFP are pledged at conferences summoned jointly by the UN and FAO. Pledging conferences are convened at two year intervals (one year before the old pledges expire) when pledges for an additional two years are made. WFP has at least one year to plan projects against pledged resources.

11D. Types of World Food Program Assistance

WFP is authorized to provide on a multilateral basis assistance for economic and social development projects, including human resource development, protection of the environment, health and disaster planning and mitigation.

WFP has become increasingly involved in the task of coordinating multilateral emergency shipments and programs, particularly in response to international appeals by the UN. As part of this growing role, WFP manages a separate emergency account, the International Emergency Food Reserve (IEFR) which is made up of voluntary contributions from donor countries. These are separate from the biannual pledges which make up the general WFP budget. The USG is committed to providing 25 percent of the IEFR (125,000 metric tons) and has regularly exceeded that amount. This contribution comes from the P.L. 480 Title II emergency reserve. USG commodity contributions to the IEFR are provided under the terms of special TAs that control the types of commodity and specify required documentation procedures. As part of the IEFR, the CFA has authorized creation of an Immediate Response Account (IRA). The IRA is a cash account that WFP can utilize to purchase emergency food as close as possible to the site of emergencies. In addition, each year an emergency resource reserve is established for use in emergency programs that are approved by the Director General of FAO. When depleted, additional amounts may be made available by the CFA.

At the biannual pledging conference donors are asked to indicate the level of resources they will make available to WFP for development programs, the IEFR and protracted refugee operations (PROs).

11E. Guidelines

Commodities are provided by WFP to recipient countries on a grant basis.

Ocean freight is paid to ports of entry and, where necessary, inland transport to borders of landlocked recipient countries. WFP cannot contribute technical assistance, capital or foreign exchange to participating countries.

Primary responsibility for project execution rests with the recipient country. However, WFP shares responsibility for supervision and execution and attempts to ensure that food supplied under the project reaches its destination and that waste and losses are kept to a minimum.

WFP has taken several positive steps to improve project management, monitoring and accountability. For example, WFP has developed a new project implementation tracking system that involves quarterly reports to headquarters; has secured technical assistance from UNDP and other UN agencies in the implementation of projects; and has reorganized its staff to focus more on strategic analysis and planning and to delegate more implementation responsibility to the geographic bureaus. In conjunction with this reorganization, WFP is carrying out management improvement training programs. WFP is also developing a rapid disaster response capability that will involve a cadre of 15 disaster coordination officers who will be able to travel immediately anywhere in the world to assess needs and organize emergency response activities.

Sales of WFP commodities are approved by the CFA. In general, sales are excluded from a proposal if commercial sales would knowingly be displaced. In projects where sales of commodities are proposed and approved by the FAO Consultative Subcommittee on Surplus Disposal (CSD), WFP applies the following guidelines: (a) when WFP commodities are sold on the open market, the WFP Secretariat analyzes the recipient country's supply pattern for each of the commodities involved and determines whether special safeguards to assure against displacement of commercial marketings are necessary; (b) when WFP commodities are sold below prevailing local prices, the channels through which such commodities move should be isolated from the usual commercial channels, as far as possible, and information should be provided that supports this type of sale; (c) proceeds from sales are typically used to finance activities related to the project, such as payment of wages; purchase of local tools, equipment, and local ingredients; and internal transportation, storage and handling (ITSH). Information on the use and control of proceeds is to be provided.

11F. Request and Approval Procedures

1. Applications for food aid emanate from and are prepared by the government of the recipient country pursuant to instructions and a pro forma prescribed by WFP. Prior to submission of the application, locally available technicians of the UN, FAO, International Labor Organization (ILO) and other specialized agencies of the UN may be drawn upon for preliminary technical evaluation and project proposal refinement. Although not covered in its regulation, WFP has agreed to consult with and seek the views of USAID Missions at this stage. In some cases, WFP may send a technical team to the country to assist in the formulation of the project application. Official requests for WFP assistance are submitted through the UNDP Resident Representative to the Executive Director.

2. Upon receipt in WFP Headquarters/Rome, the request is evaluated by the WFP Secretariat with the assistance, advice and recommendations of technicians of the UN, FAO and other specialized agencies of the UN. If considered necessary, technical teams may be sent to the requesting country to review the proposed project in greater detail.

3. When the WFP Secretariat is satisfied that the proposed project has good possibilities for development, it forwards a Project Summary to the Consultative Subcommittee on Surplus Disposal (CSD) in Washington, DC, for examination by its members to assure that current and developing markets will not be adversely affected. The CSD Secretariat consults its members, including the USG, and subsequently notifies WFP either that the project has been cleared or that members have objected.

4. At approximately the same time that WFP submits the "Project Summary" to the CSD, it requests one or more of the donor countries to agree to supply the commodities. The USG is provided at this time with three copies of the Project Summary.

5. When a proposed project has been cleared technically and by the CSD and when commodities have been tentatively committed by donors, the project is ready for WFP approval under one of the following procedures:

> The Executive Director may approve projects with a food value not exceeding $1.5 million. This must be confirmed after the fact by the CFA.
>
> Projects with a food value of over $1.5 million require the approval of the CFA before being submitted by the Executive Director to the Committee for consideration.

In periods between the biannual sessions of the CFA, a project with a food value of over 1.5 million may be submitted to the members of the CFA for their approval by correspondence. If no member objects within 45 days from the date the project proposal is dispatched, the project is considered to be approved. If any member questions the project, the Executive Director is required to hold it for consideration by the CFA at its next session.

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

7. Following signature of the Project Agreement, the government of the recipient country is given time to prepare for the initiation of the project pursuant to the terms of the Agreement. When it has arranged the necessary details, it submits a Letter of Readiness to the Executive Director. If in doubt, the Executive Director may require field staff to

investigate and assure that all essential arrangements have been completed. Thereafter, the commodities are called forward by WFP from the donor governments as they are needed.

11G. U.S. Government Responsibilities and Coordination

1. Appraisal of Requests for World Food Program Assistance

WFP is encouraged to consult with USAID Missions at an early stage in the development of projects. It is at this point, when a recipient country submits a request to WFP, that the U.S. can exert its greatest influence on the technical aspects of the project. Because WFP has the responsibility for assuring that projects are technically sound and carefully planned, it is in the best interest of the USG to assist in the development of such projects.

The purpose of the consultation is not to seek the USAID Mission's approval, but to exchange information. USAID Missions should discuss freely any unclassified information that may have an influence on WFP's subsequent decision, including problems, if any, that the WFP proposed project might create. On this point, USAID Missions should assure that WFP is not duplicating, overlapping, or impinging upon other projects. However, care should be taken to avoid any implication that the U.S. is attempting to restrict the activities of WFP. Another area that might be examined is whether the recipient country can continue the project's objectives after WFP aid has ceased.

2. USAID Mission Liaison with World Food Program Representatives

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

As a permanent member of the CFA, the U.S. is able to make its influence felt in WFP policies and operations. Under established procedures, AmEmbassy Rome (FODAG) forwards one copy of the "Project Summary" to USAID Missions with a request for comments and recommendations. Missions are requested to keep USAID/W-BHR/FFP informed of all significant developments on WFP matters in their countries. It is particularly important that a report be dispatched promptly when the USAID Mission learns that WFP is considering a program in-country. This report should include (a) as much information as is available on the nature of the proposal and commodity requirements; (b) the country team's views on its desirability; (c) whether the project, if approved, conflicts or supplements U.S. objectives and existing or proposed Cooperating Sponsors' programs or adversely affects current and developing markets, particularly with regard to U.S. exports; (d) whether the recipient government has the capability to manage the proposed project and the WFP field staff have the capacity to monitor it. USAID/W-BHR/FFP relies heavily on USAID Mission comments on WFP project proposals and field operations in developing the U.S. position for the CFA on such matters. It is not always possible, however, for USAID/W-BHR/FFP to follow a USAID Mission's recommendations because other considerations may be involved in determining the U.S. position on a particular WFP project. All reports and other communications on WFP operational matters are to be in the cable series and are to include "World Food Program" in the subject. All messages are to be addressed to USAID/W-BHR/FFP and copied for information to AmEmbassy/Rome "For FODAG". FODAG is the U.S. Mission to the UN Food and Agriculture Agencies in Rome.

U.S. relations with WFP should be viewed primarily in terms of its membership on the WFP governing board rather than as a co-implementer of individual project activities. It is in this context that the USAID Mission role should be viewed as one concerned primarily with assuring coordination with ongoing bilateral programs. This includes general knowledge of how the WFP/host-country program is functioning as well as developing a close working relationship with WFP representatives to assure reasonably uniform distribution policies and host country relationships. This may extend to regular discussion meetings, not only to discuss WFP program operations, but to serve as a framework for donor coordination on development assistance and emergency preparedness. It is in the early stages of project development, preferably before the host country submits a formal request to WFP, that the Mission can have its greatest influence on the project.

Missions have no responsibilities concerning control, management or financial accounting on any WFP activity. Questions of commodity distribution, monitoring and project control are the responsibility of WFP and the host government. Missions are encouraged to be alert to any WFP program or commodity management shortcomings and call to the attention of WFP representatives any suspected program irregularities or misuse of commodities in connection with WFP projects. If the USAID Mission has reason to believe that a problem is not receiving adequate attention, then the matter should be reported to USAID/W-BHR/FFP. Such reports are taken up promptly with WFP/Rome by USAID/W-BHR.

3. Implementation of U.S. Commodity Shipments

The USG implements its commodity and ocean freight commitments to WFP under the authority contained in Title II of P.L. 480. Within USAID/W, Bureau for Humanitarian Response, Office of Food for Peace (BHR/FFP) has primary responsibility for the coordination of the WFP program. Implementation documents include a Commodity Transfer Authorization (TA) for all or part of each biannual U.S. pledge to WFP, and a Memorandum of Understanding (MOU) on transportation and related matters, both signed by the Assistant Administrator, BHR. The commodity TA, when signed by an officially designated representative of WFP, the Memorandum of Understanding (MOU) and the Supplement to the TA, as amended (see Appendix C), constitute the official agreements between the USG and WFP.

Under the arrangement described above, WFP becomes responsible to the USG for fulfillment of the agreement, but it may, and probably will, contract separately with the recipient country for part or all of the following: (a) cost of discharge of berthline and charter vessels, lighterage, net demurrage and any dues or charges levied against the cargo; (b) all internal costs of the program, including, but not limited to, warehousing, transportation and distribution; (c) use of commodities for purposes specified; (d) avoidable losses due to improper actions or inept handling within the recipient country; (e) filing and following through on claims against vessels, carriers, warehousemen, etc. after arrival at port of destination; and (f) arrangements to ensure that recipients know that U.S. commodities were furnished to WFP by the people of the U.S.

The following information must be provided by WFP to enable the USG to implement shipments:

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

a statement on any possible disincentives for domestic production resulting from WFP food assistance, as well as a statement that WFP reconfirms that adequate storage facilities will be provided by the recipient country;

the quantity of each commodity requested;

shipping instructions; and

port(s) of destination, name(s) and address(es) of consignee(s), delivery period, packaging specifications, and document distribution (Bill of Ladings (B/Ls), charter parties, etc.).

PART III

FOOD FOR DEVELOPMENT (P.L. 480, TITLE III)

CHAPTER 12

TITLE III PROGRAM DEVELOPMENT

12A. Objectives

The overall goal of the Title III program is the enhancement of food security in those regions of the world where insufficient access to basic food staples has become a critical and chronic problem for impoverished people. The legislative intent underlying passage of the 1990 Title III legislation was to develop a food aid instrument that could permeate to the poorest echelons of the populace in least developed nations. Congress stressed three fundamental Title III objectives: the enhancement of food security; the privatization of food and agricultural distribution systems; and the support of nutrition improvement and child survival initiatives. Accordingly, these are the priority areas to be first scrutinized for the inherent merits of Title III proposals.

P.L. 480 defines food security as "Access by all people at all times to sufficient food and nutrition for a healthy and productive life." The legislation emphasizes the integration of the Title III program into the development strategy, objectives and programs of the U.S. Government (USG) and the recipient country so that it will be used as a catalyst in bringing other resources to bear on meeting a population's basic food requirements, and not as a supplementary or single undertaking to attain this objective.

12B. Eligibility Criteria

Section 302 of P.L. 480, as amended in 1990, sets forth the criteria for a country to be eligible for P.L. 480, Title III Food for Development program funding. A prospective recipient country must first of all be determined to be a "least developed country" by meeting either of the following two sets of criteria:

Poverty Criteria - Criteria used by the International Bank for Reconstruction and Development (IBRD) to determine eligibility for Civil Works Preference for providing financial assistance; or

Food Deficit Criteria - A least developed country is a food deficit country characterized by high levels of malnutrition that meets all three of the following indicators:

per capita consumption of less than 2,300 calories per day;

child (under 5 years) mortality rate in excess of 100 per 1000 live births; and

inability to meet food security requirements (undefined) from domestic production
or
from imports because of lack of foreign exchange for commercial purchases.

1. Poverty Criteria

The poverty criteria for Title III eligibility are based on IBRD's "Per Capita Income Guidelines for Operational Purposes" covering the Civil Works Preference. In some countries experiencing changing economic conditions, IBRD per capita income guidelines become outdated or highly uncertain. In cases where such uncertainties exist, USAID Missions, through their Regional Bureaus, may request USAID's Bureau For Policy and Program Coordination (PPC) to review the latest available data. USAID/W-Bureau for Policy and Program Coordination (PPC) has been assigned responsibility to determine annually which countries meet the minimum statutory eligibility test based on standards in Section 302 of P.L. 480. Where there is any doubt regarding poverty or food deficit data, USAID Missions, through their Regional Bureaus, should request that PPC review the data available and make a new determination regarding eligibility. Countries with ongoing multi-year Title III agreements do not have to re-establish eligibility for the duration of an approved agreement.

2. Food Deficit Criteria

USAID/W uses the caloric consumption data provided at two levels: the actual data from the Food and Agriculture Organization of the United Nations (FAO); and the FAO data adjusted to reflect a 10 percent margin of error. The child mortality data are also provided at two levels: the actual data from the UN International Children's Emergency Fund (UNICEF); and the UNICEF data adjusted to reflect a 10 percent margin of error.

NOTE: Given the uncertainty of accuracy of statistics in many least developed countries (LDCs), USAID, FAO and UNICEF all recognize that there needs to be a certain degree of flexibility in interpreting the data for countries falling just outside the threshold criteria. Based on further consultations, USAID works with a 10 percent margin of error in the foregoing data to encompass countries that may otherwise fall outside the caloric and child mortality thresholds. The USAID "Manual for Food Needs Assessment" (FNA) with its accompanying software is very useful in undertaking this analysis.

The food security criterion can be satisfied if it can be shown that a country is experiencing food shortages that cannot be offset by domestic production or imports, the latter being constrained by lack of foreign exchange. The statute does not define these terms nor is there any guidance on how they can be measured.

There is no universally accepted formula that signifies a foreign exchange shortage which would fulfill this indicator of a food deficit country. However, a working definition is that a country will have a shortage if the ratio of foreign exchange reserves to the monthly level of imports is less than 3 to 1. This import coverage measure also could miss situations where the government knows it has a foreign exchange problem, but the problem does not show up immediately. Unfortunately, such exchange data is not available from the World Bank for all developing countries.

The preferred indicator would show that a country was experiencing a shortfall in export earnings from the effects of unexpected external disruptions. This could be due to a variety of factors: balance of payments problems owing to temporary declines in commodity export earnings; sharp increases in the costs of agricultural imports (cereals) or petroleum products, or shortfalls in receipts from tourism or worker remittances. The key is that shortfalls in receipts must be temporary and largely beyond the control of the member country.

An alternative measure is whether a country has an agreement with the International Monetary Fund (IMF) that allows the IMF to oversee macroeconomic and structural policies as these influence the exchange rate. The existence of an IMF agreement, which covers balance of payments support programs, is a strong indication that the host country's economy lacks the short to medium-term ability to adjust to economic conditions. The existence of such balance of payments support programs also implies that sufficient steps are being taken to address underlying problems.

3. USAID Priority Determinations

Although a country may be eligible in meeting either the poverty criteria or the food deficit criteria, it does not automatically qualify for Title III food aid. In addition, the USAID/W review of any Title III proposal will take into account a prospective recipient country's policies that either sought to avoid or may have been instrumental in bringing about a critical shortage of foreign exchange. For example, there are some countries with long histories of inflation and financial imbalances. There also are countries that have maintained financial discipline and adopted policies to achieve economic reform, but nevertheless have experienced problems due to external factors. Accordingly, in apportioning annual levels of Title III availabilities on a comparative basis among eligible recipients, additional consideration will be given to those countries which have pursued policy reform and structural adjustment programs.

The Title III legislation [Section 302(c)] lists major factors to be taken into account in the priority ranking of prospective recipients, stating that the USAID Administrator (A/USAID) shall give priority to countries that:

demonstrate the greatest need for food;

demonstrate the capacity to use food assistance effectively;

have demonstrated a commitment to policies to promote food security, including policies to reduce measurably hunger and malnutrition through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those who are nutritionally at risk; and

have a long-term plan for broad-based, equitable, and sustainable development.

Other criteria, similar to those for programming and use of other USAID resources, are also employed in the USAID/W review of Title III proposals. These include program prioritization, the meeting of concentration and focus requirements, program integration, and the technical and programmatic merits of the proposal itself.

12C. Employment of Title III Resources

1. Considerations in Program Formulation

The uses of Title III resources outlined in the program proposal should be the outcome of a joint Mission-Cooperating Country review of (a) immediate and long-range food import needs in the context of the food security potential of the recipient country; (b) the policies and programs undertaken to meet food needs; (c) the ways in which the Title III program proposed could provide assistance in enhancing food security and the country's capacity to use food assistance effectively; and (d) the manner in which Title III fits into the USAID Mission's strategic plan and the broader development strategy of the recipient country.

Title III proposals should flow from analysis of the country's food security situation, including the roles that food aid and the private sector can play in enhancing food security. On the basis of this analysis, the USAID Mission should identify the primary host country organizations involved in the program and the specific undertakings to be supported by Title III.

Title III program proposals should take into account the institutional capacity of the recipient country's private and public sector organizations and agencies to manage the sale and distribution of the commodity; implement approved reforms, programs, projects; program and monitor the use of local currencies; undertake direct feeding programs; and handle and administer emergency reserves.

Section 404(b) of P.L. 480, as amended in 1990, states that Title III agreements include the following terms and conditions which bear upon a proposal's design and content:

(1) include an estimate of the annual value or volume of agricultural commodities proposed to be made available to the country or eligible organization under the agreement;

(2) include a statement of the manner in which the agricultural commodities provided under the agreement or the revenues generated by the sale of such commodities (if such commodities are sold) will be integrated into the overall development plans of the country to improve food security and agricultural development, alleviate poverty, and promote broadbased, equitable, and sustainable agriculture;

(3) include a statement of the manner in which competitive private sector participation within the recipient country in the storage, marketing, transportation, and distribution of agricultural commodities made available under this Act will be encouraged;

(4) include a statement that such agreement shall be subject to the availability, during each fiscal year to which the agreement applies, of the necessary appropriations and agricultural commodities; and

(5) contain such other terms and conditions as the Administrator determines to be necessary.

There is purposeful flexibility in the Title III legislation and in USAID policy regarding use of this category of food aid. It may be programmed as project, sector, or non-project assistance. Title III commodities may be:

used as balance of payments assistance to support national policy reform;

sold for use of sales proceeds to finance specific economic development activities or sector support;

distributed in direct feeding programs;

used to establish emergency food reserves; or

used in any combination of the foregoing options.

USAID Missions are encouraged to combine, in one project, Title III resources with Development Assistance (DA), Development Fund for Africa (DFA), Economic Support Fund (ESF) or other food aid to maximize the developmental impact of U.S. assistance.

USAID Missions using Title III programs as balance of payments assistance to support policy reform initiatives, should design such an activity to be carried out in conjunction with other Title III supported development activities. If a USAID Mission proposes a Title III program for balance of payments support exclusively, it would have to be fully justified by exceptional circumstances. In pursuing policy reform, priority should be accorded policy changes in areas of food security, private sector, and nutrition - including child survival -initiatives. The USAID/W Policy Paper, "Approaches to the Policy Dialogue" (USAID/W-PPC/CDIE - PN-AAM-431) provides useful guidance on pursuing policy reform initiatives.

Design requirements for Title III proposals depend largely on the manner in which the resources are to be utilized. If Title III food aid is to be used as balance of payments support, then the program requirements for use of these resources in such macroeconomic support undertakings should be followed. If Title III resources are used in a non-project sector assistance program, then the same guidelines for use of other USAID resources in this mode are to be used. When using Title III resources in a traditional project mode, the design requirements for project assistance are to be followed.

Whatever the use, all proposals for use of Title III commodities must be accompanied by the following analyses: (See Section 12E3C for details.)

Commodity Needs Analysis, which assesses the demand for and supply of the commodity(ies) requested;

Usual Marketing Requirements (UMR), which ensures that reasonable precautions have been taken not to disrupt world prices or normal patterns of commercial trade for agricultural commodities (per Section 403(E) of P.L. 480);

Storage and Disincentive Analysis, to confirm that adequate storage facilities will be available for the commodities requested, and that distribution of these commodities will not result in disincentives for domestic production or marketing (per Section 403(A) of P.L. 480.

The USAID Mission also must have the ability to devote the staff and resources necessary to assist a recipient country in pursuing a policy reform dialogue; monitor the impact of policy reforms in balance of payments assistance; program the use of the commodities and/or local currencies; track and report on program progress; and meet the standards outlined in USAID's Supplemental Guidance on Programming and Managing Host Country-Owned Local Currency (contained in State 204855) and USAID PD-18 on local currency.

2. Direct Feeding

Title III commodities may be used for direct feeding programs, including programs that deal with the special health needs of children and mothers. Direct feeding initiatives can also support or complement child survival program activities including improved and expanded immunization programs, oral rehydration programs to combat diarrheal diseases, and education programs aimed at improving nutrition and sanitation and promoting child spacing.

3. Emergency Food Reserves

USAID Missions may use Title III commodities to establish Emergency Food Reserves. The costs of storing and managing such reserves should be weighed against alternative approaches to enhancing short-term food security, such as accumulating foreign exchange reserves or requesting emergency food aid. USAID Missions should continue to rely mainly on Title II resources for establishing such reserves unless the developmental context of the program would support the use of Title III resources.

4. Sale of Commodities

If a Title III program involves the sale of commodities, the sale may be through the private sector or the public sector as determined by the Cooperating Country with USAID Mission approval. The project proposal should describe:

the organization designated to manage the sale;

how the sale will be conducted;

how the sales price is determined; and

the acceptable terms of the sale.

When a Title III program involves the sale of commodities, local currency sales proceeds must be used for specific economic development purposes. Unless otherwise justified and approved by USAID/W, these proceeds will be owned by the recipient country and jointly programmed with the USAID Mission. The recipient country must establish a separate interest-bearing account for the deposit of local currency sales proceeds. The amount of local currency deposit will be the amount of local currency proceeds derived from a free market sale. Deposits are to be made into the account promptly after title passes to the purchaser. The project proposal should describe and justify any modifications to these requirements. If the requirement for a separate account is waived, the Mission must still be able to verify that an equivalent amount of local currency was used for specific economic development purposes in the Title III agreement.

It is USAID policy for the recipient country to own the local currency except in extraordinary circumstances. For example, U.S. ownership may be justified in country situations where it is necessary to program sales proceeds for private sector support, or when more rigorous U.S. accountability standards are appropriate and the USAID Mission can demonstrate that it has the staff capacity to manage the U.S. owned local currency and comply with those standards.

The statutory objectives of monetized P.L. 480, Title III programs would not be satisfied unless the local currency proceeds were used for their intended purposes. Such intended purposes are largely defined in the legislation itself; P.L. 480, Title III [Section 306(a)] identifies 13 specific economic development purposes for which local currency may be used. While illustrative, they do cover a broad spectrum of activities that Congress considers highly instrumental in achieving the objectives of the Title III legislation:

> the promotion of specific policy reforms to improve food security and agricultural development within the country and to promote broad-based, equitable, and sustainable development;
>
> the establishment of development programs, projects, and activities that promote food security, alleviate hunger, improve nutrition, and promote family planning, maternal-child health (MCH), oral rehydration therapy (ORT), and other child survival objectives;
>
> the promotion of increased access to food supplies through the encouragement of specific policies and programs designed to increase employment and income within the country;
>
> the promotion of free and open markets through specific policies and programs;
>
> support for U.S. private voluntary organizations (PVOs) and cooperatives and encouragement of the development and utilization of indigenous non-governmental organizations (NGOs).
>
> the purchase of agricultural commodities (including transportation and processing costs) produced in the country:
>
> > to meet urgent or extraordinary relief requirements in the country or in neighboring countries; or
> >
> > to develop emergency food reserves;
>
> the purchase of goods and services (other than agricultural commodities and related services) to meet urgent or extraordinary relief requirements;

the payment, to the extent practicable, of the costs of carrying out the program authorized in the Farmer-to-Farmer Program (FTF);

private sector development activities designed to further the policies set forth in Section 2 of P.L.480, including loans to financial intermediaries for use in making loans to private individuals, cooperatives, corporations, or other entities;

activities of the Peace Corps that relate to agricultural production;

the development of rural infrastructure such as roads, irrigation systems, and electrification to enhance agricultural production;

research on malnutrition and its causes, as well as research relating to the identification and application of policies and strategies for targeting resources made available to address the problem of malnutrition; and

support for research (including collaborative research that is mutually beneficial to the U.S. and the recipient country), education and extension activities in agricultural sciences.

Title III requires consultations with the IMF, World Bank, and other donors to ensure that use of P.L. 480 local currency for development purposes will not have a disruptive impact on the farmers or the local economy of the Cooperating Country. Programming local currency to support particular sectors of the government's budget is permissible under Title III agreements. Programming local currency to reduce the recipient government's debt may be permissible under Title III if this can be justified under one of the foregoing economic development activities.

5. Support of Indigenous Non-Governmental Organizations (NGOs)

The 1990 P.L. 480 amendment requires that to the extent practicable, Missions shall program 10 percent of the local currency sales proceeds deposited into a separate account to support indigenous NGOs and cooperatives. Eligible organizations should be active in rural development, agricultural education, sustainable agricultural production, environmental protection and other activities that benefit poor people in the recipient country. Assistance may be provided to develop the institutional capability of an indigenous NGO as well as to implement activities of NGOs in these areas.

The law defines an indigenous NGO as "an organization that operates under the laws of the Cooperating Country, or has its principal place of activity in such country, and works at the local level to solve development problems in the Cooperating Country." This definition excludes an organization that is primarily an agent or instrumentality of the recipient government but does not exclude non-governmental, profit-making organizations. If such an allocation to eligible indigenous NGOs is not practicable, Title III proposals must explain the reasons why and what will be done in the future to increase the support to foster indigenous NGOs under the program.

6. Endowment Programs

Programming of local currency to establish an endowment is permissible under Title III, but only if such an endowment is established by an NGO and not the host country. Such endowments are most effective where:

there is a stable political and economic order that allows legal and institutional systems to assume a level of independence and integrity;

the endowment has a high level of organizational entrepreneurship to perform development tasks;

there is a politically astute leadership that is sensitive to government concerns.

USAID Missions contemplating the use of Title III resources to support endowment programs should first obtain the Center for Development Information and Evaluation (CDIE) paper entitled "Terms of Endowment: A New USAID Approach to Institutional Development" (Document No. PN-ABG-001) for guidance.

12D. Title III Program Planning

1. USAID Mission Responsibilities

All Title III activities emanate from USAID Missions or Field Posts. Unlike Title II, where the Mission's role is basically one of management and oversight, USAID Missions are directly involved in Title III programs from concept through development and implementation to final evaluation and audit. Along with the host government, USAID Missions have overall responsibility for designing, developing and supervising the implementation of Title III programs. Given this range of responsibilities, USAID has restricted consideration of Title III programs to USAID Missions or Field Posts where there are fully staffed USAID Missions.

In the drafting of Title III program proposals, as well as in considering staff requirements for undertaking such programs, USAID Missions should assign the following responsibilities:

U.S. commercial interests;

economic policy considerations including private enterprise promotion and policy and structural reforms;

commodity considerations:
-demand side (host country requirements)
-supply side (commodity availability);

adequacy of handling, storage and distribution facilities;

disincentives;

supply and distribution data;

UMR/export limitations;

utilization of commodities and locally generated currency;

Title III program development;

monetary management plan;

deposit of sale proceeds/special account requirements;

reporting and monitoring;

evaluation and review;

purchase and shipment;

drafting of proposal and other documents;

assuring adherence to USAID documentation requirements;

review and analysis; and

submission to USAID/W.

2. Financial Planning

a. Multi-Year Commitment

USAID Missions should be aware of the annual Agency Title III Program Guidance which is supplemented by additional Title III Guidance from each Regional Bureau. P.L. 480 mandates that USAID make Title III assistance available on a multi-year basis which, it is believed, gives the Cooperating Country greater incentive as well as sufficient time to undertake meaningful programs or policy reforms. Multi-year proposals should project total Title III commodity requirements for up to a five-year Life of Project. Once approved, resource requirements for multi-year programs will have priority over new Title III proposals.

As stated in Section 404(b)(4) of P.L. 480 legislation, USAID Missions should take special note that future year funding of Title III multi-year undertakings is subject to the availability of appropriations and commodities. For instance, unanticipated needs of funds and commodities in other P.L. 480 programs, especially Title II emergencies, can often affect the outyears of a multi-year program. This was the case during the first two years of the new Title III program when unforeseen circumstances created annual shortfalls necessitating reductions in the levels of approved Title III programs following the 1990 amendment to P.L. 480. Proposals should retain sufficient flexibility to allow for such possible reductions, and there should be clear understanding by the Cooperating Country that funding levels for multi-year agreements are the maximum amount approved by USAID and subject to availability of both funds and commodities in any given year. The Title III agreement is amended annually to reflect the actual funding approved and available that fiscal year.

b. Financial Estimates and Tables

When developing financial plans, estimates should be made for the annual commodity tonnage requested; local currency generations; and the contributions being made by the USG, the recipient country, and other donors. The financial tables should clearly show estimates for the sales proceeds, and an illustrative budget by fiscal year of the projected disbursements of sales proceeds to the designated development activity. If a commodity distribution program is proposed, there should be detailed estimates of commodity use at least for the first 12 months of implementation.

c. Costs of Transportation

The USG pays the costs of purchasing, processing, handling and transporting commodities to the designated port or point of entry in the Cooperating Country. Thereupon the Cooperating Country is responsible for handling, transporting and distributing the commodities within the country. USAID Missions should be aware that local currency generated by Title III commodity sales may be used to pay for handling, transportation and distribution of these commodities within the Cooperating Country.

3. Cooperating Country Performance Requirements and Restrictions

USAID/W will review progress towards achieving program objectives annually in making judgements about program continuation for each succeeding year. In making such a determination, USAID/W will consider the extent to which a country is meeting the specific program and policy performance indicators contained in the Title III Agreement. Also considered are performance standards set forth in Section 404(d) of the Title III legislation which may or may not be reflected in these performance indicators. These standards include the extent to which a country is:

making significant economic development reforms;
promoting free and open markets for food and agricultural producers; and
fostering increased food security.

Specific statutory restrictions (e.g., the host government cannot resell commodities to another country; food must be distributed without regard to political affiliation, geographic location, ethnic, tribal or religious identity, etc.) are included in the Standard Provisions of Title III Agreements. (See Section 14C.12.)

4. Amendments

The Title III Agreement should be amended annually to confirm the availability of the actual funding and estimated commodity levels for that fiscal year and the mutual agreement of the Cooperating Country and USAID to proceed; to update the UMR and other export limitation information; to revise uses of commodities or local currency proceeds beyond that stated in the agreement; or to make any other changes to the approved program not otherwise permitted. Amendments that increase available financing beyond amounts originally approved should be based on updated Title III proposal and budgets that explain the rationale for additional resources, and what, if any, additional policy and program performance will occur as a result.

Program Implementation Letters (PILS) may be used to confirm USAID Mission's and the Cooperating Country's mutual understanding of implementation matters or to record revisions or exceptions permitted by the agreement (e.g., revision of the Plan of Operations in Annex A, or Commodity Specifications or Shipping Terms in Annex B of the Model Title III Agreement) but may not otherwise amend the agreement text.

5. Single-Year Agreements

Missions wishing to submit a proposal for only a single year of Title III programming should include appropriate justification for such reasons as permitted under Section 404(c)(2), allowing assistance to be provided on an annual basis because:

the past performance of the country or organization in meeting program objectives does not warrant a multi-year agreement;

it is anticipated that the need of a country or organization for food aid does not extend beyond one year; and

other circumstances as determined by the Administrator, as appropriate, indicate there is only a need for a one-year agreement.

12E. Title III Program Proposal Components

The Title III Program Proposal should consist of about 25 single-spaced pages -

exclusive of annexes, statistical tables, charts and graphs - and should cross-reference existing policy and Mission strategy statements and program documents as much as possible. For example, the current approved Mission Strategy Statement and Action Plan could be incorporated by reference in the Title III Proposal, as could project documents that involve activities to be supported by the Title III Program. Such supporting documents could be included as annexes, as could the proposed draft of the agreement and a logical framework matrix. A suggested outline for the proposal follows.

1. Executive Summary

Succinctly describe the need for food aid; why this program is being undertaken; the proposed program in terms of commodities, estimated costs, and duration; what the program will seek to accomplish; how the program furthers the Cooperating Country's commitment to policies that promote food security; how the program will attain its objectives with the resources requested; the program's relationship to the USAID Mission's strategy and portfolio; and the implementing agencies and their major responsibilities.

2. Program Description

a. Problems Addressed

Describe the problem(s) addressed by the proposed program, based on an analysis of the country's constraints to enhancing its food security status, expanding private sector participation in the marketing and production of food and agricultural commodities, combatting malnutrition and its causes, and otherwise promoting broad-based equitable and sustainable development, including agricultural development.

b. Program Objectives and Performance Indicators

Describe the goals, purpose and outputs of the program, stating specific performance indicators and results that are to be achieved during and at the end of the proposed agreement. A logical framework matrix is desirable but not required. Missions should select performance indicators that are:

Plausible - A credible relationship, direct or indirect, must be established such that the indicator varies with change toward the desired condition;

Independent - If a hierarchy of objectives is used, indicators at each level of the stated objectives must be distinct from, and independent of, indicators at other levels; no event may be used as an indicator for two levels;

Objectively Verifiable - The indicator must be so stated that both a proponent and an informed skeptic of the activity being measured would agree that progress has or has not been as planned;

Targeted - Indicators must be explicit in terms of magnitude, time and, when appropriate, locale (e.g., crop yield up 1.5 tons per hectare in the four eastern provinces by June 1996);

Accessible - Information sources must be available or accessible to assess progress. If not, the program should ensure that funds and skilled personnel are available to conduct studies to produce the necessary data.

Comprehensive - All major aspects of the activity must be measured so that no additional indicators will be needed; and

Compatible - Indicators must be in agreement with or compatible with other indicators that the Mission has established for reaching the same or similar program objectives with other resources.

The kinds of performance indicators selected will depend on the type of program and the way the support is provided. For example, if commodities are donated for balance of payments purposes or in support of policy reform without requiring distribution or sale, the performance indicators would relate to the policy objectives supported.

If commodities are sold and local currency proceeds are used to provide budget support for a Ministry, the performance indicators would demonstrate that the budget, or mutually agreed line items, has been increased or maintained by an appropriate amount. If local currencies are jointly programmed for specific projects or activities, the performance indicators would relate to the outputs and accomplishment of the projects or activities. In any event, it is not necessary to track the local currency to the achievement of the performance indicators; it is necessary only to ensure that the mutually agreed-on events have occurred.

Performance indicators need not be included in the agreement itself but can be put in a separate Memorandum of Understanding (MOU) signed at the same time as the agreement. If some specific indicators cannot be determined before signature of the agreement, a procedure and schedule can be set out in the agreement or the MOU for determining the specific indicators that can be identified later in a PIL. Missions should link Title III performance objectives and indicators to the Mission's overall Strategic Program objectives.

For further guidance on developing indicators, see USAID Handbook 9, Chapter 15F.; USAID Handbook 3, Appendix 3K, "Elements of an Evaluation Plan"; Handbook 4, Chapter 9, "Evaluation Guidelines for Commodity Import Programs (CIPs) and CIP-Like Activities"; State 210025, which provides information on USAID's Program Performance Information System for Strategic Management (PRISM); the Reports: "Guidelines for Data Collection, Monitoring, and Evaluation Plans for USAID-Assisted Projects", and "Indicators for Measuring Changes in Income, Food Availability and Consumption, and the Natural Resource Base." Missions can obtain the latter reports by requesting documents Nos. PN-AAL-089 and PN-AAX-223 from the USAID/W-PPC/CDIE Reference Center.

c. Program Elements

Describe the nature and scope of the program elements that will be carried out to achieve the program objectives.

Identify program participants and beneficiaries; describe the extent to which they are to take part in and benefit from the program. The relationship(s) between program elements and objectives and the extent to which participants and beneficiaries have been involved in the program design should be made clear.

If the program involves the donation of commodities as balance of payments assistance in support of policy reform, without requiring distribution of commodities or their sale and use of local currency sales proceeds, describe the policy reforms or initiatives the country will undertake, the country's need for balance of payments assistance as well as the policy reforms, the effect they will have on the economic development of the country, and the beneficiaries of these policy actions.

If the program includes a component for the sale of commodities and programming of local currency, describe how the proceeds will be used to support food security, privatization, and nutrition including child survival initiatives. Section 306(a) of P.L. 480 cites 13 illustrative examples of possible uses for Mission consideration. Describe how the program will allocate 10 percent of the sales proceeds to support indigenous NGOs as required by Section 306(b) of P.L. 480; if this is not a program element, justify the exception and explain what will be done in the future to do so.

If the program includes a direct feeding component, identify the target population; the economic/nutrition characteristics that will qualify beneficiaries for participation in the program; and the geographic areas where the programs will be implemented. Also describe the ration composition and complementary program components such as education, growth monitoring, training, etc. needed to achieve and measure program impact.

If the program includes a component to establish an emergency food reserve, describe the justification for establishing a food reserve; the government agency that will manage the food program; the purpose of the food reserve; and how the reserve will operate and be monitored by the host country.

d. Integration

Describe the manner in which the Title III Program will be integrated, both broadly and in the context of the Mission's Strategic Plan and the recipient country's development plans; and more precisely in the context of how the components of the Title III Program will be integrated with non-food aid resources to achieve specific program objectives. Also describe the relationship of the Title III Program to programs of other bilateral and multilateral donors.

3. Program Justification

a. Country Commitment

Provide and comment upon relevant aspects of the country's longterm plans to alleviate poverty and promote broad-based, equitable and sustainable development; and the country's commitment to policies that promote food security, including policies to reduce hunger and malnutrition measurably through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those nutritionally at risk.

b. Constraints Analysis

Present or reference existing analyses of the constraints identified in the Problems Addressed section. These may include various analyses depending upon the nature of the problem(s) addressed. Examples include a food security analysis; food consumption and nutritional analysis; market analysis; balance of payments analysis; or economic, technical and social analysis.

Analyses of such constraints undertaken by the World Bank, IMF, Regional Development Banks, or United Nations (UN) specialized agencies such as the World Health Organization (WHO), UNICEF, the Food and Agriculture Organization of the United Nations (FAO) and the World Food Program (WFP), and the United Nations Development Program (UNDP), would be good points of departure in this exercise, and may be sufficiently thorough as to require only updating.

c. Commodity Analyses

(1) Commodity Needs Analysis

Justify the country's need for food aid; describe the volume, type, estimated value and estimated time of arrival (ETA) of the commodities requested; assess the potential for using an alternative commodity should the commodity of choice be in short supply or not available; and evaluate the country's capacity to use food aid effectively. Include an analysis of the supply and demand of the commodity(ies) requested, including five-year historical data on production and imports, as well as pricing and other marketing information (if the latter are not addressed in a market analysis).

USAID Missions will find the USAID Food Needs Assessment Manual and software to be very useful in estimating these needs; copies are available from the USAID/W-PPC/CDIE Reference Center -request document No. PN-ABB-175 (English), No. PN-ABF-673 (French) or PN-ABG-312 (Spanish).

Two guides published by USDA's Federal Grain Inspection Service, United States Standards for Rice and United States Standards for Grains provide the type of information required. These guides are available from the resident or regional Agricultural Attache, or can be requested from the following address:

U.S. Department of Agriculture Printing and
Distribution Branch Room 110, Federal Building
Hyattsville, MD 20782

(2) Usual Marketing Requirements

Section 403(e), the UMR provision of P.L. 480, requires that reasonable precautions be taken to assure that commodities supplied under Title III will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries. The UMR is the minimum quantity of a commodity that the importing country must purchase commercially to maintain the U.S. and friendly countries' exports to the importing country. It is based on actual commercial imports of the Cooperating Country during the preceding five years, with possible adjustments according to import trends and the country's current financial ability to import. A UMR is defined globally and is not expressed as imports from specific countries. Missions must state in Annex B to the Title III Sales Agreement that the recipient country will meet the UMR.

The USAID Mission, in consultation with the resident or regional Agricultural Attache, is responsible for providing UMR data in the Title III proposal. UMR data must be updated annually. Each commodity should be identified for the fiscal year for which the data is being provided, with the five-year metric ton average of commercial imports for each commodity. USAID/W will consult with USDA and advise the Department of State to undertake required consultations regarding program requests prior to authorizing the signing of Title III agreements.

(3) Storage and Disincentive Analysis

A Title III proposal should include a preliminary assessment regarding the adequacy of commodity storage and handling facilities, and the possibility of disincentive effects. The proposal should note the average share of program food aid - both USG and other donor food aid - to the total staple food consumption over the past five years.

Section 403(a) of P.L. 480 provides that no agricultural commodity shall be made available under this Act unless it is determined that:

Adequate storage facilities will be available in the recipient country at the time of arrival of the commodity to prevent the spoilage or waste of the commodity; and

The distribution of the commodity in the Cooperating Country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

NOTE: The USAID Mission provides the foregoing information and the Regional Bureau makes the final determination as part of the USAID/W approval process. The USAID "Background Paper and Guide to Addressing Bellmon Amendment Concerns on Potential Food Aid Disincentives and Storage" dated July 1985 is a useful guide on how to address these questions. The paper was most recently issued to USAID Missions as Annex J of the "Field Monetization Manual" and can be requested from the USAID/W-
PPC/CDIE Reference Center Document No. PN-ABB-486.

d. Donor Consultation

State how the USAID Mission has consulted or intends to consult with the IMF, IBRD, and other multilateral and bilateral donors to ensure that the importation of commodities and the use of local currencies will not have a disruptive impact on local farmers or on the economy of the recipient country. The proposal should indicate whether technical support or follow-up consultation is required to satisfy this requirement.

4. Program Implementation

a. Management Responsibilities

Describe the responsibilities and analyze the capability of the private sector and/or governmental organizations that will carry out the program. Explain how the USAID Mission will coordinate, manage and monitor the program, giving special emphasis to local currency and commodity use, control, and accountability, as appropriate. For direct feeding activities, assess the administrative capabilities of the distribution mechanisms and the management vulnerability of the implementing institution. The implementation plan also should demonstrate that sufficient staff and budgetary resources will be allocated to support management and monitoring activities by the Mission and the Cooperating Country.

b. Implementation Schedule

Include an implementation schedule that identifies dates when key implementation actions, including the achievement of program policy benchmarks, are to be met.

c. Cost Estimate and Financial Plan

Present the best estimate of program cost, including the annual commodity tonnage, the local currency generations, and the contribution, in human and financial resource terms, of the USG, the recipient government, and other donors if appropriate. Include a table with estimates of the sales proceeds to be generated, and a table providing an illustrative budget by fiscal year of the projected disbursements of sales proceeds to the program, project or specific activity. Also include amounts of local currency costs necessary for baseline data collection, monitoring systems and evaluations. If a commodity use program is proposed, present detailed estimates of commodity use for at least the first 12 months of implementation. These tables should show that there are adequate eligible uses to which proceeds (or commodities) may be allocated, and that resources will be available to fund these activities on a timely basis.

For programs that involve the sale of commodities and use of local currencies, describe:

the private-sector or government organization that will sell the commodities;

how the sale will be conducted (i.e., auction, private traders, millers, etc.);

how the sales price is determined (e.g., auction, limited open market auction, negotiated price, official fixed prices, world market prices, etc);

acceptable terms of sale;

a strong justification in exceptional circumstances where the proposal includes a request for consideration of commodity sales at subsidized prices;

how and by whom deposits will be made to the separate account;

where the separate account will be maintained and the rate of interest that will be paid;

the agency that will be responsible for the deposits to and disbursements from the separate account;

the kinds and frequency of reports that the Mission will receive from the account manager;

if the USAID Mission plans to request a waiver of the separate account requirement, the agency responsible for programming and accounting for the equivalent amount of local currency to be made available by the Cooperating Country, the kinds and frequency of reports that the USAID Mission will receive from the local currency administrator,
and the Audit Plan for such local currency programming; and

who will prepare the reports required in Annex C, Section C5.2 of the Title III Agreement.

5. Monitoring and Evaluation Arrangements

a. Monitoring and Evaluation Plan

Describe the plan the USAID Mission and host country will follow to monitor the program and evaluate or assess its impacts. Describe the monitoring and reporting system that will be used or established to collect, analyze and report data on the performance indicators established in the Agreement. Include a schedule for external evaluations and identify funding (which may include Title III generated local currency) for executing them.

Evaluation of Title III programs will assess objectives attained in individual programs within the context of fundamental objectives outlined in the Title III legislation. The foremost of these is the enhancement of food security in the Cooperating Country. This will be the focus of the biannual evaluations that the legislation requires be undertaken by the General Accounting Office (GAO) on Title III activities. Title III also places special emphasis on increasing the nutritional impact of all U.S. food aid, giving particular emphasis to improving the design and implementation of child survival programs. Enhancement of nutritional and child survival interventions will also be a major factor in GAO evaluations of Title III programs. In addition, there should be integration of Title III programs with other activities in the Mission's Strategic Plan and the country's development strategy. P.L. 480 also gives special emphasis to using Title III resources to promote the privatization of food production and agricultural distribution systems.

b. Annual Progress Report

Each year the USAID Mission will submit an Annual Progress Report (APR) that shall include, but not be limited to:

an assessment of Cooperating Country performance in meeting the program and policy performance indicators and achieving the program's outputs, purpose and objectives; and

the most recent quarterly report on local currency accountability as required under Annex C, Section C5.2 of the Title III Agreement.

The APR must be available for review at USAID/W before new funding can be approved for a subsequent year of a multi-year program.

6. Audit Plan

Describe the plan the USAID Mission and Cooperating Country will follow to audit the program. Describe the auditing system that will be used to collect, analyze and report data on the audited activity. Include a schedule for audits and identify funding (which may include Title III generated local currency) for executing them. Records maintained on use and sale of Title III commodities and use of local currencies generated by such sales must meet international accounting standards. Accounting records should be agreed upon when negotiating Title III agreements.

For programs that involve the sale of commodities and use of local currencies, describe the audit plan for the separate account (at least annual audits are required) and how the audit will be funded.

7. Illustrative Annexes

Annexes A and B of draft Title III Agreement

logical framework matrix

other supporting program analysis

Annexes A and B of the draft Title III Agreement should be provided with USAID Mission proposals if possible, as well as any suggested changes in the text of the Agreement or the Standard Terms in Annex C that the USAID Mission believes are absolutely necessary to implement a successful program. The modifications of the language in the Agreement could clarify Mission intentions and thereby facilitate USAID/W review.

8. USAID/W Review and Approval Process

The Regional Bureaus will organize an USAID/W technical review of a Title III proposal within fourteen (14) days of receipt. If the USAID Mission's Title III Proposal is approved by the Regional Bureau Assistant Administrator, the relevant Regional Bureau will cable instructions and the authority to the USAID Mission to negotiate the Title III Agreement. If the Proposal is not approved, USAID/W (relevant Regional Bureau) will inform the USAID Mission within ten (10) days following the review of the shortcomings perceived and inform the USAID Mission of what additional data, analysis, language, etc. is required.

9. Submission Timing of Title III Proposals and Call Forwarding

Title III Proposals for the first fiscal year in which agricultural commodities are to be shipped should be submitted to USAID/W (relevant Regional Bureau) no later than August 31 of the preceding fiscal year so that agreements can be signed by the November 30 deadline set in Section 407(f) of P.L. 480. Requests for any exceptions should be sent to USAID/W (relevant Regional Bureau) prior to August 31, include the reasons for the delay, and state the estimated date that the proposal will be submitted.

For approved, signed Title III program agreements, Title III program calls forward must be submitted to BHR/FFP/POD on or before August 8th of each year to enable USDA and M/OP/TRANS to complete commodity and freight procurement and contracting prior to September 30th of each year. Commodities approved for procurement under Title III programs must be exported from U.S. port(s) no later than December 31 of each year.

Follow-on year requests should accompany the Annual Progress Reports (APRs), which are due by July 31 at USAID/W.

CHAPTER 13

TITLE III PROGRAM IMPLEMENTATION

13A. General Management Responsibilities

This chapter focuses on five major Title III program implementation issues at the country level:

- USAID Mission management and resource requirements;
- Commodity choices and timing of shipments;
- Implications of different modes of Title III assistance;
- Evaluation and monitoring of program impact; and
- Cooperating Country responsibilities.

Although certain responsibilities in Title III Program implementation must by their nature be delegated to the Cooperating Government and the private sector, depending upon the latter's capabilities and involvement, the USAID Mission is nonetheless responsible for seeing that the overall Title III program is implemented as it was approved by USAID/W. P.L. 480 legislation allows for Title III commodities to be utilized in four ways, each of which entails different management and monitoring requirements on the part of the USAID Mission, the Cooperating Country, the private sector, or non-governmental organizations (NGOs). These are:

- sell the commodities and generate local currencies and then, with the Cooperating Government, jointly program the local currency proceeds for special projects or programs, sectoral activities, or budget support;
- donate the commodities as balance of payments assistance;
- direct distribution of commodities either by an entity of the Cooperating Government or an NGO that is delegated this task; here the Cooperating Government or NGO assumes direct responsibility for program implementation with the USAID Mission in a monitoring role; and
- establish Emergency Food Reserves, with the Cooperating Government responsible for administration and the USAID Mission in a monitoring role.

The USAID Mission should develop four types of plans with those branches of the Cooperating Government concerned with a Title III program, as well as with the private sector entities and whatever NGOs are involved, to adequately control and synchronize every component and phase of a Title III Program:

- General Management Plan - provides a description of the respective roles of USAID Mission, the recipient country, the private sector, and any other agencies involved in implementation; reporting requirements of each; an overall timetable that depicts the phasing of activities; and a detailed schedule of tasks for the first year of the Title III program;

Delivery, Distribution and Local Currency Generation Plan -provides a shipment and delivery plan for both ocean and inland points of delivery specifying size and composition of shipments; the amounts and dates of distributions or local currency generations needed from sale of these Title III commodities; deadlines for call-forwards and deliveries; equipment and storage facilities by whatever dates and at whatever locations required by delivery schedules;

Monitoring Plan - tracks the inputs and outputs of Title III activities planned; describes the use and accountability arrangements for the Title III commodities distributed and stored as reserve stocks, or the local currencies generated by their sale; and

Evaluation Plan - describes systems for assessing the effectiveness of Title III activities, identifying indicators, collecting data, measuring progress toward planned targets, and analyzing the overall impact of the Title III Program on achieving the objectives for which it was designed within USAID Mission's Strategic Plan.

13B. USAID Management Considerations

1. Signing of Agreement

Section 407 (F) of P.L. 480 establishes November 30 as the deadline for signing Title III Agreements in order for commodities to be shipped in that same fiscal year. Therefore the Mission's Title III Program Proposal should be submitted no later than August 31 of the preceding fiscal year.

Approval of the Title III Proposal is communicated by the responsible Regional Bureau to the Mission with instructions and the authority to negotiate the Title III Agreement. Negotiations should be undertaken immediately thereafter to make any allowance for the possibility that these might be protracted. This and other steps to avoid any delay in the initial call-forward should be taken, particularly when the timing of initial arrivals of Title III commodities is to coincide with seasonal limited availabilities of foodstuffs on local markets.

Use of local currencies generated is normally a primary part of the program to be negotiated. However, in cases where the negotiation of these uses might cause an undue delay in the signing of a Title III Agreement, the general parameters for such usage should be identified with the details deferred to be incorporated into a separate Program Implementation Letter (PIL) to be signed subsequently. Likewise, performance indicators can also be identified in a subsequent Memorandum of Understanding (MOU).

2. Procurement and Shipping Schedules

The Mission must have made available to USAID/Bureau for Humanitarian Response (BHR)/Food for Peace (FFP) the following information in steps (a) through (d) prior to submitting the initial call-forward in step (e):

a. Commodity Specifications

Guidance on the standard specifications of commodities procured for P.L. 480 programs has been sent to all USAID Missions and is updated periodically; is contained in 7 Code of Federal Regulations (CFR) Part 810, "Official U.S. Standards for Grain of the USDA/Federal Grain Inspection Service"; is in the USAID "Commodities Reference Guide"; and can be requested for specific foodstuffs from USAID/W-BHR/FFP/Program Operations Division (POD).

Missions should be as specific as possible to meet the needs of the agreement, being mindful that the more narrow or unusual a specification, the greater the possibility that either no bids will be received for the commodity tender or that bids will be much higher than the U.S. Department of Agriculture's (USDA's) constructed price range. Either of these circumstances will cause program delays as it will be necessary for FFP to request USAID Missions to clarify or modify stated specifications. For example, Hard Amber Durum, Hard Red Winter, Northern Spring Dark, Soft Red Winter, Soft White Spring, and Soft White Winter are all classes of wheat grown in the U.S. The hardness or softness of these classifications and the gradations within them may or may not conform to the hardness or softness of wheat from other grain producing regions of the world. If it is not necessary to specify a certain class of wheat in the commodity tender, commodity bids will reflect lower prices due to supply and demand, thereby providing more of a commodity to the program within the agreement's dollar program limit.

Any known importation documentation requirements should also be noted. Packaging information must be included as part of the commodity specifications; bulk, bagged or bulk with bags, needles and twine should be indicated. Bags for the Title III program are 50Kg (110 lbs.) woven polypropylene type for wheat, wheat flour, rice, sorghum, and corn. Multiwall, 25Kg paper bags are used for Cornmeal, Corn-Soya Blend, S.F. Cornmeal, and other processed commodities. No other types of bags are available.

b. Quantity to be Called Forward

The Mission must specify the quantity of metric tons for each call-forward submitted. It should be understood that quantities are approximate and will be determined after commodity and freight bids have been received.

c. Identification of Discharge Port(s)

All discharge ports must be identified as well as all inland delivery sites, if applicable. Exact quantity to be delivered to each discharge/delivery site must also be specified.

d. Consignee and/or "Notify Parties"

Name and complete address information of the consignee and/or "Notify Party" along with telephone or telex numbers must be provided.

e. Call-Forward

Immediately upon signing the Title III Agreement the USAID Mission must submit a call-forward cable to FFP/POD to trigger the procurement process. Considering the time frame required for procurement and delivery to a U.S. port of loading (50 to 60 days), then loading and sailing time, with the possibility of other ports-of-call or transhipment en route, followed by discharge and overland transport, it is readily apparent that time is at a premium in assuring that individual shipments arrive according to schedules set for delivery, distribution or local currency generation.

USAID Missions should be aware that even when commodity specifications conform to commodities readily available, the call-forward triggers a schedule of actions for procurement of commodities and freight that cannot be compressed. These actions, with the time frames based on experience, are:

Action	Period to Complete

FFP/POD has all required data per foregoing steps
(a) through (d) and receives Call Forward cable. Starts Clock

Action (continued)

FFP/POD submits call-forward to USDA Agricultural Stabilization and Conservation Service (ASCS) 1 working day

USDA/ASCS transmits callforward to USDA Kansas City Commodity Office (KCCO) 1 working day
Period to Complete

KCCO coordinates shipping schedule with USAID/W Bureau for Management Office of Procurement/Transportation Division (M/OP/TRANS) 1 working day

KCCO solicits commodity offers for delivery of commodities free alongside ship (f.a.s.) at U.S. ports or intermodal points 15 working day

M/OP/TRANS receives transportation freight rate quotes on same working day
and submits information to KCCO

KCCO receives commodity offers and submits bid completed
on same information to M/OP/TRANS
working day

M/OP/TRANS performs lowest landed cost evaluations completed on same working day

After consultation and agreement, KCCO contracts completed on same working day
for commodities and OP/TRANS contracts for freight

KCCO arranges surveys and sends survey notifications to USAID Mission 1 working day
Period to Complete

M/OP/TRANS cables USAID Mission giving 1 working day

shipping schedule and loading information

Commodities delivered to U.S. Port of Loading 25 to 30 working days

NOTE: There can be variations brought about by seasonal demands or a number of other factors that could prolong the time required to complete any of the actions in the foregoing schedule. For example, KCCO may consider the prices in all the commodity offers it receives in an initial tendering as too high and not accept any. In such cases it issues a new call for tenders the following week or after a longer period until it receives what is considered a fair price. Accordingly there can be no calendar of the foregoing sequential events constructed with sufficient accuracy to serve for planning purposes.

USAID Missions should not consider any dates firm in these projected actions until they receive the shipping schedule and loading information cable from M/OP/TRANS.

The Mission will receive the original Bill of Ladings (B/Ls) for each shipment. It should provide these to the Cooperating Country immediately upon receipt to allow the latter to prepare for and take delivery of the Title III commodities in a timely manner.

3. Payment of Freight Costs

The U.S. Government (USG) pays for the ocean freight of Title III commodities, which means that this cost is included in the overall dollar amount of the Title III Agreement. Therefore, if ocean freight costs should rise or fall between the time the Agreement is signed and when the commodities are actually shipped, the quantity of commodities, and consequently the amount of local currency generated, will be affected. The local currency generations are also affected by fluctuations in the recipient country's currency.

If the Cooperating Country desires the U.S. dollar authorization to purchase the maximum amount of Title III commodities, it can underwrite total freight costs (leaving the U.S. contribution to pay only the freight differential to meet the U.S.-flag shipping requirement), or any part of the ocean freight costs. The Cooperating Country must make such a contribution 60 days prior to the required f.o.b. port of export date.

The Cooperating Country can request that local currency generated by Title III commodity sales be used to offset the costs of handling, transportation and distribution of Title III commodities within the country. If it is a landlocked country, local currency generations can be used as well to pay the overland freight from port of discharge to point of entry in the country. Depending upon the state of the internal transportation infrastructure, these costs can be very high and correspondingly decrease the amount of local currency available.

4. Sales Transactions

Sales transactions for commodity transfers can be undertaken in a number of ways. The most commonly practiced and practicable is for the Cooperating Country to issue an Invitation for Bid to private firms. This is the simplest method from the standpoint of management and also the one that best assures a competitive price.

When submitting its proposal for a Title III Sales Program, the USAID Mission should have explored the possibility of negotiating the sale of Title III commodities directly with NGOs or private traders. For example, the Mission could execute a Donation Agreement with the Cooperating Country authorizing USAID to negotiate sales agreements with private firms, or sign a Tripartite Agreement with the Cooperating Country and a local importer permitting USAID to sell commodities directly to that importer. Such arrangements are much more management intensive and are eligible only in Cooperating Countries with a competitive private sector where competitive sales procedures can be employed or where this type of sales transaction is a component of a broader USAID Mission initiative to promote private sector initiatives.

5. Use of Private Sector in Sales Program

Missions are encouraged to use Title III programs to strengthen the private sector, not only in the initial stages of the sales transaction involving importers, but throughout the food marketing chain, extending to the ultimate consumer.

Depending upon the capability and experience of the private sector in the Cooperating Country, private trade channels could be used exclusively. This would include private business entities handling the transport and storage, with distribution and local sales being made through wholesale and retail channels of existing or new entrepreneurs. To the extent possible, local currencies generated by sales proceeds should also be used to promote private enterprise initiatives, including those associated with internal handling of Title II commodities.

The USAID Mission staff responsible for implementing private-sector transactions should be identified in the proposal; it is desirable that one person be identified for each defined area of responsibility. An estimate should be made of the level of total staff time required to achieve private-sector trade linkages and to monitor these transactions.

It is the responsibility of the USAID Mission to demonstrate that small businesses within the private sector of the recipient country have an adequate and fair opportunity to participate in sales transactions for Title III commodities.

6. Determining Sales Price
In open market economies, an open competitive bidding process or auction generally yields the highest return. In controlled or less competitive economies, negotiations are required to arrive at a suitable sales price, especially when domestic prices are kept below world market prices through price controls, government subsidies or over-valued exchange rates. Under these conditions, Missions should attempt to negotiate a price that would at least be equivalent to the landed cost of the commodity procured by a private-sector importer at the projected world market price from the country's most competitive supplier. This price should include the cost of commodities, insurance, ocean freight, customs tariffs, local handling charges and other costs incurred by the importer in connection with the sale. This information can be obtained and cross-checked from a number of sources including the local or regional U.S. Agricultural Attache, local private food importers, processors and distributors, and the Ministry of Agriculture.

If the sales price proposed is to be derived on any other basis than the foregoing methods of transaction, then the USAID Mission must explain and justify its means of computation, including how the dollar value of the commodities will be determined, the exchange rate proposed to be used, and the date it will be applied.

7. Local Currency Deposits and Expenditures

Since most Title III commodities are sold on local markets, management of local currencies has become a key issue in Title III Program implementation. When Title III commodities are sold, the USAID Mission is responsible to see that local purchaser(s), private or government, deposit local currencies promptly and directly into an interestbearing special account. Unless otherwise justified to and approved by USAID/W, all local currency generated from Title III commodity sales will be owned by the benefiting country and will be jointly programmed.

If the use of a separate account would be illegal or deemed counterproductive in the Cooperating Country, the USAID Mission may request the Regional Bureau Assistant Administrator to waive the requirement for such an account. This approach is justified only where there is confidence in the government's budgetary and financial accountability. In such cases the Mission must demonstrate that the Cooperating Country will make available an equivalent amount of local currency, account for it appropriately, and use it for the purposes set forth in the Grant Agreement or in the local currency agreements executed by USAID and the Cooperating Country. In these instances local currencies go directly into the Economic Development Budget, Sectoral Budgets, or line items in these budgets. When local currencies go directly into such budgets, local currency tracking stops at the point where the local currency is transferred to the agreed use. Sectoral Budget attribution may be the optimal solution for Missions with limited personnel since it demands the least management/accountability time yet usually gives adequate assurance of appropriate developmental use.

8. Indigenous NGOs & Cooperatives/Endowments

The USAID Mission must demonstrate that the Cooperating Country is attempting to allocate at least 10 percent of local currency proceeds from the Grant Agreement to support indigenous NGOs as required in Section 306(b) of P.L. 480. An indigenous NGO is defined per Section 402(6) as an organization that operates under the laws of the recipient country, or has its principal place of activity in such country, and that works at the local level to solve development problems in the foreign country in which it is located. However, the term does not include an organization that is primarily an agent or instrumentality of the foreign government. The legislation states that not less than 10 percent of local currency in special accounts be used to support the development and utilization of indigenous NGOs and cooperatives that are active in rural development, agricultural education, sustainable agricultural production, or other measures to assist poor people and protect the environment within the Cooperating Country. If this 10 percent target is not being met, the Mission must explain why and what will be done in the following year to provide such support to indigenous, newly created if need be, NGOs and cooperatives under the program. Other NGOs/private voluntary organizations (PVOs)

can receive local currencies, but only indigenous NGOs are counted for the 10 percent goal.

Indigenous NGOs may request, and the Mission may grant, permission to invest Title III local currency proceeds to use the interest earned as an endowment for such an organization. Such an endowment would be used for whatever purposes the Title III assistance originally served. Such endowments can be instrumental in developing much needed institutional capacities that will continue to address essential activities after conclusion of Title III programs.

9. Monitoring of Local Currency Use
USAID Mission monitoring of the progress of any local currency-financed activities should include:

- setting of benchmarks;
- periodic reporting requirements;
- tracking financial expenditures through reports received;
- tracking of progress (budget sector account expenditures, policy reforms, specific local currency financed activities);
- field visits;
- review of documents and records; and
- scheduled joint reviews, discussions, and consultations.

10. Balance of Payments Support

Use of Title III commodities for balance of payments support is usually undertaken in conjunction with policy reform initiatives focused on enhanced food security. Implicit in the USAID Mission's having designed a Title III intervention at this macroeconomic level is the assumption that there is an inherent capability in USAID Mission program management to assess its effects at that level, usually in conjunction with interventions that World Bank or International Monetary Fund (IMF) are also making. In addition, USAID/W approval of balance of payments assistance is usually premised on the use of local currency generations in a developmental context that the Mission would be monitoring. Mission reporting would focus on the perceived results of such policy reforms.

11. Direct Feeding

A direct feeding program places program implementation responsibilities on the ministry or agency of the Cooperating Country, or the NGO designated by it, whose management capabilities were assessed by the USAID Mission in its Title III Proposal. The first year of a Title III direct feeding program will put to the test the assumptions regarding the professional, managerial and logistical capabilities of the organizations implementing it. Therefore it requires particularly close monitoring in its initial phases to see if these assumptions are supported in practice.

With the emphasis given in Title III legislation on dealing with the special health needs of children and mothers, a direct feeding program must address mutually agreed-on criteria by which its impact will be measured. Data to adequately assess some of these criteria will be difficult to gather and quantify, particularly in the initial years of such a program. During this phase anecdotal evidence should be submitted to supplement whatever paucity of more scientifically available data there may be for the USAID Mission's Annual Progress Report (APR). The methodology to do this and the personnel to carry it out should be in place at the outset of such programs. While direct feeding is a fundamental component of most maternal-child health (MCH) programs, it is virtually impossible to isolate and measure its impact alone. It should therefore be part of an orchestrated approach in which a direct feeding component supports and complements other elements of MCH programs.

12. Emergency Food Reserves

The USAID Mission must assure that Title III commodities used for emergency food reserves are properly stored, treated as required over long periods of storage, and periodically inspected. A system of regular reports and site visits should be established as part of such a program. Use of such food reserves should take place in conformity with previously agreed-on national plans dealing with the most likely scenarios of food shortages in which Title III reserves would be one of a series of responses.

Normally, P.L. 480 Title II resources would be used to establish emergency food reserves per se. Employment of Title III commodities for this purpose would be with such reserves being established and drawn upon in a developmental context as one component of a more comprehensive program to enhance food security. Assessment of the benefits and the reporting required on use of Title III food reserves would be on the perceived results of its employment in such a mode.

13. Performance Indicators and Reports

While Title III objectives should be integrated into the Mission's Strategic Plan, it is advisable for the USAID Mission to develop a separate set of annual performance indicators for its Title III program. The continuity of Title III activities depends upon achievement of its own performance indicators, as the USAID Mission is required to report annually. By making the Title III performance indicators distinct from those for the dollar-funded programs, though mutually reinforceable in their objectives, the USAID Mission can provide positive support for good performance and withhold Title III resources when performance falters.

For each of the programs authorized under the Title III Grant Agreement, the USAID Mission must submit an APR and a well-defined plan for monitoring and evaluation. The evaluative criteria contained in the report must be derived from the previous agreement between the USAID Mission and the Cooperating Country regarding baseline data, performance indicators, and the methodologies used for assessing each program's impact, particularly how each enhances the country's food security.

13C. Cooperating Country

1. Prior to Arrival

Before Title III commodities are shipped, the Cooperating Country shall designate adequate personnel for the efficient operation of the program, including personnel to:

plan, organize, implement, control and evaluate programs involving the distribution or sale of foodstuffs and the use of local currency proceeds;

make internal reviews including equipment for overland transport, warehouse or other storage facilities, and physical inventory of the commodities provided; and

review books and records of all those concerned with distribution of commodities and/or the local currency proceeds derived from their sale.

Also prior to the arrival of Title III commodities at port of discharge, the Cooperating Country shall provide to USAID Mission assurance that all necessary arrangements for receiving the commodities have been made, and shall assume full responsibility for storage and maintenance of the commodities that is adequate by local commercial standards from time of delivery at port(s) of entry abroad until these commodities are distributed or sold within the country. The USAID Mission is to obtain such assurances prior to issuing each call-forward.

Some of the following Cooperating Country responsibilities are detailed in the Title III Agreement or Annexes thereto; they should be reiterated to those responsible prior to the arrival of commodities to minimize any misinterpretation or delays as the program evolves.

2. Taking Delivery

The Cooperating Country takes title to Title III commodities according to the terms of the freight contract, which are either:

Full Berth Discharge - When the commodities are discharged alongside the vessel or into the receiver's conveyances; or

Free Out Discharge - When the ocean vessel receives confirmation that the Notice of Readiness to discharge has been accepted.

Thereafter the Cooperating Country is responsible to pay for discharge from the vessel, wharfage, lighterage, port charges, detention, demurrage, overtime, receiving, handling, and packaging (such as bagging if the commodities were shipped in bulk).

If USAID has agreed to arrange for and pay the costs of inland transportation from the designated port abroad to a point or points of entry in a landlocked Cooperating Country, a through B/L will indicate these places of delivery where title passes to the Cooperating Country.

At the port of discharge the Cooperating Country must agree to cooperate fully with the independent cargo surveyors contracted by Commodity Credit Corporation (CCC) to attend and report on the discharge and delivery of commodities. Should there be any dispute concerning quality, quantity or other matters relating to the commodity, the commodities are still to be discharged with such disputes resolved subsequently according to the terms of the Title III Agreement.

3. Damage, Loss or Excess Stocks

The Cooperating Country will make every effort to minimize loss or damage in transport of these commodities overland and assure that they will be delivered to the destinations set forth in the Title III Agreement, or in the Program Implementation Letter (PIL) or Memorandum of Understanding (MOU) issued in conjunction with that Agreement. As set forth in Annex C of the Title III Model Agreement Format (Sections 4.1; 4.2; 4.3), if after transfer to title, damage or losses become known that took place prior to transfer to title, the USG (acting through the CCC) will initiate the claims required against the ocean carriers involved. If there are preventable losses or damage to Title III commodities prior to their sale or ultimate use, or if such commodities or the local currencies generated by their sale are deemed to have been used improperly, then the Cooperating Country is required to pay the value of the commodities or the local currencies in question. The Cooperating Country is also responsible for pursuing any claims against a Third Party that is accountable for any loss, damage or misuse of Title III commodities or the sales proceeds accruing from them.

If after transfer of title it appears that any Title III commodities may be unfit for human consumption, the Cooperating Country shall immediately notify USAID and arrange for inspection by a competent authority approved by USAID If any commodities are determined unfit, USAID Mission will approve the method of disposal (e.g., sale for the most appropriate use; donation for non-food use; destruction) and the Cooperating Country shall pay the expenses incurred.
The Cooperating Country is to notify USAID Mission immediately regarding any loss, damage or misuse of commodities valued over $500. Such occurrences amounting to less than $500 shall be reported at least quarterly if the Cooperating Country perceives these as part of a trend.

If Title III commodities are found on hand that cannot be utilized in accordance with the terms of the Agreement or Plan of Operations, the Cooperating Country is to promptly advise USAID Mission regarding the quantities, location and condition of such commodities and propose an alternative use, if this seems feasible. USAID Mission shall make the final determination on appropriate use of excess stocks.

4. Exemption from Duties and Taxes

The Cooperating Country is to exempt from all taxes and duties all commodities provided under a Title III Agreement. Also, except as USAID may otherwise agree in writing, goods or services procured by the Cooperating Country or government recipient agencies shall be exempt from all identifiable taxes and levies. If not, at the request of USAID Mission the Cooperating Country will deposit into the separate account an amount equal to the taxes or levies paid on such goods and services from local currency proceeds.

5. Separate Account for Sales Proceeds

In Title III sales agreements, the Cooperating Country shall establish a separate interest-bearing account for the deposit of local currency sales proceeds of Title III commodities. Deposits must be made into the account promptly, unless USAID/W agrees otherwise. Interest earned on such deposits shall be treated as local currency proceeds. The Cooperating Country shall designate an Account Manager from one of its ministries or agencies who shall maintain books, records and whatever other documentation is deemed adequate to show deposits to the separate account and disbursements from the separate account for the purposes mutually agreed upon by the Cooperating Country and USAID Mission. In addition, the Account Manager shall provide USAID Mission with a quarterly report regarding deposits to, withdrawals from and disposition of local currency from the separate account, and shall direct the bank at which the account is maintained to provide account statements to USAID Mission, as well as to the Account Manager.

6. Monitoring and Use of Local Currencies

The Account Manager, or a Program Monitor selected by the Cooperating Agency and approved by the USAID Mission, shall monitor the programs, projects or activities financed with Title III generated local currency proceeds. The Cooperating Country shall provide to the USAID Mission a written description of how monitoring and reporting responsibilities will be shared by the Account Manager and Program Monitor, including the type and frequency of reports to be provided about the use of local currency proceeds for purposes agreed upon with USAID and progress made toward achieving performance indicators. The Account Manager or Program Monitor shall obtain and verify reports regarding the use of local currency proceeds for activities mutually agreed upon by USAID and the Cooperating Country. The Cooperating Country is responsible for determining that the recipient agencies to whom it distributes local currency proceeds have the capabilities to undertake the activities planned and are eligible to do so under the terms of the Title III Agreement.

7. Balance of Payments Support

The Cooperating Country should see that program food aid under Title III adds to the food supply available for consumption and does not just finance imports that would have probably taken place in any case. In addition, the savings realized in such a program should serve as an inducement for the Cooperating Country to help create an environment for meaningful policy changes, particularly in its agricultural sector, by encouraging allocation of these additional financial resources for undertaking new policies or needed policy reforms, such as market liberalization.
The Cooperating Country must be fully aware that the reforms agreed upon must be implemented effectively. The measurement of the host government's commitment is the translation of any agreement on reforms into actual changes these reforms bring about. The success of any balance of payments program is measured only by the impact of these reforms.

8. Direct Feeding

As the basis for its strategy in a direct feeding program, the Cooperating Country should have developed a population vulnerability map that identifies those regions, communities, households and individuals that do not have access to adequate diets, and quantifies, insofar as possible, the extent and magnitude of their food insecurity deficits. In such a context, more country-specific methods can be utilized in devising the most appropriate food intervention strategy. Such a strategy could then address the specific regional needs within the country.

Once the population vulnerability map has been developed, the following data it contains can be updated each year:

estimates of the vulnerable population;

estimates of the coverage of the vulnerable population with food assistance programs;

estimates from local data sources of the absolute health and nutritional status of the vulnerable population; and programming targets based upon expectations to increase coverage and/or decrease total numbers through the use of food aid via any number of different interventions.

NOTE: Mali and Senegal have developed such maps in conjunction with the Famine Early Warning System (FEWS); the World Food Program (WFP) also has a methodology that can be used by the Cooperating Country to devise population vulnerability maps.

9. Emergency Food Reserves

The Cooperating Country must have ready, prior to shipment, the facilities where emergency food reserves are to be stored. Bulk grain can be treated for storage with certain pesticides prior to shipment; USDA should be made aware of this intended use. If they are not treated, or if local varieties of pests and rodents require other measures, the Cooperating Country should see that these are provided. Reserve stocks will have to be rotated or treated periodically. The Cooperating Country should have made provision in advance for this to be done on a scheduled basis.

10. Records and Reporting

The Cooperating Country shall maintain records and documents in a manner that will accurately reflect all transactions pertaining to the receipt, storage, inspection and sale of commodities, the receipt and disbursements of any local currency proceeds, and the operation of the program. Such records shall be retained for a period of three (3) years from the close of the U.S. fiscal year to which they pertain, or longer, upon request by USAID for cause, such as in the case of litigation of a claim or an audit concerning such records. The Cooperating Country shall transfer to USAID any records, or copies thereof, requested by USAID.

A semiannual commodity logistics report covering the receipt and sale of commodities donated by USAID will also be submitted by the Cooperating Country.

For the supply period during which Title III commodities were imported, the Cooperating Country will compile a report that contains statistical data on imports by country of origin to assess whether the usual marketing requirements (UMR) has been met; a statement of measures taken to guard against resale and export of donated commodities; and statistical data on exports of the same type of commodities as those received by country of destination.

The data in all of the foregoing reports is to be substantiated by accompanying documents specified by the Mission in a PIL that will also list the documents to be retained by the Cooperating Country for future reference. Ministry officials should be assisted in making reports as substantive as possible. Also, to the degree that it can be accommodated, the timing and format of such reports should fit the Cooperating Country's reporting and accounting system in order to minimize the additional workload.

11. Audits

The Cooperating Country shall ensure that an audit satisfactory to USAID is completed annually of the Food for Development Program conducted by the Cooperating Country and recipient agencies. This shall be a financial audit performed by the principal audit agency of the government of the Cooperating Country or another audit agency or firm acceptable to USAID, to determine whether books and records regarding the receipt and use of donated commodities and local currency proceeds have been maintained in accordance with generally accepted accounting principles and whether commodities and local currency proceeds have been used in accordance with the Food for Development Donation

Agreement and recipient agency agreements. The audit shall be conducted in accordance with auditing standards that have been prescribed by the laws of the Cooperating Country or adopted by public accountants in the country, or Auditing Standards promulgated by the International Organization of Supreme Audit Institutions or International Auditing Practices Committee of the International Federation of Accountants, or generally accepted government auditing standards issued by the U.S. General Accounting Office (GAO). Both the auditor and the auditing standards proposed to be used by the Cooperating Country must be acceptable to USAID. The Cooperating Country may satisfy its audit responsibility with respect to recipient agencies by relying on independent audits of the recipient agency or on appropriate procedures performed by internal audit or program staff of the Cooperating Country by expanding the scope of the independent financial audit of the Cooperating Country to encompass testing of recipient agency charges of actions, or by a combination of these procedures. Recipient agencies that receive less than $25,000 of donated commodities and/or local currency proceeds are excluded from the Cooperating Country's audit responsibility. USAID may, at its discretion, perform the audit required under this subsection on behalf of the Cooperating Country using local currency proceeds generated under this agreement or other resources available to USAID for this purpose.

The Cooperating Country shall cooperate with and give reasonable assistance to representatives of USAID Mission to enable them at any reasonable time to examine activities, records and supporting documentation of the Cooperating Country, recipient agencies, processors, or others, pertaining to the receipt, storage, processing, repackaging, and sale of commodities; to inspect commodities in storage or the facilities used in the handling or storage of commodities prior to sale; to inspect and audit books including financial books and records and reports pertaining to storage, transportation, processing, prepackaging, and sale of commodities and to the deposit and/or use of any local currency proceeds; to review the overall effectiveness of the program as it relates to the objectives set forth in the Title III Agreement, Plan of Operations and local currency agreements; and to examine or audit the procedure and methods used in carrying out the requirements of the Agreement.

12. Statutory Restrictions

The following Statutory Restrictions are included in the Standard Provisions of Title III Agreements, and USAID Missions and host governments should be aware of them from the outset of a Title III Program's development:

> SECTION 403 (C). The host government must provide a commitment that there will be no resale (i.e., resold to another country) or transshipment of Title III commodities out of the recipient country, once received.
>
> SECTION 403 (F). The host government must widely publicize to the extent practicable that the commodities are provided through the friendship of the American people as food for peace.
>
> SECTION 403 (I) (1). Food must be distributed without regard to political affiliation, geographic location, or ethnic, tribal or religious identity of the recipient or other extraneous factors.
>
> SECTION 403 (I) (2). Military forces and insurgent groups may not participate in food handling, distribution or allocation except under extraordinary circumstances approved by USAID/W.

SECTION 403 (J). Countries determined to have violated human rights are ineligible unless this restriction is waived because the proposed assistance is to be targeted to the most needy in the country and is not to be provided through the host government.

SECTION 414. Except for major illicit drug-producing countries, local currency may not be used to finance the production for export of agricultural commodities (or products thereof) that would compete in the world market with similar agricultural commodities (or products thereof) produced in the U.S., if such competition would cause substantial injury to U.S. producers.

PART IV

AUDITS AND EVALUATIONS

CHAPTER 14

AUDITS

14A. Introduction

In describing audits, this chapter addresses the possible uses and major aspects of the programs utilizing P.L. 480 Title II and Title III resources. Its purpose is not to present an overwhelming listing of controls and surveillance expected. It is to highlight principal shortcomings observed in the past and those most likely to occur in the future in each particular program area. It cannot be all inclusive. Moreover, the controls expected as well as the audit objectives will, of course, vary with each country setting, the environments in which programs are administered, and the demonstrated capabilities of those public and private sector personnel participating.

The Inspector General (IG) of USAID is responsible for auditing all food assistance programs conducted under P.L. 480. Provisions for planning and implementing audits must be included in all Title II and Title III Program Agreements. The USAID Mission, Cooperating Country and any Cooperating Sponsors participating in these programs must agree at the time of signing the Title II or Title III Agreements on the auditing system that will be used to collect, analyze and report commodity utilization and local currency sales proceeds expenditure data to assess if activities are being carried out according to the terms and meeting the objectives specified in these agreements. At the outset of any Title II and Title III program, a schedule for audits will be established and agreed upon, as will the way in which audits will be funded and local currencies generated under Title II and Title III agreements for this purpose as required. It should be noted that P.L. 480, Titles II and III activities increasingly will focus on program results.

The Office of Program Planning and Evaluation within the Bureau for Humanitarian Response (BHR/PPE) is the designated focal point for receipt and distribution for action and coordination of responses for all IG, General Accounting Office (GAO), and other reports pertaining to P.L. 480 Title II and Title III programs directed to the BHR. BHR/PPE has the responsibility for tracking responses on all audit report findings and recommendations whether directed to USAID/W-BHR or USAID Mission to assure that proper action is taken. This includes BHR/PPE receiving copies of correspondence to and from private voluntary organization (PVOs) on P.L. 480, Title II audit matters. BHR/PPE will track and follow-up on all outstanding audit matters, maintaining close liaison with the IG, GAO, M/OP and the Agency's follow-up office, M/MPI/MIC until all audit issues are adequately addressed and all audit recommendations closed.

14B. Title II - Emergency and Private Assistance

1. Audit Requirements (Sections 211.5(c)(1-2) A.I.D. Regulation 11)

PVOs and other non-governmental Cooperating Sponsors should arrange for periodic audits, conducted in accordance with the Office of Management and Budget (OMB) Circular A-133, of commodities received, monetized proceeds and interest income, funding received under Section 202(e) and institutional grants provided by the Office of Food for Peace (FFP). Nongovernmental entities receiving commodities or funding from a Cooperating Sponsor should be treated as subrecipients under OMB Circular A-133. That is, Cooperating Sponsors may satisfy audit requirements with respect to subrecipients by:

relying on independent audits performed of the subrecipient agencies or on appropriate procedures performed by the Cooperating Sponsor's internal audit or program staff;

expanding the scope of the independent financial and compliance audit of the Cooperating Sponsor to encompass testing of subrecipient agency charges; or

a combination of these procedures.

Governmental entities that receive commodities or monetized proceeds from a Cooperating Sponsor should provide the sponsor with an audit performed by the principal government audit agency or another audit agency or firm acceptable to USAID. (See Section 211.5(c), A.I.D. Regulation 11.)

Governmental Cooperating Sponsors should ensure that annual audits are conducted of commodities and monetized proceeds, if sale of commodities is authorized under the agreement with USAID. The audit should include funds transferred to or used by recipient agencies. The audit should be conducted in accordance with:

generally accepted government auditing standards issued by the U.S. GAO;

auditing standards that have been prescribed by the laws of the country or adopted by public accountants in the country; or

auditing standards promulgated by the International Organization of Supreme Audit Institutions or Internal Auditing Practices Committee of the International Federation of Accountants.

Both the auditing organization and the auditing standards must be acceptable to USAID.

A governmental Cooperating Sponsor may satisfy its audit responsibility with respect to subrecipient agencies by:

relying on independent audits of the subrecipient sponsor;

expanding the scope of the independent financial audit of the Cooperating Sponsor to encompass testing of subrecipient agency charges or actions; or

a combination of these procedures.

Subrecipient agencies that receive less than $25,000 of donated commodities and/or monetized proceeds are excluded from the Cooperating Sponsor's audit responsibility.

2. Audit Purposes

For audit purposes, P.L. 480 Title II activities can be divided into the following areas:

Planning for Title II programs;

Implementation and Monitoring of Title II programs;

Evaluation and Audit of Title II programs; and

Suspension, termination and expiration of Title II programs.

USAID Missions should be aware of the audit objectives, internal control objectives, and audit concerns in every facet of planning and implementing of Title II programs that the experience of the IG over the years has brought into focus.

3. Planning

a. Emergency Program Planning

The audit objective for this element is to ensure that the USAID Mission and participating private and voluntary organizations follow Agency policies and procedures in planning and initiating Emergency Programs under Title II. The internal control objective is to give reasonable assurance that the USAID Mission and Cooperating Sponsors efficiently and effectively plan and initiate commodity assistance programs in response to emergency situations.

b. Regular or Non-Emergency Program Planning

The audit objective for this element is to ensure that projects and programs under Title II are authorized in accordance with Agency policies and procedures. The internal control objectives are to ensure that Operational Plans (OPs) and Transfer Authorizations (TAs) specify the goals and purposes of Title II programs and the procedures for program accounting, monitoring, implementation, and evaluation, and that estimates of types and amounts of commodities for the programs are prepared.

c. Monetization of Commodities

The audit objective for this element is to ensure that the USAID Mission sees to it that Cooperating Sponsors follow USAID policies and procedures in using proceeds, including interest income, from monetized commodities in meeting development objectives. The internal control objective is to ensure that Cooperating Sponsors use proceeds from monetized sales for authorized purposes.

d. Assistance to Non-Governmental Organizations Under Section 202(e) of Title II

The audit objective for assistance to non-governmental organizations (NGOs) is to ensure that the USAID Mission and Cooperating Sponsors follow Agency policies and procedures in planning for financial assistance under P.L. 480 Title II, Section 202(e). The internal control objectives are to ensure that the Multi-Year Operational Plans (MYOP) for Title II programs are revised in accordance with Agency requirements when Cooperating Sponsors submit requests for Section 202(e), and that these funds do not replace funding from other sources.

e. Institutional Support Grants

The audit objective for this element is to ensure that PVOs and Cooperative Development Organizations (CDOs) follow Agency policies and procedures in requesting institutional grant funds and implementing activities supported by these funds. The internal control objectives are to ensure that grant proposals prepared by PVOs and CDOs are in accordance with Agency guidance and that activities supported by grant funds are implemented in accordance with the terms of funding grants.

4. Implementation and Monitoring

Implementation and monitoring is divided into the following elements for audit purposes:

requests for shipments of Title II commodities;

entry and handling in the recipient country;

authorization for reimbursement of packaging costs;

disposition of commodities unfit for use;

liability for loss, damage or improper distribution of commodities; and

monitoring requirements.

a. Requests for Shipments of Title II Commodities

The audit objective for this element is to ensure that theCooperating Sponsors follow USAID policies and procedures in shipping Title II commodities. The internal control objective is to ensure that adequate storage space is available in the recipient country before commodities arrive and that the U.S. Government (USG) pays only those transportation costs authorized in the OP or TA.

b. & c. Entry and Handling in the Recipient Country and Reimbursement for Repackaging Costs

The audit objective for these elements is to ensure that the USAID Mission and Cooperating Sponsors follow USAID policies and procedures concerning entry and handling of commodities in the recipient country. The internal control objectives are to ensure that, unless otherwise approved, the Cooperating Sponsor bears costs associated with the entry and handling of commodities in the recipient country, and to ensure that costs of repackaging commodities, when required, are paid in accordance with USAID policies and procedures.

d. Disposition of Commodities Unfit for Use

The audit objective for this element is to ensure that the USAID Mission and Cooperating Sponsors follow USAID policies and procedures in disposing of Title II commodities that are unfit for use. The internal control objective is to ensure disposal methods are applied in order of priority and that reporting requirements are met.

e. Liability for Loss, Damage or Improper Distribution of Commodities

The audit objective for this element is to ensure that the USAID Mission and the Cooperating Sponsor process claims for loss, damage or improper distribution of commodities or misuse of monetized proceeds in accordance with USAID policies and procedures. The internal control objective is to ensure that costs resulting from the loss, damage or improper distribution of commodities or misuse of monetized proceeds are borne by the responsible party.

f. Monitoring Requirements

The audit objective for this element is to ensure that the USAID Mission and Cooperating Sponsors meet monitoring, records maintenance and reporting requirements as specified in Agency regulations. The internal control objective is to ensure that Title II programs are implemented in accordance with OPs or TAs by assessing USAID Mission monitoring of Title II programs and Cooperating Sponsor records maintenance and reporting procedures.

5. Evaluation and Audit

The audit objectives for this area are to see to it that the USAID Mission and Cooperating Sponsors ensure that evaluations and audits of Title II programs are conducted in accordance with Agency policies and procedures. The internal control objective is to ensure that both are conducted in accordance with Agency requirements.

6. Suspension, Termination and Expiration

The audit objective for this area is to ensure that the USAID Mission and Cooperating Sponsors follow Agency policies and procedures in suspending and terminating Title II programs and in handling remaining commodities and monetized proceeds when programs expire. The internal control objective is to ensure that remaining Title II commodities and monetized proceeds are handled in accordance with Agency policies and regulations when programs are suspended or terminated or when they expire.

7. USAID Inspector General Audits of Cooperating Sponsors

Each year the IG will select certain Title II Programs to test the integrity of planning, procedures and controls. An Audit Notification Letter will be issued to the principal A.I.D. Officer advising of the date when IG auditors will arrive and to notify and make necessary arrangements with non-governmental or governmental Cooperating Sponsors. When the auditors arrive, these sponsors should be included in an Entrance Conference to set out the scope of the audit, the support required, and the documents needed for review. Sponsors should likewise be included in the Exit Conference when the audit is completed and audit findings set forth.

Draft audit reports will be distributed to Cooperating Sponsors for comments to be taken into account along with those of the USAID Mission in the final audit report. Comments and suggested replies to audit findings and recommendations should be transmitted to BHR/PPE for discussion with the IG prior to the latter's issuance of the final audit report.

Corrective actions in response to audit recommendations should be undertaken immediately. USAID Missions should assist Cooperating Sponsors as required in responding to the recommendations contained in IG audit reports. Responses by PVOs will be transmitted via their headquarters to BHR/PPE to be incorporated in the overall response to IG. All responses must address:

deficiencies noted by the IG that have been corrected;

corrective actions planned and underway addressing deficiencies that cannot be corrected immediately; and

reasons for not taking corrective actions along with alternative proposals deemed suitable to remedy deficiencies.

Any recommendations that have not been acted upon within six (6) months following an IG audit will be the subject of a special report from the USAID Mission. These will be taken into account in future consideration of the program in question.

14C. Title III - Food for Development

1. Audit Requirements (Model Title III Agreement, Annex C, Section C-5.3)

The Cooperating Country shall ensure that an audit satisfactory to USAID is completed annually of the Food for Development Program conducted by the Cooperating Country and recipient agencies. This shall be a financial audit, performed by the principal audit agency of the government of the Cooperating Country or another audit agency or firm acceptable to USAID, to determine whether books and records regarding the receipt and use of the donated commodities and local currency proceeds have been maintained in accordance with generally accepted accounting principles and whether commodities and local currency proceeds have been used in accordance with the Food for Development Donation Agreement and recipient agency agreements. The audit shall be conducted in accordance with auditing standards that have been prescribed by the laws of the Cooperating Country or adopted by public accountants in the country; or Auditing Standards promulgated by the International Organization of Supreme Audit Institutions or the International Auditing Practices Committee of the International Federation of Accountants; or generally accepted government auditing standards issued by the U.S. GAO. Both the auditor and the auditing standards proposed to be used by the Cooperating Country must be acceptable to USAID.

The Cooperating Country may satisfy its audit responsibility with respect to recipient agencies by:
relying on independent audits of the recipient agency or on appropriate procedures performed by the internal audit or program staff of the Cooperating Country;

expanding the scope of the independent financial audit of the Cooperating Country to encompass testing of recipient agency charges or actions; or

a combination of the foregoing procedures.

Recipient agencies that receive less that $25,000 of donated commodities and/or local currency proceeds are excluded from the Cooperating Country's audit responsibility.

USAID may, at its discretion, perform the audit required on behalf of the Cooperating Country using local currency proceeds generated under this agreement or other resources available to A.I.D. for this purpose.

The Cooperating Country shall cooperate with and give reasonable assistance to representatives of USAID to enable them at any reasonable time to examine activities, records, and supporting documentation of the Cooperating Country, recipient agencies, processors, or others, pertaining to the receipt, storage, processing, repackaging, and sale of commodities; to inspect commodities in storage or the facilities used in the handling or storage of commodities prior to sale; to inspect and audit books and records of the Cooperating Country and recipient agencies, including financial books and records and reports pertaining to storage, transportation, processing, prepackaging, and sale of commodities and to the deposit and/or use of any local currency proceeds; to review the overall effectiveness of the program as it relates to the objectives set forth in the Agreement, Plan of Operations and local currency agreements; and to examine or audit the procedure and methods used in carrying out the requirements of the Title III Agreement.

2. Audit Purposes

For audit purposes, P.L. 480 Title III activities can be divided into the following areas:

planning for Title III programs;

implementation and monitoring of Title III programs;

evaluation and audit of Title III programs; and

Termination and expiration of Title III programs.

3. Planning

a. Analysis and Integration

The audit objectives for this element are to see if the statutory poverty and food deficit criteria have been met, and examine the USAID policy determinations that further delineated the Cooperating Country's eligibility. The internal control objective is to give reasonable assurance that the goal of the Title III program effectively enhances the food security of the Cooperating Country.

b. Commodity Needs/Usual Marketing Requirements/Storage and Disincentive Analyses

The audit objective for this segment is to see if the determinations required by P.L. 480 have been properly made. The internal control objective is to give reasonable assurance that the USAID Mission and Cooperating Country have thoroughly assessed requirements for the commodities requested; that these will not disrupt normal patterns of trade or prices; and that adequate storage facilities are available.

c. Designation of Title III Program Responsibilities within the USAID Mission and Cooperating Country

The audit objectives for this element are to ensure that the USAID Mission has devoted the staff and resources necessary to manage the Title III Program and pursue its goals, and that personnel within the Cooperating Country accept and carry out their responsibilities. The internal control objective is to give reasonable assurance that all personnel within the USAID Mission and Cooperating Country understand what they must do for the success of the program.

d. Sales of Title III Commodities

The audit objective for this element is to see if the organization, conduct, terms and price realized in sale of Title III commodities is in keeping with Agency policy and prescribed procedures. The internal control objective is to give reasonable assurance that the best price is realized in the sale of Title III commodities and that adequate accounting and management practices are established to control the separate account into which sales proceeds are deposited.

e. Activities Funded by Local Currencies Generated from Sales of Title III Commodities

The audit objective for this element is to see if activities supported improve food security. The internal control objective is to give reasonable assurance that the local currencies generated are accounted for, are earmarked for activities enhancing food security, and are expended in a timely manner.

f. Balance of Payments Assistance

The audit objectives for this element are to ensure that proper macroeconomic analysis and coordination with other donors is undertaken as a basis for this program and that Agency policies are followed in its implementation. The internal control objective is to see to it that the USAID Mission and Cooperating Country effectively plan the utilization of such assistance and that agreed-on policy reforms have measurable impact.

g. Direct Feeding Programs

The audit objective for this element is to see if statutory and Agency policies are followed in the planning of these programs. The internal control objective is to provide reasonable assurance that the USAID Mission and Cooperating Country undertake thorough analysis and establish a rational strategy with realistic objectives in undertaking a direct feeding program.

h. Emergency Food Reserves

The audit objectives for this element are to ensure that the USAID Mission and the Cooperating Country thoroughly analyze the costs and logistical requirements of such reserves, and that these reserves are one component of a comprehensive plan. The internal control objective is to give reasonable assurance that these reserves are adequately maintained and drawn upon to enhance food security.

i. Indigenous Non-Governmental Organizations and Endowments

The audit objective for this element is to see if the USAID Mission meets the statutory requirement that 10 percent of local currency generated from sale of Title III commodities be used to finance indigenous NGOs or cooperatives engaged in developmental activities. The internal control objective is to give assurance that the USAID Mission makes a reasonable effort either to contribute such an amount to an existing NGO or cooperative, or to encourage the creation of one with a charter and activities to qualify for such funding.

4. Implementation and Monitoring

a. Procurement and Shipping of Title III Commodities

The audit objective for this element is to see if the USAID Mission undertakes measures to assure the procurement of Title III commodities in a timely, efficient and effective manner that allows the program to proceed as planned. The internal control objective to ensure proper commodity specifications, arrangements for port discharge and overland transport, and prompt callforwards.

b. Sales of Title III Commodities

The audit objectives for this element are to see if the USAID Mission seeks to involve the private sector, obtains a competitive sale price and establishes accounting, reporting and auditing procedures for local currency deposits in accordance with policy and program guidelines. The internal control objective is to ensure that the USAID Mission undertakes or obtains proper Cooperating Government assurances regarding the sale, accounting and deposit of Title III local currency proceeds.

c. Monitoring

The audit objective for this element is to see if the USAID Mission and Cooperating Country exercise prudent oversight of Title III activities. The internal control objective is to ensure that adequate systems and sufficient personnel are in place to track the transport and storage of commodities, their sale and local currency generation, and the activities they support.

5. Evaluation and Audit

The audit objective for this element is to see if USAID and the Cooperating Country follow Agency Evaluation and Audit Policies in implementing Title III activities. The internal control objective is to ensure that personnel in the USAID Mission and Cooperating Country are delegated specific responsibilities for these activities and that these are carried out in a systematic and professional manner as a basis for the Annual Progress

Report (APR) required for USAID/W consideration in annual renewal of each Title III program.

6. Audits of Suspension, Termination and Expiration

The nature of the long-range goals sought by P.L. 480 dictates that, except for very unusual circumstances, Title III resources be used in multi-year programs. Use of this food resource is a complex undertaking which makes systematic evaluations and audits during each year's activities all the more important as a basis for review and amending programs underway.

Certain program goals could be met sufficiently prior to the time originally calculated, or food aid can prove to be too cumbersome or costly a resource to employ in trying to attain them. If at USAID's discretion it is decided that continuation of Title III assistance is no longer necessary or desirable, or if USAID determines that the Cooperating Country fails to comply with the terms of the Title III Agreement, then a Title III program may be suspended or terminated.

Based on the APRs, audits, GAO or other evaluations, the A/USAID can terminate a Title III Agreement if a determination is made that the Cooperating Country is not fulfilling the requirements of P.L. 480. Such a determination takes into account the extent to which the country is:

making significant economic development reforms;

promoting free and open markets for food and agricultural producers; and

Fostering increased food security.

All authorizations of commodities not yet delivered to a ship will be terminated concurrently with USAID's termination of a Title III agreement. Under such circumstances USAID can request in writing that title to Title III commodities delivered, but not yet distributed, or to local currencies generated, but not yet disbursed, be transferred to USAID. Any commodities on hand at the time of program termination shall be disposed of as instructed by USAID. If the Cooperating Country agrees, any local currencies reverting to USAID may be used for economic development activities incountry as USAID considers appropriate.

A program can be suspended when the USAID Mission feels that the Cooperating Country can and will take corrective actions to rectify deficiencies in its failure to comply with the terms of the Title III Agreement or accompanying Memorandum of Understanding (MOUs) or Program Implementation Letters (PILs). Such actions must be undertaken promptly to minimize the effects that delay in procurement and ocean shipment of Title III commodities will have on activities scheduled.

When a multi-year Title III Agreement expires, or when it is mutually determined that the Title III program under the Agreement is completed, the Cooperating Country is to deposit with the U.S. Disbursing Office (USDO) any remaining local currency proceeds. The Cooperating Country can also request USAID's approval for use of such proceeds, or any properties procured with such proceeds, for purposes authorized by USAID.

If there are any Title III commodities remaining upon expiration of a Title III program, the Cooperating Country is to advise the USAID Mission on the quantities, condition and location of these, whereupon USAID shall issue instructions for appropriate use or disposition.

The audit objective for this element is to establish if statutory requirements and Agency policies are followed in the termination, suspension or expiration of a Title III Program. The internal control objectives are to ensure that the decisions made are supported by evaluation or audit findings and recommendations of which the Cooperating Country is aware and that subsequent actions follow prescribed procedures.

REF DOCUMENTS:

1. OMB CIRC MEMO A-133

2. USAID REG 11

3. A.I.D. HANDBOOK 19, Chap 5

4. A.I.D. POLICY DETERMINATION NO. 18

5. TITLE III MODEL GRANT AGREEMENT

6. IG AUDIT GUIDANCE MANUAL, PL 480 TITLE II

7. IG AUDIT GUIDANCE MANUAL, PL 480 TITLE III

8. FOOD AID MANAGEMENT'S GENERALLY ACCEPTED COMMODITY ACCOUNTING PRINCIPLES (FAM 711)

CHAPTER 15
MONITORING AND EVALUATION

15A. Legislation and Policy

Within the Executive Branch, the Office of Management and Budget (OMB) has articulated evaluation policy in Circular-117 which states:

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

P.L. 480, as amended in 1990, calls for a periodic evaluation of the effectiveness of projects undertaken under Title II. Under Title III an Annual Progress Report (APR) is required, which evaluates activities as the basis for USAID's authorization of each subsequent year's allotment of commodities. In addition, P.L. 480 requires that every two years the General Accounting Office (GAO) evaluate five Title II programs and five Title III programs in three geographic regions.

USAID Mission Evaluation Officers are to include ongoing P.L. 480 Title II and Title III programs in their Annual Evaluation Plan. Efforts should be made to engage local institutions or individuals in the Cooperating Country to make these evaluations a collaborative effort, to bring their knowledge of local conditions and practices to bear, and to develop their professional proficiencies in this domain. Yearly performance reviews by the USAID Mission should be timed to coincide with submission dates of the Annual Estimate of Requirements (AERs) required for Title II programs and the APR for Title III programs. Mid-project, or at least every three years, a more formal evaluation should be undertaken by a visiting team with competencies in the areas described by program goals.

USAID Evaluation and Project Design Officers should be aware of the World Food Program's (WFP's) Evaluation and Monitoring Plan, 1991, considered by a number of donors to be the most complete in the field of food aid. It cites a review of World Bank, International Fund for Agricultural Development (IFAD) and WFP evaluations noting the characteristics of organizations able to sustain sound monitoring and evaluation systems. These are:

> "The existence of a strong national organization with a favorable approach to monitoring and evaluation.
>
> A strong interaction between country agency staff and donor agency staff especially to establish systems.
>
> Projects where the design was building on experience from preceding projects; and
>
> Appropriate design for the country organization's capacity. In general monitoring was more successful than evaluation."

15B. Monitoring

Monitoring of food aid is a constant activity, required on a daily basis by the Cooperating Sponsor engaged in Title II programs, and weekly or several times monthly by personnel within the USAID Mission responsible for Title III programs. Monitoring should provide assurance that program management is being carried out in a systematic and orderly manner to achieve stated objectives. Food aid monitoring should be a process that provides continual feedback.

By the nature of Title II programs and the responsibilities delegated to them, the Cooperating Sponsors are expected to carry out the monitoring required of their undertakings. Where it is apparent that this is not being done sufficiently, or where circumstances or situations inhibit a Cooperating Sponsor's ability to monitor its activities, the USAID Mission should provide such oversight or see that it is provided from other sources. Systematic monitoring will highlight whatever shortcomings require particular attention in the next scheduled evaluation. Evaluations will be made more focused, relevant and valuable by having as a basic point of departure a comprehensive assessment of the monitoring that preceded them.

15C. Evaluations

Evaluation is distinguished from monitoring by two important features; namely, evaluation is the principal source of information about progress toward intended results and of explanations for the level of results achieved. Food aid, by its nature, is one of the more complex assistance instruments in a development portfolio. The P.L. 480 Title II and Title III resources are to benefit recipients categorized as the most food-insecure. The design of P.L. 480 activities should include the criteria to assess the results of such efforts with sufficient accuracy so that programs can be modified as experience is gained. It is recognized that the original planning for many of these endeavors probably will have to be adjusted subsequently, and the only basis for undertaking such changes is the issues that objective evaluations reveal.

Evaluations are to be carried out within the context of the planned long-range impacts of food aid programs. By their nature most long-range impacts will require five (5) years or more to realize in achieving measurable positive results in food supply, access, consumption or utilization. Program should be designed so impact results are measurable in a 3-5 year time span. The baseline data required for the design of food aid interventions should be the point of departure for the benchmarks to measure yearly progress toward long-range impacts in whichever areas of vulnerability at which the program is directed. Attainment of such benchmarks is a fundamental assessment in an evaluation. Also, evaluations should demonstrate that food aid is the most appropriate instrument to accomplish such impacts.

Monitoring and Evaluation Guidelines *

Monitoring	Evaluation
On-going process	Discrete, episodic
Conducted by program team management team	Conducted by an outside evaluation
Uses only monitoring data to supplement evaluation data	Uses monitoring information to supplement evaluation data
Examines short-term change project	Examines changes over the life of
Uses less sophisticated data techniques analysis techniques	Uses sophisticated data analysis
Accepts validity of program and towards	Examines the validity of goals, progress

measures output toward program goals	program goals and program impact
Uses information to guide program corrective program actions	Uses information to guide corrective actions and to affirm or challenge organizational strategies

* Table from CARE's Food Evaluation Module

15D. Data Requirements for Evaluation

If the needed baseline data required for benchmark measurements is not contained in the original program design, the following sources should be explored for key indicators needed for an evaluation system of food aid:

Data Available from USAID/W - USAID/Center for Development Information and Evaluation (CDIE) has a comprehensive set of macroeconomic data that would be useful in compiling macrolevel indicators of food security. USAID/W-Bureau for Global Programs, Field Support and Research (M), Center for Population, Health and Nutrition (G/PHN) has supported incountry Demographic and Health Surveys (DHS) and a worldwide Food and Nutrition Monitoring Project (IMPACT).

Data Available from Current USAID's Collected and Routine Monitoring Data - The USAID Mission country analysis data required for its own program submissions is usually drawn from the most reliable social and economic data from government and private institutions in-country.

Data Routinely Collected by Other Multilateral and Bilateral Donors - WFP attempts to maintain a current database in all countries where it has programs which would probably provide the most relevant base line data for food aid programs. WFP has also developed a low cost method of developing a Population Vulnerability Map of countries with food deficits drawn for most part from data already available. The World Bank reports, done every three to five years on each of its clients, now contain considerable data on populations at risk and food security as the bank moved into the social and agricultural sectors during the past decade. United Nations International Children's Emergency Fund (UNICEF), United Nations Development Program (UNDP), IFAD and Food and Agricultural Organization (FAO) of the United Nations have both data and useful documents for monitoring and evaluating food aid, particularly FAO's "Approaches to Monitoring Access to Food and Household Security" (FAO, CFS:92/3, Feb.1992). The Cooperating Country or local UNDP Resident Representative should have or be able to obtain the reports or documents published by any United Nations (UN) member organization. In the Sahel Region of Africa, the Famine Early Warning System (FEWS) maintains a current database readily available for planning food aid to any of the countries it covers.

Data Already Collected by the Cooperating Country - Government and private institutions within the Cooperating Country usually have a wealth of information and statistics from which relevant data can be extracted. Useful sources are:

- Census data - These data are collected from all individual entities that comprise the unit of analysis. For example, population census measures all the individuals in a population; agricultural censuses measure all farms.

- Data emanating from routine administrative reporting systems for various sectors - These data are collected regularly as part of the administrative functioning of programs. For example, in many countries health ministries collect age/weight data for all preschool children visiting clinics; agriculture ministries commonly collect price data for staple foods; labor ministries collect labor statistics.

- Survey data - These data are characterized by the fact that they are designed to produce population estimates of the measures they are assessing. They generally entail household interviews.

Project monitoring/information systems - Increasingly, projects sponsored by donors are developing their own information systems that may be modified to regularly collect data on food and nutrition measures. Countries that have received food aid from other sources may have a database that can be updated.

Data Collected by Private Voluntary Organizations and Non-Governmental Organizations - Concerns over population growth, ecological deterioration and decreasing availabilities of food have led a number of private voluntary organizations (PVOs) and non-governmental organizations (NGOs) to do extensive and useful research on populations that are vulnerable or at risk, and maintain databases that are updated regularly. Some of these are: the International Food Policy Research Institute; the Worldwatch Institute; the World Resources Council; the Overseas Development Council; the Overseas Development Institute, London; and the Institute of Development Studies, Brighton, Sussex, England.

Non-Standard Types of Data - Satellite data on crop production, rainfall, and pest infestation is available on request and could assist in identifying vulnerable areas sufficiently in advance to take timely measures. FEWS uses Landsat data in this regard.

Data gathered to establish baselines for food aid evaluation should be reviewed subject to the following criteria:

representativeness;
accuracy;
periodicity (when data is collected);
timeliness with respect to collection, processing and
analysis; and
Whether the data can be disaggregated relative to a food aid project.

15E. Title II Programs

1. Monitoring

As part of a Cooperating Sponsor's Multi-Year Operational Plan (MYOP) cycle and AER review by USAID/W-BHR/FFP, annual reports must be prepared. These reports should be based, in large part, on data collected as part of the monitoring systems. The annual report will include the following information:

statement of objectives and benchmarks for the past year;

assessment of the project's progress in reaching benchmarks and objectives;

discussion of the status, adequacy and effectiveness of the project's:

-coverage of the target population
-targeting strategies
-logistics systems

-adequacy of rationing
-complementary components
- complementary support from the Cooperating Country, USAID, and other donors;

constraints; and

recommendations (if any)

2. Evaluations

Title II evaluations are scheduled by the USAID Mission in conjunction with USAID/W-BHR/PPE and BHR/FFP. Periodic (every 3 years) evaluations should emphasize measurable impacts on food security of poor, food insecure groups. Evaluations are intended to:

clarify current objectives of the programs;

review and evaluate the programs in terms of their contributions to planned accomplishments and objectives;

confirm the validity of program objectives at the implementation and impact levels; and

recommend changes in program direction or implementation that would increase benefits.

Evaluations of Title II programs should:

identify the nature and causes of problems being addressed by the program and target groups;

identify the major uses of Title II commodities by the Cooperating Sponsor;

analyze the objectives of the program as perceived by the Cooperating Sponsor;

evaluate the role and responsibility of the Cooperating Sponsor in implementing the program;

analyze the policy and program priorities of participating entities and the fit between these priorities and the existing uses of food aid;

assess the design and organization of the Title II program and make comparisons to design criteria for a sound program;

assess the extent to which programs and projects are meeting intended objectives;

examine factors associated with successes and failures of specific programs;

distinguish program impacts on target groups from general changes and trends in the country and regions where programs are focused, and

propose redesign of existing programs when necessary to meet development priorities.

Evaluation reports should present study findings, methodology and recommendations and solicit and document feedback from organizations participating in the program. An evaluation should not be considered complete until comments from the USAID Mission, cognizant offices at USAID/W, and voluntary agencies have been included.

The following factors should be considered in designing Title II evaluations:

Information Needs

- the range of study questions that program decision makers need answered;

-the level and quality of the information; and

- the immediacy with which the information is required.

Availability and Access to Data

- the extent to which data needed for the study have already been collected;

- the cost of collecting unavailable data; and

- the availability of evaluation resources, funds, staff, equipment, and transportation needed for the study.

The USAID Mission develops the Scope of Work for each evaluation in consultation with the Cooperating Sponsor and host government. The draft Scope of Work is sent to the Bureau for Humanitarian Response (BHR) for review, approval and assistance in finding qualified contractors. In instances of very high order priority evaluations, scopes of work may be developed by USAID/W-BHR.

The evaluation team selected reviews the Scope of Work, applicable chapters of USAID Handbook 9, and documentation relative to the country program being evaluated, including relevant portions of the country's development plan, the USAID Mission Country Development Strategic Statement (CDSS) and Annual Budget Submission (ABS), the PVOs' MYOPs and AERs, and any other documents, studies and reports available from CDIE or other sources that familiarize team members with the country setting and prevailing economic and social conditions.

Prior to each evaluation, the USAID/W-BHR/FFP and BHR/PPE holds a pre-evaluation conference with the evaluation team and representatives of USAID/W Regional Bureaus, PVOs, and other U.S. Government (USG) agencies, as appropriate, to coordinate the study and to assure that the viewpoints and needs of the Agency and other government agencies are understood by the evaluation team members.

The USAID Mission, with Cooperating Sponsor and host government personnel, will have prepared the evaluation team's schedule including the logistical support required for field trips. If at all possible, host country personnel should be invited to participate in the evaluation so that it is a collaborative effort and recommendations prescribed are mutually agreeable.

A draft report of the team's findings, conclusions and recommendations is to be prepared and presented prior to the team's departure. A pre-departure meeting with the team and all interested parties is recommended for this purpose.

The USAID Mission, Cooperating Sponsor, and host government will be given time to review the report and submit their comments for consideration in the final version of the Evaluation Report.

PVO field representatives will normally submit their comments via the headquarters, which in turn will transmit them with possible additional comments to USAID/W-BHR. The final Evaluation Report will be distributed to all interested parties.

15F. Title III Programs

Article VII, Annex A, the Plan of Operations of the Title III Model Agreement format, reads as follows:

> "Monitoring and Evaluation Plan
>
> Describe Mission monitoring contacts. For each of the programs authorized under this Agreement, there must be an annual assessment of progress and a well-defined plan for monitoring and evaluation. Describe the agreement of USAID and the Cooperating Country regarding baseline data, performance indicators, and the schedule and methodologies to be used for monitoring and evaluation of the program's impact, including its effect on enhancing food security."

1. Monitoring

The USAID Mission has full responsibility for monitoring Title III programs. The degree of involvement and number of personnel required is determined largely by the nature of the program. Sale of Title III commodities via the private sector and use of local currency proceeds generated to finance specific project undertakings probably will require the most intensive monitoring. Balance of payments assistance to support policy reforms probably would require the least manpower in monitoring since its effects on a country's balance of payments can be measured by the USAID Mission, the host country ministries concerned, or the International Bank for Reconstruction and Development (IBRD) and International Monetary Fund (IMF), and the reforms by their perceived impact. However, policy reforms require much greater coordination with the Cooperating Country and other donors since these are decisions taken at the highest level of government and implemented nationwide.

However it is accomplished, the USAID Mission has full responsibility for monitoring Title III programs from inception to completion. It can request assistance from Cooperating Country public and private institutions, but it must verify whatever information is received from other sources. A good portion of the Annual Progress Report (APR) on Title III programs will be obtained through effective monitoring of the activities the Missions support during the course of the year.

2. Evaluations

The nature of the APR requires the input from an evaluation undertaken by USAID Mission personnel, assisted as required by temporary duty (TDY) personnel with competencies needed to assess the progress of undertakings supported by Title III resources. Under P.L. 480, as amended in 1990, the GAO will evaluate five Title III programs in three geographic regions every two years. In countries where GAO evaluations take place, the need for an outside evaluation team would seem to be satisfied. In those countries where there is no GAO evaluation, a formal evaluation by a team recruited by the appropriate Regional Bureau and BHR would be in order every three years.

The spectrum of activities allowed by the legislation to be addressed with Title III resources does not allow a prescribed format or listing of common factors to be assessed as can be done for Title II evaluations. The make-up of the competencies required by a Title III evaluation team will be determined by the macroeconomic, sectoral, program or project undertakings supported by this food aid. As all of these programs are carried out with the Cooperating Government and could have far-reaching effects on the functioning of the economy or agricultural sector, a particular effort should be made to have Cooperating Government personnel participate in these evaluations. Any modifications of a Title III program emanating from the recommendations in an evaluation will require a full collaborative effort between the Cooperating Country and USAID Mission.

In a Title III evaluation, the following are issues to be assessed depending upon the nature of the program.

a. Balance of Payments Assistance

To what extent is balance of payments assistance the primary purpose underlying the program? What evidence can be presented to determine whether import levels would have changed in the absence of Title III Food for Development assistance? What proportion of total imports and total food availability is provided by Title III? What proportion of the total balance-of-payments deficit is financed by Title III assistance?

b. Government Spending

What role did Title III Food for Development assistance play in maintaining or increasing total investment and development expenditures; maintaining or increasing expenditures in the agricultural sector; ensuring counterpart funds for USAID projects; providing an alternative source for revenues with fewer negative effects on macroeconomic or sectoral performance; and funding other programs with net positive benefits?

c. Nutrition

What was the contribution of Title III Food for Development assistance to the nutrition of disadvantaged groups within the Cooperating Country?

d. Disincentives

What impact did Title III Food for Development assistance have on domestic prices, domestic production levels, the policy environment for agriculture, and taste preferences or demand for local products?

e. Project Impacts

What impact did projects funded by local currencies generated by sale of Title III commodities have on national or local development? What role did Title III generated local currencies play in financing these projects? How would the projects in question have been affected if Title III generated local currencies were not available?

f. Policy Impacts

How has Title III Food for Development assistance been used to promote market liberalization or other policy changes important for agricultural development? What progress has been made in these areas? How important has Title III assistance been in achieving this progress?

g. Management

Has Title III Food for Development assistance imposed a significant management burden on the Cooperating Government or on the USAID Mission? How have the management requirements of Title III affected other government or USAID programs?

APPENDIX C

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APPENDIX C

WORLD FOOD PROGRAM

SUPPLEMENT AS AMENDED TO STANDARD TITLE II
TRANSFER AUTHORIZATION

I. General Purpose and Scope

(a) Terms and conditions. This Supplement contains the regulations prescribing the terms and conditions governing the transfer of agricultural commodities to the World Food Program pursuant to Title II, the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480, 83rd Congress, as amended) (1) to meet famine or other urgent or extraordinary relief requirements; (2) to combat malnutrition especially in children; (3) to promote economic and community development in friendly developing areas; (4) for needy persons, nonprofit school lunch programs and preschool feeding programs outside the United States.

(b) Legislation. The legislation implemented by the regulations in this part is as follows:

(1) Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"The President is authorized to determine requirements and furnish agricultural commodities, on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and for needy persons and non-profit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such agricultural commodities determined to be available under Section 401 as he may request."

(2) Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The President may furnish commodities for the purpose set forth in Section 201 through such friendly governments and such agencies, private or public, including intergovern mental organizations, intergovernmental activities such as the World Food Program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. The assistance to needy persons, shall insofar as practicable be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made."

(3) Section 203 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which, as applicable to WFP, provides as follows:

"The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs of packaging, enrichment, preservation, and fortification; processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports and ocean freight charges from United States ports to designated ports of entry abroad; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto."

(4) Section 205 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

"It is the sense of the Congress that the President should encourage other advanced nations to make increased contributions for the purpose of combating world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs.

It is further the intent of the Congress that as a means of achieving this objective, the United States should work for the expansion of the United Nations World Food Program beyond its present established goals."

(5) Section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act., and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity."

(6) Section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The term 'agricultural commodity' as used in this Act shall include any agricultural commodity produced in the United States or product thereof produced in the United States; Provided however, That the term 'agricultural' commodity shall not include alcoholic beverages, and for the purposes of Title II of this Act, tobacco or products thereof. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this Act."

(7) Section 404 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The programs of assistance undertaken pursuant to this Act
shall be directed toward the attainment of the humanitarian objectives and national interest of the United States."

(8) Section 405 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which provides as follows:

"The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet the needs of their people and in resolving their problems relative to population growth."

II. Definitions

(a) "AID" means the Agency for International Development or any successor agency, including, when applicable, each USAID. "USAID' means an office of AID located in a foreign country. "AID/W" means the Office of AID located in Washington, D.C.

(b) "Commodities" means food or feed transferred or available for transfer to cooperating sponsors under any of the legislation referred to in this part and food or feed exchanged for such transferred commodities as provided in this Supplement.

(c) "CCC" means the Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

(d) "WFP" means the World Food Program which enters into an agreement with the U.S. Government for the use of agricultural commodities and which is directly responsible under the agreement for administration and implementation of programs involving the use of the commodities made available to meet the requirements of eligible recipients.

(e) "WFP Project Agreement" means the WFP/Host Country agreement which incorporates the obligations of the WFP and of the recipient government. It may have the form of a single project agreement or of a Basic Agreement supplemented by a Plan of Operations.

(f) "USDA" means the U.S. Department of Agriculture.

(g) "Diplomatic Posts" means the offices of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular Offices.

(h) "Disaster relief organizations" means organizations which are authorized by UN/WFP, AID/W, USAID, or by a Diplomatic Post to assist disaster victims.

(i) "Disaster victims" means persons who, because of flood, drought, fire, earthquake, other natural or man-made disasters, or extraordinary relief requirements, are in need of food or feed assistance.

(j) "Maternal child feeding, school and other child feeding programs"

(1) Maternal and preschool feeding programs means programs conducted for women of childbearing age and for children below the usual enrollment age for the primary grade at public schools.

(2) School feeding programs refers to programs conducted for the benefit of children enrolled in schools.

(3) Other child feeding programs refers to programs designed to reach preschool or school age needy children in summer camps, child care centers, orphanages, day playgrounds, nurseries, and similar activities.

(k) "Needy persons" means individuals who are in need of food assistance because of their economic condition.

(l) "Nonprofit" means that the residue of income over operating expenses (exclusive of administrative expenses) accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.

(m) "Recipients" means persons who are eligible to receive commodities for their own use in accordance with the terms and conditions of the WFP Project Agreement, the TA and this Supplement.

(n) "Refugees" means persons who are in need because (1) they fled or were expelled from their country of nationality or residence and are living in a country other than the one in which they held or have held citizenship, or (2) they fled from their homes as a result of civil or international strife and are living in a part of their country of nationality or residence other than that in which they normally earned a livelihood.

(o) "School" means a public or nonprofit private facility, or an activity within such facility, which has as its primary purpose the education (except theological education) of children at educational levels which are comparable to high school or under in the United States.

(p) "Transfer Authorization (TA)" constitutes the agreement between the WFP and the U.S. Government. The TA lists the kinds and quantities of commodities to be supplied, program objectives, criteria for eligibility of recipients, and other specific program provisions in addition to the provisions set forth in this Supplement.

(q) "Voluntary Agency" means the American National Red Cross and any U.S. voluntary nonprofit agency registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development.

(r) "Institutions" means nonpenal, public or nonprofit private establishments that are operated for charitable or welfare purposes where needy persons reside and receive meals, including, but not limited to, homes for the aged, mentally and physically handicapped, refugee camps, and leprosy asylums.

(s) "Welfare agencies" means public or nonprofit private agencies that provide care, including food assistance, to needy persons who are not residents of institutions.

(t) "Recipient agencies" means schools institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions are sponsored by WFP and who receive commodities for distribution to eligible recipients.

(u) "World Food Program" is an intergovernmental activity sponsored jointly by the United Nations and the Food and Agriculture Organization and supported through contributions of commodities, services and funds by the United States and other donor countries. U.S. commodities and services to the World Food Program are provided under the authority of Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended.

III. <u>Contribution of Commodities and Ocean Transportation</u>

(a) Distribution and use of commodities. Commodities shall be available for distribution and use in accordance with the provisions of the WFP Project Agreement, the TA and this Supplement..

(b) Transfer of title and delivery. Unless the TA provides otherwise title to the commodity shall pass to the WFP at the time and place of delivery f.o.b. or f.a.s. vessels at U.S. ports.

(c) Processing, handling, transportation and other costs. The United States will pay processing, handling, transportation, and other incidental costs incurred in making commodities available to the WFP free on board (f.o.b.) or free along side (f.a.s.) vessel at U.S. ports and such costs and expenses will be charged to the U.S. Commodity Pledge to the WFP.
All costs and expenses incurred subsequent to the transfer of title in the United States to the WFP shall be borne by the WFP, except all or part of ocean transportation costs from U.S. ports to be designated ports of entry abroad.

(d) Transportation Authorization. A transportation

authorization will be issued to cover the ocean freight paid directly by the United States. When CCC contracts for ocean carriage, disbursement to the carriers shall be made by CCC upon presentation of Standard Form 1113 and three copies of 1113A (Public Voucher for Transportation Charges), together with three copies of the related on-board ocean bill of lading, one copy of which must contain the following certification signed by an authorized representative of the steamship company:

> I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON-BOARD OCEAN BILL OF LADING UNDER WHICH THE GOODS HEREIN DESCRIBED WERE LOADED ON THE ABOVE-NAMED VESSEL AND THAT THE ORIGINAL AND ALL OTHER COPIES THEREOF HAVE BEEN CLEARLY MARKED AS NOT TO BE CERTIFIED FOR BILLING.

____
(Name of Steamship Company)

BY: ______________________________
(Authorized Representative)

Such vouchers should be submitted to:
Director, Ocean Transportation Division
Foreign Agricultural Service
U.S. Department of Agriculture
Washington, D.C. 20250

Ocean transportation costs will be charged to the U.S. shipping pledge to the WFP.

(e) Losses prior to ocean transit. CCC retains the authority to make or authorize any disposition of commodities which have not commenced ocean transit and receive and retain any monetary proceeds resulting from such disposition. As reimbursements are received, the United States reduces the charge against the U.S. pledge to the WFP by the amount of such collections applicable to items charged as U.S. contributions.

(f) Shipping instructions. Shipments booked by CCC. Requests for shipment of commodities shall originate with WFP/Rome and shall be submitted to AID/W. AID/W, shall, through cables, airgrams or letters to WFP/Rome and USAID or Diplomatic Posts, provide names of vessels, expected time of arrival (ETAs), and other pertinent information on shipments booked by CCC. At the time of exportation of commodities, applicable ocean bills of lading shall be sent air mail or by the fastest means available by the freight forwarder, representing CCC, to USDA, to USAID or Diplomatic Posts, to WFP/Rome and to the consignee in sufficient time to advise of the arrival of the shipment.

(g) Tolerances. Delivery by the United States to the WFP at point of transfer of little within a tolerance of 5 percent (2 percent in the case of quantities over 10,000 metric tons) plus or minus, of the quantity ordered for shipment shall be regarded as completion of delivery. There shall be no tolerance with respect to the ocean carrier's responsibility to deliver the entire cargo shipped and the United States assumes no obligation for failure by an ocean carrier to complete delivery to port of discharge.

IV. Obligations of the WFP

(a) Plan of operation. The WFP shall submit to AID/W within such times and on the forms prescribed, a description of the programs it is sponsoring or proposes to sponsor. This description will provide basic information for USG clearance as to project objectives, possible displacement of U.S. commercial markets, possible conflict with U.S. objectives and/or U.S. P.L. 480 programs in the recipient country, or applicable U.S. laws and AID regulations.

(b) Program supervision. The WFP shall be represented by a person appointed by and responsible to WFP for the supervision and control of the program in the country of distribution in accordance with the provisions of the TA and this Supplement. The WFP representative may be resident or regional.

(c) Determination of eligibility. WFP shall be responsible for determining that the recipients agencies to whom they describe commodities are eligible in accordance with the terms and conditions of the WFP Project Agreement, the TA and this Supplement. WFP shall impose upon recipient agencies responsibility for determining that the recipients to whom they distribute commodities are eligible.

(d) No discrimination. The WFP shall distribute commodities only to eligible recipient agencies and eligible recipients without regard to nationality, race, color, or religious or political beliefs, and shall impose similar conditions upon distribution by recipient agencies.

(e) Public recognition. To the maximum extent practicable, and with the cooperation of the host government, adequate public recognition shall be given by the press, radio, and other media that the commodities have been furnished by the people of the United States. To the extent feasible, the information prescribed for containers in Section V.(b) should be publicized at distribution centers by display banners, posters or similar media.

(f) Containers.

1. Markings. Unless otherwise specified in the TA, when commodities are packaged for shipment from the United States, bags and other containers shall be marked with the CCC Contract Number or other identification, the AID emblem, and the following information stated in English and, as far as practicable, in the language of the country receiving the commodity:

(1) Name of the commodity

(2) World Food Program
(3) Furnished by the people of the United States of America
(4) Not to be sold or exchanged (where applicable).

2. Disposal of containers. The WFP may dispose of Title II containers, other than containers provided by carriers, in which commodities are received in countries having approved WFP programs, by sale or exchange, or distribute the containers free of charge to eligible food or feed recipients for personal use of the recipients. If the containers are to be used commercially, WFP must arrange for the removal or obliteration of U.S. Government markings from the containers prior to such use.

(g) Use of funds. In addition to funds accruing to the WFP from the sale of containers, funds may also be available from charges made in maternal, preschool, school, and other child feeding programs where payment by the recipients may be encouraged on the ability to pay. Funds from these sources shall be used for payment of project costs such as transportation, storage, handling, insect and rodent control, rebagging of damaged or infested commodities and other program expenses specifically authorized by AID/W to carry out the objectives of the program for which the commodities were furnished. Funds may also be used for payment of indigenous and/or third country personnel including those employed to make internal audits and inspections. However, such funds may not be used to purchase land, to acquire or construct buildings, or to make alterations in existing buildings. Actual out-of-pocket expenses incurred in effecting any sale of containers may be deducted from the sales proceeds.

(h) No displacement of sales. The donation of commodities furnished for WFP programs shall not result in increased availability for export by the recipient country of the same or like commodities and shall not interfere with or displace sales in the recipient country which might otherwise take place. This requirement may be waived by AID/W to meet emergency or disaster situations.

(i) Commodities borrowed or exchanged. After the date of program approval by AID/W, but before arrival at foreign destination of commodities authorized in the TA, the WFP may, with prior approval of the USAID or Diplomatic Post, borrow same or similar commodities from any local sources to meet program requirements provided that: (1) such commodities are used in accordance with the terms of the applicable TA and will be replaced on an equivalent value basis at the time and place, that the exchange takes place, as determined by mutual agreement between the WFP and the recipient country; (2) packaged commodities which are borrowed shall be appropriately identified in the language of the country of distribution as having been furnished by the people of the United States; and (3) suitable publicity shall be given to the exchange of commodities as provided in paragraph (e) of this section and containers for borrowed commodities shall be marked to the extent practicable in accordance with paragraph (f) 1. of this section. Transfers of commodities may be made between approved Title II programs to meet emergency disaster requirements or to improve efficiency of operation (for example, to meet temporary shortages due to delays in ocean shipments or inland transportation, or to provide for more rapid distribution of stocks in danger of deterioration). Such transfers must be made at no cost to the U.S. Government and with the concurrence of the WFP and the approval of the USAID or Diplomatic Post. Commodities transferred as described above shall not be replaced by the U.S. Government unless AID/W authorized such replacement in advance.

(j) Disposal of excessive stock of commodities. If commodities are on hand which cannot be utilized in accordance with the applicable WFP Project Agreement, the WFP shall promptly advise USAID or the Diplomatic Post of the quantities, location, and condition of such commodities, and, where possible shall propose an alternate use of the excess stocks. USAID or Diplomatic Post shall determine the most appropriate use of the excess stocks, and with prior AID/W concurrence, shall issue instructions for disposition. Transportation cost and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the agencies involved.

V. Processing, Repackaging, and Labeling Commodities

(a) Commercial processing and repackaging. The WFP may arrange for processing commodities into different end products and for repackaging commodities prior to distribution. When commercial facilities are used for processing, packaging, or repackaging, the WFP shall enter into written agreements for such services which shall provide as a minimum that:

(1) No part of the commodities delivered to the processing, packaging, or repackaging company shall be used to defray processing, packaging, repackaging, or other costs, except as provided in subparagraph (2) of this paragraph.

(2) When the milling of grain is authorized in the cooperating country, the United States will not pay any part of the processing costs, directly or indirectly, except that the value of the offal may be used to offset such part of the processing costs as it may cover.

(3) The party providing such services shall:

(i) Fully account to the WFP for all commodities delivered to the processor's possession and shall maintain adequate records and submit periodic reports pertaining to the performance of the agreement;

(ii) Be liable for the value of all commodities not accounted for;

(iii) Return or dispose of the containers in which the commodity is received from the WFP according to instructions from the WFP;

(iv) Plainly label cartons, sacks, or other containers containing the end product in accordance with paragraph (b) of this section.

(b) Labeling. If prior to distribution the WFP arranges for packaging or repackaging donated commodities, the containers in which the commodities are packed shall be plainly labeled with the AID emblem and in the language of the country inwhich the commodities are to be distributed, with the following information:

(1) Name of commodity.
(2) World Food Program.
(3) Furnished by the people of the United States of America.
(4) Not to be sold or exchanged (where applicable).

In case this is not feasible or practicable (c) applies if approved in advance by the USAID or the Diplomatic Post.

(c) Where commodity containers are not used. When the usual practice in a country is not to enclose the end product in a container, the WFP shall, to the extent practicable, display banners, posters, or other media, similar to that prescribed in paragraph (b) of this section.

VI. Arrangements for Entry and Handling in Recipient Country

(a) Costs at discharge ports. Except as otherwise agreed upon by AID/W and provided in the applicable shipping contract, the WFP shall be responsible for all costs (1) beyond the end of ship's tackle in the case of packaged cargo, (2) beyond the discharge end of discharge spout in the case of bulk cargo discharged mechanically, (3) accruing from the time discharging commences in the case of bulk cargo bagged in the ship's hold, or discharged in bulk by slings, (4) for distributing the commodity as provided in the WFP Project Agreement, the TA and this Supplement to end users and (5) for demurrage, detention, and overtime. The WFP shall also be responsible for wharfage, taxes, dues, and port charges assessed against the cargo whenever stated separately in the applicable tariff or shipping contract, and for lighterage (when not a custom of the port) and lightening costs when assessed as a charge separate from the freight rate.

(b) Duty, taxes and consular invoices. Commodities shall be admitted duty free and exempt from all taxes. Consular invoices shall not be required unless specific provision is made in the WFP Project Agreement and the TA. If required,

they shall be issued without cost to the WFP or to the Government of the United States.

(c) Storage facilities and transportation in recipient countries. The WFP shall make all necessary arrangements for receiving the commodities and assume full responsibility for storage and maintenance of commodities from time of delivery at port of entry abroad and shall be responsible for the maintenance of commodities in such manner as to assure distribution of the commodities in good condition to recipient agency or eligible recipients.

(d) Inland transportation in intermediate countries. In the case of landlocked countries, transportation costs in the intermediate country to designated inland point of entry in the recipient country shall be arranged by the WFP which shall report all loss and damage in the intermediate country as provided in Section VII (b).

VII. Disposition of Commodities Unfit for Authorized Use After Delivery to the WFP

(a) If after arrival in a foreign country it appears that the commodity, or any part thereof, may be unfit for the use authorized in the WFP Project Agreement and the TA, the WFP shall immediately arrange for inspection of the commodity by a public health official or other competent authority. If no competent local authority is available, WFP and the USAID or Diplomatic Post may determine whether the commodities are unfit for human consumption, and if so may direct disposal in accordance with subparagraphs (1) through (4) of this paragraph. The WFP shall arrange for the recovery for authorized use of that part designated during the inspection as suitable for program use. If, after inspection, the commodity (or any part thereof) is determined to be unfit for authorized use, the WFP shall notify the USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use, the WFP shall notify the USAID or the Diplomatic Post of the circumstances pertaining to the loss or damage as prescribed in paragraph VIII.(b) With the concurrence of USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use shall be disposed of in the following order or priority:

(1) By transfer to an approved WFP or bilateral Food for Peace Project for use as livestock feed. AID/W shall be advised promptly of any such transfer so that TAs from the United States to the livestock feeding program can be reduced by an equivalent amount.

(2) Sale for the most appropriate use, i.e. animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold all U.S. Government markings shall be obliterated.

Proceeds from such sales shall be deposited in a special account and utilized with the concurrence of WFP and the USAID or the Diplomatic Post to further the objectives of the project.

(3) By donation to a governmental or charitable organization for use as animal feed or for other non-food use.

(4) If the commodity is unfit for any use, or if disposal in accordance with subparagraph (1), (2), or (3) of this paragraph is not possible, the commodity shall be destroyed, under the observation of a representative of the WFP and USAID Diplomatic Post if practicable, in such manner as to prevent its use for any purpose.

(b) Expenses incidental to the handling and disposition of the damaged commodity shall be paid by the recipient country or WFP. Actual expenses incurred in effecting any sale may be deducted from the sales proceeds. The WFP shall promptly furnish AID/W and USAID or the Diplomatic Post a written report of all circumstances relating to the loss and damage and shall include in this report, or a supplemental report, a certification by a public health official or other competent authority of the exact quantity of the damaged commodity disposed of because it was determined to be unfit for human consumption.

VIII. Liability for Loss and Damage or Improper Distribution of Commodities

(a) Ocean carrier loss and damage, general average and salvage

(1) Outturn reports for claims against ocean carriers. The WFP shall obtain an outturn report immediately following each vessel's discharge. The report shall show the quantity and condition of the commodities delivered and the amount of shortage or damage, if any. Wherever possible, reports showing damage or short outturn must be certified by an independent cargo surveyor. The WFP shall obtain a certification by a public health official or similar competent authority of the condition of the commodity in any case where a damaged commodity appears to be unfit for its intended use and a certificate of disposition of any commodity determined to be unfit for its intended use.

(2) Claims against ocean carriers

(i) WFP shall have the right to initiate, prosecute and collect for its own use all claims against ocean carriers for cargo loss and damage on shipments for the WFP and will not look to the U.S. Government for replacement under the pledge.

(ii) In order that claims against ocean carriers may be filed promptly by WFP, USDA shall furnish to WFP:

(A) Copy of Form CCC-512, Notice of Commodity Availability, stating the export value per pound, f.o.b. or f.a.s. vessel at the U.S. port of export, of the commodity delivered to WFP pursuant to the TA.

(B) Copy of ocean bill of lading on the applicable shipment.

(C) Copy of paid freight voucher for the applicable shipment.

(D) Such other similar documents that may be required for pursuance of claims against ocean carriers.

(3) General average and salvage. WFP shall be responsible for settling and paying any general average and marine salvage claims and shall receive and retain any allowance in general average and any salvage proceeds.

This amendment shall be effective as of May 1, 1972, and shall apply to Cargo Booking Confirmations (Form EMS-393) issued by USDA on and after May 1, 1972, on WFP shipment and Charter Party Agreements entered into by USDA on and after such date in connection with WFP shipments. The terms and conditions of the Supplement to TA signed by WFP and AID, on September 19, 1969, shall remain in full force and effect except as amended herein.

IX. Records and Reporting Requirements of the WFP

The WFP shall undertake to ensure that the commodities contributed by the USG are distributed and utilized in a manner consistent with the provisions set forth in the TA and this Supplement, that losses due to improper actions and/or handling within the recipient country are avoided, and that adequate records are developed for this purpose and maintained by WFP or recipient country. Upon its request, the USG shall be given access to and the right to examine WFP records. Should the USG find at any time that WFP reports to the CFA on this program are inadequate for U.S. purposes, the WFP shall undertake to provide the U.S. Government with such additional information as the U.S. Government may request relating to the handling and disposition of the commodities authorized. It is expected that the foregoing normally will satisfy U.S. review requirements. However, should special circumstances arise which appear to the U.S. Government to warrant additional review and/or audit of the program, the U.S. Government then may seek WFP's concurrence in the implementation of the required action by either WFP or U.S. Government personnel.

X. Waiver, Amendment, or Termination

(a) AID may waive, withdraw, or amend, at any time, any or all of the provisions of this Supplement if such provision is not statutory and if AID determines it is in the best interest of the U.S. Government to do so.

(b) All or any part of the assistance provided under the program, including commodities in transit, may be terminated by AID at its discretion if the WFP fails to comply with the provisions of the TA and this Supplement, or if it is determined by AID that the continuation of such assistance is no longer necessary or desirable. Under such circumstances title to commodities which have been transferred to the WFP shall, at the written request of AID/W, be retransferred to the U.S. Government by the WFP. Any excess commodities on hand at the time the program is terminated shall be disposed of in accordance with Section IV.(f)2.(j). If it is determined that any commodity to be supplied under the Food for Peace Program Agreement is no longer available for Food for Peace projects, such authorization shall terminate with respect to and commodities which, as of the date of such determination, have not been delivered f.o.b. or f.a.s. vessel.

19 September 1969
Date

s/ Irwin R. Hedges
Irwin R. Hedges
Acting Assistant Administrator
For War on Hunger
Signature for the Administrator

(Signed by Irwin R. Hedges and Francisco Aquino,
as amended July 3, 1972)

/s/ Francisco Aquino
For the World Food Program

APPENDIX D

DELEGATION OF AUTHORITY NO. 401

TO: Associate Administrator for Finance and Administration Associate Administrator for Operations

SUBJECT: Food Aid Functions

Pursuant to my authority as Administrator, it is ordered to follows:

A. Delegation. I hereby delegate

1. to the Associate Administrator for Finance and Administration the functions and authorities in section 407(d) of the Agriculture Trade Development and Assistance Act of 1954, as amended (P.L. 480), with respect to the purchase of ocean transportation services and authority to sign, on behalf of AID, U.S. Government contracts under section 407(d) and grants and cooperative agreements under Title V of P.L. 480; and

2. to the Associate Administrator for Operations all other food-aid functions, including the authority to sign grants and cooperative agreements under section 202(e) of P.L. 480.

B. General Conditions. The General Provisions of Chapter 1 of Handbook 5 apply to this Delegation of Authority.

C. Revocation. The Associate Administrators have the authority to modify or revoke, in a manner consistent with this delegation, any delegations of authority previously issued by the Administrator or other AID officers regarding food-aid functions.

D. Effective Date. This Delegation of Authority is effective immediately.

/s/ Ronald W. Roskens Administrator

Dated: April 8, 1992

DELEGATION OF AUTHORITY NO. 902

TO: Assistant Administrators for Regional Geographic Bureaus Assistant Administrator for Food and Humanitarian Assistance

SUBJECT: Food Aid Functions

Pursuant to the authority conferred on me under Delegation of Authority No. 401, it is ordered as follows:

A. Delegation. I hereby delegate

1. to the Assistant Administrator for Food and Humanitarian Assistance all food-aid functions and authorities delegated by the Administrator to me, except as provided in paragraph 2;

2. to the Assistant Administrators for the Regional Geographic Bureaus, in their respective area of responsibility and with clearance by the Assistant Administrator for Food and Humanitarian Assistance, the authority for the following actions with respect to Title III, of the Agriculture Trade Development and Assistance Act of 1954, as amended (P.L. 480):

(a) authorization of the donation of agricultural commodities;

(b) negotiation, execution and implementation of donation agreements in accordance with the terms of the authorization;

(c) amendment of any authorization and of any donation agreement; and

(d) findings, determinations and actions required under Title IV of P.L. 480 that relate to donations and agreements for specific countries and the terms and conditions thereof.

B. Redelegation.

1. The Assistant Administrator for Food and Humanitarian Assistance may redelegate (a) all functions and authorities to Deputy Assistant Administrators for that Bureau, (b) the functions and authorities in Title V to the Director of the Office of Private and Voluntary Cooperation, and (c) all other food-aid functions and authorities to the Director of the Office of Food for Peace who may redelegate further such authorities and functions as the Director deems appropriate.

2. Assistant Administrators for Regional Geographic Bureaus may redelegate (a) all authority conferred on them to their Deputy Assistant Administrators, (b) the authority to negotiate, execute and implement agreements, including amendments, to the principal AID officer in the country where the donation is made, and (c) the authority to execute agreements, and amendments, to the principal United States diplomatic officer in the country where the donation is made. The authority to implement agreements may be redelegated in such manner as the principal AID officer deems appropriate, but other authorities may not be redelegated further.

C. Monitoring. Except for donations through the World Food Program and other agencies of the United Nations, no food-aid activity may be conducted in a country without the clearance of an officer of the appropriate Regional Bureau and the principal AID officer in the country who then will be responsible for monitoring all food-aid activities in the country, unless other arrangements for monitoring are approved by the Assistant Administrator for Food and Humanitarian Assistance and the Assistant Administrator for the Regional Bureau or are approved by the Associate Administrator for Operations.

D. General Provisions. Concurrent authority and the other General provisions of Chapter 1 of Handbook 5 apply, except to the extent modified herein.

E. Other Delegations. Delegations of Authority No. 427, dated December 28, 1962, and 902, dated November 8, 1983, as amended, are hereby revoked.

F. Effective Date. This Delegation of Authority is effective immediately.
/s/ Scott M. Spangler Associate Administrator for Operations

Dated: April 8, 1992

APPENDIX F

INSTRUCTIONS TO VOLUNTARY AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS CONCERNING THE FILING, PURSUIT, ADJUDICATION AND COLLECTION OF OCEAN TRANSPORTATION CLAIMS ARISING FROM SHIPMENT OF TITLE II, PUBLIC LAW 480 COMMODITIES FOOD FOR PROGRESS PROGRAM COMMODITIES, AND SECTION 416 PROGRAM COMMODITIES

HEADQUARTERS SECTION

PART 1 GENERAL PROVISIONS

1. PURPOSE AND COVERAGE

To provide instructions to all voluntary agencies and intergovernmental organizations for the control, adjudication, collection, or other authorized disposition of ocean carrier cargo loss and/or damage claims involving Commodity Credit Corporation owned commodities transferred to agencies for various uses authorized by Title II and Title III, Agricultural Trade Development and Assistance Act of 1954, Public Law 480, as amended; Section 416 Program, Agricultural Act of 1949, as amended; and Food for Progress Program Agreements, Food for Progress Act of 1985, as amended.

2. AUTHORITIES FOR ASSIGNED CLAIMS RESPONSIBILITIES

A. <u>TITLE II AND TITLE III PROGRAMS</u>

Agricultural Trade Development and Assistance Act of 1954, as amended.

TITLE II:

Agency for International Development, Department of State Regulation 11, Transfer of Food Commodities for Use in Disaster Relief, Economic Development, and Other Assistance, as Amended.

TITLE III:

Currently governed by individual shipment agreements.

B. <u>SECTION 416 PROGRAM</u>

Agricultural Act of 1949, as amended.

Section 416(b) Regulations

C. <u>FOOD FOR PROGRESS PROGRAM</u>

Food For Progress Act of 1985, as amended.

3. DEFINITIONS, ABBREVIATED TERMS, NAMES, ETC., USED IN THIS INSTRUCTION

A. <u>Administrative Allowance.</u>

Amount authorized to be retained from claim recoveries by voluntary agencies or intergovernmental organizations.

B. Agency for International Development, Department of State .

AID, USAID, or AID/W, as applicable; Diplomatic Post in Countries where there is no USAID.

C. Applicable Regulations .

AID Regulation 11, Section 416(b) Regulation.

D. Applicable Agreements .

Individual shipment agreements relative to Title III, Section 416 and Food for Progress shipments.

E. Commodity Credit Corporations .

CCC

F. Chief, Debt Management Division, Kansas City Financial Management Office .

Chief, DMD NOTE: Chief, DMD is a Claims Official of CCC

G. Voluntary Agencies and Intergovernmental Organizations .

Agency or Agencies.

H. Carriage of Goods by Sea Act .

COGSA

I. Claim Value .

CCC's monetary interest in the claim.

J. Commodities/Cargoes .

Commodities shipped under any of the following relief programs:

(1) Title II
(2) Title III
(3) Section 416
(4) Food for Progress

4. ADDRESS OF CHIEF, DMD

Chief, Debt Management Division
Kansas City Financial Management Office
P.O. Box 419205 Kansas City, Missouri 64141-6208

PART 2 INITIAL DISTRIBUTION TO CCC OF DOCUMENTATION BEFORE CLAIM IS FILED

5. BILL OF LADING

A. Send two copies to the Kansas City Commodity Office, Export Operations Division, PROMPTLY after vessel lifting of commodities.

B. Do not send additional copies to Chief, DMD.

PART 3 DETERMINATION OF OCEAN CARRIER LIABILITY

6. SUPPORTING DOCUMENTATION

A. Obtain the necessary documentation from your overseas mission. Documentation requirements are enumerated in the Field (or Mission) Section of these Instructions.

B. Promptly evaluate the documentation and determine if a loss occurred. If a loss has been sustained, determine if it is an ocean carrier (marine) loss or an inland loss, bearing in mind the burden of proof is on the claimant. Under the provisions of COGSA, the ocean carrier is generally responsible only for those losses which occur while the cargo is in the custody and control of the vessel (or, in some cases, lighters or barges). Any losses occurring after the cargo leaves the vessel's control and custody (such as those occurring in Customs or Port Authority warehouses, in transit from quay to shed, etc.) should be treated as inland losses.

7. COMPUTATION OF OCEAN CARRIER CLAIMS

A. Use the delivered value of the commodity, computed as follows:

1. Determine the FAS value of the shipment.

2. Add the freight paid on the shipment.

3. Divide such sum by the number of net pounds in or kilograms in the shipment to arrive at a price per pound or kilogram delivered value.

4. Multiply the price per pound or kilogram delivered value by the number of pounds or kilogram lost or damaged.

B. Include, at agency's option and as a separate item, special charges authorized by applicable regulations.

C. Include, as a separate item, any costs incurred by the agency or USAID to reconstitute cargo damaged by the ocean carrier.

1. Applicable regulations authorize direct reimbursement to agency by CCC of costs incurred for repackaging. (See Paragraph 10.)

2. When ocean carrier is determined by agency to have caused damage which requires such costs, these costs should be included in the claim filed against the ocean carrier, unless collected directly from the carrier or its agents.

D. If commodities are damaged and determined by competent authority to be unfit for human consumption and the commodities are sold or otherwise disposed of pursuant to the Regulations, credit the claim by the U.S. dollar equivalent of the NET proceeds of the sale. If the unfit commodity is not sold but is donated for some useful purpose, allow the carrier a credit of $.02 per pound for the amount donated to the extent the quantity is included in the claim.

E. Do not allow salvage credit for unfit commodities which are disposed of by destruction.

F. Do not allow salvage allowances other than those shown above without authorization from Chief, DMD.

G. Excess-landed cargo, if utilized in the program, may be applied against shortlanded cargo of the same commodity only. (Same voyage of same vessel).

8. FILING CLAIMS AGAINST OCEAN CARRIER

A. File claims PROMPTLY in the name of the agency in every instance when a marine loss has been sustained EXCEPT:

1. When general average has been declared (See Part 8).

2. When the agency chooses not to file for losses and damages valued at $100 or less or in any case when the loss and/or damage is between $100 and $300 and it is determined that the cost of filing and collecting the claim will exceed the amount of the claim. (See applicable regulation or agreement).

B. File claims in writing setting forth the pertinent facts in such manner and in sufficient detail to clearly show a reasonable basis for the conclusions reached.

C. Support the claim with the required documentation including, but not limited to:

1. Ocean Bill of Lading.

2. Survey Report.

3. Carrier's Outturn Report, if available.

4. Shortlanding Certificates, if applicable.

5. Unfitness Certificate or Chemical Analysis Report, if applicable.

6. Disposition Certificate, if applicable.

7. Notice of Protest to carrier or its agents. (See Exhibit 5).

8. Tally sheets, if applicable.

D. Preferably, file ONE claim for each voyage of the same vessel to the same ocean port of discharge, regardless of the kinds of program commodities shipped, regardless of the number of different bills of lading issued by the carrier, and regardless of the country of distribution.

E. Promptly transmit a copy of the Claim with supporting documentation (and all subsequent amendments) to the Chief, DMD, at time of filing with carrier. A copy of the survey invoice or certified statement that payment of the survey fees was made by your agency and documents supporting the claim (or any amendments) should accompany the copy of the claim. Also forward any narrative analysis received from your overseas missions which has a bearing on the particular claim or which contains pertinent information about port conditions. Show the name of the vessel and CCC contract number on the copy of the claim transmitted. Also, notify Chief, DMD, when no claim is to be filed. (See Subparagraph 8 A 2).

F. If the original Survey Report, Public Health Certificate, Certificate of Disposition and the Shortlanding Certificate cannot be obtained, submit a legible signed copy of these documents with a statement that the originals could not be obtained.

9. REIMBURSEMENT FOR SURVEY FEES PAID

A. All survey fees for discharge surveys on voluntary agency shipments will be reimbursed to the agency by CCC.

B. CCC will also reimburse agencies for the cost of delivery surveys which the agency determines necessary to control cargo and/or prevent losses in the port area.

C. Eligible reimbursement for survey fees will be made by CCC upon receipt of:

1. Claim statement or advice that no claim will be filed, and the dollar loss, if any; and

2. Original or signed duplicate copy of the survey report and invoices or certified statements (See Exhibit 1), stating the amount of the survey fee which was paid by the agency.

D. CCC will not reimburse agencies for the cost of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, or assessment of quantity and condition of goods at manifested destination, unless such deviations from the documentation requirements relative to applicable regulations or agreements is justified to the satisfaction of CCC.

10. REIMBURSEMENT FOR COSTS OF REPACKAGING OF CARGOES IN DESTINATION COUNTRY REQUIRED BECAUSE OF DAMAGE CAUSED BY OCEAN CARRIER

A. See applicable regulation and agreements (Title II, Title III, Section 416, Food for Progress).

B. If cargo is damaged while in the control and custody of ocean carrier and repackaging costs must be incurred to ensure that the commodity remains wholesome until it reaches the destination point, CCC will reimburse the agencies for such costs upon receipt of proper documentation.

1. If costs are $500 or less, forward invoices or other documents to support such costs.

2. If costs are more than $500, also forward written authorization (or waiver) by USAID or Diplomatic Post authorizing payment of costs. Such authorization must be obtained prior to incurring costs in excess of $500.

C. Include the cost of repackaging cargoes as a separate item in claims filed against the ocean carrier. (See Paragraph 7 C).

D. Documents set forth in subparagraphs B1 and B2 above should be forwarded to Chief, DMD, at the time claim documents are submitted or as soon thereafter as possible. If expenses were paid in a currency other than U.S. dollars, include information as to the exchange rate at the time the expenses were incurred.

11. REIMBURSEMENT FOR COSTS OF REPACKAGING CARGOES IN DESTINATION COUNTRY BECAUSE OF DAMAGE CAUSED AFTER DISCHARGE OF THE CARGO FROM THE OCEAN CARRIER

A. If cargo is damaged after discharge and such damage is not the responsibility of the ocean carrier, and it is necessary to repackage the cargo to insure its arrival at the destination point in wholesome condition, CCC, Washington, will reimburse agencies for such costs upon receipt of proper documentation.

1. If costs are $500 or less, forward invoices or other documents to support costs.

2. If costs are more than $500, also forward written authorization by USAID or Diplomatic Post authorizing payment of costs. Such authorization must be obtained prior to incurring costs in excess of $500.

B. Submit documents listed in Subparagraph B1 and B2 above
to:
Director, Financial Management Division U.S. Department of Agriculture, ASCS P.O. Box 2415 Washington, D.C. 20250

Paragraphs 12 - 14 (RESERVED)

PART 4 COLLECTION OF CLAIMS

15. GENERAL COLLECTIONS RESPONSIBILITY OF AGENCY

A. Agencies must actively and aggressively pursue collection of marine claims, using every reasonable effort short of litigation. Such active and aggressive pursuit of claims not only includes timely follow-ups with the ocean carrier, or its agents, but also requires a concerted effort to obtain all the facts, and clarify discrepancies.

B. Agencies may be held liable for losses sustained by CCC as provided in applicable regulations if a claim becomes time-barred or sufficient time is not allowed for CCC to initiate appropriate action for filing of legal action, or if agency fails to pursue claims or fails to provide for the right of CCC to assert such claims.

16. CONTROL OF CLAIMS

Keep claims under follow-up control.

A. <u>Expiration of Time Within Which to File Suit</u>.

1. If collection is not received within eight months after discharge of the commodity at foreign port of destination, obtain at least a six month VALID extension of suite time from the carrier in the format prescribed in the Notice to the Trade dated May 15, 1990. (See Exhibit 4).

2. Agency shall obtain extensions of suit time at such intervals as will assure that CCC has, at all times, at least three months within which to file suit against the carrier. CCC will not police the obtaining of such time extensions.

B. <u>Pursuit of Claims</u>

1. Follow-up 60-90 days after initial letter of demand.

2. Follow-up every 45-60 days thereafter unless facts warrant otherwise.

17. CARRIER IGNORES CLAIM OR DISPUTES CLAIM IN WHOLE OR IN PART

A. If agency determines upon review that the claim is valid in the full amount as filed, reassert the claim. It is not necessary to consult with CCC.

B. If agency determines that the claim should be reduced or redetermined to zero in its entirety on the basis of facts or information not considered when the initial determination of liability was made by the agency, it is not necessary to consult with CCC:

1. Reassert claim in the reduced amount. (If reduced to carrier accordingly.)
zero, advise the

2. Request carrier to acknowledge the claim and to promptly submit its check for the reduced amount.

3. Promptly notify Chief, DMD, of the action taken in 1 and 2 above.

C. If carrier ignores claim or otherwise refuses to pay and all reasonable efforts have been made to obtain all available documentation and facts and to effect collection, handle as provided in Part 7. EXCEPTION: On claims valued at $600 or less, agencies may terminate collection activity without approval of CCC. However, Chief, DMD, should be notified when collection activity on a claim has been terminated.

D. Agency shall resolve questions of fact with the carrier to the extent possible. If agency is unable to resolve factual disputes, attempt to obtain a compromise offer. Submit all compromise offers on claims in excess of $5,000 to Chief, DMD, along with agency recommendations as to acceptability as provided in Part 6. When such compromise offers are forwarded, also ensure that all correspondence and additional documentation which CCC may not have is also forwarded.

18. REQUEST FOR STATUS

A. CCC may, from time to time, request the status of individual claims. Upon receipt of such a request, the agency shall advise CCC of the progress of their settlement negotiations, as well as any monetary changes in the claim which have arisen from additional information or documentation which may have been received.

PART 5 DISPOSITION OF COLLECTIONS

19. COLLECTIONS RECEIVED BY AGENCY

A. <u>In U.S. Dollars</u>.

Remit PROMPTLY to Chief, DMD, the full amount received less deductions authorized by applicable regulations. Transmit the check with an explanatory letter identifying claim(s) and deduction(s).

B. <u>In Foreign Currency in Which Freight is Paid</u>.

1. Deposit with the U.S. Disbursing Officer, American Embassy, as provided in paragraph 211.9(g) of the Regulations.

2. CCC will, upon receipt of advice of deposit, remit to the agency any amount due the agency.

20. ADMINISTRATIVE ALLOWANCE

A. As of May 7, 1992, under applicable regulations, an administrative allowance of $200 per manifested port may be retained by the agency from the proceeds of a claim. For the purpose of determining administrative allowances, a claim is defined as those losses occurring on the same voyage of the same vessel to the same port.

B. If separate claims are filed by agencies for losses from the same voyage of the same vessel to the same port, only one administrative allowance is allowed.

C. If claim proceeds are less than $200, retain full amount of claim proceeds.

21. COLLECTION ALLOWANCE

A. For claims collected after May 7, 1992, retain from CCC's interest in the collection 10 percent of the difference between the administrative allowance of $200 and the total amount collected on a claim, up to a maximum of $500, or

B. Retain the actual administrative expenses incurred to collect the claim.

1. Authorization must be requested from Chief, DMD, and approval must be obtained prior to retention of actual expenses.

2. Do not delay transmittal of claim recovery to CCC pending approval by CCC of actual administrative expenses.

3. Upon approval of amounts due an agency for actual expenses, CCC will issue a check to the agency.

22. SPECIAL CHARGES

A. Applicable regulations provide that agencies may include charges such as insurance, packing, handling, etc., as a separate item when claims are filed.

B. These special charges shall not include expenses incurred for repackaging or reconstitution of damaged cargo in the destination country. (See Paragraph 23.)

C. Special charges included in a claim and paid by the liable party may be retained by agency.

D. If the claim is compromised, retain an amount representing the percentage of the special charges as the compromised amount is to the full amount of the claim. EXCEPTION: If the carrier specifically refuses to pay such special charges or the claim is compromised by the amount of such charges, NO portion of such charges may be retained by the agency.

23. EXPENSES INCURRED IN DESTINATION COUNTRY FOR REPACKAGING AND/OR RECONSTITUTION

A. Reconstitution expenses incurred which have not been properly supported to allow for direct reimbursement by CCC are expenses to the agency. If these expenses are included in a claim against the ocean carrier and are included in the claim collection, a percentage of these expenses may be retained by the agency to the same extent as the final collection amount is to the final claim amount. For purposes of determining the amount to be retained, treat reconstitution expenses as a Special Charge (See paragraphs 22 B, C, and D and Column E of Exhibit 2).

B. Reconstitution expenses incurred which have not been properly documented, are eligible for 100 percent reimbursement to the agency by CCC. See paragraph 10. If these expenses have been properly supported and if these expenses have been reimbursed to the agency by CCC, these costs are an asset of CCC. If so, the agency may not retain any amounts collected for such costs (except 10 percent collection allowance) since total reimbursement by CCC will have been previously made. Thus for the purpose of determining amounts to be retained by the agency, do not include these previously reimbursed reconstitution costs in either columns of E or F of Exhibit 2.

C. If a claim includes reconstitution expenses and documentation has been forwarded to CCC requesting reimbursement and, prior to the actual receipt of the reimbursement from CCC, the claim is paid by the carrier:

1. Compute collection allowances as shown in B above, and

2. Advise CCC of above action again requesting reimbursement of the reconstitution expenses.

24. COLLECTIONS RECEIVED BY CCC ON CLAIMS ASSIGNED TO CCC

A. Will be deposited by CCC and amounts owing the agency for allowable deductions will be remitted by CCC to the agency.

NOTE:

CCC will endeavor to collect the full amount of the claim including the handling and miscellaneous expenses claimed by the agency. However, if the carrier refuses to pay these additional charges and the agency is unable to support the charges to the satisfaction of the carrier or, in the case of litigation, to the satisfaction of the court, these unpaid charges will not be remitted to the agency.

B. See Subparagraph 37 B concerning the payment of 10 percent collection allowance.

C. CCC reserves the right to deny payment of all allowances in cases where CCC determines that the documentation requirements of the applicable regulations have not been fulfilled, and the failure to provide such documentation has not been justified to the satisfaction of CCC.

25 - 29 (RESERVED)

PART 6 REFERRAL OF CLAIM TO CCC

CLAIM RIGHTS NOT ASSIGNED

30. REFERRED FOR ADVICE ON FURTHER HANDLING

A. Although the agency is expected to resolve questions of fact with the carrier to the extent possible, it is recognized that there will be instances when the agency will be in doubt as to the course of action to take in a particular case.

B. Referrals should set forth a complete description of the claim, the problem involved, the carrier's position in the matter, and the agency's comments and recommendations. Pertinent documents which CCC may not have should also be forwarded.

31. REFERRED FOR CONSIDERATION OF COMPROMISE OFFER

A. Agency should keep the following factors in mind in negotiating compromise settlements with carriers:

1. Collection Policy of CCC. In general, to collect claims in full through administrative action.

2. Authority to Compromise Claims. Limited to the following:

a. Debtor's inability to pay.

b. Real doubt as to the Government's ability to prove its claim in court for the full amount because of the legal issues involved.

c. A bona fide dispute as to the facts.

B. Request carrier to support any compromise offer with documentary evidence to support its contention that it is not liable for the full amount of the claim.

C. Submit applicable correspondence and documentation and agency's recommendation as to acceptability of a compromise offer on ALL referrals to CCC.

D. Do not refer a compromise offer to CCC if the claim value is $5,000 or less except in unusual or unique situations. Agency has authority to settle such claims without obtaining the approval of CCC. However, CCC should be promptly notified when such a compromise offer is accepted.

32. WHERE TO REFER

Chief, DMD

33. RESPONSIBILITY OF AGENCY AFTER REFERRAL OF CLAIM TO CCC

A. Agency has the overall responsibility to collect a claim until such time as its claims rights are assigned to CCC.

B. Agency shall take the necessary action to ensure that the claim does not become time-barred during the period in which CCC has a claim under consideration.

34 - 35 (RESERVED)

PART 7 ASSIGNMENT OF CLAIMS RIGHTS TO CCC

36. WHEN TO ASSIGN

A. Assign after agency has exhausted all reasonable efforts short of litigation to effect collection. This should include efforts to compromise claims where compromise settlements are warranted.

B. Assign if collection has not been effected within TWENTY-FOUR (24) MONTHS following the date the claim was filed. EXCEPTIONS:

1. No useful purpose would be served by deferring referral until twenty-four months have elapsed.

2. Twenty-four months have elapsed and settlement is expected to be completed within the immediate future.

37. WHAT TO REFER

A. Assignment of agency's claims rights to CCC properly completed in the format shown in Exhibit 3.

B. Assignment of agency's file. NOTE: CCC will review this file upon receipt of an assignment of claim rights to determine if the file contains evidence that the claim was actively and aggressively pursued by the agency. This review and the documentation in the file shall be the basis on which a determination is made by CCC whether or not the agency shall receive the additional 10 percent collection allowance upon collection by CCC.

38. WHERE TO REFER

Chief, DMD.

39. RESPONSIBILITY OF AGENCY AFTER CLAIMS RIGHTS ASSIGNED TO CCC

A. Do not take any further action on the claim unless requested to do so by CCC.

B. If the carrier incorrectly submits funds to agency after rights have been assigned, agency should **NOT** deposit such collections. In such cases, notify Chief, DMD, and take action in accordance with his/her instructions.

40. (RESERVED)

PART 8 GENERAL AVERAGE

41. CCC RESPONSIBILITY

A. CCC is responsible for general average contributions on all commodities shipped by agencies.

B. CCC is responsible for filing and pursuit of cargo loss and/or damage claims in all cases when general average has been declared.

42. AGENCY RESPONSIBILITY

When general average has been declared, the agency's responsibility is limited to **PROMPTLY** transmitting the following documents to Chief, DMD:

A. Copy(s) of ocean bill(s) of lading, along with copy(s) of the booking contract(s). If there is no written booking agreement, provide CCC with advice as to whether freight was prepaid or collect.

B. Original survey report and originals of all documentation pertaining to any loss or damage. If originals cannot be obtained, send legible, signed copies with a statement that originals cannot be obtained. Do not delay transmittal of copies to CCC pending receipt of original documents.
C. Assignment of agency's claims rights to CCC properly completed in the format shown in Exhibit 3.

43 - 44 (RESERVED)

PART 9 AGENCY RESPONSIBILITY FOR OBTAINING DOCUMENTATION AT THE DISCHARGE PORT

45. GENERAL

The most important facet in a successful claims program is the timeliness, clarity and adequacy of the documentation upon which the claim is based. In properly documenting a marine claim, it is imperative that proof be obtained which shows the quality and quantity of cargo at the time the carrier's liability ends normally at the time of discharge (ex-ship's tackle). It is also equally important that agencies promptly mitigate damages and provide documentation, taken on a timely basis, which supports shortlandings, unfitness, remaining contents in reconstituted bags, amounts of cargo donated for animal feed or sold for salvage, etc. In short, the success or failure of efforts by agencies and/or CCC to pursue claims from a position of strength depends upon the efforts and actions of agency personnel at ports of discharge.

46. SUGGESTED HEADQUARTERS ACTION

A. Carefully read and understand the documentation requirements set forth in the applicable regulations or shipment agreements and in the Field (or Mission) Section of these Instructions.

B. Transmit the Field (or Mission) Section of these Instructions to all agency overseas posts utilizing cargoes under any of the subject four relief programs (Title II and Title III, Public Law 480; Section 416; and Food for Progress). NOTE: The Instructions may be supplemented and/or elaborated upon by agency headquarters.

C. Ensure that overseas posts understand the requirements of regulations and instructions.

D. Review documentation submitted from overseas posts for compliance with instructions.

E. When applicable, advise overseas posts of inadequacies in documentation submitted by them and reiterate necessity for timely detailed documentation.

F. Require overseas posts to furnish complete narrative analyses in situations where proper documentation cannot be obtained.

G. Advise Chief, DMD, of situations which prohibit overseas posts from compliance with applicable regulations and/or instructions.

H. Request the assistance of Chief, DMD, in any instance where the proper documentation of marine losses appears to warrant such action.

l. Ensure that correspondence from Chief, DMD, which requests clarification of documents or which notes inadequacies in documentation is promptly forwarded to overseas posts, and that overseas posts take prompt and affirmative action.

47 - 50 (RESERVED)

APPENDIX G

INSTRUCTIONS TO ALL VOLUNTARY AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS CONCERNING THE DOCUMENTATION REQUIREMENTS OF SECTION 416(b) REGULATION, AID REGULATION 11, AND APPLICABLE PROGRAM AGREEMENTS AS THEY APPLY TO THE DISCHARGE OF TITLE II AND III, PUBLIC LAW 480 COMMODITIES, SECTION 416 PROGRAM COMMODITIES AND FOOD FOR PROGRESS PROGRAM COMMODITIES

FIELD (OR MISSION) SECTION

PART I GENERAL PROVISIONS

1. PURPOSE AND COVERAGE

To provide instructions and to supplement existing procedures concerning the documentation requirements of AID Regulation 11 and Section 416(B) Regulation as it applies to the discharge and delivery of Title II, Public Law 480 commodities, Section 416 Program commodities, and Title III commodities as governed by individual program agreements, and Food for Progress Program commodities. In short, these instructions provide valuable information regarding the type of documentation necessary to pursue marine claims from a position of strength.

2. AUTHORITIES FOR ASSIGNED CLAIMS RESPONSIBILITIES

A. Agricultural Trade Development and Assistance Act of 1954, as amended.

B. Agency for International Development, Department of State Regulation 11, Transfer of Food Commodities for Use in Disaster Relief, Economic Development, and Other Assistance, as amended.

C. Agricultural Act of 1949, as amended. D. Section 416(b) Regulation.
E. Food for Progress Act of 1985, as amended.

3. DEFINITIONS, ABBREVIATED TERMS, NAMES, ETC., USED IN THIS INSTRUCTION

A. Agency for International Development, Department of State.

AID, USAID, or AID/W, as applicable. Diplomatic Post in countries when there is no USAID.

B. AID Regulation 11.

The federal regulations which are printed in the Federal Register and have the effect of law. These regulations are made a part of these Instructions, most references to the regulations will be to Paragraph 211.9(c) which sets forth the requirements for documenting ocean carrier cargo losses and damages.

C. Commodities/Cargoes.

Commodities shipped under any of the following relief programs:

(1) Title II
(2) Title III

(3) Section 416
(4) Food for Progress

D. Marine Loss

A loss of commodities which occurs while the cargo is in the custody and control of the ocean carrier or its servants or agents. Losses assessed against the ocean carrier NORMALLY must be noted upon discharge, and elaborated upon when cargo can be reconstituted.

E. Inland or Interior Loss

A loss of commodities which occurs after the cargo leaves the custody and control of the ocean carrier.

F. Carriage of Goods by Sea Act.

COGSA. Statutory law which covers all ocean carrier shipments of commodities from United States ports.

G. Commodity Credit Corporation

CCC.

H. Overseas Offices or Missions of Voluntary Agencies and Intergovernmental Organizations.

Agencies.

Part 2 SURVEY AND SURVEY REPORTS

4. SURVEY AND SURVEY REPORTS

A. As used in the Regulations and these Instructions, a survey is an examination or inspection of Title II, Public Law 480 cargo made by an independent expert to determine the quality and quantity of commodities at the time of examination.

B. As used in the regulations and these Instructions, a report is the written evaluation, or report of the examination of cargo which factually states conditions at the time of examination, and accurately and independently states the quality and quantity of cargoes at the time of examination.

5. PURPOSE

Survey Reports document the quality and quantity of cargo to fix responsibility for losses occurring while cargo is in the custody and control of the vessel so that claims for such losses may be pursued from a position of strength and knowledge.

6. AUTHORITY AND RESPONSIBILITY TO OBTAIN

A. Agencies are given the authority under applicable regulations to engage the services of an independent cargo surveyor to document the quality and quantity of cargo discharged from the vessel.

B. Agencies are required under applicable regulations to engage the services of an independent cargo surveyor and to obtain discharge survey reports on all shipments of applicable cargo unless:

1. USAID or the Diplomatic Post determines, in writing, that such surveys are not feasible in the specific port area, or

2. CCC has made other provisions for such examinations and reports. NOTE: If CCC makes such arrangements, USAID and agencies have or will be notified of such arrangements in writing.

C. In addition to (but not as a substitute for) a discharge survey, agencies are given the option to engage an independent cargo surveyor to supervise clearance and delivery of cargo and to issue survey reports thereon.

7. COSTS OF SURVEYS

A. Agencies should determine the costs to be charged by surveyors in advance of their employment. Agencies should determine if such fees are equitable for such services in the particular port area.

B. Upon receipt of an invoice from the surveyor, agencies should determine that the report furnished is acceptable for the purpose intended and, if so, pay the bill and so advise agency headquarters of the amount of the survey fee paid.

C. CCC will reimburse agency headquarters for the cost of discharge surveys.

D. CCC will also reimburse agency headquarters for the cost of a delivery survey which the agency determines is necessary to control cargo and/or to prevent losses in the port area.

E. CCC will not reimburse agency headquarters for the cost of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel or assessment of quantity and condition of goods at the manifested destination, unless such deviation from documentation requirements under applicable regulations and/or agreements is justified of CCC.

F. In the case of cargoes moving into landlocked countries, agencies shall arrange for an independent survey at the point of entry into the country. CCC will reimburse agency headquarters for the cost of this survey PROVIDED that a timely discharge survey at the ocean port was prepared and forwarded.

8. APPLICATION FOR SURVEY

A. Agencies should notify surveyors in advance of vessel arrival and instruct surveyors to survey a specific quantity of cargo for the account of the agency. The surveyor should understand that if cargo in excess of the bill of lading quantity is discharged, such cargo should also be surveyed.

B. Such notification should be, if at all possible, in writing.

9. TIME AND PLACE OF SURVEY

A. In order to fix responsibility for losses occurring while in the custody and control of the vessel (its agents or servants), it behooves the surveyor to examine cargo immediately before (if possible), during, and immediately after cargo is discharged from the vessel.

B. COGSA states that the ocean carrier's liability ends "...ex-ship's tackle..."; it is therefore imperative that the quantity and condition of cargo be evaluated "...ex-ship's tackle...".

C. The survey should continue through the time of reconstitution of damaged commodity, if any, to ensure that specific quantities lost from slack and torn containers may be properly and accurately recorded.

10. FORMAT OF DISCHARGE SURVEY REPORTS

A. The format of the surveyor's report is relatively unimportant as long as facts, figures and dates are shown, and are shown in a logical presentation.

B. The surveyor's report should correspond in length to the severity of losses. For instance, if the surveyor observed the discharge of a shipment and no losses were noted, the surveyor's report would be quite short. On the other hand, if considerable losses and damages are noted, the surveyor's report should elaborate in full detail.

11. CONTENT OF SURVEY REPORTS

A. Data Regarding the Shipment

1. Name of the Vessel,

2. Manifested Quantity,

3. Name of Commodity,

4. Stowage Location,

5. Port of Discharge.

B. Dates, Times and Places of:

1. Vessel Arrival,

2. Vessel Commencing Discharge,

3. Request by Agency for Survey,

4. Surveyor Viewing Cargo,

5. Cargo Reviewed By Customs,

6. Cargo Delivered to Consignee,

7. Reconstitution of Damaged Commodity.

C. Amount of Cargo

1. Discharged from the Vessel in Sound Condition (bags, cartons, etc.),

2. Discharged from the Vessel in Torn and Slack (T&S) condition (bags, cartons, etc.),

3. Estimated quantity (pounds or kilograms) in T&S bags,

4. Discharged from the Vessel in Damaged Condition (bags, cartons etc.),

5. Not Discharged from the Vessel (bags, cartons etc.),

6. Remaining in T&S bags after reconstitution,

7. Slack from T&S bags after the reconstitution,

8. Determined Unfit for Human Consumption (bags, cartons, pounds, etc.),

9. Destroyed or Donated/Sold for Animal Feed.

D. Narrative Analysis of Who Did What When.

E. Narrative Analysis of How, When and Where Losses Occurred. Surveyor's opinions are solicited; however, they should be clearly noted as such. For example, if the surveyor notes 119 bags of cargo wet at discharge, the surveyor's report should contain information similar to the following:

1. Upon discharge of corn soy blend from Hatch No. 4 on November 16, 1991, we noted 119 bags (as per attached tally) discharged wet. These bags were segregated and samples gave a positive saline reaction. No explanation was given by vessel personnel or is advanced by surveyors as to how bags became wet. Commodity was analyzed by the Health Authorities on November 18, 1991, and declared unfit for human consumption. Unfitness Certificate No. 123456 is attached to this report. The remaining contents of 119 bags weighing 860 pounds were fit for animal consumption and donated to the XYZ pig breeding farm, or

2. Upon discharge of bags of sorghum grits from Hatch No. 4 on November 16, 1991, 119 bags were discharged wet, torn and slack. These bags were segregated and tests gave a negative saline reaction. Vessel personnel advised that the bags could have been loaded wet as heavy showers occurred at the loading port of Corpus Christi. In our opinion the bags became wet because of inadequate dunnage to protect the cargo. Bags were lying on the hatch floor and what little dunnage was available was green and oozing. A representative sample of damaged cargo was drawn by surveyors, in the presence of ship's agents, on November 16, 1991, and forwarded to independent chemists, Jones & Jones, for analysis. Their report has yet to be received.

F. Comments and Analysis of:

1. Quality of Stevedore Labor,
2. Quality of Discharging Techniques,
3. Acceptability of Dock and Storage Area for Foodstuffs,
4. Quality of Stowage On Board Vessel.
5. Discharge in Accordance with the Customs of the Port/Country.

G. Stroke Tallies substantiating quantity shown in C 5.

H. List of Persons who witnessed vessel discharge and/or who can testify as to the factual situation when the vessel's liability ended.

12. AGENCY COMMUNICATION AND CONTRACT WITH SURVEYOR

A. Agencies should employ independent professional surveyors who will not only observe discharge and prepare a report, but who will also provide other services which will be of major worth. For instance, a surveyor should "supervise" the discharge of cargo rather than simply observe it. This does not imply that he should attempt to tell all concerned what to do, but it does imply that he would not stand idly by allowing cargoes to be damaged through destructive practices.

B. The surveyor should be the eyes and ears of the agencies at the ports of discharge and should make recommendations to the agencies which could possibly result in fewer losses to the program. Surveyor's should or could (depending upon the discretion of the agency) be given the responsibility of ensuring that suspect cargoes are promptly analyzed by proper Health Authorities, and be given the responsibility for obtaining various Port Certificates for unfitness, donations, shortlandings, etc.

C. A professional job is expected from a professional firm. The port area is the surveyor's work area and he should know better than anyone what actions or inactions should be taken to ensure the cargo moves through the port with the fewest losses possible and, when losses do occur, what actions, inactions, statements or documents are available and need to be obtained to substantiate a claim against the liable party.

D. Agencies should make surveyors aware that their reports will be utilized to document marine claims against steamship companies. Surveyors should be made to understand that they may be called upon in the future:

1. To clarify certain unclear issues with regard to the discharge of cargo and/or their report.

2. To furnish depositions for use in litigation of cargo loss and damage claims.

3. To appear, in rare instances, as a witness in a United States court.

E. Agencies should work closely with the surveying firm to ensure that all services expected by the agency are understood by the surveyor, and to ensure that the surveyor is providing the timely high quality service for which funds are being expended.

F. It is necessary that the agencies exercise leadership in ports of discharge and insist that the independent surveyor prepare reports that are complete as to the losses sustained, the nature and cause of the loss, how the loss was determined, and most importantly to ensure that the reports are based on examination of the cargo which was done no later than ex-ship's tackle.

G. If agencies are unable to locate an independent surveying firm in or near the port of discharge, or if agencies have reason to question the integrity or competency of the only surveyor in the area, agencies should consult with USAID as to how best to comply with the Regulations relating to the documenting of marine losses. The results of such discussion should be forwarded in detail to agency headquarters.

13. JOINT SURVEY

A. A joint survey, arranged for in advance by the agency and local agents of the carrier, is acceptable and, in some cases, desirable. The cost of the survey should be shared by the agency and the carrier's agent. Such joint surveys should eliminate factual disputes regarding losses sustained ex-ship's tackle.

B. In no case is a document prepared solely on behalf of the carrier to be substituted in lieu of the independent survey prepared on behalf of the agency.

C. If agencies enter into joint survey agreements, the headquarters office should be made aware of details.

14. IMPORTANT CONCERNS OF CCC

A. The regulations specifically provide that agencies will engage an independent surveyor to determine the amount and condition of the cargo upon discharge from the vessel. Generally speaking, we have found that agencies have not always employed an independent surveyor and/or that the documentation obtained is not contemporaneous with the discharge of the vessel. We have found, for example, that some agencies depend upon the carrier to furnish them with survey or outturn reports. In other cases, agencies have obtained only customs or port authority reports. While we are in favor of obtaining all possible information concerning a loss, including the carrier's survey or outturn reports, statements from the consignees, statements from port authorities, customs authorities or any other such supporting documentation, the furnishing of these documents does not negate the agencies' responsibility to obtain an independent survey. Documentation as discussed above should be considered as additional information instead of as a substitute for an independent survey report. It is imperative that agencies exert aggressive action to engage independent surveyors, at each port of discharge, who are competent, well recognized experts in preparing and/or obtaining proper documentation.

B. The importance of timely independent documentation cannot be over emphasized. Applicable maritime law provides that the ocean carrier cannot be held liable for losses occurring after the cargo leaves the control and custody of the carrier. Documentation prepared upon delivery of cargo, subsequent to the cargo leaving control and custody of the carrier, creates a number of problems. Normally such documentation includes losses that occurred in the port area and/or in customs clearance. The inclusion of such losses in claims against the ocean carrier creates severe factual disputes which delay settlement of the claims to the monetary disadvantage of the Government and the agencies. In addition, it results in a reduction of the interior losses which agencies are required to report to the USAID Mission inaccordance with the provisions of the Regulations. Therefore, the USAID Missions are deprived of accurate loss information which is necessary for them to properly carry out their responsibilities with regard to the program.

C. Notwithstanding Item B, the most important problem with untimely documentation is that it results in a claims prosecution program that is less than ideal. The burden of proof is upon the claimant to prove that the losses claimed are the liability of the carrier. In the absence of firm evidence to prove that the losses occurred when the cargo was in the control and custody of the carrier, successful litigation is virtually impossible. When we are denied the possibility of legal action to enforce collection, we are deprived of one of our most important tools of collection. Our many years of claims experience have proven vividly that the best loss prevention device is a strong and effective claims collection program. In other words, if we are given the tools in the way of timely complete documentation to aggressively and effectively collect claims for losses from ocean carriers, carriers will take more care and concern in the stowage, carriage, and discharge of cargo, and agency programs will benefit by receiving more usable commodities in the recipient countries.

Paragraphs 15 and 16 (Reserved)

Part 3 MITIGATION OF DAMAGES

17. DEFINITION

A. Dictionary defines "to mitigate" as:

1. To lessen in force or intensity,

2. To moderate the severity of anything distressing.

B. With reference to these Instructions, mitigation of damages applies to the expending of prompt and proper efforts to ensure that losses caused by the ocean carrier are kept to a minimum by the reconstruction and utilization of as much good commodity as possible.

18. PURPOSE

A. Applicable program commodities are made available to relieve human suffering and for the feeding of indigent and starving people. From a humanitarian and program point of view, damages must be mitigated to ensure that as much commodity reaches the intended program participant as possible.

B. In any claim situation, and specifically concerning the pursuit and adjudication of ocean transportation claims, a commonly accepted premise of applicable law is that the injured party must take reasonable actions to ensure that the loss does not increase. If damages increase because of the injured party's failure to take actions which a normally reasonable and prudent man would take in similar circumstances, such increased damages are not legally claimable against the ocean carrier. From a claims point of view, damages must be promptly mitigated to determine exact losses attributable to the ocean carrier.

19. RESPONSIBILITY FOR

A. Agencies have the primary responsibility to ensure that damages are promptly mitigated.

B. Agencies may utilize the services of an independent surveyor to assist in mitigation of damages.

1. This aspect of the surveyor's services should be specifically agreed upon between agency and surveyor in advance. (See Paragraph 12 of these Instructions.)

2. The cost of reconstitution materials and contract labor shall not be included in the cost of the survey report. The above expenses shall be reported separately to agency headquarters for inclusion in the claim against the ocean carrier.

C. The agencies' responsibility for prompt and proper mitigation of damages in the applicable Program must be taken very seriously in view of:

1. The fact that foodstuffs are susceptible to spoilage.

2. The fact that most port areas do not have sophisticated equipment and facilities.

3. The fact that port areas are generally unclean areas.

4. The fact that pilferage by humans and destruction of cargo by animals is a way of life in some port areas.

20. COSTS OF REPAIRING PACKAGING DAMAGE

A. If agencies determine that repackaging is necessary to ensure that commodities arrive at the distribution point in wholesome condition, costs up to and including $500 may be incurred without prior approval of USAID or the Diplomatic Post.

B. Costs in excess of $500 may be incurred with the prior approval of USAID or the Diplomatic Post.

C. Invoices or other documents supporting these costs should be forwarded to the headquarters' office of the agency. In accordance with applicable regulations, properly supported costs will be reimbursed to agency headquarters by CCC.

D. Agencies should clearly distinguish between reconstitution costs incurred because of damage caused by the ocean carrier and reconstitution costs incurred because of damage at a subsequent time.

21. EXAMPLES OF PROPER AND IMPROPER MITIGATION OF DAMAGES

A. Ocean carrier discharged 300 bags of corn soy blend in slack and torn condition on November 18, 1991. At discharge, the surveyor estimated that the slack and torn bags were missing 1/6th of their contents. Cargo remaining in torn and slack bags was not contaminated with foreign substance and not suspected to be unfit for human consumption. Remaining cargo was reconstituted into 230 bags (50 pounds each) on November 20, 1991. Damages in this situation were properly mitigated. The loss of 70 bags of cargo due to slackage is well documented as being for the account of the ocean carrier. Collection of such a claim should not pose any problem.

B. Ocean carrier discharged 300 bags of corn soy blend in slack and torn condition on November 18, 1991. At discharge the surveyor estimated that the slack and torn bags were missing 1/6th of their contents. Cargo remaining in torn and slack bags was not contaminated with foreign substance and was not suspected to be unfit for human consumption. Remaining contents in torn and slack bags were not reconstituted until December 20, 1991, when such remaining contents (which are determined fit for human consumption) were filled into 200 bags (50 pounds each). Damages in this situation were not promptly and properly mitigated as 33 days elapsed between the time the carrier's liability ended and the time cargo was reconstituted. The loss of 100 bags of cargo due to slackage will be claimed and pursued against the ocean carrier. Such a claim, however, would probably be compromised as:

1. We do not know the exact amount of slackage loss at time of discharge, and

2. Additional losses to the 300 bags of cargo could have easily occurred after the cargo left the custody of the vessel.

C. Ocean carrier discharged 300 bags of corn soy blend in slack and torn condition on November 18, 1991. At discharge the surveyor estimated that the slack and torn bags were missing 1/6th of their contents. Cargo remaining in torn and slack bags was not contaminated with foreign substance and was not suspected to be unfit for human consumption. Remaining contents of the slack and torn bags were not reconstituted until January 5, 1992. At that time, the local health authorities condemned the cargo as unfit for human consumption. The loss of 50 bags of commodity due to slackage is properly claimable against the ocean carrier. The loss of the remaining contents which were unfit for human consumption is not properly claimable against the ocean carrier as damages in this situation were not promptly and properly mitigated.

22. CCC CONCERNS AND PAST DEFICIENCIES

A. In the past, too many situations similar to the example shown in Paragraph 21 C of these Instructions have been noted. In many of these instances, cargo remained unreconstituted in slack and torn bags for as long as six months before any action was taken. Such failure on the agencies' part to promptly and properly mitigate damages deprives indigent people of badly needed food, and places agency headquarters in a position of justifying to CCC why a claim for such additional losses arising from agency fault and negligence should not be pursued by CCC against the agency. We have no desire to file and pursue claims against an agency. We do, however, have a firm commitment to reducing losses to a minimum and to being in a position to pursue claims against liable parties from a position of strength. We request on current shipments that the agencies' responsibilities regarding mitigation of damages be kept firmly in mind and that agencies take actions which would, under the circumstances, be attributable to a reasonable and prudent man.

B. In some instances, extenuating circumstances occur which prevent agencies from promptly and properly mitigating damages. It is also possible that, because of actions or inactions of the ocean carrier or its agents that the ocean carrier could conceivably remain liable for the entire 300 bag loss detailed in the example in Paragraph 21 C. In these instances, it is imperative that agencies provide a narrative commentary and chronology of events which either:

1. Justifies why losses could not be properly mitigated and/or

2. Explains circumstances which would allow the claimant to sustain the burden of proof against the ocean carrier for the loss.

23. AGENCY DECISIONS REGARDING UTILIZATION OF COMMODITIES

A. Agencies have the final decision as to whether to utilize cargoes in approved programs.

B. NOTHING in these Instructions should be construed as requiring or even suggesting that less than wholesome food products be placed into distribution channels.

Paragraph 24 - 25 (RESERVED)

PART 4 DOCUMENTATION NECESSARY TO PROVE COMMODITIES UNFIT FOR HUMAN CONSUMPTION

0 The following Instructions relate to the documentation necessary to prove the ocean carrier liable for the loss of commodities which arrive in a condition which renders them unfit for human consumption. Commodities which deteriorate and become unfit for human consumption after they leave the custody of the vessel are considered as interior losses and are not discussed herein. It is imperative that the determination of unfitness of commodities be issued by an individual or entity who is legally qualified either by position or education to make such a determination. For instance, a good faith statement by an agency representative or even a surveyor does not, in and of itself, prove unfitness because such persons are not legally qualified to make a statement.

26. CERTIFICATION BY PORT HEALTH AUTHORITIES

If the discharge port employs an individual whose responsibility is to make determinations of fitness and unfitness of incoming cargoes, agencies should:

A. Promptly notify him of the discharge of suspect commodities,

B. Request that he review and analyze such suspect commodities,

C. Obtain a written statement or certificate from the health authorities which includes, but need not be limited to:

1. Name of the vessel,
2. Date of discharge from the vessel,
3. Date of examination of suspect cargo,
4. Place of examination,
5. Amount (bags, cartons, pounds, etc.) of cargo examined,
6. Amount of cargo fit for human consumption,
7. Amount of cargo unfit for human consumption,
8. Reason(s) why cargo is unfit for human consumption,
9. Advice as to whether cargo is fit for animal consumption,
10. Signature and title of person making determinations.

27. ANALYSIS BY INDEPENDENT CHEMIST OR PRIVATE LABORATORY

If the discharge port does not employ a health official, or if the agency deems it appropriate, employ (or have the surveyor employ) an independent chemist or private laboratory to analyze suspect cargoes.

A. Samples of suspect cargoes:

1. Must be representative of the quantity of suspect cargo. For instance, a one or two pound sample taken from one bag of commodity would not be representative for an analysis which could result in the contents of 50 bags not being utilized in the program,

2. Should, if at all possible, be drawn jointly by the agency (or surveyor) and the vessel's agents,

3. Should be properly identified as to which samples came from which cargoes,

4. Should be properly sealed to protect the integrity of the sample,

5. Should be properly forwarded to the chemist or laboratory.

B. The report from the chemist or private laboratory should clearly identify each of the samples analyzed, and should contain similar information to that enumerated in Paragraph 26 C.

C. The cost of such an analysis and report from the chemist or private laboratory will be reimbursed to the agency headquarters by CCC. Therefore, this cost could be included in the cost of the survey report.

28. CARGOES "OBVIOUSLY" UNFIT FOR HUMAN CONSUMPTION

What is obvious to one individual at a point and place in time is not similarly obvious to another some six months later and thousands of miles away. It is therefore necessary that even "obviously" unfit cargoes be documented as such.

A. Agencies should obtain documentation as detailed in Paragraph 26 or 27 or

B. Obtain a statement similar to that required in Paragraph 26 C which is signed by an agency representative and a representative of the vessel which specifically states that both individuals agree that the cargo is unfit for human consumption.

29. TIMELINESS OF DOCUMENTATION

As has been stated throughout these Instructions, the MOST IMPORTANT element of a successful claims prosecution program is the obtaining of documentation which is based upon the analyses of cargo at the time the ocean carrier~s liability ends, i.e., at ship's tackle. This is especially true in documenting a claim for unfitness. Survey reports should state that a certain quantity of cargo is suspected as being unfit for human consumption.

A. If possible, cargo should be reviewed and analyzed by proper authorities in vessel's holds or immediately upon discharge.

B. If port conditions or customs do not allow for such prompt review, analyses should be made as soon as possible after discharge.

C. In cases where cargoes are noted by the surveyor as being damaged on board the vessel and where such cargoes are later declared unfit for human consumption, a cause-effect relationship exists between damage and declaration of unfitness. The key to this cause-effect relationship is the time involved between discharge and the declaration of unfitness. For instance:

1. If damaged cargo is discharged on November 20, 1991, and the same cargo is declared unfit for human consumption on November 25, 1991, the cause-effect relationship can normally be established, and collection for such losses can be pursued from a position of strength.

2. If the same damaged cargo is declared unfit on December 15, 1991, the cause-effect relationship grows thin and collection possibility decreases considerably.

3. If the damaged cargo is not determined unfit until January 25, 1992, the cause-effect relationship is gone and little if any hope exists for collection. In both the latter examples, the question arises as to whether the agency properly and promptly mitigated the damages. A narrative statement should be forwarded in these cases to agency headquarters explaining why damaged cargoes were not promptly analyzed and/or reconstituted.

Paragraph 30 - 33 (RESERVED)

PART 5 CARGOES MANIFESTED BUT NOT DISCHARGED

34. SHORTLANDING OF CARGO

The failure of an ocean carrier to discharge cargo which was loaded onto the vessel is a serious breach of the contract of carriage between the agency and the ocean carrier. Losses of cargo due to shortlanding are vigorously pursued, and full payment for such losses is demanded.

A. Various documents are issued at ports which document shortlandings. Some are appropriately called Shortlanding Certificates; others have less descriptive titles. Agencies (or surveyors acting on behalf of agencies) should obtain copies of such official port certifications which show the quantity of cargo shortlanded.

B. Paragraph 11 describes the contents of a survey report. Specific quantities of cargo discharged should be noted and tallies verifying the quantity discharged should be included. The surveyor should be specifically advised of this responsibility and should ensure sufficient labor is engaged to obtain an accurate discharge tally.

C. In the event that cargo reported as shortlanded is subsequently located, documentation to show the recovery of such cargo should be issued and forwarded to agency headquarters on the earliest possible date. Documentation to reflect such recovery is required so that the carrier's liability may be appropriately reduced and so that agency headquarters and/or CCC will not be pursuing a claim for shortages where shortages no longer exist.

PART 6 MISCELLANEOUS DOCUMENTS AND REQUIREMENTS SPECIALIZED SITUATIONS

37. NOTICE OF PROTEST

A. COGSA requires that the agency notify the ocean carrier, within three (3) days after discharge, that shortages and/or damages to the cargo have occurred.

B. Agencies shall notify the carrier or its agents in writing.

C. See Attachment 1. Such notification should include:

D. Date of Notification, Name of the Vessel, Description of Cargo, Estimation of Quantity Lost or Damaged.

38. BULK CARGOES

A. Documenting shortages on shipments of whole grains and edible oil in bulk has long been a major problem because most discharge ports do not have adequate facilities to properly measure the quantity of cargo discharged from the vessel. Thus, the determination of the amount discharged is generally made after discharge, and after cargo is bagged. With non-standardized quantities of bulk grain being loaded into bags at a time and place subsequent to the time when the vessel's liability ends, shortage claims are very difficult to collect. Additional factors such as the fact that bulk grains will gain or lose weight depending upon relative moisture in the air, and the fact that discharge port scales are often not properly maintained and therefore are of questionable accuracy make the pursuit of such shortage claims far from a rewarding task.

B. Notwithstanding the above, agencies remain responsible for ensuring that survey reports and applicable port documents are obtained on each shipment in accordance with applicable regulations or shipment agreements. Agencies should insist that the surveyor prepare a narrative stating, in its opinion, when, where and how shortages may have occurred.

39. CONTAINERIZED CARGOES

Many ocean carriers are now shipping cargoes in containers rather than break bulk. Generally speaking, the use of containers reduces the amount of handling that individual bags of cargo must receive thereby reducing the possibility of losses. When cargoes arrive in container vans, the agency shall:

A. Require the surveyor to list the container van numbers and the appropriate seal numbers,

B. Require the surveyor to advise whether the container vans were in any way damaged,

where the seals on the vans are broken and by whom,

D. Request that the surveyor attend the discharge of the container vans from the vessel, if possible, as well as at the time cargo is removed from the container van, and C. Forward information (either in the survey report or in a narrative statement) as to when and

E. Ensure that the surveyor prepares a survey report in accordance with Paragraph 11.

40. EXCESS-LANDED CARGOES

A. Definition: Cargoes which are discharged at port in excess of the manifested Bill of Lading quantity.

B. When agencies are made aware of excess-landed cargo, take appropriate action to ensure that sound cargo is utilized in the Program. In many cases, agencies must communicate with local agents of the steamship company to have entry documents changed. Also, in many cases the agency is called upon to spend additional time to obtain the use of such commodity. Such additional time and effort is required to ensure that wholesome foodstuffs do not sit rotting in a port area for want of proper documents.

C. Document the receipt of such excess-landed cargo and advise agency headquarters noting the following:

1. First notification of excess cargo (date, time, how notified), 2. All actions taken to obtain excess cargo, 3. Date and place when commodity made available to agency, Condition of cargo, Disposition of cargo.

41. DISPOSITION OF CARGOES DETERMINED UNFIT FOR HUMAN CONSUMPTION

A. Ensure that commodities are utilized neither for human consumption nor for purposes contrary to the best interests of the United States.

B. Obtain a statement showing the disposition of commodities in any case where commodities are not utilized for the purpose intended. The statement should include the date, quantity of commodity and name of purchaser or donee, along with the following:

1. If sold, a copy of the sales invoice, showing the sales price and the rate of exchange plus documentation showing that the sales proceeds were deposited with the U.S. Disbursing Officer to CCC Account Number 20FT401.

2. If donated, a copy of the receipt signed by donee.

3. If destroyed, a copy of the destruction certification showing the names of the individual witnessing the destruction.

42. LIGHTERAGE

Lighterage is a method of discharging cargoes from a heavy draft vessel which cannot (because of shallow-draft port conditions) or does not (for whatever reasons) come into the port area and discharge cargoes onto the dock area. When cargoes are lightened ashore, the mother vessel discharges cargo into a smaller vessel (a lighter) and the lighter carries the cargo ashore and places the cargo onto the docks. Generally speaking, the discharge of cargoes via lighter carriers should be avoided, if possible, because individual bags of cargo are handled one additional time, thus increasing the possibility of damage. Also, in some ports, lighterage vessels do not provide adequate security for cargoes either from the elements or from pilferage. Over the years, records show considerably increased damage to cargo when it is necessary to discharge via lighters.

A. Responsibility for lighterage losses must be determined by the local laws and customs of the port. As a general rule, the person requesting and paying for lighters is responsible for lighterage losses. Thus, if the ocean carrier chooses to discharge cargo into lighters, the ocean carrier is responsible for all losses until cargo is placed upon a fit wharf. Thus, the losses would be considered a marine loss and such losses should be documented in the normal manner and forwarded to agency headquarters. If the agency chooses to have cargoes discharged into lighters and pays for the services of the lighterage company, losses on board lighters would be considered as interior losses and claims should led against the lighterage company by the field or mission and reported to USAID.

If the ocean carrier is responsible for lighterage losses, obtain survey reports and other applicable documents discussed herein at the time cargo is discharged from the lighters.

C. If the ocean carrier is not responsible for lighterage losses, obtain survey reports to document marine losses showing the conditions of the cargo when it is discharged into lighters.

D. At ports where lighterage is a commonly utilized method of discharge, it is imperative that agencies determine, under local law, who is responsible for lighterage losses and proceed accordingly. Agencies should prepare a statement of the results of their investigation and decision in this regard, discuss the situation with USAID, if necessary, and forward the statement of conditions to the agency headquarters.

43. CARRIER OUTTURN REPORT

A. Definition: A document prepared by the vessel or the vessel's agents showing, in their opinion, the quality and quantity of cargo discharged from the vessel.

B. Agencies should attempt to obtain a copy of the outturn report.

C. Agencies should compare the outturn report with the independent survey report, note discrepancies, and, through communication with the surveyors and the vessel~s agents, attempt to resolve discrepancies. If discrepancies cannot be resolved, communications should be initiated to determine why discrepancies exist.

D. Agencies should advise agency headquarters of the results of such communications.

E. Agencies should not substitute the vessel~s outturn report for the required independent survey report.

44. OFFICIAL PORT RECORDS

A. Some ports of discharge prepare a complete set of documents showing the quantity and quality of cargo when it is received by the port.

B. When such documents can be obtained, agencies should obtain and forward such documents.

C. Agencies should not substitute official port records for independent survey report. EXCEPTION: See Paragraph 6 B 1.

PART 7 TRANSMISSION OF DOCUMENTS

45. WHAT AND WHERE TO SUBMIT

A. Forward the originals of all documents, if available, including, but not limited to, survey reports, carrier outturn reports and various port documents to agency headquarters along with any documents required by agency headquarters, but not covered herein. If originals are not available, forward legible signed copies.

B. When forwarding documents or correspondence prepared in a language other than English, also forward a literal English translation.

46. WHEN TO SUBMIT

A. To the extent practicable, all documentation concerning the marine loss and damage to the cargo should be submitted as a package to agency headquarters as soon as all such documents are available.

B. In all cases, submit whatever documentation has been obtained within three (3) months after the discharge of the vessel. If documentation is not complete as of this date, advise agency headquarters of reasons for delay and advise which documents are yet to be submitted.

PART 8 GENERAL

47. CCC RESPONSIBILITY AND GOALS

CCC Debt Management Division is concerned firstly with preventing losses; secondly, with keeping losses (when they do occur) to a minimum with prompt and proper salvage and reconstitution to the extent practicable; and thirdly, with collecting for marine losses. When the agencies communicate with surveyors and tell them what is necessary, and when the receipt of timely detailed accurate survey reports becomes the rule in the various programs, we believe the amount of losses to the program will be considerably smaller than we have today. We believe that when these comprehensive reports are received on all discharges of applicable program commodities, we will have sufficient information to correctly identify the party responsible for causing losses to cargo, and will have the wherewithal to pursue such losses (if they are marine losses) from a position of strength. If losses are determined to be inland losses, AID will have specific information upon which to take whatever action they deem necessary.

In summary, timely detailed complete and accurate documentary evidence at discharge is necessary to pursue claims from a position of strength. When this type of documentation is obtained, steamship companies are going to become well aware that any damages they cause to commodities will be recovered through the claims process. When this occurs, cargoes are going to receive better care and custody and more cargo will be available to feed hungry and indigent people. That is the purpose of the program, and that is what we are striving for.

DATE: January 1, 1993