

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

3 **SEC. 3001. SHORT TITLE.**

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

9 (b) **CONFORMING AMENDMENTS.**—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (V) Section 1707 of the Cuban Democracy
25 Act of 1992 (22 U.S.C. 6006).

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

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

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

9 (Z) Section 4 of the Strategic and Critical
10 Materials Stock Piling Act (50 U.S.C. 98e).

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

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

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

23 **SEC. 3002. UNITED STATES POLICY.**

24 Section 2 of the Food for Peace Act (7 U.S.C. 1691)
25 is amended—

1 (1) by striking paragraph (4); and

2 (2) by redesignating paragraphs (5) and (6) as
3 paragraphs (4) and (5), respectively.

4 **SEC. 3003. FOOD AID TO DEVELOPING COUNTRIES.**

5 Section 3(b) of the Food for Peace Act (7 U.S.C.
6 1691a(b)) is amended by striking “(b)” and all that fol-
7 lows through paragraph (1) and inserting the following:

8 “(b) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that—

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

14 “(A) seek commitments of higher levels of
15 food aid by donors in order to meet the legiti-
16 mate needs of developing countries;

17 “(B) ensure, to the maximum extent prac-
18 ticable, that humanitarian nongovernmental or-
19 ganizations, recipient country governments,
20 charitable bodies, and international organiza-
21 tions shall continue—

22 “(i) to be eligible to receive resources
23 based on assessments of need conducted by
24 those organizations and entities; and

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

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

11 “(i) is based on assessments of need
12 and intended to benefit the food security
13 of, or otherwise assist, recipients, and

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

19 **SEC. 3004. TRADE AND DEVELOPMENT ASSISTANCE.**

20 (a) Title I of the Food for Peace Act (7 U.S.C. 1701
21 et seq.) is amended in the title heading, by striking
22 **“TRADE AND DEVELOPMENT ASSISTANCE”**
23 and inserting **“ECONOMIC ASSISTANCE AND**
24 **FOOD SECURITY”**.

1 (b) Section 101 of the Food for Peace Act (7 U.S.C.
2 1701) is amended in the section heading, by striking
3 “**TRADE AND DEVELOPMENT ASSISTANCE**” and in-
4 serting “**ECONOMIC ASSISTANCE AND FOOD SECUR-**
5 **RITY**”.

6 **SEC. 3005. AGREEMENTS REGARDING ELIGIBLE COUN-**
7 **TRIES AND PRIVATE ENTITIES.**

8 Section 102 of the Food for Peace Act (7 U.S.C.
9 1702) is amended—

10 (1) in subsection (a)—

11 (A) by striking paragraph (1); and

12 (B) by redesignating paragraphs (2) and
13 (3) as paragraphs (1) and (2), respectively; and

14 (2) by striking subsection (c).

15 **SEC. 3006. USE OF LOCAL CURRENCY PAYMENTS.**

16 Section 104(c) of the Food for Peace Act (7 U.S.C.
17 1704(c)) is amended—

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

22 (2) by striking paragraph (1);

23 (3) in paragraph (2)—

24 (A) in subparagraph (C), by striking
25 “and” at the end;

1 (B) in subparagraph (D), by striking the
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(E) the improvement of the trade capac-
5 ity of the recipient country.”;

6 (4) in paragraph (3), by striking “agricultural
7 business development and agricultural trade expan-
8 sion” and inserting “development of agricultural
9 businesses and agricultural trade capacity”;

10 (5) in paragraph (4), by striking “, or other-
11 wise” and all that follows through “United States”;

12 (6) in paragraph (5), by inserting “to promote
13 agricultural products produced in appropriate devel-
14 oping countries” after “trade fairs”; and

15 (7) by redesignating paragraphs (2) through
16 (9) as paragraphs (1) through (8), respectively.

17 **SEC. 3007. GENERAL AUTHORITY.**

18 Section 201 of the Food for Peace Act (7 U.S.C.
19 1721) is amended—

20 (1) by striking paragraph (1) and inserting the
21 following:

22 “(1) address famine and food crises, and re-
23 spond to emergency food needs, arising from man-
24 made and natural disasters;”;

25 (2) in paragraph (5)—

1 (A) by inserting “food security and sup-
2 port” after “promote”; and

3 (B) by striking “; and” and inserting a
4 semicolon;

5 (3) in paragraph (6), by striking the period at
6 the end and inserting “; and”; and

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

8 “(7) promote economic and nutritional security
9 by increasing educational, training, and other pro-
10 ductive activities.”.

11 **SEC. 3008. PROVISION OF AGRICULTURAL COMMODITIES.**

12 Section 202 of the Food for Peace Act (7 U.S.C.
13 1722) is amended—

14 (1) in subsection (b)(2), by striking “may not
15 deny a request for funds” and inserting “may not
16 use as a sole rationale for denying a request for
17 funds”;

18 (2) in subsection (e)(1)—

19 (A) in the matter preceding subparagraph
20 (A), by striking “not less than 5 percent nor
21 more than 10 percent” and inserting “not less
22 than 7.5 percent nor more than 13 percent”;

23 (B) in subparagraph (A), by striking “;
24 and” and inserting a semicolon;

1 (C) in subparagraph (B), by striking the
2 period at the end and inserting “; and”; and

3 (D) by adding at the end the following:

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

8 (3) by striking subsection (h) and inserting the
9 following:

10 “(h) FOOD AID QUALITY.—

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

14 “(A) to assess the types and quality of ag-
15 ricultural commodities and products donated for
16 food aid;

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

22 “(C) to test prototypes.

23 “(2) ADMINISTRATION.—The Administrator—

24 “(A) shall carry out this subsection in con-
25 sultation with and through independent entities

1 with proven expertise in food aid commodity
2 quality enhancements;

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

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

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

12 **SEC. 3009. GENERATION AND USE OF CURRENCIES BY PRI-**
13 **VATE VOLUNTARY ORGANIZATIONS AND CO-**
14 **OPERATIVES.**

15 Section 203(b) of the Food for Peace Act (7 U.S.C.
16 1723(b)) is amended by striking “1 or more recipient
17 countries” and inserting “in 1 or more recipient coun-
18 tries”.

19 **SEC. 3010. LEVELS OF ASSISTANCE.**

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

22 (1) in paragraph (1), by striking “2002
23 through 2007” and inserting “2008 through 2012”;
24 and

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

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

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

6 (1) in subsection (b)—

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

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

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

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

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

18 **SEC. 3012. ADMINISTRATION.**

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

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

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

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

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

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

10 “(f) **PROGRAM OVERSIGHT, MONITORING, AND EVAL-**
11 **UATION.**—

12 “(1) **DUTIES OF ADMINISTRATOR.**—The Admin-
13 istrator, in consultation with the Secretary, shall es-
14 tablish systems and carry out activities—

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

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

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

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

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

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

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

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

9 “(F) upgraded information technology sys-
10 tems.

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

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

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

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

6 “(5) CONTRACT AUTHORITY.—

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

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

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

1 “(6) FUNDING.—

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

12 “(B) LIMITATIONS.—

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

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

1 “(g) PROJECT REPORTING.—

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

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

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

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

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

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

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

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

1 (1) by striking subsection (a);

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

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

6 (b) CONFORMING AMENDMENTS.—

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

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

15 **SEC. 3015. DEFINITIONS.**

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

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

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

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

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

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

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

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

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

12 **SEC. 3017. ADMINISTRATIVE PROVISIONS.**

13 Section 407(c) of the Food for Peace Act (7 U.S.C.
14 1736a(c)) is amended—

15 (1) in paragraph (4)—

16 (A) by striking “Funds made” and insert-
17 ing the following:

18 “(A) IN GENERAL.—Funds made”;

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

21 (i) by striking “2007” and inserting
22 “2012”; and

23 (ii) by striking “\$2,000,000” and in-
24 serting “\$10,000,000”; and

25 (C) by adding at the end the following:

1 “(B) ADDITIONAL PREPOSITIONING
2 SITES.—

3 “(i) FEASIBILITY ASSESSMENTS.—

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

10 “(ii) ESTABLISHMENT OF SITES.—

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

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

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

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

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

7 “(f) ANNUAL REPORTS.—

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

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

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

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

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

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

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

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

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

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

22 “(vi) an assessment of—

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

1 “(II) the impact of each program
2 oversight, monitoring, and evaluation
3 system on the effectiveness and effi-
4 ciency of assistance provided under
5 this title; and

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

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

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

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

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

1 approved for assistance under section 207;
2 and

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

7 (b) CONFORMING AMENDMENT.—Section 207(e) of
8 the Food for Peace Act (7 U.S.C. 1726a(e)) is amended—

9 (1) by striking “TIMELY APPROVAL.” and all
10 that follows through “The Administrator” and in-
11 sserting “TIMELY APPROVAL.—The Administrator”;
12 and

13 (2) by striking paragraph (2).

14 **SEC. 3019. EXPIRATION OF ASSISTANCE.**

15 Section 408 of the Food for Peace Act (7 U.S.C.
16 1736b) is amended by striking “2007” and inserting
17 “2012”.

18 **SEC. 3020. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

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

3 “(2) such sums as are necessary—

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

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

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

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

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

19 “(e) MINIMUM LEVEL OF NONEMERGENCY FOOD AS-
20 SISTANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(ii) the Department of Agriculture;

4 “(B) to increase flexibility with respect to
5 procurement schedules;

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

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

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

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

14 (1) in subsection (a)—

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

21 (B) in paragraph (2)—

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

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

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

13 (2) by striking subsection (b) and redesignating
14 subsections (c) and (d) as subsections (b) and (c),
15 respectively; and

16 (3) in subsection (c) (as redesignated by para-
17 graph (2)), by striking “2007” and inserting
18 “2012”.

19 **SEC. 3024. JOHN OGWONSKI AND DOUG BEREUTER FARM-**
20 **ER-TO-FARMER PROGRAM.**

21 (a) **MINIMUM FUNDING.**—Section 501(d) of the Food
22 for Peace Act (7 U.S.C. 1737(d)) is amended in the mat-
23 ter preceding paragraph (1)—

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

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

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

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

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

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

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

17 **SEC. 3101. EXPORT CREDIT GUARANTEE PROGRAM.**

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

22 (1) in subsection (a)—

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

1 graph (1) and inserting “GUARANTEES.—The
2 Commodity”; and

3 (B) by striking paragraphs (2) and (3);
4 (2) by striking subsections (b) and (c);
5 (3) by redesignating subsections (d) through (l)
6 as subsections (b) through (j), respectively; and

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

8 “(k) ADMINISTRATION.—

9 “(1) DEFINITION OF LONG TERM.—In this sub-
10 section, the term ‘long term’ means a period of 10
11 or more years.

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

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

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

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

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

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

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

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

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

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

20 “(2) the sum of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **“TITLE III—BARRIERS TO**
16 **EXPORTS”;**

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

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

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

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

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

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

10 **SEC. 3104. FOREIGN MARKET DEVELOPMENT COOPERATOR**
11 **PROGRAM.**

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

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

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

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

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

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

3 “(6) PROJECT IN MALAWI.—

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

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

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

12 “(B) USE OF ELIGIBLE COMMODITIES.—

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

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

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

1 (1) in subsections (b), (c)(2)(B), (f)(1), (h), (i),
2 and (l)(1), by striking “President” each place it ap-
3 pears and inserting “Secretary”;

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

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

9 (4) in subsection (l)—

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

12 “(1) USE OF COMMODITY CREDIT CORPORATION
13 FUNDS.—Of the funds of the Commodity Credit
14 Corporation, the Secretary shall use to carry out this
15 section \$84,000,000 for fiscal year 2009, to remain
16 available until expended.”;

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

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

1 **Subtitle C—Miscellaneous**

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

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

5 (1) in subsection (a)—

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

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

13 (2) in subsection (b)—

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

16 “(D) funds made available—

17 “(i) under paragraph (2)(B);

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

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

1 “(i) IN GENERAL.—In this paragraph,
2 the term ‘emergency’ means an urgent sit-
3 uation—

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

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

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

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

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

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

24 “(II) a human-made emergency
25 resulting in—

1 “(aa) a significant influx of
2 refugees;

3 “(bb) the internal displace-
4 ment of populations; or

5 “(cc) the suffering of other-
6 wise affected populations;

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

14 “(IV) severe food access or avail-
15 ability conditions resulting from sud-
16 den economic shocks, market failure,
17 or economic collapse, that result in an
18 erosion of the ability of communities
19 and vulnerable populations to meet
20 food needs.

21 “(B) RELEASES.—

22 “(i) IN GENERAL.—Any funds or com-
23 modities held in the trust may be released
24 to provide food, and cover any associated

1 costs, under title II of the Food for Peace
2 Act (7 U.S.C. 1721 et seq.)—

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

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

9 “(III) for recovery and rehabilita-
10 tion after an emergency.

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

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

23 “(D) WAIVER RELATING TO MINIMUM
24 TONNAGE REQUIREMENTS.—Nothing in this
25 paragraph requires a waiver by the Adminis-

1 trator of the Agency for International Develop-
2 ment under section 204(a)(3) of the Food for
3 Peace Act (7 U.S.C. 1724(a)(3)) as a condition
4 for a release of funds or commodities under
5 subparagraph (B).”; and

6 (B) by redesignating paragraphs (3)
7 through (5) as paragraphs (2) through (4), re-
8 spectively;

9 (4) in subsection (d)—

10 (A) by redesignating paragraphs (1)
11 through (3) as subparagraphs (A) through (C),
12 respectively, and indenting the subparagraphs
13 appropriately;

14 (B) by striking the subsection designation
15 and heading and all that follows through “pro-
16 vide—” and inserting the following:

17 “(d) MANAGEMENT OF TRUST.—

18 “(1) IN GENERAL.—The Secretary shall provide
19 for the management of eligible commodities and
20 funds held in the trust in a manner that is con-
21 sistent with maximizing the value of the trust, as de-
22 termined by the Secretary.

23 “(2) ELIGIBLE COMMODITIES.—The Secretary
24 shall provide—”;

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

3 (i) in subparagraph (B) (as redesignated by subparagraph (A)), by striking
4 “and” at the end; and
5

6 (ii) in subparagraph (C) (as redesignated by subparagraph (A)), by striking
7 the period at the end and inserting “;
8 and”; and
9

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

11 “(3) FUNDS.—

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

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

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

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

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

12 (1) the maintenance and storage of seed collec-
13 tions;

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

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

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

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

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

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

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

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

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

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

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

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

3 “(1) significant sanitary or phytosanitary issue;

4 or

5 “(2) trade barrier.

6 “(e) FUNDING.—

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

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

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

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

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

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

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

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

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

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

1 (2) in subsection (b)—

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

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

8 “(1) IN GENERAL.—A portion”;

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

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

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

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

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

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

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

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

6 “(B) 20 years.”; and

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

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

12 (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

24 (c) DUTIES.—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of enactment of this Act and in accordance
3 with section 105(d) of the Trafficking Victims Pro-
4 tection Act of 2000 (22 U.S.C. 7103(d)), as applica-
5 ble to the importation of agricultural products made
6 with the use of child labor or forced labor, the Con-
7 sultative Group shall develop, and submit to the Sec-
8 retary, recommendations relating to a standard set
9 of practices for independent, third-party monitoring
10 and verification for the production, processing, and
11 distribution of agricultural products or commodities
12 to reduce the likelihood that agricultural products or
13 commodities imported into the United States are
14 produced with the use of forced labor or child labor.

15 (2) GUIDELINES.—

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

23 (B) REQUIREMENTS.—Guidelines released
24 under subparagraph (A) shall be published in

1 the Federal Register and made available for
2 public comment for a period of 90 days.

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

5 (1) 2 members shall represent the Department
6 of Agriculture, as determined by the Secretary;

7 (2) 1 member shall be the Deputy Under Sec-
8 retary for International Affairs of the Department of
9 Labor;

10 (3) 1 member shall represent the Department
11 of State, as determined by the Secretary of State;

12 (4) 3 members shall represent private agri-
13 culture-related enterprises, which may include retail-
14 ers, food processors, importers, and producers, of
15 whom at least 1 member shall be an importer, food
16 processor, or retailer who utilizes independent, third-
17 party supply chain monitoring for forced labor or
18 child labor;

19 (5) 2 members shall represent institutions of
20 higher education and research institutions, as deter-
21 mined appropriate by the Bureau of International
22 Labor Affairs of the Department of Labor;

23 (6) 1 member shall represent an organization
24 that provides independent, third-party certification

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

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

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

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

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

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

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

7 (i) TERMINATION OF AUTHORITY.—The Consultative
8 Group shall terminate on December 31, 2012.

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

11 (a) DEFINITIONS.—In this section:

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

15 (2) APPROPRIATE COMMITTEE OF CONGRESS.—
16 The term “appropriate committee of Congress”
17 means—

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

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

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

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

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

6 (B) at a minimum, meets each nutritional,
7 quality, and labeling standard of the country
8 that receives the agricultural commodity, as de-
9 termined by the Secretary.

10 (4) ELIGIBLE ORGANIZATION.—The term “eligi-
11 ble organization” means an organization that is—

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

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

20 (b) STUDY; FIELD-BASED PROJECTS.—

21 (1) STUDY.—

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

1 regional procurements for food aid programs
2 conducted by—

3 (i) other donor countries;

4 (ii) private voluntary organizations;

5 and

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

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

14 (2) FIELD-BASED PROJECTS.—

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

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

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

3 (c) PROCUREMENT.—

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

16 (2) REQUIREMENTS.—

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

23 (i) the recipient country of the eligible
24 commodity; or

1 (ii) any country in the region in which
2 the eligible commodity may be procured.

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

8 (i) the resale or transshipment of any
9 eligible commodity procured under this sec-
10 tion to any country other than the recipi-
11 ent country; and

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

14 (C) WORLD PRICES.—

15 (i) IN GENERAL.—In carrying out this
16 section, the Secretary shall take any pre-
17 caution that the Secretary considers to be
18 reasonable to ensure that the procurement
19 of eligible commodities will not unduly dis-
20 rupt—

21 (I) world prices for agricultural
22 commodities; or

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

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

7 (d) REGULATIONS; GUIDELINES.—

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

14 (2) REQUIREMENTS.—

15 (A) USE OF STUDY.—In promulgating reg-
16 ulations or issuing guidelines under paragraph
17 (1), the Secretary shall take into consideration
18 the results of the study described in subsection
19 (b)(1).

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

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

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

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

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

14 (A) APPLICATION.—

15 (i) IN GENERAL.—To be eligible to re-
16 ceive a grant from, or enter into a coopera-
17 tive agreement with, the Secretary under
18 this subsection, an eligible organization
19 shall submit to the Secretary an applica-
20 tion by such date, in such manner, and
21 containing such information as the Sec-
22 retary may require.

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

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

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

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

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

16 (3) REQUIREMENTS OF SECRETARY.—

17 (A) PROJECT DIVERSITY.—

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

24 (I) food surplus regions;

1 (II) food deficit regions (that are
2 carried out using regional procure-
3 ment methods); and

4 (III) multiple geographical re-
5 gions.

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

11 (I) are located in Africa; and

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

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

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

24 (f) INDEPENDENT EVALUATIONS; REPORT.—

25 (1) INDEPENDENT EVALUATIONS.—

1 (A) IN GENERAL.—Not later than Novem-
2 ber 1, 2011, the Secretary shall ensure that an
3 independent third party conducts an inde-
4 pendent evaluation of all field-based projects
5 that—

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

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

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

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

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

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

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

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

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

13 (VI) the total cost of the procure-
14 ment of each eligible commodity (in-
15 cluding storage, handling, transpor-
16 tation, and administrative costs);

17 (ii) an assessment regarding—

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

20 (II) the impact of different meth-
21 odologies and approaches on—

22 (aa) local and regional agri-
23 cultural producers (including
24 large and small agricultural pro-
25 ducers);

- 1 (bb) markets;
- 2 (cc) low-income consumers;
- 3 and
- 4 (dd) program recipients; and
- 5 (III) the length of the period be-
- 6 ginning on the date on which the Sec-
- 7 retary initiated the procurement proc-
- 8 ess and ending on the date of delivery
- 9 of eligible commodities;
- 10 (iii) a comparison of different meth-
- 11 odologies used to carry out this section,
- 12 with respect to—
- 13 (I) the benefits to local agri-
- 14 culture;
- 15 (II) the impact on markets and
- 16 consumers;
- 17 (III) the period of time required
- 18 for procurement and delivery;
- 19 (IV) quality and safety assur-
- 20 ances; and
- 21 (V) implementation costs; and
- 22 (iv) to the extent adequate informa-
- 23 tion is available (including the results of
- 24 the report required under subsection
- 25 (b)(1)(B)), a comparison of the different

1 methodologies used by other donor coun-
2 tries to make local and regional procure-
3 ments.

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

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

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

21 (g) FUNDING.—

22 (1) COMMODITY CREDIT CORPORATION.—The
23 Secretary shall use the funds, facilities, and authori-
24 ties of the Commodity Credit Corporation to carry
25 out this section.

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

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

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

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

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

8 **Subtitle D—Softwood Lumber**

9 **SEC. 3301. SOFTWOOD LUMBER.**

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

13 **“TITLE VIII—SOFTWOOD** 14 **LUMBER**

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

16 “(a) SHORT TITLE.—This title may be cited as the
17 ‘Softwood Lumber Act of 2008’.

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

“TITLE VIII—SOFTWOOD LUMBER

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

“Sec. 802. Definitions.

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

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

“Sec. 805. Export charge determination and publication.

“Sec. 806. Reconciliation.

“Sec. 807. Verification.

“Sec. 808. Penalties.

“Sec. 809. Reports.

1 **“SEC. 802. DEFINITIONS.**

2 “In this title:

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

8 “(2) COUNTRY OF EXPORT.—The term ‘country
9 of export’ means the country (including any political
10 subdivision of the country) from which softwood
11 lumber or a softwood lumber product is exported be-
12 fore entering the United States.

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

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

24 “(5) EXPORT PRICE.—

25 “(A) IN GENERAL.—The term ‘export
26 price’ means one of the following:

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

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

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

18 “(aa) does not hold tenure rights
19 provided by the country of export;

20 “(bb) did not acquire standing
21 timber directly from the country of
22 export; and

23 “(cc) is not related to the person
24 who holds tenure rights or acquired

1 standing timber directly from the
2 country of export.

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

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

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

16 “(bb) acquired standing timber
17 directly from the country of export; or

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

22 “(B) RELATED PERSONS.—For purposes
23 of this paragraph, a person is related to an-
24 other person if—

1 “(i) the person bears a relationship to
2 such other person described in section
3 152(a) of the Internal Revenue Code of
4 1986;

5 “(ii) the person bears a relationship to
6 such other person described in section
7 267(b) of such Code, except that ‘5 per-
8 cent’ shall be substituted for ‘50 percent’
9 each place it appears;

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

16 “(iv) the person is an officer or direc-
17 tor of such other person; or

18 “(v) the person is the employer of
19 such other person.

20 “(C) TENURE RIGHTS.—For purposes of
21 this paragraph, the term ‘tenure rights’ means
22 rights to harvest timber from public land grant-
23 ed by the country of export.

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

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

13 “(I) The market price for the
14 lumber or a product sold at substan-
15 tially the same level of trade as the
16 exported lumber or product but in dif-
17 ferent quantities.

18 “(II) The market price for the
19 lumber or a product sold at a dif-
20 ferent level of trade than the exported
21 lumber or product but in similar
22 quantities.

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

1 lumber or product and in different
2 quantities.

3 “(ii) LEVEL OF TRADE.—For pur-
4 poses of clause (i), ‘level of trade’ shall be
5 determined in the same manner as pro-
6 vided under section 351.412(c) of title 19,
7 Code of Federal Regulations (as in effect
8 on January 1, 2008).

9 “(6) F.O.B.—The term ‘F.O.B.’ means a value
10 consisting of all charges payable by a purchaser, in-
11 cluding those charges incurred in the placement of
12 merchandise on board of a conveyance for shipment,
13 but does not include the actual shipping charges or
14 any applicable export charges.

15 “(7) HTS.—The term ‘HTS’ means the Har-
16 monized Tariff Schedule of the United States (19
17 U.S.C. 1202) (as in effect on January 1, 2008).

18 “(8) PERSON.—The term ‘person’ includes any
19 individual, partnership, corporation, association, or-
20 ganization, business trust, government entity, or
21 other entity subject to the jurisdiction of the United
22 States.

23 “(9) UNITED STATES.—The term ‘United
24 States’ means the customs territory of the United
25 States, as defined in General Note 2 of the HTS.

1 **“SEC. 803. ESTABLISHMENT OF SOFTWOOD LUMBER IM-**
2 **PORTER DECLARATION PROGRAM.**

3 “(a) ESTABLISHMENT OF PROGRAM.—

4 “(1) IN GENERAL.—The President shall estab-
5 lish and maintain an importer declaration program
6 with respect to the importation of softwood lumber
7 and softwood lumber products described in section
8 804(a). The importer declaration program shall re-
9 quire importers of softwood lumber and softwood
10 lumber products described in section 804(a) to pro-
11 vide the information required under subsection (b)
12 and declare the information required by subsection
13 (c), and require that such information accompany
14 the entry summary documentation.

15 “(2) ELECTRONIC RECORD.—The President
16 shall establish an electronic record that includes the
17 importer information required under subsection (b)
18 and the declarations required under subsection (c).

19 “(b) REQUIRED INFORMATION.—The President shall
20 require the following information to be submitted by any
21 person seeking to import softwood lumber or softwood
22 lumber products described in section 804(a):

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

25 “(2) The estimated export charge, if any, appli-
26 cable to each shipment of softwood lumber or

1 softwood lumber products as calculated by applying
2 the percentage determined and published by the
3 Under Secretary for International Trade of the De-
4 partment of Commerce pursuant to section 805 to
5 the export price provided in subsection (b)(1).

6 “(c) IMPORTER DECLARATIONS.—Pursuant to proce-
7 dures prescribed by the President, any person seeking to
8 import softwood lumber or softwood lumber products de-
9 scribed in section 804(a) shall declare that—

10 “(1) the person has made appropriate inquiry,
11 including seeking appropriate documentation from
12 the exporter and consulting the determinations pub-
13 lished by the Under Secretary for International
14 Trade of the Department of Commerce pursuant to
15 section 805(b); and

16 “(2) to the best of the person’s knowledge and
17 belief—

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

21 “(B) the export price provided pursuant to
22 subsection (b)(1) is consistent with the export
23 price provided on the export permit, if any,
24 granted by the country of export; and

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

3 “(i) in accordance with the volume,
4 export price, and export charge rate or
5 rates, if any, as calculated under an inter-
6 national agreement entered into by the
7 country of export and the United States;
8 and

9 “(ii) consistent with the export charge
10 determinations published by the Under
11 Secretary for International Trade pursuant
12 to section 805(b).

13 **“SEC. 804. SCOPE OF SOFTWOOD LUMBER IMPORTER DEC-**
14 **LARATION PROGRAM.**

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

18 “(1) IN GENERAL.—All softwood lumber and
19 softwood lumber products classified under sub-
20 heading 4407.10.00, 4409.10.10, 4409.10.20, or
21 4409.10.90 of the HTS, including the following
22 softwood lumber, flooring, and siding:

23 “(A) Coniferous wood, sawn or chipped
24 lengthwise, sliced or peeled, whether or not

1 planed, sanded, or finger-jointed, of a thickness
2 exceeding 6 millimeters.

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

10 “(C) Other coniferous wood (including
11 strips and friezes for parquet flooring, not as-
12 sembled) continuously shaped (tongued,
13 grooved, rabbeted, chamfered, v-jointed, beaded,
14 molded, rounded, or the like) along any of its
15 edges or faces (other than wood moldings and
16 wood dowel rods) whether or not planed, sand-
17 ed, or finger-jointed.

18 “(D) Coniferous wood flooring (including
19 strips and friezes for parquet flooring, not as-
20 sembled) continuously shaped (tongued,
21 grooved, rabbeted, chamfered, v-jointed, beaded,
22 molded, rounded, or the like) along any of its
23 edges or faces, whether or not planed, sanded,
24 or finger-jointed.

1 “(E) Coniferous drilled and notched lum-
2 ber and angle cut lumber.

3 “(2) PRODUCTS CONTINUALLY SHAPED.—Any
4 product classified under subheading 4409.10.05 of
5 the HTS that is continually shaped along its end or
6 side edges.

7 “(3) OTHER LUMBER PRODUCTS.—Except as
8 otherwise provided in subsection (b) or (c), softwood
9 lumber products that are stringers, radius-cut box-
10 spring frame components, fence pickets, truss com-
11 ponents, pallet components, and door and window
12 frame parts classified under subheading
13 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of
14 the HTS.

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

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

20 “(2) I-joint beams.

21 “(3) Assembled box-spring frames.

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

24 “(5) Garage doors.

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

3 “(7) Complete door frames.

4 “(8) Complete window frames.

5 “(9) Furniture.

6 “(10) Articles brought into the United States
7 temporarily and for which an exemption from duty
8 is claimed under subchapter XIII of chapter 98 of
9 the HTS.

10 “(11) Household and personal effects.

11 “(c) EXCEPTIONS FOR CERTAIN PRODUCTS.—The
12 following softwood lumber products shall not be subject
13 to the importer declaration program established under sec-
14 tion 803:

15 “(1) STRINGERS.—Stringers (pallet components
16 used for runners), if the stringers—

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

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

22 “(2) BOX-SPRING FRAME KITS.—

23 “(A) IN GENERAL.—Box-spring frame kits,
24 if—

25 “(i) the kits contain—

- 1 “(I) 2 wooden side rails;
2 “(II) 2 wooden end (or top) rails;
3 and
4 “(III) varying numbers of wood-
5 en slats; and
6 “(ii) the side rails and the end rails
7 are radius-cut at both ends.

8 “(B) PACKAGING.—Any kit described in
9 subparagraph (A) shall be individually pack-
10 aged, and contain the exact number of wooden
11 components needed to make the box-spring
12 frame described on the entry documents, with
13 no further processing required. None of the
14 components contained in the package may ex-
15 ceed 1 inch in actual thickness or 83 inches in
16 length.

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

24 “(4) FENCE PICKETS.—Fence pickets requiring
25 no further processing and properly classified under

1 subheading 4421.90.70 of the HTS, 1 inch or less
2 in actual thickness, up to 8 inches wide, and 6 feet
3 or less in length, and having finials or decorative
4 cuttings that clearly identify them as fence pickets.
5 In the case of dog-eared fence pickets, the corners
6 of the boards shall be cut off so as to remove pieces
7 of wood in the shape of isosceles right angle tri-
8 angles with sides measuring $\frac{3}{4}$ of an inch or more.

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

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

16 “(B) the importer establishes to the satis-
17 faction of U.S. Customs and Border Protection
18 upon entry that the lumber originated in the
19 United States.

20 “(6) SOFTWOOD LUMBER.—Any softwood lum-
21 ber or softwood lumber product that originated in
22 the United States, if the importer, exporter, foreign
23 processor, or original United States producer estab-
24 lishes to the satisfaction of U.S. Customs and Bor-
25 der Protection upon entry that the softwood lumber

1 entered and documented as originating in the United
2 States was first produced in the United States.

3 “(7) HOME PACKAGES OR KITS.—

4 “(A) IN GENERAL.—Softwood lumber or
5 softwood lumber products contained in a single
6 family home package or kit, regardless of the
7 classification under the HTS, if the importer
8 declares that the following requirements have
9 been met:

10 “(i) The package or kit constitutes a
11 full package of the number of wooden
12 pieces specified in the plan, design, or
13 blueprint necessary to produce a home of
14 at least 700 square feet produced to a
15 specified plan, design, or blueprint.

16 “(ii) The package or kit contains—

17 “(I) all necessary internal and
18 external doors and windows, nails,
19 screws, glue, subfloor, sheathing,
20 beams, posts, and connectors; and

21 “(II) if included in the purchase
22 contract, the decking, trim, drywall,
23 and roof shingles specified in the plan,
24 design, or blueprint.

1 “(iii) Prior to importation, the pack-
2 age or kit is sold to a United States re-
3 tailer that sells complete home packages or
4 kits pursuant to a valid purchase contract
5 referencing the particular home design,
6 plan, or blueprint, and the contract is
7 signed by a customer not affiliated with
8 the importer.

9 “(iv) Softwood lumber products en-
10 tered as part of the package or kit, wheth-
11 er in a single entry or multiple entries on
12 multiple days, are to be used solely for the
13 construction of the single family home
14 specified by the home design, plan, or blue-
15 print matching the U.S. Customs and Bor-
16 der Protection import entry.

17 “(B) ADDITIONAL DOCUMENTATION RE-
18 QUIRED FOR HOME PACKAGES AND KITS.—In
19 the case of each entry of products described in
20 clauses (i) through (iv) of subparagraph (A) the
21 following documentation shall be retained by
22 the importer and made available to U.S. Cus-
23 toms and Border Protection upon request:

1 “(i) A copy of the appropriate home
2 design, plan, or blueprint matching the
3 customs entry in the United States.

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

7 “(iii) A listing of all parts in the
8 package or kit being entered into the
9 United States that conforms to the home
10 design, plan, or blueprint for which such
11 parts are being imported.

12 “(iv) If a single contract involves mul-
13 tiple entries, an identification of all the
14 items required to be listed under clause
15 (iii) that are included in each individual
16 shipment.

17 “(d) PRODUCTS COVERED.—For purposes of deter-
18 mining if a product is covered by the importer declaration
19 program, the President shall be guided by the article de-
20 scriptions provided in this section.

21 **“SEC. 805. EXPORT CHARGE DETERMINATION AND PUBLI-**
22 **CATION.**

23 “(a) DETERMINATION.—The Under Secretary for
24 International Trade of the Department of Commerce shall
25 determine, on a monthly basis, any export charges (ex-

1 pressed as a percentage of export price) to be collected
2 by a country of export from exporters of softwood lumber
3 or softwood lumber products described in section 804(a)
4 in order to ensure compliance with any international
5 agreement entered into by that country and the United
6 States.

7 “(b) PUBLICATION.—The Under Secretary for Inter-
8 national Trade shall immediately publish any determina-
9 tion made under subsection (a) on the website of the Inter-
10 national Trade Administration of the Department of Com-
11 merce, and in any other manner the Under Secretary con-
12 siderers appropriate.

13 **“SEC. 806. RECONCILIATION.**

14 “The Secretary of the Treasury shall conduct rec-
15 onciliations to ensure the proper implementation and oper-
16 ation of international agreements entered into between a
17 country of export of softwood lumber or softwood lumber
18 products described in section 804(a) and the United
19 States. The Secretary of Treasury shall reconcile the fol-
20 lowing:

21 “(1) The export price declared by a United
22 States importer pursuant to section 803(b)(1) with
23 the export price reported to the United States by the
24 country of export, if any.

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

5 **“SEC. 807. VERIFICATION.**

6 “(a) IN GENERAL.—The Secretary of Treasury shall
7 periodically verify the declarations made by a United
8 States importer pursuant to section 803(c), including by
9 determining whether—

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

14 “(2) the estimated export charge declared by a
15 United States importer pursuant to section
16 803(b)(2) is consistent with the determination pub-
17 lished by the Under Secretary for International
18 Trade pursuant to section 805(b).

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

20 “(1) IN GENERAL.—Any record relating to the
21 importer declaration program required under section
22 803 shall be treated as a record required to be main-
23 tained and produced under title V of this Act.

24 “(2) EXAMINATION OF RECORDS.—The Sec-
25 retary of the Treasury is authorized to take such ac-

1 tion, and examine such records, under section 509 of
2 this Act, as the Secretary determines necessary to
3 verify the declarations made pursuant to section
4 803(c) are true and accurate.

5 **“SEC. 808. PENALTIES.**

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

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

13 “(c) OTHER PENALTIES.—In addition to the pen-
14 alties provided for in subsection (b), any violation of this
15 title that violates any other customs law of the United
16 States shall be subject to any applicable civil and criminal
17 penalty, including seizure and forfeiture, that may be im-
18 posed under such custom law or title 18, United States
19 Code, with respect to the importation of softwood lumber
20 and softwood lumber products described in section 804(a).

21 “(d) FACTORS TO CONSIDER IN ASSESSING PEN-
22 ALTIES.—In determining the amount of civil penalties to
23 be assessed under this section, consideration shall be given
24 to any history of prior violations of this title by the person,
25 the ability of the person to pay the penalty, the seriousness

1 of the violation, and such other matters as fairness may
2 require.

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

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

11 “(1) the importer made an appropriate inquiry
12 in accordance with section 803(c)(1) with respect to
13 the declaration;

14 “(2) the importer produces records maintained
15 pursuant to section 807(b) that substantiate the
16 declaration; and

17 “(3) there is not substantial evidence indicating
18 that the importer knew that the fact to which the
19 importer made the declaration was false.

20 **“SEC. 809. REPORTS.**

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

1 “(1) describing the reconciliations conducted
2 under section 806, and the verifications conducted
3 under section 807;

4 “(2) identifying the manner in which the
5 United States importers subject to reconciliations
6 conducted under section 806 and verifications con-
7 ducted under section 807 were chosen;

8 “(3) identifying any penalties imposed under
9 section 808;

10 “(4) identifying any patterns of noncompliance
11 with this title; and

12 “(5) identifying any problems or obstacles en-
13 countered in the implementation and enforcement of
14 this title.

15 “(b) SUBSIDIES REPORTS.—Not later than 180 days
16 after the date of the enactment of this title, and every
17 180 days thereafter, the Secretary of Commerce shall pro-
18 vide to the appropriate congressional committees a report
19 on any subsidies on softwood lumber or softwood lumber
20 products, including stumpage subsidies, provided by coun-
21 tries of export.

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

1 “(1) Not later than 18 months after the date
2 of the enactment of this title, a report on the effec-
3 tiveness of the reconciliations conducted under sec-
4 tion 806, and verifications conducted under section
5 807.

6 “(2) Not later than 12 months after the date
7 of the enactment of this title, a report on whether
8 countries that export softwood lumber or softwood
9 lumber products to the United States are complying
10 with any international agreements entered into by
11 those countries and the United States.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date that is 60 days
14 after the date of the enactment of this Act.