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Editorial Notes

CODIFICATION

The Agricultural Trade Act of 1978, comprising this chapter, was originally enacted as Pub. L. 95-501, Oct.

21, 1978, 92 Stat. 1685, which enacted sections 1707b to 1707d, 1765a to 1765h, 1769, and 2211a of this title, amended sections 1707a, 1761, 1762, 1764, 1765, and 1766b of this title and section 5314 of Title 5, Government Organization and Employees, redesignated sections 1762(d), (f), and 1763 as sections 1766a to 1766c of this title, and enacted provisions set out as notes under sections 612c-3, 1761, and 2211a of this title and section 2431 of Title 19, Customs Duties. The Act is shown herein, however, as having been added by Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3668, because of the extensive amendments, renumbering, reorganization of subject matter, and expansion of the basic Act's provisions by Pub. L. 101-624.

SUBCHAPTER I—GENERAL PROVISIONS

§ 5601. Purpose

It is the purpose of this chapter to increase the profitability of farming and to increase opportunities for United States farms and agricultural enterprises by—

(1) increasing the effectiveness of the Department of Agriculture in agricultural export policy formulation and implementation;

(2) improving the competitiveness of United States agricultural commodities and products in the world market; and

(3) providing for the coordination and efficient implementation of all agricultural export programs.

(Pub. L. 95-501, title I, §101, as added Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3669.)

Editorial Notes

PRIOR PROVISIONS

A prior section 101 of Pub. L. 95-501 amended section 1707a of this title prior to the complete revision of Pub. L. 95-501 by Pub. L. 101-624.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-465, title IV, §411(a)(1), Dec. 8, 1994, 108 Stat. 4962, provided that: "This subsection [amending section 5651 of this title] may be cited as the 'Export Enhancement Program Amendments of 1994'."

SHORT TITLE

Pub. L. 95-501, §1, as added by Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3669, provided that: "This Act [enacting this chapter] may be cited as the 'Agricultural Trade Act of 1978'."

§ 5602. Definitions

As used in this chapter—

(1) Agricultural commodity

The term "agricultural commodity" means any agricultural commodity, food, feed, fiber, or livestock (including livestock as it is defined in section 1471(2) of this title and insects), and any product thereof.

(2) Developing country

The term "developing country" means a country that—

(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

(B) has the potential to become a commercial market for agricultural commodities.

(3) Secretary

The term “Secretary” means the Secretary of Agriculture.

(4) Service

The term “Service” means the Foreign Agricultural Service of the Department of Agriculture.

(5) Unfair trade practice

(A) In general

Subject to subparagraph (B), the term “unfair trade practice” means any act, policy, or practice of a foreign country that—

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party;

(ii) in the case of a monopolistic state trading enterprise engaged in the export sale of an agricultural commodity, implements a pricing practice that is inconsistent with sound commercial practice;

(iii) provides a subsidy that—

(I) decreases market opportunities for United States exports; or

(II) unfairly distorts an agricultural market to the detriment of United States exporters;

(iv) imposes an unfair technical barrier to trade, including—

(I) a trade restriction or commercial requirement (such as a labeling requirement) that adversely affects a new technology (including biotechnology); and

(II) an unjustified sanitary or phytosanitary restriction (including any restriction that, in violation of the Uruguay Round Agreements, is not based on scientific principles;¹

(v) imposes a rule that unfairly restricts imports of United States agricultural commodities in the administration of tariff rate quotas; or

(vi) fails to adhere to, or circumvents any obligation under, any provision of a trade agreement with the United States.

(B) Consistency with 1974 Trade Act

Nothing in this chapter may be construed to authorize the Secretary to make any determination regarding an unfair trade practice that is inconsistent with section 2411 of title 19.

(6) United States

The term “United States” includes each of the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(7) United States agricultural commodity

The term “United States agricultural commodity” means—

(A) an agricultural commodity or product entirely produced in the United States; or

(B) a product of an agricultural commodity—

(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

(ii) that the Secretary determines to be a high value agricultural product.

For purposes of this paragraph, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46 in waters that are not waters (including the territorial sea) of a foreign country.

(8) Independent states of the former Soviet Union

The term “independent states of the former Soviet Union” means the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(Pub. L. 95-501, title I, §102, as added Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3669; amended Pub. L. 102-511, title VII, §702, Oct. 24, 1992, 106 Stat. 3349; Pub. L. 104-127, title II, §243(c), Apr. 4, 1996, 110 Stat. 967; Pub. L. 107-171, title III, §3104(b), May 13, 2002, 116 Stat. 290.)

Editorial Notes

AMENDMENTS

2002—Par. (5)(A)(ii) to (vi). Pub. L. 107-171 added cls. (ii) to (vi) and struck out former cl. (ii) which read as follows: “is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.”

1996—Par. (7). Pub. L. 104-127 added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) with respect to any agricultural commodity other than a product of an agricultural commodity, an agricultural commodity entirely produced in the United States; and

“(B) with respect to a product of an agricultural commodity—

“(i) a product all of the agricultural components of which are entirely produced in the United States; or

“(ii) any other product the Secretary may designate that contains any agricultural component that is not entirely produced in the United States if—

“(I) such component is an added, de minimis component,

“(II) such component is not commercially produced in the United States, and

“(III) there is no acceptable substitute for such component that is commercially produced in the United States.”

1992—Par. (1). Pub. L. 102-511, §702(a), substituted “feed, fiber, or livestock (including livestock as it is defined in section 1471(2) of this title and insects)” for “feed, or fiber”.

Par. (8). Pub. L. 102-511, §702(b), added par. (8).

§ 5603. Agricultural export promotion strategy

(a) In general

The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

¹So in original. There probably should be a closing parenthesis.