

except that FAS will not pay any remaining balance where the Associate Administrator determines that the vessel's arrival at first port of discharge was prevented by force majeure.

(3) *No demurrage.* FAS will not pay demurrage.

§ 1599.8 Who arranges for entry and handling in the foreign country?

(a) The Cooperating Sponsor shall make all necessary arrangements for receiving the commodities in the recipient country, including obtaining appropriate approvals for entry and transit. The Cooperating Sponsor shall store and maintain the commodities from time of delivery at port of entry or point of receipt from originating carrier in good condition until their distribution, sale or barter.

(b) When FAS has agreed to pay costs of transporting, storing, and distributing commodities from designated points of entry or ports of entry, the Cooperating Sponsor shall arrange for such services, by through bill of lading, or by contracting directly with suppliers of services, as FAS may approve. If the Cooperating Sponsor contracts directly with the suppliers of such services, the Cooperating Sponsor may seek reimbursement by submitting documentation to FAS indicating actual costs incurred. All supporting documentation must be sent to the Director, CCC-OD. FAS, at its option, will reimburse the Cooperating Sponsor for the cost of such services in U.S. dollars at the exchange rate in effect on the date of payment by FAS, or in foreign currency.

§ 1599.9 What are the restrictions on commodity use and distribution?

(a) The Cooperating Sponsor may use the commodities provided only in accordance with the terms of the Program Agreement.

(b) In the event that its participation in the program terminates, the nongovernmental Cooperating Sponsor will safeguard any undistributed commodities and sales proceeds and dispose of such commodities and proceeds as directed by FAS.

§ 1599.10 Are there special requirements for agreements between Cooperating Sponsor and Recipient Agencies?

(a) The Cooperating Sponsor shall enter into a written agreement with a recipient agency prior to the transfer of any commodities, sale proceeds or program income to the recipient agency. Copies of such agreements shall be provided to the Agricultural Counselor or Attache, and the Director, PPDED. Such agreements shall require the recipient agency to pay the Cooperating

Sponsor the value of any commodities, sale proceeds or program income that are used for purposes not expressly permitted under the Program Agreement, or that are lost, damaged, or misused as a result of the recipient agency's failure to exercise reasonable care;

(b) FAS may waive the requirements of paragraph (a) of this section where it determines that such an agreement is not feasible or appropriate.

§ 1599.11 What procedures apply to sales and barter of commodities provided and the use of proceeds?

(a) Commodities may be sold or bartered without the prior approval of FAS where damage has rendered the commodities unfit for intended program purposes and sale or barter is necessary to mitigate loss of value.

(b) A Cooperating Sponsor may, but is not required to, negotiate an agreement with the host government under which the commodities imported for a sale or barter may be imported, sold, or bartered without assessment of duties or taxes. In such cases and where the commodities are sold, they shall be sold at prices reflecting prevailing local market value.

(c) The Cooperating Sponsor shall deposit all sale proceeds into an interest-bearing account unless prohibited by the laws or customs of the importing country or FAS determines that to do so would constitute an undue burden. Interest earned on such deposits shall only be used for approved activities.

(d) Except as otherwise provided in this part, the Cooperating Sponsor may use sale proceeds and resulting interest only for those purposes approved in the applicable Plan of Operation.

(e) FAS will approve the use of sale proceeds and interest to purchase real and personal property where local law permits the Cooperating Sponsor to retain title to such property, but will not approve the use of sale proceeds or interest to pay for the acquisition, development, construction, alteration or upgrade of real property that is:

(1) Owned or managed by a church or other organization engaged exclusively in religious activity, or

(2) Used in whole or in part for sectarian purposes; except that, a Cooperating Sponsor may use such sale proceeds or interest to pay for repairs or rehabilitation of a structure located on such real property to the extent necessary to avoid spoilage or loss of provided commodities but only if such structure is not used in whole or in part for any religious or sectarian purposes while the provided commodities are

stored in such structure. When not approved in the Plan of Operation, such use may be approved by the Agricultural Counselor or Attache.

(f) The Cooperating Sponsor shall follow commercially reasonable practices in procuring goods and services and when engaging in construction activity in accordance with the approved Plan of Operation. Such practices shall include procedures to prevent fraud, self-dealing and conflicts of interest, and shall foster free and open competition to the maximum extent practicable.

(g) To the extent required by the Program Agreement, the Cooperating Sponsor shall submit to the Director, PPDED, an inventory of all assets acquired with sale proceeds or interest or program income. In the event that its participation in the program terminates, the Cooperating Sponsor shall dispose, at the direction of the Director, PPDED, of any property, real or personal, so acquired.

§ 1599.12 What procedures apply to the processing, packaging and labeling of commodities in the foreign country?

(a) Cooperating Sponsors may arrange for the processing of commodities provided under the Program Agreement, or for packaging or repackaging prior to distribution. When a third party provides such processing, packaging or repackaging, the Cooperating Sponsor shall enter into a written agreement requiring that the provider of such services maintain adequate records to account for all commodities delivered and submit periodic reports to the Cooperating Sponsor. The Cooperating Sponsor shall submit a copy of the executed agreement to the Agricultural Counselor or Attache.

(b) If, prior to distribution, the Cooperating Sponsor arranges for packaging or repackaging commodities, the packaging shall be plainly labeled in the language of the country in which the commodities are to be distributed with the name of the commodity and, except where the commodities are to be sold or bartered after processing, packaging or repackaging, to indicate that the commodity is furnished by the people of the United States of America and not to be sold or exchanged. If the commodities are not packaged, the Cooperating Sponsor shall, to the extent practicable, display banners, posters or other media containing the information prescribed in this paragraph.

(c) FAS will reimburse Cooperating Sponsors that are nonprofit private voluntary organizations or cooperatives for expenses incurred for repackaging if the packages of commodities are