

Commodity Credit Corporation, USDA

§ 1493.10

for sales of the U.S. agricultural commodity under consideration compared to providing coverage for sales of other U.S. agricultural commodities; and

(d) Evaluation of the near and long term potential for sales on a cash basis of the U.S. commodity under consideration.

§ 1493.6 Additional required determinations for GSM-103.

Notwithstanding any other provision under this part, CCC shall not guarantee under the GSM-103 program the repayment of credit made available to finance an export sale unless the Secretary of Agriculture determines that such sale will:

(a) Develop, expand or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of U.S. agricultural commodities, without displacing normal commercial sales;

(b) Improve the capability of the importing country to purchase or use, on a long-term basis, U.S. agricultural commodities; or

(c) Otherwise promote the export of U.S. agricultural commodities.

Subpart B—CCC Export Credit Guarantee Program (GSM-102) and CCC Intermediate Export Credit Guarantee Program (GSM-103) Operations

§ 1493.10 General statement.

(a) *Overview.* (1) This subpart contains the regulations governing the operations of the Export Credit Guarantee Program (GSM-102) and the Intermediate Credit Guarantee Program (GSM-103). The GSM-102 and GSM-103 programs of the Commodity Credit Corporation (CCC) were developed to expand U.S. agricultural exports by making available export credit guarantees to encourage U.S. private sector financing of foreign purchases of U.S. agricultural commodities on credit terms. Under GSM-102, credit guarantees are issued for terms of up to three years. Under GSM-103, credit guarantees are issued for terms of from three to ten years.

(2) The programs operate in cases where credit is necessary to increase or

maintain U.S. exports to a foreign market and where private U.S. financial institutions would be unwilling to provide financing without CCC's guarantee. The programs are operated in a manner intended not to interfere with markets for cash sales. The programs are targeted toward those countries where the guarantees are necessary to secure financing of the exports but which have sufficient financial strength so that foreign exchange will be available for scheduled payments. In providing this credit guarantee facility, CCC seeks to expand market opportunities for U.S. agricultural exporters and assist long-term market development for U.S. agricultural commodities.

(3) The credit facility created by these programs is the CCC payment guarantee. The payment guarantee is an agreement by CCC to pay the exporter, or the U.S. financial institution that may take assignment of the exporter's right to proceeds, specified amounts of principal and interest due from, but not paid by, the foreign bank issuing an irrevocable letter of credit in connection with the export sale to which CCC's guarantee coverage pertains. By approving an exporter's application for a payment guarantee, CCC encourages private sector, rather than governmental, financing and incurs a substantial portion of the risk of default by the foreign bank. CCC assumes this risk, in order to be able to operate the programs for the purposes specified in § 1493.2.

(b) *Credit facility mechanism.* Typically, in export sales of U.S. agricultural commodities, payment by the importer is made under an irrevocable letter of credit. For the purpose of the GSM-102 and GSM-103 programs, CCC will consider applications for payment guarantees only in connection with export sales of U.S. agricultural commodities where the payment for the agricultural commodities will be made in one of the two following ways:

(1) An irrevocable foreign bank letter of credit, issued in favor of the exporter, specifically stating the deferred payment terms under which the foreign bank is obligated to make payments in U.S. dollars as such payments become due; or

(2) An irrevocable foreign bank letter of credit, issued in favor of the exporter, that is supported by a related obligation specifically stating the deferred payment terms under which the foreign bank is obligated to make payment to the exporter, or the exporter's assignee, in U.S. dollars as such payments become due. The exporter may assign the right to proceeds under the letter of credit or related obligation to a U.S. bank or other financial institution so that the exporter may realize the proceeds of the sale prior to the deferred payment date(s) as set forth in the irrevocable foreign bank letter of credit or its related obligation. The GSM-102 and GSM-103 programs are designed to protect the exporter or the exporter's assignee against those losses specified in the payment guarantee resulting from defaults, whether for commercial or noncommercial reasons, by the foreign bank obligated under the letter of credit or related obligation.

(c) *Program administration.* The GSM-102 and GSM-103 programs will be administered pursuant to this part and any Program Announcements and Notices to Participants issued by CCC pursuant to, and not inconsistent with, this part. These programs are under the general administrative responsibility of the General Sales Manager (GSM), Foreign Agricultural Service (FAS/USDA). The review and payment of claims for loss will be administered by the Office of the Controller, CCC. Information regarding specific points of contact for the public, including names, addresses, and telephone and facsimile numbers of particular USDA or CCC offices, will be announced by a public press release (see § 1493.20(c), "Contacts P/R").

(d) *Country allocations and program announcements.* From time to time, CCC will issue a Program Announcement to announce a GSM-102 and/or GSM-103 program allocation for a specific country. The Program Announcement for a country allocation will designate specific allocations for U.S. agricultural commodities or products thereof. Exporters may negotiate export sales to buyers in that country for one of the commodities specified in the Program Announcement and seek payment guarantee coverage within the

dollar amounts of specified coverage for that commodity. The Program Announcement will contain a requirement that the exporter's sales contract contain a shipping deadline within the applicable program year. The final date for a contractual shipping deadline will be stated in the Program Announcement. Program Announcements may also contain a specified "undesignated" or "unallocated" dollar amount for the purpose that if dollar amounts specified for a specific commodity for a country become fully used, an additional allocation from the "unallocated" or "undesignated" portion of the total country allocation may then be designated for a specific commodity. Program Announcements that include an "allocated" or "undesignated" dollar amount will contain further information on the "unallocated" or "undesignated" portion of the country allocation.

§ 1493.20 Definition of terms.

Terms set forth in this part, in CCC Program Announcements and Notices to Participants, and in any CCC-originated documents pertaining to the GSM-102 and GSM-103 programs will have the following meanings:

(a) *Assignee.* A financial institution in the United States which, for adequate consideration given, has obtained the legal rights to receive the payment of proceeds under the payment guarantee.

(b) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture, authorized pursuant to the Commodity Credit Corporation Charter Act of 1948 (15 U.S.C. 714 *et seq.*), and subject to the general supervision and direction of the Secretary of Agriculture.

(c) *Contacts P/R.* A notice issued by FAS/USDA by public press release which contains specific names, addresses, and telephone and facsimile numbers of contacts within FAS/USDA and CCC for use by persons interested in obtaining information concerning the operations of the GSM-102 or GSM-103