

1978

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David Helscher

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Recommended Citation

David Helscher, *Public Law 480, American Agriculture and World Food Demand*, 10 Case W. Res. J. Int'l L. 739 (1978)

Available at: <https://scholarlycommons.law.case.edu/jil/vol10/iss3/8>

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*Public Law 480, American Agriculture and World
Food Demand*

FAMINE AND MASS starvation are possibilities which the world must face in the coming decades. Despite all the advances and increases in grain production, the world situation regarding to food supplies is at a precarious stage. Supplies and surpluses of grain have been sufficient to meet world demand, but this may change within the decade. The progression of growth of food supplies and population predicted by Malthus¹ may reach critical levels.

A cursory examination of American agriculture reveals that it is of great importance to the United States and the world. Agriculture is a major industry for many American states and is also the largest single industry in the United States.²

Agricultural exports are an important factor in the American balance of trade, balancing in part the huge deficits created by imports of foreign oil.³ Exports are also an issue when dealing with trade agreements and foreign imports by some of America's closest allies, especially Japan, due to the quantities of grain imported by these countries.⁴ The United States is the largest grain exporter in the world.⁵ Holding such a position in the world market, domestic issues and programs acquire major importance for importers of American grain.

During the 1950's, the United States Congress passed the Agricultural Trade Development and Assistance Act of 1954, which has become known as P.L. 480.⁶ The Act provides for food assistance on cash or credit terms to nations in need. There are also provisions for emergency aid when nations are faced with extraordinary needs or natural disasters.

The recent actions of American government officials have come

¹ T. MALTHUS, *FIRST ESSAY ON POPULATION* 25 (A. Kelley ed. 1965).

² *The Tractor Rebellion*, *NEWSWEEK*, Dec. 19, 1977, at 57.

³ *N.Y. Times*, Jan. 31, 1978, at 1, col. 1.

⁴ *Use of U.S. Food Resources for Diplomatic Purposes—An Examination of the Issues: Hearings Before the House Comm. on International Relations, 94th Cong., 2d Sess. 79, 81 (1977)* [hereinafter cited as *Food Resources*].

⁵ *Id.* at 74.

⁶ *Agricultural Trade Development and Assistance Act of 1954, as amended by 7 U.S.C. §§ 1691-1736 (1976)* [hereinafter cited as P.L. 480].

under attack as manifesting the exercise of too much discretion.⁷ This criticism and the current dissent voiced by American producers calls for a major reevaluation of American farm policy and foreign trade. This paper shall consider these factors and the continued viability of P.L. 480. As a part of American farm policy, P.L. 480 must be evaluated in the context of world population, exports and imports, and the needs of American producers. With more food needed to feed more people, the economic vitality of food producers is imperative. The price paid by American customers for food must be part of any economic formula of farm policy. As the breadbasket for the world, the United States has a moral obligation to prevent the starvation of millions of fellow inhabitants of this planet. In an age of increasing interdependence of nations, a total view of world markets is necessary for the study and evaluation of agricultural legislation. These factors shall be considered in the context of P.L. 480.

I. PUBLIC LAW 480

The Agricultural Trade Development and Assistance Act of 1954⁸ (P.L. 480) authorizes the President to expand current international trade, to develop new foreign markets, to increase domestic productivity, to combat hunger and malnutrition with emphasis on improving agricultural techniques, and generally to promote the foreign policy of the United States.⁹ Title I of the Act authorizes the sale of agricultural goods for cash or credit to friendly countries.¹⁰ A friendly country is defined as one which is not Communist or controlled by a world Communist movement, or is not an aggressor against countries which have diplomatic relations with the United States.¹¹ Further, assistance can

⁷ S. 950, 94th Cong., 1st Sess. (1975); S. 2739, 94th Cong., 1st Sess. (1975); S. 2993, 94th Cong., 2d Sess. (1976).

⁸ P.L. 480, as amended by Food and Agriculture Act of 1977, Pub. L. No. 95-113, 91 Stat. 913 (1977) [hereinafter amendment cited as Food and Agriculture Act].

⁹ P.L. 480, § 2. To enforce these provisions, special emphasis is to be given to nations with serious food shortages. Domestic price and supply situations are to be taken into account in determining the commodities exported.

¹⁰ *Id.* § 101. This requirement is evidence of the legislative purpose when the legislation was enacted, at the height of the Cold War.

¹¹ *Id.* §§ 102, 103(d). Cuba and Vietnam are specifically excluded from Title I programs. The United Arab Republic is excluded unless inclusion would be in the national interest. The President can waive any of these exclusions if it is determined to be in the national interest. Egypt is presently receiving large shipments of grain under Title I.

be provided to friendly countries to resist Communist domination.¹² In exercising his authority under Title I, the President is charged to consider efforts by nations to improve their agriculture, to reduce population growth, to take precautions not to greatly disrupt world prices or trade, and to achieve terms favorable to the United States.¹³ The largest recipient of Title I aid for 1974 was East Asia (Vietnam and Cambodia) followed by the Near East (Israel) and South Asia (Pakistan and Bangladesh).¹⁴

The humanitarian slant of P.L. 480 becomes more apparent under Title II. Under that title, the President is authorized to make aid available to meet extraordinary relief needs, such as famine. One million tons of food aid is to be distributed through nonprofit agencies and the world food program.¹⁵ Efforts are to be made to encourage other nations to contribute to world food programs and to aid in the alleviation of emergency situations.¹⁶

Titles III and IV are minor provisions of P.L. 480. Title III empowers the Secretary of Agriculture to exchange commodities for goods used in other foreign assistance programs or for goods not sufficiently produced to meet domestic demands.¹⁷ Under Title IV, the Secretary is prevented from using agricultural products for P.L. 480 programs if domestic supplies fall below demand.¹⁸ This section of Title IV has never been used. To promote the national interest of the United States, the President shall seek to increase farmer to farmer contacts, to increase available commodity research and educational oppor-

¹² *Id.* § 103(j).

¹³ *Id.* §§ 103(a), 106(a). Section 111 places restrictions on sales to countries with *per capita* gross national product in excess of \$300. The President also may provide emergency assistance worth up to \$5 million. *Id.* § 104(d).

¹⁴ *American Foreign Food Assistance: Public Law 480 and Related Materials: Hearings Before the Senate Comm. on Agricultural and Forestry*, 94th Cong., 2d Sess. 37-41 (1976) [hereinafter cited as *American Foreign Food Assistance*]. Only estimates of 1975 and 1976 aid were available but the pattern of 1974 continued. The only major difference was an increase in aid to Latin American. Under the 1974 Title II programs, the principal recipients were India, Morocco, Columbia, Brazil, Mali, Niger, Sudan, and Tanzania.

¹⁵ P.L. 480, §§ 201(a),(b), 204. The aid ceiling was increased from \$600 million to \$750 million in 1977. President Carter has also expressed interest in contributing more aid through the World Food Program in 1978.

¹⁶ *Id.* § 205.

¹⁷ *Id.* § 303.

¹⁸ *Id.* § 401. Tobacco and alcoholic beverages are excluded from P.L. 480 regulations. *Id.* § 402.

tunities, and to seek the establishment of an agricultural reserve system to meet world emergencies.¹⁹

P.L. 480 was due to terminate at the end of 1977. The United States Congress, by amending P.L. 480, has extended its provisions for an additional four years.²⁰ Congress, by amending the legislation, has made the determination that P.L. 480 is still valid in the 1970's. However, since its original enactment in 1954, many factors affecting American agricultural policy have changed. In light of these changes, P.L. 480 must be compared with the current world situation.

II. EXISTING WORLD MARKETS

A. Historical Perspective

The present world population of four billion is expected to double early in the next century.²¹ An increase in population means a greater demand for food, especially in those nations with the highest rates of population growth. This is important to exporters of grain, such as the United States, in regard to production, price structure, selection of importers, and communication between the developed and undeveloped nations.

The United States has been a net exporter of agricultural products throughout its history, but the "North American Breadbasket" has become increasingly important in recent years. The United States is responsible for thirty-five percent of world wheat exports since World War II, seventy-five percent of soybean exports since 1949, and has been the largest exporter of feed grains since 1951.²² The developed countries have served as the major markets for American grain exports.²³ Among the Third World countries, there are importers which are hard-pressed to buy the necessary foodstuffs, while other nations are readily able to pay for what they import.²⁴ The major competitors

¹⁹ *Id.* §§ 404, 406(a), 412. It is this reserve system which President Carter plans to encourage under a world food program.

²⁰ Food and Agriculture Act, *supra* note 8.

²¹ T. FEJKA, THE FUTURE OF POPULATION GROWTH 192 (1973).

²² *Food Resources*, *supra* note 4, at 79, 81. The United States has supplied 50% of world feed grain exports since 1973.

²³ *Id.* at 8, 9, 11. Japan is the single largest export market. Western Europe also imports a sizable portion of American grain. Japan imports 90% of its soybeans, 70% of its feed grains, and 67% of its wheat from the United States. Western Europe imported 25% of the total American agricultural exports in 1975.

²⁴ *Id.* at 18. The OPEC nations, South Korea, and Taiwan have economies which allow for sizable imports, while Bangladesh and the Philippines are unable, at

for these wheat markets are Canada and Australia.²⁵ In 1976, the United States, Canada, and Australia supplied seventy-three percent of the world import needs for wheat.²⁶ The dominant American position in agriculture is even greater in the area of feed grains, with Argentina and Western Europe being the closest competitors.²⁷ Brazil, the most significant Third World exporter,²⁸ and the People's Republic of China are America's major competitors for soybean products.²⁹

It is possible to speculate that three countries, the United States, Canada, and Australia, could form a food cartel, as they control sizable portions of food exports. There are three situations, however, which make such a possibility unlikely. First, none of the countries has made an effort in this direction. Such an initiative would have to include the United States because of its dominant position in this area, although the United States alone does not have sufficient control of the world market to alter prices at will. Second, the countries that would suffer the most serious impact are those of the Third World, already hard-pressed to purchase grain. Strained political relations between the cartel members and purchasers of grain would almost certainly result. Finally, the major American customers are Japan and Western Europe, both able to afford higher prices, but they are also importers of American non-agricultural products as well as exporters of finished products to the United States. The major importers of American wheat are Asian countries (especially Japan) and Latin American nations. Japan and Western Europe are the largest soybean importers.³⁰ The European Economic Community (EEC) and Japan are the largest im-

times, to purchase the necessary food. India has begun to export grain in recent years due to good rains.

²⁵ *Id.* at 19, 74. Since 1951, the United States has supplied 35% of wheat exports; Canada, 23%; Australia, 10%; Western Europe, 10%; the Soviet Union, 8%; and Argentina, 5%. These same countries produce 50% of the world's wheat. South Africa, Thailand, Argentina, Western Europe, Canada, and Australia produce 17% of the world's feed grains and supply 33% of the exports.

²⁶ *Id.* at 74.

²⁷ *Id.* at 80. Since 1951, the United States has exported an average of 42% of world exports, 48% since 1970. Since 1951, Argentina has contributed 11% of world exports, Western Europe, 10%.

²⁸ *Id.* at 18. Brazil supplies 20% of world's soybean exports. Other grain exporters include Kenya, Rhodesia, Thailand, Burma, and Mexico.

²⁹ *Id.* at 19, 74. Brazil and China did have difficulties in 1977, resulting in China purchasing grain from the United States.

³⁰ U.S. DEPT OF COMMERCE, BUREAU OF CENSUS, FOREIGN TRADE DIVISION, UNITED STATES EXPORTS, 1976, at 30 (1977).

porters of feed grains, but within the last five years, the Soviet Union has entered the American market and has made very significant purchases.³¹

Several of the developed countries have taken measures to reduce their dependence on grain imports from the United States. Member nations of the EEC have replaced soybeans with lowfat dry milk as a feed supplement and the United States has alleged that this is a violation of the General Agreement on Tariffs and Trade.³² The Japanese have made plans to buy American grain when available in order to buffer against price fluctuations. In 1975, the United States assured Japan of top priority access to American crops.³³ The Soviet Union, for the period 1976-80, plans to reduce expansion of livestock production and to increase grain production.³⁴ These three examples, in several of the major American markets, demonstrate the potential economic effects on both sides if a cartel is formed. A reduction in agricultural trade, trade protectionism, and a trading war may result in the event a cartel is formed.³⁵

It has been anticipated that the United States role as exporter will continue as the dependence of lower income countries on American exports increases.³⁶ Since the mid-1950's, agricultural production by the Third World countries has increased by fifty percent, but rapidly expanding populations will eliminate any gain in production.³⁷ Among the developed countries, the People's Republic of China recently has turned to the United States for grain imports.³⁸ There also has been an increasing demand for meat, which incorporates a large consumption of cereal. This relationship is shown dramatically in the case of the Soviet Union when livestock production programs, initiated in the late 1960's, led to purchases of American grain in the 1970's.³⁹

All of these events have increased the value of exports. For 1974, these exports amounted to \$21 billion.⁴⁰ However, despite the growing

³¹ *Food Resources*, *supra* note 4, at 81.

³² *Id.* at 16.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 77.

³⁶ Schertz, *World Food: Prices and the Poor*, 52 FOREIGN AFF. 511, 518 (1974).

³⁷ *Id.* at 515.

³⁸ *Id.* at 526.

³⁹ *Id.* at 513-14.

⁴⁰ *Id.* at 511. *Food Resources*, *supra* note 4, at 77. The average annual value of American exports for 1967-72 was \$6.7 billion; for 1972, \$9.4 billion; and for 1973, \$18 billion.

volume of agricultural commodities, the quantity of products going to food aid programs, specifically through P.L. 480 programs, has decreased dramatically to levels near those of 1954, the year P.L. 480 was enacted.⁴¹ The average value of P.L. 480 programs has stabilized near \$1 billion, peaking between 1960-64, but by 1974, the value of the aid was at its lowest point since enactment. The aid has been increased since 1974, by recent estimates, to near its previous level of \$1 billion.⁴²

Funding for Title I programs generally is three to five times that of Title II. The decrease in funding in the early 1970's was a result of a decrease in Title I funding while funds available for Title II programs have been steadily increasing since 1954.⁴³

The most important agricultural product used in P.L. 480 is wheat. Wheat is generally used for direct human consumption while feed grains are fed to another animal before human consumption. A total of 187 million metric tons of wheat has been shipped under P.L. 480 and the present annual aid averages at 4.3 million tons. Feed grain shipments have been reduced to an annual average of 0.4 million metric tons. Other products shipped under P.L. 480 total 34.7 million tons. Almost all of the above grain has been shipped under Title I.⁴⁴

Worldwide production of grain has been increasing over the past twenty years. Increased demand would lead to an increased supply when possible. Implementation of modern farming techniques by less developed countries and exposure to new agricultural ideas may lead

⁴¹ *Food Resources, supra* note 4, at 76. For 1955 to 1959, the average value of wheat exports was \$701 million with \$489 million, or 68.6% of total wheat exports going to food aid programs. For 1970 to 1974, only 24.8% of wheat exports was earmarked for food aid, or \$340 million.

During 1955 to 1959, 22.5%, or \$104 million, of feed grain exports went to food aid programs, but this has dropped to only 4.8% or \$80 million for 1970 to 74.

This proportion of total soybean exports that is devoted to food aid has decreased from 85% in 1955 to 1959 to 49% for 1970 to 1974.

⁴² *American Foreign Food Assistance, supra* note 14, at 33.

⁴³ *Id.*

⁴⁴ *Id.* at 34-36. At the height of P.L. 480 programs an annual average of 12.5 million tons of wheat and 2.5 million tons of feed grains was shipped. Total feed grain exports has been 44.3 million metric tons.

Of the total amount of P.L. 480 aid, 159 million metric tons of wheat, 34.7 million tons of feed grains, and 25.9 million tons of other grains were shipped through Title I. Title II programs have totaled 27.7 million tons of wheat, 9.6 million tons of feed grains, and 8.8 million tons of other grains have been transported. These other grains include rice, vegetable oil, and nonfat dry milk.

to an increase in production by Third World countries. The advancement of technology, increased production, irrigation of once under productive or barren land, and introduction of new types of hybrid grains have all contributed to better harvests and the availability of more grain for export. Still, despite all of the advances and increases in grain production, the world food situation is at a precarious stage. Many of the developed countries of Western Europe and Asia have come to realize the importance of controlled population and their economic structure has allowed them to control their rate of growth. Countries, like those of OPEC, have the technological knowledge or the ability to purchase the necessary technology, information, and equipment to feed their populations. These countries are also in a position to be able to afford gradual increases in the price of foodstuffs although a sharp increase in the prices may create havoc in the international economic structure.

At the other end of the economic scale, there are many countries which are poor due to a lack of marketable resources or because their population consumes more than the country can produce. Many of these countries have no means of feeding themselves without massive foreign aid. The key to any planned program of food consumption must be birth control. This is one of the stated purposes of P.L. 480,⁴⁵ but such efforts may be frustrated by centuries-old social and religious beliefs.

It is also clear that the food aid programs are endangered by a number of factors. The Soviet Union has bought grain from the United States in recent years and it is possible that such purchases will increase if the Soviets attempt to expand livestock production beyond their own grain supply. The People's Republic of China is also interested in foreign grain purchases. The possible entrance of this huge market may greatly decrease the amount of grain available for food aid programs.⁴⁶ In addition, other measures taken by some of the developed countries may reduce their demand for American imports and make available grain for food aid programs or for export to other markets.⁴⁷

B. *Recent Foreign Influence*

The dominant position of the United States has been demonstrated in wheat, feed grains, and soybeans. This position allows for the exer-

⁴⁵ P.L. 480.

⁴⁶ Schertz, *supra* note 36, at 513-14.

⁴⁷ *Food Resources*, *supra* note 4, at 16.

tion of a strong influence on world markets and subjects American products to market price fluctuations.

Many of the lesser developed nations are able to satisfy their needs by trade with the United States in years of low production. Such demands are often unreliable in terms of long range planning and, separately, the requirements of such nations are small and can be met by government programs, such as P.L. 480. The developed countries are more likely to engage in long term planning and consequently their needs are more predictable. The requirements of large-scale livestock production and the funds available for storage facilities allow for this predictability. Because developed nations with industrial economies are the largest purchasers of American agricultural products, they often exercise the strongest influence on the American, as well as the world, market.

It was predicted in the fall of 1977 that on a worldwide basis, many good harvests were expected for 1977. Such harvests would mean a lowering of grain imports and, in some cases, an increase in grain for export. However, several countries were expected to import American grain, including the Soviet Union, Italy, Japan and other Asian countries which have been steady American customers.⁴⁸ For 1977, Japan was expected to have a better than average harvest with general production up five to six percent.⁴⁹ However, the future may not be as bright as these figures indicate. The United States has expressed concern about a Japanese trade surplus, half of which is a result of trade with the United States.⁵⁰ A dispute arose between the two countries and as a result of negotiations a trade pact was announced in early January of 1978. Japan agreed to undertake efforts to reduce an \$8.5 billion trade surplus beginning in April 1979 and to allow more imports of American agricultural products.⁵¹ When asked in an interview what was the greatest economic problem for Japan, the Minister for External Economic Affairs and chief Japanese negotiator of the trade agreement, Nobuhiko Ushiba replied:

Of course, agriculture. Our agriculture is really in a difficult situation because we have an accumulated rice surplus of nearly 4 million

⁴⁸ U.S. NEWS & WORLD REPORT, Nov. 21, 1977, at 57.

⁴⁹ *Id.* Rice production was expected to be up 10%, fruit up 6%, and vegetables near normal.

⁵⁰ *Japan Agrees to Slice the Surplus*, TIME, Jan. 23, 1978, at 63.

⁵¹ Chicago Tribune, Jan. 13, 1978, at 1, col. 3. These include beef and citrus products.

tons, and we have been pushing farmers to switch to livestock or other crops such as fruit. If we open up the country to a flood of oranges and beef—as the U.S. demands—our farmers would lose confidence in our agricultural policy, which could be fatal to the rule of the pro-American, free trade Liberal Democratic Party.⁵²

Although the agricultural concessions made by the Japanese will have little impact on American producers, it has been viewed as a willingness on the part of the Japanese to cut back on exports and increase imports, contrary to traditional Japanese trade policy. It is hoped that by 1980 the Japanese trade surplus will be reduced to zero.⁵³

The American response to the Japanese trade surplus may be repeated in dealings with other countries which have a favorable balance of trade with the United States. There have been no indications of this coming about but if trade protectionism is the current mood of Congress and the Administration, an increase in agricultural exports may be in store.

In Western Europe, Britain and Italy enjoyed record harvests while French and German production also increased.⁵⁴ The excellent harvest could mean a decrease in the demand for grain imports from the United States. Members of the EEC had begun plans in 1976 to decrease American grain imports by replacing soybeans with dry milk in feed grains. The expected result of this plan is the eventual reduction of soybean imports by 300,000 to 400,000 tons with an estimated damage of \$136 million to American producers.⁵⁵ A resolution was introduced in the House of Representatives, co-sponsored by forty-two representatives, to seek elimination of the EEC practices and to seek compensation for injuries under Article 23 of the General Agreement on Tariffs and Trade.⁵⁶

For Asia, 1977 was mixed year. The Japanese expected a better than average harvest but agreed with the United States to allow more agricultural imports, as discussed above. South Korea, Taiwan, and India were expected to have good harvests.⁵⁷ For 1978, it is expected that India will have a record crop due to favorable weather and im-

⁵² *Ushiba: Manuvering Room*, NEWSWEEK, Jan. 9, 1978, at 32.

⁵³ TIME, *supra* note 50.

⁵⁴ U.S. NEWS & WORLD REPORT, *supra* note 48.

⁵⁵ *ECC Imports Deposits on Vegetable Protein Products: Hearings Before the House Comm. on Agriculture, Sub-Comm. on Oilseeds and Rice*, 94th Cong., 2d Sess. 2 (1976).

⁵⁶ H.R. Con. Res. 600, 94th Cong., 2d Sess. (1976).

⁵⁷ U.S. NEWS & WORLD REPORT, *supra* note 48.

proved technology,⁵⁸ but India's storage facilities will be inadequate to meet the demand imposed by this output. The World Bank, the United States, Canada, and Australia plan to aid India in creating storage facilities.⁵⁹ It has been reported that there is a possibility that Bangladesh could become self-sufficient by 1985.⁶⁰

The People's Republic of China generally does not purchase American grain, but rather imports from Canada and Australia which recognize the Peking government as the legitimate government of China.⁶¹ However, Peking has turned to the United States at times in order to obtain immediate delivery. In March and November of 1977, the Chinese purchased American soybeans after experiencing delivery problems with Brazil.⁶²

As a whole; the Asian market has been and will continue to be an attractive market for the American producer. Sales of wheat to Asia have averaged \$900 million a year with annual increases of five to twenty percent expected for several years.

C. Soviet Grain Purchases

The Soviet Union is a major example of a market which has become available to American producers in the 1970's. In part, the increase in Soviet demand has been created by expanding consumption rates and a decreased supply in years of smaller than expected harvests.

For 1976, the Soviet Union had a record grain harvest of 223.8 million tons. The harvest for 1977 had been predicted to reach 215 million tons but bad weather before and during the harvest resulted

⁵⁸ N.Y. Times, Oct. 30, 1977, at 3, col. 1. The use of hybrid seeds, water storage and irrigation, and the use of natural fertilizers have contributed to increases of 30% in production in some areas.

⁵⁹ U.S. NEWS & WORLD REPORT, Jan. 23, 1978, at 46.

⁶⁰ N.Y. Times, Oct. 20, 1977, at 27, col. 1.

⁶¹ U.S. NEWS & WORLD REPORT, Nov. 7, 1977, at 54. N.Y. Times, Nov. 18, 1977, at D2, col. 6. Peking purchased 142 million bushels in March and 900,000 bushels in November.

⁶² *Id.* at 53.

⁶³ N.Y. Times, Oct. 30, 1977, at 3, col. 4. Senegal, Gambia, Mauritania, and the Cape Verde Islands had requested 500,000 tons of food. *See also* N.Y. Times, Nov. 17, 1977, at D1, col. 1. The Libyans have made overtures to American producers to purchase \$60 million of grain. The Libyans have decided to deal directly with producers rather than the United States government because Washington previously had blocked the sale of cargo planes.

in a revision to 194 million tons, the fourth largest ever, but far below that of 1976.⁶⁴ The Soviets turned to the West to make up the difference. Under a 1975 trade agreement, Moscow was required to purchase six million tons of American grain, and if the needed grain should rise above eight million tons, Washington was to be informed. However, the Agriculture Department and the Central Intelligence Agency (CIA) had forecast the Soviet harvest at 215 million tons. When Soviet President Leonid Brezhnev announced that the Soviet harvest would be less than expected in November of 1977, the statement took both American agencies by surprise. The Soviets would be required to buy ten to fifteen million tons more than expected.⁶⁵ To complicate the situation, much of the grain required by the Soviet Union had already been purchased. During the summer and fall of 1977, grain prices were depressed in the United States. The Soviets then purchased large amounts from European subsidiaries of American companies and other traders.⁶⁶ The Soviets had been able to exploit a loophole in the Soviet-American trade agreement by the use of orders of "optional origin grain".⁶⁷ In early October, a Soviet trade delegation had come to the United States and was offered the right to purchase up to fifteen million tons of grain in order to reduce American surpluses.⁶⁸ By November 2, the date of Mr. Brezhnev's announcement, the Soviets had contracts for eighteen to twenty million tons from Australia, Canada, India, and the United States.⁶⁹

There had been several signs that the Soviets were making grain purchases. In July, the Soviets were contracting for ships to carry grain and in an effort to keep secret this intention, the bills of lading were altered at sea in order to disguise the ultimate destination of the ships. World freight rates climbed by fifteen percent and in October, Chicago commodity traders had heard of Soviet purchases, and American wheat

⁶⁴ U.S. NEWS & WORLD REPORT, *supra* note 48.

⁶⁵ *Another Soviet Grain Sting*, TIME, Nov. 28, 1977, at 88. See also U.S. NEWS & WORLD REPORT, *supra* note 48, at 29. The announcement on November 2nd was 10% below the CIA and USDA forecasts and 19 million tons below the Soviet goal.

⁶⁶ U.S. NEWS & WORLD REPORT, *supra* note 48, at 29.

⁶⁷ N.Y. Times, Nov. 21, 1977, at 53M, col. 5. Normally, exporters know the final destination of the products and thus the United States would have known of the purchases by the Soviet Union but the orders were made in a category known as "optional origin grain," in which the exporter does not know the final destination or plans to fill the order in another country.

⁶⁸ U.S. NEWS & WORLD REPORT, *supra* note 48, at 29.

⁶⁹ TIME, *supra* note 65.

and corn prices moved slightly upward from August to October. Through this process, the Soviets were able to save \$100 million.⁷⁰

Despite the Soviet savings, the American producer may be able to recoup part of the lost revenue. The Soviet purchases have reduced surpluses and have helped to raise prices.⁷¹ The Soviets are expected to purchase another fifteen million tons of grain, which they had contracted for in November.⁷² Other major exporters have sold most of their available grain for export leaving the United States as the only exporter with large supplies on hand.⁷³ If the Chinese or another importer should need sizable imports they would have to buy from the United States.⁷⁴

A crisis, like those of 1973 and 1975, was averted due to record harvests and the resulting low prices.⁷⁵ The CIA and the Department of Agriculture were blamed for faulty intelligence gathering and the possible grain shortages which could have resulted.⁷⁶ Secretary of Agriculture, Bob Bergland, attempted to explain the inaccurate forecasts of Soviet production as due to conflicting reports.⁷⁷

The reasons for the Soviet grain purchases are multiple. Since 1971, the Soviet Union, historically an exporter, has become a net importer.⁷⁸ The 1977 Soviet production figures were the result of bad weather.⁷⁹ The 1973 soybean embargo had its beginnings in the fall of 1972, when world demand for soybeans was high, and in February of 1973, when the dollar was devalued for a second time.⁸⁰ The Chicago

⁷⁰ *Id.* at 89. The destination was altered from Rotterdam to the Soviet Union with trans-shipment by way of Rotterdam.

⁷¹ *Id.*

⁷² N.Y. Times, Nov. 21, 1977, at 33M, col. 5. N.Y. Times, Nov. 18, 1977, at D2, col. 6.

⁷³ TIME, *supra* note 65.

⁷⁴ *Id.*

⁷⁵ *Why Farmers Are Up in Arms*, U.S. NEWS & WORLD REPORT, Oct. 31, 1977, at 60.

⁷⁶ Safire, *Against the Grain*, N.Y. Times, Nov. 10, 1977, at 37, col. 3. William Safire questioned the ability of the CIA, in light of the inaccurate information, to be able to provide the necessary intelligence needed during a military crisis.

⁷⁷ U.S. NEWS & WORLD REPORT, *supra* note 75. The reports were based on satellite photos and actual observation.

⁷⁸ *Id.*

⁷⁹ *Id.* Weather conditions included a mid-summer drought and heavy rains at harvest time.

⁸⁰ N.Y. Times, Feb. 13, 1973, at 1, col. 8. The devaluation of the dollar made American products more attractive to foreign purchasers.

Board of Trade limited the trading of soybean futures on June 22, 1973.⁸¹ Secretary of Commerce, Frederick Dent, and Secretary of Agriculture, Earl Butz, imposed an embargo on soybean exports when faced with an insufficient supply for domestic use and anticipated exports, on June 27,⁸² but this was replaced on July 2 with an export licensing control.⁸³ In June, soybean prices had been high but at the time the export controls were lifted, on September 21, the price had fallen.⁸⁴

In 1975, the Soviets turned to the West again when June production figures were revised downward,⁸⁵ which continued until it was announced that Soviet grain production would total only 170 million tons.⁸⁶ On August 11, 1975, the Secretary of Agriculture requested export dealers to suspend sales to the Soviets until grain figures were available.⁸⁷ In response to possible domestic food price increases, the maritime unions on the Atlantic Coast, the Gulf of Mexico, and the Great Lakes refused to load Soviet grain.⁸⁸ The situation was relieved by record wheat and corn harvests.⁸⁹ Negotiations between the United States and the Soviet Union culminated in a five year grain agreement and an end to the sales restraints.⁹⁰ Under this agreement the Soviet Union agreed to purchase six million metric tons of wheat and corn annually for five years. They could also purchase another two million tons without government consultation, but if purchases should exceed eight million tons, consultation with the United States Government would be required. The United States is allowed to restrict Soviet purchases to less than six million tons if American grain production should fall below 225 million tons in any year.⁹¹

⁸¹ N.Y. Times, June 22, 1973, at 43, col. 8.

⁸² N.Y. Times, June 28, 1973, at 1, col. 3.

⁸³ N.Y. Times, July 3, 1973, at 31, col. 5.

⁸⁴ N.Y. Times, Sept. 22, 1973, at 39, col. 5.

⁸⁵ N.Y. Times, June 11, 1975, at 73, col. 4. The USDA revised the Soviet harvest figures downward, from 210 million to 200 million tons.

⁸⁶ N.Y. Times, Oct. 6, 1975, at 32, col. 5. This figure was 45 million tons short of the Soviet goal.

⁸⁷ N.Y. Times, Aug. 12, 1975, at 1, col. 6.

⁸⁸ N.Y. Times, Aug. 19, 1975, at 1, col. 5.

⁸⁹ N.Y. Times, Oct. 11, 1975, at 1, col. 5.

⁹⁰ N.Y. Times, Oct. 21, 1975, at 1, col. 1.

⁹¹ *Grain Sales to Russia: Hearings Before the House Comm. on Agriculture*, 94th Cong., 1st Sess. 2 (1975) (Statement of Undersecretary of State for Economic Affairs, Charles Robinson.)

The Soviet Union has had to turn to the West in order to meet demand created by domestic consumption and increased livestock production. Further, there are significant political ramifications tied to poor Soviet harvests.

The Soviets have already moved into marginal and submarginal areas for the grain production to meet commitments they have made to their people to upgrade the Russian diet, by increasing the percentage of protein in the form of meat.

This has created a condition in which they will be inevitably dependent upon foreign sources. Where they have been exporting up to 8 million tons of grain a year to Eastern Europe, that is phasing out rapidly and Eastern Europe is now looking to us for their supplemental grain requirements.⁹²

The Nixon and Ford administrations came under heavy pressure for the actions taken in 1973 and 1975. During 1975 and 1976, several bills were introduced in the Senate to curtail government export restrictions and to prevent actions to seek the "voluntary restraint" of exports.⁹³ Mr. Rueben Johnson, then Director of Legislative Services of the National Farmers Union, testified before the House International Relations Committee in 1976, stating:

In 1973 and in 1974 and again in 1975 the Government has intervened and is now interfering to prevent farmers from selling their crops freely.

Because this was done without any guidelines, without any link to a policy of food abundance, this has been the worst possible form of export control. It has exposed farmers, American consumers, and our export consumers alike to the capricious, irresponsible, and incompetent whim of politicians in the executive branch, acting unpredictably and arbitrarily under the pressures, the hysteria, and the political motives of the moment.⁹⁴

Counsel for the National Association of Wheat Growers felt that there was a possibility that President Ford had acted unconstitutionally in seeking voluntary restraints of trade and that there may have been antitrust violations by the grain companies which went along with the

⁹² *Id.* at 8.

⁹³ S. 950, 94th Cong., 1st Sess. (1975); S. 2739, 94th Cong., 1st Sess. (1975); S. 2993, 94th Cong., 2d Sess. (1976).

⁹⁴ *Extension of the Export Administration Act of 1969: Hearings Before the House Comm. on International Relations, 94th Cong., 2d Sess. 269 (1976) (Statement of the Director of Legislative Services, National Farmers Union, Rueben Johnson.)*

voluntary restraints.⁹⁵ Mr. Tony Denchant, President of the National Farmers Union and President of the International Federation of Agriculture Producers felt that the trade limitations of 1975 had reduced American crop values by \$2 million.⁹⁶

The Ford administration took the position that the trade controls were necessary to protect American markets.

As a major exporter of raw materials, we wish to improve our access to other countries' markets for our exports and convince other countries that we are a dependable supplier. Excessively volatile price fluctuations are a matter of concern both to the developing and to the developed countries.⁹⁷

The examples of 1973 and 1975 show that there is the potential for *raiding* American supplies by foreign purchasers. In years of high demand, inadequate supplies could result in prices which only developed countries could afford, proving disastrous to undeveloped nations. Demand for grain will increase as animal production and increased populations place greater strains on anticipated grain production. To avoid worldwide disaster, supplies must be maintained and increased.

III. DISSENT AMONG AMERICAN PRODUCERS

Despite what may appear as a bright future for grain exporters, American producers have not been able to reap the maximum benefits from their productivity. The plight facing American farmers has reached a crisis stage for some. Prices for their products have come down in recent years so that income from farming has reached a forty year low. At the same time, expenses for seed, labor, and fertilizer have been steadily increasing.⁹⁸ Net farm income has fallen from an average of \$9950 in 1973 to \$5300 in 1977.⁹⁹ The total net farm income has also fallen between the years 1973 and 1975.¹⁰⁰ Many foreclosures have been prevented only by the rising value of land. Based on what has been paid for farm land, the value has increased by

⁹⁵ *United States Foreign Trade Policy: Hearings Before the Senate Comm. on Finance*, 94th Cong., 2d Sess. at 286-87 (1976).

⁹⁶ *Id.* at 304.

⁹⁷ *Id.* at 72.

⁹⁸ U.S. NEWS & WORLD REPORT, Dec. 26, 1977, at 69.

⁹⁹ *The Tractor Rebellion*, NEWSWEEK, Dec. 19, 1977, at 57.

¹⁰⁰ N.Y. Times, Oct. 13, 1977, at D1, col. 4. Total farm income for 1973 was \$29.9 billion, a record year. For 1977, farm income totaled \$20.1 billion; for 1976, \$21.9 billion.

114% in the last five years. The rise in value may become a thing of the past as a 1.2% decrease in land prices was reported for the third quarter of 1977. Farmers' debt has doubled since 1970, and now exceeds \$100 billion.¹⁰¹

By way of reaction to these conditions some of the producers banded together calling for a nationwide strike, that began on December 14, 1977, and now plan to continue the strike until they receive 100% of parity.¹⁰² The striking farmers have rallied around an organization called American Agriculture, which claims the support of forty percent of the nation's farmers. This claim may be unfounded as many of the established agricultural groups, such as the American Farm Bureau Federation, and producers of perishable goods, are not taking part.¹⁰³ In any event, any increase in parity will certainly be passed on to the consumer. For 1978, food prices are expected to rise four to six percent but if 100% of parity is achieved, the rise could be by as much as twenty to twenty-five percent.¹⁰⁴

The Secretary of Agriculture, Bob Bergland, sees the problem as one of overproduction in that the American farmer is producing thirty to forty million tons over market demands.¹⁰⁵ He finds the majority of large producers need no government help and does not intend to give them any.¹⁰⁶ A plan to set aside twenty percent of wheat acreage and ten percent of corn and other feed grains has been established for 1978.¹⁰⁷ Other recommendations have been made to cope with overproduction.

We recommend that supply management programs be voluntary. In order to facilitate crop-acreage changes to meet market demands of the future and to encourage the growing of crops in the most efficient areas for those crops, we recommend that acreage allotments and marketing quotas be made negotiable or transferable. In the

¹⁰¹ U.S. NEWS & WORLD REPORT, *supra* note 98.

¹⁰² N.Y. Times, Oct. 3, 1977, at 18, col. 1. For a discussion of parity, see *supra* note 98, at 70. Basically, parity is giving the farmer the same purchasing power for his crop as that of the period 1910 to 1914. In the fall of 1977, farmers were receiving 66% of parity.

¹⁰³ U.S. NEWS & WORLD REPORT, *supra* note 98, at 70.

¹⁰⁴ *Id.*

¹⁰⁵ *Why Farmers Are Up in Arms*, U.S. NEWS & WORLD REPORT Oct, 31, 1977, at 57.

¹⁰⁶ *Id.* at 58.

¹⁰⁷ Food and Agriculture Act, *supra* note 8.

case of voluntary programs, the historical bases could be made transferable.¹⁰⁸

In 1977, Congress passed the Food and Agriculture Act of 1977, amending P.L. 480.¹⁰⁹ There are three basic additions to the legislation. First, items for purchase under Title I are to be advertised so as to provide for public bids. Second, the funding for Title II programs has been increased from \$600 million to \$750 million. Finally, P.L. 480 has been extended to 1981.¹¹⁰ The Food and Agriculture Act of 1977 also makes provisions for setting aside acreage for crops, and encourages the President to seek development of an international food reserve.¹¹¹ President Carter has acted upon this legislation. In his 1978 State of the Union address, President Carter stated that the United States would propose contributing six million metric tons of food products to the international grain reserve.¹¹²

IV. P.L. 480 IN PERSPECTIVE

Countries which historically have been exporters, such as the Soviet Union, and countries which have been reluctant to seek imports, like China, have increasingly turned to exporters, especially the United States, to meet their needs. Some nations have been able to overcome large imports and have begun to export grain, but in the case of India, the most notable example, this situation may be short-lived if the weather does not cooperate. The demands of the Third World countries have been met by aid from the developed countries, through P.L. 480, and more recently through the establishment of the International Grain Reserve.

The balance between world agricultural supply and demand and the delicacy of this balance was brought home to American producers, consumers, and government officials in 1973 and 1975. It has already been predicted that between 1980 and 1985 food aid needs will exceed the availability of American grain to meet those needs.¹¹³ If this does

¹⁰⁸ National Advisory Commission of Food and Fiber, CO-OP GRAIN Q., reprinted in AGRICULTURAL POLICY IN AN AFFLUENT SOCIETY 141 (V. Rutton, A. Waldo, J. Hoock eds. 1969).

¹⁰⁹ Food and Agriculture Act, *supra* note 8.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² N.Y. Times, Jan. 20, 1978, at A12, col. 4.

¹¹³ A. Montgomery and E. Weeks, *Implications of Export Policy Choices for American Agriculture*, reprinted in FOOD GOALS, FUTURE STRUCTURAL CHANGES, AND AGRICULTURAL POLICY: A NATIONAL BASEBOOK 301 (1969).

come about, it will leave exporters with two basic choices, increase the amount of food available through food aid programs, or leave those nations dependent on food aid to their own resources. To complicate this condition, some scientists have predicted a radical change in weather patterns. Although climatologists warn that the data has been compiled over too short a timespan for concrete conclusions, they feel that the earth is warming up.¹¹⁴ The destruction of forests on a worldwide basis may also be responsible for the increase of carbon dioxide in the atmosphere.¹¹⁵

In light of future expectations of world demand, policy decisions may have to be made regarding the amount and type of food aid that will be provided to lesser developed countries. The International Grain Reserve appears to duplicate the functions of Title II of P.L. 480. A worldwide effort of contributing to this reserve and the sharing of its products may prove to be the most effective means of distributing food aid from the United States. The United States, as the world's largest exporter, should take the lead in this development and should be one of the largest contributors to the reserve, as should be other nations with sizable exports.

As the International Grain Reserve duplicates much of the Title II programs, Title II may no longer be necessary. Part of the purpose of P.L. 480 is to serve humanitarian goals and to promote the foreign policy of the United States. A program under international control, by chance or the influence of the United States, may achieve the same ends, but the furtherance of American foreign policy goals cannot be guaranteed. This would seem to be the sole justification for continuing Title II programs rather than increasing contributions to the grain reserve.

The grain that was originally earmarked for Title II could be included in the contribution destined for the grain reserve. Before the 1977 amendments to P.L. 480, the President was authorized to make available, under Title II, a minimum of 1.3 million tons or \$600 million annually in aid.¹¹⁶ President Carter's proposal calls for a contribution of six million tons to the International Grain Reserve.¹¹⁷ For the period 1955 to 1977, the average annual aid donated under Title II

¹¹⁴ *Long-Term Forecast*, NEWSWEEK, Jan. 23, 1976, at 34. By the year 2050, it is predicted that the atmosphere will be three degrees Celsius warmer. If this is the case, it could turn the majority of the American Midwest into a arid plain.

¹¹⁵ *The Carbon Dioxide Question*, SCIENTIFIC AM., Jan. 1978, at 34.

¹¹⁶ *American Foreign Food Assistance*, *supra* note 14.

¹¹⁷ N.Y. Times, *supra* note 112.

was 1.9 million tons.¹¹⁸ In 1962, 2.9 million tons was exported under Title II, the single largest aid package in one year.¹¹⁹

The appropriation of a minimum of \$750 million for Title II programs, increased in 1977, can be used for other purposes. Any nation which imports or produces grain must have storage facilities until the food is ready for distribution or consumption. If the grain is not properly stored, it could rot or spoil before distribution. Aid from the United States and other countries, and loans from international financing institutions, such as the World Bank, could provide the necessary funds. The construction of storage facilities may produce the added benefit of grain purchases from exporters when there are surpluses and lower prices. In addition, funds made available through Title II could be used to curtail birth rates. The funds could be put to use in distributing birth control information adaptable to the customs and religious beliefs of the native culture.

Inherent in programs similar to P.L. 480 is the economic effect on local markets. These programs introduce foodstuffs at a time when supply is low. This basically has the same effect as a good harvest for the recipient country. Local producers thus receive lower prices for their product at times of high demand. The effect will be to further increase the dependence of the recipient country on American grain, thus increasing the market for American producers, but devastating to the local farmers. Emphasis on agreements running over a period of years, rather than the current annual basis, creates more certainty and predictability for recognizing demand in years of less than favorable harvests by providing a minimal level of requirements and the ability to meet obligations and needs in other markets.

Unreliability of supplies can also harm American markets in developed countries. In a year of short supply, the United States could hardly turn its back on those countries dependent on American grain in favor of more profitable markets. If the United States is unable to meet the needs of the developed countries, they will turn to another, more reliable supplier. Despite the importance of the above considerations, primary emphasis should still be given to the American producer and consumer. Under long-term supply contracts, which the American producer can rely on to predict demand, he will be able to produce according to this demand and to avoid surpluses and depression of the farm market.

¹¹⁸ *American Foreign Food Assistance*, *supra* note 14, at 33.

¹¹⁹ *Id.*

Any government program to aid the American producer, whether in the form of a direct subsidy or through manipulation of natural market forces to decrease the supply in times of overproduction, will increase food prices. Controlling production by forecasting demand can ease the consumer burden, while allowing for steady increases in prices for the producers.

In light of the extensive Soviet purchases, the requirement of P.L. 480, that the recipient country be classified as a friendly and non-communist nation, no longer seems to be valid. The Chinese have attached part of the past to their trade dealings with the West, but faced with the realities of food supply, even they have turned to the United States. Because of these realities, the Chinese may be the next market to open up for the American producer. With a population of nearly one billion people, the People's Republic of China has the potential of becoming one of the world's largest markets for grain and foodstuffs. The Chinese have placed conditions on the establishment of large scale trade relations with the United States, principally the recognition of the Peking Government.

A major responsibility for the distribution of information to the producers must fall with the major agricultural organizations. They can prove invaluable in providing information of expected foreign and domestic demand. Such information will enable sole producers and producer cooperatives to plant accordingly, allowing for some surplus to meet higher demand and compensate for future years when production is low or demand is high.

Continued expansion of demand for American agricultural products is inevitable in light of world consumption and population factors. Population growth, increased livestock production, and diversification of diets all mean a greater demand for foodstuffs and grain. The Soviet Union is one example of a nation expanding one segment of their agricultural economy while another segment is unable to provide the needed supply. Lesser developed countries suffer from rapidly expanding populations and already inadequate food supplies. All of these factors are placing increased demand on producer nations.

The type of aid that may prove most effective in the long run is that which is designed to increase production in recipient countries. The providing of food to nations with production near demand may have the effect of depressing the local agricultural markets and discouraging increased production due to lower prices. The effect may be the dumping of surplus American grain in these countries and the perpetuation of a market for imports. Aid in the form of information,

seed, and machinery can encourage nations to become self-sufficient for their food needs.

The Carter administration has indicated that it is interested in changing the approach of the United States to food aid programs, aiding those countries most seriously affected by food shortages. The Carter approach is basically three pronged: (1) to increase the aid provided by private organizations and participation by a larger number of organizations; (2) to increase congressional funding for government agencies that are providing food aid; and (3) to seek greater coordination with agencies of the United Nations in aiding countries to increase production.¹²⁰ This proposal begins to solve a complex problem but it is only a start. A comprehensive evaluation of all phases of agriculture may be necessary. Coordination between foreign exports and domestic production is needed to insure supplies and to meet demand in the future. An economically advantageous climate must be established for American farmers to operate in, and to profit from their labors. At the same time, market prices must be such that the farmers can profit and foreign purchasers, especially undeveloped nations, can readily purchase the commodities produced.

V. CONCLUSION

The outlook for American agriculture is economically good while the world situation is facing grave pressures. All efforts must be made to insure the continued viability of American agriculture as a valued source of foreign exchange, to balance American imports, to provide a livelihood for those involved in American agriculture, and to promote the foreign policy of the United States.

It is not inconceivable that at some point within this century millions could starve. It is even possible that there will be food available but insufficient granary facilities would make necessary the storage of grain in the open, subject to natural elements. Thus, P.L. 480, is an important program for achieving the stated purposes of American agriculture and the Carter plans for food aid. Its importance surely will increase within the next decade as the world's food deficiency becomes more apparent and American production of grain becomes more essential.

DAVID HELSCHER*

¹²⁰ Jones and Southerland, *Carter Plans Assault on World Hunger*, Christian Science Monitor, Oct. 18, 1977, at 1, col. 1.

* J.D. Candidate, Case Western Reserve University, 1979.

HUMAN RIGHTS ADDENDA

- Recent Proposals in the United Nations to Amend the Charter
Michael M. Gunter 763
- International Human Rights Norms and Soviet Abuse of
Psychiatry
Amy Young-Anawaty 785
- Esperanto: An International Language for International Law
Ralph L. Harry 817

