DOCUMENT RESUME

00570 - [A0400314]

Lessons to be Learned from the Management of Commodities Remaining from Terminated Indochina Economic Assistance Programs. ID-76-48; B-159451. October 20, 1976. 71 pp.

Report to the Congress; by Elmer B. Staats, Comptroller General.

Issue Area: International Economic and Military Programs: U.S. Development Assistance Overseas (603).
Contact: International Div.
Budget Function: International Affairs: Foreign Economic and Financial Assistance (151).
Organization Concerned: Department of Agriculture; Department of State; Agency for International Development.
Congressional Relevance: House Committee on International Relations; Senate Committee on Foreign Relations; Congress.
Authority: Agricultural Trade Development and Assistance Act of 1954, as amended (P.L. [84]-480). Trading with the Enemy Act (50 U.S.C. 1 et. seq.). Foreign Assets Control Regulations. 31 C.F.R. 500.21. AID Regulation 1. 22 C.F.R. 201.44. 22 C.F.R. 201.66.

A review of the methods of disposal of commodities after termination of assistance programs in Indochina revealed problems and needs for future improvement. The Agency for International Development (AID) and the Department of Agriculture took control of commodities in transit worth an estimated $54.3 million. Findings/Conclusions: In terminating the pipelines and disposing of goods in transit, these agencies incurred costs and losses of millions of dollars. Some costs could have been reduced if the Department of Agriculture had not required immediate disposal of commodities or had reprogrammed them, and if AID had more effective procedures to dispose of commodities. Recommendations: The AID should develop detailed instructions for disposing of commodities; prepare contingency procedures to curtail or slow down a commodity pipeline when necessary; require adequate information be maintained on status of open letters of credit; and improve their commodity data system. The Department of Agriculture should include in future P.L. 480 agreements a provision for taking title to commodities, before their scheduled arrival in a country; make a concerted effort to reprogram rather than sell intransit commodities; and develop directions as to data to be provided field representatives and procedures they should follow in selling intransit commodities. (MTW)

REPORT TO THE CONGRESS

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

Lessons To Be Learned From The Management Of Commodities Remaining From Terminated Indochina Economic Assistance Programs

Department of State and other agencies

To show continued support for and faith in the U.S.-allied governments in Indochina, the United States did not cut the economic assistance commodity pipelines until after the withdrawal of U.S. personnel.

In terminating pipelines and disposing of goods in transit, the Department of Agriculture and Agency for International Development incurred costs and losses of millions of dollars. While many of these were unavoidable, they could have been substantially reduced if:

- Agriculture had not had to require its representatives to dispose of commodities almost immediately; adequate guidance had been provided to the field; or commodities had been reprogramed to other assistance programs.

- The Agency for International Development had had adequate data and procedures to more effectively identify and dispose of commodities.

ID-76-48

OCT. 20, 1976

B-159451

To the President of the Senate and the
Speaker of the House of Representatives

This report describes how the Department of Agriculture and the Agency for International Development disposed of commodities remaining from terminated Indochina economic assistance programs. It is directed toward establishing efficient and effective procedures for carrying out such disposals should it again become necessary to terminate large assistance programs.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of State; the Secretary of Agriculture; and the Administrator of the Agency for International Development.

Elmer B. Staats
Comptroller General
of the United States

C o n t e n t s

ABBREVIATIONS

AID	Agency for International Development
CIP	Commodity Import Program
GAO	General Accounting Office
GSA	General Services Administration
RCMO	Regional Commodity Management Officer
USAID	United States AID Mission

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

LESSONS TO BE LEARNED FROM THE MANAGEMENT OF COMMODITIES REMAINING FROM TERMINATED INDOCHINA ECONOMIC ASSISTANCE PROGRAMS

Department of State and other agencies

D I G E S T

When the U.S.-supported governments in Cambodia and Vietnam collapsed and the Agency for International Development Mission was closed in Laos, large quantities of commodities financed through U.S. economic assistance programs were being purchased for and shipped to those countries.

The Agency for International Development and the Department of Agriculture took control of commodities in transit worth an estimated $54.3 million. Another $20 million of undistributed Agency-financed commodities were in Vietnamese warehouses.

The Agency agreed as of May 1976 to pay suppliers $1.2 million for unrecoverable costs incurred on commodities ordered but not shipped.

Costs and losses incurred in terminating the commodity programs were substantial; many were unavoidable but steps could have been taken to reduce them appreciably.

For example:

--Costs of goods delivered which U.S.-supported governments were unable to use before their collapse.

--Costs incurred by suppliers for goods ordered but not shipped before program terminations.

--Costs incurred in shipping, handling, storing, and disposing of intransit goods.

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--Costs of personnel retained to manage and dispose of the goods.

--Losses incurred in disposal of the goods (purchase price less sales proceeds).

Costs and losses would have been less if:

--The Agency for International Development had had adequate commodity information and procedures to identify and dispose of pipeline commodities effectively.

--Agriculture had not required its field representatives to dispose of commodities in transit almost immediately, without adequate guidance, or had reprogramed the commodities to other food assistance programs.

The amounts of commodities and the resulting losses could have been reduced further had the two agencies slowed purchases and shipments of commodities prior to the official termination of the Cambodia and Vietnam programs.

AID COMMODITIES

The Agency for International Development took title to $29 million in commodities during April 1975 and another $1 million in July but did not dispose of most of these goods until after the end of the year. The delays increased storing and managing costs and in some instances contributed to deterioration.

Before disposal actions began, time was needed to obtain sufficient commodity information from overseas and to decide on procedures to be followed.

The Agency also took considerable time attempting to transfer commodities to other programs or to sell them back to suppliers and producers. Only a few commodities were disposed of through these means. (See pp. 27 to 29.)

The Agency for International Development had experienced program terminations previously and should have been better prepared; it should have had contingency plans which would have facilitated management of the situation in Indochina.

GAO is recommending that the Administrator of the Agency for International Development:

--Develop more detailed instructions covering priorities and procedures for disposing of commodities, both overseas and in the United States.

--Prepare contingency procedures to curtail or slow down a commodity pipeline as soon as it becomes apparent that the goods being financed will not be used.

--Require either the Agency's Washington Office or U.S. banks to maintain adequate information on the status of open letters of credit to enable the Agency to readily identify all suppliers that have unfilled orders and the amounts of unliquidated obligations applicable.

--Improve the Agency's commodity management data system so that the Agency can readily verify whether it took possession of all commodities in transit at the time a program was terminated and start disposition promptly. (See pp. 13, 14, 30, and 31.)

The Agency and the Department of State both said that, in general, they felt the GAO report was fair and objective. The Agency said that it would refine its procedures in light of the Indochina experience. (See pp. 14 and 31.)

AGRICULTURE COMMODITIES

The United States took control of commodities in transit, such as rice and wheat, by invoking the Trading with the Enemy Act since the commodity agreements do not provide for taking title to intransit commodities. (See p. 32.)

The Department of Agriculture incurred large losses in the resale of these Public Law 480 title I commodities. For example, rice that sold in Singapore for an average of $183 a ton had been purchased for $391 a ton (total loss $9 million).

These losses probably could have been reduced substantially if (1) more time had been available to make the sales and (2) Washington had provided more information and better guidance to field representatives.

An even more efficient handling of the rice, and possibly the wheat, would have been to reprogram it. At the same time the 39,000 tons of rice were being sold in Singapore and Manila at an average price of $177 a ton, the Department of Agriculture was purchasing 40,000 tons of Public Law 480 title I rice for Bangladesh at $391 a ton. Considering the questionable ability of Bangladesh to repay the loan, it would have been advantageous to reprogram the commodities as title II donations. (See pp. 35 to 37.)

Extra costs were incurred in the storage of certain commodities due to a delay in getting cotton released by Thai customs and a shipper's decision to store wheat in private silos. Prospective buyers also questioned the quality of one wheat shipment. (See pp. 35 and 36.)

To avoid repetition of such huge losses, the Secretary of Agriculture should:

--Include a provision in future Public Law 480 agreements which would permit the Department, under certain conditions, to take title to commodities at any time before they arrive in the recipient country.

--Make a more concerted effort to reprogram intransit commodities in lieu of selling them.

--Develop directions delineating the data that should be provided by Department headquarters to the field representatives and the procedures to be followed by those representatives in selling intransit commodities. (See p. 40 and 41.)

The Department of Agriculture disagrees with GAO's conclusions and recommendations. It maintains that sufficient legal bases exist for assumption of title, adequate consideration was given to reprograming, and its field representatives received adequate guidance.

This position does not coincide with the facts disclosed by GAO's review, nor does it appear constructive toward preventing a recurrence of the problems experienced should program termination become necessary in the future.

Department files show that a primary reason for hasty disposal was its concern over ownership, and this concern has been recognized by the Department of State. This in turn contributed to the inability to reprogram commodities. Furthermore, the field representatives were quite concerned over the insufficiency of information and guidance.

A more detailed account of the Department's comments and GAO evaluation of the comments is given on pages 38 to 40.

CHAPTER 1

INTRODUCTION

The United States completed evacuating its personnel from, and terminated its Agency for International Development (AID) assistance to, Cambodia on April 12, 1975, and Vietnam on April 29 and 30. At that time large quantities of commodities financed through U.S. economic assistance programs were being purchased for and shipped to these countries. AID took title to, and the Department of Agriculture assumed control of, commodities in transit worth an estimated $54.3 million--$22.2 million worth had been destined for Cambodia (AID $2.4 million, Agriculture $19.8 million) and $32.1 million worth for Vietnam (AID $26.7 million, Agriculture $5.4 million). By May 13, 1976, AID reported it had agreed to pay $1.2 million to suppliers and producers for unrecoverable costs associated with $7.7 million of outstanding letters of credit; another $1.7 million in outstanding letters of credit is a potential liability to AID.

Although the AID program in Laos was officially terminated on July 23, 1975, the last commodity delivery was made in mid-May, and the last AID personnel departed by June 27. Compared with the Cambodia and Vietnam programs, the Laos commodity pipeline was small, and AID estimated in May 1975 that it amounted to about $2.5 million. AID later took title to some $1 million worth of goods. Agriculture had no Public Law 480 title I program in Laos.

AID COMMODITY PROGRAMS

AID-financed commodities destined for Cambodia and Vietnam were mostly Commodity Import Program (CIP) goods; those destined for Laos were primarily AID project materials for public health (medical supplies) and road building. Also, small amounts of materials were intended for consumption by the United States AID Missions (USAID).

CIPs were used to finance essential imports, such as industrial raw materials and capital equipment, from the United States and certain less developed countries to help meet recipient country requirements, and thereby to hold back inflation and permit essential development.

Program levels

Vietnam's fiscal year 1974 CIP totaled $332.6 million and Cambodia's totaled $95 million. Early in fiscal year

1975, AID estimated that the CIP requirements of Vietnam and Cambodia during the year would be $380 million and $85 million, respectively.

In June 1975 AID reported to the Congress that as of June 10, 1975, CIP obligations were $61.4 million and $33.1 million for Vietnam and Cambodia, respectively.

There was no CIP in Laos, and AID records did not break down the commodity portion of the assistance programs for any of the countries involved.

Vested commodities

Upon designation of ports in Southeast Asia to which cargoes were to be diverted, regional commodity management offices were set up in Bangkok, Hong Kong, Manila, and Singapore as adjuncts to the already established Regional Commodity Management Office in Taipei, Taiwan. Temporary offices were also set up in General Services Administration (GSA) facilities in Stockton, California, and near New Orleans, Louisiana.

Under agreements in force between the United States and the governments of the three countries involved, title was taken to about 1,700 lots of goods (transactions) having a delivered cost of over $30 million. The largest quantities were warehoused in Singapore (495 transactions, $11.1 million) and in Hong Kong (363 transactions, $6.3 million). There were also substantial quantities in Manila (48 transactions, $4.2 million) and Bangkok (486 relatively small transactions, $1 million).

AID took title to 237 transactions valued at $5.6 million in New Orleans, Louisiana; 71 transactions valued at $1.8 million in Stockton, California; and a small quantity in Baltimore, Maryland.

Included in the inventories were such large-volume items as fertilizers, industrial chemicals, textile materials, and vehicle parts. There were also other types of commodities in small lots.

Commodities delivered but undistributed

An unknown quantity of goods destined for Indochina had been offloaded and stored in Saigon but had not been distributed before the collapse of the U.S.-supported governments. From July to November 1974, the CIP warehouses in Vietnam held an average of $14.1 million of commodities. AID personnel were unable to tell us how much was in storage on April 30, 1975, but believed there was at least $20 million worth because, during the previous month or so, the importers did not pick up commodities they had ordered.

Outstanding orders

The amount of undelivered orders in force at the time of program terminations was not known, but early in May 1976 AID reported it had paid suppliers $1.2 million to settle 226 letters of credit having an original face value of $7.7 million. Another 37 letters of credit, valued at $1.7 million, remained outstanding, and based on past experience, AID estimated that these could be settled for approximately $325,000.

The value of outstanding orders for non-CIP commodities is not known as AID does not break down the amounts applicable to commodities in its accounting and reporting for contract termination.

Cost of termination

Costs of terminating the commodity programs include storage and such related expenses as local transportation; stevedoring; cargo surveying; costs of settling with suppliers for unrecoverable costs incurred on unshipped orders; and payroll, travel, and termination expenses for AID personnel.

As of June 1976, AID had obligated $12.7 million under direct reimbursement authorizations to cover storage and settlement costs for the Cambodia and Vietnam programs. Another $75,000 was obligated under a miscellaneous obligation document for similar costs associated with the Laos program, and AID had used $57,053. The status of the Cambodia and Vietnam funds were as follows.

	Cambodia		Vietnam	
	Obligations	Expenditures	Obligations	Expenditures
	(000 omitted)			
AID commodities:				
Storage and related costs overseas	$ 215	$ 81	$1,300	$ 750
Storage and related costs in U.S.	-	-	1,100	505
Settlement costs with suppliers	4,260	766	5,362	2,166
Total	4,475	847	7,762	3,421
Public Law 480 commodities	385	380	67	67
Total	$4,860	$1,227	$7,829	$3,488

AID will be reimbursed by the Department of Agriculture for the Public Law 480 costs from sales proceeds.

The amount of AID personnel costs associated solely with commodity program terminations is not available as AID is including these costs with non-commodity-program termination costs. Through December 31, 1975, personnel costs totaled $5.7 million, and AID estimates that another $500,000 will be required to complete the program closeout.

DEPARTMENT OF AGRICULTURE PROGRAMS

Under authority of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480), the U.S. Government entered into agreements with the governments of Vietnam and Cambodia to finance the sale (title I) or donate (title II) selected food stuffs, tobacco, and cotton to bolster the countries' economies. 1/

Program levels

The fiscal year 1975 Public Law 480 agreement with Cambodia authorized shipments of 209,000 metric tons of rice at an estimated cost of $88.5 million, plus $4.1 million for ocean transportation. During fiscal year 1975, 215,760 metric tons of rice were purchased and shipped at a cost of $88.7 million.

The title I program for Vietnam authorized the purchase of 75,000 metric tons of wheat or wheat flour costing $12 million; 59,000 bales of cotton at $13 million; and 7,120 metric tons of tobacco at $20.7 million; for a total of $45.7 million.

Only $22.7 million worth of the commodities were purchased and shipped--47,960 metric tons of wheat valued at $7.8 million; 32,760 bales of cotton at $7.9 million; and 2,310 metric tons of tobacco at $7 million.

1/Small amounts of title II commodities were reprogramed by voluntary agencies to programs in other countries, but none was repossessed by the U.S. Government. Therefore, this report does not discuss commodities programed as title II.

Undelivered commodities

According to Agriculture records, commodities costing $25.3 million were diverted and stored at various overseas locations--$19.8 million in rice, $3 million in wheat, and $2.5 million in cotton. The remaining amounts of purchased commodities apparently were delivered before the U.S.-supported governments fell, except for approximately 58,000 tons of rice consigned to Cambodia which was in storage in Saigon awaiting transshipment to Cambodia.

SCOPE OF REVIEW

To determine the efficiency and effectiveness of actions taken to terminate supplier contracts and to dispose of commodities already in transit to the countries for which they were programed, we reviewed AID's commodity management data system and management planning, including adequacy and timeliness of instructions for managing the commodity pipeline. Specifically, we sought to determine the adequacy of actions taken (1) by AID to terminate supplier contracts, identify and gain accountability over the commodities in transit, and dispose of the goods and (2) by Agriculture to manage and dispose of the Public Law 480 commodities.

We reviewed agency records and interviewed AID and Agriculture personnel in Washington, D.C., and Taipei, Taiwan. In New Orleans, Singapore, Hong Kong, Bangkok, and Manila, we checked inventories and viewed stored commodities.

CHAPTER 2

PROGRAM TERMINATIONS AND

CANCELLATION OF OUTSTANDING ORDERS

In line with the U.S. Government's policy of supporting the non-Communist governments in Indochina, the Cambodia and Vietnam AID programs were not officially terminated until U.S. personnel in Phnom Penh and Saigon had been evacuated. Considerable effort was made to get cargo into Cambodia and Vietnam in the last weeks and to increase the Vietnam program as late as April 11, 1975. Furthermore, records needed to close out the commodity pipelines were left in Vietnam and Laos.

In terminating the commodity programs, substantial losses and unrecoverable costs have been incurred.

--Costs of unknown quantities of goods offloaded in Indochina which the governments were unable to use before they collapsed.

--Costs incurred by suppliers for goods ordered but not shipped.

--Costs incurred in shipping, handling, storing, and disposing of goods.

--Losses incurred in the disposal of goods (purchase price less sale receipts).

--Costs of personnel retained by AID specifically to manage the pipeline and dispose of the commodities.

The U.S. Government could have appreciably reduced the costs and losses associated with these goods if:

--The Agency for International Development had had adequate commodity data and procedures to effectively identify and dispose of pipeline commodities in a timely manner.

--Agriculture had not required its field representatives to dispose of intransit commodities almost immediately, without adequate information and guidance, or had it reprogramed the commodities to other food assistance programs.

Moreover, the size of the pipelines and the resulting losses could have been reduced further had the agencies taken steps to slow the purchase and shipment of commodities prior to official termination of the Cambodia and Vietnam programs.

PROGRAM TERMINATIONS

Despite the fact that the military situation in Indochina deteriorated rapidly during the first quarter of calendar year 1975, particularly in Cambodia and Vietnam (see app. I for chronology of major military and political events), U.S. agencies continued to ship economic assistance commodities until the governments collapsed. We were told that the Department of State did not give permission to terminate the assistance programs earlier as it wished to show continued support for and faith in the regimes.

Agency actions to terminate programs

In anticipation of circumstances that might make it necessary to curtail, suspend, or terminate disbursements under assistance agreements, in December 1974 AID issued a series of guidelines designed to facilitate such actions. These guidelines, developed on the basis of a review of previous commodity program closeouts, covered only those actions required up to the point of assuming title to the cargo and not to disposal procedures. As each program termination was announced, instructions were sent to:

1. Ocean carriers transporting or holding AID-financed cargo, invoking AID's right to assume title to the cargo and ordering the diversion of ships in transit to ports outside Indochina.

2. Commodity suppliers holding orders or goods in various stages of completion, directing them to hold up shipments and to report the status of the transactions to AID.

3. Banks holding AID letters of commitment, directing them to stop issuing letters of credit, give AID copies of outstanding letters of credit, and turn over to AID all available documents conveying title to commodities.

4. Other U.S. Government agencies, such as General Services Administration, Department of Defense, and Federal Highway Administration, that procure commodities for AID, directing them to hold up procurement actions and to report the status to AID.

Efforts to continue shipments

The former U.S. Ambassador to South Vietnam testified before a House subcommittee on January 27, 1976, that "my thoughts were more directed toward holding actions while we waited for the end in Saigon which, I thought in January [1975], only a miracle could avert."

Additionally, the following data, excerpted from AID correspondence, illustrates AID's awareness of the rapidly deteriorating situation in Indochina and its efforts to continue the flow of commodities up until the actual fall of the respective regimes.

--March 2 to 6, the last ship to discharge AID cargo in Cambodia was unloaded at Kompong Som. On March 12, AID/Washington advised shippers that Kompong Som was no longer an acceptable alternate port of discharge for Phnom Penh. Shipping to Phnom Penh had been blocked completely since January.

--March 13, U.S. AID Mission (USAID) in Cambodia advised AID/Washington that it did not wish to divert rice for Cambodia to other country programs because of the potential adverse impact on the Government of the Khmer Republic. USAID suggested exploring the possibility of discharge and storage at other locations, such as Hong Kong and Singapore, until such time as the rice could be transshipped to Cambodia.

--April 8, AID/Washington again requested Saigon's concurrence with an interim measure proposed 5 days earlier, to instruct carriers to discharge CIP and project cargoes at Hong Kong or Singapore if the carriers determined Saigon to be an unsafe port. AID/Washington wanted to limit the number of locations where commodities would be warehoused, thus "simplifying management of commodity storage and disposition."

--April 9, Washington sent cables to the Missions in Bangkok, Singapore, Saigon, Hong Kong, and Taipei informing them that, since ocean carriers with Public Law 480 cargoes were very reluctant to call at Saigon for offloading, the carriers were declaring for alternate ports of discharge in accordance with their shipping contracts.

--April 11, AID increased a CIP grant agreement with the Government of Vietnam by $20 million. (The agreement stipulated that the local currency proceeds from sales of the commodities would be used for refugee relief.) In view of the long leadtime required to order, import, and sell CIP commodities, this increase would not have been of any benefit to the Government of Vietnam for months. On May 1, $40 million was deobligated from this agreement.

--April 11, the AID representative in Taipei was given authority to contract local transportation, warehousing, stevedoring, and related services to safeguard AID interest in Public Law 480 and AID-financed commodities for which title might be assumed by AID.

--April 14, Saigon advised that the Vietnamese Ministry of Trade had established an arrangement whereby Vietnamese merchant marine vessels would pick up U.S.-financed cargo at the ports of diversion and pay the transshipment costs from its foreign exchange. On April 18 AID/Washington replied that this arrangement appeared adequate to resolve immediate and short-range problems but that it was continuing discussions with with carriers to consider establishing "through bill of lading" arrangements with foreign-flag carriers.

--April 15, AID acknowledged that it continued to have problems with ocean carriers who were rejecting Saigon discharge despite AID's assurances that the Saigon port was open and river security excellent.

--On April 22, the SS Thomas Jefferson, the last vessel to offload in Saigon, left without discharging all cargo consigned to Saigon, apparently because of the increasing danger. The remainder of the cargo was unloaded in Manila and Hong Kong.

--April 22, USAID/Vietnam reported that war risk insurance surcharges (for shipments via vessels of members of the Far East Conference) had risen from $3.25 a revenue ton to $54.00 a revenue ton on April 19 and was soon expected to reach $124. On April 23, Saigon cabled Washington that increasing insurance costs were making it difficult for suppliers to find vessels willing to accept cargo for Vietnam.

--April 23, Washington advised that it was in the best interests of Vietnam, as well as an obligation under existing AID agreements to insure that AID-financed commodities entered the economy of the country. That same day Saigon cabled Washington that

> "There is a substantial pipeline of commodities on order, some of which, of course, will be cancelled, while some will continue to be in demand for continuing industrial activity. It is imperative that AID facilitate the movement of these commodities to Saigon rather than allow outside factors to hamper Vietnam's business activities."

As late as May 31, USAID/Laos, urged that "no action be taken at this time to stop procurement action," the reasoning being that the Provisional Government of National Union remained the legal government and "therefore, our position is simply and clearly that the commitments under those agreements--including commodity pipelines as a result of valid orders placed against valid obligations--have to be honored."

In commenting on the draft report, AID stated that, although the situation was obviously deteriorating, USAID/Laos urged that no formal action be taken to shut off the AID-financed commodity pipeline during May and June for two basic reasons:

--Concern that overt public action of such a nature would jeopardize the efforts of the small staff remaining in Laos to transfer in orderly fashion USAID property and activities to the Lao Government.

--A feeling, based on official assurances by the Lao Government at the time, that the programs might be continued under Lao management, since the commodity pipeline was the direct result of actions taken under agreements between the two governments.

<u>Data left at missions</u>

AID left much of the commodity pipeline data for the Vietnam and Laos programs in those countries when mission personnel were evacuated. AID/Washington did not maintain duplicate records; therefore it did not know what commodities had been delivered which complicated subsequent efforts to identify and locate commodities in transit and to settle supplier claims. (See ch. 3.)

On April 28, on the basis of information from the Embassy, the USAID/Vietnam Director told his staff there was nothing to worry about and there was plenty of time for packing, getting the records out, etc. The following day all remaining U.S. personnel were evacuated from Saigon and the records were left behind. The U.S. Army, on the other hand, had removed its procurement records to Hawaii where they are being used to close out the Army's Vietnam program.

On May 16, AID/Washington cabled Vientiane requesting the Mission to forward by air copies of all active commodity procurement records. We were told that USAID was unable to comply due to lack of people and other priority duties before Lao demonstrators took over the compound on May 21.

CANCELLATION OF ORDERS

As stated in chapter 1, most AID commodities for Indochina were being provided under CIP programs. In support of CIP, AID financed material purchased from U.S. and third-country suppliers by Vietnamese and Cambodian business firms. This involved AID's issuing letters of commitment to U.S. banks against which importers' letters of credit could be applied. After the banks paid suppliers for commodities exported, AID made reimbursement. Thus to terminate the programs, AID found it necessary to write to the banks to determine the total unused balance of outstanding letters of credit and the names of the suppliers.

Inadequacy of data

Late in March 1975, AID sent a survey team to U.S. banks handling CIP letters of commitment to determine the number and value of outstanding letters of credit and to research all available CIP documents to determine which U.S. suppliers were currently active in the Cambodia and Vietnam programs. The data compiled turned out to be somewhat inaccurate and incomplete.

Letters of credit outstanding

The number and value of letters of credit reported by the U.S. banks as outstanding at the time of the program cut-offs were inaccurate and incomplete. In June 1975 AID reported to the Congress that 1,957 letters of credit valued at $59.5 million were outstanding. By January 1976 AID was reporting that 2,285 letters of credit valued originally at $69.7 million had been outstanding.

Two of the larger adjustments by AID were reported in its biweekly status reports of December 11, 1975, and January 22, 1976. These reports showed increases in the number and value of outstanding letters of credit having potential liability to AID--the December increase was 184 letters of credit with a value of $5.8 million while the January increase was 93 letters of credit with a value of $3.2 million.

AID's explanation for these increases was that the original reports reflected only those letters of credit whose expiration dates were on or after March 31, 1975. As the termination exercise progressed, however, additional outstanding letters of credit and claims started coming in from suppliers. In most cases, these additional letters of credit involved goods ready for shipment in the expectation that letters of credit would be confirmed, increased, or extended.

Listings of active suppliers

Some active suppliers were not on the initial lists to be notified that the programs were being terminated. For example, between April 16 and May 16, AID notified 10 additional suppliers of goods for Cambodia, and between May 5 and June 5, it notified 13 additional suppliers of goods for Vietnam. Some of these suppliers contacted AID on their own initiative; AID learned of others through secondary sources; and AID simply overlooked others in its initial notifications.

Reasons for data problems

AID attributed the inadequacy of bank reporting to the fact that the banks' accounting systems were not geared to listing each individual supplier; their records showed outstanding balances only for letters of credit that had not expired. In the latter instance, AID might still have had a liability had an amendment of the expiration date been requested but not acted on or had the supplier received a firm commitment to manufacture or supply a commodity from a Vietnamese importer on the basis of a Vietnamese bank credit which had not been confirmed.

Much of AID's problem with internal data was attributed to the fact that USAID/Vietnam had slowed down or, in some cases, terminated the normal flow of CIP information (mainly import license data) because of the disruptive war conditions in Saigon. In contrast USAID/Cambodia relayed all pertinent CIP information to Washington until the very end.

OBSERVATIONS

AID terminated its previous program to Cambodia in November 1963. Of the $20.2 million CIP pipeline, approximately $3.5 million in commodities had been shipped from the United States and diverted to Saigon, Hong Kong, and Singapore. AID disposed of the goods through its various missions. In the past, AID also terminated or partially terminated programs in Vietnam, Egypt, Israel, India, and Pakistan. Although AID maintained that these terminations provided the basis for its guidelines for suspension or termination of assistance, it recognized that the guidelines were inadequate for a program of the magnitude of the Indochina program.

In fiscal year 1975, AID had CIPs of $325 million in Israel and $150 million in Egypt. It proposed even more and larger programs for 1976--$590 million for Israel, $250 million for Egypt, $65 million for Greece, and $20 million for Zaire. Considering the volatile situation in those areas of the world, we believe that AID should use the experience gained from Indochina program terminations to revise and improve commodity management data/records/systems and prepare program termination plans and procedures in sufficient detail so that they could be implemented if necessary.

CONCLUSIONS

Due to the inadequacy of its data on the status of commodity orders, AID was late in notifying some suppliers about program terminations and had problems ascertaining what commodities should have been in transit versus what were actually taken under title.

In light of AID's experience with previous program terminations, it should have been better prepared; i.e., had contingency plans to facilitate program termination management.

RECOMMENDATIONS

To minimize costs and losses in future program terminations, the Administrator of AID should:

--Study and evaluate past program terminations and prepare contingency plans which would, as a minimum, contain procedures whereby AID could curtail or slowdown a commodity pipeline (supplier production as well as shipments) as soon as it became apparent that the goods being financed would not be used for the purpose for which it had agreed to finance them.

--Require either AID/Washington or U.S. banks to maintain adequate data on the status of open letters of credit to enable AID to readily identify all suppliers that have unfilled commodity orders and the amounts of unliquidated obligations applicable to these letters.

AGENCY COMMENTS

AID agreed to review and refine its commodity pipeline termination procedures in light of the Indochina experience. It also plans to meet with major U.S. banks which have been recipients of letters of committment issued under major CIPs. They will discuss the banks' capability for providing, on short notice, adequate data from bank files or other records on the status of open letters of credit.

CHAPTER 3

STORAGE AND DISPOSITION

OF COMMODITIES

The Agency for International Development has done a good job identifying and inventorying the goods at the major storage sites, considering the lack of records and data on cargo in transit. For the most part, the cargo at the five largest locations were adequately stored and secure; relatively minor exceptions were (1) the lengthy delay in moving goods from the port in Bangkok to cheaper inland warehousing, (2) damage to goods offloaded at New Orleans, caused in part by the domestic, as opposed to export, packaging, (3) inadequate care for certain major equipment items in open storage areas at overseas locations, and (4) the storage of medical supplies in a warehouse that had inadequate security, with resulting losses.

The most significant problems related to the disposal of commodities. As of November 28, 1975, only 18 percent of the commodities had been disposed of; by early May 1976 AID had disposed of 88 percent. Delays in disposing of AID commodities increased the costs of storing and managing the goods and in some instances led to their deterioration. These delays consisted of the time taken to obtain sufficient commodity data to initiate disposition actions, and the time it took to decide on procedures to be followed. The initial steps were also time consuming but resulted in few disposals.

The following schedule shows the May 13, 1976, status, by program and location, of AID-financed goods to which AID assumed title.

Program/ location	Title taken (Estimated cost and freight)	Reimbursable transfers/sales (Original cost and freight)	(Disposal price)	Transfers without reimbursement (note a) (Original cost and freight)
Cambodia:				
Singapore	$ 748,112	$ 638,628	$ 286,210	$ -
Hong Kong	b/1,684,678	1,345,471	537,495	220
Manila	11,060	11,060	1,031	-
	2,443,850	1,995,159	824,736	220
Vietnam:				
Singapore	10,364,376	8,954,789	3,351,063	17,833
Hong Kong	4,663,995	3,703,211	1,872,068	16,657
Manila	4,202,262	4,188,522	1,275,182	13,740
Bangkok	222,198	5,762	3,046	60,124
Total	19,452,831	16,852,284	6,501,361	108,354
New Orleans	5,603,303	2,948,015	1,315,976	2,589,310
Stockton	1,619,231	1,103,616	685,824	439,097
Baltimore	28,958	-	-	28,958
Total	7,251,492	4,051,631	2,001,800	3,057,365
	26,704,323	20,903,915	8,503,161	3,165,719
Laos:				
Bangkok	c/820,531	482,040	153,610	6,331
Stockton	201,277	-	-	277
	1,021,808	482,040	153,610	6,608
Total	$30,169,981	$23,381,114	$9,481,507	$3,172,547

a/Includes transfers without reimbursement to General Services Administration, various Embassies and USAID Missions, and a few voluntary agencies. Dollar breakout by recipient is not available.

b/Includes commodities valued at $251,768 transferred from Bangkok for disposal in Hong Kong.

c/Excludes 255 postal shipments of unknown dollar value returned to suppliers during April and May 1975 for credit.

IDENTIFICATION, INVENTORY, AND STORAGE OF COMMODITIES

AID representatives sent to the major storage locations were instructed to

--contact shipping companies and identify all AID-financed cargo destined for the respective countries,

--take title to the cargo in the name of AID,

--locate suitable warehouse space,

--store and inventory the goods, and

--await further instructions.

AID performed these parts of the program closeout in a generally satisfactory manner. The following problems were noted, however:

1. Identification of AID-financed goods was hampered by inadequate data as to what should have been in transit.

2. The inventories submitted from overseas locations were based only on data supplied by carriers (bills of lading, ship manifests) and local agencies hired by AID to survey and store the goods.

3. Certain items in open storage areas at overseas locations were inadequately protected from the elements and other items offloaded in the United States, which were not packed for export, were damaged.

4. Storage costs were increased because of delays in moving cargo from port to inland warehouses in Bangkok.

Warehousing obtained at the overseas locations was adequate and the rates were reasonable. The commodities in the United States were stored in General Services Administration warehouses.

Identification and inventory

In the United States the commodities were transported to GSA warehouse facilities in Harahan (just outside New Orleans), Louisiana, and Stockton, California, where AID representatives supervised their inventory and storage.

Each shipment was checked against the bills of lading furnished by the carriers to make sure the data was correct and inventory sheets were prepared for each shipment showing bill of lading numbers and descriptions and quantities of items. The accumulated inventory sheets were sent to AID/Washington. We reviewed this procedure at New Orleans and found that the AID representative was handling it satisfactorily.

Overseas, the AID representatives, regional commodity management officers (RCMOs), contracted for the survey, inventory, and storage of the commodities. For example, in Singapore the port authority stored and inventoried all commodities and gave the AID representative a warehouse receipt for each shipment. The AID representatives then used bills of lading obtained from the carriers and other documentation provided by the contractors to prepare inventory sheets similar to those mentioned above. The last major overseas lists were not received until the latter part of August and first part of September.

AID personnel in Bangkok have attempted to compare initially identified and inventoried commodities to those that should have been under AID control, but they have been hindered by the lack of USAID arrival and accounting data. This data is available for Cambodia but not for Vietnam or Laos. Items known to have been shipped, from AID/Washington expenditure data, are checked against the inventory sheets. For Cambodia-bound shipments, items not on the inventory sheets were checked against the USAID/Cambodia records to see if they had been delivered. For Vietnam program commodities and Cambodia items not shown as delivered, RCMOs were asked to canvass the ports. If this was not successful, AID/Washington was asked to contact the responsible carriers to try to learn where the shipments had been unloaded.

By comparing AID expenditure data to RCMO inventories, Bangkok identified 404 shipments as potentially subject to recovery; i.e., arrival at destination doubtful and not on RCMO inventories. Bangkok's followup report on these 404 shipments as of September 26, 1975, is shown below.

Number	Original cost to AID	Status
a/109	$ 2,202,387	Delivery to destination indicated
82	3,587,387	Diverted to Kompong Som or unloaded in Saigon
63	1,452,842	Located and title taken at U.S. ports
20	510,176	Located, title taken, and put on RCMO inventories
16	143,105	Located for title but not on RCMO inventories
114	2,816,868	Outstanding (not yet located)
404	$10,712,726	

a/Includes 86 shipments on the SS Thomas Jefferson not located in Manila. Although confirmation that individual shipments were unloaded in Saigon has not been possible, there are grounds to presume delivery.

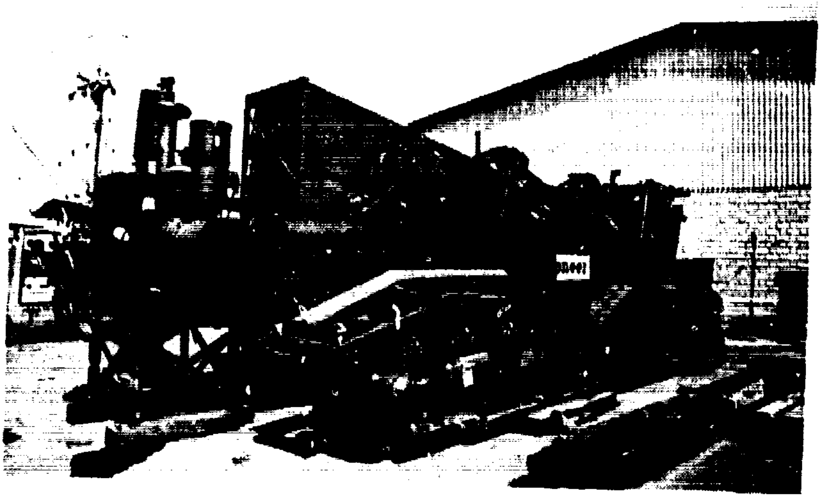
The 20 shipments ($510,176) located, title taken, and put on RCMO inventories had been picked up in port sweeps from information provided by Bangkok. The 16 shipments located for title but not on RCMO inventories were either picked up in port sweeps or already in RCMO possession but not inventoried, as the RCMOs had not received bills of lading from carriers.

Storage

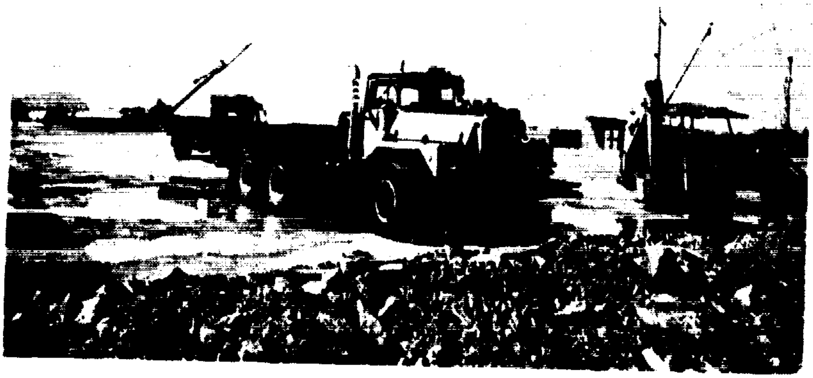
We visited all storage locations in New Orleans, Singapore, Hong Kong, Bangkok, and Manila, paying particular attention to cargo in open storage areas, short shelf life cargo and other items subject to deterioration, and high-value and damaged material.

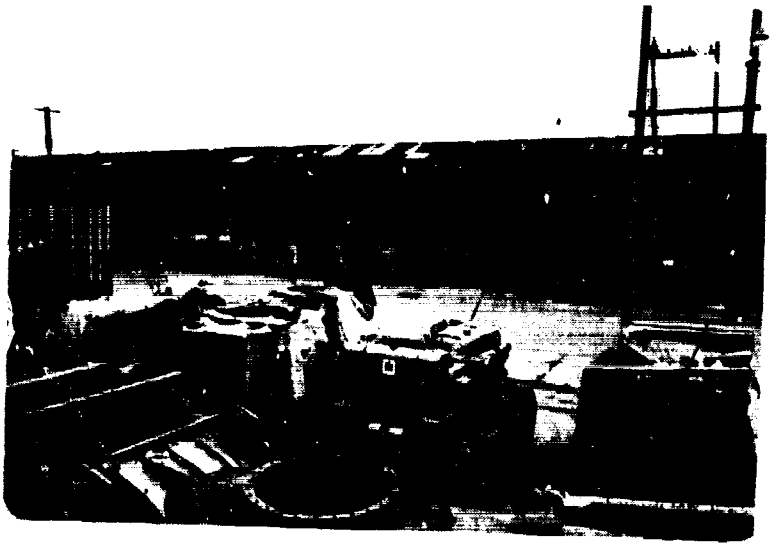
For the most part, the cargo appeared to be adequately stored and secure; however, we did note some instances of damage, deterioration, and inadequate care for certain goods. Although we believe the amount of damage and deterioration could have been reduced had more attention been paid to caring for certain goods, such as those discussed below, it is difficult to say how much effect this would have had on the ultimate sales prices of these items.

AID COMMODITIES STORED ON THE HONG KONG PIER -- 4 FORKLIFTS, 3 CEMENT MIXERS, AND DIESEL ENGINE PARTS -- AND RUSTING DUE TO EXPOSURE TO SALT WATER



ROCK CRUSHER VALUED AT $234,000 AND TRACTOR TRAILER TRUCK VALUED AT $54,000 STORED IN THE OPEN IN SINGAPORE





FOUR CRAWLER LOADERS STORED IN THE OPEN AT THE BANGKOK PORT

Open storage at overseas locations

Much of the cargo stored in open areas at the overseas ports, in value at least, consisted of heavy equipment. At the time we visited Singapore, Hong Kong, and Bangkok in July and August 1975, much of it was beginning to rust.

Four crawler loaders and one tractor, with an estimated original cost of $230,000, had been stored in the open at the Bangkok port for more than 5 months (since February 1975). Remnants of coverings were there, but no attempt had been made to replace the coverings and surface rust was forming. The equipment was sold between March 24 and May 14, 1976, for $133,883.

At Hong Kong, three cement mixer trucks ($122,000), four forklifts ($57,000), a diesel engine block, tractor frames, drums of chemicals, air receiver tanks, steel sheets, and wire fencing were stored in the open, unprotected, and adjacent to salt water. There were only remnants of plastic coverings on forklifts and other pieces of equipment, the upright exhaust pipes on the trucks had no seals covering the openings, and all items were rusted to varying degrees. In January 1976, the three cement mixer trucks were sold for $63,000 and the four forklifts were sold for $24,000.

In Singapore, two large tractor-trailer trucks ($108,000) and a rock crusher ($234,000) were in open storage areas. The equipment was still in good condition when we observed it in July 1975 because it had been there only about 3 months, but our staff believed it would be subject to the same problems noted in Bangkok and Hong Kong if it remained in open storage. The two tractor-trailer trucks were sold in March 1976 for $51,110 and the rock crusher was sold in April for $117,500.

In commenting on our draft report, AID stated that the types of equipment mentioned above are normally handled as deck cargo and stored in the open and that in selling these items they obtained a return of 50 to 79 percent of the original cost (AID later revised this to 45 to 64 percent). But, as indicated above, some of the items had initially been covered. When transportation costs were added, the net proceeds on sales amounted to only 42 to 50 percent of cost.

Lost, damaged, or deteriorating cargo

The dollar value of cargo which had been lost or damaged or had deteriorated has not been tabulated by AID, but most cargo stored inside warehouses appeared to be in good condition and well cared for. Relatively speaking, damage to and shortages of commodities at New Orleans appear greater than at overseas locations. Some prominent examples noted at appeared greater New Orleans were:

Item	Quantity	Total value	Shortage	Damaged
Polyethelene resin	803,994 lbs.	$225,000	3,500 lbs.	-
Phosphate	1,100 bags	18,240	140 bags	-
Stearic acid	880 bags	7,125	221 bags	250 bags
Diesel engine parts:	5 boxes	-	5 boxes	-
	4 pallets	-	4 pallets	-
	1 carton	21,602	-	-

A large number of the 7,593 cartons (costing $665,476) of synthetic yarn were broken also. Most of the yarn was salvaged and repackaged, but considerable staff-days were spent in doing so. The first time it was repacked, it was not sorted out by manufacturer and lot number, so it had to be repacked before it could be inventoried and sold.

A General Services Administration official told us that the yarn and resin were in domestic packaging, but supplier invoices indicated that these commodities were supposed to be in export packaging; one supplier's representative commented that the yarn would have been put in containers but none were available at time of shipment.

The port discharge report, which showed a total of 69 damaged conditions on commodities offloaded at New Orleans, attributed the damage primarily to domestic packaging. Thus far, AID has not determined how much suppliers were paid for export packaging which was not provided or the dollar value of damage attributable to the use of domestic packaging. AID does not plan to file claims against the suppliers unless a buyer makes a claim against it for goods damaged because of domestic packaging. We were told that AID had other priorities and was more interested in disposing of the goods than in processing claims which would necessarily slow disposition.

From our observations, it appeared that the most extensive damage and deterioration overseas had occurred in Hong Kong, where

--an entire lot of soybean meal valued at $29,900 was infested with bugs,

--almost the entire lot of 440 bags (about 20 tons) of magnesium chloride, valued at $4,935, had completely deteriorated,

--sodium bisulfite, valued at $7,000, had deteriorated to the point that it may no longer have been commercially salable, and

--drums of insecticide were leaking and a number of cartons of nylon yarn were water damaged.

The only losses due to pilferage, which we were aware of, were in Thailand. AID had $34,000 of Laos program medical supplies stored in a U.S. Air Force warehouse at Udorn. The Air Force unit controlling the warehouse left the base in August 1975, leaving the warehouse unattended except for one roving guard on a bicycle. Five boxes of medical supplies valued at $3,800 were lost before the supplies were moved to a warehouse which had adequate security.

Penicillin worth $24,000 was lost from military storage at Sattahip, and communication equipment, machinery, glass, and cable worth less than $1,000 was lost from port storage in Bangkok.

Delay in removing cargo from port

The Royal Thai Government refused to allow CIP and project materials originally destined for Vietnam and Cambodia to move to inland warehouses until it was given satisfactory evidence that the U.S. Government had good title to these commodities. The Vietnam goods were finally released in September and moved to inland warehouses. The Cambodian goods were subsequently released and were shipped to Hong Kong in March and April 1976 for resale there.

There were four different RCMOs between April and July 1975, which was one reason the negotiations with the Royal Thai Government took so long.

The U.S. Government already had sufficient warehouse space under contract to store all the cargo involved, so the cost of storing the cargo at the port during the delay represents an unnecessary expense. Total port storage costs were $59,600.

DISPOSITION OF COMMODITIES

As of November 28, 1975, AID had disposed of only $5.4 million of the $30.1 million in goods which it had assumed title to. Disposition has been delayed because of insufficient commodity data; amount of time taken to decide on procedures; and time-consuming attempts to transfer items to other AID programs and to sell them back to suppliers, which resulted in few disposal actions.

AID had disposed of 561 of the 1,672 shipments it had under title--51 percent ($3.7 of $7.2 million) of the goods at U.S. locations, and 8 percent ($1.8 of $23 million) of the goods at overseas locations. The 561 shipments include 255 postal shipments of unknown value for Laos which were returned from Bangkok to the suppliers for credit but for which AID had not received any credit as of June 1976, more than 1 year later; 171 (mostly wastage/spoilage items) which had been sold; 63 which had been referred to GSA as excess; and 55 which had been transferred to other programs without reimbursement. A dollar breakdown of each disposal category is not readily available.

AID's comments on our draft report stated that by early May 1976 it had disposed of 88 percent of the commodities--95 percent of those located in the United States and 86 percent of those overseas. Disposition of the goods in Manila was completed in February 1976, and AID expected to complete disposition in Hong Kong, Singapore, and Bangkok in June 1976.

Some supervisors will remain in the overseas areas to handle warehouse releases or ship certain high-value but unsalable commodities to the United States in anticipation of selling them back to the original producers.

Insufficient commodity data

AID determined that the data in Washington was insufficient to dispose of the intransit commodities, therefore AID representatives at major storage locations were asked to prepare and transmit to Washington inventory sheets on the shipments. The inventory sheets included such data as lot number, quantity, and unit of issue. After it received the inventory sheets, AID/Washington added cost figures and additional specifications or descriptive data before initiating disposal procedures.

On July 28, 1975, the Office of the Inspector General of Foreign Assistance, Department of State, reported that AID procedures for locating and identifying intransit commodities were not producing detailed inventories rapidly enough to accelerate commodity redistribution and that, unless action was taken to expedite the identification of these assets, greater storage costs and deterioration were inevitable.

In commenting on the Inspector General's report, AID stated that data in Washington did not provide either specific commodity descriptions or locations of ports where cargo was unloaded. Moreover, AID said the information was not available on a timely basis. To illustrate the latter point AID reviewed a sample of vouchers paid between May 13 and 19, which showed that 21 to 184 days had elapsed between cargo lifting and voucher payment. This was in addition to the time required to collate, computerize, and print the expenditure data in usable form.

In reviewing AID/Washington records and reports, we concluded that a considerable time elapsed between reporting and processing data and that available data was insufficient to ascertain whether the shipped commodities had been delivered.

Instruction delays

On May 9, 1975, AID/Washington cabled the RCMOs that the disposition of goods would be controlled from Washington and that instructions on priorities and disposition procedures were being developed and would be made available when ready.

Three months later, on August 12, an AID/Washington cable to the RCMOs stated that:

> "Although there still remain a few unsettled questions with regard to priorities for disposition of commodities which are in the United States, there is now agreement with regard to the priorities for disposition of our commodities overseas."

The accompanying instructions differentiated between wastage/spoilage items and other items. For the other items, procedures and priorities were as follows.

--The initial offer was to be made to AID bureaus that had operational programs to see whether they could use these items.

--Next, the items were to be offered to GSA or sold, depending on how much AID could get by selling them. (AID/Washington said it was moving simultaneously to ascertain GSA's needs and to investigate sales possibilities with original suppliers and producers.)

--If not otherwise disposed of, the items were then to be approved immediately for public sale by the RCMOs under procedures recommended in an August 11 cable.

With regard to wastage/spoilage goods, AID/Washington stated that it was contacting original suppliers and producers. When the suppliers were not interested or their offers were considered too low, the goods were to be disposed of by public sale.

Because of this delay in establishing public sale procedures for the overseas locations, the first bid opening on a sizable sale was not made until September 30, and at November 28 only 8 percent, or $1.8 million of the $22.9 million in goods overseas had been disposed of.

Although stateside dispositions have proceeded somewhat better--half the goods were either disposed of or turned over to GSA as excess by November 28--indecision as to who would handle the disposition of various categories of goods (wastage/spoilage items, proprietary items, etc.) caused considerable delay.

The disposal of commodities at U.S. locations was discussed with GSA on several occasions, the first being on June 3, 1975. AID and GSA differed as to whether AID had authority to offer the goods to other Government agencies on a reimbursable basis, to sell the goods back to the original suppliers, or to dispose of domestic excess goods in any way. AID believed that it had such authority under section 605(a) of the Foreign Assistance Act and that it was subject to pressure from the Congress to achieve maximum revenues from disposing of intransit property.

AID decided to go ahead and offer goods back to the suppliers/producers and to dispose of all wastage/spoilage items. It made no decision for the items remaining after these steps until November, 6 months after it had assumed title to the goods. A November 10 memo to the files summarized AID's position.

"Inasmuch as Sec. 605(a) of the FAA [Foreign Assistance Act] does give AID this special authority to transfer its retained property to other agencies on a reimbursement basis, there was an initial presumption in favor of making such transfers; this would be in accordance with the general objective, reflected in Congressional hearings, of achieving maximum revenues from disposal of the property."

After reflection and discussions with GSA, AID concluded that "the prospects of actually making substantial sales of available types of property are remote." Therefore, AID has decided to declare the property excess to its needs and to transfer it to GSA for disposal under the authority of the Federal Property and Administrative Services Act of 1949 without reimbursement to AID.

GSA officials advised us that they had been ready since June to start disposal actions and that all they needed from AID was the Standard Form 120s, Report of Excess Personal Property, listing the items to be disposed of. On November 12, 1975, AID notified GSA that it was turning over to GSA those goods remaining at U.S. locations. The first of the Form 120's were sent to GSA on November 19.

Poor response to initial disposal steps

Because of the types of items and large quantities involved in individual shipments, AID officials were skeptical about prospects for transferring many commodities to other programs. AID did expect, however, to be able to sell a sizable quantity back to suppliers and producers; it has been quite successful with items located in the United States but has found little interest for items overseas.

Transfers to other programs

On June 9, 1975, the AID/Washington bureaus were advised that ongoing AID programs had first priority to in the use of intransit commodities. It was also pointed out that the high cost of storage and related expenses, deterioration, and possible pilferage dictated the need to dispose of commodities expeditiously. This initial step is taking considerable time, however, and has resulted in few transfers.

Between June 20 and November 28, 1975, 14 lists of commodities (covering 1,052 transactions) were circulated to AID operational bureaus. As of November 28, only 677 of the 1,052 transactions had cleared all bureaus and were ready for further disposal actions. It had taken 8 to 153 days, or an average of 63 days, to obtain bureau clearance for the 11 lists which had cleared by December 6.

AID officials told us that it took the bureaus this long to clear the items for further distribution because (1) two of the regional bureaus had cabled the inventory lists to each of their country missions for clearance instead of handling the clearances in the Washington bureau and (2) the bureaus often needed more information on the items than the lists contained and AID records had to be searched for more detailed descriptions.

The first list circulated, dated June 30, stated that the items listed were not generally or widely required or used in most other AID programs. As of January 5, 1976, only two items identified from these lists had been transferred to other programs, 20 trucks to USAID/Honduras and 31 tires to USAID/Philippines.

The reason given for the limited number of transfers was that AID program requirements were for small quantities of individual commodities whereas the commodities offered had been purchased in bulk for industrial development. AID had decided it would not break down and repackage bulk shipments due to the expense and effort involved.

Original suppliers and producers

As the bureaus released the commodities, 1/ and expressed no interest, the commodities were referred to the original suppliers/
producers for first refusal so as not to interfere with normal commercial distribution. AID's commodity management office felt that this step would minimize trade and congressional complaints and considerably reduce the number and dollar value of transactions on the intransit commodities.

We were told that most of the commodities disposed of in the United States during calendar year 1975 had been sold back to suppliers, e.g., bulk shipments of yarn, chemicals, etc. The original producers/suppliers showed very little interest in commodities overseas, however, where the largest dollar volume of goods was located. Most overseas dispositions were through public sales.

1/ Commodities classified as wastage/spoilage items could be offered directly to suppliers and producers without being circulated to the operational bureaus.

CONCLUSIONS

AID program termination costs have been increased by lengthy delays in disposing of commodities, caused by inadequate commodity data, indecision as to disposition procedures and priorities, and poor response to initial disposal steps.

For the most part, commodity identification, inventory, and storage were carried out satisfactorily. The most significant problem was in reconciling items to which AID had assumed title with those that it should have taken title to. This problem was caused by a lack of commodity arrival data for the Vietnam and Laos programs. Lesser problems included

--damage to certain shipments, caused primarily by use of domestic packaging,

--inadequate care for certain major equipment items left in open storage for extended periods, and

--lengthy delay in obtaining approval to remove Vietnam and Cambodia program commodities from the port in Bangkok to less expensive inland warehousing.

RECOMMENDATIONS

To preclude recurrence of problems which caused the delays in disposing of intransit commodities, should AID find it necessary to terminate other commodity programs, the Administrator of AID should:

--Improve the commodity management data system so that it can readily determine types, quantities, and locations of commodities; verify that it has taken possession of all commodities in transit; and start disposition promptly.

--Develop more detailed instructions covering priorities and procedures for disposing of commodities both overseas and in the United States, giving adequate consideration to (1) disposing of wastage/spoilage items as soon as practicable, (2) reducing the time for obtaining release of commodities by AID bureaus so that other steps can be taken for disposal, and (3) including, within the original notification of title assumption to the suppliers, a deadline for notifying AID of any interest in buying back the commodities supplied.

One item which must be resolved before improved disposition procedures are issued is AID's authority to dispose of the various categories of undelivered commodities located within the United States. To do this, it will be necessary for AID to obtain GSA agreement as to which commodities AID will dispose of and which GSA will dispose of.

AGENCY COMMENTS

In commenting on our recommendations, AID said it was constantly reviewing and refining its present commodity management and data system and would continue to do so, but any improvements or expansions to the system must always be considered in light of the additional staff resources and expense required vis-a-vis the advantages to having such information. AID said it definitely would, however, use the experience of the Indochina closeout to refine and amplify current guidelines for commodity disposition, with particular focus being given to the main causes of the delays in the Indochina disposal effort.

CHAPTER 4

DEPARTMENT OF AGRICULTURE COMMODITIES

The United States Government took possession of approximately $25.2 million worth of intransit, Public Law 480 title I commodities 1/ which had been destined for Cambodia and South Vietnam.

Only $8.1 million was realized from the sales of $20.9 million of Public Law 480 rice and wheat in Singapore and Manila. Much of the loss in Singapore was attributed to the use of a "fire sale" approach and press reports that the U.S. Government would be selling goods at 10 cents on a dollar. In Manila, better prices probably could have been obtained if more time had been available to locate buyers outside the Philippines.

BACKGROUND

Title to commodities sold pursuant to title I of Public Law 480 passes to the purchasing party (either the importing country or the private trade entity with which an agreement has been negotiated) upon delivery to the carrier in conformance with the transportation terms. Agreements entered into by the United States for financing and exporting under Public Law 480 do not provide for the contingent assumption of title by the United States of commodities in transit, as do contracts under the AID program. Therefore, when the U.S.-supported regimes in Cambodia and South Vietnam collapsed, the Department of the Treasury had to invoke the Foreign Assets Control Regulations (31 C.F.R. 500.201) to regain control over intransit commodities shipped under Public Law 480. The cited regulations implement the Trading with the Enemy Act (50 U.S.C. App. §1 et seq.) by prohibiting, among other transactions, transfers outside the borders of the United States of any property be longing to specified countries, when that property is subject to the jurisdiction of the United States.

Treasury notifications to carriers for Cambodia and Vietnam stated that no disposition was to be made of the commodities except as licensed by the Treasury Department. This license was issued May 13, 1975.

1/Excludes 12,754 tons of title I wheat, purchased for $2.1 million, originally destined for Vietnam and reprogramed for use in the title II program in India.

Agricultural attaches and AID RCMOs 1/ received instructions from Washington on May 22 to sell Indochina Public Law 480 commodities as soon as possible, "as is, where is," and at the best price obtainable. Both this cable and one sent to Manila on May 22 emphasized that time was to be a key factor in disposing of the Public Law 480 cargoes. The stated reasons were to avoid legal steps by Vietnamese or Cambodian officials, who might try to obtain control of the commodities, and to minimize storage costs and commodity deterioration or loss.

On May 28, the attaches were instructed to:

--Obtain title documents from carriers.

--Telephone prospective bidders; public tenders were not to be issued due to time constraints. Bidders were to confirm offers in writing as soon as possible.

--Minimize expenses of sales; necessary fees for discharge and storage were to be paid from sales proceeds or RCMO funds.

--Transfer title documents to buyers only on receipt of cash or irrevocable letters of credit in U.S. dollars.

--Forward net proceeds to the Department of Agriculture's Commodity Credit Corporation.

--Coordinate sales with RCMOs, document transactions and expenses, and advise Washington.

The table on the following page shows a detailed breakdown of information available as of November 1, 1975, on the status of intransit Public Law 480 commodities.

1/AID personnel provided administrative support to agricultural field representatives responsible for managing and disposing of intransit commodities.

Commodity and location	Quantity shipped	Purchase price	War risk insurance and freight (note a)	Total cost, insurance, and freight	Quantity sold (donated)	Gross proceeds	Known expenses (note b)	Net proceeds	Loss
Cotton:	(bales)				(bales)				
Bangkok	2,050	$ 431,195	$ -	$ 431,195	2,050	$ 411,719	$ 39,357	$ 372,362	$ 58,833
Manila	3,552	765,042	-	765,042	3,546	636,691	138	636,553	128,489
Hong Kong	2,004	447,172	-	447,172	2,004	402,146	6,261	395,885	51,287
Singapore	4,051	820,856	-	820,856	4,051	847,085	-	847,085	c/26,229
	11,557	2,464,265	-	2,464,265	11,651	2,297,641	45,756	2,251,885	212,380
Wheat:	(metric tons)				(metric tons)				
Bangkok	3,634	583,833	-	583,833	3,622	543,291	21,068	522,223	61,610
Manila	5,000	745,110	-	745,110	4,940	493,989	706	493,283	251,827
Pusan	5,000	737,345	-	737,345	5,000	402,590	244	402,346	334,399
Singapore	5,000	913,581	-	913,581	4,977	535,077	22,564	512,513	400,968
	18,634	2,979,869	-	2,979,869	18,539	1,974,947	44,582	1,930,365	1,049,504
Rice:	(metric tons)				(metric tons)				
Manila (note b)	9,524	2,730,681	506,048	3,236,729	6,943	1,041,508	45,206	996,302	2,240,427
Guam (note d)		816,417	151,284	967,701	2,100	409,795	-	409,795	557,906
Guam (notes d,e)		e/(155,508)	e/(28,816)	e/(184,324)	e/(400)	(f)	(f)	(f)	(f)
Singapore (note g)	33,322	13,195,298	1,813,290	15,008,588	32,683	5,976,999	-	5,976,999	9,031,589
Sattahip (notes e,g)		e/(330,115)	e/(48,383)	e/(378,498)	e/(822)	(f)	(f)	(f)	(f)
	42,846	16,742,396	h/2,470,622	19,213,018	41,726	7,428,302	45,206	7,383,096	11,829,922
		e/(485,623)	e/(77,199)	d/(562,822)	e/(1,222)				
Total		$22,186,530	$2,470,622	$24,657,152		$11,700,890	$125,544	$11,565,346	$13,091,806
		e/($485,623)	e/($77,199)	e/($562,822)					

a/Freight and insurance costs of Manila and Guam, and one shipment to Singapore were financed by AID; the Department of Agriculture paid the others.

b/Potentially significant demurrage charges had not been billed by carriers as of December 1, 1975.

c/Gain.

d/2,500 tons of the Manila shipment was offloaded at Guam. The purchase price and insurance/freight for Guam were arrived at by multiplying the per ton costs (purchase price, $388.77, and freight/insurance charges, $72.04) by the quantities (2,100 and 400).

e/Amounts enclosed in parenthesis represent goods donated.

f/Not applicable.

g/822 tons of one Singapore shipment was offloaded at Sattahip. Purchase price and insurance/freight charges for Sattahip were arrived at by multiplying the per ton costs (purchase price, $401.60, and freight/insurance charges, $58.86) by the quantity (822).

h/Excludes $143,384 paid by the Department of Agriculture for freight differential.

SALES

Agriculture obtained 80 and 89 percent returns for commodities sold in Bangkok and Hong Kong, respectively, and only 36 to 55 percent at the other locations. The only major criticism of the Bangkok and Hong Kong sales noted was that of the agricultural attache in Bangkok who believed cotton storage costs in Bangkok were excessive. The sales contract for the cotton was awarded on June 12, 1975, but the sale could not be completed until July 31 because of the Embassy's inability to obtain a release of the goods from the Thai Government. Since storage rates in Bangkok port warehouses escalate weekly, a sizable portion of the $59,600 paid for storage was due to the delay in obtaining the release.

International grain traders expressed little interest in the 5,000 tons of wheat stored at Pusan, and Korean flour mills were in a slump. As a result, a local flour mill association bought wheat costing the U.S. Government $958,808 for $402,590.

The largest losses occurred in Singapore and Manila, where the net proceeds from sales of rice and wheat amounted to only a fraction of their cost to the U.S. Government.

Singapore

In Singapore 22,000 metric tons of rice was sold on June 13, 1975, for $180 a ton; the remaining 10,700 metric tons were retendered and sold on June 18 at $188 a ton. The U.S. Government's cost for the rice was $391 a ton, so the net loss totaled $9 million. The attache received unconfirmed reports that most of the rice was subsequently resold for $250 to $265 a ton. In comparison, on June 11, 1975, the Department of Agriculture financed 40,000 tons of rice for the title I program in Bangladesh at $390.73 a ton.

The 4,977 metric tons of wheat was sold for $107.50 a ton on June 16 compared to the Department's price of $184.45 a ton. The net loss, after adding all additional costs, totaled $400,000.

In commenting on Public Law 480 commodity sales in Singapore, the agricultural attache stated that "one can only regret the conditions under which we had to operate in conducting these sales. The atmosphere was that of a fire sale." This was attributed to press articles which indicated that U.S.

cargoes would be sold for a small fraction of their cost and Washington instructions to sell quickly. In summary, the attache observed that if they had it to do all over again they could probably get a much better price by giving the prospective buyers more time to locate financing and, more importantly, time to find a place to resell.

The loss on the wheat sale may have been due partly to its questionable quality and to the use of private silos for storage. The shipping company's U.S. office made the decision to store the wheat in private silos. The use of the private silos resulted in an additional $4,800 in storage charges above the cost of public silos and may also have restricted bidding.

Manila

The rice in Manila was sold on June 6 for $150 a ton compared to a purchase price of $389 a ton. With freight and other costs added the total loss was $2.2 million. The wheat was sold on June 6 for $100 a ton versus the $149 a ton purchase price for a total loss of $251,827.

Agriculture did not set a minimum price for the sale of Public Law 480 commodities. The agricultural attache in Manila asked the Department about the original costs of the goods in order to know the U.S. investment; he was told, however, that the original outlay did not mean a thing and to sell the goods as quickly as possible.

All grain imported into the Philippines is subject to the approval of the Philippine Government's National Grain Authority but the Philippine Government did not wish to become directly involved in these particular sales for political reasons. The Provisional Revolutionary Government of South Vietnam had unofficially requested Philippine assistance to insure the safety of any merchandise originally bound for Saigon. The agricultural attache in the Philippines believed that, had he been able to negotiate a sale directly with the Philippine Government, he would probably have been able to obtain nearly $1 million more for the commodities.

The Department of State subsequently informed us that the attache's statement was only conjecture since legal title to the commodities was uncertain and the Philippine Government felt it had political reasons to disassociate itself from any such negotiations. We fully understand these circumstances and wish only to point out the loss incurred due to the uncertainty of the situation and the U.S. desire for disposition in a short time.

A portion--approximately 2,500 metric tons--of the rice shipment located at Manila was transferred to Guam in April for use by Indochina refugees there. The amount not used, about 2,100 tons, was first authorized for sale in August. The tender resulted in one unrealistic bid, but on the second tender (October 8) three bids were obtained and an award was made. A second bidder successfully protested the award, however, and on October 23 the U.S. District Court abrogated the awarded contract and directed a reissuance of the invitation for bids. The rice was offered for sale a third time, and on November 29 a contract was awarded to the same bidder who had received the award on the second tender.

The buyer later presented Agriculture with a claim for $188,000; this was unresolved as of March 1, 1976. The buyer contends that, upon notification that it had received the award on the second bid tender, it had contracted to resell the rice. To fulfill its commitment, the buyer purportedly had to rebid at a higher price ($192 versus $152 a ton) to assure obtaining the award. The amount claimed is to cover the additional cost of the rice plus attorney fees and other miscellaneous costs.

DONATIONS

In addition to the 400 tons of rice ($184,000) used to feed refugees on Guam, a portion of the 822 tons of rice ($378,500) offloaded in Thailand was ultimately donated for feeding refugees. The rice had been offloaded April 11 to 13 at Sattahip, Thailand, for airlift to Cambodia, and half was airlifted before the United States ceased airlift operations. About 35 tons was used to feed Indochina refugees in the Sattahip area. On November 1, 1975, the remaining amount was turned over, at no charge, to the U.N. High Commissioner for Refugees.

CONCLUSIONS

The Foreign Assets Control Regulation was used as the basis for regaining control over Public Law 480 commodities in transit because, unlike AID commodity agreements, Public Law 480 agreements contain no provision authorizing a U.S. agency to assume title to commodities in transit under certain situations. A specific bilateral agreement, permitting the United States to take title would appear to be a more appropriate basis for such action and also more acceptable to third countries.

The Department of Agriculture, at the same time it was selling 39,000 tons of rice in Singapore and Manila at a loss in excess of $11 million, financed the purchase of 40,000 tons of rice for Bangladesh ($20 million excluding transportation and insurance). Considering the concessionality factor involved in title I loans and the highly questionable ability of Bangladesh to repay its external debts, it would have been to U.S. Government advantage to reprogram the rice to Bangladesh even if it were donated under title II.

The emphasis placed on selling the commodities quickly and the lack of information and guidance from Washington resulted in large losses on the sale of intransit commodities. Sales proceeds could have been increased if (1) more time had been available to find prospective buyers and if the prospective buyers had time to find financing and (2) Agriculture had given field representatives current commodity market data along with a minimum sales price based upon such other data as location of shipment in relation to location of demand for the commodity and cost of storage.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Agriculture maintains that the U.S. Treasury Department's Foreign Assets Control Regulations provide sufficient legal and practical bases for assumption of timely control of undeliverable commodities. The Department further maintains that, if the agricultural commodities agreements between the United States and South Vietnam had contained a provision allowing the Department to assume title, it is unlikely that it would have been recognized by the new Vietnamese Government or that it would have reduced the reluctance of third countries to become involved. The Department also commented that voluminous language would be needed in agreements to cover all possible contingencies.

The Department of State recognized that there was uncertainty regarding legal title to Public Law 480 commodities. Furthermore, we found that the Department of Agriculture was concerned over ownership of commodities and this concern was cited as a primary reason for requiring quick disposal. On the other hand, AID was not similarly concerned since its commodity agreements contained a provision specifically allowing it to assume title.

The U.S. interception of Public Law 480 commodities in transit would be on sounder legal footing if the bilateral agreement between the United States and a recipient country set forth as one of its provisions the right of the United States to assume title to the commodities under certain situations, rather than remain silent on this point, thus requiring unilateral exercise by the United States of its Foreign Assets Control Regulations.

The fact that AID has such a provision in its agreements is evidence that this would be practical and not too burdensome for the Department of Agriculture.

In view of the above, we still believe there is a need for clarification of authority to assume title in the title I Public Law 480 agreements. This would be more practical than depending upon regulations which leave an undesirable uncertainty as to title to the commodities.

The Department of Agriculture commented on reprograming commodities that it had considered their use in other food assistance programs. It cited the examples of title I rice used for refugees in Guam and Thailand and title I wheat reprogramed as title II for India. However, the Department stated that, for the most part, when the Washington Embassies of rice-consuming countries were contacted about this, none of the potential recipients, including Bangladesh, were willing to accept the repossessed commodities. The Department speculated that this might have been due to concern over quality deterioration as well as their future relationship with the new Vietnamese Government.

Since the rice was well packed and stored in adequate shelter and was located close to some of the largest Public Law 480 rice recipient countries, we cannot understand why any significant deterioration in quality would have occurred prior to reprograming.

Regarding future relationships with the new Vietnamese Government, we must point out that the rice was originally destined for Cambodia and not Vietnam. In any case, the presence of any possible question regarding the right of the United States to repossess and therefore reprogram the rice reaffirms our position that there is a need to clarify this matter within the Public Law 480 title I agreements.

In response to our recommendation that the Secretary develop guidelines, including pricing data requirements, for use by the field representatives in selling repossessed goods and that adequate time be allowed for disposal, the Department stated that the basic procedures and guidelines developed at the time of the collapse of Cambodia and South Vietnam served adequately and it would prefer to tailor disposal procedures to the specific situation in the event of a future program termination and commodity resale. The Department was also of the opinion that sufficient time was allowed for the disposal.

The Department did not, however, provide its field representatives with commodity market intelligence--current sale prices for specific commodities--so that the field agents would have had some criteria for gaging the acceptability of bids. Neither did the Department provide guidance on minimally acceptable bids. Thus, the field representatives were operating in a vacuum. The Department maintains that there was no need for such data and that establishing a minimum price would have been unrealistic and would have caused costly delays in disposing of the commodities, such as increased storage and administrative costs; would have allowed quality deterioration; and would have increased the possibility of confrontation with the new Vietnamese Government over title to the commodities.

The Department's field representatives expressed considerable concern to us, and to the Department itself, about the lack of pricing data and guidelines and about the haste in which they were instructed to sell the commodities.

Furthermore, the traders who purchased these commodities "through competition" were able to quickly turn around and sell the commodities, allegedly at much higher prices. This raises questions as to the adequacy of this method of establishing sales prices without good market data and minimum prices and in obvious haste.

The questions of quality deterioration and possible confrontation with the new Vietnamese Government were discussed above.

RECOMMENDATIONS

We recommend that the Secretary of Agriculture:

--Include a provision in future Public Law 480 agreements (somewhat similar to those in present AID agreements) which would allow the Department to assume title to commodities at any time before they arrive in the recipient country.

--Make a concerted effort, in the event of future program terminations, to reprogram commodities to other food assistance programs rather than obtaining similar new commodities.

--Develop directives delineating the data (purchase prices, current market prices, suggested floor prices, etc.) and steps that should be provided to field representatives for selling intransit goods and allow the field representatives adequate time to perform these steps.

CHAPTER 5

CLAIMS

The Agency for International Development is settling claims from suppliers and carriers for costs associated with program terminations. AID has settled supplier claims involving 226 letters of credit for $1.2 million. Another 37 outstanding letters of credit are a potential liability to AID.

AID has proposed that the eight principal ocean carriers refund $810,000 to cover adjustments for prepaid freight and related services not performed. By early May 1976, AID had received $276,807 from insurers for premium adjustments and in settlement of loss claims. AID estimated an additional $200,000 will be recovered from the insurers.

CLAIMS AGAINST AID

When the programs were terminated--April 12, 1975, in Cambodia, April 30 in Vietnam, and July 23 in Laos--ocean carriers were informed of the United States' assumption of title and were instructed to offload intransit cargoes at Singapore, Hong Kong, Manila, or Bangkok. They were also instructed to discharge cargo at U.S. ports if the ships had not left the United States. On the same dates, suppliers holding letters of credit were instructed to stop work on items in process, to hold finished items at plants, and to instruct their freight forwarders to hold shipments.

As a result, many of these suppliers and carriers incurred costs for which AID has assumed responsibility.

Suppliers

AID Regulation 1 (22 C.F.R. § 201.44 and 201.66) states that AID will reimburse a supplier who has not already been paid under the sales contract for all commodities to which AID had taken title or, in lieu of accepting title to the commodities, AID may negotiate with the supplier such other settlement as may be fair and equitable under the circumstances.

The U.S. banks initially reported to AID that there were 2,192 letters of credit ($66.6 million) outstanding with suppliers when the programs were terminated. Of these, 1,107 letters of credit ($30.6 million) covered shipments actually made, and AID paid these obligations under routine CIP procedures. Suppliers later notified AID of an additional 93 letters of credit ($3.2 million)--for unshipped commodities--not reported by the banks, bringing the number of letters of credit for unshipped commodities to 1,178 ($39.2 million).

--915 ($30.0 million) involved no liability to AID since they had expired, been canceled, etc.

--226 ($7.7 million) were settled by AID for $1.2 million.

--37 ($1.7 million) were still outstanding as of June 1976 and may involve some liability to AID.

AID officials told us that the outstanding letters of credit (involving unshipped commodities) generally fell into three categories: (1) the supplier had not begun work, so AID had no liability, (2) the supplier could restock or sell the commodities at little or no cost, and (3) the supplier could not sell the commodities due to special characteristics.

An example of category 2 is one order for which AID has agreed to pay a supplier $210 for the costs of packaging, crating, and preparing commodities valued at $3,943 for shipment to Cambodia. In another instance, AID paid a company $2,295 to cover cancellation costs for a shipment valued at $62,730.

An example of category 3 is one order for which the supplier contended that it had advertised worldwide in an effort to sell made-to-order needle bearings valued at $26,118. AID, allowing for scrap value, settled the claim for $23,811.

In May 1975 AID established the "Ad Hoc Committee on Supplier Problems Arising Out of Cessation of Aid to Cambodia and Vietnam." This committee--composed of representatives from the offices of commodity management, financial management, general counsel, and auditor general--reviews and approves or disapproves proposed settlements according to what it considers equitable for both AID and the supplier. AID sent auditors to the suppliers to verify some claims. As of June 1976, no supplier had threatened litigation, and AID had found no evidence of falsification on the part of the suppliers.

Carriers

AID Regulation 1, (22 C.F.R. § 201.44) states that AID will assume responsibility for any extra costs, including marine insurance and handling, incurred as a result of a diversion.

For ocean shipments, such costs shall not exceed diversion charges as per freight tariff and shall include only deviation insurance and extra handling costs actually incurred.

As of April 30, 1976, the Agency had received 29 claims (25 totaling $3,349,307 plus four unquantified) from carriers for vessel damages and losses and for freight and related charges.

--10 claims totaling $915,053 had been settled for $667,544; these were for unpaid charter costs and freight, diversion, and discharge costs.

--9 claims, five totaling $1,226,640 plus four unquantified, had been rejected; principally because AID disclaimed responsibility for vessel losses, for costs incurred before the Agency assumed title to the goods, and for alleged extra expenses when the contract specified such costs were for the vessel owner's account.

--9 claims totaling $352,507 had been returned to the carriers to delete charges assessed for periods prior to AID assumed title to the goods.

On the one remaining claim, AID has paid $260,000, but the carrier has initiated litigation in the courts to collect the balance, $553,150. The dispute is over the terms of carriage and charges applicable.

Consignees

As of May 1976, only one claim had been made by an original consignee against goods titled by AID. A Cambodian importer had paid for, and possessed original bills of lading for, four crawler loaders, a tractor, and a generator, to which AID assumed title at the port of Bangkok. While the commodities were still in the possession of the Thai Government, the importer presented the bills of lading and requested that the goods be turned over to him. The Thai Government ultimately rejected the importer's claim and AID shipped the goods to Hong Kong for commercial resale.

CLAIMS BY AID

Potential claims by AID are basically claims against carriers and insurers (1) for adjustments to prepaid freight, insurance, and related charges for shipments offloaded short of their original destinations and shipments which did not enter war risk areas and (2) for damages or losses sustained to Indochina-bound cargo.

As of early May 1976, AID had submitted claims for adjustment of freight and related charges totaling $810,000 to the eight principal ocean carriers. It had also requested premium adjustments and loss settlements from at least 35 insurers. AID had already received $276,807 in such payments and estimated that an additional $200,000 would be recovered.

AID stated that one substantial claim action remains to be taken by AID. It concerns a carrier's disposition of 45 AID-financed consignments with a total value of about $1.6 million. These were accepted by the carrier under through bills of lading for delivery to Cambodia but are not on record with AID as being delivered. The carrier contends that about half of the consignments had been at Saigon awaiting transshipment on April 30, 1975, and the remainder were transhipped at Saigon for delivery to Cambodia earlier. However, the carrier could not confirm delivery. When AID's analysis of the information and documentation obtained is completed, AID anticipates making claims against the carrier and insurers for the value of all consignments not delivered.

<u>Freight and insurance adjustments</u>

On July 10, 1975, AID/Washington cabled the RCMOs that it intended to submit claims for adjustments to prepaid freight and related charges but was waiting for an AID General Counsel determination on AID-financed charges that could be claimed and the legal basis for such claims. This request was submitted to the General Counsel in a letter dated June 6.

The AID General Counsel reply, dated December 19, stated that it appeared that AID should request carriers for adjustments to freight charges in the following situations.

1. Many carriers, before AID issued orders assuming title, had discharged goods in alternative ports but had retained the full amount of freight prepaid to original destinations. To invoke the applicable refund provisions of AID Form 282, Suppliers Certificate, AID must be able to counter carrier arguments that Saigon and/or Phnom Penh presented safety hazards and show that it was unreasonable for the carrier to discharge at alternative ports. One factor in AID's

favor is that, at the same time that some carriers were making "alternative" discharges, they were accepting shipments for Saigon in the United States.

2. For cases when AID took title to goods prior to carrier discharge and ordered the actual diversion and discharge of the ship, AID should ask for adjustments based on section 201.67 of AID Regulation 1, which provides that the carrier may charge only the lesser rate--intended or actual destination.

3. For shipments delivered to and discharged at named transshipment ports (this applies only to shipments of certain Cambodia CIP goods) when the carrier failed to arrange on-carriage to the bill of lading-designated port of delivery, AID entitlement to refunds would be based on the same elements as for item 1 above.

4. For shipments delivered to and discharged at Saigon (a transshipment port other than one named on the bill of lading) and which were lost before they could be transshipped to final destination (Cambodia), AID's position is that the carrier voluntarily and unjustifiably deviated from its agreed or usual course and thereby became an insurer. In this case, the carrier is not only liable for the delay but also for any loss or damage incurred.

The General Counsel memo also recommended that AID submit claims for refunds on its payments of (1) war risk surcharges when vessels, in fact, never entered the war zone and elected to discharge at safe ports and (2) marine insurance costs (for cargo) when the goods were discharged short of stated destinations.

The potential size of these claims is indicated by (1) the war risk surcharges which had been applied by the carriers under the provisions of their tariffs to the repossessed cargoes; (2) the applicable commodity marine war risk insurance premiums; (3) the amount of freight and surcharges prepaid to ocean carriers on shipments which never left the United States; and (4) the difference in tariff rates and surcharges for deliveries to Cambodia versus those applicable to the ports where AID took possession of Cambodian consignments.

Freight tariffs that included war risk surcharges for cargoes shipped from the United States to Indochina were established by two ocean liner conferences. The Pacific Westbound

Conference on January 1, 1975, had a surcharge of $4.50 per revenue ton to Saigon, which was increased to $6.00 on April 19 and to $54.00 effective April 30. Its war risk surcharge of $30.00 to Phnom Penh was increased to $50.00 effective March 15, 1975. The Far East Conference on January 1, 1975, had a surcharge of $2.50 to Saigon, increased to $3.25 on March 15 and further increased to $54.00 on April 19. Its war risk surcharge to Phnom Penh on January 1, 1975, was $20.00 per revenue ton, which increased to $50.00 April 15. The sharp April 1975 increases by both conferences had little application, as few shipments were made after the dates on which they became effective.

Marine cargo war risk insurance premiums to Phnom Penh varied by insurer but generally were 10 percent of the cost and freight value of the consignment. (This type of cost was not involved in shipments to Vietnam, since few importers elected to use AID financing of marine insurance.)

One shipment of 20 trucks offloaded at New Orleans had a cost of $62,000, but AID had financed an additional $31,674 for freight and related charges. In all, 237 shipments with an estimated cost and freight value of $5.6 million were offloaded at New Orleans. Another 71, worth an estimated $1.8 million, were stopped before they could be loaded aboard ships at west coast ports.

The assessed tariffs were $68.00 more in surcharges per revenue ton for deliveries to Phnom Penh than the rates to base ports of either Manila or Hong Kong, two of the diversion ports used by AID.

Damage and loss claims

In the July 10, 1975, cables to the RCMOs, AID/Washington also confirmed that it intended to submit damage and loss claims against the carriers and requested the RCMOs to document claims and submit them to Washington for processing.

Commodity damage and loss documentation was handled differently at different ports. For example, in New Orleans, the Army Eastern Area Military Traffic Management Command had personnel assigned to observe the ships' discharge operations and to photograph and record any damaged cargo; in Manila, AID contracted with private surveyors to inventory damages and losses as the commodities were offloaded from the ships and stored; and in Singapore, the Port of Singapore Authority made damage and loss surveys as part of its warehouse and inventory contract.

• As of January 1, 1976, AID officials stated that the RCMOs had been devoting their efforts to commodity disposal and that all the documents necessary to submit claims had not been received in AID/Washington; therefore no claims had been submitted to the carriers.

In commenting on the draft report, AID stated that it had made all the major loss claims it intends to make except for the one case. As discussed in chapter 3, AID no longer plans to file claims against suppliers unless a buyer of the commodities sold by AID makes a claim for damaged goods.

Time limitation

For claims and suits against carriers, the bills of lading state that:

> "* * * Carrier and Ship shall be discharged from all liability for loss or damage to Goods or with respect to freight, charges, expenses, tariff classification or other matters pertaining to Goods unless suit or appropriate proceeding is brought within one year after delivery of Goods or the date when Goods should have been delivered."

AID contends, however, it has 6 years to submit claims since it was not a party to the bills of lading. A precedent has been set on this from a January 4, 1973, U.S. Court of Appeals decision on a suit brought against Waterman Steamship Corporation by the U.S. Government which dealt with a reimbursement claim by AID for excess freight charges. In that case the Court ruled that the Government was not bound by the limitation period on the bill of lading but by the 6-year limitation period for Government suits on contracts prescribed by law (28 U.S.C. 2415).

EVENTS IN EARLY 1975 WHICH ILLUSTRATE DETERIORATING SITUATION IN INDOCHINA

CAMBODIA

Early in January 1975, the Communist insurgents opened their dry season offensive against the Government of the Khmer Republic. The Communists had cut all roads to, and were attacking, Phnom Penh, and the government was reduced to moving its troops between isolated and beseiged outposts.

Shipping on the Mekong River had been limited and sporadic for quite some time, but by the end of January shipping to Phnom Penh was blocked completely. The last shipment was unloaded at the coastal port of Kompong Som between March 2 and 6. Commodity shipments continued to leave the United States, however, in the hope that the Mekong would be reopened.

On April 2, the United States announced it would start evacuating diplomatic and other personnel from Phnom Penh; on April 12, evacuation was completed and the Agency for International Development program was officially terminated.

VIETNAM

One province of South Vietnam was overrun by North Vietnamese and Viet Cong forces in January 1975. In March, the North Vietnamese commenced an offensive in several parts of the country. They quickly captured the capital of one province in the central highlands and put pressure on other cities. The pressure caused the Government of Vietnam to abandon the highlands and, in doing so, the retreat disintegrated into uncontrolled chaos. The government also had to yield its northernmost provinces. It pulled out of Hue on March 26, and on March 31 Danang fell. By this time hundreds of thousands of refugees were fleeing south toward Saigon and government authority was vanishing in one province after another. Heavy fighting occurred in areas near Saigon as well.

By April 2, the retreat of government forces brought the North Vietnamese and Viet Cong holdings to within 50 miles of Saigon. During the retreat more than a billion dollars of U.S-supplied arms were abandoned.

By the first week of April, foreign residents of Saigon were leaving and the U.S. Government began airlifting Vietnamese orphans to the United States. On April 18, President Ford established the Interagency Task Force composed of 12 Federal agencies, to coordinate the evacuation of U.S. and Vietnamese citizens and third-country nationals from Vietnam.

On April 21, President Thieu resigned from office; on April 22 the last ship to offload AID-financed cargo in Saigon left without completing the discharge of its cargo.

At a staff meeting on April 28, USAID employees were told that there was plenty of time left for an orderly program phaseout and that the Embassy was optimistic over the situation in Vietnam. These same employees were included in the helicopter evacuation which took place the following day. On April 30, AID advised suppliers, shippers, and banks that it was taking title to all AID-financed Vietnam-bound cargo.

LAOS

The situation in Laos differed in that the Communist takeover was not so much due to military pressure as a gradual takeover of the coalition government. However, the end result in terms of commodities was similar.

On April 5, 1974, a coalition government called the Provisional Government of National Union had been formally established, with the aim of sharing responsibility equally between members of the right-wing party, the Communist Pathet Lao, and a group of neutralists.

With the fall of the U.S.-supported governments in Cambodia and Vietnam, anti-U.S. demonstrations increased and the Pathet Lao assumed increasingly greater control over the government. On March 18, 1975, demonstrators seized the USAID facilities at Ban Houei Sai, and on May 21 demonstrators began their occupation of the USAID compound and warehouse in Vientiane. As a result, on May 24 the U.S. Government agreed to completely dissolve USAID/Laos, turn over all AID property to the Provisional Government, and give Lao employees severance pay. All of this was to be accomplished no later than June 30. By June 27 all AID personnel had left Vientiane.

AID commodities were being shipped to Laos via Thailand. No AID commodities moved between Thailand and Laos after the demonstrators seized the Vientiane compound. The last shipment to leave for Laos was 45,000 kilos of construction equipment and medical supplies on May 14. In early June, AID took unofficial steps to curtail various portions of the procurement system, but it was not until actual assumption of title on July 22 and 23 that official letters were sent to 75 foreign and domestic suppliers and shippers to stop procurement or manufacture of goods and to hold goods on hand at plant or warehouse.

DEPARTMENT OF STATE

Washington, D.C. 20520

May 25, 1976

Mr. J. K. Fasick
Director
International Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Fasick:

I am replying to your letter of April 26, 1976, which forwarded copies of the draft report: "Management of Commodities Remaining From Terminated Indochina Economic Assistance Programs".

The enclosed comments were prepared by the Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs. We have also reviewed the security classification assigned to certain sections of the report, and the Department recommends their removal, i.e., declassified. However, the security views of the other appropriate agencies should be considered in advance of its publication.

We appreciate having had the opportunity to review and comment upon the draft report. If I may be of further assistance, I trust you will let me know.

Sincerely,

D. Williamson

Daniel L. Williamson
Deputy Assistant Secretary
for Budget and Finance

Enclosure: Comments

GAO DRAFT REPORT: "MANAGEMENT OF COMMODITIES REMAINING FROM TERMINATED INDOCHINA ECONOMIC ASSISTANCE PROGRAMS"

In general the Department of State considers the subject report to be fair and objective. However, the report contains two statements which we feel should be rebutted:

1) "The Department of Agriculture incurred large losses in the resale of P.L.-480 Title One rice and wheat... These losses probably could have been reduced substantially if (1) more time had been taken to make the sales, and (2) the USG had been able to sell commodities located in Manila." (Page VI) (See GAO note 1, p. 70.)

We question whether the alternatives suggested in the report were realistic at the time. The collapse of the South Vietnamese and Cambodian governments, it will be recalled, came suddenly and amidst widespread uncertainty regarding the future U.S. position in East Asia. There was also some uncertainty regarding legal title to the commodities in question. As indicated in the report, the Communist government in Saigon had indicated interest in them, and there was concern that legal as well as political problems might arise if sales were delayed. The Philippine Government felt at the time that it had

APPENDIX II

substantial reason for disassociating itself from any transaction involving these commodities. Efforts to involve it would probably have caused extensive delays which would, in turn, have increased the danger of undesirable political or legal complications.

2) "The Agricultural Attache in the Philippines believes that had he been able to negotiate a sale directly with the Philippine Government he would probably have been able to obtain nearly one million dollars more for the commodities sold. Considering these facts we believe more time should have been allowed for finding buyers outside the Philippines." (Page 51) (See GAO note 1, p. 70.)

The comment of the Agricultural Attache was pure conjecture, made in response to hypothetical GAO questions as to what the commodities might have been sold for had the GOP been willing to buy, i.e. under normal conditions. In fact, of course, conditions were not normal and the GOP was not in a position to buy. Any implication that the Agricultural Attache was in any way constrained by the U.S. government from negotiations with the GOP is hence inaccurate. The Agricultural Attache did offer wheat and rice to the National Grains Authority.

Lester E. Edmond
Deputy Assistant Secretary
Bureau of East Asian and
Pacific Affairs

DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

Auditor General

MAY 28 1976

Mr. J. K. Fasick
Director
International Division
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Fasick:

Attached herewith are the Agency for International Development comments on the GAO draft report "Management of Commodities Remaining From Terminated Indochina Economic Assistance Programs" dated April 26, 1976. We appreciate the opportunity to review and comment on the report which we consider to be a generally fair and accurate portrayal of events relating to the termination of commodity assistance programs in Indochina.

A review of the classified documents quoted from is being made and a certification as to the proper classification of the materials included will be provided separately.

Sincerely yours,

Harry C. Cromer

Harry C. Cromer

Attachment: a/s

AID COMMENTS ON THE GAO DRAFT REPORT, DATED 4/26/76, TITLED "MANAGEMENT OF COMMODITIES REMAINING FROM TERMINATED INDOCHINA ECONOMIC ASSISTANCE PROGRAMS".

The subject draft report recognizes that the closeout of A.I.D.-financed commodity assistance to Indochina was an immense and complicated undertaking, in view of the size and nature of the programs involved. Likewise, the detailed review by G.A.O. of A.I.D. actions prior to and following the cessation of commodity import programs to Cambodia, Laos, and Vietnam required a great amount of research and high degree of understanding of AID operational procedures involved.

Overall, we consider the draft report to be a reasonable portrayal of events which took place immediately prior and subsequent to the termination of U.S. economic assistance programs in Indochina. The status of the disposition of frustrated and vested cargoes as set forth in the draft report is accurate as of the dates indicated, and, overall, the statements made and opinions expressed are fair, and objective, and take into consideration the unique problems and complexities associated with the termination of commodity programs in Indochina.

In commenting on the draft report, it is our intention to:

-- Further explain the steps taken by A.I.D., and the reasons therefor, to dispose of goods vested or otherwise detained as a direct result of the cessation of AID programs in Indochina.

-- Indicate the progress made thus far in the disposal program, and

-- Address the conclusions and recommendations set forth in the draft report.

A. Steps taken by AID in anticipation of and subsequent to the withdrawal of U.S. economic assistance to Indochina.

1. Agency Procedures for Termination of Assistance.

In anticipation of the possibility that circumstances might arise from time to time making it necessary to curtail, suspend or terminate disbursements under assistance agreements, A.I.D., in Dec. 1974, issued a series of guidelines designed to facilitate such actions under varying situations which by their nature are extraordinary and unique. (A.I.D. Handbook 15, Chapter 12, Suspension or Termination of Assistance (Commodities), sets forth these guidelines).

The basic steps recommended to be taken in the event that a decision be made to cut off the movement of commodities to a cooperating

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country are as follows:

a. Identify the agreements under which the commodities are financed, verify AID's precise suspension rights under each agreement, ascertain the funds remaining available for commodities in each agreement, and determine whether all or only some of the agreements are to be made subject to the decision to suspend.

b. Contact by telephone (confirming by telegram) U.S. banks holding Letters of Commitment and instruct them not to issue, advise, confirm, amend, extend or review any Letters of Credit under designated Letters of Commitment.

c. Stop approving Commodity Approval Applications (Form AID 11) under designated assistance agreements.

d. Contact identified suppliers by telegram informing them that AID is considering invoking suspension rights. Suppliers would be requested to halt manufacture of custom items, hold any finished items at plant or warehouse and instruct freight forwarders to hold in-transit goods in warehouses rather than permitting them to be loaded on vessels.

e. Diversion of vessels carrying A.I.D.-financed commodities to the affected cooperating country must also be considered.

f. The Mission in the affected cooperating country must be instructed to take action appropriate and feasible to suspend procurement under local contracts.

g. G.S.A. and other U.S. agencies who procure for A.I.D. programs in the affected cooperating country must be instructed to suspend procurement actions and to pass necessary instructions to suppliers.

The above guidelines were developed on the basis of a review of previous commodity program close-outs. These guidelines cover only those actions required up to the point of the vesting of cargo, since it was recognized that individual programs would involve varying disposal procedures. The extent and nature of problems encountered would clearly depend on the scale and complexity of the assistance activity being suspended; AID had no previous experience with a program termination of the magnitude of the Indochina closeout.

2. <u>Specific steps in preparation for termination of Indochina programs.</u>

By mid-March 1975, the deteriorating situation in Indochina prompted A.I.D. to take some of the above steps in readiness for a decision to stop the flow of commodities to one or more of the three countries involved (Cambodia, Laos, Vietnam). Commercial telegrams were drafted for transmission to ship operators, Letter of Commitment banks, and U.S. suppliers, with information copies to Mission Directors giving specific instructions in consonance with the aforementioned guidelines.

A further preparatory step consisted of a review of then-current Letters of Credit being handled by various banks holding pertinent A.I.D. Letters of Commitment. This review became a valuable asset when the time came to notify banks and suppliers to terminate Letters of Credit. As stated in the draft report and mentioned later in our comments, literally thousands of Letters of Credit were involved. From the outset of Commercial Import Programs for Cambodia and Vietnam, it had been A.I.D.'s intention that normal commercial practice prevail to the most reasonable extent possible. Although AID received periodic reports from banking institutions on the status of project-related commodities, there was no formal procedure established for continual monitoring of the commodity import transactions. Indeed, even had there been, it is questionable if the documentation information would have been of significant advantage or usefulness in the closeout exercise, due to the lack of specific commodity identification contained in the routine submissions from the banks.

Cambodia

Although AID was aware of the gravity of the situation in Cambodia, little specific action could be formally taken to slow down the flow of commodities already on order. However, as a practical matter, the uncertainty of booking and shipping, and the inability of shippers to meet AID's requirement that they guarantee delivery, in effect slowed down the loading and shipping of commodities. As a result of this slowdown, there was a relatively small group of suppliers affected by the April 12, 1975 telegrams which were released to shipowners and suppliers identified as participants in the AID-financed Cambodia Commercial Import Program, notifying them of suspension of the program and setting forth instructions on actions to be taken concerning frustrated cargoes. Foreign policy considerations had precluded any abrupt termination of the CIP in Cambodia prior to that date.

Vietnam

The situation confronting the AID-financed CIP in Vietnam paralleled that in Cambodia but on a much larger scale. Despite attempts to curtail the program, AID was restrained by political considerations from slowing down the commodity pipelines until the time of actual U.S. withdrawal from Saigon. On April 30, 1975, telegrams similar to those previously sent to suppliers and ocean carriers under the Cambodia CIP were transmitted to over 500 firms known to be participating in the Vietnam CIP. The telegrams were well-received by most suppliers and carriers who for some time had been searching for information on possible termination of commercial import programs. The cooperation of the business community in the suspension process was most commendable.

Laos

As noted in the chronology of events in Appendix I of the draft report, the factors which influenced the ultimate withdrawal of the U.S. AID Mission to Laos were markedly different, but influenced by the events in Vietnam and Cambodia. Commodities in the pipeline to Laos were authorized by agreements between the governments of Laos and the United States, in support of mutually-agreed-to projects, and for the administrative support of the AID Mission, and accounted for only a small portion of the total dollar value of Indochina related shipments being financed by AID. During the period in question, pipelines were smaller than had been the norm for the past few years, for several reasons. Among these were:

- Program levels had been sharply lowered as a result of the change from a war-time to a peace-time environment and different program thrusts, requiring less direct commodity support,

- Commodity inventories were thoroughly analyzed and lower levels established, resulting in more efficient utilization of the on-hand stocks and consequent lower pipeline levels, and

- sharp and continuing decreases were effected in staffing levels, resulting in lowered levels of requirements for administrative support commodities.

Although the situation was obviously deteriorating, the U.S. Mission to Laos urged that no formal action be taken to shut off the AID-financed commodity pipeline during May and June, 1975. There were two basic reasons for this position. They were:

- Concern that overt public action of such a nature would jeopardize the efforts of the small staff remaining in Laos to transfer in orderly fashion the Mission property and activities to the Lao Government, and

- A feeling, based on official assurances by the Lao Government at the time, that the programs might be continued under Lao management, since the commodity pipeline was the direct result of actions taken under agreements between the two governments.

As it became clearer that there was little chance that the commodities in the pipeline would be used for the purposes for which they had been financed by AID, the pipeline was officially shut off by notice to suppliers in mid-July, as noted in the draft report. However, from a practical standpoint, there was no pipeline into Laos after May 14, 1975, after which time no shipments were made from the port of transfer through

Thailand, and the commodities remained under U.S. control in Thailand. It must be noted that although the U.S. AID Mission to Laos was being terminated, the U.S. had then, and continues to have, diplomatic relations with, and an Embassy in Laos.

3. Actions following decision to terminate

Upon designation of ports in Southeast Asia to which cargoes were to be diverted, Regional Commodity Management offices were set up in Bangkok, Hong Kong, Manila, and Singapore as adjuncts to the already established Regional Commodity Management Office in Taipei, Taiwan. Temporary offices were also set up in G.S.A. facilities in Stockton, California and near New Orleans, La., the two U.S. ports at which vested cargo was also discharged.

Under provisions of agreements in force between the U.S. Government and the governments of the three countries involved, title was taken to about 1700 lots of goods (transactions) having a delivered cost of over $30 million. The largest quantities were warehoused in Singapore (495 transactions, $11.1 million), and in Hong Kong (363 transactions, $6.3 million). There were also substantial quantities in Manila (48 transactions, $4.2 million) and Bangkok (486 relatively small transactions, $1.4 million).

In U.S. ports, A.I.D. took title to 237 transactions, valued at $5.6 million in New Orleans, 71 transactions valued at $1.8 million in Stockton, Calif. and a small quantity in Baltimore, Md.

A system was put into motion whereby these vested commodities were unloaded, warehoused, inventoried, and their location and availability made known to A.I.D. regional bureaus for possible use in programs around the world. Although time-consuming and ultimately not too productive, the canvassing of A.I.D. programs was essential in testing maximum potential utilization for these U.S. government-owned resources.

One of the first actions taken by the RCMO in Singapore was to offer administrative support to the U.S. Department of Agriculture in their disposal of PL 480 commodities originally destined for Cambodia and Vietnam.

Concurrently, and to avoid additional losses to the U.S. Government, items which would depreciate rapidly in value through wastage or spoilage were offered for sale to original producers or suppliers and through public sales. Such action was taken by A.I.D. under special statutory authority contained in Section 605 of the Foreign Assistance Act.

At the same time, arrangements were being considered for the ultimate disposal of those commodities remaining after the screening process outlined above. Those considerations involved two broad areas, i.e., property vested in the United States, and property vested in overseas locations.

Domestic

Although preliminary discussions as to specific disposal procedures were held with GSA in early June, it was considerably later that disposal was started. Final action could not take place until completion of the canvass of AID programs to determine possible utilization of the property, and even then could not be accomplished until agreement was reached that the disposal was to be handled under the provisions of the Federal Property and Administrative Services Act, as opposed to invocation of the special provisions of Section 605 of the Foreign Assistance Act. Originally, AID asked GSA if they could assist in the disposal of the commodities on a reimbursable basis to other U.S. Government Agencies, rather than through non-reimbursable transfer, which is the normal arrangement. That approach was considered, but mutually deemed not to be a practical one. Thus, actual disposal of the bulk of the U.S. vested commodities through GSA did not commence until November, 1975, although disposal of the wastage and spoilage items was taking place during the time of all of the above considerations.

Overseas

AID had clear authority to proceed with the disposal of commodities overseas, following such guidelines and priorities as were deemed suitable and proper by Agency management. However, as a prudent step in the process, GSA was asked to review the inventories to determine whether or not there was merit in returning any of the commodities to the U.S. for transfer to domestic U.S. Government agencies. That course was ultimately abandoned as not being practical, but again, the disposal process was delayed until the avenue was explored.

Concurrently, AID was exploring with original suppliers their interest in repurchasing the commodities they had originally furnished. Advertisements were placed in trade journals--particularly regarding vested chemical products. Discussions were being held at overseas locations in an effort to locate brokers capable of handling sale of the commodities located there. For example, the Port of Singapore Authority, which body has an established sales program, was requested to consider handling sales in Singapore. However, after considerable review, practical considerations of international relations prevailed, and ultimately it was determined that the RCMOs would offer the commodities for sale under formal bid procedures. To assist in that effort an arrangement was negotiated with the Defense Supply Agency, under which that Agency would offer assistance and counsel to A.I.D. based on its overseas disposal experience.

The above discussion relates only to those commodity orders actually completed and shipped. However, there was another area, which involved commodities ordered, but not yet completed and/or shipped.

At the time of the April 30, 1975 cutoff, U.S. banks reported as outstanding 2,192 Letters of Credit, with a total value of $66.56 million, under the commodity import programs to Vietnam and Cambodia. A later refinement increased that figure by 93 Letters of Credit, with a value of $3.15 million. Of that total of 2,285, valued originally at $69.71 million, 1,107 Letters of Credit ($30.56 million) covered shipments actually made, handled as described above.

Suppliers handling commitments under the remaining 1,178 Letters of Credit, totaling $39.15 million, were contacted by letter and cable, and requested to advise AID as to the status of the transaction and furthermore authorized to dispose of the materials covered by the Letters of Credit in their normal course of business. However, suppliers were cautioned that if the goods could not be disposed of without the sustaining of financial loss which they could not, or did not wish to bear, it would be necessary to hold the goods and contact AID further. The AD HOC Committee referred to in the draft report was formed, and guidelines were formulated for handling claims resulting from such situations.

(See GAO note 2, p. 70.)

(See GAO note 2, p. 70.)

C. G.A.O. Recommendations and A.I.D. Comments.

1. GAO Recommendation

-- Develop more detailed instructions covering priorities and procedures for disposing of commodities both overseas and in the United States, giving adequate consideration to (1) disposing of wastage/spoilage items as soon as practical, (2) reducing the time for obtaining release of commodities by AID bureaus so that other steps can be taken for disposal, and (3) including within the original notification of title assumption to the suppliers, a deadline for notifying AID of any interest in buying back the commodities supplied.

AID Comment

As noted earlier, the guidelines set forth in Handbook 15, Chapter 12, pertain only up to the point of vesting of cargo, since it was realized that each situation would obviously require a unique solution. Certainly, the experience of the Indochina closeout - although it is not likely that a program termination of such magnitude would soon be repeated - will provide specific information with which to refine and amplify those guidelines. It is our intention to do just that, with particular focus on the main areas cited in the subject report which caused delays in the Indochina disposal effort, i.e. the internal AID clearance process to determine potential utilization for the vested commodities and the process of determining whether or not the original suppliers had interest in re-purchasing the commodities.

2. GAO Recommendation

-- Study and evaluate past program terminations and prepare contingency plans which would, as a minimum, contain procedures whereby AID could curtail or slow-down a commodity pipeline (supplier production as well as shipments) as soon as it became apparent that the goods being financed would not be used for the purpose for which it had agreed to finance them.

AID Comment

As discussed earlier in our comments, AID followed its previously published guidelines covering termination of commodity assistance programs, insofar as they applied to the present situation. Certain actions were being taken as soon as it became apparent that the situation was deteriorating. However recommendations made at the time by the Country Teams of the U.S. Missions involved precluded full implementation of the guidelines until it was determined that overt termination action would have no adverse effect on the political situation. The guidelines in Handbook 15, Chapter 12, will be reviewed and refined in light of the Indochina experience.

3. GAO Recommendation

-- Require either AID/Washington or U.S. banks to maintain adequate data on the status of open Letters of Credit to enable AID to readily identify all suppliers that have unfilled commodity orders and the amounts of unliquidated obligations applicable to these letters.

AID Comment

For some time, banks have been furnishing to AID monthly computerized reports on the status of Letters of Credit covering commodity assistance elements of AID projects. However, except as regards statistical financial information, these reports lack the detail which would be required to fulfill the intent of the recommendation. Because of the dramatically larger number of transactions usually involved in non-project assistance (commodity import programs) and the high frequency of changes in status of individual Letters of Credit (partial shipments, increases and decreases in dollar value, etc.), AID has not asked banks to regularly furnish similar information on non-project transactions. Although banks do maintain such data within their own computerized systems, regular reports on non-project assistance would likewise lack the detail required to fulfill the recommendation. This data, although not regularly furnished, was available to AID on short notice at the time of the Indochina program terminations, and proved very useful as positive identification of the suppliers and status of the active Letters of Credit relating to the program. However, that information had to be supplemented by shipping documentation, on-site inspection, and in some cases, direct communication with suppliers and ocean carriers prior to starting disposition. To require continuous reporting on this element of the program would place an unwarranted documentation burden on the banking community, in the face of AID's continuing cooperative efforts, particularly with the National Committee on International Trade Documentation, to reduce documentation complications related to AID-financed commodity transactions.

(See GAO note 3, p. 70.)

4. GAO Recommendation

-- Improve the commodity management data system so that it can readily determine types, quantities, and locations of commodities so that AID can verify that it has taken possession of all commodities in transit and start disposition promptly.

AID Comment

Banks routinely furnish to AID documentation on specific commodity transactions. Basically, that information is received after the fact, i.e., after shipment has been initiated and documents are presented for payment. Included in that documentation are logistical elements such as types and descriptions of commodity, quantities, prices and evidence of shipment. In most cases, the descriptive information provided is ample for the disposal process, and it was that information which was used as an important element for compilation of lists of commodities in transit and vested at the time of the Indochina termination. (Occasionally, additional information had to be obtained from original suppliers, when invoices did not contain enough specificity to properly describe the property to a potential user.) However, that documentation did not - nor could it - provide a prime element required in the disposal process, i.e., present location and condition of the property. That information can only be - and was - determined by on-site inspection and identification of the vested commodities themselves. It should be noted that the disposal process was not delayed simply because we did not have in hand at the outset all of the above information for all of the vested commodities. Inventory lists were prepared and submitted for internal AID clearance and wastage and spoilage disposal covering those commodities on which the information was available, and those lists supplemented as further information was received.

AID is constantly reviewing and refining the present commodity management and data system, and will continue to do so. However, any improvements or expansions to the system must always be considered in the light of the additional staff resources and expense required vis-a-vis the advantages to having such information, particularly in view of the discussion above.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

OFFICE OF AUDIT

JUL 6 1976

Mr. Henry Eschwege, Director
Community and Economic Development
Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

Enclosed are the Department's comments on GAO's draft report entitled "Management of Commodities Remaining from Terminated Indochina Economic Assistance Programs."

If you have any questions, please contact Mr. W. Glenn Tussey, Assistant Sales Manager, PL 480 Programs, Office of the General Sales Manager, 447-5637.

Sincerely,

Leonard H. Greess

LEONARD H. GREESS
Director

Enclosure

Comments on GAO Report Draft:
"Management of Commodities Remaining from
Terminated Indochina Economic Assistance Programs"

A. Response to four GAO recommendations (pages vii - viii).
(See GAO note 1, p. 70.)

1. Consider feasibility of including a provision in future PL 480 agreements allowing the Department to assume title to commodities at any time before arrival in the recipient country.

Under the Title I program, the U. S. Government never obtains title to the commodity, which is purchased directly from the exporter by the importing country. Title passes from the exporter to the importer upon delivery at the U. S. port.

In view of the authority provided by the U. S. Treasury Department's Foreign Assets Control Regulations, the Department of Agriculture does not feel that authority is needed in Title I agreements for the Department to obtain title to the commodities purchased. The Foreign Assets Control Regulations provide sufficient legal and practical basis for assumption by the U. S. Government of time control of frustrated commodities.

Even if the agricultural commodities agreement between the United States and Viet Nam had contained a provision allowing the Department to assume title, it is unlikely that it would have been recognized by the new Vietnamese government in the sense of lessening their attempts to secure the commodities, or that it would have reduced the reluctance of third countries to become involved. Also, voluminous language would be needed in agreements to cover all possible contingencies.

Consequently, we feel that potential losses would not be lessened by adopting this recommendation.

2. Adequately consider reprograming frustrated commodities to other food assistance programs.

Consideration was given to this alternative, and some of the commodities were reprogramed (12,754 MT wheat to India under Title II and 1,222 MT rice to feed refugees in Thailand and Guam).

However, when Washington Embassies of the rice-using countries were contacted informally to determine the feasibility of reprograming frustrated rice, none of the countries were willing to accept it, including Bangladesh (page 53, paragraph 2). This reluctance to accept reprogramed commodities may have been due to concern over quality deterioration as well as over the effect of such reprograming on the future relationship of the recipient country with the new Vietnamese government.

3. Develop procedures, including price data, for field representatives to use in selling goods and allow adequate time to perform these steps.

The Department believes it is impossible and unnecessary to develop detailed procedures governing the possible future resale of commodities which might be frustrated, when the particular circumstances of the future situation can be only conjectural. It is most unlikely that the particular set of circumstances experienced in Viet Nam and Cambodia will be repeated. The basic procedures and guidelines developed at the time subject cargoes were frustrated served adequately in a very difficult situation, and we prefer to tailor the procedures to the specific situation in the event of a future frustration and resale.

In particular, it is felt that insistance on a mandatory floor price (page 54) would have been unrealistic and would have meant a costly delay in disposing of the commodities. The only way to establish market prices for out-of-position commodities is to publicly offer the commodities for sale, and that is precisely what the Department did. Competition set the price.

The Department believes that adequate time was allowed for field personnel to perform the necessary steps in reselling the commodities, within the limits imposed by the need to dispose of the commodities as expeditiously as possible. Delay would have increased storage and administrative costs, allowed further quality deterioration (particularly for rice and wheat), and increased the possibility of a confrontation with the new Vietnamese government over possession of the commodities. Thus, a more leisurely approach to the resale would have been counterproductive. Increased expenses were a certainty and increased receipts only problematical.

(See GAO note 2, p. 70.)

GAO notes: 1. Referenced page numbers in appendixes II and IV refer to the GAO draft report and may not correspond to the final report pages. Pertinent information provided by the agencies has been incorporated in the final report, as appropriate.

2. Deleted comments relate to suggested changes that have been made and matters revised or omitted in the final report.

3. In further discussion with AID regarding this recommendation and its response thereto, AID stated that it plans to meet with U.S. banks to discuss their capability to provide on short notice certain data including dates and amounts of payments made and amounts unliquidated. One bank currently had this capability and AID is confident that most banks will be agreeable to maintenance of such data.

PRINCIPAL OFFICIALS
RESPONSIBLE FOR ADMINISTRATION OF
ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office From	To
DEPARTMENT OF STATE		
SECRETARY OF STATE:		
Henry A. Kissinger	Sept. 1973	Present
AGENCY FOR INTERNATIONAL DEVELOPMENT		
ADMINISTRATOR:		
Daniel S. Parker	Oct. 1973	Present
ASSISTANT ADMINISTRATOR FOR ASIA (note a):		
Arthur Z. Gardiner, Jr.	Oct. 1975	Present
ASSISTANT ADMINISTRATOR FOR EAST ASIA: (note a)		
Arthur Z. Gardiner, Jr.	Apr. 1975	Oct. 1975
ASSISTANT ADMINISTRATOR FOR PROGRAM AND MANAGEMENT SERVICE:		
Charles A. Mann	May 1975	Present
William L. Parks (acting)	Nov. 1974	May 1975
DEPARTMENT OF AGRICULTURE		
SECRETARY OF AGRICULTURE:		
Earl L. Butz	Dec. 1971	Present
ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS:		
Richard E. Bell	June 1975	Present
Clayton K. Yeutter	Mar. 1974	May 1975

a/The Bureau for Asia was established on Oct. 12, 1975; before this date, the Bureau for East Asia covered the Indochina area.