

(Pub. L. 97-290, title III, §310, Oct. 8, 1982, 96 Stat. 1245.)

SUBCHAPTER III—EXPORT PROMOTION PROGRAMS

REFERENCES IN TEXT

This chapter, referred to in text, was in original “this Act”, meaning Pub. L. 97-290, Oct. 8, 1982, 96 Stat. 1233, which enacted this chapter and section 6a of this title and section 635a-4 of Title 12, Banks and Banking, amended section 45 of this title and sections 372 and 1843 of Title 12, and enacted provisions set out as notes under sections 1, 4001, and 4011 of this title and sections 1841 and 1843 of Title 12. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97-290, set out as a note under section 4011 of this title.

§ 4021. Definitions

As used in this subchapter—

(1) the term “export trade” means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported, from the United States or any territory thereof to any foreign nation,

(2) the term “service” means intangible economic output, including, but not limited to—

(A) business, repair, and amusement services,

(B) management, legal, engineering, architectural, and other professional services, and

(C) financial, insurance, transportation, informational and any other data-based services, and communication services,

(3) the term “export trade activities” means activities or agreements in the course of export trade,

(4) the term “methods of operation” means any method by which a person conducts or proposes to conduct export trade,

(5) the term “person” means an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between or among such persons,

(6) the term “antitrust laws” means the antitrust laws, as such term is defined in section 12 of this title, and section 45 of this title (to the extent that section 45 of this title prohibits unfair methods of competition), and any State antitrust or unfair competition law,

(7) the term “Secretary” means the Secretary of Commerce or his designee, and

(8) the term “Attorney General” means the Attorney General of the United States or his designee.

(Pub. L. 97-290, title III, §311, Oct. 8, 1982, 96 Stat. 1245.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97-290, set out as a note under section 4011 of this title.

§ 4051. Requirement of prior authorization

(a) General rule

Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out any export promotion program may be obligated or expended only if—

(1) the appropriation thereof has been previously authorized by law enacted on or after July 12, 1985; or

(2) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

(b) Exception for later legislation authorizing obligations or expenditures

To the extent that legislation enacted after the making of an appropriation to carry out any export promotion program authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) of this section shall have no effect.

(c) Provisions must be specifically superseded

The provisions of this section shall not be superseded except by a provision of law enacted after July 12, 1985, which specifically repeals, modifies, or supersedes the provisions of this section.

(d) “Export promotion program” defined

For purposes of this subchapter, the term “export promotion program” means any activity of the Department of Commerce designed to stimulate or assist United States businesses in marketing their goods and services abroad competitively with businesses from other countries, including, but not limited to—

(1) trade development (except for the trade adjustment assistance program) and dissemination of foreign marketing opportunities and other marketing information to United States producers of goods and services, including the expansion of foreign markets for United States textiles and apparel and any other United States products;

(2) the development of regional and multi-lateral economic policies which enhance United States trade and investment interests, and the provision of marketing services with respect to foreign countries and regions;

(3) the exhibition of United States goods in other countries;

(4) the operations of the United States and Foreign Commercial Service, or any successor agency; and

(5) the Market Development Cooperator Program established under section 4723 of this title, and assistance for trade shows provided under section 4724 of this title.

(e) Printing outside United States

(1) Notwithstanding the provisions of section 501 of title 44, and consistent with other applicable law, the Secretary of Commerce, in carrying out any export promotion program, may authorize—

(A) the printing, distribution, and sale of documents outside the contiguous United

States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and if such documents will be distributed primarily and sold exclusively outside the United States; and

(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

(2) Any fees received by the Secretary pursuant to paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities.

(Pub. L. 99-64, title II, § 201, July 12, 1985, 99 Stat. 157; Pub. L. 100-418, title II, §§ 2305(a), 2308(a), Aug. 23, 1988, 102 Stat. 1344, 1346.)

CODIFICATION

Section was enacted as part of the Export Administration Amendments Act of 1985, and not as part of Pub. L. 97-290 which enacted this chapter.

AMENDMENTS

1988—Subsec. (d)(5). Pub. L. 100-418, § 2305(a), added par. (5).

Subsec. (e). Pub. L. 100-418, § 2308(a), added subsec. (e).

§ 4052. Authorization of appropriations

There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs such sums as are necessary for fiscal years 1995 and 1996.

(Pub. L. 99-64, title II, § 202, July 12, 1985, 99 Stat. 158; Pub. L. 99-633, § 2, Nov. 7, 1986, 100 Stat. 3522; Pub. L. 100-418, title II, § 2305(b)(1), Aug. 23, 1988, 102 Stat. 1344; Pub. L. 102-429, title II, § 208, Oct. 21, 1992, 106 Stat. 2205; Pub. L. 103-392, title III, § 301, Oct. 22, 1994, 108 Stat. 4099.)

CODIFICATION

Section was enacted as part of the Export Administration Amendments Act of 1985, and not as part of Pub. L. 97-290 which enacted this chapter.

AMENDMENTS

1994—Pub. L. 103-392 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to the Department of Commerce—

“(1) to carry out export promotion programs—

“(A) \$190,000,000 for fiscal year 1993; and

“(B) \$200,000,000 for fiscal year 1994; and

“(2) to carry out section 4723 of this title, \$5,500,000 for each of fiscal years 1993 and 1994.”

1992—Pub. L. 102-429 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs \$123,922,000 for the fiscal year 1988, and \$146,400,000 for each of the fiscal years 1989 and 1990.”

1988—Pub. L. 100-418 amended section generally. Prior to amendment, section read as follows: “There is authorized to be appropriated \$123,922,000 for each of the fiscal years 1987 and 1988 to the Department of Commerce to carry out export promotion programs.”

1986—Pub. L. 99-633 substituted provisions authorizing appropriations of \$123,922,000 for each of the fiscal years 1987 and 1988 for provisions authorizing appropriations of \$113,273,000 for each of the fiscal years 1985 and 1986.

§ 4053. Barter arrangements

(a) Report on status of Federal barter programs

The Secretary of Agriculture and the Secretary of Energy shall, not later than 90 days after July 12, 1985, submit to the Congress a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries. Such report shall include details of any changes necessary in existing law to allow the Department of Agriculture and, in the case of petroleum resources, the Department of Energy, to implement fully any barter program.

(b) Authorities of President

The President is authorized—

(1) to barter stocks of agricultural commodities acquired by the Government for petroleum and petroleum products, and for other materials vital to the national interest, which are produced abroad, in situations in which sales would otherwise not occur; and

(2) to purchase petroleum and petroleum products, and other materials vital to the national interest, which are produced abroad and acquired by persons in the United States through barter for agricultural commodities produced in and exported from the United States through normal commercial trade channels.

(c) Other provisions of law not affected

In the case of any petroleum, petroleum products, or other materials vital to the national interest, which are acquired under subsection (b) of this section, nothing in this section shall be construed to render inapplicable the provisions of any law then in effect which apply to the storage, distribution, or use of such petroleum, petroleum products, or other materials vital to the national interest.

(d) Conventional markets not to be displaced by barters

The President shall take steps to ensure that, in making any barter described in subsection (a) or (b)(1) of this section or any purchase authorized by subsection (b)(2) of this section, existing export markets for agricultural commodities operating on conventional business terms are safeguarded from displacement by the barter described in subsection (a), (b)(1), or (b)(2) of this section, as the case may be. In addition, the President shall ensure that any such barter is consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

(e) Report to Congress

The Secretary of Energy shall report to the Congress on the effect on energy security and on domestic energy supplies of any action taken under this section which results in the acquisition by the Government of petroleum or petroleum products. Such report shall be submitted to the Congress not later than 90 days after such acquisition.

(Pub. L. 99-64, title II, § 203, July 12, 1985, 99 Stat. 158.)