

“(g) PROCEDURES WITH RESPECT TO OTHER DISCRIMINATION.—

“(1) IMPOSITION OF SANCTIONS.—If, within 60 days after the annual report is submitted under subsection (d)(1) of this section, a country that is identified pursuant to subparagraph (B) or (C) of such subsection has not eliminated their discriminatory procurement practices, then, on the day after the end of such 60-day period—

“(A) the President shall identify such country as a country that maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and

“(B) the prohibition on procurement contained in section 10b-1 of title 41 shall apply to such country.

“(2) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanction required by paragraph (1) would harm the public interest of the United States, the President may, to the extent necessary to impose appropriate limitations that are equivalent, in their effect, to the discrimination against United States products or services in government procurement by that country, modify or restrict the application of such sanction, subject to such terms and conditions as the President considers appropriate.

“(3) TERMINATION OF SANCTIONS.—The President may terminate the sanctions imposed under paragraph (1) or (2) and remove a country from the report under subsection (d)(1) of this section at such time as the President determines that the country has eliminated the discrimination identified pursuant to subsection (d)(2)(B) or (C) of this section.

“(h) LIMITATIONS ON IMPOSING SANCTIONS.—

“(1) AVOIDING ADVERSE IMPACT ON COMPETITION.—The President shall not take any action under subsection (f) or (g) of this section if the President determines that such action—

“(A) would limit the procurement or class of procurements to, or would establish a preference for, the products or services of a single manufacturer or supplier; or

“(B) would, with respect to any procurement or class of procurements, result in an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices.

“(2) ADVICE FROM U.S. AGENCIES AND BUSINESSES.—The President, in taking any action under this subsection to limit government procurements from foreign countries, shall seek the advice of executive agencies through the interagency trade organization established under section 1872(a) of this title and the advice of United States businesses and other interested parties.

“(i) RENEGOTIATION TO SECURE FULL AND OPEN COMPETITION.—The President shall instruct the United States Trade Representative, in conducting renegotiations of the Agreement, to seek improvements in the Agreement that will secure full and open competition consistent with the requirements imposed by the amendments made by the Competition in Contracting Act (Public Law 98-369; 98 Stat. 1175).

“(j) FEDERAL REGISTER NOTICES OF ACTIONS.—

“(1) NOTICES REQUIRED.—A notice shall be published in the Federal Register on the date of any action under this section, describing—

“(A) the results of dispute settlement proceedings under subsection (f)(2) of this section;

“(B) any sanction imposed under subsection (f)(3) or (g)(1) of this section;

“(C) any withholding, modification, or restriction of any sanction under subsection (f)(4) or (g)(2) of this section; and

“(D) the termination of any sanction under subsection (f)(5) or (g)(3) of this section.

“(2) PUBLICATION OF DETERMINATIONS LIFTING SANCTIONS.—A notice describing the termination of any

sanction under subsection (f)(5) or (g)(3) of this section shall include a copy of the President's determination under such subsection.

“(k) GENERAL REPORT ON ACTIONS UNDER THIS SECTION.—

“(1) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress and, by no later than April 30, 1994, submit to the the [sic] appropriate committees of the House of Representatives, and to the Committee on Governmental Affairs and other appropriate committees of the Senate, a general report on actions taken pursuant to this section.

“(2) CONTENTS OF REPORT.—The general report required by this subsection shall include an evaluation of the adequacy and effectiveness of actions taken pursuant to subsections (e), (f), and (g) of this section as a means toward eliminating discriminatory government procurement practices against United States businesses.

“(3) LEGISLATIVE RECOMMENDATIONS.—The general report may also include, if appropriate, legislative recommendations for enhancing the usefulness of this section or for other measures to be used as means for eliminating or responding to discriminatory foreign government procurement practices.”
See Termination Date of 1988 Amendment note below.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the Agreement on Government Procurement, referred to in section 3511(d)(17) of this title, enters into force with respect to the United States [Jan. 1, 1995], see section 344(a) of Pub. L. 103-465, set out as a note under section 2512 of this title.

TERMINATION DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 to cease to be effective on Apr. 30, 1996, unless Congress, after reviewing report required by former subsec. (k) of this section, extends such date, see section 7004 of Pub. L. 100-418, set out as an Effective and Termination Dates of 1988 Amendment note under section 2511 of this title.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury under subsec. (b) transferred to Secretary of Commerce, to exercise in consultation with Secretary of the Treasury, by section 5(a)(1)(A) of Reorg. Plan No. 3 of 1979, 44 F.R. 69274, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

Pub. L. 96-609, title II, §205, Dec. 28, 1980, 94 Stat. 3562, provided that: “Notwithstanding subparagraph (1)(A) of subsection 5(a) of Reorganization Plan No. 3 of 1979 (44 F.R. 69272, 93 Stat. 1381) [set out as a note under section 2171 of this title], the Secretary of the Treasury or his delegate shall issue such advisory rulings and make such determinations as are authorized by subsection 305(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)(1)).”

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) delegated to United States Trade Representative, see section 1-201 of Ex. Ord. No. 12260, Dec. 31, 1980, 46 F.R. 1653, set out as a note under section 2511 of this title.

§ 2516. Repealed. Pub. L. 103-355, title VII, § 7206(c), Oct. 13, 1994, 108 Stat. 3382; Pub. L. 103-465, title III, § 342(d), Dec. 8, 1994, 108 Stat. 4953

Section, Pub. L. 96-39, title III, §306, July 26, 1979, 93 Stat. 240, related to labor surplus area studies.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 103-465 effective on the date on which the Agreement on Government Procurement, re-

ferred to in section 3511(d)(17) of this title, enters into force with respect to the United States [Jan. 1, 1995], see section 344(a) of Pub. L. 103-465, set out as an Effective Date of 1994 Amendment note under section 2512 of this title.

§ 2517. Availability of information to Members of Congress designated as official advisers

The United States Trade Representative shall make available to the Members of Congress designated as official advisers pursuant to section 2211 of this title information compiled by the Committee on Government Procurement under article XIX(5) of the Agreement.

(Pub. L. 96-39, title III, §307, July 26, 1979, 93 Stat. 240; 1979 Reorg. Plan No. 3, §1(b)(1), eff. Jan. 2, 1980, 44 F.R. 69273, 93 Stat. 1381; Pub. L. 103-465, title III, §342(e), Dec. 8, 1994, 108 Stat. 4953.)

AMENDMENTS

1994—Pub. L. 103-465 substituted “article XIX(5)” for “part VI, paragraph 9.”

CHANGE OF NAME

“United States Trade Representative” substituted in text for “Special Representative for Trade Negotiations” pursuant to Reorg. Plan No. 3 of 1979, §1(1)(b), 44 F.R. 69273, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title. See, also, section 2171 of this title as amended by Pub. L. 97-456.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the Agreement on Government Procurement, referred to in section 3511(d)(17) of this title, enters into force with respect to the United States [Jan. 1, 1995], see section 344(a) of Pub. L. 103-465, set out as a note under section 2512 of this title.

§ 2518. Definitions

As used in this subchapter—

(1) Agreement

The term “Agreement” means the Agreement on Government Procurement referred to in section 3511(d)(17) of this title, as submitted to the Congress, but including rectifications, modifications, and amendments which are accepted by the United States.

(2) Civil aircraft

The term “civil aircraft and related articles” means—

(A) all aircraft other than aircraft to be purchased for use by the Department of Defense or the United States Coast Guard;

(B) the engines (and parts and components for incorporation therein) of such aircraft;

(C) any other parts, components, and subassemblies for incorporation in such aircraft; and

(D) any ground flight simulators, and parts and components thereof, for use with respect to such aircraft,

whether to be purchased for use as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of such aircraft, and without regard to whether such aircraft or articles re-

ceive duty-free treatment pursuant to section 601(a)(2).

(3) Developed countries

The term “developed countries” means countries so designated by the President.

(4) Eligible product

(A) In general

The term “eligible product” means, with respect to any foreign country or instrumentality that is—

(i) a party to the Agreement, a product or service of that country or instrumentality which is covered under the Agreement for procurement by the United States;

(ii) a party to the North American Free Trade Agreement, a product or service of that country or instrumentality which is covered under the North American Free Trade Agreement for procurement by the United States;

(iii) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2003, and before January 2, 2005, a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States;

(iv) a party to the Dominican Republic-Central America-United States Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States;

(v) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2005, and before July 2, 2006, a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States;

(vi) a party to the United States-Oman Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States;

(vii) a party to the United States-Peru Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States;

(viii) a party to the United States-Korea Free Trade Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States;

(ix) a party to the United States-Colombia Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States; or

(x) a party to the United States-Panama Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States.

(B) Rule of origin

An article is a product of a country or instrumentality only if (i) it is wholly the