

national-security interests after receiving advice with respect thereto from the President or from the Director [now Administrator] of the Federal Emergency Management Agency. In providing this advice the Director [Administrator] shall be governed by the principle that exceptions under this section shall be made only upon a clear showing that the payment of a greater differential than the procedures of this section generally prescribe is justified by consideration of national security.

SEC. 4. The head of each executive agency shall issue such regulations as may be necessary to insure that procurement practices under his jurisdiction conform to the provisions of this order.

SEC. 5. This order shall apply only to contracts entered into after the date hereof. In any case in which the head of an executive agency proposing to purchase domestic materials determines that a greater differential than that provided in this order between the cost of such materials of domestic origin and materials of foreign origin is not unreasonable or that the purchase of materials of domestic origin is not inconsistent with the public interest, this order shall not apply. A written report of the facts of each case in which such a determination is made shall be submitted to the President through the Director of the Office of Management and Budget by the official making the determination within 30 days thereafter.

**§ 8304. Waiver rescission**

(a) TYPE OF AGREEMENT.—An agreement referred to in subsection (b) is a reciprocal defense procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived this chapter for certain products in that country.

(b) DETERMINATION BY SECRETARY OF DEFENSE.—If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country that is party to an agreement described in subsection (a) has violated the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of this chapter with respect to those types of products produced in that country.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3833.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8304(a) .....	41:10b-2(a)(2), (b).	Pub. L. 103-160, div. A, title VIII, §849(c), (d), Nov. 30, 1993, 107 Stat. 1725.
8304(b) .....	41:10b-2(a)(1).	

In subsection (a), the text of 41:10b-2(b) is omitted as unnecessary.

SIMILAR PROVISIONS

Provisions similar to those in this section and section 8305 of this title were contained in the following acts:

- Pub. L. 115-31, div. C, title VIII, §8029, May 5, 2017, 131 Stat. 253.
- Pub. L. 114-113, div. C, title VIII, §8028, Dec. 18, 2015, 129 Stat. 2357.
- Pub. L. 113-235, div. C, title VIII, §8028, Dec. 16, 2014, 128 Stat. 2258.
- Pub. L. 113-76, div. C, title VIII, §8027, Jan. 17, 2014, 128 Stat. 110.
- Pub. L. 113-6, div. C, title VIII, §8027, Mar. 26, 2013, 127 Stat. 302.
- Pub. L. 112-74, div. A, title VIII, §8027, Dec. 23, 2011, 125 Stat. 811.

- Pub. L. 112-10, div. A, title VIII, §8028, Apr. 15, 2011, 125 Stat. 63.
- Pub. L. 111-118, div. A, title VIII, §8030, Dec. 19, 2009, 123 Stat. 3435.
- Pub. L. 110-329, div. C, title VIII, §8030, Sept. 30, 2008, 122 Stat. 3627.
- Pub. L. 110-116, div. A, title VIII, §8029, Nov. 13, 2007, 121 Stat. 1321.
- Pub. L. 109-289, div. A, title VIII, §8027, Sept. 29, 2006, 120 Stat. 1279.
- Pub. L. 109-148, div. A, title VIII, §8030, Dec. 30, 2005, 119 Stat. 2705.
- Pub. L. 108-287, title VIII, §8032, Aug. 5, 2004, 118 Stat. 977.
- Pub. L. 108-87, title VIII, §8033, Sept. 30, 2003, 117 Stat. 1079.
- Pub. L. 107-248, title VIII, §8033, Oct. 23, 2002, 116 Stat. 1544.
- Pub. L. 107-117, div. A, title VIII, §8036, Jan. 10, 2002, 115 Stat. 2255.
- Pub. L. 106-259, title VIII, §8036, Aug. 9, 2000, 114 Stat. 682.
- Pub. L. 106-79, title VIII, §8038, Oct. 25, 1999, 113 Stat. 1239.
- Pub. L. 105-262, title VIII, §8038, Oct. 17, 1998, 112 Stat. 2305.
- Pub. L. 105-56, title VIII, §8040, Oct. 8, 1997, 111 Stat. 1229.
- Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8042], Sept. 30, 1996, 110 Stat. 3009-71, 3009-97.
- Pub. L. 104-61, title VIII, §8051, Dec. 1, 1995, 109 Stat. 662.
- Pub. L. 103-335, title VIII, §8058, Sept. 30, 1994, 108 Stat. 2631.
- Pub. L. 103-139, title VIII, §8069, Nov. 11, 1993, 107 Stat. 1455.
- Pub. L. 102-396, title IX, §9096, Oct. 6, 1992, 106 Stat. 1924, as amended by Pub. L. 103-355, title VII, §7206(b), Oct. 13, 1994, 108 Stat. 3382.
- Pub. L. 102-190, div. A, title VIII, §833, Dec. 5, 1991, 105 Stat. 1447.
- Pub. L. 102-172, title VIII, §8123, Nov. 26, 1991, 105 Stat. 1205.
- Pub. L. 101-189, div. A, title VIII, §823, Nov. 29, 1989, 103 Stat. 1504.

**§ 8305. Annual report**

Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report on the amount of purchases by the Department of Defense from foreign entities in that fiscal year. The report shall separately indicate the dollar value of items for which this chapter was waived pursuant to—

- (1) a reciprocal defense procurement memorandum of understanding described in section 8304(a) of this title;
- (2) the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.); or
- (3) an international agreement to which the United States is a party.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3833.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8305 .....	41:10b-3.	Pub. L. 104-201, div. A, title VIII, §827, Sept. 23, 1996, 110 Stat. 2611; Pub. L. 105-85, div. A, title VIII, §846, Nov. 18, 1997, 111 Stat. 1845; Pub. L. 105-261, div. A, title VIII, §812, Oct. 17, 1998, 112 Stat. 2086.