

amendment, text read as follows: “With respect to procurement covered by the Agreement, the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products—

“(1) shall prohibit the procurement, after the date on which any waiver under section 2511(a) of this title first takes effect, of products (A) which are products of a foreign country or instrumentality which is not designated pursuant to section 2511(b) of this title, and (B) which are products covered under the Agreement for procurement by the United States; and

“(2) may take such other actions within his authority as he deems necessary.”

Subsec. (b). Pub. L. 103-465, §343(b)(2), inserted concluding provisions.

Subsec. (b)(1). Pub. L. 103-465, §343(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “delay, for a period not to exceed two years, the prohibition of procurement, required pursuant to subsection (a)(1) of this section, of products of a foreign country or instrumentality which is not designated pursuant to section 2511(b) of this title, except that no such delay shall be granted with respect to the procurement of products of any major industrial country;”.

1993—Subsec. (a)(1). Pub. L. 103-182 substituted “are products covered under the Agreement for procurement by the United States” for “would otherwise be eligible products”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title III, §344, Dec. 8, 1994, 108 Stat. 4955, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle [subtitle E (§§341-344 of title III of Pub. L. 103-465, amending this section and sections 2513 to 2515, 2517, and 2518 of this title, repealing section 2516 of this title, and amending provisions set out as a note under section 903 of Title 7, Agriculture] take effect on the date on which the Agreement on Government Procurement referred to in section 101(d)(17) [19 U.S.C. 3511(d)(17)] enters into force with respect to the United States [Jan. 1, 1995].

“(b) SECTION 342(g).—The amendments made by section 342(g) [amending provisions set out as a note under section 903 of Title 7] take effect on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into

force with respect to the United States (Jan. 1, 1994), see section 381(e) of Pub. L. 103-182, formerly set out as a note under section 2511 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to United States Trade Representative, with authority delegated to Secretary of Defense to waive the prohibitions contained in subsec. (b)(3), 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.

§ 2513. Waiver of discriminatory purchasing requirements with respect to purchases of civil aircraft

The President may waive the application of the provisions of chapter 83 of title 41 in the case of any procurement of civil aircraft and related articles of a country or instrumentality which is a party to the Agreement on Trade in Civil Aircraft referred to in section 2503(c) of this title and approved under section 2503(a) of this title. The President may modify or withdraw any waiver granted pursuant to this section.

(Pub. L. 96-39, title III, §303, July 26, 1979, 93 Stat. 238; Pub. L. 103-465, title III, §342(a), Dec. 8, 1994, 108 Stat. 4953.)

Editorial Notes

CODIFICATION

In text, “chapter 83 of title 41” substituted for “title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), popularly referred to as the Buy American Act,” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1994—Pub. L. 103-465 inserted “referred to in section 2503(c) of this title and approved under section 2503(a) of this title” after “Civil Aircraft”.

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE

Section effective July 26, 1979, but authority of President to grant waivers under this section effective on Jan. 1, 1980, see section 309 of Pub. L. 96-39, set out as a note under section 2511 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to United States Trade Representative, see section 1-103(b) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 990, set out as a note under section 2171 of this title.

§ 2514. Expansion of the coverage of the Agreement

(a) Overall negotiating objective

The President shall seek in the renegotiations provided for in article XXIV(7) of the Agreement

more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to Government procurement, with the overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and non-discriminatory world trade. In carrying out the provisions of this subsection, the President shall consider the assessment made in the report required under section 2516(a)¹ of this title.

(b) Sector negotiating objectives

The President shall seek, consistent with the overall objective set forth in subsection (a) and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for the export of United States products to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting that sector.

(c) Independent verification objective

The President shall seek to establish in the renegotiation provided for in article XXIV(7) of the Agreement a system for independent verification of information provided by parties to the Agreement to the Committee on Government Procurement pursuant to article XIX(5) of the Agreement.

(d) Reports on negotiations

(1) Report in the event of inadequate progress

If, during the renegotiations of the Agreement, the President at any time determines that the renegotiations are not progressing satisfactorily and are not likely to result, within twelve months of the commencement thereof, in an expansion of the Agreement to cover purchases by the entities of the governments of developed countries which are the principal purchasers of goods and equipment in appropriate product sectors, he shall so report to the congressional committees referred to in section 2512(c)(1) of this title. Taking into account the objectives set forth in subsections (a) and (b) of this section and the factors required to be analyzed under section 2512(c) of this title, the President shall further report to such committees appropriate actions to seek reciprocity in such product sectors with such countries in the area of government procurement.

(2) Legislative recommendations

Taking into account the factors required to be analyzed under section 2512(c) of this title, the President may recommend to the Congress legislation (with respect to entities of the Government which are not covered by the Agreement) which may prohibit such entities from purchasing products of such countries.

(3) Annual reports

Each annual report of the President under section 163(a) of the Trade Act of 1974 [19

U.S.C. 2213(a)] made after July 26, 1979 shall report the actions, if any, the President deemed appropriate to establish reciprocity in appropriate product sectors with major industrial countries in the area of government procurement.

(e) Extension of nondiscrimination and national treatment

Before exercising the waiver authority in section 2511 of this title for procurement not covered by the Agreement on the date it enters into force with respect to the United States, the President shall follow the consultation provisions of section 135 [19 U.S.C. 2155] and chapter 6 of title I of the Trade Act of 1974 [19 U.S.C. 2211 et seq.] for private sector and congressional consultations.

(Pub. L. 96-39, title III, §304, July 26, 1979, 93 Stat. 238; Pub. L. 103-465, title III, §342(b), Dec. 8, 1994, 108 Stat. 4953; Pub. L. 104-295, §20(c)(11), Oct. 11, 1996, 110 Stat. 3528.)

Editorial Notes

REFERENCES IN TEXT

Section 2516 of this title, referred to in subsec. (a), was repealed by Pub. L. 103-355, title VII, §7206(c), Oct. 13, 1994, 108 Stat. 3382, and Pub. L. 103-465, title III, §342(d), Dec. 8, 1994, 108 Stat. 4953.

The Trade Act of 1974, referred to in subsec. (e), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 6 of title I of the Trade Act of 1974 is classified generally to part 6 of subchapter I (§2211 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-295, §20(c)(11)(A), struck out comma after “XXIV(7)”.

Subsec. (c). Pub. L. 104-295, §20(c)(11)(B), struck out comma after “XXIV(7)” and “XIX(5)”.

1994—Subsec. (a). Pub. L. 103-465, §342(b)(1), substituted “article XXIV(7)” for “part IX, paragraph 6”.

Subsec. (c). Pub. L. 103-465, §342(b)(1), (2), substituted “article XXIV(7)” for “part IX, paragraph 6” and “article XIX(5)” for “part VI, paragraph 9”.

Subsec. (e). Pub. L. 103-465, §342(b)(3), substituted “the date it enters into force with respect to the United States” for “July 26, 1979”.

Statutory Notes and Related Subsidiaries

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.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section 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.

AGREEMENT ON GOVERNMENT PROCUREMENT: ENTRY INTO FORCE

The Agreement on Government Procurement, as referred to in section 3511(d)(17) of this title, entered into force with respect to the United States on Jan. 1, 1995. See note set out under section 3511 of this title.

¹ See References in Text note below.

§ 2515. Monitoring and enforcement

(a) Monitoring and enforcement structure recommendations

In the preparation of the recommendations for the reorganization of trade functions, the President shall ensure that careful consideration is given to monitoring and enforcing the requirements of the Agreement and this subchapter, with particular regard to the tendering procedures required by the Agreement or otherwise agreed to by a country or instrumentality likely to be designated pursuant to section 2511(b) of this title.

(b) Rules of origin

(1) Advisory rulings and final determinations

For the purposes of this subchapter, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 2518(4)(B) of this title, an article is or would be a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title.

(2) Penalties for fraudulent conduct

In addition to any other provisions of law which may be applicable, section 1001 of title 18 shall apply to fraudulent conduct with respect to the origin of products for purposes of qualifying for a waiver under section 2511 of this title or avoiding a prohibition under section 2512 of this title.

(c) Report to Congress on rules of origin

(1) Domestic administrative practices

As soon as practicable after the close of the two-year period beginning on the date on which any waiver under section 2511(a) of this title first takes effect, the President shall prepare and transmit to Congress a report containing an evaluation of administrative practices under any provision of law which requires determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce. Such evaluation shall be accompanied by the President's recommendations for legislative and executive measures required to improve and simplify and to make more uniform and consistent such practices. Such evaluation and recommendations shall take into account the special problems affecting insular possessions of the United States with respect to such practices.

(2) Foreign administrative practices

The report required under paragraph (1) shall contain an evaluation of the administrative practices under the laws of each major industrial country which require determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce, including an assessment of such practices on the exports of the United States.

(Pub. L. 96-39, title III, §305, July 26, 1979, 93 Stat. 239; Pub. L. 100-418, title VII, §7003, Aug. 23, 1988, 102 Stat. 1548; Pub. L. 103-465, title III, §§341, 342(c), 343(c), Dec. 8, 1994, 108 Stat. 4951, 4953, 4955; Pub. L. 104-295, §20(c)(10), (13), Oct. 11, 1996, 110 Stat. 3528.)

Editorial Notes

AMENDMENTS

1996—Subsec. (d)(2)(B), (C). Pub. L. 104-295, §20(c)(10), struck out “or” at end of subpar. (B) and substituted semicolon for period at end of subpar. (C).

Subsec. (g)(1). Pub. L. 104-295, §20(c)(13)(A), in introductory provisions, substituted “of subsection (d)(2) of this section” for “of such subsection” and inserted “of subsection (d)(2) of this section” after “(as the case may be)”.

Subsec. (g)(3). Pub. L. 104-295, §20(c)(13)(B), substituted “eliminated the practices” for “eliminated the the practices” and inserted “of subsection (d)(2) of this section” after “(as the case may be)”.

1994—Subsec. (d)(1). Pub. L. 103-465, §342(c), substituted “April 30 of each year,” for “April 30, 1990, and annually on April 30 thereafter,”.

Subsec. (d)(2)(D), (E). Pub. L. 103-465, §341(c)(1), added subpars. (D) and (E) which read as follows:

“(D)(i) are not signatories to the Agreement;

“(ii) fail to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement; and

“(iii) whose products or services are acquired in significant amounts by the United States Government; or

“(E)(i) are not signatories to the Agreement;

“(ii) fail to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement; and

“(iii) whose products or services are acquired in significant amounts by the United States Government.”

Subsec. (d)(3)(C). Pub. L. 103-465, §341(c)(2), inserted before period at end “, including the failure to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement”.

Subsec. (f)(2). Pub. L. 103-465, §341(a)(1), substituted “the 18 months” for “a year” in introductory provisions.

Subsec. (f)(2)(B) to (D). Pub. L. 103-465, §341(a)(2)-(4), struck out “or” at end of subpar. (B), redesignated subpar. (C) as (D), and added a new subpar. (C) which read as follows: “the procedures result in a determination providing a specific period of time for the other participant to bring its practices into compliance with the Agreement, or”.

Subsec. (f)(3). Pub. L. 103-465, §341(b)(1), amended heading and text of par. (3) to read as follows:

“(3) SANCTIONS AFTER DISPUTE RESOLUTION FAILS.—

“(A) FAILURES RESULTING IN SANCTIONS.—If—

“(i) within 18 months from the date dispute settlement procedures are initiated with a signatory country pursuant to this section—

“(I) such procedures are not concluded, or

“(II) the country has not met the requirements of subparagraph (A) or (B) of paragraph (2), or

“(ii) the period of time provided for pursuant to paragraph (2)(C) has expired and procedures for suspending concessions under the Agreement have been completed,

then the sanctions described in subparagraph (B) shall be imposed.

“(B) SANCTIONS.—

“(i) IN GENERAL.—If subparagraph (A) applies to any signatory country—

“(I) the signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 10b-1 of title 41 shall apply to such country, and

“(II) the President shall revoke the waiver of discriminatory purchasing requirements granted to the signatory country pursuant to section 2511(a) of this title.

“(ii) TIME SANCTIONS ARE IMPOSED.—Any sanction—

“(I) described in clause (i)(I) shall apply from the date that is the last day of the 18-month period described in subparagraph (A)(i) or, in the