

111TH CONGRESS
2D SESSION

S. 3505

To prohibit purchases by the Federal Government of Chinese goods and services until China agrees to the Agreement on Government Procurement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2010

Ms. STABENOW (for herself, Mr. GRAHAM, Mr. FEINGOLD, Mr. BROWN of Ohio, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To prohibit purchases by the Federal Government of Chinese goods and services until China agrees to the Agreement on Government Procurement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “China Fair Trade Act
5 of 2010”.

6 **SEC. 2. RECIPROCAL COMPETITIVE TRADE PRACTICES.**

7 (a) IN GENERAL.—Section 302(a)(2) of the Trade
8 Agreements Act of 1979 (19 U.S.C. 2512(a)(2)) is amend-
9 ed to read as follows:

1 “(2) EXCEPTIONS.—

2 “(A) IN GENERAL.—Paragraph (1) shall
3 not apply in the case of procurements for
4 which—

5 “(i) there are no offers of products or
6 services of the United States or of eligible
7 products; or

8 “(ii) the offers of products or services
9 of the United States or of eligible products
10 are insufficient to fulfill the requirements
11 of the United States Government.

12 “(B) SPECIAL RULE WITH RESPECT TO
13 THE PEOPLE’S REPUBLIC OF CHINA.—Subpara-
14 graph (A) shall not apply in the case of pro-
15 curements of products or services of the Peo-
16 ple’s Republic of China.”.

17 (b) WAIVER.—Section 302(b) of the Trade Agree-
18 ments Act of 1979 (19 U.S.C. 2512(b)) is amended in
19 the matter preceding paragraph (1), by inserting “, except
20 in the case of the People’s Republic of China,” before
21 “may”.

22 **SEC. 3. REQUIREMENTS TO BUY CERTAIN ITEMS FROM**
23 **AMERICAN SOURCES.**

24 (a) BUY AMERICAN ACT.—

1 (1) AMERICAN MATERIALS REQUIRED FOR PUB-
2 LIC USE.—Section 2(a) of the Buy American Act
3 (41 U.S.C. 10a(a)) is amended by inserting after the
4 second sentence the following: “The exceptions in
5 the previous two sentences shall not apply with re-
6 spect to articles, materials, or supplies mined, pro-
7 duced, or manufactured, as the case may be, in the
8 People’s Republic of China until such time as China
9 becomes a party to the Agreement on Government
10 Procurement (described in section 101(d)(17) of the
11 Uruguay Round Agreements Act (19 U.S.C.
12 3511(d)(17))).”.

13 (2) CONTRACT SPECIFICATIONS.—Section 3(a)
14 of the Buy American Act (41 U.S.C. 10b(a)) is
15 amended by striking “exception.” and inserting “ex-
16 ception: *Provided further*, That such an exception
17 may not permit the use of articles, materials, or sup-
18 plies mined, produced, or manufactured, as the case
19 may be, in the People’s Republic of China until such
20 time as China becomes a party to the Agreement on
21 Government Procurement (described in section
22 101(d)(17) of the Uruguay Round Agreements Act
23 (19 U.S.C. 3511(d)(17))).”.

24 (3) REPORTS.—Section 2(b)(2)(A) of the Buy
25 American Act (41 U.S.C. 10a(b)(2)(A)) is amended

1 by inserting before the semicolon the following: “and
 2 the country in which such articles, materials, or sup-
 3 plies were manufactured”.

4 (b) DEFENSE CONTRACTS FOR CERTAIN ARTI-
 5 CLES.—Section 2533a of title 10, United States Code, is
 6 amended by adding at the end the following new sub-
 7 section:

8 “(1) INAPPLICABILITY OF EXCEPTIONS TO ARTICLES
 9 FROM THE PEOPLE’S REPUBLIC OF CHINA.—The excep-
 10 tions to the requirement in subsection (a) provided under
 11 subsections (c) through (h) shall not apply with respect
 12 to items grown, reprocessed, reused, or produced in the
 13 People’s Republic of China until such time as China be-
 14 comes a party to the Agreement on Government Procure-
 15 ment (described in section 101(d)(17) of the Uruguay
 16 Round Agreements Act (19 U.S.C. 3511(d)(17))).”.

17 (c) REQUIREMENTS TO USE AMERICAN IRON,
 18 STEEL, AND MANUFACTURED GOODS UNDER THE AMER-
 19 ICAN RECOVERY AND REINVESTMENT ACT OF 2009.—
 20 Section 1605 of the American Recovery and Reinvestment
 21 Act of 2009 (Public Law 111–5; 123 Stat. 303) is amend-
 22 ed by adding at the end the following new subsection:

23 “(e) The exceptions in subsection (b) shall not apply
 24 with respect to iron, steel, and manufactured goods from
 25 the People’s Republic of China until such time as China

1 becomes a party to the Agreement on Government Pro-
 2 curement (described in section 101(d)(17) of the Uruguay
 3 Round Agreements Act (19 U.S.C. 3511(d)(17))).”.

4 **SEC. 4. REPORT ON PRODUCTIVE CAPACITY OF THE PEO-**
 5 **PLE’S REPUBLIC OF CHINA.**

6 (a) IN GENERAL.—Not later than 180 days, the Sec-
 7 retary of Commerce shall submit to Congress a report on
 8 the productive capacity of the major industrial sectors in
 9 the People’s Republic of China.

10 (b) CONTENTS.—The report required by subsection
 11 (a) shall include an assessment of any steps taken by the
 12 Government of the People’s Republic of China to develop,
 13 expand, retract, or otherwise alter the productive capacity
 14 of the sectors identified in the report.

15 **SEC. 5. REPORT ON SUBSIDIES PROVIDED BY THE PEO-**
 16 **PLE’S REPUBLIC OF CHINA FOR RENEWABLE**
 17 **ENERGY PRODUCTS AND TECHNOLOGY.**

18 (a) REPORT.—Not later than 180 days after the date
 19 of the enactment of this Act, the Secretary of Energy, in
 20 consultation with other appropriate agencies, shall report
 21 to Congress regarding the policies of the Government of
 22 the People’s Republic of China with respect to, and the
 23 subsidies provided by the People’s Republic of China for,
 24 the development and exportation of renewable energy
 25 products and technologies. The report shall include an

1 analysis of the impact of the policies and subsidies on
2 United States manufacturers of renewable energy prod-
3 ucts and technologies.

4 (b) DEFINITIONS.—

5 (1) RENEWABLE ENERGY.—The term “renew-
6 able energy” means energy generated by a renewable
7 energy resource.

8 (2) RENEWABLE ENERGY PRODUCT OR TECH-
9 NOLOGY.—The term “renewable energy product or
10 technology” means any product, technology, or com-
11 ponent of a product used in the development or pro-
12 duction of renewable energy.

13 (3) RENEWABLE ENERGY RESOURCE.—The
14 term “renewable energy resource” means—

15 (A) solar, wind, ocean, tidal, hydrokinetic,
16 or geothermal energy;

17 (B) biofuel, biomass, or hydropower; or

18 (C) any other renewable energy resource,
19 as determined by the Secretary of Energy.

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