

112TH CONGRESS
2^D SESSION

S. 3449

To prohibit purchases by the Federal Government of Chinese goods and services until the People's Republic of China becomes a party to the Agreement on Government Procurement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2012

Ms. STABENOW (for herself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To prohibit purchases by the Federal Government of Chinese goods and services until the People's Republic of China becomes a party 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 2012”.

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

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

5 “(2) EXCEPTIONS.—

6 “(A) IN GENERAL.—Paragraph (1) shall
7 not apply in the case of procurements for
8 which—

9 “(i) there are no offers of products or
10 services of the United States or of eligible
11 products; or

12 “(ii) the offers of products or services
13 of the United States or of eligible products
14 are insufficient to fulfill the requirements
15 of the United States Government.

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

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

1 **SEC. 3. REQUIREMENTS TO BUY CERTAIN ITEMS FROM**
2 **AMERICAN SOURCES.**

3 (a) BUY AMERICAN ACT.—Chapter 83 of title 41,
4 United States Code (commonly known as the “Buy Amer-
5 ican Act”) is amended—

6 (1) in section 8302—

7 (A) in subsection (a), by adding at the end
8 the following:

9 “(3) SPECIAL RULE WITH RESPECT TO THE
10 PEOPLE’S REPUBLIC OF CHINA.—The exceptions
11 provided under paragraph (1) and subparagraphs
12 (A) and (B) of paragraph (2) shall not apply with
13 respect to articles, materials, or supplies mined, pro-
14 duced, or manufactured in the People’s Republic of
15 China until the date on which China becomes a
16 party to the Agreement on Government Procurement
17 (described in section 101(d)(17) of the Uruguay
18 Round Agreements Act (19 U.S.C. 3511(d)(17))).”;
19 and

20 (B) in subsection (b)(2)(A), by inserting
21 “and the country in which such articles, mate-
22 rials, or supplies were manufactured” after
23 “United States”; and

24 (2) in section 8303(b), by adding at the end the
25 following:

1 “(4) SPECIAL RULE WITH RESPECT TO THE
2 PEOPLE’S REPUBLIC OF CHINA.—The exceptions
3 provided under subparagraphs (A) and (B) of para-
4 graph (1) and paragraphs (2) and (3) shall not
5 apply with respect to articles, materials, or supplies
6 mined, produced, or manufactured in the People’s
7 Republic of China until the date on which China be-
8 comes a party to the Agreement on Government
9 Procurement (described in section 101(d)(17) of the
10 Uruguay Round Agreements Act (19 U.S.C.
11 3511(d)(17))).”.

12 (b) DEFENSE CONTRACTS FOR CERTAIN ARTI-
13 CLES.—Section 2533a of title 10, United States Code, is
14 amended by adding at the end the following:

15 “(1) INAPPLICABILITY OF EXCEPTIONS TO ARTICLES
16 FROM THE PEOPLE’S REPUBLIC OF CHINA.—The excep-
17 tions to the requirement in subsection (a) provided under
18 subsections (c) through (h) shall not apply with respect
19 to items grown, reprocessed, reused, or produced in the
20 People’s Republic of China until the date on which China
21 becomes a party to the Agreement on Government Pro-
22 curement (described in section 101(d)(17) of the Uruguay
23 Round Agreements Act (19 U.S.C. 3511(d)(17))).”.

24 (c) REQUIREMENTS TO USE AMERICAN IRON,
25 STEEL, AND MANUFACTURED GOODS UNDER THE AMER-

1 ICAN RECOVERY AND REINVESTMENT ACT OF 2009.—
2 Section 1605 of the American Recovery and Reinvestment
3 Act of 2009 (Public Law 111–5; 123 Stat. 303) is amend-
4 ed by adding at the end the following:

5 “(e) The exceptions in subsection (b) shall not apply
6 with respect to iron, steel, or manufactured goods from
7 the People’s Republic of China until the date on which
8 China becomes a party to the Agreement on Government
9 Procurement (described in section 101(d)(17) of the Uru-
10 guay Round Agreements Act (19 U.S.C. 3511(d)(17))).”.

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

13 (a) IN GENERAL.—Not later than 180 days after the
14 date of the enactment of this Act, the Secretary of Com-
15 merce shall submit to Congress a report on the productive
16 capacity of the major industrial sectors in the People’s Re-
17 public of China.

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

1 **SEC. 5. REPORT ON SUBSIDIES PROVIDED BY THE PEOP-**
2 **LE'S REPUBLIC OF CHINA FOR RENEWABLE**
3 **ENERGY PRODUCTS AND TECHNOLOGY.**

4 (a) REPORT.—Not later than 180 days after the date
5 of the enactment of this Act, the Secretary of Energy, in
6 consultation with other appropriate agencies, shall report
7 to Congress regarding the policies of the Government of
8 the People's Republic of China with respect to, and the
9 subsidies provided by the People's Republic of China for,
10 the development and exportation of renewable energy
11 products and technologies. The report shall include an
12 analysis of the impact of those policies and subsidies on
13 United States manufacturers of renewable energy prod-
14 ucts and technologies.

15 (b) DEFINITIONS.—

16 (1) RENEWABLE ENERGY.—The term “renew-
17 able energy” means energy generated by a renewable
18 energy resource.

19 (2) RENEWABLE ENERGY PRODUCT OR TECH-
20 NOLOGY.—The term “renewable energy product or
21 technology” means any product, technology, or com-
22 ponent of a product used in the development or pro-
23 duction of renewable energy.

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

1 (A) solar, wind, ocean, tidal, hydrokinetic,
2 or geothermal energy;

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

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

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