



Highlights of [GAO-05-188](#), a report to congressional requesters

## Why GAO Did This Study

Congress enacted domestic source restrictions to encourage federal agencies to purchase U.S. goods and services. Congress has also approved international trade agreements that seek to reduce or eliminate restrictions on trade. In addition, the Department of Defense (DOD) has signed defense procurement memoranda of understanding (MOUs) with foreign countries under which the department has agreed to waive certain domestic source restrictions to the extent permitted by law. To provide a better understanding of the relationship between domestic source restrictions and international agreements, GAO was asked to determine the effect these agreements have on the applicability of U.S. domestic source restrictions.

## What GAO Recommends

This report contains no recommendations.

[www.gao.gov/cgi-bin/getrpt?GAO-05-188](http://www.gao.gov/cgi-bin/getrpt?GAO-05-188).

To view the full product, including the scope and methodology, click on the link above. For more information, contact William T. Woods at (202) 512-8214 or [woodsw@gao.gov](mailto:woodsw@gao.gov).

# FEDERAL PROCUREMENT

## International Agreements Result in Waivers of Some U.S. Domestic Source Restrictions

### What GAO Found

The U.S. is a party to several trade agreements that require each party's goods and services to be given treatment comparable to domestic goods and services in certain government procurements. These agreements include three multilateral trade agreements, four bilateral free-trade agreements, and three recently signed free-trade agreements that now await congressional approval or entry into force. In addition, DOD has signed, with its counterparts in 21 countries, reciprocal defense procurement MOUs that typically call for the removal of barriers to procuring defense supplies.

Together, current trade agreements result in the waiver of the Buy American Act and DOD's Balance of Payments Program for certain products from 45 countries. These waivers are authorized by the Trade Agreements Act of 1979, and are limited to procurements that

- are conducted by the federal entities covered by each agreement,
- exceed dollar thresholds established in each agreement, and
- involve specific categories of products.

For example, the waiver under the World Trade Organization's Government Procurement Agreement, which covers 38 members including the United States, allows eligible products from the other 37 members to compete on a comparable basis with U.S.-made products for covered procurements of 80 U.S. federal agencies without regard to the Buy American Act or the Balance of Payments Program. Likewise, waivers under the other trade agreements allow eligible products from the countries involved to compete in a comparable manner.

The defense procurement MOUs, based on a different legal mechanism, result in the waiver of the Buy American Act and the Balance of Payments Program for products originating in the 21 MOU countries. As with procurements covered by the trade agreements, suppliers of these products compete on a comparable basis with U.S. suppliers in DOD procurements.

Subject to several limited exceptions, neither the trade agreements nor the MOUs affect the remaining domestic source restrictions GAO reviewed, including the Cargo Preference Act of 1954 and those that apply solely to DOD. In general, items covered by these other restrictions are specifically exempted from the trade agreements.