

# ISSUE BRIEF

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## “Buy America” Provisions Have No Place in the National Defense Authorization Act

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As Congress considers the annual National Defense Authorization Act (NDAA), protectionist policies are on the table once again. Under the guise of “Buy America,” such policies would make it harder for U.S. warfighters to obtain the equipment they need quickly and affordably. These policies are also a stab in the back of America’s strongest allies.

Buy America is a great bumper sticker and political slogan, but it is bad economic and security policy. The concept is simple: The Department of Defense (DOD) should buy from American companies and suppliers. Economically this makes no sense. Protectionist policies like Buy America—or tariffs that protect specific industries—ultimately hurt the U.S. economy more than they help.<sup>1</sup> Protectionist policies also mean that the DOD and therefore American taxpayers pay more for a given product or service.

From a national security perspective, there are a few reasons to closely consider who is selling a product or service to the DOD. The United States does not want to find itself relying on a potential adversary for a critical resource or capability. One current example of this debate pertains to rocket engines that the Air Force is buying indirectly from Russia.<sup>2</sup> It is

reasonable for the DOD to ensure that critical capabilities, resources, and technologies are not bought from adversaries or potential adversaries. However, countries that are U.S. friends and allies should be able to compete for DOD business without any hurdles.<sup>3</sup> U.S. warfighters and taxpayers will be best served by free and open competition that includes companies from allied countries.

### House Tactical Missile Provision

Regrettably, the House version of the NDAA (H.R. 1735) contains a provision that appears to be Buy America at its worst and may even be an earmark. It revolves around the Advanced Medium-Range Air-to-Air Missile (AMRAAM).

The AMRAAM is a key weapon carried by U.S. fighter aircraft and built by Raytheon. The AMRAAM program faced a serious setback in 2010 after the missile failed to function in cold temperatures intended to simulate high-altitude conditions. After a series of tests—which caused significant production delays—the failure was attributed to the missile’s motor, designed by U.S.-based Alliant Techsystems (ATK). Raytheon then turned to Nammo, a Norway-based defense company co-owned by the Norwegian and Finnish governments, to produce new engines for the AMRAAM missile.<sup>4</sup> Nammo was able to build a new engine and produce them fast enough that Raytheon has resumed the original production schedule.<sup>5</sup>

Section 837 of the House-passed version of the NDAA appears to take work away from Nammo by requiring that all tactical missile programs use at least one domestic rocket motor supplier. This essentially applies Buy America restrictions not

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only to the whole AMRAAM missile, but to specific components of the missile. The DOD already has the option to develop a domestic rocket motor supplier if it so chooses.

As noted, the economic argument for Buy America restrictions does not hold water. In this case, the national security argument for this restriction also makes no sense. Norway is a strong ally and a member of NATO. Norwegian troops served alongside American troops in Iraq and Afghanistan.<sup>6</sup> No national security reason precludes Norwegian companies from competing for DOD contracts.

### Senate Murphy Amendment

In the Senate, Senator Chris Murphy (D-CT) has introduced a number of amendments aimed at expanding Buy America laws. Senator Murphy has filed an amendment to the Senate NDAA that would significantly expand Buy America restrictions.<sup>7</sup>

Buy America restrictions currently do not apply to any items intended for use outside the United States. The Murphy amendment would effectively expand Buy America restrictions globally with only the narrowest of exemptions for “urgent” national security needs. If enacted, this provision would increase the costs and time required to supply U.S. service members stationed overseas. It would also send a poor signal to U.S. allies, particularly those countries where U.S. forces are stationed.

If this amendment becomes law, the ramifications would be enormous. Would American soldiers in Germany be forced to transport gas for their vehicles from the United States? Would sailors in Japan be forced to ship their office paper across the

Pacific? How much longer will it take for troops in Afghanistan to receive basic, everyday supplies if they must originate in the United States? And how much more will that sourcing and shipping cost American taxpayers?

The Murphy amendment would impose enormous costs in time and money on warfighters and taxpayers. Economically this amendment is bad policy. The Murphy amendment would also severely harm national security. Warfighters will have a harder time obtaining the supplies they need when overseas. This policy would also send a message of distrust to U.S. allies and host countries.

### Moving Forward

As the debate and then the conference process on the NDAA moves forward, Congress should:

- **Oppose attempts to expand Buy America laws overseas.** Buy America provisions do not make sense economically. From a national security perspective, the DOD already has the authorities and flexibility to avoid relying on potential adversaries for critical resources or capabilities. Free and open competition among friendly countries will produce the best products and best prices.
- **Oppose efforts to impose Buy America laws on successful partnerships with allied countries.** There is no national security reason to exclude companies in allied countries from competing for DOD contracts. Norway’s strong support for the U.S. makes current efforts even worse.

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2. Andrea Shalal, “McCain Rejects Pentagon Push for More Russian Rocket Engines,” Reuters, May 13, 2015, <http://www.reuters.com/article/2015/05/13/us-usa-military-space-russia-idUSKBN0NY1LJ20150513> (accessed June 10, 2015).

3. Baker Spring, “‘Buy America’ Provisions Hurt War Fighters and Taxpayers,” Heritage Foundation *WebMemo* No. 1494, June 8, 2007, <http://www.heritage.org/research/reports/2007/06/buy-america-provisions-hurt-war-fighters-and-taxpayers>.

4. David Wichner, “Fixing a Key Missile,” *Arizona Daily Star*, September 16, 2012, [http://tucson.com/business/local/fixing-a-key-missile/article\\_75c8ae7d-0b9d-59e7-a9ee-9cc9894fedb3.html](http://tucson.com/business/local/fixing-a-key-missile/article_75c8ae7d-0b9d-59e7-a9ee-9cc9894fedb3.html) (accessed June 9, 2015).

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7. S.Amdt. 1586 to S.Amdt. 1463, H.R. 1735, 2015, <https://www.congress.gov/amendment/114th-congress/senate-amendment/1586> (accessed June 12, 2015).

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## **The Free Market Solution**

Buy America policies do not work economically and increase costs to the DOD and taxpayers. Free and open competition in a free market, including U.S. friends and allies, will produce the best and most affordable products for the DOD. Congress should not advance protectionist policies that impose costs on the warfighter and taxpayer. Instead, Congress should establish policies that allow companies in all allied and friendly companies to compete fairly and openly for DOD business.

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