



**DEFENSE LOGISTICS AGENCY
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J. KINGMAN ROAD, SUITE 4950
FORT BELVOIR, VIRGINIA 22060-6222**

IN REPLY
REFER TO

FEB 05 2004

DESC-CPA

CONTRACTING INSTRUCTION (CI): 04-01
MEMORANDUM FOR CI DISTRIBUTION

SUBJECT: DEPI 25.403 Trade Agreements Act

This Contracting Instruction (CI) is issued to add new Free Trade Agreements with the countries of Singapore and Chile. As a result, current DEPI coverage contained in Part 25.403 is amended in accordance with FAC 2001-19.

The amended DEPI coverage is attached to this CI.

This CI is effective immediately and expires upon inclusion in the DEPI. Point of contact is Sherry Wilson, extension 7392.

A handwritten signature in black ink that reads "Gabriella M. Earhardt".

GABRIELLA M. EARHARDT
Center Senior Procurement Official

Attachment:
DEPI coverage



PART 25
FOREIGN ACQUISITIONS

SUBPART 25.4 - TRADE AGREEMENTS

25.403 Trade Agreements Act.

(c) Waivers of the Trade Agreements Act.

(1) Except for product from countries in specified categories, a waiver of the Trade Agreements Act (TAA) is required before awarding a contract for refined petroleum products and coal of foreign origin. The specified categories exempt from the prohibitions of the TAA are designated countries, Caribbean Basin countries, Free Trade Agreement (FTA) countries (consisting of the North American Free Trade Agreement (NAFTA), Chile, and Singapore), and qualifying countries. (See FAR 25.401 and DFARS 225.403 and 225.872-1.)

(2) The prohibition against award of product from undesignated, non-qualifying, non-Caribbean countries, or non-FTA countries does not apply when the Contracting Officer determines pursuant to DFARS 225.403(c)(A) & (B) that offers of eligible products from responsive, responsible offerors are either not received or insufficient to fill the Government's requirements. However, all responsive, responsible offers of eligible products must be accepted before accepting any other offers, and a statement to this effect must be included.

(3) Approval of a waiver to the TAA for purchases of fuel for use by U.S. forces overseas will be made by the Director, DESC, as follows:

(i) Approval by the Director. On Purchases of fuel by DESC for use by U.S. forces overseas, the Director, DESC, has been delegated the authority to approve waivers of the TAA. (For waiver purposes, this includes foreign military sales (FMS) procurements.) The buying division will send a Memorandum for D/DD requesting a waiver through DESC-CPA, DESC-RN, DESC-G, the CBU Director and DESC-CSPO for signature by the Director 15 days before approval is needed. A copy of the waiver request and the approval letter will be provided to DESC-CPA after the Director has signed the letter. The request must include the information listed in Subparagraph (4) below, including a statement that the requirement is for use by U.S. forces overseas. The buying division will also prepare, on letterhead, a statement for the Director's signature which reads: