



This document is scheduled to be published in the Federal Register on 11/02/2011 and available online at <http://federalregister.gov/a/2011-27789>.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 2005-54; FAR Case 2011-014; Item VIII;

Docket 2011-0014, Sequence 1]

RIN 9000-AM11

Federal Acquisition Regulation; Successor Entities to the Netherlands Antilles

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to revise the definitions of "Caribbean Basin country" and "designated country" due to the change in status of the islands that comprised the Netherlands Antilles.

DATES: Effective Date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219-0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-54, FAR Case 2011-014.

SUPPLEMENTARY INFORMATION:

I. Background

The Netherlands Antilles was designated as a beneficiary country under the Caribbean Basin Initiative (see 19 U.S.C. 2702). According to the initiative, successor political entities remain eligible as beneficiary countries. On October 10, 2010, Curacao and Sint Maarten became autonomous territories of the Kingdom of the Netherlands. Bonaire, Saba, and Sint Eustatius now fall under the direct administration of the Netherlands. Additional information about this change is available at <http://www.state.gov/r/pa/ei/bgn/22528.htm>.

With this change, the definitions have been revised to replace "Netherlands Antilles" with the five separate successor entities - Bonaire, Curacao, Saba, Sint Eustatius, and Sint Maarten.

This final rule amends definitions of "Caribbean Basin country" and "designated country" at FAR 25.003, and FAR clauses 52.225-5, Trade Agreements; 52.225-11, Buy American Act—Construction Materials under Trade Agreements; and 52.225-23, Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available

regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 and does not require publication for public comment.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 9000-0141 titled: Buy American Act—Construction.

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: October 21, 2011.

/s/

Laura Auletta,
Acting Director,
Office of Governmentwide
Acquisition Policy,
Office of Acquisition Policy,
Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 25 and 52 as set forth below:

1. The authority citation for 48 CFR parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. Amend section 25.003 by revising the definition "Caribbean Basin country" and paragraph (4) in the definition "Designated country" to read as follows:

25.003 Definitions.

* * * * *

Caribbean Basin country means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago.

* * * * *

Designated country * * *

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St.

Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Amend section 52.212-5 by revising the date of the clause and paragraph (b) (39) to read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

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CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (NOV 2011)

* * * * *

(b) * * *

___ (39) 52.225-5, Trade Agreements (NOV 2011) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

4. Amend section 52.225-5 by revising the date of the clause; and in paragraph (a), by revising paragraph (4) in the definition "Designated country" to read as follows:

52.225-5 Trade Agreements.

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TRADE AGREEMENTS (NOV 2011)

(a) Definitions. * * *

* * * * *

Designated country * * *

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica,

Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

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5. Amend section 52.225-11 by revising the date of the clause; and in paragraph (a), by revising paragraph (4) in the definition "Designated country" to read as follows:

52.225-11 Buy American Act—Construction Materials under Trade Agreements.

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BUY AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (NOV 2011)

(a) Definitions. * * *

* * * * *

Designated country * * *

(4) A Caribbean Basin country ((Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

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6. Amend section 52.225-23 by revising the date of the clause, and paragraph (4) in the definition "Designated country" to read as follows:

52.225-23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

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REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS—BUY
AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (NOV
2011)

* * * * *

Designated country * * *

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

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[BILLING CODE 6820-EP]

[FR Doc. 2011-27789 Filed 11/01/2011 at 8:45 am; Publication

Date: 11/02/2011]