THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OCT 22 2004

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY
(ACQUISITION, LOGISTICS AND TECHNOLOGY)
ASSISTANT SECRETARY OF THE NAVY
(RESEARCH, DEVELOPMENT, AND AQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE
(ACQUISITION)

SUBJECT: Congressional Notification of Determinations Under10 U.S.C. 2533a (The Berry Amendment) for Procurement of Foreign Titanium

10 U.S.C. 2533a (c) provides that the requirement to procure certain articles from American sources does not apply if the Secretary of Defense or the Secretary of the Military Department concerned determines that satisfactory quality and sufficient quantity of any such covered article or item or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at the United States market prices. The Deputy Secretary of Defense's memorandum of May 1, 2001, prohibits delegation of the authority to make these determinations.

Congress has shown a particular interest in determinations made under subsection (c) when these determinations involve titanium or products containing titanium. Given this interest, I believe it is appropriate to provide Congressional notification when such determinations are made. Accordingly, I request that you notify the congressional defense committees 10 days prior to the award of a contract that relies on such a determination for the procurement of titanium or a product containing titanium.

A copy of the notification and the determination shall be provided concurrently to the Director, Defense Procurement and Acquisition Policy (DPAP). My point of contact for this matter and any questions with respect to this notification requirement is Daniel C. Nielsen, Deputy Director, DPAP, Program Acquisition and International Contracting, (703) 695-4235, or email at daniel.nielsen@osd.mil.

Michael W. Wynne
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