

policies pursued by Federal, state, and local governments with respect to procurement for their own use. Governmental Buy-American policies are based in part upon chauvinistic preferences, in part upon obsolete economic theory, in part upon special concessions to favored industries, and in part upon genuine balance of payments problems.

The Federal Buy-American Act became law during the last days of the Hoover Administration. It was adopted during the depression as a means of assisting depressed domestic industries and also, apparently, as a means of minimizing potential German competition on Hoover Dam contracts for heavy electrical equipment. Its usefulness as an anti-depression measure proved to be illusory; and the theory on which it was based (that we should have high tariffs to protect and stimulate our own industries) has been overwhelmingly rejected, most recently in the Trade Expansion Act of 1962.

The Buy-American Act applies to Government procurement of articles, materials, and supplies for public use within the United States and to contracts growing out of appropriated funds for the construction, alteration, or repair of public buildings or works within the United States. Since the Buy-American statute itself is either vague or silent on practical questions which a procurement officer must ask, it has been implemented through administratively developed percentage preferences and definitions of country of origin. The basic Executive Order now in effect under this Act provides that a foreign bid can be accepted only if 6 per cent below the lowest domestic bid. By administrative practice, another 6 per cent is added if the American supplier obtains his materials in an area of labor surplus. The basic Executive Order also requires that some procurement be reserved for U.S. small businesses. Finally, the Executive Order defines items as foreign in origin when 50 per cent of the cost of their constituent materials is foreign in origin.

By its terms, the Executive Order in question applies to "all executive departments, independent establishments, and other instrumentalities of the executive branch of the government". However, for balance of payments reasons, the Department of Defense and the military services have virtually stopped buying foreign-made goods in significant amounts. The Executive Order's percentage requirements have been abandoned through exercise of "administrative discretion" provisions of the Order.

The Buy-American Act does not apply to procurement of items or to construction for use overseas. However, for balance of payments reasons, procurement for such use overseas in the world market has been sharply curtailed since 1960 under presidential directives. For overseas use, the Department of Defense usually applies a 50 per cent preference. The Agency for International Development requires that its loans be used to buy American-made goods. A.I.D. grant money can be used for procurement outside the United States provided that the items are bought in one of the nations receiving assistance and not in the principal industrial countries of the world.

In deference, in part, to the existence of the American law, the General Agreement on Tariffs and Trade recognizes that governments may grant preferences to domestic products in their purchases for governmental purposes. It is manifest, however, that Buy-American governmental policies are simply a variety of protectionism and are as unjustified as other varieties of protectionism. Governmental purchases loom extremely large today in the United States: for roads, for schools, for defense, for postal communications, for research and countless other things. In many other free countries, these governmental expenditures extend to railroads, airlines, telephone, and telegraph systems and, in France, England and Germany, for instance, to certain government-owned industries. Governmental purchases are thus an important part of the world's commerce, and there is no reason in principle to except them from non-discriminatory trading policies.

Buy-American laws are simply a special type of protectionism which is justifiable only when applied with restraint in the interest of the nation's balance of payments or security. The spurious, protectionist grounds are difficult to exclude from policy-making and tend to lead to a much greater rigidity in the application of Buy-American principles than is called for. Offshore procurement apart, the dollar savings from the Federal Buy-American policies have been estimated at less than \$40 million a year, perhaps 1 per cent of the U.S. procurement involved. Such savings must be weighed against the losses—the weakening of the U.S. bargaining position in trade matters vis-a-vis the rest of the world; the absence of the spur of foreign competition to domestic quality and price; the