

**§ 228.23**

**22 CFR Ch. II (4-1-04 Edition)**

Implementation of the Fly America Act”, established criteria for determining when U.S. flag air carriers are unavailable. See 48 CFR 47.403-1, or USAID Optional Standard Provision on “Air Travel and Transportation” for grants and cooperative agreements.

(e) While the Comptroller General’s memorandum does not establish specific criteria for determining when freight service is unavailable, it is USAID’s policy that such service is not available when the following criteria are met:

(1) When no U.S. flag air carrier provides scheduled air freight service from the airport serving the shipment’s point of origin and a non-U.S. flag carrier does;

(2) When the U.S. flag air carrier(s) serving the shipment’s point of origin decline to issue a through air waybill for transportation at the shipment’s final destination airport;

(3) When use of a U.S.-flag air carrier would result in delivery to final destination at least seven days later than delivery by means of a non-U.S. carrier;

(4) When the total weight of the consignment exceeds the maximum weight per shipment which the U.S. flag air carrier will accept and transport as a single shipment and a non-U.S. flag air carrier will accept and transport the entire consignment as a single shipment;

(5) When the dimensions (length, width, or height) of one or more of the items of a consignment exceed the limitations of the U.S. flag aircraft’s cargo door opening, but do not exceed the acceptable dimensions for shipment on an available non-U.S. flag scheduled air carrier.

[61 FR 53616, Oct. 15, 1996; 62 FR 314, Jan. 3, 1997]

**§ 228.23 Eligibility of marine insurance.**

The eligibility of marine insurance is determined by the country in which it is “placed”. Insurance is “placed” in a country if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company office located in that country. Eligible countries for placement are governed by the authorized geographic

code. However, if Geographic Code 941 is authorized, the cooperating country is also eligible to provide such services, unless the implementing document specified otherwise based on the following:

(a) If a cooperating country discriminates against marine insurance companies authorized to do business in any State of the United States, then all USAID-financed goods for that country must be insured in the United States against marine risk. The term “authorized to do business in any State of the United States” means that foreign-owned insurance companies licensed to do business in the United States (by any State) are treated the same as comparable U.S.-owned companies.

(b) The prima facie test of discrimination is that a cooperating country takes actions which hinder private importers in USAID-financed transactions from making cost, insurance and freight (C.I.F.) or cost and insurance (C.&I.) contracts with United States commodity suppliers, or which hinder importers in instructing such suppliers to place marine insurance with companies authorized to do business in the United States.

(c) When discrimination is found to exist and the cooperating country fails to correct the discriminatory practice, USAID requires that all commodities procured with USAID funds be insured in the United States against marine loss. The decision of any cooperating country to insure all public sector procurements locally with a government-owned insurance agency is not considered discrimination.

**§ 228.24 Other delivery services.**

No source or nationality rules apply to other delivery services, such as export packing, loading, commodity inspection services, and services of a freight forwarder. Such services are eligible in connection with a commodity which is financed by USAID.

**§ 228.25 Incidental services.**

Source and nationality rules do not apply to suppliers of incidental services specified in a purchase contract relating to equipment. However, citizens or firms of any country not included in