

SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS

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Editorial Notes

AMENDMENTS

2013—Pub. L. 112-239, div. A, title X, § 1076(g)(3), Jan. 2, 2013, 126 Stat. 1955, struck out item 2349a “Annual report on non-NATO agreements”.

1994—Pub. L. 103-337, div. A, title XIII, § 1317(c)(2)(B), (i)(2), Oct. 5, 1994, 108 Stat. 2900, 2902, substituted “Waiver of applicability of certain laws” for “Law applicable to acquisition and cross-servicing agreements” in item 2343 and added item 2349a.

1993—Pub. L. 103-160, div. A, title XIV, § 1431(a)(2), Nov. 30, 1993, 107 Stat. 1833, added item 2349.

1990—Pub. L. 101-510, div. A, title XIII, § 1331(3), Nov. 5, 1990, 104 Stat. 1673, struck out item 2349 “Annual reports”.

1989—Pub. L. 101-189, div. A, title IX, § 931(a)(1), Nov. 29, 1989, 103 Stat. 1531, added subchapter heading.

1986—Pub. L. 99-661, div. A, title XI, § 1104(g), Nov. 14, 1986, 100 Stat. 3965, substituted “elements of the armed forces deployed outside the United States” for “United States armed forces in Europe” in item 2341.

1985—Pub. L. 99-145, title XIII, § 1304(a)(6), Nov. 8, 1985, 99 Stat. 742, renumbered items 2321 to 2328 as 2341 to 2348, respectively, and items 2330 and 2331 as 2349 and 2350, respectively, and struck out item 2329 “Regulations”.

§ 2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States

Subject to section 2343 of this title and subject to the availability of appropriations, the Secretary of Defense may—

(1) acquire from the Governments of North Atlantic Treaty Organization countries, from North Atlantic Treaty Organization subsidiary bodies, and from the United Nations Organization or any regional international organization logistic support, supplies, and services for elements of the armed forces deployed outside the United States; and

(2) acquire from any government not a member of the North Atlantic Treaty Organization logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) outside the United States if that country—

(A) has a defense alliance with the United States;

(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country;

(C) has agreed to preposition materiel of the United States in such country; or

(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

(Added Pub. L. 96-323, § 2(a), Aug. 4, 1980, 94 Stat. 1016, § 2321; renumbered § 2341 and amended Pub. L. 99-145, title XIII, § 1304(a)(1), (4), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title XI, § 1104(a), Nov. 14, 1986, 100 Stat. 3963; Pub. L. 102-484, div. A, title XIII, § 1312(a), Oct. 23, 1992, 106 Stat. 2547; Pub. L. 103-337, div. A, title XIII, § 1317(a), Oct. 5, 1994, 108 Stat. 2899; Pub. L. 109-163, div. A, title XII, § 1204, Jan. 6, 2006, 119 Stat. 3456.)

Editorial Notes

AMENDMENTS

2006—Par. (1). Pub. L. 109-163 struck out “of which the United States is a member” before “logistic support”.

1994—Par. (1). Pub. L. 103-337 substituted a comma for “and” after “countries” and inserted “, and from the United Nations Organization or any regional international organization of which the United States is a member” after “subsidiary bodies”.

1992—Par. (1). Pub. L. 102-484, § 1312(a)(1), substituted “outside the United States” for “in Europe and adjacent waters”.

Par. (2). Pub. L. 102-484, § 1312(a)(2), in introductory provisions, struck out “in which elements of the armed forces are deployed (or are to be deployed)” after “North Atlantic Treaty Organization” and substituted “outside the United States” for “in such country or in the military region in which such country is located”.

1986—Pub. L. 99-661 substituted “elements of the armed forces deployed outside the United States” for “United States armed forces in Europe” in section catchline.

Pub. L. 99-661 amended section generally, restating existing provisions into introductory text and par. (1) and adding par. (2).

1985—Pub. L. 99-145 renumbered section 2321 of this title as this section and substituted “section 2343” for “section 2323”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title XIII, § 1317(j), Oct. 5, 1994, 108 Stat. 2902, provided that: “The amendments made by this section [enacting section 2349a of this title and amending this section and sections 2342 to 2347 and 2350 of this title] shall apply with regard to any acquisition or transfer of logistic support, supplies, and services under the authority of subchapter I of chapter 138 of title 10, United States Code, that is initiated after the date of the enactment of this Act [Oct. 5, 1994].”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title XIII, § 1312(c), Oct. 23, 1992, 106 Stat. 2548, provided that: “The amendments made by this section [amending this section and section 2347 of this title] shall take effect on the date of enactment of this Act [Oct. 23, 1992] and shall apply to acquisitions of logistics support, supplies, and services under chapter 138 of title 10, United States Code, that are initiated on or after the date of enactment of this Act.”

SHORT TITLE

Pub. L. 96-323, § 1, Aug. 4, 1980, 94 Stat. 1016, provided: “That this Act [enacting this chapter] may be cited as

the ‘North Atlantic Treaty Organization Mutual Support Act of 1979.’”

DEMONSTRATION AND PROTOTYPING PROGRAM TO ADVANCE INTERNATIONAL PRODUCT SUPPORT CAPABILITIES IN A CONTESTED LOGISTICS ENVIRONMENT

Pub. L. 118–31, div. A, title VIII, § 842, Dec. 22, 2023, 137 Stat. 340, provided that:

“(a) **CONTESTED LOGISTICS DEMONSTRATION AND PROTOTYPING PROGRAM REQUIRED.**—The Secretary of Defense shall establish a contested logistics demonstration and prototyping program to identify, develop, demonstrate, and field capabilities for product support in order to reduce or mitigate the risks associated with operations in a contested logistics environment.

“(b) **ELEMENTS.**—In carrying out the Program, the Secretary shall do the following:

“(1) Identify ways to capitalize on the inherent interoperability, commonality, and interchangeability of platforms and information systems operated by the United States and one or more covered nations, including to enable effective maintenance and repair activities in a contested logistics environment.

“(2) Determine, develop, or establish best practices to reduce time needed to return repaired equipment to service, including the use of—

“(A) commercial best practices for rapid supply support; and

“(B) common or shared parts pools.

“(3) Explore opportunities to expand the ability to preposition or store materials needed to enable rapid surge capability or to support operations in a contested logistics environment.

“(4) Identify, develop, demonstrate, and field effective and efficient means of conducting repairs of equipment away from permanent repair facilities.

“(5) Explore flexible approaches to contracting and use of partnership agreements to enable use or development of the capabilities of covered product support providers to effectively, efficiently, and timely satisfy the product support requirements of a combat commander and any applicable covered nation in a contested logistics environment.

“(6) Identify the resources, including any additional authorizations, required by the Secretary of Defense to reduce or mitigate the risks associated with operations in a contested logistics environment.

“(7) Identify and document impediments to the performance of product support by covered product support providers in a contested logistics environment, including impediments created by statute, regulation, policy, agency guidance, or limitations on expenditure, transfer, or receipt of funds for product support in contested logistics environments.

“(8) Identify and document any statutory or regulatory waivers or exemptions that may be applicable or necessary to enable the United States and covered nations to jointly carry out product support activities in contested logistics environments located outside of the United States, including, for each such waiver and exemption—

“(A) the person responsible for requesting such waiver or exemption;

“(B) the criteria for approval of such waiver or exemption; and

“(C) the person responsible for approving such waiver or exemption.

“(c) **ADVANCE PLANNING AND PREPARATION.**—The Secretary may establish a product support arrangement, including an agreement for prepositioning or storage of materials, with a covered product support provider to enable a rapid response in a contingency operation (as defined in section 101(a) of title 10, United States Code) to the product support requirements of such contingency operation.

“(d) **AUTHORITIES.**—In carrying out the Program, the Secretary may, in accordance with section 3 of the Arms Export Control Act (22 U.S.C. 2753), use the authorities under sections 2342, 2474, 3601, 4021, and 4022 of title 10, United States Code.

“(e) **REPORT.**—Not later than 24 months after the date of the enactment of this Act [Dec. 22, 2023], the Secretary shall submit to Congress a report summarizing Program activities, including—

“(1) any recommendations to reduce impediments to meeting the requirements of a combatant command or covered nation for product support in a contested logistics environment;

“(2) a summary of impediments identified under subsection (b)(7) and specific recommendations for necessary changes to statutory, regulatory, policy, agency guidance, or current limitations on expenditure, transfer, or receipt of funds to carry out the product support activities under this pilot indefinitely;

“(3) a summary of waivers or exemptions identified under subsection (b)(8), along with any recommendations for changes to the processes for obtaining such waivers or exemptions; and

“(4) recommendations for improving the Program, including whether to extend or make the Program permanent.

“(f) **DEVELOPMENT AND PROMULGATION OF DEPARTMENT OF DEFENSE GUIDANCE.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue guidance implementing the Program.

“(g) **SUNSET.**—The authority under this section shall terminate on the date that is three years after the date of the enactment of this Act.

“(h) **DEFINITIONS.**—In this section:

“(1) **CONTESTED LOGISTICS ENVIRONMENT.**—The term ‘contested logistics environment’ has the meaning given such term in section 2926 of title 10, United States Code.

“(2) **COVERED NATIONS.**—The term ‘covered nation’ means—

“(A) Australia;

“(B) Canada;

“(C) New Zealand;

“(D) the United Kingdom of Great Britain and Northern Ireland; or

“(E) other nations as designated as a covered nation for the purposes of this Program by the Secretary.

“(3) **COVERED PRODUCT SUPPORT PROVIDER.**—The term ‘covered product support provider’ means—

“(A) a product support provider that includes an entity within the government of a covered nation;

“(B) a private sector product support provider; or

“(C) a product support integrator domiciled in the United States or a covered nation.

“(4) **PRODUCT SUPPORT; PRODUCT SUPPORT INTEGRATOR; PRODUCT SUPPORT PROVIDER.**—The terms ‘product support’, ‘product support integrator’, and ‘product support provider’ have the meanings given, respectively, in section 4324 of title 10, United States Code.

“(5) **PRODUCT SUPPORT ARRANGEMENT.**—

“(A) **IN GENERAL.**—The term ‘product support arrangement’ means a contract, task order, or any other type of agreement or arrangement, between the United States and a covered product support provider, for the performance of the functions described in subparagraph (B) with respect to—

“(i) a platform or information system operated by the United States and the covered nation of such covered product support provider; or

“(ii) a subsystem or components of such a platform or information system.

“(B) **FUNCTIONS DESCRIBED.**—The functions described in this subparagraph, with respect to a platform, information system, subsystem, or component described in subparagraph (A), are the following:

“(i) Performance-based logistics.

“(ii) Sustainment support.

“(iii) Contractor logistics support.

“(iv) Life-cycle product support.

“(v) Weapon system product support.

“(6) **PROGRAM.**—The term ‘Program’ means the demonstration and prototyping program established under subsection (a).

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Defense.”

ACCEPTANCE OF REAL PROPERTY, SERVICES, AND COMMODITIES FROM FOREIGN COUNTRIES BY AGENCIES OF DEPARTMENT OF DEFENSE

Pub. L. 101-165, title IX, §9008, Nov. 21, 1989, 103 Stat. 1130, which authorized agencies of Department of Defense to accept use of real property from foreign countries for United States in accordance with mutual defense agreements or occupational arrangements and to accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge and to use same for support of United States forces in such areas without specific appropriation therefor, was repealed and restated in section 2350g of this title by Pub. L. 101-510, div. A, title XIV, §1451(b)(1), (c), Nov. 5, 1990, 104 Stat. 1692, 1693.

OVERSEAS WORKLOAD PROGRAM

Pub. L. 101-510, div. A, title XIV, §1465, Nov. 5, 1990, 104 Stat. 1700, as amended by Pub. L. 102-190, div. A, title X, §1085, Dec. 5, 1991, 105 Stat. 1483; Pub. L. 102-484, div. A, title XIII, §1353, Oct. 23, 1992, 106 Stat. 2559, which related to eligibility of a firm of any member nation of North Atlantic Treaty Organization (NATO) or of any major non-NATO ally to bid on any contract for maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the Overseas Workload Program, was repealed and restated in section 2349 of this title by Pub. L. 103-160, div. A, title XIV, §1431(a)(1), (b)(1), Nov. 30, 1993, 107 Stat. 1832, 1833. Similar provisions were contained in the following authorization or appropriation acts:

Pub. L. 102-396, title IX, §9130, Oct. 6, 1992, 106 Stat. 1935, as amended by Pub. L. 103-160, div. A, title XIV, §1431(b)(2), Nov. 30, 1993, 107 Stat. 1833.

Pub. L. 102-172, title VIII, §8122, Nov. 26, 1991, 105 Stat. 1205.

Pub. L. 101-511, title VIII, §8003, Nov. 5, 1990, 104 Stat. 1873.

Pub. L. 100-180, div. A, title X, §1021, Dec. 4, 1987, 101 Stat. 1143.

§ 2342. Cross-servicing agreements

(a)(1) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into an agreement described in paragraph (2) with any of the following:

(A) The government of a North Atlantic Treaty Organization country.

(B) A subsidiary body of the North Atlantic Treaty Organization.

(C) The United Nations Organization or any regional international organization.

(D) The government of a country not a member of the North Atlantic Treaty Organization but which is designated by the Secretary of Defense, subject to the limitations prescribed in subsection (b), as a government with which the Secretary may enter into agreements under this section.

(2) An agreement referred to in paragraph (1) is an agreement under which the United States agrees to provide logistic support, supplies, and services to military forces of a country or organization referred to in paragraph (1) in return for the reciprocal provisions of logistic support, supplies, and services by such government or organization to elements of the armed forces.

(b)(1) The Secretary of Defense may not designate a country for an agreement under this section unless—

(A) the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

(B) in the case of a country that is not a member of the North Atlantic Treaty Organization, the Secretary submits to the appropriate committees of Congress notice of the intended designation not less than 30 days before the date on which such country is designated by the Secretary under subsection (a).

(2) In the case of a country that is not a member of the North Atlantic Treaty Organization, the Secretary of Defense may not enter into an agreement under this section unless the Secretary submits to the appropriate committees of Congress a notice of intent to enter into such an agreement not less than 30 days before the date on which the Secretary enters into the agreement.

(c) The Secretary of Defense may not use the authority of this subchapter to procure from any foreign government or international organization any goods or services reasonably available from United States commercial sources.

(d) The Secretary of Defense may not use an agreement with any government or an organization described in subsection (a)(1) to facilitate the transfer of logistic support, supplies, and services to any country or organization with which the Secretary has not signed an agreement described in subsection (a)(2).

(e) An agreement described in subsection (a)(2) may not provide or otherwise constitute a commitment for the introduction of the armed forces into hostilities.

(f) Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, the Secretary of Defense shall designate an existing senior civilian or military official who shall have primary responsibility for—

(1) accounting for logistic support, supplies, and services received or provided under acquisition and cross-servicing agreements;

(2) ensuring consistent standards and guidance to the armed forces and combatant commands in executing acquisition and cross-servicing agreements;

(3) overseeing and monitoring the implementation of acquisition and cross-servicing agreements in coordination with the Under Secretary of Defense for Policy; and

(4) such other responsibilities as may be prescribed by the Secretary.

(g)(1) Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, the Secretary of Defense shall prescribe regulations to ensure that—

(A) contracts entered into under this subchapter are free from self-dealing, bribery, and conflict of interests;

(B) adequate processes and controls are in place to provide for the accurate accounting of logistic support, supplies, and services received or provided under the authority of this subchapter; and

(C) personnel responsible for accounting for logistic support, supplies, and services re-

ceived or provided under such authority are fully trained and aware of such responsibilities.

(2)(A) Not later than 270 days after the issuance of the regulations under paragraph (1), the Comptroller General of the United States shall conduct a review of the implementation by the Secretary of such regulations.

(B) The review conducted under subparagraph (A) shall—

(i) assess the effectiveness of such regulations and the implementation of such regulations to ensure the effective management and oversight of an agreement under subsection (a)(1); and

(ii) include any other matter the Comptroller General considers relevant.

(h) Not later than January 15 each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on acquisition and cross-servicing activities that sets forth, in detail, the following:

(1) A list of agreements that have entered into force or were applied provisionally pursuant to subsection (a)(1) during the preceding fiscal year.

(2) The date on which each agreement listed under paragraph (1) was signed, and, in the case of an agreement with a country that is not a member of the North Atlantic Treaty Organization, the dates on which the Secretary notified Congress—

(A) pursuant to subsection (b)(1)(B) of the designation of such country under subsection (a); and

(B) pursuant to subsection (b)(2) of the intent of the Secretary to enter into the agreement.

(3) The class of supply, total dollar amount, the amount collected, and the outstanding balance of logistic support, supplies, and services provided during the preceding fiscal year under each such agreement.

(4) The class of supply, total dollar amount, the amount collected, and the outstanding balance of logistic support, supplies, and services received during the preceding fiscal year under each such agreement.

(5) With respect to any transaction for logistic support, supplies, and services that has not been reconciled more than one year after the date on which the transaction occurred, a description of the transaction that includes the following:

(A) The date on which the transaction occurred.

(B) The country or organization to which logistic support, supplies, and services were provided.

(C) The value of the transaction.

(6) An explanation of any waiver granted under section 2347(c) during the preceding fiscal year, including an identification of the relevant contingency operation or non-combat operation.

(i) In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1016, §2322; renumbered §2342 and amended Pub. L. 99-145, title XIII, §1304(a)(1), (4), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title XI, §1104(a), Nov. 14, 1986, 100 Stat. 3963; Pub. L. 100-180, div. A, title XII, §1231(9), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 101-510, div. A, title XIV, §1451(a), Nov. 5, 1990, 104 Stat. 1692; Pub. L. 103-337, div. A, title XIII, §1317(b), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 104-106, div. A, title XV, §1502(a)(16), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 109-163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456; Pub. L. 115-232, div. A, title XII, §1271, Aug. 13, 2018, 132 Stat. 2065; Pub. L. 116-92, div. A, title XII, §1203, Dec. 20, 2019, 133 Stat. 1620.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subssecs. (f) and (g)(1), is the date of enactment of Pub. L. 116-92, which was approved Dec. 20, 2019.

AMENDMENTS

2019—Subsec. (b). Pub. L. 116-92, §1203(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary of Defense may not designate a country for an agreement under this section unless—

“(1) the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

“(2) in the case of a country which is not a member of the North Atlantic Treaty Organization, the Secretary submits to the appropriate committees of Congress notice of the intended designation at least 30 days before the date on which such country is designated by the Secretary under subsection (a).”

Subsec. (f). Pub. L. 116-92, §1203(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 116-92, §1203(b)(1), (c), redesignated subsec. (f) as (g) and amended it generally. Prior to amendment, subsec. read as follows: “The Secretary shall prescribe regulations to ensure that contracts entered into under this subchapter are free from self-dealing, bribery, and conflict of interests.”

Subsec. (h). Pub. L. 116-92, §1203(b)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 116-92, §1203(d)(1), substituted “that have entered into force or were applied provisionally” for “in effect”.

Subsec. (h)(2). Pub. L. 116-92, §1203(d)(2), substituted “dates on which the Secretary notified Congress—” and subpars. (A) and (B) for “date on which the Secretary notified Congress pursuant to subsection (b)(2) of the designation of such country under subsection (a).”

Subsec. (h)(3). Pub. L. 116-92, §1203(d)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The total dollar amount and major categories of logistic support, supplies, and services provided during the preceding fiscal year under each such agreement.”

Subsec. (h)(4). Pub. L. 116-92, §1203(d)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The total dollar amount and major categories of reciprocal provisions of logistic support, supplies, and services received under each such agreement.”

Subsec. (h)(5), (6). Pub. L. 116-92, §1203(d)(5), (6), added pars. (5) and (6) and struck out former par. (5) which

read as follows: “With respect to the calendar year during which the report is submitted, an assessment of the following:

“(A) The anticipated logistic support, supplies, and services requirements of the United States.

“(B) The anticipated requirements of other countries for United States logistic support, supplies, and services.”

Subsec. (i). Pub. L. 116-92, § 1203(b)(1), redesignated subsec. (h) as (i).

2018—Subsec. (b)(2). Pub. L. 115-232, § 1271(c)(1), substituted “the appropriate committees of Congress” for “the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives”.

Subsecs. (d) to (f). Pub. L. 115-232, § 1271(a), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

Subsec. (g). Pub. L. 115-232, § 1271(b), added subsec. (g).

Subsec. (h). Pub. L. 115-232, § 1271(c)(2), added subsec. (h).

2006—Subsec. (a)(1)(C). Pub. L. 109-163 struck out “of which the United States is a member” before period at end.

1999—Subsec. (b)(2). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (b). Pub. L. 104-106 inserted “unless” after “section” in introductory provisions, struck out “unless” after “(1)” in par. (1), and substituted “the Secretary submits to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives notice of the intended designation” for “notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives” in par. (2).

1994—Subsec. (a)(1). Pub. L. 103-337, § 1317(b)(1), substituted “with any of the following:” for “with—” in introductory provisions, substituted “The government” for “the government” and a period for the semicolon in subpar. (A), substituted “A subsidiary” for “a subsidiary” and “Organization.” for “Organization; or” in subpar. (B), added subpar. (C), redesignated former subpar. (C) as (D) and substituted “The government” for “the government”.

Subsec. (a)(2). Pub. L. 103-337, § 1317(b)(2), substituted “organization” for “subsidiary body” in two places.

Subsec. (c). Pub. L. 103-337, § 1317(b)(3), substituted “or international organization” for “as a routine or normal source”.

1990—Subsec. (a). Pub. L. 101-510 amended subsec. (a) generally, revising and restating former pars. (1) to (3) relating to reciprocal logistical support agreements as pars. (1) and (2).

1989—Subsecs. (c), (d). Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1987—Pub. L. 100-180 substituted “Cross-servicing” for “Cross servicing” in section catchline.

1986—Pub. L. 99-661 amended section generally, restating existing provisions in introductory text and par. (1) of subsec. (a), adding pars. (2) and (3) of subsec. (a), and adding subsecs. (b) to (d).

1985—Pub. L. 99-145 renumbered section 2322 of this title as this section and substituted “section 2343” for “section 2323”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, sup-

plies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

CROSS SERVICING AGREEMENTS FOR LOAN OF PERSONNEL PROTECTION AND PERSONNEL SURVIVABILITY EQUIPMENT IN COALITION OPERATIONS

Pub. L. 113-291, div. A, title XII, § 1207, Dec. 19, 2014, 128 Stat. 3539, as amended by Pub. L. 115-91, div. A, title X, § 1051(t)(4), Dec. 12, 2017, 131 Stat. 1566; Pub. L. 116-92, div. A, title XII, § 1202, Dec. 20, 2019, 133 Stat. 1620; Pub. L. 118-31, div. A, title XII, § 1206, Dec. 22, 2023, 137 Stat. 448, provided that:

“(a) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, enter into an arrangement, under an agreement concluded pursuant to section 2342 of title 10, United States Code, under which the United States agrees to loan personnel protection and personnel survivability equipment for the use of such equipment by military forces of a nation participating in the following:

“(1) A coalition operation with the United States as part of a contingency operation.

“(2) A coalition operation with the United States as part of a peacekeeping operation under the Charter of the United Nations or another international agreement.

“(3) Training of such forces in connection with the deployment of such forces to be deployed to an operation described in paragraph (1) or (2).

“(b) LIMITATIONS.—

“(1) LOAN ONLY OF EQUIPMENT FOR WHICH U.S. FORCES HAVE NO UNFULFILLED REQUIREMENTS.—Equipment may be loaned to the military forces of a nation under the authority of this section only upon a determination by the Secretary of Defense that the United States forces in the coalition operation concerned have no unfulfilled requirements for such equipment.

“(2) SCOPE OF USE OF LOANED EQUIPMENT.—Equipment loaned to the military forces of a nation under the authority of this section may be used by those forces only for personnel protection or to aid in the personnel survivability of those forces and only in—

“(A) a coalition operation with the United States described in paragraph (1) or (2) of subsection (a); or

“(B) training described in paragraph (3) of subsection (a).

“(3) DURATION OF USE OF LOANED EQUIPMENT.—Equipment loaned to the military forces of a nation under the authority of this section may be used by the military forces of that nation not longer than the duration of that country’s participation in the coalition operation concerned.

“(4) NOTICE AND WAIT ON LOAN OF EQUIPMENT FOR TRAINING.—Equipment may not be loaned under subsection (a) in connection with training described in paragraph (3) of that subsection until 15 days after the date on which the Secretary of Defense submits to the appropriate committees of Congress written notice on the loan of such equipment for such purpose.

“(c) WAIVER OF REIMBURSEMENT IN CASE OF LOSS OF EQUIPMENT IN COMBAT.—

“(1) IN GENERAL.—In the case of equipment loaned under the authority of this section that is damaged or destroyed as a result of combat operations during coalition operations while held by forces to which loaned under this section, the Secretary of Defense may, with respect to such equipment, waive any other requirement under applicable law for—

“(A) reimbursement;

“(B) replacement-in-kind; or

“(C) exchange of supplies or services of an equal value.

“(2) BASIS FOR WAIVER.—Any waiver under this subsection may be made only if the Secretary determines that the waiver is in the national security interest of the United States.

“(3) WAIVER ON A CASE-BY-CASE BASIS.—Any waiver under this subsection may be made only on a case-by-case basis.

“(d) REPORTS TO CONGRESS.—If the authority provided under this section is exercised during a fiscal year, the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a report on the exercise of such authority by not later than October 30 of the year in which such fiscal year ends. Each report on the exercise of such authority shall specify the recipient country of the equipment loaned, the type of equipment loaned, and the duration of the loan of such equipment.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

“(2) The term ‘personnel protection and personnel survivability equipment’ means items enumerated in categories I, II, III, VII, X, XI, and XIII of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)(D)) that the Secretary of Defense designates as available for loan under this section.

“(f) EXPIRATION OF AUTHORITY.—The authority in subsection (a) shall expire on December 31, 2029.”

§ 2343. Waiver of applicability of certain laws

Sections 4651, 3201, 3351, 3352(a), 3352(c), 3701 through 3708, and 3841 of this title and section 6306 of title 41 shall not apply to acquisitions made under the authority of section 2341 of this title or to agreements entered into under section 2342 of this title.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1017, §2323; renumbered §2343 and amended Pub. L. 99-145, title IX, §961(b), title XIII, §1304(a)(1), (5), Nov. 8, 1985, 99 Stat. 703, 741; Pub. L. 100-26, §7(g)(2), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100-456, div. A, title XII, §1233(d), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 102-190, div. A, title X, §1061(a)(12), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 103-337, div. A, title XIII, §1317(c)(1), (2)(A), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 111-350, §5(b)(20), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 116-283, div. A, title XVIII, §§1817(h), 1831(j)(3), 1862(c)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4188, 4216, 4278, 4294; Pub. L. 117-81, div. A, title XVII, §1701(b)(10)(I)(i), Dec. 27, 2021, 135 Stat. 2134.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §1883(b)(2), substituted “3201” for “2304(a)”.

Pub. L. 116-283, §1862(c)(1), substituted “Sections 4651,” for “Sections 2207,”.

Pub. L. 116-283, §1831(j)(3), as amended by Pub. L. 117-81, §1701(b)(10)(I)(i), substituted “3701 through 3708, and 3841” for “2306a, and 2313”.

Pub. L. 116-283, §1817(h), substituted “3351, 3352(a), 3352(c)” for “2306(a), 2306(b), 2306(e)”.

2011—Pub. L. 111-350 substituted “section 6306 of title 41” for “section 3741 of the Revised Statutes (41 U.S.C. 22)”.

1994—Pub. L. 103-337, §1317(c)(2)(A), substituted “Waiver of applicability of certain laws” for “Law applicable to acquisition and cross-servicing agreements” as section catchline.

Pub. L. 103-337, §1317(c)(1), designated subsec. (b) as entire section and struck out former subsec. (a) which

read as follows: “Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2341 of this title and agreements entered into under section 2342 of this title shall be made in accordance with chapter 137 of this title and the provisions of this subchapter.”

1991—Subsec. (b). Pub. L. 102-190 substituted “this title and” for “this title,” and struck out “,” and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168)” before “shall not apply”.

1989—Subsec. (a). Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1988—Subsec. (b). Pub. L. 100-456 struck out “section” before “2306a”.

1987—Subsec. (b). Pub. L. 100-26 substituted “section 2306a,” for “2306(f).”

1985—Pub. L. 99-145, §1304(a)(1), renumbered section 2323 of this title as this section.

Subsec. (a). Pub. L. 99-145, §1304(a)(5), substituted “section 2341” for “section 2321” and “section 2342” for “section 2322”.

Subsec. (b). Pub. L. 99-145, §1304(a)(5), substituted “section 2341” for “section 2321” and “section 2342” for “section 2322”.

Pub. L. 99-145, §961(b), substituted “section 2304(a)” for “section 2304(g)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title IX, §961(e), Nov. 8, 1985, 99 Stat. 704, provided that: “The amendments made by subsections (a) [amending section 2304 of this title and section 253 of Title 41, Public Contracts], (b) [amending this section], and (c) [amending section 759 of former Title 40, Public Buildings, Property, and Works] shall take effect as if included in the enactment of the Competition in Contracting Act of 1984 (title VII of division B of Public Law 98-369) [see Effective Date of 1984 Amendment note set out under section 4751 of this title].”

§ 2344. Methods of payment for acquisitions and transfers by the United States

(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this subchapter on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an equal value.

(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country or other foreign country for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application:

(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

(B) transfers by the United States to such country under this subchapter of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country or other foreign country are not waived by operation of the reciprocal pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies and the United Nations Organization or any regional international organization under this subchapter.

(c) In acquiring or transferring logistics support, supplies, or services under the authority of this subchapter by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(3) Transfers of chemical munitions.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1017, §2324; amended Pub. L. 97-22, §11(a)(8), July

10, 1981, 95 Stat. 138; renumbered §2344, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title XI, §1104(b), Nov. 14, 1986, 100 Stat. 3964; Pub. L. 101-189, div. A, title IX, §§931(e)(1), 938(a), (b), Nov. 29, 1989, 103 Stat. 1535, 1539; Pub. L. 102-25, title VII, §701(f)(2), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103-337, div. A, title XIII, §1317(d), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 109-163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456.)

Editorial Notes

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(2)(B), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (c)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

AMENDMENTS

2006—Subsec. (b)(4). Pub. L. 109-163 struck out “of which the United States is a member” before “under this subchapter”.

1994—Subsec. (b)(4). Pub. L. 103-337 inserted “and the United Nations Organization or any regional international organization of which the United States is a member” after “subsidiary bodies”.

1991—Subsec. (c). Pub. L. 102-25 substituted “subchapter” for “chapter” in introductory provisions.

1989—Subsec. (a). Pub. L. 101-189, §§931(e)(1), 938(a), substituted “equal value” for “identical or substantially identical nature” and “this subchapter” for “this chapter”.

Subsec. (b)(2)(B), (4). Pub. L. 101-189, §931(e)(1), substituted “this subchapter” for “this chapter”.

Subsec. (c). Pub. L. 101-189, §938(b), added subsec. (c).

1986—Subsec. (b)(1), (3). Pub. L. 99-661 inserted “or other foreign country” after “country”.

1985—Pub. L. 99-145 renumbered section 2324 of this title as this section.

1981—Subsec. (b)(2)(B). Pub. L. 97-22 substituted “this chapter” for “this Act”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

§ 2345. Liquidation of accrued credits and liabilities

(a) Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this subchapter shall be liquidated not less often than once every 12 months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

(b) Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers

of logistic support, supplies, and services under authority of this subchapter shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.

(c)(1) Any credits of the United States accrued as a result of the provision of logistic support, supplies, and services under the authority of this subchapter that remain unliquidated more than 18 months after the date of delivery of the logistic support, supplies, or services may, at the option of the Secretary of Defense, with the concurrence of the Secretary of State, be liquidated by offsetting the credits against any amount owed by the Department of Defense, pursuant to a transaction or transactions concluded under the authority of this subchapter, to the government or international organization to which the logistic support, supplies, or services were provided by the United States.

(2) The amount of any credits offset pursuant to paragraph (1) shall be credited as specified in section 2346 of this title as if it were a receipt of the United States.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2325; renumbered §2345, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99-661, div. A, title XI, §1104(c), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103-337, div. A, title XIII, §1317(e), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 114-328, div. A, title X, §1083(a), Dec. 23, 2016, 130 Stat. 2420.)

Editorial Notes

AMENDMENTS

- 2016—Subsec. (c). Pub. L. 114-328 added subsec. (c).
 1994—Subsec. (a). Pub. L. 103-337 substituted “12 months” for “three months”.
 1989—Subsecs. (a), (b). Pub. L. 101-189 substituted “this subchapter” for “this chapter”.
 1986—Pub. L. 99-661 designated existing provisions as subsec. (a) and added subsec. (b).
 1985—Pub. L. 99-145 renumbered section 2325 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title X, §1083(b), Dec. 23, 2016, 130 Stat. 2420, provided that: “Subsection (c) of section 2345 of title 10, United States Code, as added by subsection (a), shall apply with respect to credits accrued by the United States that—

- “(1) were accrued prior to, and remain unpaid as of, the date of the enactment of this Act [Dec. 23, 2016]; or
 “(2) are accrued after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

§ 2346. Crediting of receipts

Any receipt of the United States as a result of an agreement entered into under this subchapter shall be credited, at the option of the Secretary of Defense, to (1) the appropriation,

fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2326; renumbered §2346, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103-337, div. A, title XIII, §1317(f), Oct. 5, 1994, 108 Stat. 2900.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 substituted “shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made” for “shall be credited to applicable appropriations, accounts, and funds of the Department of Defense”.

1989—Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1985—Pub. L. 99-145 renumbered section 2326 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

§ 2347. Limitation on amounts that may be obligated or accrued by the United States

(a)(1) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization, or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed \$200,000,000 in any fiscal year, and of such amount not more than \$50,000,000 in liabilities may be accrued for the acquisition of supplies.

(2) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements, may not exceed \$60,000,000 in any fiscal year, and of such amount not more than \$20,000,000 in liabilities may be accrued for the acquisition of supplies. The \$60,000,000 limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(b)(1) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable credits that the United States may accrue under this subchapter (before

the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization, or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed \$150,000,000 in any fiscal year.

(2) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable credits that the United States may accrue under this subchapter (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements may not exceed \$75,000,000 in any fiscal year. Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(c) When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.

(d) The amount of any sale, purchase, or exchange of petroleum, oils, or lubricants by the United States under this subchapter in any fiscal year shall be excluded in any computation for the purposes of subsection (a) or (b) of the amount of reimbursable liabilities or reimbursable credits that the United States accrues under this subchapter in that fiscal year.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2327; renumbered §2347, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99-661, div. A, title XI, §1104(d), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 100-456, div. A, title X, §1001, Sept. 29, 1988, 102 Stat. 2037; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 102-484, div. A, title XIII, §1312(b), Oct. 23, 1992, 106 Stat. 2547; Pub. L. 103-35, title II, §202(a)(10), May 31, 1993, 107 Stat. 101; Pub. L. 103-337, div. A, title XIII, §1317(g), Oct. 5, 1994, 108 Stat. 2901; Pub. L. 109-364, div. A, title XII, §1221(a), Oct. 17, 2006, 120 Stat. 2423.)

Editorial Notes

AMENDMENTS

2006—Subsec. (a)(1), (2). Pub. L. 109-364, §1221(a)(1), struck out “(other than petroleum, oils, and lubricants)” after “supplies”.

Subsec. (d). Pub. L. 109-364, §1221(a)(2), added subsec. (d).

1994—Subsec. (a)(1). Pub. L. 103-337, §1317(g)(1), substituted “Organization, subsidiary” for “Organization and subsidiary”, inserted “, or from the United Nations Organization or any regional international organization of which the United States is a member” after “Treaty Organization”, and substituted “\$200,000,000” for “\$150,000,000” and “\$50,000,000” for “\$25,000,000”.

Subsec. (a)(2). Pub. L. 103-337, §1317(g)(2), substituted “\$60,000,000” for “\$10,000,000” in two places and “\$20,000,000” for “\$2,500,000”.

Subsec. (b)(1). Pub. L. 103-337, §1317(g)(3), substituted “Organization, subsidiary” for “Organization and sub-

sidary”, inserted “, or from the United Nations Organization or any regional international organization of which the United States is a member” after “Treaty Organization”, and substituted “\$150,000,000” for “\$100,000,000”.

Subsec. (b)(2). Pub. L. 103-337, §1317(g)(4), substituted “\$75,000,000” for “\$10,000,000”.

Subsec. (c). Pub. L. 103-337, §1317(g)(5), added subsec. (c).

1993—Subsec. (b)(2). Pub. L. 103-35 made technical amendment to directory language of Pub. L. 102-484, §1312(b)(4)(B). See 1992 Amendment note below.

1992—Subsec. (a)(1). Pub. L. 102-484, §1312(b)(1), substituted “armed forces” for “North Atlantic Treaty Organization” and inserted “with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization” after “(before the computation of offsetting balances)”.

Subsec. (a)(2). Pub. L. 102-484, §1312(b)(2), substituted “involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with” for “in the military region affecting” and struck out “the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country” after “cross-servicing agreements.”

Subsec. (b)(1). Pub. L. 102-484, §1312(b)(3), substituted “armed forces” for “North Atlantic Treaty Organization” and inserted “with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization” after “(before the computation of offsetting balances)”.

Subsec. (b)(2). Pub. L. 102-484, §1312(b)(4)(A), substituted “involving the armed forces” for “in the military region affecting a country referred to in paragraph (1)”.

Pub. L. 102-484, §1312(b)(4)(B), as amended by Pub. L. 103-35, substituted “(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements” for “from such country (before computation of offsetting balances)”.

1989—Pub. L. 101-189 substituted “this subchapter” for “this chapter” wherever appearing.

1988—Subsec. (a)(1). Pub. L. 100-456 substituted “\$150,000,000” for “\$100,000,000”.

1986—Subsec. (a). Pub. L. 99-661, §1104(d)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 99-661, §1104(d)(2), designated existing provisions as par. (1) and added par. (2).

1985—Pub. L. 99-145 renumbered section 2327 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title XII, §1221(b), Oct. 17, 2006, 120 Stat. 2423, provided that: “The amendments made by subsection (a) [amending this section] shall take effect beginning with fiscal year 2007.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-35 applicable as if included in the enactment of Pub. L. 102-484, see section 202(b) of Pub. L. 103-35, set out as a note under section 155 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-484 effective Oct. 23, 1992, and applicable to acquisitions of logistics support, supplies, and services under this chapter that are initiated on or after Oct. 23, 1992, see section 1312(c) of Pub. L. 102-484, set out as a note under section 2341 of this title.

§ 2348. Inventories of supplies not to be increased

Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this subchapter.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2328; amended Pub. L. 97-22, §11(a)(8), July 10, 1981, 95 Stat. 138; renumbered §2348, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title XI, §1104(e), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535.)

Editorial Notes

AMENDMENTS

1989—Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1986—Pub. L. 99-661 struck out “to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body” after “chapter”.

1985—Pub. L. 99-145 renumbered section 2328 of this title as this section.

1981—Pub. L. 97-22 substituted “this chapter” for “this Act”.

§ 2349. Overseas Workload Program

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense located outside the United States to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE OF PERFORMANCE.—A contract awarded to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the armed forces; or

(2) would violate the terms of an international agreement to which the United States is a party.

(d) DEFINITION.—In this section, the term “major non-NATO ally” has the meaning given that term in section 2350a(i)(2) of this title.

(Added Pub. L. 103-160, div. A, title XIV, §1431(a)(1), Nov. 30, 1993, 107 Stat. 1832; amended Pub. L. 108-375, div. A, title X, §1084(d)(18), Oct. 28, 2004, 118 Stat. 2062.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2349, added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2330; renumbered §2349, Pub. L. 99-145, title XIII, §1304(a)(3), Nov. 8, 1985, 99 Stat. 741; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535, directed Secretary of Defense to submit a report to Congress annually relating to agreements under this chapter, prior to repeal by Pub. L. 101-510, §1301(11).

Provisions similar to those in this section were contained in Pub. L. 101-510, div. A, title XIV, §1465, Nov. 5, 1990, 104 Stat. 1700, as amended, which was set out as a note under section 2341 of this title, prior to repeal by Pub. L. 103-160, §1431(b)(1). Other prior similar provisions, formerly set out under section 2341 of this title, were contained in the following authorization or appropriation acts:

Pub. L. 102-396, title IX, §9130, Oct. 6, 1992, 106 Stat. 1935, as amended by Pub. L. 103-160, div. A, title XIV, §1431(b)(2), Nov. 30, 1993, 107 Stat. 1833.

Pub. L. 102-172, title VIII, §8122, Nov. 26, 1991, 105 Stat. 1205.

Pub. L. 101-511, title VIII, §8003, Nov. 5, 1990, 104 Stat. 1873.

Pub. L. 100-180, div. A, title X, §1021, Dec. 4, 1987, 101 Stat. 1143.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108-375 substituted “section 2350a(i)(2)” for “section 2350a(i)(3)”.

[§ 2349a. Repealed. Pub. L. 112-239, div. A, title X, § 1076(g)(3), Jan. 2, 2013, 126 Stat. 1955]

Section, added Pub. L. 103-337, div. A, title XIII, §1317(i)(1), Oct. 5, 1994, 108 Stat. 2902, required annual report from 1996 to 2000 regarding non-NATO cross-servicing and acquisition actions.

§ 2350. Definitions

In this subchapter:

(1) The term “logistic support, supplies, and services” means food, billeting, transportation (including airlift), petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, and port services. Such term includes temporary use of general purpose vehicles and other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated pursuant to section 38(a)(1) of the Arms Export Control Act.

(2) The term “North Atlantic Treaty Organization subsidiary bodies” means—

(A) any organization within the meaning of the term “subsidiary bodies” in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.

(3) The term “military region” means the geographical area of responsibility assigned to

the commander of a unified combatant command (excluding Europe and adjacent waters).

(4) The term “transfer” means selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, and services under the terms of a cross-servicing agreement.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1019, §2331; renumbered §2350, Pub. L. 99-145, title XIII, §1304(a)(3), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99-661, div. A, title XI, §1104(f), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103-337, div. A, title XIII, §1317(h), Oct. 5, 1994, 108 Stat. 2901; Pub. L. 105-85, div. A, title XII, §1222, Nov. 18, 1997, 111 Stat. 1937.)

Editorial Notes

REFERENCES IN TEXT

Section 38(a)(1) of the Arms Export Control Act, referred to in par. (1), is classified to section 2778(a)(1) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1997—Par. (1), Pub. L. 105-85, in second sentence, substituted “other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated” for “other items of military equipment not designated as part of the United States Munitions List”.

1994—Par. (1), Pub. L. 103-337, §1317(h)(1), inserted “(including airlift)” after “transportation”, “calibration services,” after “maintenance services,”, and “Such term includes temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act.” at end.

Par. (4), Pub. L. 103-337, §1317(h)(2), added par. (4).

1989—Pub. L. 101-189 substituted “this subchapter” for “this chapter” in introductory provisions.

1987—Pub. L. 100-26 inserted “The term” after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (1) and (3) and substituted lowercase letter.

1986—Par. (3), Pub. L. 99-661 added par. (3).

1985—Pub. L. 99-145 renumbered section 2331 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

Sec.
2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries.
2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment.
2350c. Cooperative military airlift agreements: allied countries.
2350d. Cooperative acquisition and logistics support agreements: NATO countries.

Sec.
2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense.
2350f. Procurement of communications support and related supplies and services.
2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements.
2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories.
2350i. Foreign contributions for cooperative projects.
2350j. Burden sharing contributions by designated countries and regional organizations.
2350k. Relocation within host nation of elements of armed forces overseas.
2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations.
2350m. Participation in European program on multilateral exchange of surface transportation services.
2350n. North Atlantic Treaty Organization Joint Force Command.
2350o. Participation in programs relating to coordination or exchange of air refueling and air transportation services.
2350p. Reciprocal patient movement agreements.
2350q. Execution of projects under the North Atlantic Treaty Organization Security Investment Program.
2350r. North Atlantic Treaty Organization Special Operations Headquarters.

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-263, div. A, title XII, §§1244(b)(1), 1271(b), Dec. 23, 2022, 136 Stat. 2845, 2860, substituted “acquisition and logistics support” for “logistic support” in item 2350d and added item 2350r. Amendment to item 2350d was made pursuant to operation of section 102 of this title.

2021—Pub. L. 117-81, div. A, title X, §1081(a)(29), title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 1921, 2154, redesignated item 2350m “Execution of projects under the North Atlantic Treaty Organization Security Investment Program” as 2350q and repealed Pub. L. 116-283, div. A, title XVIII, §1844(b)(2)(A), Jan. 1, 2021, 134 Stat. 4246, which had directed striking out item 2350l.

Pub. L. 116-283, div. A, title XII, §§1202(b), 1203(b), 1204(b), div. B, title XXV, §2503(b), Jan. 1, 2021, 134 Stat. 3910-3912, 4310, added items 2350m “Participation in European program on multilateral exchange of surface transportation services”, 2350o, 2350p, and 2350m “Execution of projects under the North Atlantic Treaty Organization Security Investment Program”.

2019—Pub. L. 116-92, div. A, title XII, §1249(b), Dec. 20, 2019, 133 Stat. 1664, added item 2350n.

2016—Pub. L. 114-328, div. A, title XII, §1241(o)(7), Dec. 23, 2016, 130 Stat. 2512, struck out item 2350m “Participation in multinational military centers of excellence”.

2008—Pub. L. 110-417, [div. A], title XII, §1232(a)(2), Oct. 14, 2008, 122 Stat. 4639, added item 2350m.

2001—Pub. L. 107-107, div. A, title XII, §§1212(e)(2), 1213(b), Dec. 28, 2001, 115 Stat. 1250, 1251, substituted “Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries” for “Cooperative research and development projects: allied countries” in item 2350a and added item 2350l.

1996—Pub. L. 104-106, div. A, title XIII, §1332(a)(2), Feb. 10, 1996, 110 Stat. 484, added item 2350k.

1993—Pub. L. 103-160, div. A, title XIV, §1402(b), Nov. 30, 1993, 107 Stat. 1826, added item 2350j.