Pub. L. 114–328, div. A, title VIII, §§842(a), (b), 846(3), Dec. 23, 2016, 130 Stat. 2288, 2289, 2292; Pub. L. 115–91, div. A, title X, §1081(a)(31), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title IX, §902(53), Dec. 20, 2019, 133 Stat. 1549; Pub. L. 116–283, div. A, title XVIII, §1812(b)(1), (3), (c)(1), (d), (e)(1), (f)(1), (g)(1), (h)(1), Jan. 1, 2021, 134 Stat. 4174–4177, related to independent cost estimation and cost analysis. See, generally, chapter 222 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal 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.

[§ 2335. Renumbered § 4660]

[§ 2336. Renumbered § 2679]

[§ 2337. Renumbered § 4324]

[§ 2337a. Renumbered § 4325]

[§ 2338. Renumbered § 3573]

[§ 2339. Renumbered § 4657]

Editorial Notes

PRIOR PROVISIONS

A prior section 2339, added Pub. L. 114–328, div. A, title II, §217(a)(1), Dec. 23, 2016, 130 Stat. 2051, set the micro-purchase threshold for basic research programs and activities of the Department of Defense science and technology reinvention laboratories, prior to repeal by Pub. L. 115–232, div. A, title VIII, §821(c)(1), Aug. 13, 2018, 132 Stat. 1853.

[§ 2339a. Renumbered § 3252]

[§ 2339b. Renumbered § 8751]

[§ 2339c. Renumbered § 8755]

CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

Subchapter		Sec.
I.	Acquisition and Cross-Servicing Agreements	2341
II.	Other Cooperative Agreements	2350a

Editorial Notes

PRIOR PROVISIONS

Chapter 138 was originally comprised of sections 2321 to 2331. Sections 2321 to 2328, 2330, and 2331, were renumbered sections 2341 to 2348, 2349, and 2350, respectively, of this title, by Pub. L. 99–145, title XIII, §1304(a)(1), (3), Nov. 8, 1985, 99 Stat. 741.

Section 2329, added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1018, required the Secretary of Defense to prescribe regulations to implement this chapter, prior to repeal by Pub. L. 99–145, title XIII, §1304(a)(2), Nov. 8, 1985, 99 Stat. 741.

AMENDMENTS

1990—Pub. L. 101–510, div. A, title XIV, §1484(i)(7), Nov. 5, 1990, 104 Stat. 1718, inserted ''Sec.'' above ''2341''.

1989—Pub. L. 101–189, div. A, title IX, §931(a)(1), Nov. 29, 1989, 103 Stat. 1531, substituted ''COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES'' for ''ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES'' in chapter heading, and added subchapter analysis, consisting of subchapters I and II.

1987—Pub. L. 100–26, §7(a)(8), Apr. 21, 1987, 101 Stat. 278, substituted ''ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES'' for ''NORTH ATLANTIC TREATY ORGANIZATION ACQUISITION AND CROSS-SERVICING AGREEMENTS'' in chapter heading.

SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS

Sec.
2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States.
2342. Cross-servicing agreements.
2343. Waiver of applicability of certain laws.
2344. Methods of payment for acquisitions and transfers by the United States.
2345. Liquidation of accrued credits and liabilities.
2346. Crediting of receipts.
2347. Limitation on amounts that may be obligated or accrued by the United States.
2348. Inventories of supplies not to be increased.
2349. Overseas Workload Program.
[2349a. Repealed.]
2350. Definitions.

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, as amended by Pub. L. 118–159, div. A, title VIII, § 821, Dec. 23, 2024, 138 Stat. 1983, 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) Japan;

''(D) New Zealand;

''(E) the Republic of Korea;

''(F) the United Kingdom of Great Britain and Northern Ireland; or

''(G) 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 received 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 subsecs. (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, 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.

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)[)] 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 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 ''$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.
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.
2350*l*. 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.
2350*o*. 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 Allied Special Operations Forces Command.
2350s. Authority to contribute to innovation fund.

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, div. A, title X, §1051, title XIII, §1301(a)(1), Dec. 23, 2024, 138 Stat. 2061, 2110, added item 2350s and substituted ''Allied Special Operations Forces Command'' for ''Special Operations Headquarters'' in item 2350r. Amendments were made pursuant to operation of section 102 of this title.

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 2350*l*.

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'', 2350*o*, 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 2350*l*.

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.

1991—Pub. L. 102–190, div. A, title X, §1047(b), Dec. 5, 1991, 105 Stat. 1468, added item 2350i.

Pub. L. 102–25, title VII, §704(a)(9), Apr. 6, 1991, 105 Stat. 119, made clarifying amendment to directory language of Pub. L. 101–510, div. A, title XIV, §1451(b)(2), Nov. 5, 1990, 104 Stat. 1693. See 1990 Amendment note below.

1990—Pub. L. 101–510, div. A, title XIV, §1452(a)(2), Nov. 5, 1990, 104 Stat. 1694, added item 2350h.

Pub. L. 101–510, div. A, title XIV, §1451(b)(2), Nov. 5, 1990, 104 Stat. 1693, as amended by Pub. L. 102–25, title VII, §704(a)(9), Apr. 6, 1991, 105 Stat. 119, added item 2350g.

§ 2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries

(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—(1) The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more countries or organizations referred to in paragraph (2) for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

(2) The countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1) are as follows:

(A) The North Atlantic Treaty Organization.

(B) A NATO organization.

(C) A member nation of the North Atlantic Treaty Organization.

(D) A major non-NATO ally.

(E) Any other friendly foreign country.

(F) The European Union, including the European Defence Agency, the European Commission, and the Council of the European Union, and their suborganizations.

(3) If such a memorandum of understanding (or other formal agreement) is with a country referred to in subparagraph (E) of paragraph (2), such memorandum (or agreement) may go into effect only after the Secretary submits to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees

on Armed Services and on International Relations of the House of Representatives a report with respect to the proposed memorandum (or agreement) and a period of 30 days has passed after the report has been submitted.

(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) The Secretary of Defense may not enter into a memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section unless the Secretary determines that the proposed project will improve, through the application of emerging technology, the conventional defense capabilities of the North Atlantic Treaty Organization or the common conventional defense capabilities of the United States and a country or organization referred to in subsection (a)(2).

(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, or the Under Secretary of Defense for Research and Engineering.

(c) COST SHARING.—

(1) Except as provided in paragraph (2), each cooperative research and development project entered into under this section shall require sharing of the costs of the project (including the costs of claims) between the participants on an equitable basis.

(2) A cooperative research and development project may be entered into under this section under which costs are shared between the participants on an unequal basis if the Secretary of Defense, or an official specified in subsection (b)(2) to whom the Secretary delegates authority under this paragraph, makes a written determination that unequal cost sharing provides strategic value to the United States or another participant in the project.

(3) For purposes of this subsection, the term ''cost'' means the total value of cash and noncash contributions.

(d) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of countries and organizations referred to in subsection (a)(2) in cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A country or organization referred to in subsection (a)(2) may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making the contribution of that country or organization to a cooperative research and development program entered into with the United States under this section.

(e) COOPERATIVE OPPORTUNITIES.—(1) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, opportunities for such cooperative research and development shall be addressed in the acquisition strategy for the project.

(2) A cooperative opportunities discussion referred to in paragraph (1) shall consider the following:

(A) Whether or not a project similar to the one under consideration by the Department of Defense is in development or production by any country or organization referred to in subsection (a)(2) or NATO organizations.

(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more countries and organizations referred to in subsection (a)(2), an assessment as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project.

(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more countries and organizations referred to in subsection (a)(2) or NATO organizations.

(D) A recommendation to the milestone decision authority as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more countries and organizations referred to in subsection (a)(2) or NATO organizations.

[(f) Repealed. Pub. L. 108–136, div. A, title X, § 1031(a)(17), Nov. 24, 2003, 117 Stat. 1597.]

(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

(A) that the Secretary of Defense should test covered equipment, munitions, and technologies to determine the ability of such covered equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

(B) that while the testing of nondevelopmental items and items in the late state of the development process are preferred, the testing of such covered equipment, munitions, and technologies may be conducted to determine procurement alternatives.

(2) The Secretary of Defense may acquire covered equipment, munitions, and technologies for the purpose of conducting the testing described in that paragraph.

(3) The use of side-by-side testing under this subsection may be considered to be the use of competitive procedures for purposes of chapter 137[1] of this title, when procuring items within 5 years after an initial determination that the items have been successfully tested and found to satisfy United States military requirements or to correct operational deficiencies.

(4) COVERED EQUIPMENT, MUNITIONS, AND TECHNOLOGIES DEFINED.—In this subsection, the term ''covered equipment, munitions, and technologies'' means—

(A) conventional defense equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2); and

[1] See References in Text note below.

(B) conventional defense equipment, munitions, and technologies manufactured and developed domestically.

(h) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries to establish programs similar to the one provided for in this section.

(i) DEFINITIONS.—In this section:

(1) The term ''cooperative research and development project'' means a project involving joint participation by the United States and one or more countries and organizations referred to in subsection (a)(2) under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional defense equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

(2) The term ''major non-NATO ally'' means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(3) The term ''NATO organization'' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.

(Added Pub. L. 101–189, div. A, title IX, §931(a)(2), Nov. 29, 1989, 103 Stat. 1531; amended Pub. L. 101–510, div. A, title XIII, §1331(4), Nov. 5, 1990, 104 Stat. 1673; Pub. L. 102–190, div. A, title X, §1053, Dec. 5, 1991, 105 Stat. 1471; Pub. L. 102–484, div. A, title VIII, §843(b)(1), Oct. 23, 1992, 106 Stat. 2469; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. A, title XIII, §1301, Oct. 5, 1994, 108 Stat. 2888; Pub. L. 104–106, div. A, title XV, §1502(a)(17), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106–65, div. A, title IX, §911(a)(1), title X, §1067(1), Oct. 5, 1999, 113 Stat. 717, 774; Pub. L. 107–107, div. A, title X, §1048(b)(2), title XII, §1212(a)–(e)(1), Dec. 28, 2001, 115 Stat. 1225, 1248–1250; Pub. L. 107–314, div. A, title X, §§1041(a)(9), 1062(f)(2), Dec. 2, 2002, 116 Stat. 2645, 2651; Pub. L. 108–136, div. A, title X, §1031(a)(17), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 110–181, div. A, title II, §237, title XII, §1251, Jan. 28, 2008, 122 Stat. 48, 401; Pub. L. 111–383, div. A, title IX, §901(j)(4), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 112–81, div. A, title VIII, §865, title X, §1061(14), Dec. 31, 2011, 125 Stat. 1526, 1583; Pub. L. 114–92, div. A, title VIII, §821(b)(1), Nov. 25, 2015, 129 Stat. 900; Pub. L. 114–328, div. A, title VIII, §827, Dec. 23, 2016, 130 Stat. 2280; Pub. L. 116–92, div. A, title IX, §902(54), Dec. 20, 2019, 133 Stat. 1549; Pub. L. 116–283, div. A, title II, §211, title VIII, §882, Jan. 1, 2021, 134 Stat. 3455, 3790; Pub. L. 117–263, div. A, title II, §211(a), Dec. 23, 2022, 136 Stat. 2466.)

Editorial Notes

REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (g)(3), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of ''chapter 137 legacy provisions'', see section 3016 of this title.

PRIOR PROVISIONS

Provisions relating to NATO countries were contained in Pub. L. 99–145, title XI, §1103, Nov. 8, 1985, 99 Stat. 712, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101–189, §931(d)(1).

Provisions relating to major non-NATO allies were contained in section 2767a of Title 22, Foreign Relations and Intercourse, prior to repeal by Pub. L. 101–189, §931(d)(2).

AMENDMENTS

2022—Subsec. (a)(2)(F). Pub. L. 117–263 added subpar. (F).

2021—Subsec. (b)(2). Pub. L. 116–283, §211(1), substituted ''or the Under Secretary'' for ''and the Under Secretary''.

Subsec. (c). Pub. L. 116–283, §211(2), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), each cooperative'' for ''Each cooperative'', and added pars. (2) and (3).

Subsec. (g)(1)(A). Pub. L. 116–283, §882(1)(A), substituted ''covered equipment, munitions, and technologies'' for ''conventional defense equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2)'' and ''such covered equipment, munitions, and technologies'' for ''such equipment, munitions, and technologies''.

Subsec. (g)(1)(B). Pub. L. 116–283, §882(1)(B), inserted ''such covered'' before ''equipment, munitions, and technologies''.

Subsec. (g)(2). Pub. L. 116–283, §882(2), substituted ''covered equipment, munitions, and technologies'' for ''equipment, munitions, and technologies of the type described in paragraph (1)''.

Subsec. (g)(4). Pub. L. 116–283, §882(3), added par. (4).

2019—Subsec. (b)(2). Pub. L. 116–92 substituted ''Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering'' for ''Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Assistant Secretary of Defense for Research and Engineering''.

2016—Subsec. (g)(3). Pub. L. 114–328 added par. (3).

2015—Subsec. (e). Pub. L. 114–92, §821(b)(1)(A), struck out ''Document'' after ''Cooperative Opportunities'' in heading.

Subsec. (e)(1). Pub. L. 114–92, §821(b)(1)(B), substituted ''opportunities for such cooperative research and development shall be addressed in the acquisition strategy for the project'' for ''the Under Secretary of Defense for Acquisition, Technology, and Logistics shall prepare a cooperative opportunities document before the first milestone or decision point with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board''.

Subsec. (e)(2). Pub. L. 114–92, §821(b)(1)(C)(i), substituted ''discussion'' for ''document'' and ''consider'' for ''include'' in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 114–92, §821(b)(1)(C)(ii), substituted ''Whether'' for ''A statement indicating whether''.

Subsec. (e)(2)(B). Pub. L. 114–92, §821(b)(1)(C)(iii), struck out ''by the Under Secretary of Defense for Acquisition, Technology, and Logistics'' after ''an assessment'' and ''of the United States under consideration by the Department of Defense'' after ''of the project''.

Subsec. (e)(2)(D). Pub. L. 114–92, §821(b)(1)(C)(iv), substituted ''A recommendation to the milestone decision

authority'' for ''The recommendation of the Under Secretary''.

2011—Subsec. (b)(2). Pub. L. 112–81, §865, substituted '', the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Assistant Secretary of Defense for Research and Engineering'' for ''and to one other official of the Department of Defense''.

Subsec. (g)(3). Pub. L. 112–81, §1061(14), struck out par. (3) which read as follows: ''The Assistant Secretary of Defense for Research and Engineering shall notify the congressional defense committees of the intent to obligate funds made available to carry out this subsection not less than 7 days before such funds are obligated.''

Pub. L. 111–383 substituted ''Assistant Secretary of Defense for Research and Engineering'' for ''Director of Defense Research and Engineering''.

2008—Subsec. (e)(1). Pub. L. 110–181, §1251(1), struck out subpar. (A) designation before ''In order to ensure'', substituted ''a cooperative opportunities document before the first milestone or decision point'' for ''an arms cooperation opportunities document'', and struck out subpar. (B) which read as follows: ''The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a document known as a Mission Need Statement is prepared.''

Subsec. (e)(2). Pub. L. 110–181, §1251(2), substituted ''A cooperative opportunities document'' for ''An arms cooperation opportunities document'' in introductory provisions.

Subsec. (g)(3). Pub. L. 110–181, §237, amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Deputy Director, Defense Research and Engineering (Test and Evaluation) shall notify the Speaker of the House of Representatives and the Committees on Armed Services and on Appropriations of the Senate of the Deputy Director's intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.''

2003—Subsec. (f). Pub. L. 108–136 struck out subsec. (f) which required that, not later than Mar. 1 of each year, the Under Secretary of Defense for Acquisition, Technology, and Logistics was to submit to the Speaker of the House and the Committees on Armed Services and Appropriations of the Senate a report on cooperative research and development projects under this section, and that, not later than Jan. 1 of each year, the Secretary of Defense was to submit to the Committees on Armed Services and Foreign Relations of the Senate and Committees on Armed Services and International Relations of the House a report specifying the countries eligible to participate in a cooperative project agreement under this section and the criteria used to determine the eligibility of such countries.

2002—Subsec. (g)(1)(A). Pub. L. 107–314, §1062(f)(2), amended directory language of Pub. L. 107–107, §1212(a)(5). See 2001 Amendment note below.

Subsec. (g)(4). Pub. L. 107–314, §1041(a)(9), struck out par. (4) which read as follows: ''The Secretary of Defense shall submit to Congress each year, not later than March 1, a report containing information on—

''(A) the equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2) that were evaluated under this subsection during the previous fiscal year;

''(B) the obligation of any funds under this subsection during the previous fiscal year; and

''(C) the equipment, munitions, and technologies that were tested under this subsection and procured during the previous fiscal year.''

Subsec. (g)(4)(A). Pub. L. 107–314, §1062(f)(2), amended directory language of Pub. L. 107–107, §1212(a)(5). See 2001 Amendment note below.

2001—Pub. L. 107–107, §1212(e)(1), substituted ''Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries'' for ''Cooperative research and development projects: allied countries'' in section catchline.

Subsec. (a)(1). Pub. L. 107–107, §1212(a)(1)(A), (B), designated existing provisions of subsec. (a) as par. (1) and substituted ''countries or organizations referred to in paragraph (2)'' for ''major allies of the United States or NATO organizations''.

Subsec. (a)(2). Pub. L. 107–107, §1212(a)(1)(C), added par. (2).

Subsec. (a)(3). Pub. L. 107–107, §1212(b), added par. (3).

Subsec. (b)(1). Pub. L. 107–107, §1212(a)(2), struck out ''(NATO)'' after ''North Atlantic Treaty Organization'' and substituted ''a country or organization referred to in subsection (a)(2)'' for ''its major non-NATO allies''.

Subsec. (b)(2). Pub. L. 107–107, §1212(c), substituted ''Deputy Secretary of Defense and to one other official of the Department of Defense'' for ''Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition, Technology, and Logistics''.

Subsec. (d)(1). Pub. L. 107–107, §1212(a)(3)(A), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''the major allies of the United States''.

Subsec. (d)(2). Pub. L. 107–107, §1212(a)(3)(B), substituted ''country or organization referred to in subsection (a)(2)'' for ''major ally of the United States'' and ''the contribution of that country or organization'' for ''that ally's contribution''.

Subsec. (e)(1)(A). Pub. L. 107–107, §1048(b)(2), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (e)(2)(A). Pub. L. 107–107, §1212(a)(4)(A), substituted ''any country or organization referred to in subsection (a)(2)'' for ''one or more of the major allies of the United States''.

Subsec. (e)(2)(B). Pub. L. 107–107, §§1048(b)(2), 1212(a)(4)(B), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States or NATO organizations'' and ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (e)(2)(C). Pub. L. 107–107, §1212(a)(4)(C), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States''.

Subsec. (e)(2)(D). Pub. L. 107–107, §1212(a)(4)(D), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States''.

Subsec. (f)(1). Pub. L. 107–107, §1048(b)(2), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (f)(2). Pub. L. 107–107, §1212(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to 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 a report—

''(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

''(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.''

Subsec. (g)(1)(A), (4)(A). Pub. L. 107–107, §1212(a)(5), as amended by Pub. L. 107–314, §1062(f)(2), substituted ''countries referred to in subsection (a)(2)'' for ''major allies of the United States and other friendly foreign countries''.

Subsec. (h). Pub. L. 107–107, §1212(a)(6), substituted ''member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries'' for ''major allies of the United States''.

Subsec. (i)(1). Pub. L. 107–107, §1212(a)(7)(A), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States or NATO organizations''.

Subsec. (i)(2) to (4). Pub. L. 107–107, §1212(a)(7)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: ''The term 'major ally of the United States' means—

''(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or

''(B) a major non-NATO ally.''

1999—Subsec. (b)(2). Pub. L. 106–65, §911(a)(1), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (f)(2). Pub. L. 106–65, §1067(1), substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (f)(2). Pub. L. 104–106 substituted ''submit 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'' for ''submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives''.

1994—Subsecs. (a), (e)(2)(A) to (D), (i)(1). Pub. L. 103–337, §1301(a), inserted ''or NATO organizations'' after ''major allies of the United States''.

Subsec. (i)(4). Pub. L. 103–337, §1301(b), added par. (4).

1993—Subsecs. (b)(2), (e)(1)(A), (2)(B), (f)(1). Pub. L. 103–160 substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

1992—Subsec. (c). Pub. L. 102–484 inserted ''(including the costs of claims)'' after ''the project''.

1991—Subsec. (g)(1)(A), (4)(A). Pub. L. 102–190 inserted ''and other friendly foreign countries'' after ''major allies of the United States''.

1990—Subsec. (g)(4). Pub. L. 101–510 amended introductory provisions generally, substituting ''submit to Congress each year, not later than March 1, a report containing'' for ''include in the annual report to Congress required by section 2457(d) of this title''.

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 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, §1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(2) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

TERMINATION DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title VIII, §843(c), Oct. 23, 1992, 106 Stat. 2469, as amended by Pub. L. 103–35, title II, §202(a)(7), May 31, 1993, 107 Stat. 101, provided that, effective Oct. 23, 1994, subsections (a) and (b) of section 843 of Pub. L. 102–484 (amending sections 2350a and 2350d of this title and section 2767 of Title 22, Foreign Relations and Intercourse) were to cease to be in effect, and section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)) and sections 2350a(c) and 2350d(c) of this title were to read as if such subsections had not been enacted, prior to repeal by Pub. L. 103–337, div. A, title XIII, §1318, Oct. 5, 1994, 108 Stat. 2902.

CONFORMING REGULATIONS

Pub. L. 117–263, div. A, title II, §211(c), Dec. 23, 2022, 136 Stat. 2466, provided that: ''Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to conform with section 2350a of title 10, United States Code, as amended by subsection (a).''

AGREEMENTS WITH FOREIGN GOVERNMENTS TO DEVELOP LAND-BASED WATER RESOURCES IN SUPPORT OF AND IN PREPARATION FOR CONTINGENCY OPERATIONS

Pub. L. 114–328, div. A, title XII, §1291, Dec. 23, 2016, 130 Stat. 2558, provided that:

''(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense, with the concurrence of the Secretary of State, is authorized to enter into agreements with the governments of foreign countries to develop land-based water resources in support of and in preparation for contingency operations, including water selection, pumping, purification, storage, distribution, cooling, consumption, water reuse, water source intelligence, research and development, training, acquisition of water support equipment, and water support operations.

''(b) NOTIFICATION REQUIRED.—Not later than 30 days after entering into an agreement under subsection (a), the Secretary of Defense shall notify the appropriate congressional committees of the existence of the agreement and provide a summary of the terms of the agreement.

''(c) DEFINITION.—In this section, the term 'appropriate congressional committees' 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.''

ADMINISTRATION OF THE AMERICAN, BRITISH, CANADIAN, AND AUSTRALIAN ARMIES' PROGRAM AND THE FIVE EYES AIR FORCE INTEROPERABILITY COUNCIL

Pub. L. 112–239, div. A, title XII, §1274, Jan. 2, 2013, 126 Stat. 2026, as amended by Pub. L. 115–91, div. A, title XII, §1274, Dec. 12, 2017, 131 Stat. 1697; Pub. L. 117–81, div. A, title XIII, §1321, Dec. 27, 2021, 135 Stat. 2002; Pub. L. 118–31, div. A, title XII, §1222, Dec. 22, 2023, 137 Stat. 453, provided that:

''(a) AUTHORITY.—As part of the participation by the United States in the land-force program known as the American, British, Canadian, and Australian Armies' Program or the air force [sic] program known as the Five Eyes Air Force Interoperability Council (in this section referred to as the 'Program'), the Secretary of Defense may, with the concurrence of the Secretary of State, enter into agreements with the other participating countries in accordance with this section, and the Program shall be managed pursuant to a joint agreement among the participating countries.

''(b) PARTICIPATING COUNTRIES.—In addition to the United States, the countries participating in the Program are the following:

''(1) Australia.

''(2) Canada.

''(3) New Zealand.

''(4) The United Kingdom.

''(c) CONTRIBUTIONS BY PARTICIPANTS.—

''(1) IN GENERAL.—An agreement under subsection (a) shall provide that—

''(A) the United States, as the host country for the Program, shall provide office facilities and related office equipment and supplies for the Program; and

''(B) each participating country shall contribute its equitable share of the remaining costs for the Program, including—

''(i) the agreed upon share of administrative costs related to the Program, except the costs for facilities and equipment and supplies described in subparagraph (A); and

''(ii) any amount allocated against the country for monetary claims as a result of participation

in the Program, in accordance with the agreement.

''(2) EQUITABLE CONTRIBUTIONS.—The contributions, as allocated under paragraph (1) and set forth in an agreement under subsection (a), shall be considered equitable for purposes of this subsection and section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)).

''(3) AUTHORIZED CONTRIBUTION.—An agreement under subsection (a) shall provide that each participating country may provide its contribution in funds, in personal property, in services required for the Program, or any combination thereof.

''(4) FUNDING FOR UNITED STATES CONTRIBUTION.—Any monetary contribution by the United States to the Program that is provided in funds shall be made from funds available to the Department of Defense for operation and maintenance.

''(5) CONTRIBUTIONS AND REIMBURSEMENTS FROM OTHER PARTICIPATING COUNTRIES.—

''(A) IN GENERAL.—The Secretary of Defense may accept from any other participating country a contribution or reimbursement of funds, personal property, or services made by the participating country in furtherance of the Program.

''(B) CREDIT TO APPROPRIATIONS.—Any contribution or reimbursement of funds received by the United States from any other participating country to meet that country's share of the costs of the Program shall be credited to the appropriations available to the appropriate military department, as determined by the Secretary of Defense.

''(C) TREATMENT OF PERSONAL PROPERTY.—Any contribution or reimbursement of personal property received under this paragraph may be—

''(i) retained and used by the Program in the form in which it was contributed;

''(ii) sold or otherwise disposed of in accordance with such terms, conditions, and procedures as the members of the Program consider appropriate, and any resulting proceeds shall be credited to appropriations of the appropriate military department, as described in subparagraph (B); or

''(iii) converted into a form usable by the Program.

''(D) USE OF CREDITED FUNDS.—

''(i) IN GENERAL.—Amounts credited under subparagraph (B) or (C)(ii) shall be—

''(I) merged with amounts in the appropriation concerned;

''(II) subject to the same conditions and limitations as amounts in such appropriation; and

''(III) available for payment of Program expenses described in clause (ii).

''(ii) PROGRAM EXPENSES DESCRIBED.—The Program expenses described in this clause include—

''(I) payments to contractors and other suppliers, including the Department of Defense and participating countries acting as suppliers, for necessary goods and services of the Program;

''(II) payments for any damages or costs resulting from the performance or cancellation of any contract or other obligation in support of the Program;

''(III) payments or reimbursements for other Program expenses; or

''(IV) refunds to other participating countries.

''(d) AUTHORITY TO CONTRACT FOR PROGRAM ACTIVITIES.—As part of the participation by the United States in the Program, the Secretary of Defense may enter into contracts or incur other obligations on behalf of the other participating countries for activities under the Program. Any payment for such a contract or other obligation under this subsection may be paid only from contributions credited to an appropriation under subsection (c)(4).

''(e) DISPOSAL OF PROPERTY.—As part of the participation by the United States in the Program, the Secretary of Defense may, with respect to any property that is jointly acquired by the countries participating in the Program, agree to the disposal of the property without regard to any law of the United States that is otherwise applicable to the disposal of property owned by the United States. Such disposal may include the transfer of the interest of the United States in the property to one or more of the other participating countries or the sale of the property. Reimbursement for the value of the property disposed of (including the value of the interest of the United States in the property) shall be made in accordance with an agreement under subsection (a).

''(f) REPORTS.—Not later than 60 days before the expiration date of any agreement under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities, costs, and accomplishments of the Program during the five-year period ending on the date of such report.''

§ 2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment

(a)(1) If the President delegates to the Secretary of Defense the authority to carry out section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)), relating to cooperative projects (as defined in such section), the Secretary may utilize his authority under this title in carrying out contracts or obligations incurred under such section.

(2) Except as provided in subsection (c), chapter 137[1] of this title shall apply to such contracts (referred to in paragraph (1)) entered into by the Secretary of Defense. Except to the extent waived under subsection (c) or some other provision of law, all other provisions of law relating to procurement, if otherwise applicable, shall apply to such contracts entered into by the Secretary of Defense.

(b) When contracting or incurring obligations under section 27(d) of the Arms Export Control Act for cooperative projects, the Secretary of Defense may require subcontracts to be awarded to particular subcontractors in furtherance of the cooperative project.

(c)(1) Subject to paragraph (2), when entering into contracts or incurring obligations under section 27(d) of the Arms Export Control Act outside the United States, the Secretary of Defense may waive with respect to any such contract or subcontract the application of any provision of law, other than a provision of the Arms Export Control Act or section 2304[1] of this title, that specifically prescribes—

(A) procedures to be followed in the formation of contracts;

(B) terms and conditions to be included in contracts;

(C) requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or

(D) requirements regulating the performance of contracts.

(2) A waiver may not be made under paragraph (1) unless the Secretary determines that the waiver is necessary to ensure that the cooperative project will significantly further standardization, rationalization, and interoperability.

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[1] See References in Text note below.

(3) The authority of the Secretary to make waivers under this subsection may be delegated only to the Deputy Secretary of Defense or the Acquisition Executive designated for the Office of the Secretary of Defense.

(d)(1) The Secretary of Defense shall notify the Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract be awarded to a particular subcontractor to comply with a cooperative agreement. The Secretary shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

(2) The Secretary shall also notify the Congress each time he exercises a waiver under subsection (c) and shall include in such notice the particular provision or provisions of law that were waived.

(3) A report under this subsection shall be required only to the extent that the information required by this subsection has not been provided in a report made by the President under section 27(e) of the Arms Export Control Act (22 U.S.C. 2767(e)).

(e)(1) In carrying out a cooperative project under section 27 of the Arms Export Control Act, the Secretary of Defense may agree that a participant (other than the United States) or a NATO organization may make a contract for requirements of the United States under the project if the Secretary determines that such a contract will significantly further standardization, rationalization, and interoperability. Except to the extent waived under this section or under any other provision of law, the Secretary shall ensure that such contract will be made on a competitive basis and that United States sources will not be precluded from competing under the contract.

(2) If a participant (other than the United States) in such a cooperative project or a NATO organization makes a contract on behalf of such project to meet the requirements of the United States, the contract may permit the contracting party to follow its own procedures relating to contracting.

(f) In carrying out a cooperative project, the Secretary of Defense may also agree to the disposal of property that is jointly acquired by the members of the project without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement.

(g) Nothing in this section shall be construed as authorizing the Secretary of Defense—

(1) to waive any of the financial management responsibilities administered by the Secretary of the Treasury; or

(2) to waive the cargo preference laws of the United States, including section 2631 of this title and section 55305 of title 46.

(Added Pub. L. 99–145, title XI, §1102(b)(1), Nov. 8, 1985, 99 Stat. 710, §2407; amended Pub. L. 99–661, div. A, title XI, §1103(b)(1), (2)(A), title XIII, §1343(a)(15), Nov. 14, 1986, 100 Stat. 3963, 3993; renumbered §2350b and amended Pub. L. 101–189, div. A, title IX, §931(b)(1), (e)(3), Nov. 29, 1989, 103 Stat. 1534, 1535; Pub. L. 104–106, div. A, title XIII, §1335, div. D, title XLIII, §4321(b)(10), Feb. 10, 1996, 110 Stat. 484, 672; Pub. L. 108–375, div. A, title X, §1084(d)(19), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–304, §17(a)(3), Oct. 6, 2006, 120 Stat. 1706; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

Editorial Notes

REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of ''chapter 137 legacy provisions'', see section 3016 of this title.

The Arms Export Control Act, referred to in subsec. (c)(1), 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.

Section 2304 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 116–283, div. A, title XVIII, §§1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law. Subsecs. (a) to (*l*) of section 2304 were transferred to various provisions in chapter 221 of this title, with the same effective date and conditions, by Pub. L. 116–283, div. A, title XVIII, §1811(c)(2)–(5), (d)(2)–(9), Jan. 1, 2021, 134 Stat. 4165–4170.

AMENDMENTS

2021—Subsec. (c)(1). Pub. L. 116–283, which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed in introductory provisions with respect to ''section 2304'', which was redesignated as multiple sections.

2006—Subsec. (g)(2). Pub. L. 109–304 substituted ''section 55305 of title 46'' for ''section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))''.

2004—Subsec. (g). Pub. L. 108–375, §1084(d)(19)(A), inserted ''the Secretary of Defense'' after ''authorizing'' in introductory provisions.

Subsec. (g)(1). Pub. L. 108–375, §1084(d)(19)(B), struck out ''the Secretary of Defense'' before ''to waive''.

1996—Subsec. (c)(1). Pub. L. 104–106, §4321(b)(10)(A), inserted ''prescribes'' after ''specifically'' in introductory provisions and struck out ''prescribe'' before ''procedures'' in subpar. (A), before ''terms'' in subpar. (B), and before ''requirements'' in subpars. (C) and (D).

Subsec. (d)(1). Pub. L. 104–106, §4321(b)(10)(B), struck out ''to'' after ''subcontract''.

Subsec. (e)(1). Pub. L. 104–106, §1335(1), inserted ''or a NATO organization'' after ''United States)''.

Subsec. (e)(2). Pub. L. 104–106, §1335(2), substituted ''such a cooperative project or a NATO organization'' for ''a cooperative project''.

1989—Pub. L. 101–189 renumbered section 2407 of this title as this section and substituted ''Cooperative projects under Arms Export Control Act: acquisition of defense equipment'' for ''Acquisition of defense equipment under cooperative projects'' as section catchline.

1986—Pub. L. 99–661, §1103(b)(2)(A), struck out ''North Atlantic Treaty Organization'' before ''cooperative projects'' in section catchline.

Subsec. (a)(1). Pub. L. 99–661, § 1103(b)(1)(A), struck out ''North Atlantic Treaty Organization (NATO)'' before ''cooperative projects''.

Subsec. (c)(2). Pub. L. 99–661, § 1103(b)(1)(B), struck out ''NATO'' after ''will significantly further''.

Subsec. (e). Pub. L. 99–661, § 1103(b)(1)(C), struck out ''NATO'' after ''will significantly further'' in par. (1) and after ''United States) in a'' in par. (2).

Subsec. (g)(2). Pub. L. 99–661, § 1343(a)(15), substituted ''section 2631 of this title and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))'' for ''the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b))''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

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 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(b)(10) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

§ 2350c. Cooperative military airlift agreements: allied countries

(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.

(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

(d) In this section:

(1) The term ''allied country'' means any of the following:

(A) A country that is a member of the North Atlantic Treaty Organization.

(B) Australia, New Zealand, Japan, and the Republic of Korea.

(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term ''North Atlantic Treaty Organization subsidiary bodies'' has the meaning given to it by section 2350 of this title.

(Added Pub. L. 97–252, title XI, § 1125(a), Sept. 8, 1982, 96 Stat. 757, § 2213; amended Pub. L. 99–145, title XIII, § 1304(b), Nov. 8, 1985, 99 Stat. 742; Pub. L. 100–26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; renumbered § 2350c and amended Pub. L. 101–189, div. A, title IX, § 931(b)(2), (e)(4), Nov. 29, 1989, 103 Stat. 1534, 1535; Pub. L. 102–484, div. A, title XIII, § 1311, Oct. 23, 1992, 106 Stat. 2547; Pub. L. 106–398, § 1 [[div. A], title XII, § 1222], Oct. 30, 2000, 114 Stat. 1654, 1654A–328.)

Editorial Notes

REFERENCES IN TEXT

The Arms Export Control Act (22 U.S.C. 2751 et seq.), referred to in subsec. (a)(4), 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.

AMENDMENTS

2000—Subsecs. (d), (e). Pub. L. 106–398 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: ''Notwithstanding subchapter I, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.''

1992—Subsec. (a)(2). Pub. L. 102–484, §1311(a), substituted ''as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.'' for ''not less often than once every 3 months by direct payment to the country that has provided the greater amount of transportation.''

Subsec. (e)(1)(B). Pub. L. 102–484, §1311(b), substituted '', New Zealand, Japan, and the Republic of Korea'' for ''or New Zealand''.

1989—Pub. L. 101–189 renumbered section 2213 of this title as this section and inserted '': allied countries'' after ''airlift agreements'' in section catchline.

Subsec. (d). Pub. L. 101–189, §931(b)(2), substituted ''subchapter I'' for ''chapter 138 of this title''.

1987—Subsec. (e). Pub. L. 100–26 inserted ''The term'' after each par. designation and substituted ''allied'' for ''Allied'' in par. (1).

1985—Subsec. (e)(2). Pub. L. 99–145 substituted ''section 2350'' for ''section 2331''.

Statutory Notes and Related Subsidiaries

DEPARTMENT OF DEFENSE PARTICIPATION IN EUROPEAN PROGRAM ON MULTILATERAL EXCHANGE OF AIR TRANSPORTATION AND AIR REFUELING SERVICES

Pub. L. 112–239, div. A, title XII, §1276, Jan. 2, 2013, 126 Stat. 2029, as amended by Pub. L. 115–91, div. A, title X, §1051(r)(9), Dec. 12, 2017, 131 Stat. 1565, which related to participation of the United States in the Air Transport, Air-to-Air Refueling and other Exchanges of Services (ATARES) program of the Movement Coordination Centre Europe, was repealed by Pub. L. 116–283, div. A, title XII, §1203(c), Jan. 1, 2021, 134 Stat. 3911. See section 2350*o* of this title.

DEPARTMENT OF DEFENSE PARTICIPATION IN STRATEGIC AIRLIFT CAPABILITY PARTNERSHIP

Pub. L. 110–181, div. A, title X, §1032, Jan. 28, 2008, 122 Stat. 306, provided that:

''(a) AUTHORITY TO PARTICIPATE IN PARTNERSHIP.—

''(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense may enter into a multilateral memorandum of understanding authorizing the Strategic Airlift Capability Partnership to conduct activities necessary to accomplish its purpose, including—

''(A) the acquisition, equipping, ownership, and operation of strategic airlift aircraft; and

''(B) the acquisition or transfer of airlift and airlift-related services and supplies among members of the Strategic Airlift Capability Partnership, or between the Partnership and non-member countries or international organizations, on a reimbursable basis or by replacement-in-kind or exchange of airlift or airlift-related services of an equal value.

''(2) PAYMENTS.—From funds available to the Department of Defense for such purpose, the Secretary of Defense may pay the United States equitable share of the recurring and non-recurring costs of the activities and operations of the Strategic Airlift Capability Partnership, including costs associated with procurement of aircraft components and spare parts, maintenance, facilities, and training, and the costs of claims.

''(b) AUTHORITIES UNDER PARTNERSHIP.—In carrying out the memorandum of understanding entered into under subsection (a), the Secretary of Defense may do the following:

''(1) Waive reimbursement of the United States for the cost of the following functions performed by Department of Defense personnel with respect to the Strategic Airlift Capability Partnership:

''(A) Auditing.

''(B) Quality assurance.

''(C) Inspection.

''(D) Contract administration.

''(E) Acceptance testing.

''(F) Certification services.

''(G) Planning, programming, and management services.

''(2) Waive the imposition of any surcharge for administrative services provided by the United States that would otherwise be chargeable against the Strategic Airlift Capability Partnership.

''(3) Pay the salaries, travel, lodging, and subsistence expenses of Department of Defense personnel assigned for duty to the Strategic Airlift Capability Partnership without seeking reimbursement or cost-sharing for such expenses.

''(c) CREDITING OF RECEIPTS.—Any amount received by the United States in carrying out the memorandum of understanding entered into under subsection (a) shall be credited, as elected by the Secretary of Defense, to the following:

''(1) The appropriation, fund, or account used in incurring the obligation for which such amount is received.

''(2) An appropriation, fund, or account currently providing funds for the purposes for which such obligation was made.

''(d) AUTHORITY TO TRANSFER AIRCRAFT.—

''(1) TRANSFER AUTHORITY.—The Secretary of Defense may transfer one strategic airlift aircraft to the Strategic Airlift Capability Partnership in accordance with the terms and conditions of the memorandum of understanding entered into under subsection (a).

''(2) REPORT.—Not later than 30 days before the date on which the Secretary transfers a strategic airlift aircraft under paragraph (1), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the strategic airlift aircraft to be transferred, including the type of strategic airlift aircraft to be transferred and the tail registration or serial number of such aircraft.

''(e) STRATEGIC AIRLIFT CAPABILITY PARTNERSHIP DEFINED.—In this section the term 'Strategic Airlift Capability Partnership' means the strategic airlift capability consortium established by the United States and other participating countries.''

§ 2350d. Cooperative acquisition and logistics support agreements: NATO countries

(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may enter into bilateral or multilateral agreements known as Support or Procurement Partnership Agreements with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) participating in the operation of the NATO Support and Procurement Organization and its executive agencies. Any such agreement shall be for the purpose of providing cooperative acquisition and logistics support for the armed forces of the countries which are parties to the agreement. Any such agreement—

(A) shall be entered into pursuant to the terms of the charter of the NATO Support and Procurement Organization and its executive agencies; and

(B) shall provide for the common acquisition and logistics support of activities common to the participating countries.

(2) Such an agreement may provide for—

(A) the transfer of logistics support, supplies, and services by the United States to the NATO Support and Procurement Organization and its executive agencies; and

(B) the acquisition of armaments and logistics support, supplies, and services by the United States from that Organization.

(b) AUTHORITY OF SECRETARY.—Under the terms of a Support or Procurement Partnership Agreement or Arrangement, the Secretary of Defense—

(1) may agree that the NATO Support and Procurement Organization and its executive agencies may enter into contracts for supply, services, support, and acquisition, including armaments for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply, services, support, and acquisition are appropriate; and

(2) may share the costs of set-up charges of facilities for use by the NATO Support and Procurement Organization and its executive agencies to provide cooperative acquisition and logistics support and in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Support and Procurement Organization and its executive agencies to provide cooperative acquisition and logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Support or Procurement Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs and costs of claims incident to the agreement.

(d) APPLICATION OF CHAPTER 137.—Except as otherwise provided in this section, the provisions of chapter 137[1] of this title apply to a contract entered into by the Secretary of Defense for the acquisition of logistics support under a Support or Procurement Partnership Agreement.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—Any transfer of defense articles or defense services to a member country of the North Atlantic Treaty Organization or to the NATO Support and Procurement Organization and its executive agencies for the purposes of a Support or Procurement Partnership Agreement shall be carried out in accordance with this chapter and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under subchapter I and any other provision of law.

(Added and amended Pub. L. 101–189, div. A, title IX, §§ 931(c), 938(c), Nov. 29, 1989, 103 Stat. 1534, 1539; Pub. L. 102–484, div. A, title VIII, § 843(b)(2), Oct. 23, 1992, 106 Stat. 2469; Pub. L. 113–66, div. A, title XII, § 1250(a), Dec. 26, 2013, 127 Stat. 926; Pub. L. 115–232, div. A, title XII, § 1279(a), Aug. 13, 2018, 132 Stat. 2072; Pub. L. 117–263, div. A, title XII, § 1244(b), Dec. 23, 2022, 136 Stat. 2845.)

Editorial Notes

REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (d), was repealed by Pub. L. 116–283, div. A, title XVIII, § 1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of ''chapter 137 legacy provisions'', see section 3016 of this title.

The Arms Export Control Act, referred to in subsec. (e), 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.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 99–661, div. A, title XI, § 1102, Nov. 14, 1986, 100 Stat. 3961, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101–189, § 931(d)(2).

AMENDMENTS

2022—Pub. L. 117–263, § 1244(b)(1), substituted ''acquisition and logistics support'' for ''logistic support'' in section catchline.

Subsec. (a)(1). Pub. L. 117–263, § 1244(b)(2)(A)(i), substituted ''acquisition and logistics support'' for ''logistics support'' in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 117–263, § 1244(b)(2)(A)(ii), substituted ''acquisition and logistics support'' for ''logistic support''.

Subsec. (a)(2)(B). Pub. L. 117–263, § 1244(b)(2)(B), substituted ''armaments and logistics support'' for ''logistics support''.

Subsec. (b). Pub. L. 117–263, § 1244(b)(3)(A), substituted ''Partnership Agreement or Arrangement'' for ''Partnership Agreement'' in introductory provisions.

Subsec. (b)(1). Pub. L. 117–263, § 1244(b)(3)(B), substituted ''supply, services, support, and acquisition, including armaments for requirements'' for ''supply and acquisition of logistics support in Europe for requirements'' and ''supply, services, support, and acquisition are appropriate'' for ''supply and acquisition are appropriate''.

Subsec. (b)(2). Pub. L. 117–263, § 1244(b)(3)(C), substituted ''acquisition and logistics support'' for ''logistics support'' in two places.

2018—Subsec. (a). Pub. L. 115–232, § 1279(a)(1), substituted ''NATO Support and Procurement Organization'' for ''NATO Support Organization'' wherever appearing.

Subsec. (a)(1). Pub. L. 115–232, § 1279(a)(3), substituted ''Support or Procurement Partnership Agreements'' for ''Support Partnership Agreements'' in introductory provisions.

Subsec. (b). Pub. L. 115–232, § 1279(a)(1), (2), substituted ''Support or Procurement Partnership Agreement'' for ''Support Partnership Agreement'' in introductory provisions and ''NATO Support and Procurement Organization'' for ''NATO Support Organization'' wherever appearing.

Subsecs. (c), (d). Pub. L. 115–232, § 1279(a)(2), substituted ''Support or Procurement Partnership Agreement'' for ''Support Partnership Agreement''.

Subsec. (e). Pub. L. 115–232, § 1279(a)(1), (2), substituted ''NATO Support and Procurement Organization'' for ''NATO Support Organization'' and ''Support or Procurement Partnership Agreement'' for ''Support Partnership Agreement''.

2013—Subsec. (a)(1). Pub. L. 113–66, § 1250(a)(1), (2)(A), in introductory provisions, substituted ''Support Partnership Agreements'' for ''Weapon System Partnership Agreements'' and ''NATO Support Organization and its executive agencies'' for ''NATO Maintenance and Supply Organization''.

Subsec. (a)(1)(A). Pub. L. 113–66, § 1250(a)(1), substituted ''NATO Support Organization and its executive agencies'' for ''NATO Maintenance and Supply Organization''.

[1] See References in Text note below.

Subsec. (a)(1)(B). Pub. L. 113–66, §1250(a)(2)(B), substituted ''activities'' for ''a specific weapon system''.

Subsec. (a)(2)(A). Pub. L. 113–66, §1250(a)(1), substituted ''NATO Support Organization and its executive agencies'' for ''NATO Maintenance and Supply Organization''.

Subsec. (b). Pub. L. 113–66, §1250(a)(3), substituted ''Support Partnership Agreement'' for ''Weapon System Partnership Agreement'' in introductory provisions.

Pub. L. 113–66, §1250(a)(1), substituted ''NATO Support Organization and its executive agencies'' for ''NATO Maintenance and Supply Organization'' wherever appearing.

Subsecs. (c), (d). Pub. L. 113–66, §1250(a)(3), substituted ''Support Partnership Agreement'' for ''Weapon System Partnership Agreement''.

Subsec. (e). Pub. L. 113–66, §1250(a)(1), (3), substituted ''NATO Support Organization and its executive agencies'' for ''NATO Maintenance and Supply Organization'' and ''Support Partnership Agreement'' for ''Weapon System Partnership Agreement''.

1992—Subsec. (c). Pub. L. 102–484 inserted ''and costs of claims'' after ''administrative costs''.

1989—Subsec. (e). Pub. L. 101–189, §938(c), inserted ''this chapter and'' after ''in accordance with''.

§ 2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense

(a) AUTHORITY UNDER AWACS PROGRAM.—The Secretary of Defense, in carrying out an AWACS memorandum of understanding, may do the following:

(1) Waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) Auditing.

(B) Quality assurance.

(C) Codification.

(D) Inspection.

(E) Contract administration.

(F) Acceptance testing.

(G) Certification services.

(H) Planning, programming, and management services.

(2) Waive any surcharge for administrative services otherwise chargeable.

(3) In connection with that Program, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) CONTRACT AUTHORITY LIMITATION.—Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(c) DEFINITION.—In this section, the term ''AWACS memorandum of understanding'' means—

(1) the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E–3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978;

(2) the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984;

(3) the Addendum to the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E–3A Cooperative Programme (dated December 6, 1978) relating to the modernization of the NATO Airborne Early Warning and Control (NAEW&C) System, dated December 7, 1990; and

(4) any other follow-on support agreement for the NATO E–3A Cooperative Programme.

(Added Pub. L. 101–189, div. A, title IX, §932(a)(1), Nov. 29, 1989, 103 Stat. 1536; amended Pub. L. 102–190, div. A, title X, §1051, Dec. 5, 1991, 105 Stat. 1470; Pub. L. 103–160, div. A, title XIV, §1413, Nov. 30, 1993, 107 Stat. 1829.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97–86, title I, §103, Dec. 1, 1981, 95 Stat. 1100, as amended, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101–189, §932(b).

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–160 struck out subsec. (d) which read as follows: ''EXPIRATION.—The authority provided by this section expires on September 30, 1993.''

1991—Subsec. (c)(3), (4). Pub. L. 102–190, §1051(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 102–190, §1051(2), substituted ''1993'' for ''1991''.

§ 2350f. Procurement of communications support and related supplies and services

(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations, under which, in return for being provided communications support and related supplies and services, the United States would agree to provide to the allied country or countries or allied international organization or allied international organizations, as the case may be, an equivalent value of communications support and related supplies and services. The term of an arrangement entered into under this subsection may not exceed five years.

(b)(1) Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater amount of communications support and related supplies and services. Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into.

(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.

(3) Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

[(c) Repealed. Pub. L. 107–314, div. A, title X, § 1041(a)(10), Dec. 2, 2002, 116 Stat. 2645.]

(d) In this section:

(1) The term ''allied country'' means—

(A) a country that is a member of the North Atlantic Treaty Organization;

(B) Australia, New Zealand, Japan, or the Republic of Korea; or

(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term ''allied international organization'' means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(Added Pub. L. 98–525, title X, § 1005(a), Oct. 19, 1984, 98 Stat. 2578, § 2401a; amended Pub. L. 100–26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; renumbered § 2350f and amended Pub. L. 101–189, div. A, title IX, § 933(a)–(d), Nov. 29, 1989, 103 Stat. 1537; Pub. L. 101–510, div. A, title XIV, § 1484(k)(8), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 104–106, div. A, title XV, § 1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–314, div. A, title X, § 1041(a)(10), Dec. 2, 2002, 116 Stat. 2645.)

Editorial Notes

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–314 struck out subsec. (c) which read as follows: ''The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of all documents evidencing an arrangement entered into under subsection (a) not later than 45 days after entering into such an arrangement.''

1999—Subsec. (c). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (c). Pub. L. 104–106 substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and the House of Representatives''.

1990—Subsec. (d)(1)(A). Pub. L. 101–510 substituted a semicolon for '', or'' at end.

1989—Pub. L. 101–189, § 933(a), renumbered section 2401a of this title as this section.

Subsec. (a). Pub. L. 101–189, § 933(b), substituted ''a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations'' for ''an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO),'' and ''the allied country or countries or allied international organization or allied international organizations, as the case may be,'' for ''such country or NATO'' and inserted ''The term of an arrangement entered into under this subsection may not exceed five years.''

Subsec. (b). Pub. L. 101–189, § 933(c), designated first sentence as par. (1), inserted ''Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into.'' after ''supplies and services.'', added par. (2), and designated second sentence as par. (3).

Subsec. (d). Pub. L. 101–189, § 933(d)(1), (2), substituted ''In this section:'' and par. (1) for ''In this section, the term 'allied country' means—'' and redesignated former cls. (1) and (2) as cls. (A) and (B).

Subsec. (d)(1)(A). Pub. L. 101–189, § 933(d)(3), which directed amendment of cl. (A) by substituting a semicolon for ''; or'' at end, could not be executed because ''; or'' did not appear.

Subsec. (d)(1)(B). Pub. L. 101–189, § 933(d)(4), substituted ''; or'' for period at end.

Subsec. (d)(1)(C), (2). Pub. L. 101–189, § 933(d)(5), added cl. (C) and par. (2).

1987—Subsec. (d). Pub. L. 100–26 inserted ''the term'' after ''In this section,''.

§ 2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements

(a) AUTHORITY TO ACCEPT.—The Secretary of Defense may accept from a foreign country, for the support of any element of the armed forces in an area of that country—

(1) real property or the use of real property and services and supplies for the United States or for the use of the United States in accordance with a mutual defense agreement or occupational arrangement; and

(2) services furnished as reciprocal international courtesies or as services customarily made available without charge.

(b) AUTHORITY TO USE PROPERTY, SERVICES, AND SUPPLIES.—Property, services, or supplies referred to in subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property, services, and supplies may not be used in connection with any program, project, or activity if the use of such property, services, or supplies would result in the violation of any prohibition or limitation otherwise applicable to that program, project, or activity.

(c) PERIODIC AUDITS BY GAO.—The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

(Added Pub. L. 101–510, div. A, title XIV, § 1451(b)(1), Nov. 5, 1990, 104 Stat. 1692; amended Pub. L. 103–160, div. A, title XI, § 1105(a), Nov. 30, 1993, 107 Stat. 1749; Pub. L. 106–65, div. A, title X, § 1032(a)(3), Oct. 5, 1999, 113 Stat. 751.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9008, Nov. 21, 1989, 103 Stat. 1130, which was set out as a note under section 2341 of this title, prior to repeal by Pub. L. 101–510, §1451(c).

AMENDMENTS

1999—Subsecs. (b) to (d). Pub. L. 106–65 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows:

''(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on property, services, and supplies accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property, services, and supplies having a value of more than $1,000,000.

''(2) In computing the value of any property, services, and supplies referred to in paragraph (1), the Secretary shall aggregate the value of—

''(A) similar items of property, services, and supplies accepted by the Secretary during the quarter concerned; and

''(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.''

1993—Subsec. (d). Pub. L. 103–160 substituted ''Periodic Audits'' for ''Annual Audit'' in heading and amended text generally. Prior to amendment, text read as follows: ''The Comptroller General of the United States shall conduct an annual audit of property, services, and supplies accepted by the Secretary of Defense under this section and shall submit a copy of the results of each such audit to Congress.''

§ 2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories

The Secretary of Defense shall designate an official to act as ombudsman within the Department of Defense on behalf of foreign governments who are parties to memorandums of agreement with the United States concerning acquisition matters under the jurisdiction of the Secretary of Defense. The official so designated shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.

(Added Pub. L. 101–510, div. A, title XIV, §1452(a)(1), Nov. 5, 1990, 104 Stat. 1693.)

Statutory Notes and Related Subsidiaries

DEADLINE FOR DESIGNATION OF OMBUDSMAN

Pub. L. 101–510, div. A, title XIV, §1452(b), Nov. 5, 1990, 104 Stat. 1694, provided that the official required to be designated under this section was to be designated by the Secretary of Defense not later than 90 days after Nov. 5, 1990.

§ 2350i. Foreign contributions for cooperative projects

(a) CREDITING OF CONTRIBUTIONS.—Whenever the United States participates in a cooperative project with a friendly foreign country or the North Atlantic Treaty Organization (NATO) on a cost-sharing basis, any contribution received by the United States from that foreign country or NATO to meet its share of the costs of the project may be credited to appropriations available to an appropriate military department or another appropriate organization within the Department of Defense, as determined by the Secretary of Defense.

(b) USE OF AMOUNTS CREDITED.—The amount of a contribution credited pursuant to subsection (a) to an appropriation account in connection with a cooperative project referred to in that subsection shall be available only for payment of the share of the project expenses allocated to the foreign country or NATO making the contribution. Payments for which such amount is available include the following:

(1) Payments to contractors and other suppliers (including the Department of Defense and other participants acting as suppliers) for necessary articles and services.

(2) Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation.

(3) Payments or reimbursements of other program expenses, including program office overhead and administrative costs.

(4) Refunds to other participants.

(c) DEFINITIONS.—In this section:

(1) The term ''cooperative project'' means a jointly managed arrangement, described in a written cooperative agreement entered into by the participants, that—

(A) is undertaken by the participants in order to improve the conventional defense capabilities of the participants; and

(B) provides for—

(i) one or more participants (other than the United States) to share with the United States the cost of research and development, testing, evaluation, or joint production (including follow-on support) of defense articles;

(ii) the United States and another participant concurrently to produce in the United States and the country of such other participant a defense article jointly developed in a cooperative project described in clause (i); or

(iii) the United States to procure a defense article or a defense service from another participant in the cooperative project.

(2) The term ''defense article'' has the meaning given such term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

(3) The term ''defense service'' has the meaning given such term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794(4)).

(Added Pub. L. 102–190, div. A, title X, §1047(a), Dec. 5, 1991, 105 Stat. 1467.)

§ 2350j. Burden sharing contributions by designated countries and regional organizations

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from any country or regional or-

ganization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State, for the purposes specified in subsection (c).

(b) ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).

(c) AVAILABILITY OF CONTRIBUTIONS.—Contributions accepted under subsection (a) shall be available only for the payment of the following costs:

(1) Compensation for local national employees of the Department of Defense.

(2) Military construction projects of the Department of Defense.

(3) Supplies and services of the Department of Defense.

(d) AUTHORIZATION OF MILITARY CONSTRUCTION.—Contributions placed in an account established under subsection (b) may be used—

(1) by the Secretary of Defense to carry out a military construction project that is consistent with the purposes for which the contributions were made and is not otherwise authorized by law; or

(2) by the Secretary of a military department, with the approval of the Secretary of Defense, to carry out such a project.

(e) NOTICE AND WAIT REQUIREMENTS.—(1) When a decision is made to carry out a military construction project under subsection (d), the Secretary of Defense shall submit to the congressional defense committees a report containing—

(A) an explanation of the need for the project;

(B) the then current estimate of the cost of the project; and

(C) a justification for carrying out the project under that subsection.

(2) The Secretary of Defense or the Secretary of a military department may not commence a military construction project under subsection (d) until the end of the 14-day period beginning on the date on which the Secretary of Defense submits the report under paragraph (1) regarding the project in an electronic medium pursuant to section 480 of this title.

(3)(A) A military construction project under subsection (d) may be carried out without regard to the requirement in paragraph (1) and the limitation in paragraph (2) if the project is necessary to support the armed forces in the country or region in which the project is carried out by reason of a declaration of war, or a declaration by the President of a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), that is in force at the time of the commencement of the project.

(B) When a decision is made to carry out a military construction project under subparagraph (A), the Secretary of Defense shall submit to the congressional defense committees—

(i) a notice of the decision; and

(ii) a statement of the current estimated cost of the project, including the cost of any real property transaction in connection with the project.

(f) REPORT ON CONTRIBUTIONS RECEIVED FROM DESIGNATED COUNTRIES.—

(1) IN GENERAL.—Not later than January 15 each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the burden sharing contributions received under this section from designated countries.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following for the preceding fiscal year:

(A) A list of all designated countries from which burden sharing contributions were received.

(B) An explanation of the purpose for which each such burden sharing contribution was provided.

(C) A description of any written agreement entered into with a designated country under this section, including the date on which the agreement was signed.

(D) For each designated country—

(i) the amount provided by the designated country; and

(ii) the amount of any remaining unobligated balance.

(E) The amount of such burden sharing contributions expended, by eligible category, including compensation for local national employees, military construction projects, and supplies and services of the Department of Defense.

(F) Any other matter the Secretary of Defense considers relevant.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

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

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

(Added Pub. L. 103–160, div. A, title XIV, § 1402(a), Nov. 30, 1993, 107 Stat. 1825; amended Pub. L. 103–337, div. A, title X, § 1070(a)(10), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XIII, § 1331, Feb. 10, 1996, 110 Stat. 482; Pub. L. 106–65, div. A, title X, § 1067(1), div. B, title XXVIII, § 2801, Oct. 5, 1999, 113 Stat. 774, 845; Pub. L. 108–136, div. A, title X, §§ 1031(a)(18), 1043(b)(12), Nov. 24, 2003, 117 Stat. 1597, 1611; Pub. L. 115–91, div. A, title X, § 1051(a)(15), div. B, title XXVIII, § 2801(f), Dec. 12, 2017, 131 Stat. 1561, 1845; Pub. L. 116–283, div. A, title XII, § 1299B, Jan. 1, 2021, 134 Stat. 3998.)

Editorial Notes

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (e)(3), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

CODIFICATION

Section, as added by Pub. L. 103–160, consists of text of Pub. L. 102–190, div. A, title X, §1045, Dec. 5, 1991, 105 Stat. 1465, as amended by Pub. L. 102–484, div. A, title XIII, §1305(a), (b), Oct. 23, 1992, 106 Stat. 2546, and revised by Pub. L. 103–160, in subsec. (a), by substituting ''The Secretary'' for ''During fiscal years 1992 and 1993, the Secretary'', inserting '', after consultation with the Secretary of State,'' after ''Secretary of Defense'', and substituting ''from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State'' for ''from Japan, Kuwait, and the Republic of Korea'', and in former subsec. (f), by substituting ''each fiscal year'' for ''each quarter of fiscal years 1992 and 1993'', ''Congress'' for ''congressional defense committees'', ''each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)'' for ''Japan, Kuwait, and the Republic of Korea'', and ''the preceding fiscal year'' for ''the preceding quarter'' in pars. (1) and (2).

AMENDMENTS

2021—Subsec. (f). Pub. L. 116–283 added subsec. (f).

2017—Subsec. (e)(2). Pub. L. 115–91, §2801(f)(2), which directed striking out ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided'', was executed by striking out ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided'' after ''regarding the project'', to reflect the probable intent of Congress.

Pub. L. 115–91, §2801(f)(1), substituted ''14-day period'' for ''21-day period''.

Subsec. (f). Pub. L. 115–91, §1051(a)(15), struck out subsec. (f). Text read as follows: ''Not later than 30 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report specifying separately for each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)—

''(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

''(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.''

2003—Subsec. (e)(1). Pub. L. 108–136, §1043(b)(12)(A), substituted ''congressional defense committees'' for ''congressional committees specified in subsection (g)'' in introductory provisions.

Subsec. (e)(2). Pub. L. 108–136, §1031(a)(18), inserted before period at end ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided in an electronic medium pursuant to section 480 of this title''.

Subsec. (e)(3)(B). Pub. L. 108–136, §1043(b)(12)(A), substituted ''congressional defense committees'' for ''congressional committees specified in subsection (g)'' in introductory provisions.

Subsec. (g). Pub. L. 108–136, §1043(b)(12)(B), struck out subsec. (g) which listed the congressional committees referred to in subsec. (e).

1999—Subsec. (e)(3). Pub. L. 106–65, §2801(a), added par. (3).

Subsec. (g). Pub. L. 106–65, §2801(b), substituted ''subsection (e)'' for ''subsection (e)(1)'' in introductory provisions.

Subsec. (g)(2). Pub. L. 106–65, §1067(1), substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (b). Pub. L. 104–106, §1331(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''CREDIT TO APPROPRIATIONS.—Contributions accepted in a fiscal year under subsection (a) shall be credited to appropriations of the Department of Defense that are available for that fiscal year for the purposes for which the contributions are made. The contributions so credited shall be—

''(1) merged with the appropriations to which they are credited; and

''(2) available for the same time period as those appropriations.''

Subsec. (d). Pub. L. 104–106, §1331(b), substituted ''placed in an account established under subsection (b)'' for ''credited under subsection (b) to an appropriation account of the Department of Defense''.

Subsec. (e)(1). Pub. L. 104–106, §1331(c)(1), substituted ''to the congressional committees specified in subsection (g) a report'' for ''a report to the congressional defense committees''.

Subsec. (g). Pub. L. 104–106, §1331(c)(2), added subsec. (g).

1994—Subsec. (a). Pub. L. 103–337, §1070(a)(10)(A), inserted a comma after second reference to ''Secretary of State''.

Subsec. (f). Pub. L. 103–337, §1070(a)(10)(B), struck out ''the'' before ''Congress'' in introductory provisions.

Statutory Notes and Related Subsidiaries

TEMPORARY AUTHORITY FOR ACCEPTANCE AND USE OF CONTRIBUTIONS FOR CERTAIN CONSTRUCTION, MAINTENANCE, AND REPAIR PROJECTS MUTUALLY BENEFICIAL TO THE DEPARTMENT OF DEFENSE AND KUWAIT MILITARY FORCES

Pub. L. 114–92, div. B, title XXVIII, §2804, Nov. 25, 2015, 129 Stat. 1170, as amended by Pub. L. 114–328, div. B, title XXVIII, §2807, Dec. 23, 2016, 130 Stat. 2715, provided that:

''(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from the government of Kuwait for the purpose of paying for the costs of construction (including military construction not otherwise authorized by law), maintenance, and repair projects mutually beneficial to the Department of Defense and Kuwait military forces.

''(b) ACCOUNTING.—Contributions accepted under subsection (a) shall be placed in an account established by the Secretary of Defense and shall remain available until expended as provided in such subsection.

''(c) PROHIBITION ON USE OF CONTRIBUTIONS TO OFFSET BURDEN SHARING CONTRIBUTIONS.—Contributions accepted under subsection (a) may not be used to offset any burden sharing contributions made by the government of Kuwait.

''(d) NOTICE.—When a decision is made to carry out a project using contributions accepted under subsection (a) and the estimated cost of the project will exceed the thresholds prescribed by section 2805 of title 10, United States Code, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives written notice of decision, the justification for the project, and the estimated cost of the project.

''(e) MUTUALLY BENEFICIAL DEFINED.—A project described in subsection (a) shall be considered to be 'mutually beneficial' if—

''(1) the project is in support of a bilateral defense cooperation agreement between the United States and the government of Kuwait; or

''(2) the Secretary of Defense determines that the United States may derive a benefit from the project, including—

''(A) access to and use of facilities of the Kuwait military forces;

''(B) ability or capacity for future force posture; and

''(C) increased interoperability between the Department of Defense and Kuwait military forces.

''(f) EXPIRATION OF PROJECT AUTHORITY.—The authority to carry out projects under this section expires on September 30, 2030. The expiration of the authority does not prevent the continuation of any project commenced before that date.''

§ 2350k. Relocation within host nation of elements of armed forces overseas

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

(6) All other clearly identifiable expenses directly related to relocation.

(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

(Added Pub. L. 104–106, div. A, title XIII, § 1332(a)(1), Feb. 10, 1996, 110 Stat. 482; amended Pub. L. 107–314, div. A, title X, § 1041(a)(11), Dec. 2, 2002, 116 Stat. 2645.)

Editorial Notes

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–314 struck out heading and text of subsec. (d). Text read as follows: ''Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report specifying—

''(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

''(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 104–106, div. A, title XIII, § 1332(b), Feb. 10, 1996, 110 Stat. 484, provided that: ''Section 2350k of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to contributions for relocation of elements of the Armed Forces in or to any nation received on or after such date.''

§ 2350*l*. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations

(a) AUTHORITY.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment (1) by the United States using test facilities of that country or organization, and (2) by that country or organization using test facilities of the United States.

(b) PAYMENT OF COSTS.—A memorandum or other agreement under subsection (a) shall provide that, when a party to the agreement uses a test facility of another party to the agreement, the party using the test facility is charged by the party providing the test facility in accordance with the following principles:

(1) The user party shall be charged the amount equal to the direct costs incurred by the provider party in furnishing test and evaluation services by the providing party's officers, employees, or governmental agencies.

(2) The user party may also be charged indirect costs relating to the use of the test facility, but only to the extent specified in the memorandum or other agreement.

(c) DETERMINATION OF INDIRECT COSTS; DELEGATION OF AUTHORITY.—(1) The Secretary of Defense shall determine the appropriateness of the amount of indirect costs charged by the United States pursuant to subsection (b)(2).

(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

(d) RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

(e) DEFINITIONS.—In this section:

(1) The term ''direct cost'', with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

(i) the use; or

(ii) the maintenance of the test facility for purposes of the use.

(2) The term ''indirect cost'', with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

(3) The term ''test facility'' means a range or other facility at which testing of defense equipment may be carried out.

(Added Pub. L. 107–107, div. A, title XII, §1213(a), Dec. 28, 2001, 115 Stat. 1250; amended Pub. L. 116–283, div. A, title XVIII, §1844(b)(1), Jan. 1, 2021, 134 Stat. 4245; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, §1844(b)(1), which directed the renumbering of this section as section 4145 of this title, was repealed by Pub. L. 117–81, §1701(u)(5)(B).

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.

§ 2350m. Participation in European program on multilateral exchange of surface transportation services

(a) PARTICIPATION AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the participation of the Department of Defense in the Surface Exchange of Services program (in this section referred to as the ''SEOS program'') of the Movement Coordination Centre Europe.

(2) SCOPE OF PARTICIPATION.—Participation of the Department of Defense in the SEOS program under paragraph (1) may include—

(A) the reciprocal exchange or transfer of surface transportation on a reimbursable basis or by replacement-in-kind; and

(B) the exchange of surface transportation services of an equal value.

(b) WRITTEN ARRANGEMENT OR AGREEMENT.—

(1) IN GENERAL.—Participation of the Department of Defense in the SEOS program shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the Movement Coordination Centre Europe.

(2) NOTIFICATION.—The Secretary of Defense shall provide to the congressional defense committees notification of any arrangement or agreement entered into under paragraph (1).

(3) FUNDING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support the SEOS program, the written arrangement or agreement under paragraph (1) shall specify the details of any equitable cost-sharing or other funding arrangement.

(4) OTHER ELEMENTS.—Any written arrangement or agreement entered into under paragraph (1) shall require that any accrued credits or liability resulting from an unequal exchange or transfer of surface transportation services shall be liquidated through the SEOS program not less than once every five years.

(c) IMPLEMENTATION.—In carrying out any arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

(1) pay the equitable share of the Department of Defense for the operating expenses of the Movement Coordination Centre Europe and the SEOS program from funds available to the Department of Defense for operation and maintenance; and

(2) assign members of the armed forces or Department of Defense civilian personnel, within billets authorized for the United States European Command, to duty at the Movement Coordination Centre Europe as necessary to fulfill Department of Defense obligations under that arrangement or agreement.

(d) CREDITING OF RECEIPTS.—Any amount received by the Department of Defense as part of the SEOS program shall be credited, at the option of the Secretary of Defense, to—

(1) the appropriation, fund, or account used in incurring the obligation for which such amount is received; or

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

(e) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than 30 days after the end of each fiscal year in which the authority under this section is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense participation in the SEOS program during such fiscal year.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

(A) A description of the equitable share of the costs and activities of the SEOS program paid by the Department of Defense.

(B) A description of any amount received by the Department of Defense as part of such program, including the country from which the amount was received.

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to authorize the use of foreign sealift in violation of section 2631.

(Added Pub. L. 116–283, div. A, title XII, §1202(a), Jan. 1, 2021, 134 Stat. 3908.)

Editorial Notes

CODIFICATION

Another section 2350m was renumbered section 2350q of this title.

PRIOR PROVISIONS

A prior section 2350m was renumbered section 344 of this title.

§ 2350n. North Atlantic Treaty Organization Joint Force Command

(a) AUTHORIZATION.—The Secretary of Defense shall authorize the establishment of, and the participation by members of the armed forces in, the North Atlantic Treaty Organization Joint Force Command (in this section referred to as the ''Joint Force Command''), to be established in the United States.

(b) USE OF DEPARTMENT OF DEFENSE FACILITIES AND EQUIPMENT.—The Secretary may use facilities and equipment of the Department of Defense to support the Joint Force Command.

(c) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated to the Department of Defense shall be available to carry out the purposes of this section.

(Added Pub. L. 116–92, div. A, title XII, §1249(a), Dec. 20, 2019, 133 Stat. 1664.)

§ 2350*o*. Participation in programs relating to coordination or exchange of air refueling and air transportation services

(a) PARTICIPATION AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the participation of the Department of Defense in programs relating to the coordination or exchange of air refueling and air transportation services, including in the arrangement known as the Air Transport and Air-to-Air Refueling and other Exchanges of Services program (in this section referred to as the ''ATARES program'').

(2) SCOPE OF PARTICIPATION.—Participation of the Department of Defense in programs referred to in paragraph (1) may include—

(A) the reciprocal exchange or transfer of air refueling and air transportation services on a reimbursable basis or by replacement-in-kind; and

(B) the exchange of air refueling and air transportation services of an equal value.

(3) LIMITATIONS WITH RESPECT TO PARTICIPATION IN ATARES PROGRAM.—

(A) IN GENERAL.—The Department of Defense balance of executed flight hours in participation in the ATARES program under paragraph (1), whether as credits or debits, may not exceed a total of 500 hours.

(B) AIR REFUELING.—The Department of Defense balance of executed flight hours for air refueling in participation in the ATARES program under paragraph (1) may not exceed 200 hours.

(b) WRITTEN ARRANGEMENT OR AGREEMENT.—Participation of the Department of Defense in a program referred to in subsection (a)(1) shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State.

(c) IMPLEMENTATION.—In carrying out any arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

(1) pay the equitable share of the Department of Defense for the recurring and nonrecurring costs of the applicable program referred to in subsection (a)(1) from funds available to the Department for operation and maintenance; and

(2) assign members of the armed forces or Department of Defense civilian personnel to fulfill Department obligations under that arrangement or agreement.

(Added Pub. L. 116–283, div. A, title XII, §1203(a), Jan. 1, 2021, 134 Stat. 3910.)

Statutory Notes and Related Subsidiaries

AUTHORITY TO ESTABLISH A MOVEMENT COORDINATION CENTER PACIFIC IN THE INDO-PACIFIC REGION

Pub. L. 116–283, div. A, title X, §1061, Jan. 1, 2021, 134 Stat. 3858, provided that:

''(a) AUTHORITY TO ESTABLISH.—

''(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize—

''(A) the establishment of a Movement Coordination Center Pacific (in this section referred to as the 'Center'); and

''(B) the participation of the Department of Defense in an Air Transport and Air-to-Air refueling and other Exchanges of Services program (in this section referred to as the 'ATARES program') of the Center.

''(2) SCOPE OF PARTICIPATION.—Participation in the ATARES program under paragraph (1)(B) shall be limited to the reciprocal exchange or transfer of air transportation and air refueling services on a reimbursable basis or by replacement-in-kind or the exchange of air transportation or air refueling services of an equal value with foreign militaries.

''(3) LIMITATIONS.—The Department of Defense's balance of executed transportation hours, whether as credits or debits, in participation in the ATARES program under paragraph (1)(B) may not exceed 500 hours. The Department of Defense's balance of executed flight hours for air refueling in the ATARES program under paragraph (1)(B) may not exceed 200 hours.

''(b) WRITTEN ARRANGEMENT OR AGREEMENT.—

''(1) ARRANGEMENT OR AGREEMENT REQUIRED.—The participation of the Department of Defense in the ATARES program under subsection (a) shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State.

''(2) FUNDING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support the ATARES program, the written arrangement or agreement under paragraph (1) shall specify the details of any equitable cost-sharing or other funding arrangement.

''(3) OTHER ELEMENTS.—Any written arrangement or agreement entered into under paragraph (1) shall require that any accrued credits and liabilities resulting from an unequal exchange or transfer of air transportation or air refueling services shall be liquidated, not less than once every 5 years, through the ATARES program.

''(c) IMPLEMENTATION.—In carrying out any written arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

''(1) pay the Department of Defense's equitable share of the operating expenses of the Center and the ATARES program from funds available to the Department of Defense for operation and maintenance; and

''(2) assign members of the Armed Forces or Department of Defense civilian personnel, within billets authorized for the United States Indo-Pacific Command, to duty at the Center as necessary to fulfill the obligations of the Department of Defense under that arrangement or agreement.''

§ 2350p. Reciprocal patient movement agreements

(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary of Defense, with the concurrence of the Secretary of State, may enter into a bilateral or multilateral memorandum of understanding or other formal agreement with one or more governments of partner countries that provides for—

(1) the interchangeable, nonreimbursable use of patient movement personnel, either individually or as members of a patient movement crew or team, and equipment, belonging to one partner country to perform patient movement services aboard the aircraft, vessels, or vehicles of another partner country;

(2) the reciprocal recognition and acceptance of —

(A) national professional credentials, certifications, and licenses of patient movement personnel; and

(B) national certifications, approvals, and licenses of equipment used in the provision of patient movement services; and

(3) the acceptance of agreed-upon standards for the provision of patient movement services by aircraft, vessel, or vehicle, including, as determined to be beneficial and otherwise permitted by law, the harmonization of patient treatment standards and procedures.

(b) CERTIFICATION.—(1) Before entering into a memorandum of understanding or other formal agreement with the government of a partner country under this section, the Secretary of Defense shall certify in writing that the professional credentials, certifications, licenses, and approvals for patient movement personnel and patient movement equipment of the partner country—

(A) meet or exceed the equivalent standards of the United States for similar personnel and equipment; and

(B) will provide for a level of care comparable to, or better than, the level of care provided by the Department of Defense.

(2) A certification under paragraph (1) shall be—

(A) submitted to the appropriate committees of Congress not later than 15 days after the date on which the Secretary of Defense makes the certification; and

(B) reviewed and recertified by the Secretary of Defense not less frequently than annually.

(c) SUSPENSION.—If the Secretary of Defense is unable to recertify a partner country as required by subsection (b)(2)(B), use of the personnel or equipment of the partner country by the Department of Defense under a memorandum of understanding or other formal agreement concluded pursuant to subsection (a) shall be suspended until the date on which the Secretary of Defense is able to recertify the partner country.

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the congressional defense committees; and

(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(2) PARTNER COUNTRY.—The term ''partner country'' means any of the following:

(A) A member country of the North Atlantic Treaty Organization.

(B) Australia.

(C) Japan.

(D) New Zealand.

(E) The Republic of Korea.

(F) Any other country designated as a partner country by the Secretary of Defense, with the concurrence of the Secretary of State, for purposes of this section.

(3) PATIENT MOVEMENT.—The term ''patient movement'' means the act or process of moving wounded, ill, injured, or other persons (including contaminated, contagious, and potentially exposed patients) to obtain medical, surgical, mental health, or dental care or treatment.

(Added Pub. L. 116–283, div. A, title XII, § 1204(a), Jan. 1, 2021, 134 Stat. 3911.)

§ 2350q. Execution of projects under the North Atlantic Treaty Organization Security Investment Program

(a) AUTHORITY TO EXECUTE PROJECTS.—When the United States is designated as the Host Nation for purposes of executing a project under the North Atlantic Treaty Organization Security Investment Program (in this section referred to as the ''Program''), the Secretary of Defense may accept such designation and carry out such project consistent with the requirements of this section.

(b) PROJECT FUNDING.—The Secretary of Defense may fund authorized expenditures of projects accepted under subsection (a) with—

(1) contributions under subsection (c);

(2) appropriations of the Department of Defense for the Program when directed by the North Atlantic Treaty Organization to apply amounts of such appropriations as part of the share of contributions of the United States for the Program; or

(3) any combination of amounts described in paragraphs (1) and (2).

(c) AUTHORITY TO ACCEPT CONTRIBUTIONS.—(1) The Secretary of Defense may accept contributions from the North Atlantic Treaty Organization and member nations of the North Atlantic Treaty Organization for the purpose of carrying out a project under subsection (a).

(2) Contributions accepted under paragraph (1) shall be placed in an account established for the purpose of carrying out the project for which the funds were provided and shall remain available until expended.

(3)(A) If contributions are made under paragraph (1) as reimbursement for a project or portion of a project previously completed by the Department of Defense, such contributions shall be credited to—

(i) the appropriations used for the project or portion thereof, if such appropriations have not yet expired; or

(ii) the appropriations for the Program, if the appropriations described in clause (i) have expired.

(B) Funding credited under subparagraph (A) shall merge with and remain available for the same purposes and duration as the appropriations to which credited.

(d) OBLIGATION AUTHORITY.—The construction agent of the Department of Defense designated by the Secretary of Defense to execute a project under subsection (a) may recognize the North Atlantic Treaty Organization project authorization amounts as budgetary resources to incur obligations against for the purposes of executing the project.

(e) INSUFFICIENT CONTRIBUTIONS.—(1) In the event that the North Atlantic Treaty Organization does not agree to contribute funding for all costs necessary for the Department of Defense to carry out a project under subsection (a), including necessary personnel costs of the construction agent designated by the Department of Defense, contract claims, and any conjunctive funding requirements that exceed the project authorization or standards of the North Atlantic Treaty Organization, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may fund such costs, and undertake such conjunctively funded requirements not otherwise authorized by law, using any unobligated funds available among funds appropriated for the Program for military construction.

(2) The use of funds under paragraph (1) from appropriations for the Program may be in addition to or in place of any other funding sources otherwise available for the purposes for which those funds are used.

(f) AUTHORIZED EXPENDITURES DEFINED.—In this section, the term ''authorized expenditures'' means project expenses for which the North Atlantic Treaty Organization has agreed to contribute funding.

(Added Pub. L. 116–283, div. B, title XXV, § 2503(a), Jan. 1, 2021, 134 Stat. 4309; amended Pub. L. 117–81, div. A, title X, § 1081(a)(29), Dec. 27, 2021, 135 Stat. 1921.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 117–81 renumbered a second section 2350m of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 116–283, div. B, § 2003, Jan. 1, 2021, 134 Stat. 4295, provided that: ''Titles XXI through XXVII and title XXIX [see Tables for classification] shall take effect on the later of—

''(1) October 1, 2020; or

''(2) the date of the enactment of this Act [Jan. 1, 2021].''

§ 2350r. North Atlantic Treaty Organization Allied Special Operations Forces Command

(a) AUTHORIZATION.—Of the amounts authorized to be appropriated for each fiscal year for operation and maintenance for the Army, the Secretary of Defense is authorized to use up to $55,000,000, to be derived from amounts made available for support of North Atlantic Treaty Organization (referred to in this section as ''NATO'') operations, for each such fiscal year for the purposes set forth in subsection (b).

(b) PURPOSES.—The Secretary shall provide funds for the NATO Allied Special Operations Forces Command—

(1) to improve coordination and cooperation between the special operations forces of NATO countries and countries approved by the North Atlantic Council as NATO partners;

(2) to facilitate joint operations by the special operations forces of NATO countries and such NATO partners;

(3) to support special operations forces peculiar command, control, and communications capabilities;

(4) to promote special operations forces intelligence and informational requirements within the NATO structure; and

(5) to promote interoperability through the development of common equipment standards, tactics, techniques, and procedures, and through execution of a multinational education and training program.

(Added Pub. L. 117–263, div. A, title XII, § 1271(a), Dec. 23, 2022, 136 Stat. 2860; amended Pub. L. 118–159, div. A, title XIII, § 1301(a), Dec. 23, 2024, 138 Stat. 2110.)

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, § 1301(a)(1), substituted ''Allied Special Operations Forces Command'' for ''Special Operations Headquarters'' in section catchline.

Subsec. (a). Pub. L. 118–159, § 1301(a)(2), substituted ''$55,000,000'' for ''$50,000,000''.

Subsec. (b). Pub. L. 118–159, § 1301(a)(3), substituted ''Allied Special Operations Forces Command'' for ''Special Operations Headquarters'' in introductory provisions.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Pub. L. 118–159, div. A, title XIII, §1301(b), Dec. 23, 2024, 138 Stat. 2110, provided that: ''Any reference to the North Atlantic Treaty Organization Special Operations Headquarters or NATO Special Operations Headquarters in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the North Atlantic Treaty Organization Allied Special Operations Forces Command.''

§ 2350s. Authority to contribute to innovation fund

(a) AUTHORITY TO CONTRIBUTE TO NATO INNOVATION FUND.—Within amounts authorized by law for such purpose during the five-year period following the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, the Secretary of Defense may contribute to the NATO Innovation Fund a total amount of no more than $200,000,000.

(b) DEFINITIONS.—In this section:

(1) The term ''NATO'' means the North Atlantic Treaty Organization.

(2) The term ''NATO Innovation Fund'' means the multi-sovereign, investment venture capital fund of NATO that provides secure investment in dual-use, high-impact technology.

(Added Pub. L. 118–159, div. A, title X, §1051, Dec. 23, 2024, 138 Stat. 2061.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, referred to in subsec. (a), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

[CHAPTER 139—REPEALED]

[§ 2351. Renumbered § 3131]

Editorial Notes

PRIOR PROVISIONS

A prior section 2351, act Aug. 10, 1956, ch. 1041, 70A Stat. 133, related to policy, plans, and coordination relative to research and development on scientific problems relating to the national security, prior to repeal by Pub. L. 85–599, §3(d).

[§ 2352. Repealed. Pub. L. 114–92, div. A, title X, § 1078(c)(1), Nov. 25, 2015, 129 Stat. 999]

Section, added Pub. L. 108–136, div. A, title II, §232(a), Nov. 24, 2003, 117 Stat. 1422; amended Pub. L. 113–66, div. A, title II, §211(a), (b), Dec. 26, 2013, 127 Stat. 703, related to the biennial strategic plan of the Defense Advanced Research Projects Agency.

A prior section 2352, acts Aug. 10, 1956, ch. 1041, 70A Stat. 133; Dec. 5, 1991, Pub. L. 102–190, div. A, title VIII, §803(a)(1), 105 Stat. 1414; Pub. L. 102–484, div. A, title X, §1053(4), Oct. 23, 1992, 106 Stat. 2501, required Secretary of military department to give notice to Congress of contracts performed over a period exceeding 10 years, prior to repeal by Pub. L. 104–106, div. A, title X, §1062(c)(1), Feb. 10, 1996, 110 Stat. 444.

[§ 2353. Renumbered § 4174]

[§ 2354. Renumbered § 3861]

[§ 2355. Repealed. Pub. L. 103–355, title II, § 2002(a), Oct. 13, 1994, 108 Stat. 3303]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 135, authorized Secretary of each military department to prescribe by regulation the extent of itemization, substantiation, or certification of vouchers for funds spent under research or development contracts prior to payment.

[§ 2356. Repealed. Pub. L. 104–106, div. A, title VIII, § 802(a), Feb. 10, 1996, 110 Stat. 390]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 135; Sept. 2, 1958, Pub. L. 85–861, §1(43A), 72 Stat. 1457; July 18, 1984, Pub. L. 98–369, div. B, title VII, §2727(d), 98 Stat. 1195; Dec. 4, 1987, Pub. L. 100–180, div. A, title XII, §1231(18)(B), 101 Stat. 1161, related to delegations of authority under sections 1584, 2353, 2354, and 2355 of this title.

[§ 2357. Renumbered § 4067]

Editorial Notes

PRIOR PROVISIONS

A prior section 2357, act Aug. 10, 1956, ch. 1041, 70A Stat. 135, required Secretary of each military department to report to Congress on contracts for research and development, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1301(11), Nov. 5, 1990, 104 Stat. 1668.

[§ 2358. Renumbered § 4001]

[§ 2358a. Renumbered § 4091]

[§ 2358b. Renumbered § 1766]

[§ 2358c. Renumbered § 4094]

[§ 2359. Renumbered § 4007]

Editorial Notes

PRIOR PROVISIONS

A prior section 2359, added Pub. L. 96–107, title VIII, §819(a)(1), Nov. 9, 1979, 93 Stat. 818, related to reports on salaries of officers of Federal contract research centers, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1322(a)(5), Nov. 5, 1990, 104 Stat. 1671.

[§ 2359a. Renumbered § 4061]

Editorial Notes

PRIOR PROVISIONS

A prior section 2359a, added Pub. L. 107–314, div. A, title II, §242(a)(1), Dec. 2, 2002, 116 Stat. 2494; amended Pub. L. 109–163, div. A, title II, §255(a), Jan. 6, 2006, 119 Stat. 3180; Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title II, §233, Jan. 28, 2008, 122 Stat. 46; Pub. L. 110–417, [div. A], title II, §253(b), Oct. 14, 2008, 122 Stat. 4402, related to Technology Transition Initiative, prior to repeal by Pub. L. 112–81, div. A, title II, §251(a)(1), Dec. 31, 2011, 125 Stat. 1347.

[§ 2359b. Renumbered § 4062]

[§ 2360. Renumbered § 4143]

[§ 2361. Renumbered § 4141]

Editorial Notes

PRIOR PROVISIONS

A prior section 2361 was renumbered section 2351 of this title.