

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