

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 Author-

ization 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 subsections. (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.)