

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Air-to-Air Refueling and other Exchanges of Services (ATARES) program of the Movement Coordination Centre Europe, was repealed by Pub.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 2350o 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 137¹ 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),

¹ See References in Text note below.

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”.

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.