

section (b)(1) in connection with the use of Department of Defense facilities, equipment, or funds to support the ATARES program under that subsection as provided by subsection (b)(2).

“(4) A description of the United States’ equitable share of the operating expenses of the Movement Coordination Centre Europe and the ATARES consortium paid under subsection (c)(1).

“(5) A description of any amounts received by the United States in carrying out a written arrangement or agreement entered into under subsection (b).

“(f) COMPTROLLER GENERAL OF UNITED STATES REPORT.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Comptroller General of the United States shall submit to the congressional defense committees a report on the ATARES program. The report shall set forth the assessment of the Comptroller General of the program, including the types of services available under the program, whether the program is achieving its intended purposes, and, on the basis of actual cost data from the performance of the program, the cost-effectiveness of the program.

“(g) EXPIRATION.—The authority provided by this section to participate in the ATARES program shall expire five years after the date on which the Secretary of Defense first enters into a written arrangement or agreement under subsection (b). The Secretary shall publish notice of such date on a public website of the Department of Defense.”

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 as-

signed 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 logistic support agreements: NATO countries**

(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may enter into bilateral or multilateral agreements known as Support 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 Organization and its executive agencies. Any such agreement shall be for the purpose of providing cooperative 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 Organization and its executive agencies; and

(B) shall provide for the common logistic 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 Organization and its executive agencies; and

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

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

(1) may agree that the NATO Support Organization and its executive agencies may enter into contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Orga-

nization governing such supply and acquisition are appropriate; and

(2) may share the costs of set-up charges of facilities for use by the NATO Support Organization and its executive agencies to provide cooperative 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 Organization and its executive agencies to provide cooperative logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Support 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 of this title apply to a contract entered into by the Secretary of Defense for the acquisition of logistics support under a Support 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 Organization and its executive agencies for the purposes of a Support 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.)

#### REFERENCES IN TEXT

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

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