

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.)

#### 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”.

#### 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’.”

#### 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 de-

fense 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) 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 Organi-

zation, the Secretary submits 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 notice of the intended designation at least 30 days before the date on which such country is designated by the Secretary under subsection (a).

(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 shall prescribe regulations to ensure that contracts entered into under this subchapter are free from self-dealing, bribery, and conflict of interests.

(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.)

#### AMENDMENTS

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”.

#### 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, 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, in coordination with 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 September 30, 2019.”

### § 2343. Waiver of applicability of certain laws

Sections 2207, 2304(a), 2306(a), 2306(b), 2306(e), 2306a, and 2313 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.)

#### AMENDMENTS

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)”.

#### 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

Amendment by section 961(b) of Pub. L. 99–145 effective as if included in enactment of Competition in Contracting Act of 1984, Pub. L. 98–369, div. B, title VII, making amendment applicable with respect to any solicitation for bids or proposals issued after Mar. 31, 1985, see section 961(e) of Pub. L. 99–145, set out as a note under section 2304 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