Subsec. (e). Pub. L. 99–661, § 1103(b)(1)(C), struck out ''NATO'' after ''will significantly further'' in par. (1) and after ''United States) in a'' in par. (2).

Subsec. (g)(2). Pub. L. 99–661, § 1343(a)(15), substituted ''section 2631 of this title and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))'' for ''the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b))''.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(b)(10) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2302 of this title.

§ 2350c. Cooperative military airlift agreements: allied countries

(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated 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.

(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

(d) In this section:

(1) The term ''allied country'' means any of the following:

(A) A country that is a member of the North Atlantic Treaty Organization.

(B) Australia, New Zealand, Japan, and the Republic of Korea.

(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term ''North Atlantic Treaty Organization subsidiary bodies'' has the meaning given to it by section 2350 of this title.

(Added Pub. L. 97–252, title XI, § 1125(a), Sept. 8, 1982, 96 Stat. 757, § 2213; amended Pub. L. 99–145, title XIII, § 1304(b), Nov. 8, 1985, 99 Stat. 742; Pub. L. 100–26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; renumbered § 2350c and amended Pub. L. 101–189, div. A, title IX, § 931(b)(2), (e)(4), Nov. 29, 1989, 103 Stat. 1534, 1535; Pub. L. 102–484, div. A, title XIII, § 1311, Oct. 23, 1992, 106 Stat. 2547; Pub. L. 106–398, § 1 [[div. A], title XII, § 1222], Oct. 30, 2000, 114 Stat. 1654, 1654A–328.)

REFERENCES IN TEXT

The Arms Export Control Act (22 U.S.C. 2751 et seq.), referred to in subsec. (a)(4), 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.

AMENDMENTS

2000—Subsecs. (d), (e). Pub. L. 106–398 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: ''Notwithstanding subchapter I, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.''

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''.

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, provided that:

''(a) PARTICIPATION AUTHORIZED.—

''(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of the United States in the Air Transport, Air-to-Air Refueling and other Exchanges of Services program (in this section referred to as the 'ATARES program') of the Movement Coordination Centre Europe.

''(2) SCOPE OF PARTICIPATION.—Participation in the ATARES program under paragraph (1) shall be limited to the reciprocal exchange or transfer of air transportation and air refueling services on a reimbursable basis or by replacement-in-kind or the exchange of air transportation or air refueling services of an equal value.

''(3) LIMITATIONS.—The United States' balance of executed flight hours, whether as credits or debits, in participation in the ATARES program under paragraph (1) may not exceed 500 hours. The United States' balance of executed flight hours for air refueling in the ATARES program under paragraph (1) may not exceed 200 hours.

''(b) WRITTEN ARRANGEMENT OR AGREEMENT.—

''(1) ARRANGEMENT OR AGREEMENT REQUIRED.—The participation of the United States in the ATARES program under subsection (a) shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the Movement Coordination Centre Europe.

''(2) FUNDING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support the ATARES program, the written arrangement or agreement under paragraph (1) shall specify the details of any equitable cost sharing or other funding arrangement.

''(3) OTHER ELEMENTS.—Any written arrangement or agreement entered into under paragraph (1) shall require that any accrued credits and liabilities resulting from an unequal exchange or transfer of air transportation or air refueling services shall be liquidated, not less than once every five years, through the ATARES program.

''(c) IMPLEMENTATION.—In carrying out any written arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

''(1) pay the United States' equitable share of the operating expenses of the Movement Coordination Centre Europe and the ATARES consortium from funds available to the Department of Defense for operation and maintenance; and

''(2) assign members of the Armed Forces or Department of Defense civilian personnel, from among members and personnel within billets authorized for the United States European Command, to duty at the Movement Coordination Centre Europe as necessary to fulfill the United States' obligations under that arrangement or agreement.

''(d) CREDITING OF RECEIPTS.—Any amount received by the United States in carrying out a written arrangement or agreement entered into under subsection (b) 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 available for the purposes for which such obligation was made.

''(e) ANNUAL SECRETARY OF DEFENSE REPORTS.—Not later than 30 days after the end of each fiscal year in which the authority provided by this section is in effect, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on United States participation in the ATARES program during such fiscal year. Each report shall include the following:

''(1) The United States balance of executed flight hours at the end of the fiscal year covered by such report.

''(2) The types of services exchanged or transferred during the fiscal year covered by such report.

''(3) A description of any United States costs under the written arrangement or agreement under subsection (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 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 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 Organization 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).