

(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, as amended by Pub. L. 115-91, div. A, title X, §1051(t)(4), Dec. 12, 2017, 131 Stat. 1566, 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) 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.

“(e) 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 ap-

plicable 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 governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

(B) transfers by the United States to such country under this subchapter of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country or other foreign country are not waived by operation of the reciprocal pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies and the United Nations Organization or any regional international organization under this subchapter.

(c) In acquiring or transferring logistics support, supplies, or services under the authority of this subchapter by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(3) Transfers of chemical munitions.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1017, §2324; amended Pub. L. 97-22, §11(a)(8), July 10, 1981, 95 Stat. 138; renumbered §2344, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title XI, §1104(b), Nov. 14, 1986, 100 Stat. 3964; Pub. L. 101-189, div. A, title IX, §§931(e)(1), 938(a), (b), Nov. 29, 1989, 103 Stat. 1535, 1539; Pub. L. 102-25, title VII, §701(f)(2), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103-337, div. A, title XIII, §1317(d), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 109-163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456.)