Pub. L. 102–25, title VII, §704(a)(9), Apr. 6, 1991, 105 Stat. 119, made clarifying amendment to directory language of Pub. L. 101–510, div. A, title XIV, §1451(b)(2), Nov. 5, 1990, 104 Stat. 1693. See 1990 Amendment note below.

1990—Pub. L. 101–510, div. A, title XIV, §1452(a)(2), Nov. 5, 1990, 104 Stat. 1694, added item 2350h.

Pub. L. 101–510, div. A, title XIV, §1451(b)(2), Nov. 5, 1990, 104 Stat. 1693, as amended by Pub. L. 102–25, title VII, §704(a)(9), Apr. 6, 1991, 105 Stat. 119, added item 2350g.

§ 2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries

(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—(1) The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more countries or organizations referred to in paragraph (2) for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

(2) The countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1) are as follows:

(A) The North Atlantic Treaty Organization.

(B) A NATO organization.

(C) A member nation of the North Atlantic Treaty Organization.

(D) A major non-NATO ally.

(E) Any other friendly foreign country.

(3) If such a memorandum of understanding (or other formal agreement) is with a country referred to in subparagraph (E) of paragraph (2), such memorandum (or agreement) may go into effect only after the Secretary submits to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report with respect to the proposed memorandum (or agreement) and a period of 30 days has passed after the report has been submitted.

(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) The Secretary of Defense may not enter into a memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section unless the Secretary determines that the proposed project will improve, through the application of emerging technology, the conventional defense capabilities of the North Atlantic Treaty Organization or the common conventional defense capabilities of the United States and a country or organization referred to in subsection (a)(2).

(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Assistant Secretary of Defense for Research and Engineering.

(c) COST SHARING.—Each cooperative research and development project entered into under this section shall require sharing of the costs of the project (including the costs of claims) between the participants on an equitable basis.

(d) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of countries and organizations referred to in subsection (a)(2) in cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A country or organization referred to in subsection (a)(2) may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making the contribution of that country or organization to a cooperative research and development program entered into with the United States under this section.

(e) COOPERATIVE OPPORTUNITIES.—(1) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, opportunities for such cooperative research and development shall be addressed in the acquisition strategy for the project.

(2) A cooperative opportunities discussion referred to in paragraph (1) shall consider the following:

(A) Whether or not a project similar to the one under consideration by the Department of Defense is in development or production by any country or organization referred to in subsection (a)(2) or NATO organizations.

(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more countries and organizations referred to in subsection (a)(2), an assessment as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project.

(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more countries and organizations referred to in subsection (a)(2) or NATO organizations.

(D) A recommendation to the milestone decision authority as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more countries and organizations referred to in subsection (a)(2) or NATO organizations.

[(f) Repealed. Pub. L. 108–136, div. A, title X, §1031(a)(17), Nov. 24, 2003, 117 Stat. 1597.]

(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

(A) that the Secretary of Defense should test conventional defense equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2) to determine the ability of such equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

(B) that while the testing of nondevelopmental items and items in the late state of the

development process are preferred, the testing of equipment, munitions, and technologies may be conducted to determine procurement alternatives.

(2) The Secretary of Defense may acquire equipment, munitions, and technologies of the type described in paragraph (1) for the purpose of conducting the testing described in that paragraph.

(3) The use of side-by-side testing under this subsection may be considered to be the use of competitive procedures for purposes of chapter 137 of this title, when procuring items within 5 years after an initial determination that the items have been successfully tested and found to satisfy United States military requirements or to correct operational deficiencies.

(h) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries to establish programs similar to the one provided for in this section.

(i) DEFINITIONS.—In this section:

(1) The term ''cooperative research and development project'' means a project involving joint participation by the United States and one or more countries and organizations referred to in subsection (a)(2) under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional defense equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

(2) The term ''major non-NATO ally'' means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(3) The term ''NATO organization'' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.

(Added Pub. L. 101–189, div. A, title IX, §931(a)(2), Nov. 29, 1989, 103 Stat. 1531; amended Pub. L. 101–510, div. A, title XIII, §1331(4), Nov. 5, 1990, 104 Stat. 1673; Pub. L. 102–190, div. A, title X, §1053, Dec. 5, 1991, 105 Stat. 1471; Pub. L. 102–484, div. A, title VIII, §843(b)(1), Oct. 23, 1992, 106 Stat. 2469; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. A, title XIII, §1301, Oct. 5, 1994, 108 Stat. 2888; Pub. L. 104–106, div. A, title XV, §1502(a)(17), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106–65, div. A, title IX, §911(a)(1), title X, §1067(1), Oct. 5, 1999, 113 Stat. 717, 774; Pub. L. 107–107, div. A, title X, §1048(b)(2), title XII, §1212(a)–(e)(1), Dec. 28, 2001, 115 Stat. 1225, 1248–1250; Pub. L. 107–314, div. A, title X, §§1041(a)(9), 1062(f)(2), Dec. 2, 2002, 116 Stat. 2645, 2651; Pub. L. 108–136, div. A, title X, §1031(a)(17), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 110–181, div. A, title II, §237, title XII, §1251, Jan. 28, 2008, 122 Stat. 48, 401; Pub. L. 111–383, div. A, title IX, §901(j)(4), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 112–81, div. A, title VIII, §865, title X, §1061(14), Dec. 31, 2011, 125 Stat. 1526, 1583; Pub. L. 114–92, div. A, title VIII, §821(b)(1), Nov. 25, 2015, 129 Stat. 900; Pub. L. 114–328, div. A, title VIII, §827, Dec. 23, 2016, 130 Stat. 2280.)

PRIOR PROVISIONS

Provisions relating to NATO countries were contained in Pub. L. 99–145, title XI, §1103, Nov. 8, 1985, 99 Stat. 712, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101–189, §931(d)(1).

Provisions relating to major non-NATO allies were contained in section 2767a of Title 22, Foreign Relations and Intercourse, prior to repeal by Pub. L. 101–189, §931(d)(2).

AMENDMENTS

2016—Subsec. (g)(3). Pub. L. 114–328 added par. (3).

2015—Subsec. (e). Pub. L. 114–92, §821(b)(1)(A), struck out ''Document'' after ''Cooperative Opportunities'' in heading.

Subsec. (e)(1). Pub. L. 114–92, §821(b)(1)(B), substituted ''opportunities for such cooperative research and development shall be addressed in the acquisition strategy for the project'' for ''the Under Secretary of Defense for Acquisition, Technology, and Logistics shall prepare a cooperative opportunities document before the first milestone or decision point with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board''.

Subsec. (e)(2). Pub. L. 114–92, §821(b)(1)(C)(i), substituted ''discussion'' for ''document'' and ''consider'' for ''include'' in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 114–92, §821(b)(1)(C)(ii), substituted ''Whether'' for ''A statement indicating whether''.

Subsec. (e)(2)(B). Pub. L. 114–92, §821(b)(1)(C)(iii), struck out ''by the Under Secretary of Defense for Acquisition, Technology, and Logistics'' after ''an assessment'' and ''of the United States under consideration by the Department of Defense'' after ''of the project''.

Subsec. (e)(2)(D). Pub. L. 114–92, §821(b)(1)(C)(iv), substituted ''A recommendation to the milestone decision authority'' for ''The recommendation of the Under Secretary''.

2011—Subsec. (b)(2). Pub. L. 112–81, §865, substituted '', the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Assistant Secretary of Defense for Research and Engineering'' for ''and to one other official of the Department of Defense''.

Subsec. (g)(3). Pub. L. 112–81, §1061(14), struck out par. (3) which read as follows: ''The Assistant Secretary of Defense for Research and Engineering shall notify the congressional defense committees of the intent to obligate funds made available to carry out this subsection not less than 7 days before such funds are obligated.''

Pub. L. 111–383 substituted ''Assistant Secretary of Defense for Research and Engineering'' for ''Director of Defense Research and Engineering''.

2008—Subsec. (e)(1). Pub. L. 110–181, §1251(1), struck out subpar. (A) designation before ''In order to ensure'', substituted ''a cooperative opportunities document before the first milestone or decision point'' for ''an arms cooperation opportunities document'', and struck out subpar. (B) which read as follows: ''The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a document known as a Mission Need Statement is prepared.''

Subsec. (e)(2). Pub. L. 110–181, §1251(2), substituted ''A cooperative opportunities document'' for ''An arms cooperation opportunities document'' in introductory provisions.

Subsec. (g)(3). Pub. L. 110–181, §237, amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''The Deputy Director, Defense Research and Engineering (Test and Evaluation) shall notify the Speaker of the House of Representatives and the Committees on Armed Services and on Appropriations of the Senate of the Deputy Director's intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.''

2003—Subsec. (f). Pub. L. 108–136 struck out subsec. (f) which required that, not later than Mar. 1 of each year, the Under Secretary of Defense for Acquisition, Technology, and Logistics was to submit to the Speaker of the House and the Committees on Armed Services and Appropriations of the Senate a report on cooperative research and development projects under this section, and that, not later than Jan. 1 of each year, the Secretary of Defense was to submit to the Committees on Armed Services and Foreign Relations of the Senate and Committees on Armed Services and International Relations of the House a report specifying the countries eligible to participate in a cooperative project agreement under this section and the criteria used to determine the eligibility of such countries.

2002—Subsec. (g)(1)(A). Pub. L. 107–314, §1062(f)(2), amended directory language of Pub. L. 107–107, §1212(a)(5). See 2001 Amendment note below.

Subsec. (g)(4). Pub. L. 107–314, §1041(a)(9), struck out par. (4) which read as follows: ''The Secretary of Defense shall submit to Congress each year, not later than March 1, a report containing information on—

''(A) the equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2) that were evaluated under this subsection during the previous fiscal year;

''(B) the obligation of any funds under this subsection during the previous fiscal year; and

''(C) the equipment, munitions, and technologies that were tested under this subsection and procured during the previous fiscal year.''

Subsec. (g)(4)(A). Pub. L. 107–314, §1062(f)(2), amended directory language of Pub. L. 107–107, §1212(a)(5). See 2001 Amendment note below.

2001—Pub. L. 107–107, §1212(e)(1), substituted ''Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries'' for ''Cooperative research and development projects: allied countries'' in section catchline.

Subsec. (a)(1). Pub. L. 107–107, §1212(a)(1)(A), (B), designated existing provisions of subsec. (a) as par. (1) and substituted ''countries or organizations referred to in paragraph (2)'' for ''major allies of the United States or NATO organizations''.

Subsec. (a)(2). Pub. L. 107–107, §1212(a)(1)(C), added par. (2).

Subsec. (a)(3). Pub. L. 107–107, §1212(b), added par. (3).

Subsec. (b)(1). Pub. L. 107–107, §1212(a)(2), struck out ''(NATO)'' after ''North Atlantic Treaty Organization'' and substituted ''a country or organization referred to in subsection (a)(2)'' for ''its major non-NATO allies''.

Subsec. (b)(2). Pub. L. 107–107, §1212(c), substituted ''Deputy Secretary of Defense and to one other official of the Department of Defense'' for ''Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition, Technology, and Logistics''.

Subsec. (d)(1). Pub. L. 107–107, §1212(a)(3)(A), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''the major allies of the United States''.

Subsec. (d)(2). Pub. L. 107–107, §1212(a)(3)(B), substituted ''country or organization referred to in subsection (a)(2)'' for ''major ally of the United States'' and ''the contribution of that country or organization'' for ''that ally's contribution''.

Subsec. (e)(1)(A). Pub. L. 107–107, §1048(b)(2), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (e)(2)(A). Pub. L. 107–107, §1212(a)(4)(A), substituted ''any country or organization referred to in subsection (a)(2)'' for ''one or more of the major allies of the United States''.

Subsec. (e)(2)(B). Pub. L. 107–107, §§1048(b)(2), 1212(a)(4)(B), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States or NATO organizations'' and ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (e)(2)(C). Pub. L. 107–107, §1212(a)(4)(C), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States''.

Subsec. (e)(2)(D). Pub. L. 107–107, §1212(a)(4)(D), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States''.

Subsec. (f)(1). Pub. L. 107–107, §1048(b)(2), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (f)(2). Pub. L. 107–107, §1212(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit 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 a report—

''(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

''(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.''

Subsec. (g)(1)(A), (4)(A). Pub. L. 107–107, §1212(a)(5), as amended by Pub. L. 107–314, §1062(f)(2), substituted ''countries referred to in subsection (a)(2)'' for ''major allies of the United States and other friendly foreign countries''.

Subsec. (h). Pub. L. 107–107, §1212(a)(6), substituted ''member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries'' for ''major allies of the United States''.

Subsec. (i)(1). Pub. L. 107–107, §1212(a)(7)(A), substituted ''countries and organizations referred to in subsection (a)(2)'' for ''major allies of the United States or NATO organizations''.

Subsec. (i)(2) to (4). Pub. L. 107–107, §1212(a)(7)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: ''The term 'major ally of the United States' means—

''(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or

''(B) a major non-NATO ally.''

1999—Subsec. (b)(2). Pub. L. 106–65, §911(a)(1), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (f)(2). Pub. L. 106–65, §1067(1), substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (f)(2). Pub. L. 104–106 substituted ''submit 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'' for ''submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives''.

1994—Subsecs. (a), (e)(2)(A) to (D), (i)(1). Pub. L. 103–337, §1301(a), inserted ''or NATO organizations'' after ''major allies of the United States''.

Subsec. (i)(4). Pub. L. 103–337, §1301(b), added par. (4).

1993—Subsecs. (b)(2), (e)(1)(A), (2)(B), (f)(1). Pub. L. 103–160 substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

1992—Subsec. (c). Pub. L. 102–484 inserted ''(including the costs of claims)'' after ''the project''.

1991—Subsec. (g)(1)(A), (4)(A). Pub. L. 102–190 inserted ''and other friendly foreign countries'' after ''major allies of the United States''.

1990—Subsec. (g)(4). Pub. L. 101–510 amended introductory provisions generally, substituting ''submit to Congress each year, not later than March 1, a report containing'' for ''include in the annual report to Congress required by section 2457(d) of this title''.

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 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, §1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(2) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

TERMINATION DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title VIII, §843(c), Oct. 23, 1992, 106 Stat. 2469, as amended by Pub. L. 103–35, title II, §202(a)(7), May 31, 1993, 107 Stat. 101, provided that, effective Oct. 23, 1994, subsections (a) and (b) of section 843 of Pub. L. 102–484 (amending sections 2350a and 2350d of this title and section 2767 of Title 22, Foreign Relations and Intercourse) were to cease to be in effect, and section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)) and sections 2350a(c) and 2350d(c) of this title were to read as if such subsections had not been enacted, prior to repeal by Pub. L. 103–337, div. A, title XIII, §1318, Oct. 5, 1994, 108 Stat. 2902.

ADMINISTRATION OF THE AMERICAN, BRITISH, CANADIAN, AND AUSTRALIAN ARMIES' PROGRAM

Pub. L. 112–239, div. A, title XII, §1274, Jan. 2, 2013, 126 Stat. 2026, as amended by Pub. L. 115–91, div. A, title XII, §1274, Dec. 12, 2017, 131 Stat. 1697, provided that:

''(a) AUTHORITY.—As part of the participation by the United States in the land-force program known as the American, British, Canadian, and Australian Armies' Program (in this section referred to as the 'Program'), the Secretary of Defense may, with the concurrence of the Secretary of State, enter into agreements with the other participating countries in accordance with this section, and the Program shall be managed pursuant to a joint agreement among the participating countries.

''(b) PARTICIPATING COUNTRIES.—In addition to the United States, the countries participating in the Program are the following:

''(1) Australia.

''(2) Canada.

''(3) New Zealand.

''(4) The United Kingdom.

''(c) CONTRIBUTIONS BY PARTICIPANTS.—

''(1) IN GENERAL.—An agreement under subsection (a) shall provide that each participating country shall contribute to the Program—

''(A) its equitable share of the full cost for the Program, including the full cost of overhead and administrative costs related to the Program; and

''(B) any amount allocated to it in accordance with the agreement for the cost for monetary claims asserted against any participating country as a result of participation in the Program.

''(2) ADDITIONAL AUTHORIZED CONTRIBUTION.—Such an agreement shall also provide that each participating country (including the United States) may provide its contribution for its equitable share under the agreement in funds, in personal property, or in services required for the Program (or in any combination thereof).

''(3) FUNDING FOR UNITED STATES CONTRIBUTION.—Any contribution by the United States to the Program that is provided in funds shall be made from funds available to the Department of Defense for operation and maintenance.

''(4) TREATMENT OF CONTRIBUTIONS RECEIVED FROM OTHER COUNTRIES.—Any contribution received by the United States from another participating country to meet that country's share of the costs of the Program shall be credited to appropriations available to the Department of Defense, as determined by the Secretary of Defense. The amount of a contribution credited to an appropriation account in connection with the Program shall be available only for payment of the share of the Program expenses allocated to the participating country making the contribution. Amounts so credited shall be available for the following purposes:

''(A) Payments to contractors and other suppliers (including the Department of Defense and participating countries acting as suppliers) for necessary goods and services of the Program.

''(B) Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation in support of the Program.

''(C) Payments for any monetary claim against a participating country as a result of the participation of that country in the Program.

''(D) Payments or reimbursements of other Program expenses, including overhead and administrative costs for any administrative office for the Program.

''(E) Refunds to other participating countries.

''(5) COSTS OF OPERATION OF OFFICES ESTABLISHED FOR PROGRAM.—Costs for the operation of any office established to carry out the Program shall be borne jointly by the participating countries as provided for in an agreement referred to in subsection (a).

''(d) AUTHORITY TO CONTRACT FOR PROGRAM ACTIVITIES.—As part of the participation by the United States in the Program, the Secretary of Defense may enter into contracts or incur other obligations on behalf of the other participating countries for activities under the Program. Any payment for such a contract or other obligation under this subsection may be paid only from contributions credited to an appropriation under subsection (c)(4).

''(e) DISPOSAL OF PROPERTY.—As part of the participation by the United States in the Program, the Secretary of Defense may, with respect to any property that is jointly acquired by the countries participating in the Program, agree to the disposal of the property without regard to any law of the United States that is otherwise applicable to the disposal of property owned by the United States. Such disposal may include the transfer of the interest of the United States in the property to one or more of the other participating countries or the sale of the property. Reimbursement for the value of the property disposed of (including the value of the interest of the United States in the property) shall be made in accordance with an agreement under subsection (a).

''(f) REPORTS.—Not later than 60 days before the expiration date of any agreement under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities, costs, and accomplishments of the Program during the five-year period ending on the date of such report.

''(g) SUNSET.—Any agreement entered into by the United States with another country under subsection (a), and United States participation in the joint agreement described in that subsection, shall expire not later than ten years after the date of the enactment of this Act [Jan. 2, 2013].''

§ 2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment

(a)(1) If the President delegates to the Secretary of Defense the authority to carry out section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)), relating to cooperative projects (as defined in such section), the Secretary may utilize his authority under this title in carrying out contracts or obligations incurred under such section.

(2) Except as provided in subsection (c), chapter 137 of this title shall apply to such contracts (referred to in paragraph (1)) entered into by the Secretary of Defense. Except to the extent waived under subsection (c) or some other provision of law, all other provisions of law relating to procurement, if otherwise applicable, shall apply to such contracts entered into by the Secretary of Defense.

(b) When contracting or incurring obligations under section 27(d) of the Arms Export Control Act for cooperative projects, the Secretary of Defense may require subcontracts to be awarded to particular subcontractors in furtherance of the cooperative project.

(c)(1) Subject to paragraph (2), when entering into contracts or incurring obligations under section 27(d) of the Arms Export Control Act outside the United States, the Secretary of Defense may waive with respect to any such contract or subcontract the application of any provision of law, other than a provision of the Arms Export Control Act or section 2304 of this title, that specifically prescribes—

(A) procedures to be followed in the formation of contracts;

(B) terms and conditions to be included in contracts;

(C) requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or

(D) requirements regulating the performance of contracts.

(2) A waiver may not be made under paragraph (1) unless the Secretary determines that the waiver is necessary to ensure that the cooperative project will significantly further standardization, rationalization, and interoperability.

(3) The authority of the Secretary to make waivers under this subsection may be delegated only to the Deputy Secretary of Defense or the Acquisition Executive designated for the Office of the Secretary of Defense.

(d)(1) The Secretary of Defense shall notify the Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract be awarded to a particular subcontractor to comply with a cooperative agreement. The Secretary shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

(2) The Secretary shall also notify the Congress each time he exercises a waiver under subsection (c) and shall include in such notice the particular provision or provisions of law that were waived.

(3) A report under this subsection shall be required only to the extent that the information required by this subsection has not been provided in a report made by the President under section 27(e) of the Arms Export Control Act (22 U.S.C. 2767(e)).

(e)(1) In carrying out a cooperative project under section 27 of the Arms Export Control Act, the Secretary of Defense may agree that a participant (other than the United States) or a NATO organization may make a contract for requirements of the United States under the project if the Secretary determines that such a contract will significantly further standardization, rationalization, and interoperability. Except to the extent waived under this section or under any other provision of law, the Secretary shall ensure that such contract will be made on a competitive basis and that United States sources will not be precluded from competing under the contract.

(2) If a participant (other than the United States) in such a cooperative project or a NATO organization makes a contract on behalf of such project to meet the requirements of the United States, the contract may permit the contracting party to follow its own procedures relating to contracting.

(f) In carrying out a cooperative project, the Secretary of Defense may also agree to the disposal of property that is jointly acquired by the members of the project without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement.

(g) Nothing in this section shall be construed as authorizing the Secretary of Defense—

(1) to waive any of the financial management responsibilities administered by the Secretary of the Treasury; or

(2) to waive the cargo preference laws of the United States, including section 2631 of this title and section 55305 of title 46.

(Added Pub. L. 99–145, title XI, § 1102(b)(1), Nov. 8, 1985, 99 Stat. 710, § 2407; amended Pub. L. 99–661, div. A, title XI, § 1103(b)(1), (2)(A), title XIII, § 1343(a)(15), Nov. 14, 1986, 100 Stat. 3963, 3993; renumbered § 2350b and amended Pub. L. 101–189, div. A, title IX, § 931(b)(1), (e)(3), Nov. 29, 1989, 103 Stat. 1534, 1535; Pub. L. 104–106, div. A, title XIII, § 1335, div. D, title XLIII, § 4321(b)(10), Feb. 10, 1996, 110 Stat. 484, 672; Pub. L. 108–375, div. A, title X, § 1084(d)(19), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–304, § 17(a)(3), Oct. 6, 2006, 120 Stat. 1706.)

References in Text

The Arms Export Control Act, referred to in subsec. (c)(1), 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.