

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.)

#### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(2)(B), 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.

The Atomic Energy Act of 1954, referred to in subsec. (c)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

#### AMENDMENTS

2006—Subsec. (b)(4). Pub. L. 109-163 struck out “of which the United States is a member” before “under this subchapter”.

1994—Subsec. (b)(4). Pub. L. 103-337 inserted “and the United Nations Organization or any regional international organization of which the United States is a member” after “subsidiary bodies”.

1991—Subsec. (c). Pub. L. 102-25 substituted “subchapter” for “chapter” in introductory provisions.

1989—Subsec. (a). Pub. L. 101-189, §§931(e)(1), 938(a), substituted “equal value” for “identical or substan-

tially identical nature” and “this subchapter” for “this chapter”.

Subsec. (b)(2)(B), (4). Pub. L. 101-189, §931(e)(1), substituted “this subchapter” for “this chapter”.

Subsec. (c). Pub. L. 101-189, §938(b), added subsec. (c). 1986—Subsec. (b)(1), (3). Pub. L. 99-661 inserted “or other foreign country” after “country”.

1985—Pub. L. 99-145 renumbered section 2324 of this title as this section.

1981—Subsec. (b)(2)(B). Pub. L. 97-22 substituted “this chapter” for “this Act”.

#### 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.

#### § 2345. Liquidation of accrued credits and liabilities

(a) Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this subchapter shall be liquidated not less often than once every 12 months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

(b) Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this subchapter shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.

(c)(1) Any credits of the United States accrued as a result of the provision of logistic support, supplies, and services under the authority of this subchapter that remain unliquidated more than 18 months after the date of delivery of the logistic support, supplies, or services may, at the option of the Secretary of Defense, with the concurrence of the Secretary of State, be liquidated by offsetting the credits against any amount owed by the Department of Defense, pursuant to a transaction or transactions concluded under the authority of this subchapter, to the government or international organization to which the logistic support, supplies, or services were provided by the United States.

(2) The amount of any credits offset pursuant to paragraph (1) shall be credited as specified in section 2346 of this title as if it were a receipt of the United States.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2325; renumbered §2345, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99-661, div. A, title XI, §1104(c), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103-337, div. A, title XIII, §1317(e), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 114-328, div. A, title X, §1083(a), Dec. 23, 2016, 130 Stat. 2420.)

#### AMENDMENTS

2016—Subsec. (c). Pub. L. 114-328 added subsec. (c).

1994—Subsec. (a). Pub. L. 103-337 substituted “12 months” for “three months”.

1989—Subsecs. (a), (b). Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1986—Pub. L. 99-661 designated existing provisions as subsec. (a) and added subsec. (b).

1985—Pub. L. 99-145 renumbered section 2325 of this title as this section.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title X, §1083(b), Dec. 23, 2016, 130 Stat. 2420, provided that: “Subsection (c) of section 2345 of title 10, United States Code, as added by subsection (a), shall apply with respect to credits accrued by the United States that—

“(1) were accrued prior to, and remain unpaid as of, the date of the enactment of this Act [Dec. 23, 2016]; or

“(2) are accrued after the date of the enactment of this Act.”

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.

**§ 2346. Crediting of receipts**

Any receipt of the United States as a result of an agreement entered into under this subchapter shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2326; renumbered §2346, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103-337, div. A, title XIII, §1317(f), Oct. 5, 1994, 108 Stat. 2900.)

AMENDMENTS

1994—Pub. L. 103-337 substituted “shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made” for “shall be credited to applicable appropriations, accounts, and funds of the Department of Defense”.

1989—Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1985—Pub. L. 99-145 renumbered section 2326 of this title as this section.

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.

**§ 2347. Limitation on amounts that may be obligated or accrued by the United States**

(a)(1) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization, or from the United Nations Organization or any regional international organization of which the United

States is a member may not exceed \$200,000,000 in any fiscal year, and of such amount not more than \$50,000,000 in liabilities may be accrued for the acquisition of supplies.

(2) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements, may not exceed \$60,000,000 in any fiscal year, and of such amount not more than \$20,000,000 in liabilities may be accrued for the acquisition of supplies. The \$60,000,000 limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(b)(1) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable credits that the United States may accrue under this subchapter (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization, or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed \$150,000,000 in any fiscal year.

(2) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable credits that the United States may accrue under this subchapter (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements may not exceed \$75,000,000 in any fiscal year. Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(c) When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.

(d) The amount of any sale, purchase, or exchange of petroleum, oils, or lubricants by the United States under this subchapter in any fiscal year shall be excluded in any computation for the purposes of subsection (a) or (b) of the amount of reimbursable liabilities or reimbursable credits that the United States accrues under this subchapter in that fiscal year.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2327; renumbered §2347, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99-661, div. A, title XI, §1104(d), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 100-456, div. A, title X, §1001, Sept. 29, 1988, 102 Stat. 2037; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 102-484, div. A, title XIII, §1312(b), Oct. 23, 1992, 106 Stat. 2547; Pub. L. 103-35, title II, §202(a)(10), May 31, 1993, 107 Stat. 101; Pub. L. 103-337, div. A, title XIII, §1317(g), Oct. 5, 1994, 108 Stat. 2901; Pub. L.