

(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 or Procurement 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 and Procurement Organization and its executive agencies for the purposes of a Support or Procurement 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; Pub. L. 115-232, div. A, title XII, § 1279(a), Aug. 13, 2018, 132 Stat. 2072.)

#### 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).

#### AMENDMENTS

2018—Subsec. (a). Pub. L. 115-232, § 1279(a)(1), substituted “NATO Support and Procurement Organization” for “NATO Support Organization” wherever appearing.

Subsec. (a)(1). Pub. L. 115-232, § 1279(a)(3), substituted “Support or Procurement Partnership Agreements” for “Support Partnership Agreements” in introductory provisions.

Subsec. (b). Pub. L. 115-232, § 1279(a)(1), (2), substituted “Support or Procurement Partnership Agreement” for “Support Partnership Agreement” in introductory provisions and “NATO Support and Procurement Organization” for “NATO Support Organization” wherever appearing.

Subsecs. (c), (d). Pub. L. 115-232, § 1279(a)(2), substituted “Support or Procurement Partnership Agreement” for “Support Partnership Agreement”.

Subsec. (e). Pub. L. 115-232, § 1279(a)(1), (2), substituted “NATO Support and Procurement Organization” for “NATO Support Organization” and “Support or Procurement Partnership Agreement” for “Support Partnership Agreement”.

2013—Subsec. (a)(1). Pub. L. 113-66, § 1250(a)(1), (2)(A), in introductory provisions, substituted “Support Partnership Agreements” for “Weapon System Partnership Agreements” and “NATO Support Organization and its executive agencies” for “NATO Maintenance and Supply Organization”.

Subsec. (a)(1)(A). Pub. L. 113-66, § 1250(a)(1), substituted “NATO Support Organization and its executive agencies” for “NATO Maintenance and Supply Organization”.

Subsec. (a)(1)(B). Pub. L. 113-66, § 1250(a)(2)(B), substituted “activities” for “a specific weapon system”.

Subsec. (a)(2)(A). Pub. L. 113-66, § 1250(a)(1), substituted “NATO Support Organization and its executive agencies” for “NATO Maintenance and Supply Organization”.

Subsec. (b). Pub. L. 113-66, § 1250(a)(3), substituted “Support Partnership Agreement” for “Weapon System Partnership Agreement” in introductory provisions.

Pub. L. 113-66, § 1250(a)(1), substituted “NATO Support Organization and its executive agencies” for “NATO Maintenance and Supply Organization” wherever appearing.

Subsecs. (c), (d). Pub. L. 113-66, § 1250(a)(3), substituted “Support Partnership Agreement” for “Weapon System Partnership Agreement”.

Subsec. (e). Pub. L. 113-66, § 1250(a)(1), (3), substituted “NATO Support Organization and its executive agencies” for “NATO Maintenance and Supply Organization” and “Support Partnership Agreement” for “Weapon System Partnership Agreement”.

1992—Subsec. (c). Pub. L. 102-484 inserted “and costs of claims” after “administrative costs”.

1989—Subsec. (e). Pub. L. 101-189, § 938(c), inserted “this chapter and” after “in accordance with”.

#### § 2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense

(a) AUTHORITY UNDER AWACS PROGRAM.—The Secretary of Defense, in carrying out an AWACS memorandum of understanding, may do the following:

(1) Waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

- (A) Auditing.
- (B) Quality assurance.
- (C) Codification.
- (D) Inspection.
- (E) Contract administration.
- (F) Acceptance testing.
- (G) Certification services.
- (H) Planning, programming, and management services.

(2) Waive any surcharge for administrative services otherwise chargeable.

(3) In connection with that Program, assume contingent liability for—

- (A) program losses resulting from the gross negligence of any contracting officer of the United States;
- (B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and
- (C) the United States share of the unfunded termination liability.

(b) CONTRACT AUTHORITY LIMITATION.—Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(c) DEFINITION.—In this section, the term “AWACS memorandum of understanding” means—

(1) the Multilateral Memorandum of Understanding Between the North Atlantic Treaty

Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978;

(2) the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984;

(3) the Addendum to the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme (dated December 6, 1978) relating to the modernization of the NATO Airborne Early Warning and Control (NAEW&C) System, dated December 7, 1990; and

(4) any other follow-on support agreement for the NATO E-3A Cooperative Programme.

(Added Pub. L. 101-189, div. A, title IX, §932(a)(1), Nov. 29, 1989, 103 Stat. 1536; amended Pub. L. 102-190, div. A, title X, §1051, Dec. 5, 1991, 105 Stat. 1470; Pub. L. 103-160, div. A, title XIV, §1413, Nov. 30, 1993, 107 Stat. 1829.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97-86, title I, §103, Dec. 1, 1981, 95 Stat. 1100, as amended, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101-189, §932(b).

#### AMENDMENTS

1993—Subsec. (d). Pub. L. 103-160 struck out subsec. (d) which read as follows: “EXPIRATION.—The authority provided by this section expires on September 30, 1993.”

1991—Subsec. (c)(3), (4). Pub. L. 102-190, §1051(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 102-190, §1051(2), substituted “1993” for “1991”.

#### § 2350f. Procurement of communications support and related supplies and services

(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations, under which, in return for being provided communications support and related supplies and services, the United States would agree to provide to the allied country or countries or allied international organization or allied international organizations, as the case may be, an equivalent value of communications support and related supplies and services. The term of an arrangement entered into under this subsection may not exceed five years.

(b)(1) Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater amount of communications support and related supplies and services. Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liq-

uidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into.

(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.

(3) Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

[(c) Repealed. Pub. L. 107-314, div. A, title X, §1041(a)(10), Dec. 2, 2002, 116 Stat. 2645.]

(d) In this section:

(1) The term “allied country” means—

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

(B) Australia, New Zealand, Japan, or the Republic of Korea; or

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

(2) The term “allied international organization” means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(Added Pub. L. 98-525, title X, §1005(a), Oct. 19, 1984, 98 Stat. 2578, §2401a; amended Pub. L. 100-26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; renumbered §2350f and amended Pub. L. 101-189, div. A, title IX, §933(a)-(d), Nov. 29, 1989, 103 Stat. 1537; Pub. L. 101-510, div. A, title XIV, §1484(k)(8), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 104-106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107-314, div. A, title X, §1041(a)(10), Dec. 2, 2002, 116 Stat. 2645.)

#### AMENDMENTS

2002—Subsec. (c). Pub. L. 107-314 struck out subsec. (c) which read as follows: “The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of all documents evidencing an arrangement entered into under subsection (a) not later than 45 days after entering into such an arrangement.”

1999—Subsec. (c). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (c). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and the House of Representatives”.

1990—Subsec. (d)(1)(A). Pub. L. 101-510 substituted a semicolon for “, or” at end.

1989—Pub. L. 101-189, §933(a), renumbered section 2401a of this title as this section.

Subsec. (a). Pub. L. 101-189, §933(b), substituted “a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied