

1994—Pub. L. 103-337, div. A, title XIII, §1317(c)(2)(B), (i)(2), Oct. 5, 1994, 108 Stat. 2900, 2902, substituted “Waiver of applicability of certain laws” for “Law applicable to acquisition and cross-servicing agreements” in item 2343 and added item 2349a.

1993—Pub. L. 103-160, div. A, title XIV, §1431(a)(2), Nov. 30, 1993, 107 Stat. 1833, added item 2349.

1990—Pub. L. 101-510, div. A, title XIII, §1331(3), Nov. 5, 1990, 104 Stat. 1673, struck out item 2349 “Annual reports”.

1989—Pub. L. 101-189, div. A, title IX, §931(a)(1), Nov. 29, 1989, 103 Stat. 1531, added subchapter heading.

1986—Pub. L. 99-661, div. A, title XI, §1104(g), Nov. 14, 1986, 100 Stat. 3965, substituted “elements of the armed forces deployed outside the United States” for “United States armed forces in Europe” in item 2341.

1985—Pub. L. 99-145, title XIII, §1304(a)(6), Nov. 8, 1985, 99 Stat. 742, renumbered items 2321 to 2328 as 2341 to 2348, respectively, and items 2330 and 2331 as 2349 and 2350, respectively, and struck out item 2329 “Regulations”.

§ 2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States

Subject to section 2343 of this title and subject to the availability of appropriations, the Secretary of Defense may—

(1) acquire from the Governments of North Atlantic Treaty Organization countries, from North Atlantic Treaty Organization subsidiary bodies, and from the United Nations Organization or any regional international organization logistic support, supplies, and services for elements of the armed forces deployed outside the United States; and

(2) acquire from any government not a member of the North Atlantic Treaty Organization logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) outside the United States if that country—

(A) has a defense alliance with the United States;

(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country;

(C) has agreed to preposition materiel of the United States in such country; or

(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1016, §2321; renumbered §2341 and amended Pub. L. 99-145, title XIII, §1304(a)(1), (4), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title XI, §1104(a), Nov. 14, 1986, 100 Stat. 3963; Pub. L. 102-484, div. A, title XIII, §1312(a), Oct. 23, 1992, 106 Stat. 2547; Pub. L. 103-337, div. A, title XIII, §1317(a), Oct. 5, 1994, 108 Stat. 2899; Pub. L. 109-163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456.)

Editorial Notes

AMENDMENTS

2006—Par. (1). Pub. L. 109-163 struck out “of which the United States is a member” before “logistic support”.

1994—Par. (1). Pub. L. 103-337 substituted a comma for “and” after “countries” and inserted “, and from the

United Nations Organization or any regional international organization of which the United States is a member” after “subsidiary bodies”.

1992—Par. (1). Pub. L. 102-484, §1312(a)(1), substituted “outside the United States” for “in Europe and adjacent waters”.

Par. (2). Pub. L. 102-484, §1312(a)(2), in introductory provisions, struck out “in which elements of the armed forces are deployed (or are to be deployed)” after “North Atlantic Treaty Organization” and substituted “outside the United States” for “in such country or in the military region in which such country is located”.

1986—Pub. L. 99-661 substituted “elements of the armed forces deployed outside the United States” for “United States armed forces in Europe” in section catchline.

Pub. L. 99-661 amended section generally, restating existing provisions into introductory text and par. (1) and adding par. (2).

1985—Pub. L. 99-145 renumbered section 2321 of this title as this section and substituted “section 2343” for “section 2323”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title XIII, §1317(j), Oct. 5, 1994, 108 Stat. 2902, provided that: “The amendments made by this section [enacting section 2349a of this title and amending this section and sections 2342 to 2347 and 2350 of this title] shall apply with regard to any acquisition or transfer of logistic support, supplies, and services under the authority of subchapter I of chapter 138 of title 10, United States Code, that is initiated after the date of the enactment of this Act [Oct. 5, 1994].”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title XIII, §1312(c), Oct. 23, 1992, 106 Stat. 2548, provided that: “The amendments made by this section [amending this section and section 2347 of this title] shall take effect on the date of enactment of this Act [Oct. 23, 1992] and shall apply to acquisitions of logistics support, supplies, and services under chapter 138 of title 10, United States Code, that are initiated on or after the date of enactment of this Act.”

SHORT TITLE

Pub. L. 96-323, §1, Aug. 4, 1980, 94 Stat. 1016, provided: “That this Act [enacting this chapter] may be cited as the ‘North Atlantic Treaty Organization Mutual Support Act of 1979.’”

ACCEPTANCE OF REAL PROPERTY, SERVICES, AND COMMODITIES FROM FOREIGN COUNTRIES BY AGENCIES OF DEPARTMENT OF DEFENSE

Pub. L. 101-165, title IX, §9008, Nov. 21, 1989, 103 Stat. 1130, which authorized agencies of Department of Defense to accept use of real property from foreign countries for United States in accordance with mutual defense agreements or occupational arrangements and to accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge and to use same for support of United States forces in such areas without specific appropriation therefor, was repealed and restated in section 2350g of this title by Pub. L. 101-510, div. A, title XIV, §1451(b)(1), (c), Nov. 5, 1990, 104 Stat. 1692, 1693.

OVERSEAS WORKLOAD PROGRAM

Pub. L. 101-510, div. A, title XIV, §1465, Nov. 5, 1990, 104 Stat. 1700, as amended by Pub. L. 102-190, div. A, title X, §1085, Dec. 5, 1991, 105 Stat. 1483; Pub. L. 102-484, div. A, title XIII, §1353, Oct. 23, 1992, 106 Stat. 2559, which related to eligibility of a firm of any member nation of North Atlantic Treaty Organization (NATO) or of any major non-NATO ally to bid on any contract for

maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the Overseas Workload Program, was repealed and restated in section 2349 of this title by Pub. L. 103-160, div. A, title XIV, §1431(a)(1), (b)(1), Nov. 30, 1993, 107 Stat. 1832, 1833. Similar provisions were contained in the following authorization or appropriation acts:

Pub. L. 102-396, title IX, §9130, Oct. 6, 1992, 106 Stat. 1935, as amended by Pub. L. 103-160, div. A, title XIV, §1431(b)(2), Nov. 30, 1993, 107 Stat. 1833.

Pub. L. 102-172, title VIII, §8122, Nov. 26, 1991, 105 Stat. 1205.

Pub. L. 101-511, title VIII, §8003, Nov. 5, 1990, 104 Stat. 1873.

Pub. L. 100-180, div. A, title X, §1021, Dec. 4, 1987, 101 Stat. 1143.

§ 2342. Cross-servicing agreements

(a)(1) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into an agreement described in paragraph (2) with any of the following:

(A) The government of a North Atlantic Treaty Organization country.

(B) A subsidiary body of the North Atlantic Treaty Organization.

(C) The United Nations Organization or any regional international organization.

(D) The government of a country not a member of the North Atlantic Treaty Organization but which is designated by the Secretary of Defense, subject to the limitations prescribed in subsection (b), as a government with which the Secretary may enter into agreements under this section.

(2) An agreement referred to in paragraph (1) is an agreement under which the United States agrees to provide logistic support, supplies, and services to military forces of a country or organization referred to in paragraph (1) in return for the reciprocal provisions of logistic support, supplies, and services by such government or organization to elements of the armed forces.

(b)(1) The Secretary of Defense may not designate a country for an agreement under this section unless—

(A) the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

(B) in the case of a country that is not a member of the North Atlantic Treaty Organization, the Secretary submits to the appropriate committees of Congress notice of the intended designation not less than 30 days before the date on which such country is designated by the Secretary under subsection (a).

(2) In the case of a country that is not a member of the North Atlantic Treaty Organization, the Secretary of Defense may not enter into an agreement under this section unless the Secretary submits to the appropriate committees of Congress a notice of intent to enter into such an agreement not less than 30 days before the date on which the Secretary enters into the agreement.

(c) The Secretary of Defense may not use the authority of this subchapter to procure from

any foreign government or international organization any goods or services reasonably available from United States commercial sources.

(d) The Secretary of Defense may not use an agreement with any government or an organization described in subsection (a)(1) to facilitate the transfer of logistic support, supplies, and services to any country or organization with which the Secretary has not signed an agreement described in subsection (a)(2).

(e) An agreement described in subsection (a)(2) may not provide or otherwise constitute a commitment for the introduction of the armed forces into hostilities.

(f) Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, the Secretary of Defense shall designate an existing senior civilian or military official who shall have primary responsibility for—

(1) accounting for logistic support, supplies, and services received or provided under acquisition and cross-servicing agreements;

(2) ensuring consistent standards and guidance to the armed forces and combatant commands in executing acquisition and cross-servicing agreements;

(3) overseeing and monitoring the implementation of acquisition and cross-servicing agreements in coordination with the Under Secretary of Defense for Policy; and

(4) such other responsibilities as may be prescribed by the Secretary.

(g)(1) Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, the Secretary of Defense shall prescribe regulations to ensure that—

(A) contracts entered into under this subchapter are free from self-dealing, bribery, and conflict of interests;

(B) adequate processes and controls are in place to provide for the accurate accounting of logistic support, supplies, and services received or provided under the authority of this subchapter; and

(C) personnel responsible for accounting for logistic support, supplies, and services received or provided under such authority are fully trained and aware of such responsibilities.

(2)(A) Not later than 270 days after the issuance of the regulations under paragraph (1), the Comptroller General of the United States shall conduct a review of the implementation by the Secretary of such regulations.

(B) The review conducted under subparagraph (A) shall—

(i) assess the effectiveness of such regulations and the implementation of such regulations to ensure the effective management and oversight of an agreement under subsection (a)(1); and

(ii) include any other matter the Comptroller General considers relevant.

(h) Not later than January 15 each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on acquisition and cross-servicing activities that sets forth, in detail, the following: