

Public Law 96-323
96th Congress

An Act

Aug. 4, 1980

[H.R. 5580]

To amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

North Atlantic
Treaty
Organization
Mutual Support
Act of 1979.
10 USC 2321
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Atlantic Treaty Organization Mutual Support Act of 1979".

SEC. 2. (a) Title 10, United States Code, is amended by inserting after chapter 137 the following new chapter:

**"CHAPTER 138—NORTH ATLANTIC TREATY ORGANIZATION
ACQUISITION AND CROSS-SERVICING AGREEMENTS**

"Sec.

"2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe.

"2322. Cross-servicing agreements.

"2323. Law applicable to acquisition and cross-servicing agreements.

"2324. Methods of payment for acquisitions and transfers by the United States.

"2325. Liquidation of accrued credits and liabilities.

"2326. Crediting of receipts.

"2327. Limitation on amounts that may be obligated or accrued by the United States.

"2328. Inventories of supplies not to be increased.

"2329. Regulations.

"2330. Annual reports.

"2331. Definitions.

10 USC 2321.

"§ 2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe

"Subject to section 2323 of this title and subject to the availability of appropriations, the Secretary of Defense may acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters.

10 USC 2322.

"§ 2322. Cross-servicing agreements

"Subject to section 2323 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into agreements with the Government of any North Atlantic Treaty Organization country and with any North Atlantic Treaty Organization subsidiary body under which the United States agrees to provide logistic support, supplies, and services to military forces of such country or subsidiary body deployed in Europe and adjacent waters in return for the reciprocal provision of logistic support, supplies, and services by such country or subsidiary body to elements of the armed forces deployed in Europe and adjacent waters.

"§ 2323. Law applicable to acquisition and cross-servicing agreements

10 USC 2323.

"(a) Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2321 of this title and agreements entered into under section 2322 of this title shall be made in accordance with chapter 137 of this title and the provisions of this chapter.

10 USC 2301 *et seq.*

"(b) Sections 2207, 2304(g), 2306(a), 2306(b), 2306(e), 2306(f), and 2313 of this title, section 3741 of the Revised Statutes (41 U.S.C. 22), and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall not apply to acquisitions made under the authority of section 2321 of this title or to agreements entered into under section 2322 of this title.

10 USC 2207, 2304, 2306, 2313.

"§ 2324. Methods of payment for acquisitions and transfers by the United States

10 USC 2324.

"(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this chapter on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an identical or substantially identical nature.

"(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization 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:

Reciprocal pricing principles.

"(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 Act 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 are not waived by operation of the reciprocal

Waiver.

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 under this chapter.

10 USC 2325.

"§ 2325. Liquidation of accrued credits and liabilities

"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 chapter shall be liquidated not less often than once every three months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

10 USC 2326.

"§ 2326. Crediting of receipts

"Any receipt of the United States as a result of an agreement entered into under this chapter shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

10 USC 2327.

"§ 2327. Limitation on amounts that may be obligated or accrued by the United States

Liabilities.

"(a) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed \$100,000,000 in any fiscal year, and of such amount not more than \$25,000,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants).

Credits.

"(b) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable credits that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed \$100,000,000 in any fiscal year.

10 USC 2328.

"§ 2328. Inventories of supplies not to be increased

"Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this Act to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body.

10 USC 2329.

"§ 2329. Regulations

Copies,
transmittal to
Congress.

"The Secretary of Defense shall prescribe regulations to implement this chapter and shall, not later than sixty days before the effective date of such regulations, transmit copies of such regulations to the Congress. No agreement to make an acquisition or transfer under the authority provided by this chapter may be entered into until such regulations take effect.

10 USC 2330.

"§ 2330. Annual reports

Submittal to
Congress.

"The Secretary of Defense shall submit to the Congress not later than February 1 of each year a report containing—

"(1) a description of each agreement entered into under the authority of this chapter that was in effect during the fiscal year preceding the fiscal year in which such report is submitted;

"(2) a report of the dollar value of each reimbursable acquisition or transfer of logistic support, supplies, or services by the

United States (by appropriation, account, or fund) during such fiscal year under each such agreement;

“(3) a report of nonreimbursable acquisitions and transfers of logistic support and services by the United States (by appropriation, account, and fund) during such fiscal year under each such agreement; and

“(4) a description of each agreement entered into (or expected to be entered into) under the authority of this chapter that is expected to be in effect during the fiscal year in which such report is submitted, together with a report of the estimated total dollar value of acquisitions and transfers by the United States (by appropriation, account, or fund) expected to be made during such fiscal year under each such agreement.

“§ 2331. Definitions

10 USC 2331.

“In this chapter:

“(1) ‘Logistic support, supplies, and services’ means food, billeting, transportation, petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, and port services.

“(2) ‘North Atlantic Treaty Organization subsidiary bodies’ means—

“(A) any organization within the meaning of the term ‘subsidiary bodies’ in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

“(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.”

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 137 the following new item:

“138. North Atlantic Treaty Organization Acquisition and Cross-Servicing Agreements..... 2321”.

Approved August 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-612, Pt. 1 (Comm. on Armed Services) and Pt. 2 (Comm. on Foreign Affairs).

SENATE REPORTS: No. 96-795 (Comm. on Armed Services) and No. 96-842 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 3, considered and passed House.

Vol. 126 (1980): July 21, considered and passed Senate.