

Appendix A: Section 309 of the Defense Production Act

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED
(50 U.S.C. App. 2061, et seq.)

Section 309.

(a) Annual Report on Impact of Offsets--

(1) Report Required -- Not later than 18 months after the date of the enactment of the Defense Production Act Amendments of 1984, and annually thereafter, the President shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a detailed report on the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States.

(2) Duties of the Secretary of Commerce (hereafter in this subsection referred to as ‘the Secretary’ shall--

(A) prepare the report required by paragraph (1);

(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

(C) function as the President’s Executive Agent for carrying out this section.

(b) Interagency Studies and Related Data—

(1) Purpose of Report-- Each report required under subsection (a) shall identify the cumulative effects of offset agreements on—

(A) the full range of domestic defense productive capability (with special attention paid to the firms serving as lower-tier subcontractors or suppliers); and

(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

(2) Use of Data--Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary to facilitate the execution of the Secretary's responsibilities with respect to trade offset and countertrade policy development.

(c) Notice of Offset Agreements--

(1) In General--If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding \$5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

(2) Regulations--The information to be furnished under paragraph (1) shall be prescribed in regulations promulgated by the Secretary. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information.

(d) Contents of Report--

(1) In General--Each report under subsection (a) shall include--

(A) a net assessment of the elements of the industrial base and technology base covered by the report;

(B) recommendations for appropriate remedial action under the authority of this Act, or other law or regulations;

(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (b);

(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (c); and

(E) a summary and analysis of any bilateral and multilateral negotiations relating to the use of offsets completed during the reporting period.

(2) Alternative Findings or Recommendations--Each report required under this section shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary.

(e) Utilization of Annual Report in Negotiations—

The findings and recommendations of the reports required by subsection (a), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.

**Appendix B: Department
of Commerce Rules
Regarding Reporting of
Offset Activity**

[Federal Register: December 2, 1994]

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 701

[Docket No. 940364-4064]

Offsets in Military Exports

AGENCY: Bureau of Export Administration,
Department of Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the National Security Industrial Base Regulations to require U.S. firms entering into offset agreements associated with the sale of defense articles and/or defense services to foreign governments or foreign companies to provide BXA certain information regarding those agreements when they exceed \$5,000,000 in value. This new regulation is being promulgated pursuant to the Defense Production Act of 1950, as amended.

DATES: This rule is effective December 2, 1994. Annual reports must be submitted on or before June 15 of the succeeding year, except that the report for calendar year 1993 must be submitted on or before March 15, 1995.

ADDRESSES: Annual reports should be sent to Brad Botwin, Director, Strategic Analysis Division, Office of Strategic Industries and Economic Security, Attention: Offset Regulation Report, Room 3878, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue N.W., Washington, DC 20230.

FOR FURTHER INFORMATION

CONTACT: Erin Finn, Offsets Program Manager, Strategic Analysis Division, Office of Strategic Industries and Economic Security, Room 3878, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue N.W., Washington, DC 20230. Telephone 202-482-2322 or Fax 202-482-5650.

SUPPLEMENTARY INFORMATION:

BACKGROUND: The Defense Production Act Amendments of 1992 amended the Defense Production Act of 1950 (the Act). The Act now requires that U.S. firms entering into contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offset agreements exceeding \$5,000,000 in value to furnish information regarding such sales to the Secretary of Commerce (the Secretary). The Act also now requires the Secretary to establish regulations to collect this information and to protect it from public disclosure unless public disclosure is specifically authorized by the firm furnishing the information. The Act further requires the Secretary to serve as the President's executive agent in preparing an annual report to Congress on the impact of offsets on the United States.

This report will include an aggregated summary of information provided to the Secretary by U.S. industry pursuant to the regulation provided here. It will address the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States.

On April 26, 1994, BXA published in the Federal Register (59 FR 21678) a proposed rule on reporting of offsets in military exports designed to elicit comments, suggestions, information, or advice relative to the proposed regulation. 20 responses were received commenting on the proposed rule. The two major comments concerned the requirements to submit semi-annual reports and to report each individual transaction undertaken to fulfill an offset commitment. The rule has been amended to address these concerns.

Rulemaking Requirements

1. This rule has been determined to be "significant" for purposes of Executive Order 12866.
2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These

collections have been approved by the Office of Management and Budget under control number 940364-4212. Public reporting burden for this collection of information is estimated to be 5 to 60 hours per response, with an average of 10 hours, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. It is anticipated that the rule will primarily affect large defense contractors that engage in offset agreements with foreign governments. Moreover, the rule is not expected to pose a burden because firms engaging in offset transactions already must prepare periodic accounts of progress toward fulfillment of offset obligations for the foreign entity that is party to the offset agreement. The information to be collected pursuant to these regulations is less than that required by these foreign parties. With regard to new offset agreements entered into, the information requested is readily available and will take a minimum amount of time to assemble by the parties involved.

List of Subjects in 15 CFR Part 701

Administration practice and procedure, Arms and munitions, Exports, Offsets, Reporting requirements.

Accordingly, the National Security Industrial Base Regulations (15 CFR parts 700-709) are amended by adding part 701 to read as follows:

PART 701--REPORTING OF OFFSETS AGREEMENTS IN SALES OF WEAPON SYSTEMS OR DEFENSE-RELATED ITEMS TO FOREIGN COUNTRIES OR FOREIGN FIRMS

Sec.

701.1 Purpose.

701.2 Definitions.

701.3 Applicability and Scope.

701.4 Procedures.

701.5 Confidentiality.

Authority: Title I, sec. 124, Pub. L. 102-558, 106 Stat. 4207 (50 U.S.C App. 2099).

Sec. 701.1 Purpose.

The Defense Production Act Amendments of 1992 require the Secretary of Commerce to promulgate regulations for U.S. firms entering into contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offset agreements exceeding \$5,000,000 in value to furnish information regarding such agreements. The Secretary of Commerce has designated the Bureau of Export Administration as the organization responsible for implementing this provision. The information provided by U.S. firms will be aggregated and used to determine the impact of offset transactions on the defense preparedness, industrial competitiveness, employment, and trade of the United States. Summary reports will be submitted annually to the Congress pursuant Section 309 of the Defense Production Act of 1950, as amended.

Sec. 701.2 Definitions.

(a) Offsets--Compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services as defined by the Arms Export Control Act and the International Traffic in Arms Regulations.

(b) Military Export Sales--Exports that are either Foreign Military Sales (FMS) or commercial (direct) sales of defense articles and/or defense services as defined by the Arms Export Control Act and International Traffic in Arms Regulations.

(c) Prime Contractor--A firm that has a sales contract with a foreign entity or with the U.S. Government for military export sales.

(d) United States--Includes the 50 states, the District of Columbia, Puerto Rico, and U.S. territories.

(e) Offset Agreement--Any offset as defined above that the U.S. firm agrees to in order to conclude a military export sales contract. This includes all offsets, whether they are "best effort" agreements or are subject to penalty clauses.

(f) Offset Transaction--Any activity for which the U.S. firm claims credit for full or partial fulfillment of the offset agreement. Activities to implement offset agreements may include, but are not limited to, co-production, licensed production, subcontractor production, overseas investment, technology transfer countertrade, barter, counterpurchase, and buy back.

(g) Direct Offset--Contractual arrangements that involve defense articles and services referenced in the sales agreement for military exports.

(h) Indirect Offset--Contractual arrangements that involve defense goods and services unrelated to the exports referenced in the sales agreement.

Sec. 701.3 Applicability and scope.

(a) This rule applies to U.S. firms entering contracts for the sale of defense articles or defense services (as defined in the Arms Export Control Act and International Traffic in Arms Regulations) to a foreign country or foreign firm for which the contract is subject to an offset agreement exceeding \$5,000,000 in value.

(b) This rule applies to all offset transactions completed in performance of existing offset commitments since January 1, 1993 for which offset credit of \$250,000 or more has been claimed from the foreign representative, and new offset agreements entered into since that time.

Sec. 701.4 Procedures.

(a) To avoid double counting, firms should report only offset transactions for which they are directly responsible for reporting to the foreign customer (i.e., prime contractors should report

for their subcontractors if the subcontractors are not a direct party to the offset agreement).

(b) Reports should be delivered to the Offsets Program Manager, U.S. Department of Commerce, Office of Strategic Industries and Economic Security, Bureau of Export Administration, Room 3878, 14th Street and Pennsylvania Avenue, N.W., Washington DC 20230. The first industry reports should be submitted to the Bureau of Export Administration not later than March 15, 1995 and should cover offset transactions completed during the calendar year 1993, as well as information regarding unfulfilled offset agreements. After this initial submission, companies should provide information once yearly not later than June 15 covering the preceding calendar year. All submissions should include a point of contact (name and telephone number) and should be by a company official authorized to provide such information.

(c) Companies may submit this information in computerized spreadsheet/database format (e.g., Lotus 1-2-3, Quattro Pro, dbase IV) using a 3.5 inch 1.44 megabyte diskette, accompanied by a printed copy.

(d) Offset Transaction Reporting.

(1) Reports should include an itemized list of offset transactions completed during the reporting period, including the following data elements (Estimates are acceptable when actual figures are unavailable; estimated figures should be followed by the letter "E"):

(i) Name of Country--Country of entity purchasing the weapon system, defense item or service subject to offset.

(ii) Name or Description of Weapon system, Defense Item, or Service Subject to Offset.

(iii) Name of Offset Fulfilling Entity--Entity fulfilling offset transaction (including first tier subcontractors).

(iv) Name of Offset Receiving Entity--Entity receiving benefits from offset transaction.

(v) Offset Credit Value--Dollar value credits claimed by fulfilling entity including any intangible factors/multipliers.

(vi) Actual Offset Value--Dollar value of the offset transaction without multipliers/intangible factors.

(vii) Description of Offset Product/Service--Short description of the type of offset (e.g., co-production, technology transfer, subcontract activity, training, purchase, cash payment, etc.).

(viii) Broad Industry Category--Broad classification of the industry in which the offset transaction was fulfilled (e.g., aerospace, electronics, chemicals, industrial machinery, textiles, etc.). Firms may request a list of the Standard Industry Classification (SIC) codes to assist in identifying an appropriate industry category. Forward such requests to the Offsets Program Manager, U.S. Department of Commerce, Office of Strategic Industries and Economic Security, Bureau of Export Administration, Room 3878, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230 or Fax 202-482-5650.

(ix) Direct or Indirect Offset--Specify whether the offset transaction was direct or indirect offset.

(x) Name of Country in Which Offset was Fulfilled--United States, purchasing country, or third country.

(2) Offset transactions of the same type (same fulfilling entity, receiving entity, and offset product/service) completed during the same reporting period may be combined.

(3) Any necessary comments or explanations relating to the above information should be footnoted and supplied on separate sheets attached to the report.

(e) Reporting on Offset Agreements Entered Into. (1) In addition to the itemized list of offset transactions completed during the year as specified above, U.S. firms should provide information regarding new offset agreements

entered into during the year, including the following elements:

(i) Name of Country--Country of entity purchasing the weapon system, defense item, or service subject to offset;

(ii) Name or Description of Weapon System, Defense Item, or Service Subject to Offset;

(iii) Names/Titles of Signatories to the Offset Agreement;

(iv) Value of Export Sale Subject to Offset (approximate);

(v) Total Value of the Offset Agreement;

(vi) Term of Offset Agreement (months);

(vii) Description of Performance Measures--(e.g., "Best Efforts," Liquidated Damages, (describe)).

Sec. 701.5 Confidentiality.

(a) As provided by Sec. 309(c) of the Defense Production Act of 1950, as amended, BXA shall not publicly disclose the information it receives pursuant to this Part, unless the firm furnishing the information subsequently specifically authorizes public disclosure.

(b) Public disclosure must be authorized in writing by an official of the firm competent to make such an authorization.

(c) Nothing in this provision shall prevent the use of data aggregated from information provided pursuant to this part in the summary report to the Congress described in Sec. 701.1.

Dated: November 28, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

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Appendix C: Defense Offsets Disclosure Act of 1999

Public Law 106-113

Title XII

Subtitle D--Defense Offsets Disclosure

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the "Defense Offsets Disclosure Act of 1999".

SEC. 1242. FINDINGS AND DECLARATION OF POLICY.

a) Findings.--Congress makes the following findings:

(1) A fair business environment is necessary to advance international trade, economic stability, and development worldwide, is beneficial for American workers and businesses, and is in the United States national interest.

(2) In some cases, mandated offset requirements can cause economic distortions in international defense trade and undermine fairness and competitiveness, and may cause particular harm to small- and medium-sized businesses.

(3) The use of offsets may lead to increasing dependence on foreign suppliers for the production of United States weapons systems.

(4) The offset demands required by some purchasing countries, including some close allies of the United States, equal or exceed the value of the base contract they are intended to offset, mitigating much of the potential economic benefit of the exports.

(5) Offset demands often unduly distort the prices of defense contracts.

(6) In some cases, United States contractors are required to provide indirect offsets which can negatively impact nondefense industrial sectors.

(7) Unilateral efforts by the United States to prohibit

offsets may be impractical in the current era of globalization and would severely hinder the competitiveness of the United States defense industry in the global market.

(8) The development of global standards to manage and restrict demands for offsets would enhance United States efforts to mitigate the negative impact of offsets.

b) Declaration of Policy.--It is the policy of the United States to monitor the use of offsets in international defense trade, to promote fairness in such trade, and to ensure that foreign participation in the production of United States weapons systems does not harm the economy of the United States.

SEC. 1243. DEFINITIONS.

In this subtitle:

(1) Appropriate congressional committees.--The term "appropriate congressional committees" means--

(A) the Committee on Foreign Relations of the Senate; and

(B) the Committee on International Relations of the House of Representatives.

(2) G-8.--The term "G-8" means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, Italy, and Russia established to facilitate economic cooperation among the eight major economic powers.

(3) Offset.--The term "offset" means the entire range of industrial and commercial benefits provided to foreign governments as an inducement or condition to purchase military goods or services, including benefits such as coproduction, licensed production, subcontracting, technology transfer, in-country procurement, marketing and financial assistance, and joint ventures.

(4) Transatlantic economic partnership.--The term "Transatlantic Economic Partnership" means the joint

commitment made by the United States and the European Union to reinforce their close relationship through an initiative involving the intensification and extension of multilateral and bilateral cooperation and common actions in the areas of trade and investment.

(5) Wassenaar arrangement.--The term "Wassenaar Arrangement" means the multilateral export control regime in which the United States participates that seeks to promote transparency and responsibility with regard to transfers of conventional armaments and sensitive dual-use items.

(6) World trade organization.--The term "World Trade Organization" means the organization established pursuant to the WTO Agreement.

(7) WTO agreement.--The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into
on April 15, 1994.

SEC. 1244. SENSE OF CONGRESS.

It is the sense of Congress that--

(1) the executive branch should pursue efforts to address trade fairness by establishing reasonable, business-friendly standards for the use of offsets in international business transactions between the United States and its trading partners and competitors;

[[Page 113 STAT. 1501A-502]]

(2) the Secretary of Defense, the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, or their designees, should raise with other industrialized nations at every suitable venue the need for transparency and reasonable standards to govern the role of offsets in international defense trade;

(3) the United States Government should enter into discussions regarding the establishment of multilateral standards for the use of offsets in international defense trade

through the appropriate multilateral fora, including such organizations as the Transatlantic Economic Partnership, the Wassenaar Arrangement, the G-8, and the World Trade Organization; and

(4) the United States Government, in entering into the discussions described in paragraph (3), should take into account the distortions produced by the provision of other benefits and subsidies, such as export financing, by various countries to support defense trade.

SEC. 1245. REPORTING OF OFFSET AGREEMENTS.

(a) Initial Reporting of Offset Agreements.--

(1) Government-to-government sales.--Section 36(b)(1) of the

Arms Export Control Act (22 U.S.C. 2776(b)(1)) is amended in subparagraph (C) of the fifth sentence, by striking "and a description" and all that follows and inserting "and a description of any offset agreement with respect to such sale;".

(2) Commercial sales.--Section 36(c)(1) of the Arms Export Control Act (22 U.S.C. 2776(c)(1)) is amended in the second sentence, by striking "if known on the date of transmittal of such certification)" and inserting "and a description of any such offset agreement".

(b) Confidentiality of Information Relating to Offset Agreements.-- Section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended--

(1) by redesignating the second subsection (e) (as added by section 155 of Public Law 104-164) as subsection (f); and

(2) by adding at the end the following new subsection:

"(g) Information relating to offset agreements provided pursuant to subparagraph (C) of the fifth sentence of subsection (b)(1) and the second sentence of subsection (c)(1) shall be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)).".

SEC. 1246. EXPANDED PROHIBITION ON INCENTIVE PAYMENTS.

(a) In General.--Section 39A(a) of the Arms Export Control Act (22 U.S.C. 2779a(a)) is amended--

- (1) by inserting "or licensed" after "sold"; and
- (2) by inserting "or export" after "sale".

(b) Definition of United States Person.--Section 39A(d) (3) (B) (ii) of the Arms Export Control Act (22 U.S.C. 2779a(d) (3) (B) (ii)) is amended by inserting "or by an entity described in clause (i)" after "subparagraph (A)".

SEC. 1247. ESTABLISHMENT OF REVIEW COMMISSION.

(a) In General.--There is established a National Commission on the Use of Offsets in Defense Trade (in this section referred to as the "Commission") to address all aspects of the use of offsets in international defense trade.

(b) Commission Membership.--Not later than 120 days after the date of enactment of this Act, the President, with the concurrence of the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, shall appoint 11 individuals to serve as members of the Commission. Commission membership shall include--

- (1) representatives from the private sector, including--
 - (A) one each from--
 - (i) a labor organization,
 - (ii) a United States defense manufacturing company dependent on foreign sales,
 - (iii) a United States company dependent on foreign sales that is not a defense manufacturer, and
 - (iv) a United States company that specializes in international investment, and

(B) two members from academia with widely
recognized

expertise in international economics; and

(2) five members from the executive branch, including a
member from--

- (A) the Office of Management and Budget,
- (B) the Department of Commerce,
- (C) the Department of Defense,
- (D) the Department of State, and
- (E) the Department of Labor.

The member designated from the Office of Management and Budget shall
serve as Chairperson of the Commission. The President shall ensure that
the Commission is nonpartisan and that the full range of perspectives
on
the subject of offsets in the defense industry is adequately
represented.

(c) Duties.--The Commission shall be responsible for reviewing and
reporting on--

(1) the full range of current practices by foreign
governments

in requiring offsets in purchasing agreements and the extent
and

nature of offsets offered by United States and foreign defense
industry contractors;

(2) the impact of the use of offsets on defense
subcontractors and nondefense industrial sectors affected by
indirect offsets; and

(3) the role of offsets, both direct and indirect, on
domestic industry stability, United States trade
competitiveness
and national security.

(d) Commission Report.--Not later than 12 months after the
Commission is established, the Commission shall submit a report to the
appropriate congressional committees. In addition to the items
described
under subsection (c), the report shall include--

(1) an analysis of--

(A) the collateral impact of offsets on industry sectors that may be different than those of the contractor providing the offsets, including estimates

of

contracts and jobs lost as well as an assessment of damage to industrial sectors;

(B) the role of offsets with respect to competitiveness of the United States defense industry

in

international trade and the potential damage to the ability of United States contractors to compete if offsets were prohibited or limited; and

(C) the impact on United States national security, and upon United States nonproliferation objectives, of the use of coproduction, subcontracting, and technology transfer with foreign governments or companies that results from fulfilling offset requirements, with particular emphasis on the question of dependency upon foreign nations for the supply of critical components

or

technology;

(2) proposals for unilateral, bilateral, or multilateral measures aimed at reducing any detrimental effects of offsets; and

(3) an identification of the appropriate executive branch agencies to be responsible for monitoring the use of offsets in international defense trade.

(e) Period of Appointment; Vacancies.--Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) Initial Meeting.--Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(g) Meetings.--The Commission shall meet at the call of the

Chairman.

(h) Commission Personnel Matters.--

(1) Compensation of members.--Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) Travel expenses.--The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) Staff.--

(A) In general.--The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) Compensation.--The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that

the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of

the Executive Schedule under section 5316 of such title.

(4) Detail of government employees.--Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) Procurement of temporary and intermittent services.--The

Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) Termination.--The Commission shall terminate 30 days after the transmission of the report from the President as mandated in section 1248(b) .

SEC. 1248. MULTILATERAL STRATEGY TO ADDRESS OFFSETS.

(a) In General.--The President shall initiate a review to determine the feasibility of establishing, and the most effective means of negotiating, a multilateral treaty on standards for the use of offsets in international defense trade, with a goal of limiting all offset transactions that are considered injurious to the economy of the United States.

(b) Report Required.--Not later than 90 days after the date on which the Commission submits the report required under section 1247(d), the President shall submit to the appropriate congressional committees a report containing the President's determination pursuant to subsection (a), and, if the President determines a multilateral treaty is feasible or desirable, a strategy for United States negotiation of such a treaty.

One year after the date the report is submitted under the preceding sentence, and annually thereafter for 5 years, the President shall submit to the appropriate congressional committees a report detailing the progress toward reaching such a treaty.

(c) Required Information.--The report required by subsection (b) shall include--

(1) a description of the United States efforts to pursue multilateral negotiations on standards for the use of offsets in

international defense trade;

(2) an evaluation of existing multilateral fora as appropriate venues for establishing such negotiations;

(3) a description on a country-by-country basis of any United States efforts to engage in negotiations to establish bilateral treaties or agreements with respect to the use of offsets in international defense trade; and

(4) an evaluation on a country-by-country basis of any foreign government efforts to address the use of offsets in international defense trade.

(d) Comptroller General Review.--The Comptroller General of the United States shall monitor and periodically report to Congress on the progress in reaching a multilateral treaty.

Appendix D: Offset Transactions by Industry

Appendix E: Country

Offset Policies

Australia	
Title of Policy:	Australian Industry Involvement (AII) and Defence Materiel Organization (DMO) – not termed offset but Strategic Industry Development Activities (SIDAs)
Agency Handling	(DOD) Defense Acquisition Agency
Part of Procurement Decision	No
Offset Sector	Civilian and military
Minimum Value of Contract	A\$2.5M foreign content/any tender of A\$5M
Minimum Offset Required (%)	Maximized where cost effective
Term	Not defined
Multipliers	None in policy
Penalties	During project, strict SIDAs review, if not completed, not credited: must fulfill obligation
Focus	Local content (Australia & New Zealand), SIDAs
Direct vs. indirect	Both
Eligible Offset Activities	Local production, R&D, tech transfer, training, export sales, infrastructure, collaborative ventures
Website	Defence Materiel Organization: http://www.dmo.defence.gov.au/DMO/function.cfm?function_id=10
Belgium	
Title of Policy:	Industrial Benefit in the Field of Defense Procurement (“economic compensations”)
Agency Handling	Ministry of Economics Affairs
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	Not specified
Minimum Offset Required (%)	100%
Term	Not defined

Multipliers	None in policy
Penalties	Penalty for non-executed obligation
Focus	High technology
Direct vs. indirect	Both
Eligible Offset Activities	Co-production, direct supplies & services, tech transfer, R&D
Website	Ministry of Economic Affairs: http://mineco.fgov.be Industrial Benefit in the Field of Defense Procurement (Overview): http://mineco.fgov.be/organization_market/index_en.htm

Canada

Title of Policy:	Industrial & Regional Benefits (will not use term “offset”)
Agency Handling	Industry Canada
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	C\$2M preferred – C\$100M required
Minimum Offset Required (%)	100%
Term	Not defined
Multipliers	None in policy
Penalties	Performance guarantee utilized
Focus	Economy, job creation, technology, politics
Direct vs. indirect	Both
Eligible Offset Activities	Well defined
Website	Industrial and Regional Benefits (overview): http://strategis.ic.gc.ca/SSG/ad03657e.html

Denmark

Title of Policy:	Industrial Cooperation Agreement (ICA)
Agency Handling	Danish Agency for Trade and Industry (ATI), under the Danish Ministry of Business and Industry
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	25 million DKK (approximately US\$3.8BN)
Minimum Offset Required (%)	100%
Term	Not defined
Multipliers	None in policy
Penalties	Performance guarantee utilized
Focus	Local content (Australia & New Zealand), SIDAs
Direct vs. indirect	Both
Eligible Offset	Defense and technology similar to product purchased

Activities

Website

Policy guidelines and sample agreement:

<http://www.efs.dk.ati/>

Egypt

Title of Policy:	No official policy
Agency Handling	Not specified
Part of Procurement Decision	Ad hoc basis
Offset Sector	Military
Minimum Value of Contract	Not specified
Minimum Offset Required (%)	Low
Term	Not defined
Multipliers	None in policy
Penalties	Not defined
Focus	Defense industry development and support
Direct vs. indirect	Direct
Eligible Offset Activities	Direct, technology transfer
Website	No Website Available

Finland

Title of Policy:	Industrial Participation
Agency Handling	Trade Ministry (& Finish Committee on IP)
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	Contracts exceeding 10 million Euro mandated by Parliament
Minimum Offset Required (%)	100% + marketing consulting
Term	Not defined
Multipliers	1-3 times if Finnish products are exported
Penalties	Exclusion from future bids until contract fulfilled
Focus	Participation of domestic defense industry, technology, export, internationalization of exports
Direct vs. indirect	Both
Eligible Offset Activities	Transactions that benefit economy and industries, technology transfer
Website	New Offset Guidelines: http://www.vn.fi/ktm/eng/2/2_5.htm Rules of Industrial Participation: http://www.vn.fi/ktm/eng/2/2_6.htm

Germany

Title of Policy:	Industrial Balances, no official policy
Agency Handling	The Federal Office for Defense Technology and Procurement
Part of Procurement Decision	Yes
Offset Sector	Not available
Minimum Value of Contract	Not available
Minimum Offset Required (%)	Aim is 100%
Term	Not defined
Multipliers	Not available
Penalties	Not available
Focus	German company participation from the inception of a project, balance globalization with growth of global companies
Direct vs. indirect	Both
Eligible Offset Activities	If just procurement contract, co-production required
Website	Website not available

Greece

Title of Policy:	Policy of Offsets Benefits (O/B)
Agency Handling	Hellenic Ministry of National Defense/General Armaments Directorate (GAD)
Part of Procurement Decision	Yes
Offset Sector	Military
Minimum Value of Contract	250 million drachmas
Minimum Offset Required (%)	80-120%
Term	Not defined
Multipliers	Very complex, depends on value of offset & recipient, maximum is 12
Penalties	10%
Focus	Defense industry and co-production
Direct vs. indirect	Direct
Eligible Offset Activities	Require: (co-production) local content, local subcontracting, joint venture, technology transfers
Website	Armaments General Directorate Description: http://www.mod.gr/english/index.htm (Go to White Paper of Armed Forces, Section 4.1.2.10) Offset Benefits Policy Description: http://www.3dpaper.gr/eng/defence/offsetbenefits_def040101.shtml

Israel

Title of Policy:	Industrial Cooperation (Industrial Cooperation Benefits – ICB)
Agency Handling	Industrial Cooperation Authority (ICA), Ministry of Trade and Industry
Part of Procurement Decision	No
Offset Sector	Civilian and military
Minimum Value of Contract	US\$100,000
Minimum Offset Required (%)	35%
Term	Usually 3 years, may be extended to 10 years
Multipliers	1-2 times, dependent upon type of offset
Penalties	No liquidated damages clause
Focus	Development of close, long-term working relationships
Direct vs. indirect	No distinction
Eligible Offset Activities	Subcontracts, R&D, technology transfer, investment, global market access and exposure
Website	Industrial Cooperation Authority: http://www.moit.gov.il/tamas_Mainlink_english.asp?link=bin/goto.asp?{f9966}

Korea, South

Title of Policy:	Policy of Offset Benefits (O/B)
Agency Handling	Defense Procurement Agency, Ministry of National Defense (MND)
Part of Procurement Decision	Yes
Offset Sector	Military
Minimum Value of Contract	\$10M
Minimum Offset Required (%)	30%
Term	Not defined
Multipliers	0-6 times based on type of offset
Penalties	Disbarment from participating for non-adherence to offset obligation
Focus	High technology must be more than 30% of contract
Direct vs. indirect	No distinction
Eligible Offset Activities	Mainly technology transfers, also employment, equipment, purchases and other
Website	Defense Procurement Agency: http://www.dpa.go.kr/servlet/kr.go.dpa.dpacals.com.SI_COM_Guest?DIV=12

Kuwait

Title of Policy:	Offset Program
Agency Handling	Ministry of Finance, Program Executive Office PEO
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	KD 1 million, sum of contracts in one year
Minimum Offset Required (%)	30%
Term	8 years with intermediary steps of completion (50% completion in 4 years, 100% in 8 years)
Multipliers	2-10 times based on activity and sectors
Penalties	6% of total contract
Focus	Technology transfer and training
Direct vs. indirect	No distinction
Eligible Offset Activities	Expenses of joint ventures with local parties
Website	Offset Program Description: http://www.mof.gov.kw/offset/

Netherlands

Title of Policy:	Industrial Participation and Offset
Agency Handling	Ministry of Economics
Part of Procurement Decision	No
Offset Sector	Military
Minimum Value of Contract	5 million Guilders
Minimum Offset Required (%)	100%
Term	10 years
Multipliers	1-3 times
Penalties	5% of late portion, must still fulfill obligation
Focus	Technology similar to products purchased
Direct vs. indirect	Mix with original focus on direct
Eligible Offset Activities	Counter-purchase, co-production, licensed production
Website	Industrial Participation and Offset in the Netherlands: http://www.minez.nl/home.asp?page=/cmp/compensatie/brochure.htm

New Zealand

Title of Policy:	Defence Offsets Policy/Industrial Involvement
Agency Handling	Minister of Defense & Ministry of Commerce
Part of Procurement Decision	No
Offset Sector	Military
Minimum Value of Contract	NZ\$5 million
Minimum Offset Required (%)	30%
Term	Not defined
Multipliers	1-3 times
Penalties	Liquidated damages
Focus	Stimulate growth and employment, sustainable activities
Direct vs. indirect	No distinction
Eligible Offset Activities	R&D, technology transfer, joint ventures, training, export marketing, etc.
Website	New Zealand Industrial Involvement: http://www.defence.govt.nz/scripts/public/nzii.asp#Pt3_Prog_Req_General

Norway

Title of Policy:	Offset Program
Agency Handling	Ministry of Finance, Program Executive Office PEO
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	KD 1 million, sum of contracts in one year
Minimum Offset Required (%)	30%
Term	8 years with intermediary steps of completion
Multipliers	2-10 times based on activity and sectors
Penalties	6% of total contract
Focus	Technology transfer and training
Direct vs. indirect	No distinction
Eligible Offset Activities	Expenses of joint ventures with local parties
Website	Guide to Norwegian Armed Forces procurement: http://balder.dep.no/fd/publ/fdhowtos/index.htm

Philippines

Title of Policy:	Countertrade (Implementing Rules & Regulations)
Agency Handling	Department of Trade and Industry through the Philippine International Trading Corporation (PITC)
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	US\$1 million
Minimum Offset Required (%)	50%
Term	3 years after from execution of the contract (2 year grace period)
Multipliers	2-5 subject to the value of the desired activities
Penalties	Non-performance ranging from 5%-100%
Focus	Foreign capital equipment, machinery and services
Direct vs. indirect	Indirect
Eligible Offset Activities	Co-production, countertrade or barter
Website	Philippine International Trading Corporation: http://www.dti.gov.ph/pitc/PITC

Saudi Arabia

Title of Policy:	Saudi Arabian Economic Offset Program
Agency Handling	Economic Offset Committee (EOC) (Ministry of Defense and Aviation)
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	Not specified
Minimum Offset Required (%)	35%
Term	Within 10 years
Multipliers	Subject to approval of offset authority
Penalties	Best efforts but reconsidering policy
Focus	Jobs, training, technology transfer and investment
Direct vs. indirect	Mix with original focus on direct
Eligible Offset Activities	Investments in joint ventures with local parties
Website	Economic Offset Program: http://www.saudioffset.com/

South Africa

Title of Policy:	National Industrial Participation
Agency Handling	Department of Trade and Industry
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	Import content greater than US \$10 million
Minimum Offset Required (%)	100%
Term	7 years
Multipliers	1-2 subject to type of IP
Penalties	5% (on unfulfilled performance guarantees)
Focus	Develop industry, technology transfer, job creation
Direct vs. indirect	No distinction
Eligible Offset Activities	Foreign investment, exports, R&D, technology transfer
Website	Strategic Defence Procurement Package Page: http://www.gov.za/projects/procurement/

Spain

Title of Policy:	Industrial Cooperation
Agency Handling	Ministry of Defense (Industrial Cooperation Directorate/Management Office)
Part of Procurement Decision	Yes
Offset Sector	Military
Minimum Value of Contract	NA
Minimum Offset Required (%)	100% expected contract value
Term	Not defined
Multipliers	None in policy
Penalties	None in policy
Focus	Technology similar to product purchased, economy, domestic industry
Direct vs. indirect	Both
Eligible Offset Activities	Evaluated on case-by-case basis, prefer partnerships with domestic firms
Website	No website available

Sweden

Title of Policy:	Offset and Participation Program
Agency Handling	DOD, Defense Material Administration (FMV)
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	100 MSEK
Minimum Offset Required (%)	NA
Term	Not defined
Multipliers	None in policy
Penalties	Performance guarantee utilized
Focus	Strengthen domestic defense industry
Direct vs. indirect	Both
Eligible Offset Activities	Co-production, technology transfer, etc.
Website	Swedish Defence Materiel Administration: http://www.fmv.se/index.asp?L=UK

Switzerland

Title of Policy:	Defense Procurement and Offset Policy
Agency Handling	Defence Procurement Agency, DOD
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	50 million Swiss francs
Minimum Offset Required (%)	100%
Term	Not defined
Multipliers	None in policy
Penalties	Performance guarantee utilized
Focus	Retain domestic industry independence, overcome trade barriers
Direct vs. indirect	Both
Eligible Offset Activities	Co-production, cooperation with universities, export assistance
Website	Defence Procurement Agency (under construction): http://www.vbs.admin.ch/internet/GR/e/active.htm

Taiwan

Title of Policy:	Industrial Cooperation Program
Agency Handling	Ministry of Economic Affairs & Industrial Development Bureau (IDB), Committee for Aviation & Space Industrial Development
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	\$50 million
Minimum Offset Required (%)	30-40%
Term	
Multipliers	1-10 times, based on type of offset
Penalties	
Focus	Upgrade industrial technology, increase quality of workforce, globalization
Direct vs. indirect	Both
Eligible Offset Activities	Local procurement, technology transfer, training, R&D, marketing
Website	No website available

Thailand

Title of Policy:	Countertrade Policy
Agency Handling	Department of Foreign Trade, Ministry of Commerce
Part of Procurement Decision	Yes
Offset Sector	Civilian and military
Minimum Value of Contract	300 million Baht
Minimum Offset Required (%)	20-50%
Term	2 months prior to end of contract
Multipliers	None in policy
Penalties	5% (on unfulfilled) performance guarantee
Focus	Enhance trade, prevent imbalance of trade
Direct vs. indirect	Indirect
Eligible Offset Activities	Counter-purchase
Website	Countertrade Policy in Thailand: http://www.dft.moc.go.th/eng/Counter/Ctpol.html

Turkey

Title of Policy:	Military Offset Policy and Guidelines
Agency Handling	Undersecretariat for Defense Industries (SSM)
Part of Procurement Decision	Yes
Offset Sector	Military
Minimum Value of Contract	US \$5 million
Minimum Offset Required (%)	30% of contract, 50% of project import value, will change to 100%
Term	Not defined
Multipliers	1-5 times, based on type of offset
Penalties	10% (on unfulfilled) & temporary exclusion from future bids
Focus	Self-sufficiency, new business opportunities, increase foreign currency flow, improve quality
Direct vs. indirect	Both
Eligible Offset Activities	Exports, technology transfer, R&D, training, investments, etc.
Website	No website available

UAE

Title of Policy:	The Defense and Procurement Policy of the UAE
Agency Handling	UAE Offsets Group (UOG)
Part of Procurement Decision	Yes
Offset Sector	Military
Minimum Value of Contract	US \$10 million
Minimum Offset Required (%)	60%
Term	7 years
Multipliers	Yes but unpublished
Penalties	8.5% of offset obligation or 4.5% of total contract
Focus	Sustainable wealth creation
Direct vs. indirect	No distinction
Eligible Offset Activities	Profits of joint ventures with local parties
Website	Offset Program description: http://uae.gov.ae/Government/business.htm#Offsets

United Kingdom

Title of Policy:	Industrial Participation
Agency Handling	MOD/DESO
Part of Procurement Decision	No
Offset Sector	Military
Minimum Value of Contract	£10 million (\$16.10 million)
Minimum Offset Required (%)	100%
Term	Over period of procurement contract
Multipliers	0-6 times based on type of offset
Penalties	None, however strict enforcement of IP program
Focus	Provide new
Direct vs. indirect	No distinction
Eligible Offset Activities	Mainly technology transfers, also employment, equipment, purchases and other
Website	“Doing Business with the Ministry of Defence”: http://www.dgcom.mod.uk/dgcom/guides/sect05.htm

Appendix F: Glossary & Offset Example

GLOSSARY AND OFFSET EXAMPLE

Offsets: Industrial compensation practices required as a condition of purchase in sales of defense articles and/or defense services.

Offset Agreement: Contract specifying the percentage of the total sale to be offset, the forms of industrial compensation required, the duration of the agreement, and penalty clauses, if any.

Offset Transaction: Any activity for which the defense prime contractor claims credit in fulfillment of the offset agreement. For the purpose of analysis, BIS divides offset transactions into nine different categories. These are also the mandated categories to satisfy the offset reporting requirement.

Technology Transfer: Transfer of technology that occurs as a result of an offset agreement and that may take the form of research and development conducted abroad, technical assistance provided to the subsidiary or joint venture of overseas investment, or other activities under direct commercial arrangement between the defense prime contractor and a foreign entity.

Subcontractor Production: Overseas production of a part or component of a U.S.-origin defense article. The subcontract does not necessarily involve license of technical information and is usually a direct commercial arrangement between the defense prime contractor and a foreign producer.

Co-production: Overseas production based upon government-to-government agreement that permits a foreign government(s) or producer(s) to acquire the technical information to manufacture all or part of a U.S. origin defense article. It includes government-to-government licensed production. It excludes licensed production based upon direct commercial arrangements by U.S. manufacturers.

Licensed Production: Overseas production of a U.S.-origin defense article based upon transfer of technical information under direct commercial arrangements between a U.S. manufacturer and a foreign government or producer.

Purchases: Procurement of off-the-shelf items from the offset recipient. Often, but not always, purchases are indirect by nature. Indirect purchases are similar in definition to countertrade while direct purchases are analogous to buy-backs.

Training: Generally includes training related to the production or maintenance of the exported defense item. Training may be required in unrelated areas, such as computer training, foreign language skills, or engineering capabilities.

Investment: Investment arising from the offset agreement, taking the form of capital transferred to establish or expand a subsidiary or joint venture in the foreign country.

Marketing: Marketing assistance to foreign companies in either defense or unrelated industries. In some cases, countries require marketing in addition to the offsets. Also encompasses export assistance.

Countertrade: In addition to the types of offsets defined above, various types of commercial countertrade arrangements may be required. A contract may include one or more of the following mechanisms:

Barter: A one-time transaction only, bound under a single contract that specifies the exchange of selected goods or services for another of equivalent value.

Counterpurchase: An agreement by the initial exporter to buy (or to find a buyer for) a specific value of goods (often stated as a percentage of the value of the original export) from the original importer during a specified time period.

Compensation (or Buy-Back): An agreement by the original exporter to accept as full or partial repayment products derived from the original exported product.

Other: Any other form of offset required or offered by a defense company/foreign government.

Offset Recipients: Foreign firms that receive the benefits of offset transactions from defense firms. For example, if a U.S. company sells a defense item to a foreign country with an offset obligation requiring that components worth 50 percent of the export contract be built in the foreign country, the foreign companies manufacturing these components would be the offset recipients.

Offset Fulfiller: The company that provides the offset compensation, which is usually the defense firm who signed the offset agreement. However, there are times when the obligation is not related to the defense firm's specialty and therefore is contracted out. For example, if marketing is a component of the offset requirement, the defense firm may hire a marketing company to satisfy the obligation. The marketing firm would then be the offset fulfiller.

Actual Value of Offset Transactions: The market value of all offset transactions measured in U.S. dollars.

Credit Value of Offset Transactions: The value credited for the offset transaction by application of a multiplier or other method. The credit value may be greater than or equal to the actual value of the offset.

Multiplier: A factor applied to the actual value of certain offset transactions to calculate the credit value earned. Foreign governments use multipliers to provide firms with incentives to offer offsets in targeted areas of economic growth. When a multiplier is applied to the off-the-shelf price of a more desirable service or product offered as an

offset, the defense firm receives a higher credit value toward fulfilling an offset obligation.

Example: A foreign government interested in a specific technology may offer a multiplier of “six” for offset transactions providing access to that technology. A U.S. defense company with 120 percent offset obligation from a \$1 million sale of defense articles ordinarily would be required to provide technology transfer through an offset equaling \$1.2 million. With a multiplier of six, however, the U.S. company could offer only \$200,000 (actual value) in technology transfer and earn \$1.2 million in credit value, fulfilling its entire offset obligation under the agreement.

Direct Offsets: Offset transactions that are directly related to the defense items or services exported by the defense firm. These are usually in the form of co-production, subcontracting, training, production, licensed production, or possibly technology transfer or financing activities.

Indirect Offsets: Offset transactions that are not directly related to the defense items or services exported by the defense firm. The kinds of offsets that are indirect include purchases, investment, training, financing activities, marketing/exporting assistance, and technology transfer.

Penalties: Measures used to motivate defense firms to fulfill their offset obligation in the time allotted by the contract.

Liquidated damages: If a firm fails to fulfill all offsets by the stipulated deadline, it must pay a percentage of the total value of the export contract. The percentage usually ranges from 5 to 20 percent and is specified in the contract.

Non-performance penalties: Firms must pay a prearranged percentage (2-10 percent) of all obligations not fulfilled in the allotted time.

Best efforts clauses: With a best-efforts clause, there is no penalty for non-fulfillment of the contract; the firm is judged to be acting in good faith to meet its obligations. However, firms' reputations can be jeopardized if offset obligations are not fulfilled as stated in the contract; non-fulfillment would likely result in the U.S. defense firm being excluded from future procurements by that purchasing government.

OFFSET EXAMPLE

This example is for illustrative purposes only and is not an actual offset agreement.

The fictitious nation of Atlantis purchased ten KS-340 jet fighters from a U.S. defense firm, PJD Inc. (PJD), for a total of \$500 million with 100 percent offset. In other words, the offset agreement obligated PJD to fulfill offsets equal to the value of the contract, or \$500 million. The government of Atlantis decided what would be required of PJD in order to fulfill its offset obligation, which would include both direct and indirect compensation. The government also assigned the credit value for each category.

Direct Offsets (i.e., related to the production of the export item, the KS-340 jet fighter)

Technology Transfer: The technology transfer requirement was assigned 36 percent of the total offset obligation. PJD agreed to transfer all the necessary technology and know-how to Atlantis firms in order to repair and maintain the jet fighters. The Atlantis government deemed this capability to be vital to national security and therefore gave a multiplier of six. As a result, the transfer of technology actually worth \$30 million was given a credit value of \$180 million.

Co-production: Atlantis firms manufactured some components of the KS-340 jet fighters, totaling \$220 million, which accounted for 44 percent of the offset obligation.

Indirect Offsets (i.e., not related to the production of the export item, the KS-340 jet fighter)

Purchase: PJD purchased marble statues from Atlantis manufacturers for eventual resale. These purchases accounted for seven percent of the offset obligation, or \$35 million.

Financing Activities: PJD made investments in non-defense related industries in Atlantis; this accounted for four percent of the offset obligation, or \$20 million.

Technology Transfer: PJD provided submarine technology to Atlantis firms, which accounted for six percent of the offset obligation, or \$30 million.

Marketing: Commercial assistance was provided for Atlantis fisheries to market their fish in the United States, which fulfilled the remaining three percent, or \$15 million of the offset obligation. In this example, the Atlantis fisheries are *offset recipients* because they received marketing services for their product. PJD hired a U.S. advertising firm, the *offset fulfiller*, to market the Atlantis fish.

The duration of the offset agreement was 10 years. A timetable was created by the Atlantis government outlining which obligations should be fulfilled, to what extent, and when. If PJD did not meet the deadlines given, the company was required to pay the Atlantis government five percent of the unfulfilled offset amount in liquidated damages. For example, if after 10 years, only 98.5 percent of the offset obligation of \$500 million was fulfilled, PJD would be mandated to pay liquidated damages in the amount of five percent of the 1.5 percent unfulfilled portion of the offset obligation, or \$375,000.

Appendix G: List of U.S. Government Offset Reports

Partial Listing of Previous U.S. Government Reports on Offsets

October 1985	<i>Assessment of the Effects of Barter and Countertrade Transactions on U.S. Industries</i> - U.S. International Trade Commission.
December 1985	<i>The Impact of Offsets in Defense-Related Exports</i> - Office of Management and Budget.
December 1986	<i>Second Annual Report on the Impact of Offsets in Defense-Related Exports</i> - Office of Management and Budget.
December 1987	<i>Impact of Offsets in Defense-Related Exports: A Summary of the First Three Annual Reports</i> - Office of Management and Budget.
December 1988	<i>Offsets in Military Exports</i> - Office of Management and Budget.
April 1990	<i>Report on Offsets in Military Exports</i> - Office of Management and Budget.
April 1996	<i>Military Exports: Offset Demands Continue to Grow</i> - U.S. General Accounting Office.
May 1996	<i>Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, As Amended</i> - U.S. Department of Commerce
June 1997	<i>Policy Issues in Aerospace Offsets: Report of A Workshop</i> - Board on Science, Technology, and Economic Policy, National Research Council.
August 1997	<i>Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, As Amended</i> - U.S. Department of Commerce
January 1998	<i>Symposium Papers on: Trends and Challenges in Aerospace Offsets</i> - Board on Science, Technology, and Economic Policy, National Research Council.
August 1998	<i>Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, As Amended</i> - U.S. Department of Commerce
December 1998	<i>Defense Trade: U.S. Contractors Employ Diverse Activities to Meet Offset Obligations</i> – U.S. General Accounting Office.

March 1999	<i>Trends and Challenges in Aerospace Offsets</i> - Board on Science, Technology, and Economic Policy, National Research Council.
October 1999	<i>Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, As Amended</i> - U.S. Department of Commerce
January 2001	Status Report of the Presidential Commission on Offsets in International Trade
May 2001	<i>Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, As Amended</i> - U.S. Department of Commerce



Office of Strategic Industries and Economic Security
STRATEGIC ANALYSIS DIVISION
PUBLICATIONS LIST
February 26, 2003



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Italics indicate forthcoming studies

PUBLICATION TITLE	GPO ORDER #	PRICE
<i>Industry Attitudes on Collaborating with DOD in R&D – Air Force – Fall 2003</i>		
<i>8th Offsets in Defense Trade – Conducted under §309 of the Defense Production Act of 1950 – Fall 2003</i>		
<i>National Security Assessment of the U.S. Shipbuilders' Supplier Base – Fall 2003</i>		
<i>Critical Technology Assessment of Biotechnology in U.S. Industry – Summer 2003</i>		
<i>National Security Assessment of the Munitions Power Sources Industry – Summer 2003</i>		
<i>National Security Assessment of the Air Delivery (Parachute) Industry – March 2003</i>		
<i>7th Offsets in Defense Trade – Conducted under §309 of the Defense Production Act of 1950- March 2003</i>		
<i>Critical Technology Assessment: Assistive Technology – February 2003</i>		
<i>6th Offsets in Defense Trade – Conducted under §309 of the Defense Production Act of 1950- February 2003</i>		
<i>The Effect of Imports of Iron Ore and Semi-Finished Steel on the National Security – October 2001</i>		
<i>National Security Assessment of the U.S. High-Performance Explosives & Components Sector –June 2001</i>	003-009-00714-3	\$22.00
<i>National Security Assessment of the U.S. Shipbuilding and Repair Industry- May 2001</i>	003-009-00719-4	\$22.00
<i>Statistical Handbook of the Ball and Roller Bearing Industry (Update) - June 2001</i>	Available on SAD Website	
<i>5th Offsets in Defense Trade – Conducted under §309 of the Defense Production Act of 1950-May 2001</i>	003-009-00722-4	
<i>National Security Assessment of the Cartridge and Propellant Actuated Device Industry: Update - Dec. 2000</i>	003-009-00710-1	
<i>The Effect on the National Security of Imports of Crude Oil and Refined Petroleum Products-November 1999</i>	003-009-00723-2	
<i>4th Offsets in Defense Trade – Conducted under §309 of the Defense Production Act of 1950-Oct. 1999</i>	003-009-00677-5	\$9.50
<i>Critical Technology Assessment: Optoelectronics - October 1998</i>	003-009-00678-3	\$7.00
<i>3rd Offsets in Defense Trade – Conducted under §309 of the Defense Production Act of 1950 - August 1998</i>	003-009-00674-1	\$7.50
<i>National Security Assessment of the Emergency Aircraft Ejection Seat Sector - November 1997</i>	003-009-00680-5	\$10.00
<i>2nd Offsets in Defense Trade – Conducted under §309 of the Defense Production Act of 1950 – Aug.1997</i>	003-009-00681-3	\$9.50

Critical Technology Assessment of the U.S. Semiconductor Materials Industry - April 1997	003-009-00682-1	\$1.50
1 st Offsets in Defense Trade - Conducted under §309 of the Defense Production Act of 1950 - May 1996	003-009-00683-0	\$9.50
National Security Assessment of the Cartridge and Propellant Actuated Device Industry - October 1995	003-009-00676-7	\$14.00
The Effect of Imports of Crude Oil and Petroleum Products on the National Security - December 1994	003-009-00684-8	\$10.00
Critical Technology Assessment of U.S. Artificial Intelligence - August 1994	003-009-00685-6	\$19.00
Critical Technology Assessment of U.S. Superconductivity - April 1994	003-009-00706-2	\$7.00
Critical Technology Assessment of U.S. Optoelectronics - February 1994	003-009-00686-4	\$13.00
Critical Technology Assessment of U.S. Advanced Ceramics - December 1993	003-009-00687-2	\$9.00
Critical Technology Assessment of U.S. Advanced Composites - December 1993	003-009-00688-1	\$28.00
The Effect of Imports of Ceramic Semiconductor Packages on the National Security - August 1993	003-009-00689-9	\$15.00
National Security Assessment of the U.S. Beryllium Industry - July 1993	003-009-00690-2	\$9.00
National Security Assessment of the Antifriction Bearings Industry - February 1993	003-009-00691-1	\$13.00
National Security Assessment of the U.S. Forging Industry - December 1992	003-009-00692-9	\$10.00
The Effect of Imports of Gears and Gearing Products on the National Security - July 1992	003-009-00693-7	\$15.00
Natl. Sec. Assessment of the Dom. and For. Subcontractor Base~3 US Navy Systems - March 1992	003-009-00695-3	\$16.00
Natl. Security Assessment of the U.S. Semiconductor Wafer Processing Equipment Industry - April 1991	003-009-00694-5	\$9.00
National Security Assessment of the U.S. Robotics Industry - March 1991	003-009-00696-1	\$13.00
National Security Assessment of the U.S. Gear Industry - January 1991	003-009-00697-0	\$14.00
The Effect of Imports of Uranium on the National Security - September 1989	003-009-00698-8	\$6.50
The Effect of Imports of Crude Oil and Refined Petroleum Product on the National Security - Jan. 1989	003-009-00699-6	\$10.00
The Effect of Imports of Plastic Injection Molding Machines on the National Security - January 1989	003-009-00700-3	\$14.00
The Effect of Imports of Anti-Friction Bearings on the National Security - July 1988	003-009-00701-1	\$24.00
Investment Castings: A National Security Assessment - December 1987	003-009-00702-0	\$13.00
Joint Logistics Commanders/DOC Precision Optics Study - June 1987	003-009-00703-8	\$15.00
An Economic Assessment of the U.S. Industrial Fastener Industry - March 1987	003-009-00704-6	\$6.50
Joint Logistics Commanders/DOC Bearing Study - June 1986	003-009-00705-4	\$15.00

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