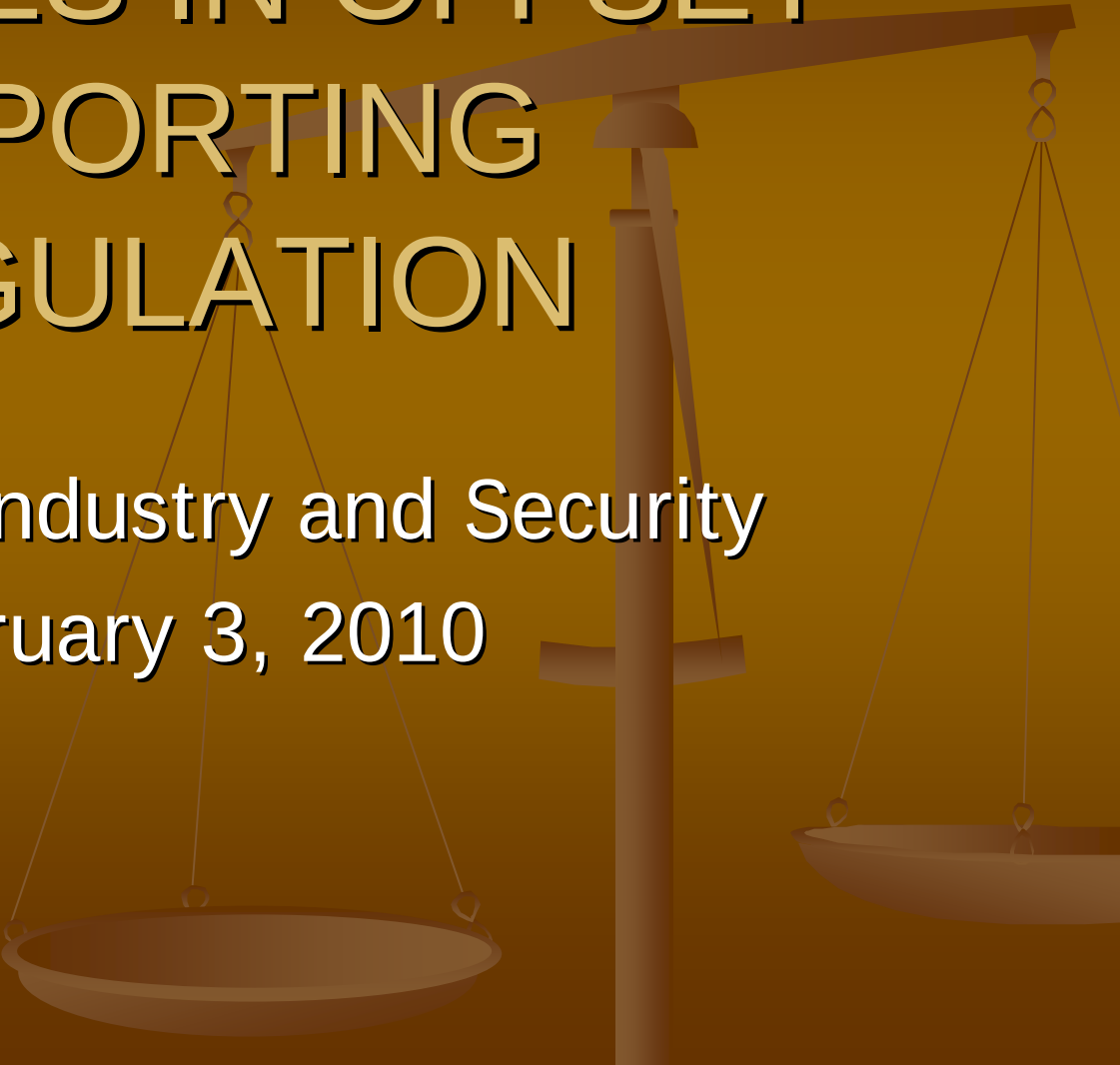
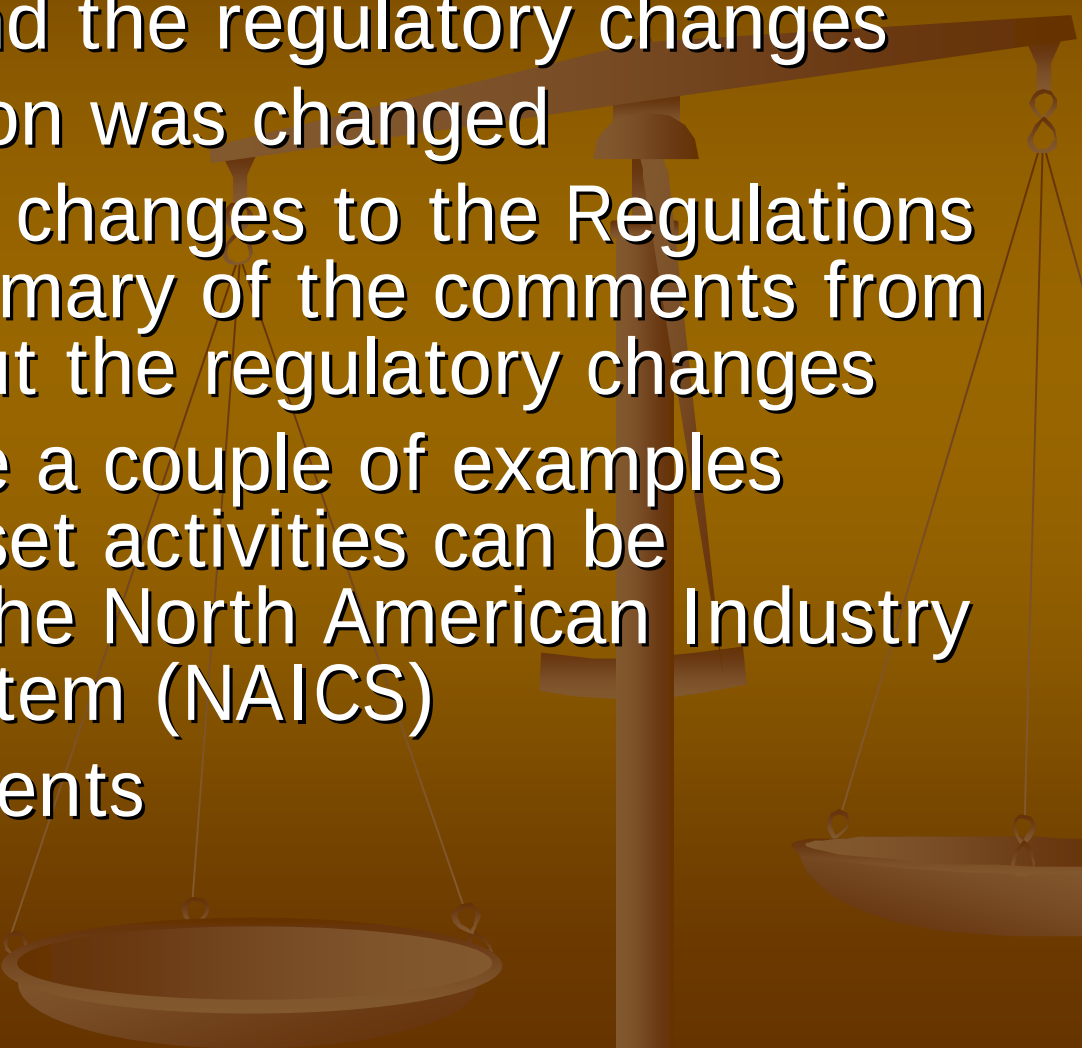


CHANGES IN OFFSET REPORTING REGULATION



Bureau of Industry and Security
February 3, 2010

Overview

- The history behind the regulatory changes
 - Why the regulation was changed
 - Discussion of the changes to the Regulations along with a summary of the comments from the industry about the regulatory changes
 - I will also provide a couple of examples showing how offset activities can be classified under the North American Industry Classification System (NAICS)
 - Questions/Comments
- 

June 2008

DEFENSE PRODUCTION ACT

Agencies Lack Policies and Guidance for Use of Key Authorities



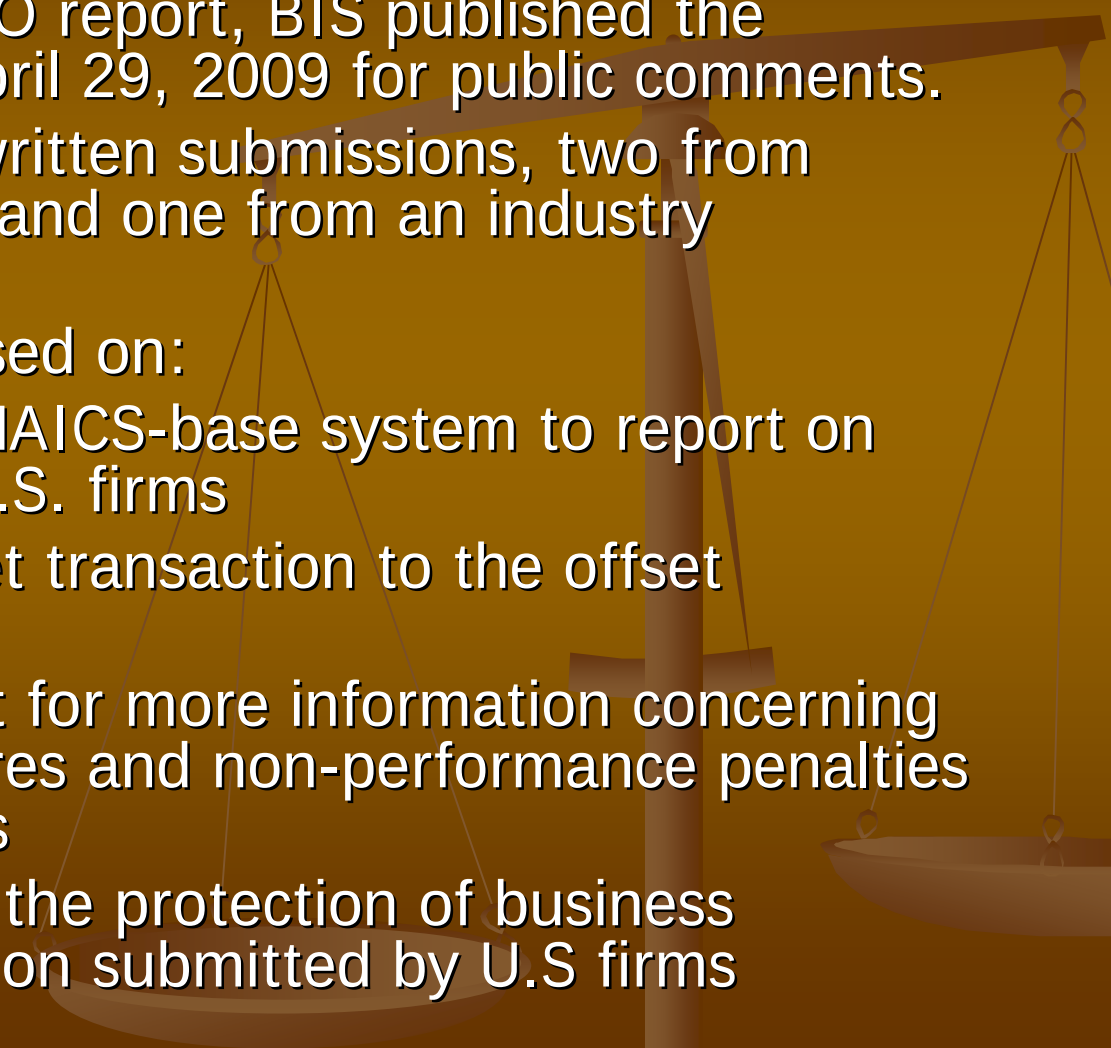
G A O

Accountability • Integrity • Reliability

GAO Report Recommendations

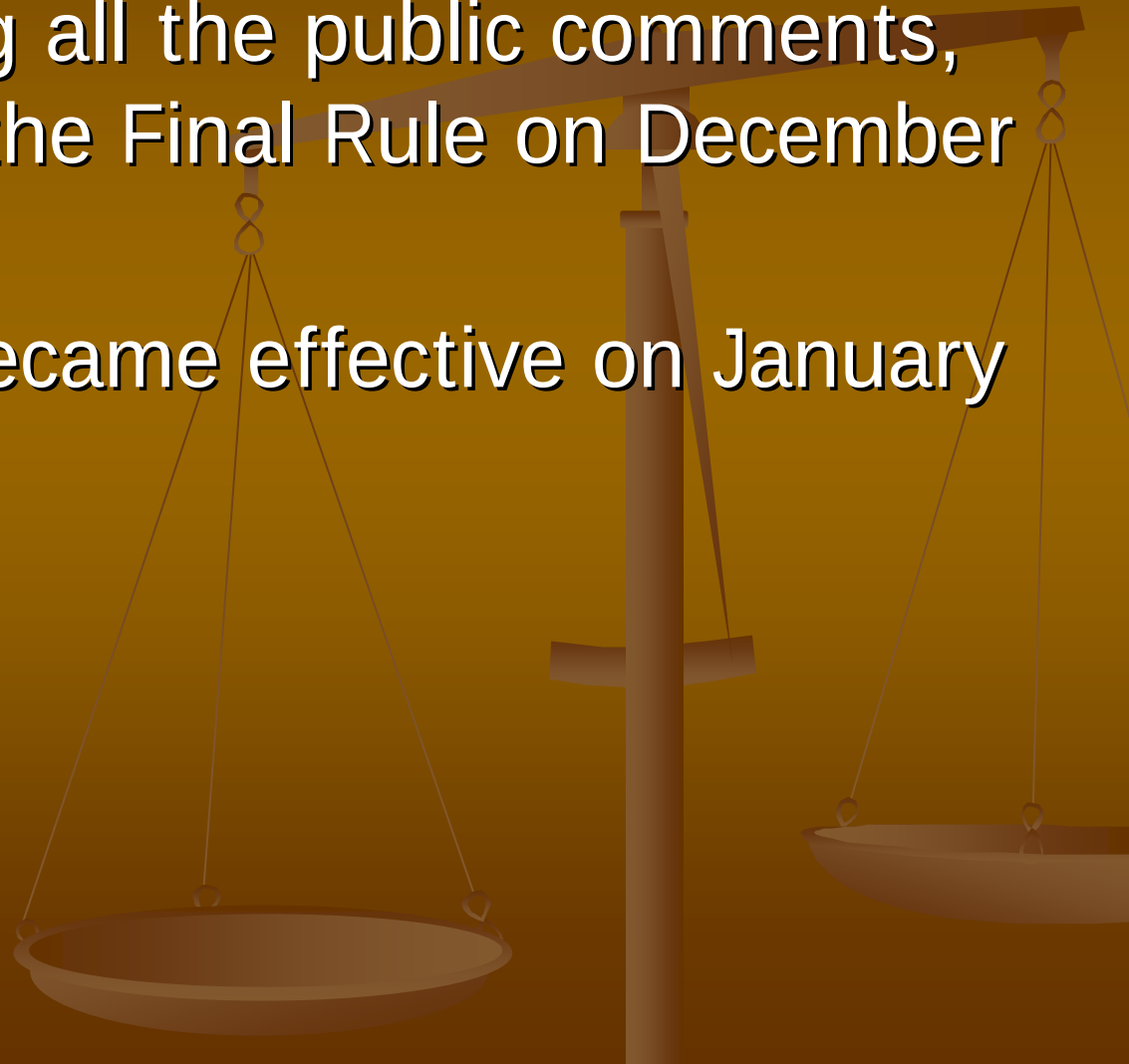
- “DPA also requires Commerce to report on the potential impact of offsets on the U.S. economy, which has been a concern for many years. The lack of usable data in the Department of Commerce’s reports limits the government’s ability to gain knowledge on the economic effects of offsets and to take steps to address them.”
- “To position the Department of Commerce to respond to offset reporting requirements, we recommend the Secretary of Commerce update regulations to, for example, request more specific industry information from prime contractors that would improve the assessment of the economic effects of offsets.”
- The use of the NAICS classification system “would allow Commerce to provide greater insight into the effects of offsets on specific subsectors of the economy and would more closely match employment data already used in their analysis.”

The Final Rule on Offsets

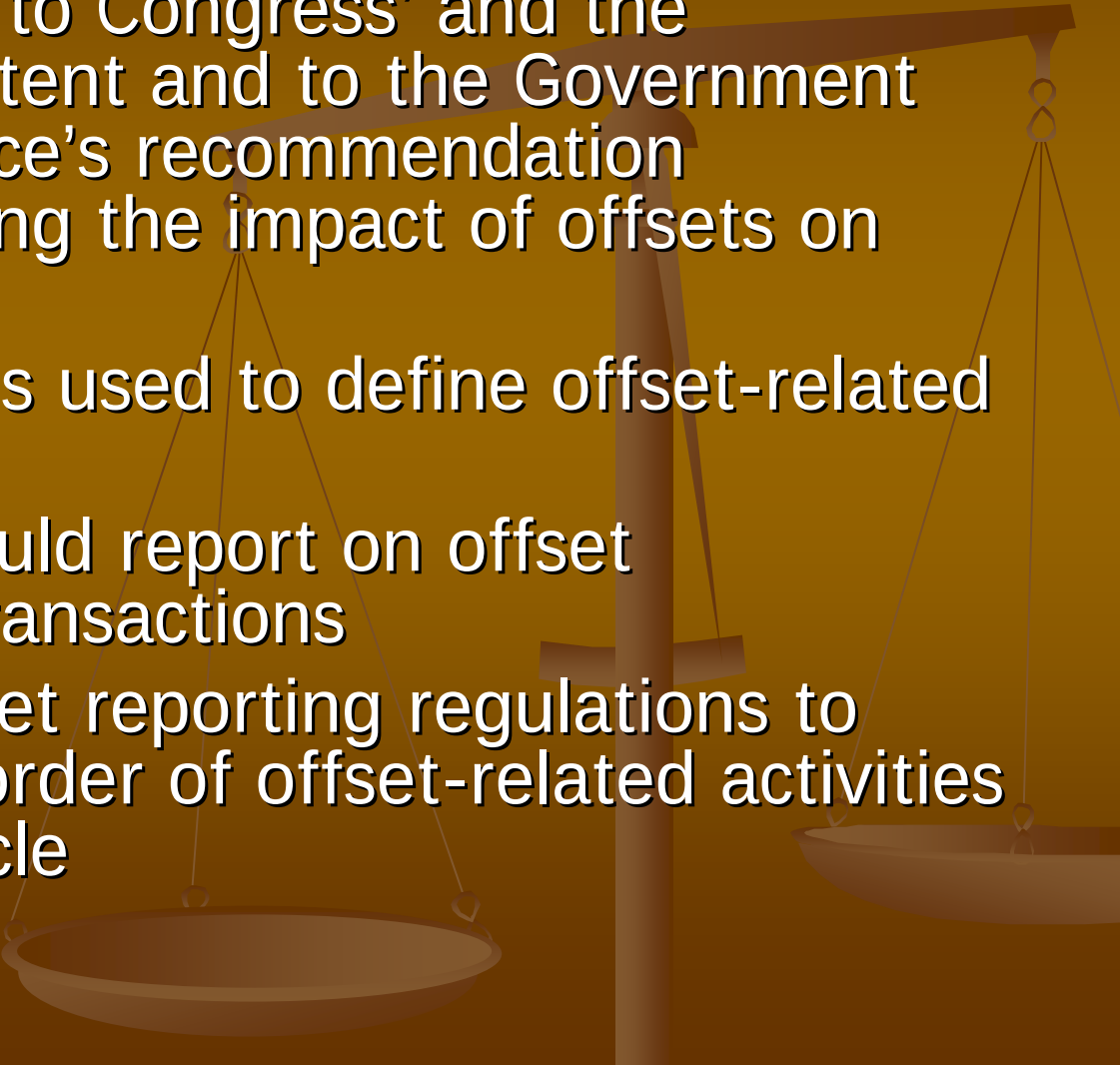
- Prompted by the GAO report, BIS published the Proposed Rule on April 29, 2009 for public comments.
 - BIS received three written submissions, two from defense contractors and one from an industry association.
 - The comments focused on:
 - (1) the use of the NAICS-base system to report on offset activities by U.S. firms
 - (2) linking the offset transaction to the offset agreement
 - (3) the requirement for more information concerning performance measures and non-performance penalties in offset transactions
 - (4) concerns about the protection of business proprietary information submitted by U.S firms
- 

The Final Rule on Offsets - Continued

- After addressing all the public comments, BIS published the Final Rule on December 23, 2009.
- The final rule became effective on January 22, 2010.

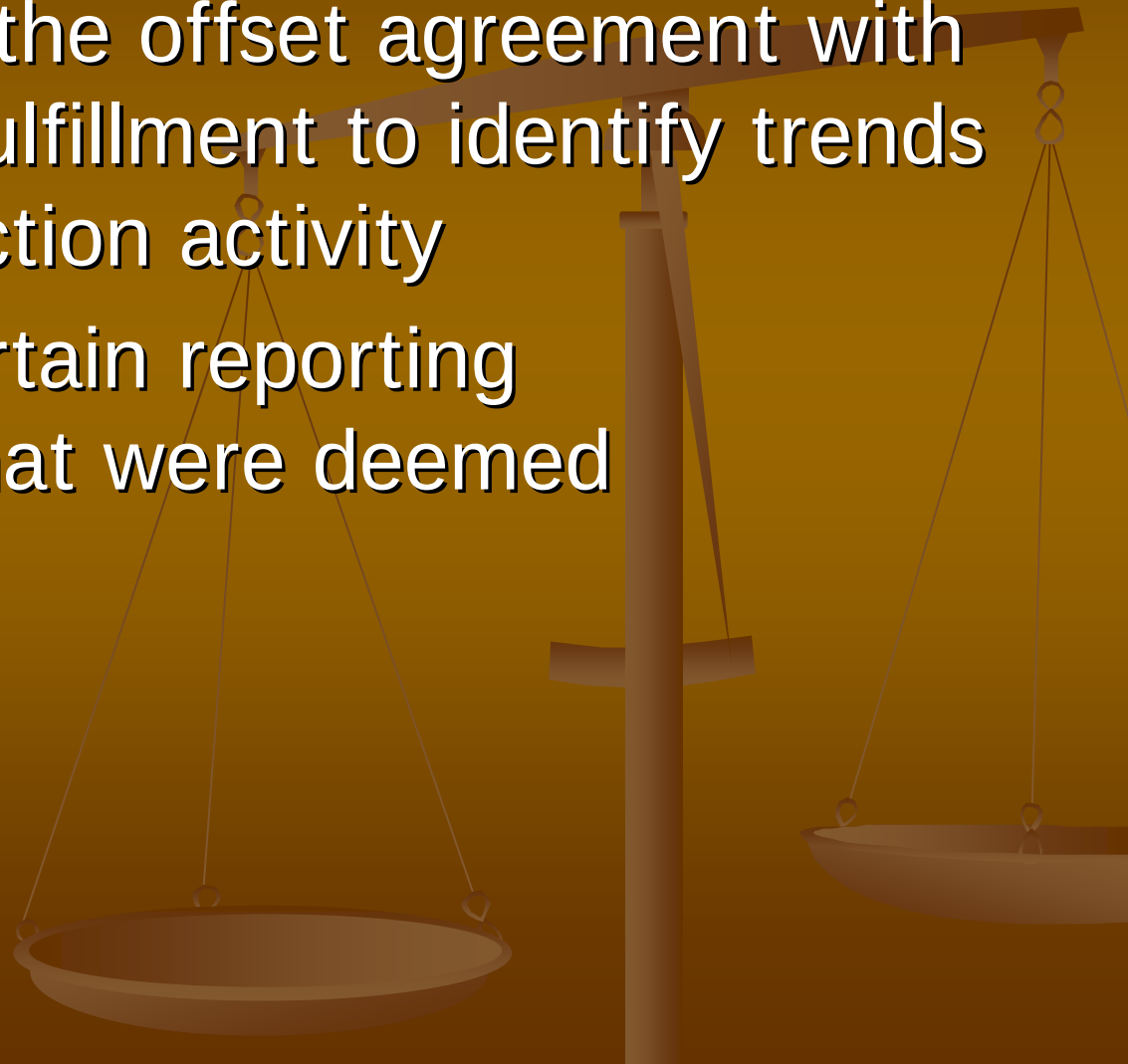


Reasons for Changes

- To better respond to Congress' and the Administration's intent and to the Government Accountability Office's recommendation regarding measuring the impact of offsets on the U.S. economy
 - To clarify the terms used to define offset-related activities
 - To clarify who should report on offset agreements and transactions
 - To modify the offset reporting regulations to better reflect the order of offset-related activities in the business cycle
- 

Reasons for Changes - Continued

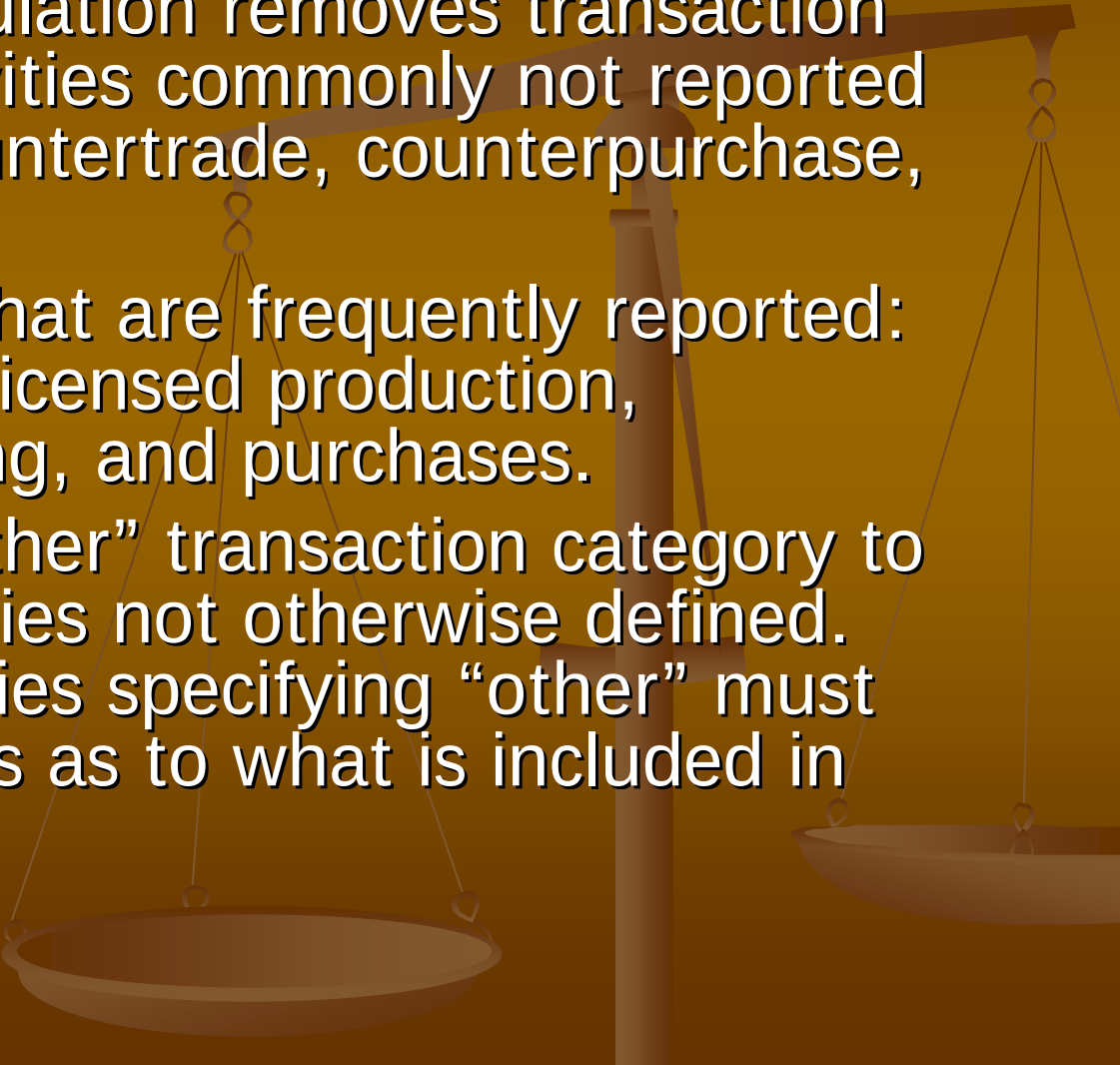
- To better track the offset agreement with the obligation fulfillment to identify trends in offset transaction activity
- To eliminate certain reporting requirements that were deemed unnecessary





bxp27969 www.fotosearch.com

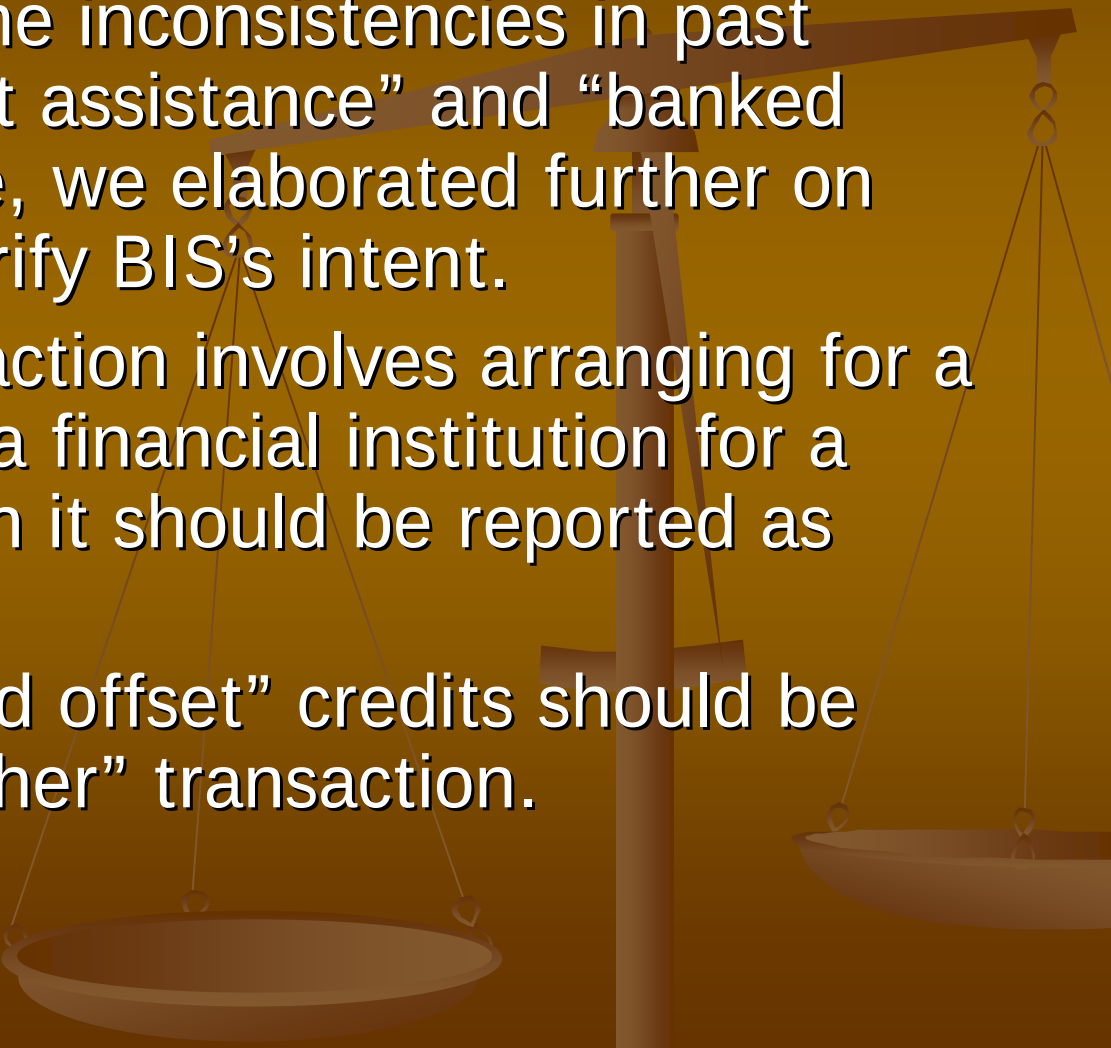
Clarification of the terms used to define offset-related activities

- The amended regulation removes transaction references to activities commonly not reported to BIS: barter, countertrade, counterpurchase, and buy back.
 - Added are terms that are frequently reported: credit assistance, licensed production, investment, training, and purchases.
 - BIS also added “other” transaction category to capture any activities not otherwise defined. Reporting companies specifying “other” must also provide details as to what is included in other.
- 

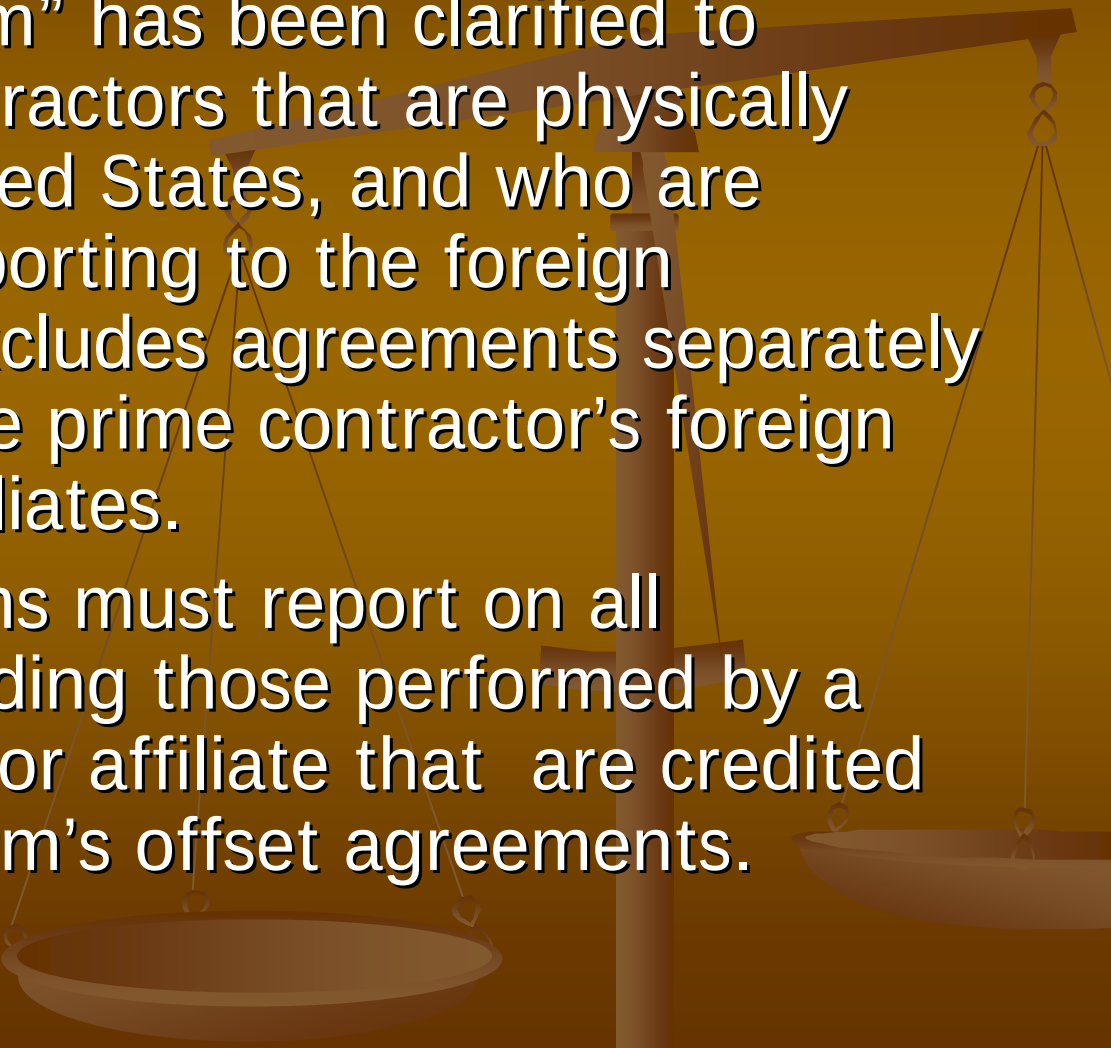
Clarification of the terms used to define offset-related activities - Continued

- The transaction term “co-production” is further defined to include transactions that are based upon a government-to-government agreement authorizing the transfer of technology. Such transactions are based on FMS Letter of Offer and Acceptance (LOA) and a Memorandum of Understanding.
- If a foreign government receives technology to produce a component of a U.S. defense article without a LOA or MOU, then the transaction is classified as “licensed production”.

Clarification of the terms used to define offset-related activities - Continued

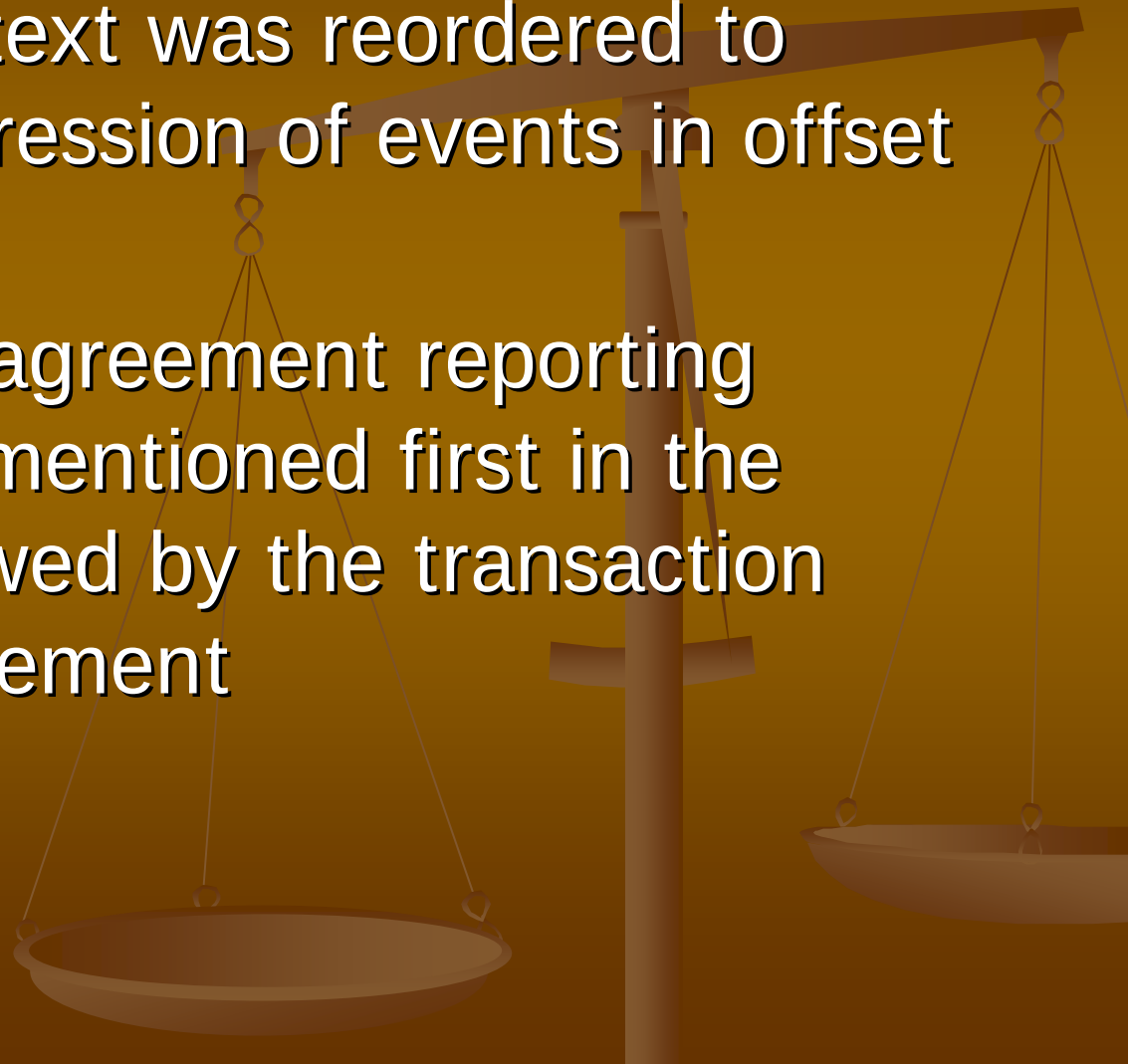
- BIS has found some inconsistencies in past reporting of “credit assistance” and “banked credits”. Therefore, we elaborated further on these terms to clarify BIS’s intent.
 - If the offset transaction involves arranging for a line of credit with a financial institution for a foreign entity, then it should be reported as “credit assistance”
 - The use of “banked offset” credits should be reported as an “other” transaction.
- 

To clarify who should report on offset agreements and transactions

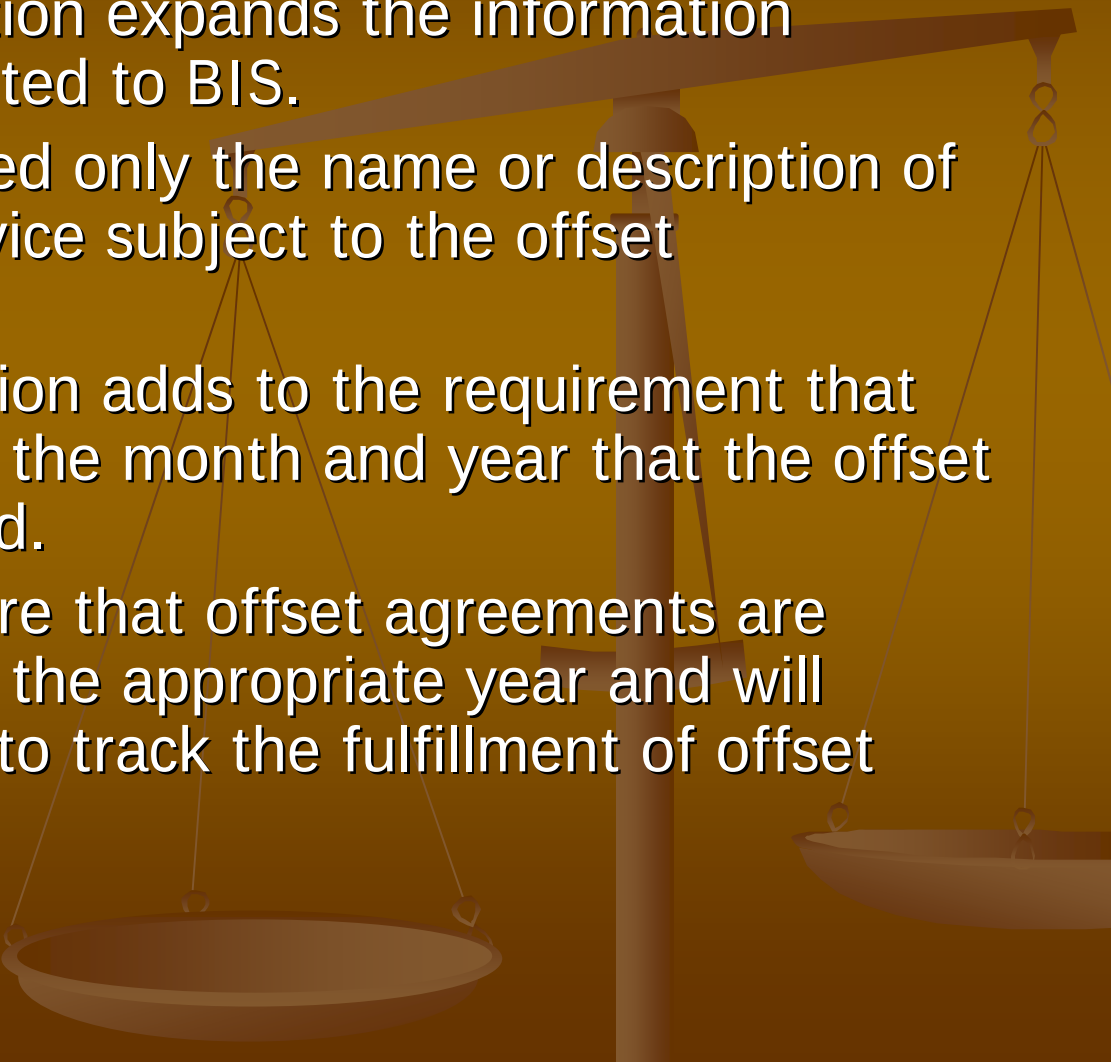
- The term “U.S. firm” has been clarified to include prime contractors that are physically located in the United States, and who are responsible for reporting to the foreign customer. This excludes agreements separately entered into by the prime contractor’s foreign subsidiaries or affiliates.
 - However, U.S. firms must report on all transactions, including those performed by a foreign subsidiary or affiliate that are credited toward the U.S. firm’s offset agreements.
- 

To modify the offset reporting regulations to better reflect the order of offset-related activities in the business cycle

- The regulation text was reordered to reflect the progression of events in offset arrangements
- Now the offset agreement reporting requirement is mentioned first in the regulation followed by the transaction reporting requirement



To better track the offset agreement with the obligation fulfillment to identify trends in offset transaction activity

- The Amended regulation expands the information required to be submitted to BIS.
 - Prior reporting required only the name or description of the defense item/service subject to the offset agreement.
 - The amended regulation adds to the requirement that U.S. firms also report the month and year that the offset agreement was signed.
 - This change will ensure that offset agreements are correctly reported for the appropriate year and will facilitate BIS's ability to track the fulfillment of offset obligations.
- 

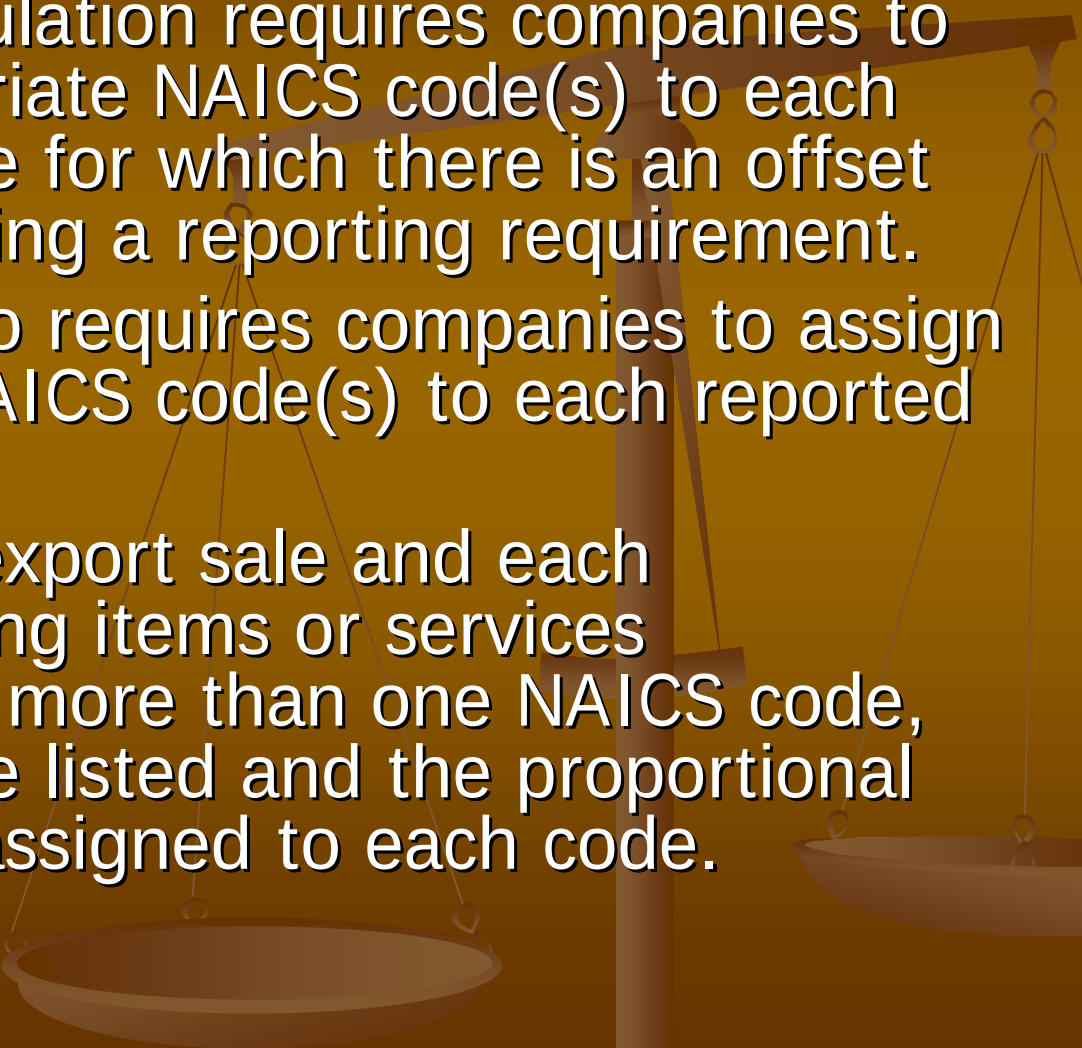
To eliminate certain reporting requirements that were deemed unnecessary

- The amended regulation eliminates the requirement that companies report the names and titles of the foreign signatories to offset agreements.
 - This data is not utilized in BIS's annual report nor required by the previous regulation.
 - U.S. firms are only required to report the identify of the foreign government agency or branch that is signatory to the offset agreement.
- 

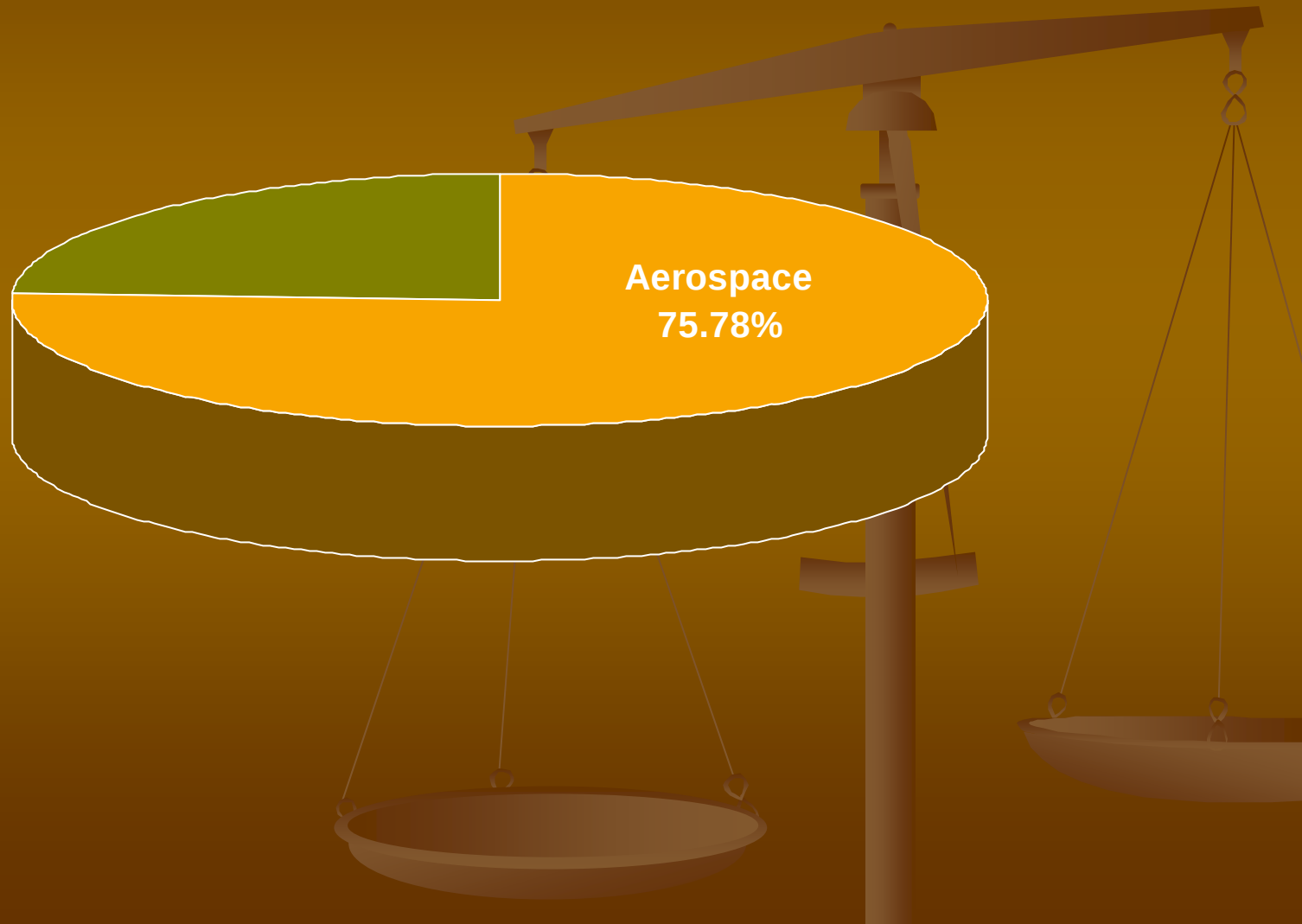
Measuring the impact of offsets on the U.S. economy

- The amended regulation added the reporting requirement that agreements and transactions be classified according to NAICS categories
- The NAICS system, administered in the U.S. by the Bureau of the Census, has been in effect since 1997 and it is the standard used to collect annual economic activity in the U.S., Canada, and Mexico
- The amended regulation requires reporting offset agreements and transactions in six-digit NAICS categories
- NAICS classification search can be found at: <http://www.census.gov/eos/www/naics/>

Measuring the impact of offsets on the U.S. economy - Continued

- The amended regulation requires companies to assign the appropriate NAICS code(s) to each military export sale for which there is an offset agreement triggering a reporting requirement.
 - The regulation also requires companies to assign the appropriate NAICS code(s) to each reported offset transaction.
 - For each military export sale and each transaction involving items or services categorized under more than one NAICS code, all codes should be listed and the proportional values should be assigned to each code.
- 

Offset Activity, 1993 - 2008



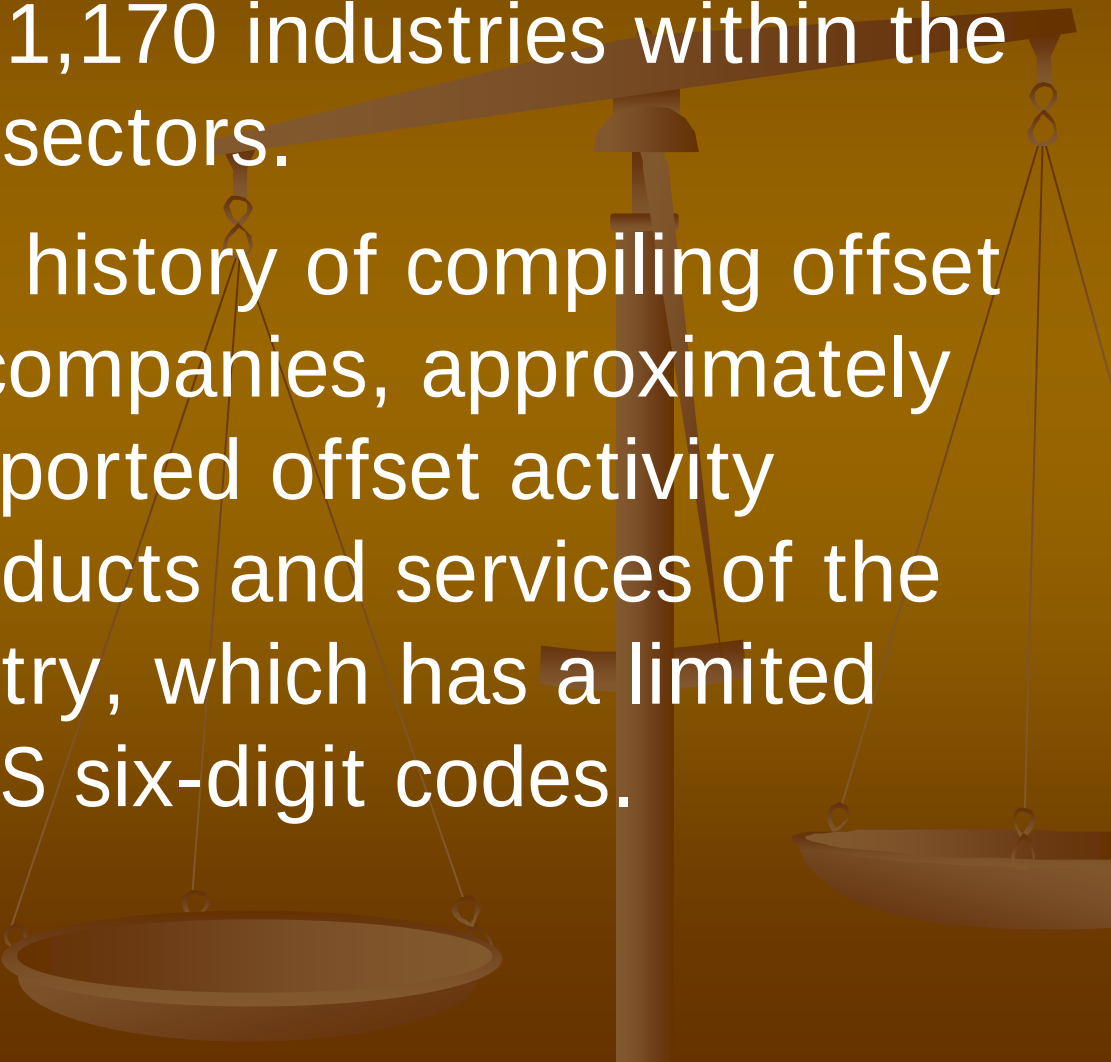
Measuring the impact of offsets on the U.S. economy - Continued

- All companies that conduct business with the U.S. Government are required to classify their products and services in accordance with NAICS
- Some examples of NAICS production codes:
 - NAICS 336411 – Aircraft Manufacturing
 - NAICS 336412 – Aircraft Engine and Engine Parts Manufacturing
 - NAICS 336414 – Guided Missile and Space Vehicle Manufacturing
 - NAICS 334220 – Radio Communication Equipment Manufacturing
 - NAICS 336992 – Armored Vehicle, Tank/Equip. Manufacturing

Measuring the impact of offsets on the U.S. economy - Continued

- NAICS classifications also capture research and development activity, setting up wholesale and distribution networks, management development training, farming/agriculture, mining, retail trade, transportation, scientific and technical services, etc.
- NAICS classifies all economic activity into twenty industry sectors.
 - Five sectors are mainly goods-producing sectors and fifteen are entirely services-producing sectors

Measuring the impact of offsets on the U.S. economy - Continued

- In all, there are 1,170 industries within the twenty industry sectors.
 - In BLS's 15-year history of compiling offset data from U.S. companies, approximately 80 percent of reported offset activity involved the products and services of the aerospace industry, which has a limited number of NAICS six-digit codes.
- 

North American Industry Classification System (NAICS)



[Main](#) | [FAQs](#) | [History](#) | [Development Partners](#) | [Federal Register Notices](#) | [Product Classification](#)

NAICS SEARCH

Enter keyword or 2-6 digit code

2007 NAICS Search

Enter keyword or 2-6 digit code

2002 NAICS Search

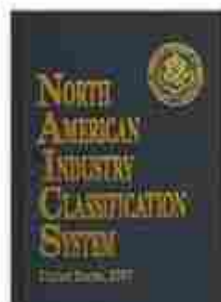
DOWNLOADS / REFERENCE FILES / TOOLS

[For 2007 NAICS](#)

[For 2002 NAICS](#)

[Concordances](#)

[NAICS Update Process Fact
Sheet](#) [PDF 37K]



Coming Soon:

Federal Register Notice with ECPC Recommendations for Changes to NAICS for 2012

INTRODUCTION

The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

NAICS was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997 to replace the [Standard Industrial Classification \(SIC\) system](#). It was developed jointly by the [U.S. Economic Classification Policy Committee \(ECPC\)](#), [Statistics Canada](#) , and Mexico's [Instituto Nacional de Estadística y Geografía](#) , to allow for a high level of comparability in business statistics among the North American countries.

This official U.S. Government Web site provides the latest information on plans for NAICS revisions, as well as access to various NAICS reference files and tools.

The official 2007 U.S. NAICS Manual, includes definitions for each industry, background information, tables showing changes between 2002 and 2007, and a comprehensive index. The official 2007 U.S. NAICS Manual is available in print and on CD_ROM from the National Technical Information Service (NTIS) at (800) 553-6847 or (703) 605-6000, or through the [NTIS](#) Web site. Previous versions of the NAICS Manual are available.

Additional information on the background and development of NAICS is available in the ["History"](#) section of this Web site.

2007 NAICS

<u>11</u>	Agriculture, Forestry, Fishing and Hunting	<u>53</u>	Real Estate and Rental and Leasing
<u>21</u>	Mining, Quarrying, and Oil and Gas Extraction	<u>54</u>	Professional, Scientific, and Technical Services
<u>22</u>	Utilities	<u>55</u>	Management of Companies and Enterprises
<u>23</u>	Construction	<u>56</u>	Administrative and Support and Waste Management and Remediation Services
<u>31-33</u>	Manufacturing	<u>61</u>	Educational Services
<u>42</u>	Wholesale Trade	<u>62</u>	Health Care and Social Assistance
<u>44-45</u>	Retail Trade	<u>71</u>	Arts, Entertainment, and Recreation
<u>48-49</u>	Transportation and Warehousing	<u>72</u>	Accommodation and Food Services
<u>51</u>	Information	<u>81</u>	Other Services (except Public Administration)
<u>52</u>	Finance and Insurance	<u>92</u>	Public Administration

Search results for: 54

Number of records found: 94

54 Professional, Scientific, and Technical Services

541 Professional, Scientific, and Technical Services

5411 Legal Services

54111 Offices of Lawyers

541110 Offices of Lawyers

54112 Offices of Notaries

541120 Offices of Notaries

54119 Other Legal Services

541191 Title Abstract and Settlement Offices

541199 All Other Legal Services

5412 Accounting, Tax Preparation, Bookkeeping, and Payroll Services

54121 Accounting, Tax Preparation, Bookkeeping, and Payroll Services

541211 Offices of Certified Public Accountants

541213 Tax Preparation Services

541214 Payroll Services

541219 Other Accounting Services

5413 Architectural, Engineering, and Related Services

54131 Architectural Services

541310 Architectural Services

54132 Landscape Architectural Services

541320 Landscape Architectural Services

54133 Engineering Services



541330 Engineering Services



2007 NAICS Definition

541330 Engineering Services

This industry comprises establishments primarily engaged in applying physical laws and principles of engineering in the design, development, and utilization of machines, materials, instruments, structures, processes, and systems. The assignments undertaken by these establishments may involve any of the following activities: provision of advice, preparation of feasibility studies, preparation of preliminary and final plans and designs, provision of technical services during the construction or installation phase, inspection and evaluation of engineering projects, and related services.

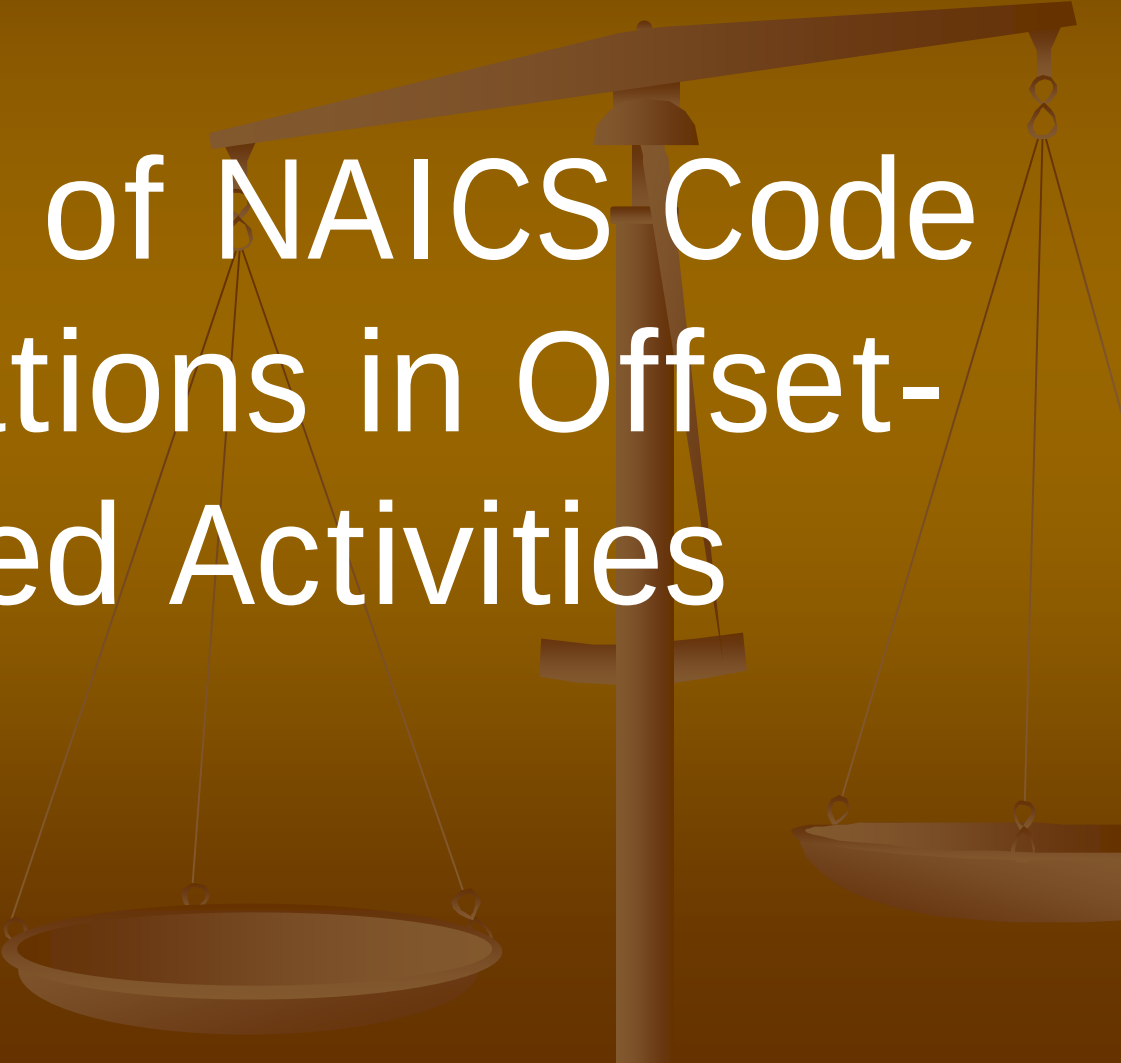
Cross-References. Establishments primarily engaged in--

- Planning and designing computer systems that integrate computer hardware, software, and communication technologies--are classified in U.S. Industry [541512](#), Computer Systems Design Services;
- Performing surveying and mapping services of the surface of the earth, including the sea floor--are classified in Industry [541370](#), Surveying and Mapping (except Geophysical) Services;
- Gathering, interpreting, and mapping geophysical data--are classified in Industry [541360](#), Geophysical Surveying and Mapping Services;
- Creating and developing designs and specifications that optimize the use, value, and appearance of products--are classified in Industry [541420](#), Industrial Design Services;
- Providing advice and assistance to others on environmental issues, such as the control of environmental contamination from pollutants, toxic substances, and hazardous materials--are classified in Industry [541620](#), Environmental Consulting Services; and
- Both the design and construction of buildings, highways, and other structures or in managing construction projects--are classified in, Sector 23--Construction, according to the type of project.



2007	2002	1997	Corresponding Index Entries
NAICS	NAICS	NAICS	
541330	541330	541330	Acoustical engineering consulting services
541330	541330	541330	Acoustical system engineering design services
541330	541330	541330	Boat engineering design services
541330	541330	541330	Chemical engineering services
541330	541330	541330	Civil engineering services
541330	541330	541330	Combustion engineering consulting services
541330	541330	541330	Construction engineering services
541330	541330	541330	Consulting engineers' offices
541330	541330	541330	Consulting engineers' private practices
541330	541330	541330	Electrical engineering services
541330	541330	541330	Engineering consulting services
541330	541330	541330	Engineering design services
541330	541330	541330	Engineering services
541330	541330	541330	Engineers' offices
541330	541330	541330	Engineers' private practices
541330	541330	541330	Environmental engineering services
541330	541330	541330	Erosion control engineering services
541330	541330	541330	Geological engineering services
541330	541330	541330	Geophysical engineering services
541330	541330	541330	Heating engineering consulting services
541330	541330	541330	Industrial engineering services
541330	541330	541330	Logging engineering services
541330	541330	541330	Marine engineering services
541330	541330	541330	Mechanical engineering services
541330	541330	541330	Mining engineering services
541330	541330	541330	Petroleum engineering services
541330	541330	541330	Traffic engineering consulting services

Examples of NAICS Code Classifications in Offset- Related Activities



COMPANY A
EXPORT CONTRACT WITH 30% OFFSET AGREEMENT

FIGHTER AIRCRAFT – NAICS 336411 (AIRCRAFT MANUFACTURING) (\$450M)

AND

GUIDED MISSILES – NAICS 336414 (GUIDED MISSILE AND SPACE VEHICLE
MANUFACTURING) (\$50M)

TOTAL VALUE FOR THE EXPORT CONTRACT = \$500M

COUNTRY A

NATURAL GAS DRILLING - NAICS 213112 (EXPLORATION SERVICES
FOR OIL AND GAS) \$100 MILLION

AND

NATURAL GAS DISTRIBUTION - NAICS 221210 (NATURAL GAS
DISTRIBUTION SYSTEM) \$50 MILLION.

TOTAL VALUE FOR THE TRANSACTIONS = \$150M

30% Offset
Credit

COMPANY B
EXPORT CONTRACT WITH 50% OFFSET AGREEMENT

ESTABLISHING MANUFACTURING AND REPAIR CAPABILITIES
FOR AIRBORNE NAVIGATIONAL SYSTEMS – NAICS 334511
(AIRBORNE NAVIGATIONAL SYSTEMS MANUFACTURING)

TOTAL VALUE OF THE EXPORT CONTRACT = \$200M

COUNTRY B

GLOBAL NAVIGATION UPGRADE AND REPAIR BUSINESS-
NAICS 811219 (NAVIGATIONAL INSTRUMENTS REPAIR AND
MAINTENANCE SERVICES) \$100 MILLION

TOTAL VALUE FOR THE TRANSACTIONS = \$100M

50% Offset
Credit

Summary

- History/reasons for the regulatory change
- Discussion of the changes, including the Switch to NAICS-based reporting
- Examples of the NAICS classification system

