

[The Regulation published in Dziennik Ustaw No. 100, item 907]

907

REGULATION OF THE COUNCIL OF MINISTERS
of 2 July 2002

concerning the detailed principles for counting offset obligations of a foreign supplier of armament and/or military equipment towards the value of the offset agreement.

Under Article 10, paragraph 2 of the Act of 10 September 1999 on Certain Compensation Agreements Concluded in connection with Contracts for Deliveries for the Purposes of Defence and Security of the State (Dziennik Ustaw No. 80, item 903, of 2000 No. 119, item 1250, of 2001 No. 89 item 972 and of 2002 No. 37, item 332 No. 74, item 676 and No. 81 item 733), it is ordered as follows:

§ 1. The rate of multipliers shall be as follows:

- 1) for direct offset obligations - the multipliers specified in Annex No.1 hereto;
- 2) for indirect offset obligations - the multipliers specified in Annex No. 2 hereto.
- 3) used in cases specially justified by the interest of the economy and/or reasons of security and defence of the State - the multipliers specified in Annex 3 hereto.

§ 2.1. One multiplier shall be applied to one offset agreement unless the scope of the object of obligation permits application of more than one multiplier.

2. The application of more than one multipliers to one offset obligation may not result in their cumulative application.

§ 3. While counting the value of obligations, specified in Article 15, paragraph 2 of the Act of 10 September 1999 on Certain Compensation Agreements Concluded in connection with Contracts for Deliveries for the Purposes of Defence and Security of the State hereinafter referred to "the Act", towards the value of an offset agreement, the multipliers ranging from 0.5 to 0.85 of the value of offset multipliers corresponding in respect of object shall be applied.

§ 4. The permissible limit of the share of foreign materials and components in an enterprise being an offset obligation shall be 80 per cent of the value of that obligation.

§ 5.1. If the value of the share of materials and components delivered by a foreign supplier within the frames of an offset agreement is lower than 20 per cent of the entire value of the contract, 100 per cent of the value of the contract shall be taken for the settlement of the offset obligation.

2. If the value of the share of materials and components delivered by a foreign supplier within the frames of an offset agreement is equal to or bigger than 20 per cent of the entire value of the contract, the value of the contract diminished by the value of elements delivered by the foreign supplier shall be taken for the settlement of the offset obligation.

§ 6. 1. The value of obligations under agreements, specified in Article 10, paragraph 1, subparagraph 3 of the Act shall be counted at the request submitted by a foreign supplier to the minister competent for economy.

2. The request specified in Article 15, paragraph 2 of the Act shall include:

- 1) the description of the offset receiver,
- 2) the object of the obligation,
- 3) the nominal value and proposed multipliers,
- 4) the date of performance of the obligation.

3. The request shall be appended with documents confirming performance of the obligation.

4. The request shall constitute a part of the offset offer of a foreign supplier and shall be the subject of negotiations connected with the entering into an offset agreement.

§ 7. The Regulation of the Council of Ministers of 1 August 2002 concerning detailed principles for counting offset obligations of a foreign supplier of armament and/or military equipment towards the value of an offset agreement and the rate of multipliers for direct and indirect offset obligations (Dziennik Ustaw No. 66, item 792) shall lose its force.

§ 8. The Regulation shall come into force on 6 July 2002.

Chairman of the Council of Ministers: L. Miller

Annexes to the Regulation of the Council of Ministers of 2 July 2002 (item 907)

Annex No. 1

OFFSET MULTIPLIERS FOR DIRECT OFFSET OBLIGATIONS

Object of obligation	Multipliers
1. Capital and tangible investment:	0.7 - 1.9
1) purchase of shares from the State Treasury	1.1 - 1.6
2) in-cash contribution towards a company	1.1 - 1.9
3) in-kind contribution	0.7 - 1.3
2. Intangible investment:	0.9 - 2.0

1) transfer of technology and know-how connected with the production of:	1.2 - 2.0
a) small arms and ammunition	1.7 - 2.0
b) armoured and mechanised weapon	1.2 - 1.5
c) aviation equipment	1.8 - 2.0
d) electronic and opto-electronic equipment	1.9 - 2.0
e) vessels	1.4 - 1.8
f) logistic support equipment	1.2 - 1.4
2) Transfer of a licence connected with the production of:	0.9 - 1.7
a) small arms and ammunition	1.5 - 1.7
b) armoured and mechanised weapon	0.9 - 1.3
c) aviation equipment	1.5 - 1.7
d) electronic and opto-electronic equipment	1.6 - 1.7
e) vessels	1.1 - 1.3
f) logistic service equipment	0.9 - 1.1
3) participation in the programme of modernization of the object of delivery (purchased armament and/or military equipment)	1.5 - 2.0
3. Direct purchase of goods and service manufactured and rendered within the territory of the Republic of Poland:	0.5 - 2.0
1) connected with the object of delivery of armament and/or military equipment,	1.0 - 2.0
2) not connected with the object of delivery of armament and/or military equipment:	0.5 - 2.0
a) connected with the production of small arms and ammunition	1.6 - 2.0
b) connected with the production of armoured and mechanised weapon	1.5 - 1.9
c) connected with the production of aviation equipment	1.7 - 2.0
d) connected with the production of electronic and opto-electronic equipment	1.8 - 2.0
e) connected with the production of vessels	1.1 - 1.7
f) connected with the production of logistic equipment	0.5 - 1.3
4. Development of the potential of research and development and implementation (R+D+ I):	1.0 - 2.0
1) Participation of offset receiver in an international programme:	1.0 - 2.0
a) Aviation programme	1.8 - 2.0
b) Other programmes	1.0 - 1.7
2) capital contribution of a foreign supplier to R+D works performed by an offset receiver	1.0 - 2.0
3) implementation of a Polish development (e.g. establishing a venture capital type company)	1.0 - 2.0
5. Promotion of export of goods manufactured within the territory of the Republic of Poland:	0.5 - 1.5
1) Sale of goods manufactured within the territory of the Republic of Poland through the intermediation of own	

marketing network,	0.5 – 1.5
2) Support for marketing and promotion of export of Polish goods on third markets,	0.5 – 1.2
3) Other activities not listed under points 1 and 2.	0.5 – 1.2
6. Training:	
1) connected with the transfer of technology or know-how	0.7 – 1.1
2) connected with purchase of armament and/or military equipment	0.9 – 1.1
3) Other.	0.5 – 0.9
7. Other fields not listed under 1 through 6.	0.5 – 2.0

Annex No. 2

OFFSET MULTIPLIERS FOR INDIRECT OFFSET OBLIGATIONS

Object of obligation	Multipliers
1. Capital and tangible investment:	0.7 - 1.9
4) purchase of shares from the State Treasury	1.1 – 1.6
5) in-cash contribution towards a company	1.4 – 1.9
6) in-kind contribution	0.7 - 1.3
2. Intangible investment:	0.9 - 2.0
1) transfer of modern technologies and know-how:	0.9 – 2.0
a) in the industry of metallurgy, iron and steel,	1.5 – 1.8
b) in electrical and machine-building industry,	1.4 – 1.7
c) in the automotive industry,	1.2 – 1.5
d) in the chemical industry,	1.9 – 2.0
e) in the industry of rolling stock,	0.9 – 1.2
f) in the pharmaceutical industry,	1.9 – 2.0
g) in the light industry,	0.9 – 1.1
h) in the electronic industry,	1.5 – 2.0

i) in the shipyard industry,	1.5 – 2.0
j) in the field of computer science,	1.9 – 2.0
k) in other sectors,	0.9 – 1.1
2) transfer of modern licences:	0.9 – 1.7
a) in the industry of metallurgy, iron and steel,	1.4 – 1.7
b) in electrical and machine-building industry,	1.2 – 1.5
c) in the electronic industry,	1.2 – 1.5
d) in the automotive industry,	1.1 – 1.3
e) in the shipyard industry,	1.1 – 1.3
f) in the chemical industry,	1.5 – 1.7
g) in the industry of rolling stock,	0.9 – 1.1
h) in the pharmaceutical industry,	1.4 – 1.7
i) in the light industry,	0.9 – 1.1
j) in the field of computer science,	1.5 – 1.7
k) in other sectors,	0.9 – 1.1
3) Direct purchase of goods and service manufactured and rendered within the territory of the Republic of Poland:	0.5 – 1.8
a) in the industry of metallurgy, iron and steel,	1.5 – 1.8
b) in electrical and machine industry,	1.6 – 1.8
c) in the electronic industry,	1.6 – 1.8
d) in the automotive industry,	1.2 – 1.4
e) in the shipyard industry,	1.2 – 1.4
f) in the chemical industry,	1.2 – 1.4
g) in the industry of rolling stock,	1.1 – 1.3
h) in the pharmaceutical industry,	1.3 – 1.6
i) in the light industry,	0.9 – 1.1
j) in the field of computer science,	1.5 – 1.8
k) in other sectors,	0.5 – 1.1
3. Development of R + D + I potential:	1.0 – 2.0
1) participation of an offset receiver in an international programme	1.0 - 2.0
2) capital contribution of a foreign supplier to the R+D work performed by an offset receiver	1.0 – 2.0
3) implementation of a Polish development (e.g. establishing a venture capital type company)	1.0 – 2.0
4. Promotion of export of goods manufactured within the territory of the Republic of Poland:	0.5 – 1.5
1) Sale of goods manufactured within the territory of the Republic of Poland through the intermediation of own marketing network,	0.5 – 1.5
2) Support for marketing and promotion of export of Polish goods on third markets	0.5 – 1.2
3) Other activity not listed under points 1 and 2.	0.5 – 1.2
5. Training:	0.5 – 1.1
1) connected with the transfer of technology and/or know-how	0.7 – 1.1
2) Other.	0.5 – 0.9

6. Other fields not listed under 1 – 5	0.5	–
2.0		

Annex No. 3

OFFSET MULTIPLIERS USED IN CASES SPECIALLY JUSTIFIED BY
THE INTEREST OF ECONOMY AND/OR REASONS OF SECURITY
AND DEFENCE OF THE STATE

Object of obligation	Multipliers
1. Transfer of modern technology supported by prospective orders as a result of which the production based on this technology will be started within the frames of the same offset agreement.	3 – 5
2. Participation in modernisation and/or restructuring of the sector of defence industry through capital investment resulting in a significant growth of production for export and work places.	2 – 4
3. Transfer of technology together with exclusive rights to prospective production and sale on a foreign market.	2 – 5
4. Free of charge and non-returnable transfer of equipment for operation of armament and/or military equipment to a State budget entity, for which the armament and/or military equipment has been purchased and the delivery of which is subject to offsetting, likewise technical documentation that enables the use thereof in conformity with the purpose of the purchased armament and/or military	2 – 4

equipment and the keeping thereof in technical worthiness.

5. Transfer to a research unit or a Polish school of higher education of software or another modern tool of computer science that would aid an activity of that entity in the field of design, production and/or management. 2- 3

6. Commissioning a research unit or a Polish school of higher education, within the frames of the tasks performed in a joint R+B+I programme, to a package of works conducive to a quick development of a branch of science that has hitherto been poorly researched which will result in the growth of research and manufacture potential. 2 - 5

7. Commissioning a research unit or a Polish school of higher education, within the frames of the asks performed in a joint R+B+I programme, to a strategic task for the programme, thus giving guarantee to Polish entrepreneurs of undertaking the production of the product developed within the frames of that task. 2 - 4
