

# *Guidelines to an Industrial Benefits and Offsets Program in the Netherlands*

**Ministry of Economic Affairs**

## **OBJECTIVES AND PRINCIPLES**

Offset policy is an integral part of the industry policy of the Ministry of Economic Affairs. The results of offset policy are reported annually by the Ministry of Economic Affairs to Parliament.

The general objective of the offset policy of the Netherlands government is to contribute to the industrial base of the Netherlands through technological advancement, thereby broadening its technological capabilities, improving its level of quality, expanding its markets and enhancing employment within the Netherlands. In stimulating activities of industrial enterprises and R&D institutes in the Netherlands, offset can bear both a military and a civil character. The first objective is the involvement of Netherlands defence related industries and R&D institutes in the development and production of defence equipment and related services.

Whenever the Netherlands Ministry of Defence (MoD) places an order for the delivery of defence materiel (equipment and related services, training, documentation, spare parts, etc.) in the amount of - or exceeding – five (5) million Euros (as from January 18th, 2005) which is (mainly) produced and delivered by a foreign supplier, an offset agreement is required.

The foreign supplier is obliged to offer offsets for 100% of the contract value. The Ministry of Economic Affairs identifies offset possibilities with all potential suppliers. Prior to the signature of the procurement contract by the MoD, the negotiations between the Ministry of Economic Affairs and potential suppliers have to be concluded resulting in a signed offset agreement.

## **INVITATION TO SUBMIT AN OFFSET PROPOSAL**

The procurement process starts with the decision of the MoD on the quantity, requirements and time frame of the military equipment to be purchased. This process entails several phases and can cover a variable time span. As soon as the MoD issues a Request for Proposal (RFP) companies are officially informed of the 100% offset requirement, if applicable. The RFP also states that the Ministry of Economic Affairs will formally invite companies, by separate notification, to submit their offset proposals.

## THE OFFSET PROPOSAL

In order to deliver a sound and acceptable offset proposal, companies are requested to give clear indications on the firmness of their intentional orders to be placed and other offset activities to be realized with Netherlands industry. The proposed offset activities will be included in the attachments to the offset agreement, specified in 5 levels of firmness. A distinction is made between direct and indirect offset activities.

## THE OFFSET AGREEMENT

The offset agreement, the signature of which precedes the one of the procurement contract, contains provisions with regard to both direct and indirect offsets.

*Direct offsets* specify which and to what extent Netherlands companies are directly involved in the development and/or production of the type of defence equipment purchased by the MoD from the foreign supplier. Typically with *direct offsets* you can think of activities like co-development, (software-)engineering, integration, production of subsystems and components, support, maintenance & repair, development of training materials and documentation, etc.

*Indirect offsets* identify development and/or production of goods or services and other activities that do not bear a direct relationship to the procured equipment. For *indirect offset*, foreign suppliers' orders must comply with a number of requirements. Activities should verifiably be:

- **new** to the Netherlands industry or **increasing existing business** levels;
- of **Netherlands origin**;
- unique, in the causal sense that they **would not have been placed** if there had not been an offset obligation;
- of an **equivalent technological level** as the purchase of defence equipment by the MoD.

In the offset policy, special attention is given to small and medium-sized enterprises (SME's). In performing offset obligations, foreign suppliers are requested to contribute to the Netherlands government's general objective of 20% involvement of small and medium-sized enterprises. In this context, by definition, an SME employs less than 100 people.

Another area with specific interest is involvement of Netherlands institutes and industry in R&D programs and technology cooperation. Foreign suppliers are stimulated to, as a goal, fulfil 10% of the offset obligation through activities in these fields.

An offset agreement is signed on the basis of a sufficient level of activities listed in the offset proposal. Realised or Firm programmes equivalent to a certain percentage of the procurement (usually at least 30-40%) must be part of the proposal.

## TYPES OF OFFSET AND THEIR VALORIZATION

After authorization by Parliament in October 2004, the MEA implemented a number of changes to the offset guidelines in order to better serve the objectives and aims of our economic policy. These are aimed at 3 main objectives:

- 1) *a higher involvement of Netherlands' defence related industry and;*
- 2) *stimulation of programs with SME's and innovative enterprises;*
- 3) *stimulation of knowledge-transfer programs and investments.*

In order to stimulate certain activities as listed below, **multipliers** can in some cases be applied. When a multiplier is accepted, the volume of the expenditure (invoiced amount) can be multiplied by a factor, thereby increasing the amount to be subtracted from the total offset obligation. Multipliers reflect the positive effect on the Netherlands economy and the recognition of a unique market opportunity for the Netherlands institutes and industry that is opened by (or with help of) the foreign supplier and which would otherwise not have been available.

In general, the value of the multiplier depends on the level and quality of the proposal and of the industry, institutes and technology involved. Significant new market perspectives attributable to innovative proposals may also be rewarded with a multiplier. In either way, substantial added value should - at any rate - be clear and verifiable. The higher a multiplier that is desired, the more attractive and substantial the opportunity must be.

When a foreign supplier desires a **multiplier** for activities as listed below, a **pre-approval** issued by the MEA is **mandatory** in all cases.

### *INVOLVEMENT OF NETHERLANDS DEFENCE INDUSTRY*

To stimulate a higher involvement of the Netherlands defence industry, in some cases multipliers can be awarded to programs that contribute exceptionally to the Netherlands defence industrial base. This could be realised by the involvement of Netherlands defence industry as early as in the development phase of systems and by selecting Netherlands defence industries as single source for certain (sub-) assemblies, not just for the NL MoD requirements but for the global market. In these cases, a multiplier of up to a factor 5 can be granted if the unique value of the involvement can be sufficiently supported.

### *REDUCTION OF THE OFFSET OBLIGATION*

It is possible for a foreign supplier to agree to a predefined percentage of military compensation programs with Netherlands defence industry. When this predefined percentage is reached within the agreed timeframe, the foreign supplier will receive a waiver for the remaining obligation.

### *STIMULATION OF R&D PROGRAMS*

Another area where a higher multiplier can be awarded is the area of defence-related R&D programs. In defence related R&D Programs with Netherlands knowledge institutes, multipliers up to a factor 10 can be applied, depending upon the uniqueness and attractiveness of the technology.

### *STIMULATION OF KNOWLEDGE TRANSFER PROGRAMS*

Also in the case of a transfer of technology to a Netherlands institute or industry, a higher multiplier can be awarded. It needs to be demonstrated that the technology is currently unavailable and opens up new markets. Typically, a business plan from the NL parties involved is part of the evaluation process of the Pre-approval in order to determine the related offset credits.

### *MARKETING & SALES SUPPORT PROGRAM*

The MEA has launched a program for the introduction by foreign suppliers of high tech companies to the North American market. Offset credits are awarded based upon a statement of work that is agreed to between the foreign and the Netherlands company and are related to efforts and outputs. A separate document with more information about this program is available on request. Also other market introduction activities, where a foreign supplier is demonstrably instrumental to the introduction or the sale, can be eligible for offset credits.

### *VENTURE CAPITAL FUNDS*

Foreign companies are invited to invest money in Netherlands VC funds. In this way the company supports hi-tech start-ups in the Netherlands, thereby receiving dividends from the funds and offset credits. Depending on the level of risk involved, multipliers up to 10 times the amount invested by the foreign company are given.

### *INNOVATIVE ORDERS*

Finally, for technologically innovative proposals outside the defence related industry, a multiplier can be granted as well, subject to the attractiveness of the proposal (in terms of new technology, R&D, launching customer etc.)

## **REALISATION OF OBLIGATIONS**

As soon as the Netherlands MoD concludes the procurement contract, the foreign supplier may claim offset for activities being a direct result of the offset obligation. The order must meet the requirements of the offset agreement. The foreign supplier must, on request, present sufficient supporting evidence to sustain this condition.

Submitted claims will be evaluated for approval or rejection primarily on the basis of the information supplied by the Netherlands industry and/or the supplier involved. The usual way this verification takes place is by means of a questionnaire that is sent to the Netherlands company involved, providing the MEA with the necessary administrative data.

Companies with offset obligations are also requested to submit status reports typically once or twice a year, both with regard to progress made as well as opportunities offered. On an annual basis, the offset administration is checked internally by auditors from the Ministry of Economic Affairs before the results are reported to Parliament.

### **TIME PERIOD FOR FULFILMENT OF OFFSET OBLIGATIONS**

The offset agreement specifies the time period for the fulfilment of the obligation. Although this period can vary and has to be agreed upon during the negotiations. Typically this period is related to the value of the obligation as well as the delivery schedule of the procurement contract, but it shall not exceed 10 years (for the largest programs) from the date on which the offset agreement becomes effective. The average period of performance is 5-7 years. The offset obligation is fulfilled when the approved credits match or exceed the total obligation, confirmed in writing by the MEA.

### **UNTIMELY PERFORMANCE**

The standard terms and conditions of offset agreements include a clause, which stipulates that if the foreign supplier fails to comply, within the agreed timeframe, in fulfilling its offset obligations, the obligation will be increased by a percentage of the unfulfilled part. The standard terms define a milestone for 50% and 100% fulfilment. The respective increases for untimely performance are 15% and 30% of the unfulfilled part. Consequently, the parties will agree upon a reasonable extension of the agreement to allow the supplier to fulfil his remaining (increased) offset obligation.

### **ORGANIZATIONS INVOLVED**

The Ministry of Economic Affairs bears the responsibility for the Netherlands offset policy. The beneficiaries of the offset policy are industrial companies in the Netherlands, first and foremost the defence-related industries and the Knowledge institutes.

### *THE MINISTRY OF ECONOMIC AFFAIRS*

The Ministry of Economic Affairs supports a project with the four (4) major Regional Development Agencies in the Netherlands, to support regional companies and foreign suppliers in creating offset related business together. In supporting these Regional Development Agencies, technologies and areas of interest have been identified per region and laid down in the document 'Focal Points in the Netherlands'. The points of contact for each Regional Development Agency are listed further below.

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Ministry of Economic Affairs

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## THE MINISTRY OF DEFENCE (MOD)

The offset policy is carried out in cooperation with the Netherlands MoD. Within the Netherlands MoD, the Director General of the Defence Materiel Organisation formulates policy regarding materiel-related subjects and checks that this policy is implemented correctly. The Defence Materiel Organisation will take care of all procurements.

The DMO can be reached at:  
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***THE NETHERLANDS INDUSTRY ASSOCIATION FOR DEFENCE AND SECURITY (NIDV)***

The NIDV as a branch organisation, can assist foreign suppliers in identifying possibilities for offset within the Netherlands defence-related industry. Apart from some major firms, the majority of small and medium-sized enterprises in this sector is affiliated to this organisation.

The NIDV can be reached at:  
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