

# **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.**

#### **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.

#### **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.

#### **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.