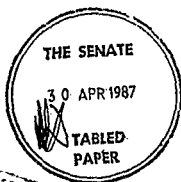


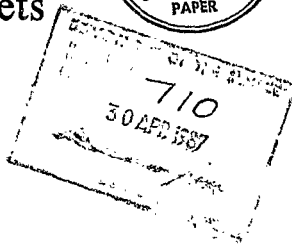
Implementation of the Offsets Program



Report

270

Joint Committee of
Public Accounts



THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOINT COMMITTEE OF PUBLIC ACCOUNTS

270TH REPORT

IMPLEMENTATION OF THE OFFSETS PROGRAM

Australian Government Publishing Service
CANBERRA 1987

JOINT COMMITTEE OF PUBLIC ACCOUNTS

FIFTEENTH COMMITTEE

R E TICKNER, MP (Chairman)

SENATOR J O W WATSON (Vice-Chairman)

SENATOR B COONEY	B J CONQUEST, MP
SENATOR P J GILES	A J DOWNER, MP
SENATOR THE HON DAME MARGARET GUILFOYLE, DBE	R J KELLY, MP
SENATOR G MAGUIRE	H MAYER, MP
	J G MOUNTFORD, MP *
	G B NEHL, MP
	L R S PRICE, MP
	P M RUDDOCK, MP
	DR A C THEOPHANOUS, MP
	DR D J H WATSON, MP

c Commonwealth of Australia 1987
ISBN 0 644 06433 1

SECTIONAL COMMITTEE ON THE OFFSETS PROGRAM

DR A C THEOPHANOUS, MP (Chair)

A J G DOWNER, MP	P M RUDDOCK, MP
H MAYER, MP	DR D J H WATSON, MP

*Ex-officio member being Chairman,
House of Representatives Standing Committee
on Expenditure

DUTIES OF THE COMMITTEE

Section 8.(1) of the Public Accounts Committee Act 1951 reads as follows:

Subject to sub-section (2), the duties of the Committee are:

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth including the financial statements transmitted to the Auditor-General under sub-section (4) of section 50 of the Audit Act 1901;
- (aa) to examine the financial affairs of authorities of the Commonwealth to which this Act applies and of intergovernmental bodies to which this Act applies;
- (ab) to examine all reports of the Auditor-General (including reports of the results of efficiency audits) copies of which have been laid before the Houses of the Parliament;
- (b) to report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
- (c) to report to both Houses of the Parliament any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
- (d) to inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question,

and include such other duties as are assigned to the Committee by Joint Standing Orders approved by both Houses of the Parliament.

PREFACE

This Report presents the findings of the Committee's Inquiry into the Implementation of the Offsets Program.

In 1984 the Auditor-General presented his report, Report of the Auditor-General on Efficiency Audit, Administration or the Offsets Policy, which found a number of shortcomings with the administration of the program. Also in 1984 an independent committee, chaired by Sir Brian Inglis, presented its report, Report of the Committee of Review on Offsets. It was the acceptance by the Government of the majority of recommendations in the latter report that was the basis for the decision in January 1986 to make significant changes to the offsets program.

It is in this light that the Committee has conducted its own inquiry into the program. The basic objectives were to examine progress on recent amendments to the program and to recommend whether further action or attention is necessary.

The main thrust of the Committee's findings centre on four main points. First, as the offsets program impacts on only a small section of Australian industry the Committee considers it essential that Australian participation in the program be increased, both by increasing the number of Australian firms, particularly smaller firms, participating in the program, and by ensuring that overseas firms fulfil the offset obligation fully and in the agreed period. Secondly, the issue of how technology transfer is valued when claimed as an offset was of concern to the Committee. Thirdly, a number of administrative matters were examined and the Committee has made recommendations concerning the dual administration of the program, lack of consultative mechanisms, and administrative discretion. Finally, the Committee was very concerned at the inadequate record keeping of the offsets authorities and at the distinct possibility that some outstanding obligations have not been fulfilled because of those poor records.

In an effort to increase Australian participation in the offsets program, the Committee urges the Departments of Defence, and Industry, Technology and Commerce (the two administering departments) to increase the visibility of the program's administration, formally liaise with industry, publicise actual offset arrangements and disseminate information to assist participants, including data on local and overseas industry.

Technology transfer as an offset has received considerable emphasis under the new guidelines. The valuation of technology is an area that the Committee considers has major potential for abuse. The Committee's recommendation is that as many valuations as possible should be based on a real work outcome for Australia from that technology transfer, rather than a resort to notional valuations.

The Departments of Defence, and Industry, Technology and Commerce have been jointly responsible for the administration of the offsets program since late 1984. The uniform administration of the program is very important. However, the Committee is concerned that the overall program is seemingly being implemented as two separate programs despite joint efforts such as the publication of common guidelines for participants. The Committee believes it needs to be resolved, preferably by the two departments, whether the administrative role can reside solely within the Department of Industry, Technology and Commerce whilst maintaining suitable links with defence industry policy.

The Committee was disturbed to learn that two important consultative mechanisms, the Standing Interdepartmental Committee and the Offsets Advisory Committee, have not met since 1984 and early 1985 respectively. It is the Committee's view that such regular liaison is essential to all parties and recommends that both bodies be reconvened as a matter of urgency.

A common concern expressed to the Committee was that the guidelines issued leave too much room for interpretation and judgement by the offsets authorities. The Committee is of the view that the current level of administrative discretion needs to be clarified and recommends a more rigorous set of guidelines, detailed and public registers of precedents, thorough and independent assessment prior to negotiations and comprehensive procedure manuals for staff.

The question of whether the offsets program results in the Commonwealth paying a price premium was canvassed but the Committee did not have the resources to do a full study. However, the Bureau of Industry Economics has been given the task by the Government of monitoring the program and the Committee recommends that this be upgraded to a full cost-benefit study.

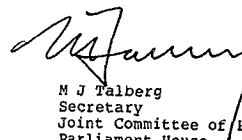
Throughout the inquiry mention has been made of the difficulties faced by new firms trying to enter the program, particularly small, locally owned firms, including the costs involved. The Committee considers that such costs are an accepted part of breaking into new areas of business and normal commercial criteria should be used before pursuing such a route. The Committee does not believe that there is a need for specific financial assistance measures as part of the offsets program.

The Committee would like to thank the Departments of Defence, and Industry, Technology and Commerce, together with the private sector organisations that participated, for their assistance and co-operation during this inquiry. The Committee also thanks members of its Secretariat, which, for this inquiry, included an officer of the Shell Company of Australia Limited participating in the Interchange Program, for the support given.

For and on behalf of the Committee.



R E Tickner, MP
Chairman



M J Talberg
Secretary
Joint Committee of Public Accounts
Parliament House
Canberra
25 March 1987

TABLE OF CONTENTS

	PAGE
Preface	(v)
Glossary	(xi)
Abbreviations	(xiii)
Summary of Recommendations	(xv)
CHAPTER	
1 Introduction	
• The Offsets Program	1
• Previous Reports	3
• Recent Developments	5
• Conduct of the Inquiry	6
2 Interface with Industry	
• The Industrial Base	9
• Flow of Information	10
• Formal Industry Liaison	19
3 Interaction with Other Government Bodies and Policies	
• Collection of Purchase Data	21
• Relationship with Other Purchasing Policies	24
• Standing Interdepartmental Committee	26
4 Civil and Defence Administrations	
• Differences in the Administrations	29
• Co-ordination	30
• Single Administration?	32
5 Offsets Approval	
• The Guidelines	35
• Flexibility	39
• Assessment of Technology	46
• Other Aspects of the Approval Process	49
6 Compliance by Overseas Companies	
• Response to the Program	51
• Enforcement Measures	53
• Outstanding Obligations	56
7 Some Costs of the Program	
• Price Premiums	59
• Hurdle Costs for New Entrants	62

APPENDICES

PAGE

A	Terms of Reference	65
B	Conduct of the Inquiry	67

GLOSSARY

Accumulated orders	A series of orders placed by any department or agency subject to the program for functionally similar items with one supplier which over one financial year reach or exceed the threshold.
Australian Industry Involvement (AII)	Program run by Department of Defence consisting of Defence Designated and Assisted Work, and Offsets.
Australian Industry Participation (AIP)	Forerunner to the current Australian Industry Involvement program. Name under which the offsets program started in 1970.
Australian Industry & Technology Council (AITC)	Comprises Commonwealth and State Ministers responsible for industry and/or technology policy and is chaired by the Commonwealth Minister for Industry, Technology and Commerce. It is supported by a Standing Committee of senior officials.
Civil Offsets Authority	Department of Industry, Technology and Commerce (DITAC) - administers all civil purchases and purchases of general purpose computers by the Department of Defence.
Defence Designated and Assisted Work	Work of strategic significance which would not otherwise have been undertaken in Australia and for which the Commonwealth may be prepared to pay a cost premium.
Defence Offsets Authority	Department of Defence - administers all Defence purchases except general purpose computers which are purchased through the Department of Local Government and Administrative Services (DOLGAS).

Finance Minute

Colloquial term for the formal Government response to a report of this Committee. Following tabling of a report, a copy is forwarded to the responsible Minister(s) and to the Minister for Finance with a request that the report be considered and the Committee's Chairman subsequently informed of action taken and planned to address the Committee's recommendations. The reply, in the form of a Department of Finance Minute, is then examined by the Committee and submitted, with comment if necessary, as a report to the Parliament.

Pre-Qualified Offsets
Supplier Status (PQOSS)

Scheme whereby overseas suppliers can attain pre-qualified status which allows the supplier to adopt a long-term approach in discharging its offsets obligations without the need to enter into individual offsets arrangements against each sale.

Purchasing Authorities

Major purchasing bodies are the Departments of Local Government and Administrative Services, Defence and departments and instrumentalities responsible for public services. Major trading authorities include Telecom Australia, Australia Post, Qantas, Australian National Airlines Commission (Australian Airlines), Australian Shipping Commission, Australian National Railways Commission, Overseas Telecommunications Commission, Australian Atomic Energy Commission, Commonwealth Scientific and Industrial Research Organisations and the ACT Schools Authority.

ABBREVIATIONS

AII	Australian Industry Involvement
AIP	Australian Industry Participation
AITC	Australian Industry and Technology Council
BIE	Bureau of Industry Economics
DITAC	Department of Industry, Technology and Commerce
DOLGAS	Department of Local Government and Administrative Services
IDC	Interdepartmental Committee
OAC	Offsets Advisory Committee
PQOSS	Pre-Qualified Offsets Supplier Status

SUMMARY OF RECOMMENDATIONS

The Committee has made a number of recommendations which are listed below, cross-referenced to their locations in the text. The Committee's analysis in the text should be referred to when considering these recommendations.

The Committee recommends that:

- The Department of Industry, Technology and Commerce develop a comprehensive database and directory on the capabilities, technologies and interests of local industry by 31 December 1987. (paragraph 2.16)
- The offsets authorities forthwith publish and distribute to local industry seeking offsets work, a comprehensive directory of overseas firms participating in the offsets program. The directory must include:
 - details of each firm's business in terms of products, technologies and interests;
 - the nature and scale of its offset obligations; and
 - non-sensitive information on the nature and scale of its acquittal plans. (paragraph 2.29)
- All organisations subject to the Offsets Program publish forward procurement plans as early as practicable consistent with their operating and commercial circumstances. (paragraph 2.46)
- An industry advisory group concerned solely with the offsets program, and with terms of reference similar to the former Offsets Advisory Committee be re-established by 30 September 1987. (paragraph 2.57)
- The Departments of Industry, Technology and Commerce, and Local Government and Administrative Services report in the Finance Minute on the extent to which purchasing authorities comply with the existing reporting procedures. (paragraph 3.9)
- The Departments of Industry, Technology and Commerce, and Local Government and Administrative Services recommend procedures with a view to making collection of data more rigorous and report in the Finance Minute. (paragraph 3.9)

- The Department of Industry, Technology and Commerce report in the Finance Minute on both the cost-effectiveness and legality of applying offsets to accumulated orders. (paragraph 3.16)
- The Standing Interdepartmental Committee on Offsets take responsibility for clarifying the relationship between the Offsets and Purchasing Preference Policies and eliminate any confusion amongst affected suppliers to the Commonwealth. (paragraph 3.24)
- The outcome of efforts directed to resolving the confusion and conflict between the various State and Commonwealth offsets programs be reported in Finance Minute. (paragraph 3.29)
- The terms of reference for the Standing Interdepartmental Committee on Offsets be revised in accordance with the Government's decision following the Inglis Report. (paragraph 3.37)
- The Standing Interdepartmental Committee on Offsets reconvene as a matter of urgency and meet frequently, regularly and at a senior level to ensure adequate interdepartmental liaison on the offsets program. (paragraph 3.37)
- The civil and defence offsets authorities increase their efforts to present the offsets program as a single program and, to this end:
 - co-operate closely in the joint publication of the proposed directory of relevant local firms;
 - agree on specific plans for both the joint publication of a directory of overseas firms and an annual report; and
 - revise the guidelines, on a joint basis, as required. (paragraph 4.16)
- The Departments of Defence, and Industry, Technology and Commerce examine the need or otherwise for the current dual administration of offsets, and in particular, investigate means whereby the administrative role can reside solely within the Department of Industry, Technology and Commerce whilst maintaining suitable links with defence industry policy. (paragraph 4.27)

- The 'new work' criterion in the guidelines be redefined as a new activity for the company in Australia which is unrelated to customer support, distribution or marketing of existing products. (paragraph 5.14)
- The guidelines booklet be revised and updated as a matter of priority. In addition to the matters covered in this report, the thrust of the revision should be to clarify areas of uncertainty and anomaly, and to reduce areas of unnecessary administrative discretion. (paragraph 5.50)
- The results of decisions by the offsets authorities be well documented and published in order to establish a comprehensive register of precedents to ensure consistency and equity in subsequent decisions. Furthermore, significant precedents should be reported to the Minister and described in the annual report of the program. (paragraph 5.50)
- In any entirely new circumstances (especially those that may be open to challenge), the offsets authorities arrange or undertake an independent assessment of the situation prior to entering any negotiations with the overseas supplier. (paragraph 5.53)
- When valuing technology transferred, the offsets authorities should use:
 - (i) paragraph 6.3 (a) (iii) of the Guidelines for Participants ie 'the selling price of all incremental sales of locally produced items derived from the technology over an agreed period.'; or, if this is not possible,
 - (ii) a discounted valuation if a notional valuation of technology is given at the time of technology transfer and it is transferred to a subsidiary or otherwise associated company of the overseas company. (paragraph 5.63)
- The proposed manual for staff of the civil offsets authority be completed as soon as possible. The manuals for both authorities should:
 - specify a time limit for response to offsets proposals;
 - detail the areas and limits of staff discretion including the levels of delegated authority;

- dictate a methodical and reliable procedures for recording all offsets data;
- be regularly revised; and
- prescribe information that is to be made available to the public. (paragraph 5.75)

Penalty clauses be included in all contracts/deeds of agreement entered into. (paragraph 6.28)

The work being undertaken to correct and update the records of both offsets authorities, together with any other work yet to be commenced and the timetable for its implementation, be reported in the Finance Minute. (paragraph 6.35)

The planned study by the Bureau of Industry Economics on civil offsets be upgraded to a full cost-benefit evaluation and completed as soon as possible. (paragraph 7.16)

CHAPTER 1

INTRODUCTION

- . The Offsets Program
- . Previous Reports
- . Recent Developments
- . Conduct of the Inquiry

The Offsets Program

The Present Program

1.1 Under the offsets program major overseas suppliers who sell goods to the Commonwealth attract an offsets obligation to direct to Australian industry activities of technological significance, including manufacturing, export marketing and industrial research and development. In this way the Commonwealth can use its purchasing leverage to benefit Australian industry.

1.2 The offsets program's prime objective is to:

bring to Australian industry advanced technologies, skills and capabilities to meet the goals of:

- (a) establishing internationally competitive activities within Australia
- (b) supporting industry defence capability objectives.¹

1.3 Offsets are applied to all purchases from overseas suppliers made by Commonwealth bodies which total \$2.5m or more, of which more than 30% is imported. These Commonwealth bodies include Departments, non-exempt Authorities and certain companies in which the Commonwealth has either a direct interest or which benefit from an Australian Government bestowed protective advantage. The threshold applies to single orders as well as to orders accumulated in any one financial year.

1.4 The program requires overseas suppliers to provide approved offsets to a level of 30% of the imported content of purchases, with a level of technology comparable with the purchase. Some kinds of offset, eg training and research and development, receive a three times multiplier.

1. Department of Industry, Technology and Commerce and Department of Defence, Australian Government Offsets Program, Guidelines for Participants, AGPS, Canberra, 1986, p 3

1.5 The program is administered by two Departments. The Department of Industry, Technology and Commerce (DITAC) administers the civil aspects of the offsets program which covers all Commonwealth purchases with the exception of those made by the Department of Defence. Purchases of general purpose computers by Defence, made through the Department of Local Government and Administrative Services (DOLGAS), are also included with the civil purchases. DITAC does not direct offsets proposals to any particular industry sector. The Department of Defence manages the defence aspects of the offsets program consistent with the program goals but with a higher priority on defence industry capabilities.

1.6 The offsets program is part of the Australian Industry Involvement program for defence procurement in which Defence seeks to develop defence industry capabilities.

Background to the Program

1.7 The offsets program which began in 1970 was initially directed towards defence industries and sought to achieve increased sales to overseas suppliers to offset purchases of defence equipment. Since then the program has broadened its scope to include civil purchases.

1.8 The offsets program administration has had a somewhat turbulent history of split/unified administration, the last administrative change resulting in the current dual administration.

1.9 A number of reviews of the program have been carried out since it began in 1970. The most recent of these have been the Report of the Auditor-General on the Efficiency Audit, Administration of The Offsets Policy in 1984 and the Report of the Committee of Review on Offsets also in 1984.

1.10 As an indication of the size of the offsets policy, the offsets authorities provided the following information:²

	DITAC (1970- 1986) \$m	Defence ³ (1980- 1986) \$m
offsets completed	641	375
outstanding obligations	574	910
offsets commitments	1215	1285

2. Joint Committee of Public Accounts, Implementation of the Offsets Program, Minutes of Evidence, pp 157, 387; JPCPA File

3. These figures do not include Defence designated and assisted work obligations.

DITAC advise that of the \$574m outstanding obligations, \$236m is work in progress, \$303m is subject to a current offsets agreement but work has not yet commenced and \$35m is considered unenforceable.

Defence advise that it is estimated that 95% of this obligation will be completed within the contract period, and that 20-30% of the outstanding amount would be in work at anytime ie under contract in Australia.

Further discussion on the level of outstanding obligations can be found in Chapter 6.

1.11 On the civil side it is expected that offsets valued at over \$230 million will be completed during 1986-87.⁴ Over 400 local companies are directly involved, plus other firms working as subcontractors.⁵ Pre-Qualified Offsets Supplier Status had been attained by 8 companies up to December 1986, with DITAC involved in negotiations with a further 30 companies.⁶

Previous Reports

Efficiency Audit Report

1.12 In 1984 the Auditor-General reported on an Efficiency Audit into the Administration of the Offsets Policy. This audit examined issues relevant to the effectiveness of the administration of the program. At the time of audit the administering department was the then Department of Defence Support. The audit was completed before the Inglis Committee presented its report.

1.13 The audit found that a number of shortcomings with the program had been recognised by key participants and that action was in hand to strengthen administrative processes.⁷ Major shortcomings included: purchase data not captured; lack of administrative control/framework; non-compliance by suppliers; and, poor administrative records. Audit also found that a number of external factors, including the frequent transfer of responsibility for the program between Ministers and some lack of agreement amongst Commonwealth organisations concerning responsibilities in relation to the offsets policy, had affected the quality of existing processes of administration.

4. Department of Industry, Technology and Commerce, Offsets, Bringing new skills and capabilities to Australia, Canberra, 1986

5. Minutes of Evidence, op cit, p 428

6. Department of Industry, Technology and Commerce, Offsets Background, Issue No. 1, December 1986

7. Auditor-General, Reports of the Auditor-General on Efficiency Audits, Administration of the Offsets Policy, AGPS, Canberra, 1984, p 25

1.14 Audit recommended a comprehensive review of systems and manning within the Offsets Secretariat, however any major restructuring was to await the Government's decisions following the Report of the Committee of Review on Offsets.⁸

Report of Committee of Review on Offsets

1.15 Also in 1984 the Government formed an independent committee to review the operation and effectiveness of the existing offsets policy. This committee, chaired by Sir Brian Inglis (known as the Inglis Committee), reported in December 1984. This report was the basis for the Government's decision in January 1986 to make significant changes to the offsets program.

1.16 The major change in emphasis was the Inglis Committee's view that:

the prime objective of the Program should be the acquisition of advanced technologies, skills or capabilities which support defence industry capability objectives, and result in the establishment or enhancement of internationally competitive activities in Australia.⁹

The Inglis Committee also accorded a priority to offsets related to training and research and development etc. Another major change in direction was that the transfer of technology rather than the creation of employment and economic activity was seen as a primary objective of offsets.

1.17 The Inglis Committee recommended a number of changes aimed at rectifying the numerous shortcomings and deficiencies of the (then) present Offsets Program.¹⁰ They included greater flexibility in the setting of offsets requirements to allow the level of offsets to be set in accordance with Australian industry capability. Also proposed was increasing the value of the contract threshold, the publication of operational guidelines, improved recordkeeping and annual reports to be made to the responsible Minister on the program's status, achievements, problems and prospects.

1.18 Following changes to administrative arrangements in December 1984 the Inglis Committee recommended that the division of offsets should be based on the identity of the purchaser. To maintain consistency, the Committee recommended common guidelines, liaison and operation of the Standing Interdepartmental Committee.¹¹

8. Reports of the Auditor-General on Efficiency Audits, Administration of the Offsets Policy, op cit, p 25

9. Committee of Review on Offsets, Report of the Committee of Review on Offsets, AGPS, Canberra, 1985, p 3

10. Ibid, p 4

11. Ibid, pp 13-14

Recent Developments

1.19 The Inglis Committee recommendations were broadly accepted by the Government and formed the basis for the revised offsets policy announced by the Government in January 1986, which came into effect from 1 March 1986. Significant features of the revised policy are:

- . increased emphasis on the development of competitive capabilities in Australian industry;
- . incentives for technology transfer as offsets with multipliers to apply to research and development and training;
- . companies with an unsatisfactory offsets performance to face more stringent conditions in tendering for Government business;
- . uniform administration of the civil and defence aspects of the program and pooling of offsets arising from computer purchases; and
- . the public issue of guidelines for the administration of the program.¹²

1.20 A major development has been the publication of guidelines for the program, titled 'Australian Government Offsets Program, Guidelines for Participants'. Some aspects of these guidelines are discussed in more detail in Chapter 5, but have generally been well accepted by the private sector.

1.21 Two other elements of the revised program have also received much comment. The accumulated orders provision, discussed in Chapter 3, applies the threshold of \$2.5m to all purchases of similar products placed with the one supplier in a single financial year. This attempts to avoid the artificial splitting of orders to avoid the offsets obligation.¹³

1.22 Pre-Qualified Offsets Supplier Status (PQOSS) may be gained by an overseas supplier to allow the supplier to adopt a long-term approach in discharging its offsets obligations without the need to enter into individual offsets arrangements against each sale. This status has been attained by a number of firms, predominantly in the computer field.

12. Department of Industry, Technology and Commerce, Press release, Canberra, 1986

13. Further discussion on this matter can be found in Chapter 3

Conduct of the Inquiry

1.23 In planning the inquiry into the offsets program, the Committee was conscious of several special considerations which governed the objectives of the inquiry, its proposed depth, and the methodology used.

1.24 As explained above, offsets was the subject of extensive reviews by both the Auditor-General and the Inglis Committee in late 1984. Their findings and recommendations have largely been accepted by the Government, and since the reviews, a number of significant changes and improvements have been initiated. Offsets is now the subject of a further study by the Bureau of Industry Economics and is closely associated with another review into Government purchasing led by Sir Brian Inglis.

1.25 The Committee's mandate does not extend to reviewing Government policy. It was decided that the basic objectives of the inquiry would be to examine progress on the recent amendments to the program and to recommend whether further action or attention is necessary. The ultimate goal is the effective implementation of the current program both now and in the future.

1.26 Terms of reference/guidelines for the inquiry, consistent with this goal, were established and are contained in Appendix A. Notwithstanding these guidelines, the Committee did allow the focus of the inquiry to vary according to the issues and concerns that arose during the taking of evidence. Consequently some of the terms of reference received more attention than others.

1.27 The second important consideration in the planning of the inquiry was that there are many organisations with an interest in offsets and they view the program from several different perspectives. The principal interest groups are Commonwealth purchasing authorities, overseas suppliers to the Commonwealth, existing recipients of offsets, other local firms seeking offsets contracts, consultants in the offsets field, and the program's administrators. In addition, the offsets program impacts on several industry sectors, notably aerospace, computing and telecommunications, which have quite diverse historical backgrounds and economic circumstances.

1.28 In order to achieve some sense of balance in its inquiry the Committee required input from all these groups and industry sectors. However, the Committee has limited resources. It therefore chose to limit the depth of its examination by selectively sampling the organisations from which it sought submissions. A list of the organisations that provided written submissions is contained in Appendix B, together with details of the Committee's hearings in terms of dates, witnesses and organisations represented.

1.29 The third and final major consideration concerned confidentiality. The administration of the offsets program involves the collection of commercially sensitive data describing the negotiations, plans and activities of private companies. Many companies approached by the Committee were not prepared to provide worthwhile comments on the program unless confidentiality was assured. A couple of firms also were unwilling to publicise their criticisms of the administration for fear of adverse consequences. In response to these concerns the Committee chose to hold a number of hearings 'in-camera' and to accord commercial-in-confidence status to many written submissions. Some evidence gained in this way has subsequently been declassified at the Committee's request.

1.30 Whilst the offsets program in dollar terms is split in roughly equal proportion between civil and defence offsets, this inquiry has tended to concentrate more upon the civil side and its administration by DITAC. The greater emphasis on civil offsets reflected, firstly, the majority interests of those organisations that gave evidence. Secondly and more significantly, the Committee recognised that defence offsets cannot be examined properly in isolation from the other component of the Defence Australian Industry Involvement (AII) program, Defence designated and assisted work.

1.31 A review of the AII program was beyond the scope of this inquiry due to the complexities of the offsets program itself. It is the Committee's view that the program requires examination. Given the strong inter-relationship between the two elements of the AII program, there is a need to allow time for this report and its recommendations to be implemented. The Committee will defer its decision regarding an inquiry into the AII program until the formal response to this report is received.

Resources of the Offsets Authorities

1.32 The Committee is conscious of the fact that all the recommendations from the inquiry are for some action or shift in attention, and that these can place demands upon the resources of the administration, at least in the short term. However, the Committee contends that this in no way lessens the relevance or should inhibit the ready implementation of any of the recommendations. In this regard the following points are noted:

• the thrust of many recommendations is to streamline the administration with the use of more comprehensive databases and a tighter framework for administrative discretion. Whilst some effort is required initially to establish these mechanisms they should all lead eventually to greater efficiency.

there are about 20 full-time staff in the civil offsets authority¹⁴ and 4 equivalent full-time staff administering defence offsets¹⁵, although with some input part-time from other Defence personnel. In relation to the value of offsets work generated under the program, staff costs are clearly not the major consideration in any assessment of the program's cost effectiveness.

the Committee role has been to identify areas where the offsets administration can be made more effective. It has not been to undertake a cost-benefit analysis nor to analyse departmental priorities in the allocation of resources. However, DITAC and Defence are charged with implementing the Government policy on offsets, and should more resources be required to ensure its effective implementation, then it is the responsibility of these departments to make sufficient resources available.

CHAPTER 2

INTERFACE WITH INDUSTRY

- The Industrial Base
- Flow of Information
- Formal Industry Liaison

The Industrial Base

2.1 One important and readily observable facet of the offsets program is that it impacts on only a small section of Australian industry. First, the bulk of offsets activities are concentrated into four industry sectors - aerospace, computing, telecommunications and defence. According to the Inglis Report the aerospace industry alone accounted for nearly 60% of the total offsets committed between 1971 and 1983. This reflects the significance of aircraft in the Commonwealth's overseas purchases. Secondly, within the 'offsets' industries a relatively small number of firms seem to win the 'lion's share' of the offsets workload. It is estimated that about 60% of the work completed to 1983 was done by 13 firms out of a total 150 or so participants in the program.¹ This degree of concentration is consistent with data from the Bureau of Industry Economics (BIE) showing that in 1983-84 nearly 90% of aerospace offsets was undertaken by 3 firms.² In one submission to this inquiry it was stated that 50% of defence offsets is being performed by 4 companies³.

2.2 It was suggested to the Committee that offsets tends to be a 'closed shop' or that there is an 'offsets club' whose small membership seems to receive most of the repeat business. This situation is aggravated, so the Committee was told, by the subsidy advantage held by some defence 'designated' firms and also by the tendency of some overseas firms to direct offsets to their own local subsidiaries.

2.3 Witnesses representing major participants in the program denied the existence of an 'offsets club'. They stated that the situation of relatively few firms doing offsets work is unsatisfactory but it reflects the capability and willingness of firms to become involved. In those sectors of the industry with recognised constraints, it is understandable that overseas suppliers will generally prefer to place their offsets work with firms that, first, are prepared to invest the time and money to win the business, and secondly, have demonstrated that they can perform in terms of price, quality and delivery. The program requires confidence on both sides. Defence stated that whilst

1. Report of the Committee of Review on Offsets, op cit, p 44
2. Bureau of Industry Economics, The Australian aerospace industry: structure, performance and economic issues, Research Report 20, AGPS, Canberra, 1986, p 306
3. In camera evidence

14. JPCPA File

15. Minutes of Evidence, op cit, p 153

there is a group of companies that do most defence work, it asserts that the Department goes 'out of (its) way to try to assist other firms into the activity'.⁴

2.4 It was suggested that some non-participating companies still maintain that offsets are a 'hand out', or alternatively, that Australian companies are not competitive. DITAC pointed out that the program does not guarantee work nor can it produce quick results. The time taken between expression of interest and first order is usually more than 9 months⁵. Several witnesses stated that stubbornness and dedication are required. Nevertheless DITAC did advise that there has recently been a greater flow of work to smaller companies and, over the last year, 85 new firms have become involved in civil offsets. The total number now directly involved is about 400.⁶

2.5 While accepting that not all Australian firms can participate, it is clear that there was a consensus that more firms should be participating in offsets - the industrial base benefitting from offsets should be broader. First, the situation where repeat business is going to the same few firms is inconsistent with the goal of establishing internationally competitive activities in Australia. Secondly, the evidence indicates many more firms have the capacity to take on offsets. Thirdly, there are measures available to the administrators that can help alleviate the problem.

Flow of Information

2.6 The mechanisms suggested to the Committee for broadening the industrial base of the offsets program all come under the heading of improved communications and flow of information. It was felt that not only should industry be made more aware of offsets generally but also companies participating, or wishing to participate, should be provided with more data - data on offsets opportunities, firms to contact, and how to proceed. It should be the responsibility of the offsets administrators to collect/prepare and disseminate this information.

General Knowledge of the Offsets Program

2.7 The evidence received during the inquiry shows that there is a wide variation amongst companies in their knowledge of the offsets program. In general overseas suppliers and the major recipients of offsets work seem well aware of the program, its aims and how it works, although there does remain some confusion and uncertainty regarding terminology and criteria. On the other hand, amongst smaller firms and firms not currently involved, understanding of the offsets program, including its existence, is minimal.

4. Minutes of Evidence, op cit, p 343

5. Ibid, p 428

6. Ibid, pp 373, 428, JPCPA File

2.8 It was suggested that the authorities need to be more visible, particularly in the regional offices and it was queried whether there is sufficient liaison between the offsets authorities and the relevant industry associations. Two firms operating as offsets consultants suggested that more effort should be directed towards 'selling' the program, explaining its benefits to local industry, and how to proceed, but at the same time warning that there are no instant successes.

2.9 Both DITAC and Defence advised that a number of steps have been taken to promote the program including:

- The publication in March 1986 of the guidelines booklet. 11,000 copies have been circulated with favourable reception from local and overseas industry;
- a program of seminars around Australia in March/April 1986 attended by representatives of most local prime contractors. Ad hoc seminars since have averaged once a fortnight;
- a mission in April/May 1986 to supplier organisations in USA, UK and Europe;
- missions around Australia in liaison with State Governments, notably one for Rolls Royce and another planned for Airbus Industrie; and
- recent publicity of several successful offsets agreements.⁷

2.10 Despite the above measures, both offsets authorities accept that large sections of industry are still not being reached.⁸ DITAC advised that it is reviewing its promotional strategies and has recently appointed a full time officer to develop information mechanisms and media. Defence representatives indicated that they try to use the department's regional offices and industry associations, such as the Metal Trades Industry Association (MTIA) and the Defence Manufacturers' Association, in order to contact new and previously uninvolved companies. They went on to say:

The big difficulty is getting across the realities and the complexities of a program of this kind...⁹

One aid in this regard will be the forthcoming publication of a booklet entitled 'Doing Australian Defence Business'.

7. Minutes of Evidence, op cit, pp 75, 144-145, 160, 426, 429

8. Ibid, pp 66, 339, 424

9. Ibid, p 342

2.11 The Committee acknowledges the efforts by DITAC and Defence to publicise the program. The Committee is concerned that there is insufficient knowledge of the program amongst industry. It urges the two departments to increase their efforts and to take note of the recommendations throughout this report concerning the visibility of the administration, revision of the guidelines, formal liaison with industry, publication of actual offsets arrangements and dissemination of information to assist participants.

Data on Local Industry

2.12 A major factor in the impact of the offsets program on industry is the capability of firms to actually undertake offsets work. In this regard Defence has researched and produced a Directory of Australian Defence Industry Capability which is provided to overseas contractors with offsets obligations.

2.13 The civil offsets authority is, according to the evidence, not as advanced in the collection or dissemination of similar data on civil industry capabilities. However, the authority does assemble data on a case by case basis from whatever sources are to hand in order to put overseas obligors in touch with capable Australian firms. It was stated that several industry sector databases exist within the department and these are being integrated to form a National Register of Industrial Capabilities. The first phase of the project is complete but further developments are dependent on the outcome of evaluation of alternative methods of enhancing the database. DITAC advised that the proposed database will be used not only to assist overseas suppliers but also to send information to local industry on offsets opportunities.¹⁰

2.14 The Committee noted that some overseas organisations undertake their own surveys to assess the relevant capabilities and acceptability of local firms. One submitter suggested also that, as with Government contracts, overseas obligors should be obliged to advertise for recipients of offsets work.¹¹

2.15 Whilst neither of these mechanisms was examined closely, the Committee concludes that a comprehensive database on local industry capabilities, technologies and interests is essential for the proper administration of the program. The authorities will then be able to properly advise overseas obligors of all potential recipients of offsets work, as well as local industry of potential offsets opportunities, thereby expanding the industrial base benefitting from the offsets program. Information along these lines has been gathered by various public bodies including Austrade and State instrumentalities. However, the Committee is concerned that it may be some time before the civil offsets authority has access to such a database.

10. Minutes of Evidence, op cit, p 418
11. JPCPA File

2.16 The Committee recommends that:

- The Department of Industry, Technology and Commerce develop a comprehensive database and directory on the capabilities, technologies and interests of local industry by 31 December 1987.

Data on Overseas Suppliers

2.17 As part of their administrative responsibilities, the offsets authorities maintain records on the offsets performance of all overseas suppliers in terms of their obligations, proposals and commitments as well as the current values of their outstanding debit or credit.

2.18 The Committee was advised that information from these records, notably the current offsets deficit of each supplier, had been publicly available in a document entitled 'Summary of Prime Contractors with Outstanding Offsets Obligations Greater Than A\$1.0 million'. However, the last issue of this document was in November 1983 and the administration has since treated much of this information as commercial-in-confidence. In fact the Inglis Committee recommended that:

Details of the outstanding offsets commitments of individual companies not be published, except in the case of major delinquencies.¹²

The recommendation was accepted by the Government and the administration now publishes a list ('Overseas Companies Participating in the Australian Offsets Program') which provides names, addresses and contact points only.¹³

2.19 Several local firms expressed disappointment at the withholding of data on offsets obligations. The information was useful to these firms in identifying potential areas for offsets work. It enabled them to target their marketing efforts. EPIC said:

The whole purpose of offsets as a marketing leverage mechanism is to get you directed into a place where you are likely to achieve results.¹⁴

It went on to say that since this information is now secret, offsets has become a 'guessing game'.

2.20 The opposing view was held by other witnesses who believe confidentiality over offsets arrangements is important to overseas firms. The release of some information will enable competitors to deduce both the price of the contract with the Commonwealth and the outlets used by the supplier to fulfill its offsets commitments.

12. Report of the Committee of Review on Offsets, op cit, p 16
13. Minutes of Evidence, op cit, pp 95, 176, 345
14. Ibid, p 32

2.21 DITAC explained that the publication of offsets obligations ceased because, first, the accuracy of the data was disputed. Secondly, the bold figures on obligations gave no indication of the timescale of the obligations nor of the efforts or plans to acquit them. As such they gave the false impression of delinquency and this could damage the firms' reputations in the market place.¹⁵

2.22 Both offsets authorities expressed the opinion that data on the precise values of suppliers' offsets obligations are not the main factor.¹⁶ What is of value is the dimension and prospective nature of the obligations which enable local firms seeking offsets to target their marketing efforts. The authorities' current approach is to publish just the list of obligors and to encourage local firms to come and talk to the authority staff who, from an understanding of the respective business interests and capabilities, can then direct the firms to the most promising opportunities. DITAC stated that this information would be difficult to document.¹⁷ This approach also enables the authorities to provide direct advice on relevant aspects of the program and, in conjunction with Austrade, on the preferred means and pitfalls in approaching certain overseas organisations. Furthermore, local firms may gain leverage in terms of an endorsement or letter of comfort from the authority in regard to the eligibility of its proposed offsets activities. DITAC said:

The offsets program ... does not guarantee anybody work, or anybody a contract. What we hope we can guarantee is that you will get to talk to the right people... and that they will give serious consideration to your proposal.¹⁸

2.23 Several witnesses confirmed that both DITAC and Defence do help in directing local firms to suitable suppliers and vice versa. As one firm said:

There is a question whether one should spoonfeed people or whether they should take the initiative and come to Canberra to talk to the authority.¹⁹

2.24 In regard to the actual publication of data, it was noted that Commonwealth purchases notified in the Gazette and occasional press releases do identify the names of overseas suppliers and provide some indication of the scale of possible offsets opportunities.

15. Minutes of Evidence, op cit, pp 385-386

16. Ibid, pp 370-371, 385-386

17. Ibid, pp 147, 369-371, 431-432

18. Ibid, p 428

19. In camera evidence

2.25 Nonetheless, both authorities stated that they would like to publish more information than at present. Defence intends to issue to local firms a directory (similar to the current one on Australian capabilities) which contains not only the names and addresses of relevant overseas companies but also their main product lines and activities. The Department asserts that this would be more than adequate for firms routinely involved in offsets and its main benefit would be to smaller companies not previously involved.²⁰

2.26 DITAC said it would like to provide information, perhaps in an occasional newsletter on recent offsets obligations, in terms of the nature of the suppliers' product, areas of synergies with local firms, mutual interests in technologies, etc. There are however no plans for a more comprehensive directory other than to update the current list of suppliers' names and addresses.²¹

2.27 In regard to the problems of commercial-in-confidence data, DITAC expressed a wish to try to declassify as much data as possible in consultation with the relevant overseas firms. The Department explained that the determination of what can be published is left largely to the firms themselves:

Unless there are some strong reasons why we believe that that information should be put out to the public and that it is not going to have any commercial impact on the particular firm.²²

2.28 The Committee concludes, first, that the withdrawal of the former publication on offsets obligations was an overreaction to the problem in presenting the data. Secondly, notwithstanding the fact that some information is confidential, there is scope for the authorities to publish more information concerning relevant overseas firms, including the scale of their outstanding obligations with suitable explanations, and the scope and nature of their offsets acquittal plans. This information should be consolidated into a directory and also be made available as an on-line computer system. It will provide local firms with a guide to the specific nature of available offsets opportunities thus enabling them to prepare and target their proposals more directly to supplier needs and enhancing their prospects of participating in the program.

2.29 The Committee recommends that:

The offsets authorities forthwith publish and distribute to local industry seeking offsets work, a comprehensive directory of overseas firms participating in the offsets program. The directory must include:

- details of each firm's business in terms of products, technologies and interests;

20. Minutes of Evidence, op cit, pp 147, 368

21. JPCFA File

22. Minutes of Evidence, op cit, p 430

- the nature and scale of its offset obligations; and
- non-sensitive information on the nature and scale of its acquittal plans.

2.30 In making this recommendation for more published information the Committee does not wish to denigrate the worth of the current advisory service provided by the administrators. This service should continue as a complement to the published directory.

Offsets Targetting and Brokerage

2.31 Different views were expressed as to whether the offsets authorities should provide targets or in some way intervene in the development of offsets proposals.

2.32 The Inglis Committee maintained that the most effective means of developing internationally competitive industry is to allow maximum commercial freedom in the placement of offsets work.²³ The Government's role should be confined to providing information and arranging contacts. The only exception should be if there are defence implications.

2.33 A similar comment, expressed by a local firm well established in the program, is that there should be no Government intervention between the partners to an offsets arrangement. The Government's role is one of facilitator only. In reference to the civil offsets authority, the firm said that the staff are enthusiastic but relatively inexperienced, and the negotiation of contracts should be left to the 'hands on' practitioners.²⁴

2.34 A somewhat different view is that the offsets program can be a useful tool for Australia's industrial development. It was suggested that a more deliberate approach should be taken in the matching of firms and in designating desired areas of offsets work. One example cited concerns a worthwhile collaborative venture amongst several overseas suppliers which is dependent on the initiative of the offsets authority.

2.35 Support for the concept of 'targetting' has been expressed particularly strongly in regard to defence offsets. Both the Auditor-General and Mr R Cooksey (in his report Review of Australia's Defence Exports and Defence Industry) recommended that in order to pursue properly the defence strategic goal of the program there needs to be more positive direction by Government in the placement of offsets work.²⁵

23. Report of the Committee of Review on Offsets, op cit, pp 135-136, 165

24. In camera evidence

25. Auditor-General, Reports of the Auditor-General on Efficiency Audits, Administration of the Australian Industry Participation Program in Relation to Overseas Procurement, AGPS, Canberra 1984, p 55; R J Cooksey, Review of Australia's Defence Exports and Defence Industry, AGPS, Canberra 1986, p 99

2.36 Because of the degree of market intervention, particularly overseas countries with equivalent programs, the Committee does not believe that market forces are sufficient on their own to ensure that all offsets work goes into potentially internationally competitive industries in Australia. In providing guidance, the offsets authorities should seek advice, if not already so, from appropriate industry bodies especially the Defence Industry Committee and the Offsets Advisory Committee or its equivalent. However, the degree of direction must obviously be limited not only for reasons of probity but also to ensure that the offsets activities still meet the criterion of commercial viability and do not raise the price of the Commonwealth purchases that initiated the offsets.

2.37 The subject of intervention also prompted comments on offsets consultants and brokers. It was widely accepted that private firms operating in this relative complex field play a worthwhile role in arranging introductions as well as providing customary advisory and information services. DITAC said, 'They are, in a sense, more power to our arm'.²⁶ Both offsets authorities indicated that they encourage and assist specialist consultants, but provide them with no more information than what is readily available to others.

2.38 The Committee supports the administrators' approach to offsets consultants and brokers.

Data on Commonwealth Purchases

2.39 Several witnesses pointed out that the ability of local firms to win offsets contracts depends, in many cases, on early knowledge of potential offsets opportunities. This is particularly important to manufacturing firms seeking involvement in part production or joint production ventures in which lead times can be relatively long.

2.40 One acknowledged source of information is the Commonwealth Gazette which provides notification of tenders called and let. The Committee was advised, however, that the Gazette cannot be relied upon for offsets purposes. First, only Departmental and Budget Sector agencies are obliged to use the Gazette. Several organisations of significance to the offsets program fall outside this category, including the three major airlines, OTC, Aussat and other statutory authorities. Secondly, it was asserted that some agencies within the Budget Sector are 'not too assiduous in their gazettal'. One witness estimated that only 15 to 16% of all tenders let are gazetted.²⁷

2.41 Aside from the shortcomings of the Gazette in providing data on actual Commonwealth purchases, of more value to industry are details of the Commonwealth's forward purchasing plans.

26. Minutes of Evidence, op cit, p 433

27. In camera evidence

Formal requests to prepare and publish such plans have been made several times, most notably in the Australian Science and Technology Council (ASTECC) report of August 1984, the joint submission from DOLGAS and DITAC of October 1986 to the Committee of Review on Government High Technology Purchasing Arrangements, and the recent report by Mr R Cooksey.²⁸

2.42 ASTECC suggested that publication of the Commonwealth's forward purchasing plans would not only provide more time for local industry to lobby, evaluate, collaborate and qualify for offsets but also help overseas suppliers to meet their offsets obligations by giving them more time to seek out suitable activities and partners.

2.43 DOLGAS and DITAC noted that more advanced planning information has been made available to industry through pre-tender consultations on several major projects. In addition, Defence produces a rolling 5-year forward program, Telecom has formed a special industry liaison committee, and DOLGAS provides data on proposed computer purchases. Nevertheless, and despite the Government's stated intention to provide more information, the practice of briefing industry is not widespread.

2.44 The offsets authorities advised the Committee that, apart from the above mentioned measures, they are endeavouring to provide more data. Defence stated that 'consolidated information on minor capital projects has been released and is soon to be followed by information on major capital projects.'²⁹ DITAC stated that it will use the industry database, currently being developed, to increase the number of firms it can 'target' with forward purchasing information, but 'it is going to be a relatively slow process'.³⁰ The authority's preference, in view of its limited resources, is to persuade the purchasing agencies to publicise their own plans.

2.45 The Committee acknowledges the efforts to provide more purchasing information to industry, but is of the view that more effort is required, particularly in regard to Commonwealth agencies outside the Budget Sector. In particular, the Committee supports the general principle that all organisations subject to the offsets program should be obliged, as part of their responsibilities under the program, to publish their forward procurement plans as early as practicable consistent with their operating and commercial circumstances.

28. Australian Science and Technology Council, Government Purchasing and Offsets Policies in Industrial Innovation, AGPS, Canberra 1984, pp 39-40; Departments of Industry, Technology and Commerce, and Local Government and Administrative Services, Joint Submission to the Committee of Review on Government High Technology Purchasing Arrangements, 1986, pp 55-64; Review of Australia's Defence Exports and Defence Industry, op cit, pp 8, 324
29. Minutes of Evidence, op cit, p 146
30. Ibid, p 425

2.46 The Committee recommends that:

- All organisations subject to the Offsets Program publish forward procurement plans as early as practicable consistent with their operating and commercial circumstances.

Formal Industry Liaison

2.47 Several organisations commented upon the level of consultation between the offsets authorities and industry bodies. Some representatives from the computer industry felt that more liaison is needed. Another from the aerospace industry suggested that the level of consultation has recently increased but it lacks a formal structure.

2.48 Attention was drawn to the Offsets Advisory Committee (OAC), which comprises a cross section of businessmen, and is responsible for advising the Minister for Industry, Technology and Commerce on civil offsets matters. The Defence Industry Committee performs a similar function in regard to defence offsets. According to the OAC's terms of reference its role is to promote the offsets program, advise on industry capabilities, provide guidance on general policy issues, and review progress in the program.

2.49 The Committee was disturbed to learn that the OAC has not met since March 1985. This concern is also echoed in some submissions.

2.50 DITAC explained that in April 1985 the OAC went into recess while the Government considered the Inglis report.³¹ During the recess the appointment of a number of members expired whilst others retired, and since the Committee was to have no direct input into defence offsets activities, the opportunity was taken to revise its structure. However, following the offsets policy statement in January 1986, DITAC directed all its efforts to implementing the new program, and although the Government had accepted the Inglis recommendation to retain the OAC, its revised structure was not settled. Concurrently a departmental review of industry consultation mechanisms was conducted and it was decided to reduce the number of committees involved. Also at this time the concept of a National Offsets Program emerged. These matters contributed to delays in re-establishing the OAC. Nevertheless, whilst no formal meeting was called, the Committee members were consulted on the program's new guidelines.

31. Minutes of Evidence, op cit, pp 391-392, 419-421

2.51 DITAC stated that it 'remains committed to the concept of an industry consultative mechanism associated with the Offsets Administration'.² The current proposal is to reconfigure the State Preference and Industry Restructuring Advisory Committee (SPIRAC) by appointing more industry members, so that it can absorb the role of the OAC. SPIRAC also has the benefit of State Government input. The first meeting of the enlarged committee was planned for early 1987.

2.52 It is the conclusion of the Committee that regular and formal liaison with industry on the offsets program is essential, especially since its administration is dependent on a clear understanding of the manufacturing and commercial environment. A formal liaison body such as the OAC is therefore necessary. It can provide valuable advice to the Minister on all aspects of the program including the identification and matching of technologies and other desirable offsets.

2.53 The Committee is critical of the fact that the OAC has not met for 2 years, particularly in the light of the Government's stated support for the retention of the body, and the recently renewed emphasis and administrative changes to the program. The Committee does not consider that the reasons provided by DITAC provides proper justification for failure to convene meetings.

2.54 The intention to absorb the role of the OAC into SPIRAC is noted. However, the Committee is concerned that offsets may be given insufficient attention by such a body which has many other responsibilities. Furthermore, its proposed membership of 8 business representatives, 2 unionists and 12 Government officers is large.

2.55 An alternative mechanism is several specialist advisory groups for each of the major offsets industry sectors - aerospace, computing and telecommunications. However, the demarcation of these sectors is becoming less distinct over time and the mechanism may inhibit the sharing of experience between sectors and a consistent and equitable approach to offsets.

2.56 The Committee's preference is for one industry advisory group dedicated to the subject of offsets, and suggests that its reformation be addressed as soon as possible.

2.57 The Committee recommends that:

- An industry advisory group concerned solely with the offsets program, and with terms of reference similar to the former Offsets Advisory Committee, be re-established by 30 September 1987.

CHAPTER 3

INTERACTION WITH OTHER GOVERNMENT BODIES & POLICIES

- Collection of Purchase Data
- Relationship with Other Purchasing Policies
- Standing Interdepartmental Committee

Collection of Purchase Data

3.1 The support of Government purchasing authorities is important to the operation of the offsets program. While there may have been some recent improvements in the working relationships between the civil offsets authority and the various purchasing authorities, there is still some disagreement about aspects of the offsets program. This section relates only to DITAC and the civil aspects of the program. Defence is responsible for its own purchasing and there is no third party involved requiring the transfer of data to the offsets authority.

3.2 Both the Efficiency Audit and the Inglis Committee Report were critical of the record-keeping of DITAC. Audit recommended:

The development of improved systems within the Offsets Secretariat for the identification and recording of all purchases to which the Offsets Policy should apply. The responsibilities or other organisations to provide relevant information to the Secretariat should be defined. The workload implications for purchasing and demanding authorities should be considered.¹

3.3 The Department responded that an ADP based system for recording such purchases has been set up and, to ensure receipt of all information where contract values are expected to exceed the prescribed thresholds, requests for tender are to be advised by purchasing authorities. Departments and authorities are required to supply an annual return of purchases covered by the program.² The requirement for collection of data followed an Inglis Committee recommendation which was accepted by the Government.

3.4 Support from purchasing authorities in providing information about purchases likely to be subject to offsets is essential to the program. DITAC considers that following the introduction of the improved reporting requirements the position has improved and one officer advised the Committee that:

... we have made significant ground in terms of getting that information. I doubt I will ever be 100 per cent satisfied that we are receiving all the information in a timely fashion ... There are a large number of individual purchasing

32. Minutes of Evidence, op cit, p 392

1. Report of the Auditor-General on Efficiency Audit, Administration of the Offsets Policy, op cit, p 16
2. Minutes of Evidence, op cit, p. 81

authorities and we have circularised them in respect of the Offsets program, and most recently in respect of purchases of computer equipment. We have the bulk of replies to hand and there is nothing in those replies to suggest we are not going to have the co-operation of those authorities.³

3.5 Despite DITAC's confidence in the improved reporting requirements, several organisations told the Committee that a concern with the program is the lack of advice to DITAC or all purchases made by non-exempt Commonwealth bodies.⁴

3.6 As referred to in Chapter 3, notification in the Gazette of tenders called and let by departments and some authorities is required. As noted in that Chapter, witnesses advised that this cannot be relied upon.

3.7 DITAC is relying to a large extent on information provided by overseas suppliers who, as a condition of gaining Pre-Qualified Offsets Supplier Status, must advise details of all their sales to the Commonwealth since 1981. Under this scheme the supplier can adopt a long term approach to discharging its offsets obligations without the need to enter into individual offsets arrangements against each sale to departments or Authorities. One of the conditions applying to the attainment of such status is that the precise past offsets status of the supplier must be agreed and nominated in the deed of agreement as a starting point for the discharge of future obligations.⁵ In evidence submitted to the Committee, it was stated that poor recording of obligations and fulfillment of those obligations in the past is resulting in a drawn out process of checking all records of the supplier back to 1981.

3.8 As many suppliers may choose not to qualify under this scheme, not only is this mechanism for collecting data insufficient, it is arguable whether more reliance cannot be placed on the Commonwealth's own purchasing authorities to comply with the program's reporting requirements. Given criticisms made of the reporting processes during the inquiry, it would seem that the current system, even if performing to standards set by DITAC, does not have the confidence of participants in the program.

3.9 The Committee recommends that:

- The Departments of Industry, Technology and Commerce, and Local Government and Administrative Services report in the Finance Minute on the extent to which purchasing authorities comply with the existing reporting procedures;

3. Minutes of Evidence, op cit, p 405

4. In-camera evidence

5. Guidelines for Participants, op cit, p 22

- The Departments of Industry, Technology and Commerce, and Local Government and Administrative Services recommend procedures with a view to making collection of data more rigorous and report in the Finance Minute.

3.10 In making these recommendations the Committee acknowledges the sizeable administrative burden imposed by the accumulated orders provision whereby all overseas purchases need to be reported irrespective of their value. Under the accumulated orders provision all orders placed with the one overseas supplier by any non-exempt Commonwealth purchasing authority for functionally similar items (regardless of the size of the order) in a single financial year will accumulate. When the threshold of \$2.5m is reached, all previous orders become eligible for offsets.

3.11 Whilst this provision discourages the artificial splitting of orders to avoid offsets and catches small orders as well as the large ones, it is questionable whether the small volume of the additional offsets arising from the provision warrants the effort to administer it on a consistent and equitable basis.

3.12 During the inquiry, Telecom referred to this aspect of the program creating uncertainty:

In Telecom's view, these arrangements create an uncertain tendering environment and are not compatible with the aim of having precise tendering conditions.⁶

3.13 Following the Inglis Committee Report the Government accepted a change to the previous accumulated orders provision, designed to eliminate uncertainty on whether offsets apply to the full length of a period contract, by specifying orders placed in the one financial year.⁷ This was an attempt to reduce uncertainties, however it appears that similar problems remain.

3.14 The Committee is concerned that there may be some doubt as to the legality of imposing offsets obligations retrospectively. Telecom stated that:

Many of the contracts may well have to be concluded without any Offset obligation entailed. The fact that the Offsets could not be related to the performance of a specific contract would cast doubt on its enforceability. Telecom believes that arrangements such as this, which do not enable Offsets standards to be determined in advanced, are unsatisfactory.⁸

6. Minutes of Evidence, op cit, p 292

7. Report of the Committee of Review on Offsets, op cit, pp 126-127

8. Minutes of Evidence, op cit, p 293

3.15 DITAC however, was not aware of any legal challenge to the accumulated orders provision, which was the result of a 1981 IDC decision.⁹

3.16 The Committee recommends that:

- The Department of Industry, Technology and Commerce report in the Finance Minute on both the cost-effectiveness and legality of applying offsets to accumulated orders.

Relationship with Other Purchasing Policies.

Purchasing Preference Policy

3.17 Another industry policy, administered by the Department of Local Government and Administrative Services, is the Local Preference Policy. Under the preference policy all Commonwealth Departments and non-exempt Authorities are required to give preference in their purchasing according to the degree of locally manufactured content, including tenders, being evaluated at a 'preference adjusted' price. The aim is to foster internationally competitive local manufacturing industries. The Government acknowledges that while offsets and this policy are different, in some circumstances they may be complementary.¹⁰

3.18 Several witnesses have expressed concerns about the relationship between the Commonwealth's Purchasing Preference Policy (re local content) and the Offsets Policy. The major concern relates to the extent to which the offsets obligation on goods which comprise both local and overseas content can be satisfied by their local content. The situation often arises in the telecommunications industry in which the level of local content may be just below the offsets threshold or 70%.

3.19 The argument put by OTC, Telecom and other affected parties is that direct Australian participation in a project brings benefits to local industry and efforts by a supplier to maximise this participation should be recognised by lowering the offsets requirement.¹¹ To impose an additional obligation by way of offsets in such cases may be both inequitable and potentially uneconomic, particularly if the imported content only marginally exceeds 30% and the supplier is a local manufacturer who by necessity purchases overseas componentry. In some cases, the local supplier may have limited leverage over its overseas sub-contractors and the imposition of offsets could jeopardise an established and worthwhile manufacturing activity.

9. Minutes of Evidence, op cit, p 406

10. Guidelines for Participants, op cit, p 26

11. Minutes of Evidence, op cit, pp 304-306, 463, In camera evidence

3.20 DITAC told the Committee that they did not see any conflict between the policies, nor had any issues of significance been raised in meetings of the State Preference and Industry Restructuring Advisory Committee.¹² The civil offsets authority stated that traditionally many local content programs did not meet the commercial viability or technology criteria for offsets. Part production or assembly may now be acceptable for offsets only if these criteria are met and where it forms part of a more comprehensive offsets program.

3.21 The Committee believes that there is a need for flexibility in the imposition of offsets in cases where local content is already substantial and the potential benefits of offsets do not clearly outweigh the adverse consequences.

3.22 A second concern expressed to the Committee regarding the relationship between the Offsets and Purchasing Preference Policies is that whilst the former seeks to promote worthwhile industry projects, the latter policy directly subsidises short term manufacturing activity that may neither be commercially viable in the long term nor internationally competitive.

3.23 It is acknowledged that the two policies have different objectives and that suppliers can often face decisions between local content and offsets. Whilst the Committee considers that the relationship between Government policies is outside its terms of reference, it does believe that more co-ordination is needed in the administration of these two policies. The Committee considers the Standing Interdepartmental Committee (Offsets) (IDC) as being the most appropriate vehicle for this co-ordination.

3.24 The Committee recommends that:

- The Standing Interdepartmental Committee on Offsets take responsibility for clarifying the relationship between the Offsets and Purchasing Preference Policies and eliminate any confusion amongst affected suppliers to the Commonwealth.

Pre-Qualified Offsets Supplier Status

3.25 Several public sector witnesses expressed concern that tenderers to the Commonwealth who qualified for Pre-Qualified Offsets Supplier Status, which is not mandatory, may have an advantage over other tenderers by, for example, being considered preferred suppliers. In such circumstances, the benefits of open tendering would not be fully realised.

12. Minutes of Evidence, op cit, pp 228-229, 416

3.26 Whilst the Committee does not necessarily share this view, it was concerned that the Civil Offsets Secretariat was unaware of the issue until it was raised during the Inquiry. 13

State Government Offsets Policies

3.27 The Committee learned from several witnesses, notably representatives of the computer industry, that there are conflicts between the separate offsets policies of the Commonwealth and some States. The matter is being addressed by a joint Commonwealth/State working party established by the Australian Industry and Technology Council (AITC), with the goal of a National Offsets Agreement. The working party is aiming for greater harmonisation in the administration of offsets policies and to ensure that the Commonwealth and State schemes complement each other in pursuit of a more competitive industry structure.

3.28 DITAC has advised the Committee that a proposal for a National Offsets Program will be put to the May 1987 meeting of the Australian Industry and Technology Council. If accepted, it is expected that the commencement date will be 1 July 1987.14 Apart from removing the confusion and conflict evident in the separate policies, a co-ordinated approach by the various authorities will mean that State Government resources will be available for promotion of the Commonwealth offsets program.

3.29 The Committee recommends that:

- The outcome of efforts directed to resolving the confusion and conflict between the various State and Commonwealth offsets programs be reported in Finance Minute.

Standing Interdepartmental Committee

3.30 The Standing Interdepartmental Committee on offsets (IDC) was established in 1970 at the time the original offsets program commenced. Its role at that time was to implement Government policy including consideration of complex proposals for which no precedent existed and policy issues associated with the program. Following the Inglis review the Government decided to upgrade the IDC and add Treasury to its membership (other members being the Departments of Industry, Technology and Commerce (Chair), Defence/Office of Defence Production, Local Government and Administrative Services, and Trade/Austrade) and revise the terms of reference of the IDC to require it to develop and maintain a comprehensive set of guidelines for Ministerial endorsement.15

13. Minutes of Evidence, op cit, pp 194-195

14. JPCPA file

15. Guidelines for Participants, op cit, p 42

3.31 The Committee was concerned to learn that the IDC has not met since 1984, prior to the Inglis Committee reporting in December 1984.16 Despite substantial changes to the program outlined in the Inglis Report no meeting has been convened, nor have the IDC terms of reference been revised since 1970 except to amend the departments involved as administrative changes occurred. However, a copy of the terms of reference provided by DITAC to the Committee does not reflect administrative changes of more than 2 years ago.17

3.32 As the department that chairs the IDC, DITAC explained that the IDC's principal function is to review the guidelines as and when necessary and that, as part of the recent revisions to the program, it is no longer responsible for reviewing major offsets cases. Members of the IDC were asked individually to comment on the then draft guidelines prior to their release, however, according to DITAC, it was not possible to bring the IDC together in the time allowed. Since that time DITAC considers that there has not been a requirement to use that committee for the purposes for which it exists. During the inquiry, it was learned that one member of the IDC was concerned that the IDC had not been reconvened and believed that it was given insufficient time to review the draft guidelines.18

3.33 The Committee considers that the lack of IDC meetings is contrary to the Government's intention as evident in its decision to upgrade and expand the membership of the IDC. It is also contrary to the Government's decision to use the IDC mechanism to ensure consistency between the civil and defence components of the program.19 The Committee does note DITAC's intention to convene an IDC meeting within six months (from November 1986).20

3.34 As regards the consideration of the draft guidelines, it is considered that the IDC should have been more closely involved through the convening of actual meetings in order to allow interaction on the development of the policy. Again, this would appear to be contrary to the spirit of Inglis Committee Recommendation No. 19(b) which was accepted by the Government:

Terms of reference of standing IDC to be revised to require it to develop and maintain a comprehensive set of guidelines for Ministerial endorsement.21

16. Minutes of Evidence, op cit, p 214

17. JPCPA file

18. Minutes of Evidence, op cit, p 411, 413

19. Guidelines for Participants, op cit, p 41

20. Minutes of Evidence, op cit, p 415

21. Guidelines for Participants, op cit, p 42

3.35 More generally, the IDC should meet frequently and on a regular basis to monitor and resolve any interdepartmental concerns over the offsets policy, the guidelines for its implementation and its relationship with other Government policies.

3.36 The Committee considers that regular interdepartmental liaison is essential and the existing and formal mechanism for it must not be neglected.

3.37 The Committee recommends that:

- The terms of reference for the Standing Interdepartmental Committee on Offsets be revised in accordance with the Government's decision following the Inglis Report.
- The Standing Interdepartmental Committee on Offsets reconvene as a matter of urgency and meet frequently, regularly and at a senior level to ensure adequate interdepartmental liaison on the offsets program.

CHAPTER 4

CIVIL AND DEFENCE ADMINISTRATIONS

- Differences in the Administrations
- Co-ordination
- Single Administration?

Differences in the Administrations

4.1 The Department of Defence and DITAC have been jointly responsible for the administration of the offsets program since late 1984. The division of responsibility is determined essentially by the identity of the purchaser. Defence administers offsets against its purchases and DITAC administers offsets against all other relevant Commonwealth purchases.

4.2 One significant feature of the offsets program is that there be uniform administration of the civil and defence aspects of the program. Notwithstanding this, there are several important differences in the way the two aspects are being administered.

4.3 First, Defence administers offsets as one element of its program Australian Industry Involvement (AII) which comprises defence designated and assisted work as well as defence offsets. The responsibility for development and administration of AII policy is divided between two divisions, Defence Industry and Materiel Policy (DIMP) and Defence Industry Development (DID), whilst the management of procurement processes rests with the Chiefs of Materiel. This wide organisational spread of responsibility for AII, and hence defence offsets, contrasts with civil offsets which are the responsibility of a single discrete administrative unit in DITAC.

4.4 Secondly, defence offsets are considered in the tender evaluation process. The quality and quantity of defence offsets are determinants in the purchase decision. On the other hand, civil offsets are neither competitively assessed nor taken into account as source selection decisions. The civil offsets authority advises simply whether or not the overseas supplier has complied with the program requirements.

4.5 Thirdly, Defence seeks to develop defence industry capabilities through the offsets program. It therefore places lower priority on offsets proposals that are unrelated to the particular defence purchase. Civil offsets can however be directed to any industry sector as long as they are based on normal commercial arrangements which meet the program requirements.

4.6 Many overseas and local firms are involved or have the potential to be involved in both civil and defence offsets. Some who gave evidence to the Committee, notably in the electronics industry, expressed concern at the division of responsibility between DITAC and Defence and the differences in their administration of the program. One overseas firm said that the need to report to more than one authority increased its costs and effort. A more serious concern, expressed by others, is that the two departments appear to have different aims and objectives and work with different criteria. While there is a common set of guidelines, their interpretation varies between the departments and the uncertainty causes difficulty for the firms affected.

4.7 A specific example of this problem was provided by Prime Computer. The Company stated that it is concerned that its offsets agreement with DITAC to achieve Pre-Qualified Offsets Supplier Status may not be recognised by Defence, and that additional offsets arrangements may be required for sales to that department.¹

4.8 The Committee acknowledges that there are valid reasons for the differences in the civil and defence offsets administration. However, it is concerned that the overall program is seemingly being implemented as two separate programs. This is not consistent with Government policy and it increases the potential for confusion, inconsistency and inequity in its application.

Co-ordination

4.9 Some of the problems of the dual administration of the offsets program were noted by the Inglis Committee and several remedial measures were recommended, including:

- the use of common guidelines;
- a single recordkeeping and monitoring system (common database); and
- liaison between the two administrations through the interchange of staff and the operation of the Standing Interdepartmental Committee on Offsets (IDC (Offsets)).

4.10 The Government has formally adopted these recommendations, except those relating to staff interchange and a common database. The progress in implementing each of the recommendations was examined by the Committee.

4.11 In March 1986 the two departments jointly published a set of guidelines for participants in the offsets program. While the publication apparently has been well received by industry generally, both departments have acknowledged that it needs to be improved in a number of areas.²

1. Minutes of Evidence, op cit, p 238
2. Ibid, pp 160-162

4.12 While the Government did not accept the Inglis recommendation to maintain a common database, the Committee was advised that DITAC and Defence share the same information that would have been provided by such a database.³

4.13 Amongst the data used by the administrators are detailed descriptions of overseas and local firms involved or seeking to be involved in the program. Defence currently draws upon such data in preparing its published directory of local firms interested in defence offsets. The Committee was advised of the authorities' intention to expand this into a joint directory covering both civil and defence offsets.⁴ The Committee acknowledges the value of such directories in assisting participants in the program and in presenting offsets as a single unified program. However, apart from a consolidated address list of overseas firms, little evidence was received of co-operation in the publication of these directories.

4.14 In addition to the above mentioned documents, the two offsets authorities need to co-operate in the preparation of a joint annual report on the program, commencing with the year 1986/87. The departments indicated however, that they had not yet agreed plans for this task.⁵

4.15 The Committee concludes that the two offsets authorities have made some progress towards presenting a unified program, most notably with the publication of the guidelines booklet. However it considers that progress has been slow and that there is scope for improvement.

4.16 The Committee recommends that:

- The civil and defence offsets authorities increase their efforts to present the offsets program as a single program and, to this end:
 - co-operate closely in the joint publication of the proposed directory of relevant local firms;
 - agree on specific plans for both the joint publication of a directory of overseas firms and an annual report; and
 - revise the guidelines, on a joint basis, as required.

3. Minutes of Evidence, op cit, pp 366-367

4. Ibid, p 367

5. Ibid.

4.17 In order to harmonise their respective segments of the program, DITAC and Defence not only need to co-operate in preparing documentation on the program but must also maintain frequent and close liaison. The Committee acknowledges that liaison does occur as evidenced in recent joint seminars on offsets, and in DITAC's membership on the Defence Industry Committee. However, the Committee notes that two recommendations by the Inglis Committee to promote liaison have not been implemented, namely those relating to staff interchange and the IDC (Offsets).

4.18 Whilst the recommendation regarding staff interchange was formally rejected, Defence advised that some interchange may occur in the future.⁶ The Committee believes that such a process will help promote greater understanding between the civil and defence offsets authorities, particularly at the working level.

4.19 The Committee was very disappointed to learn that the IDC (Offsets) has not met since 1984. The IDC should provide a useful forum for joint discussion of policy issues, and the Committee believes that it is one essential means of liaison between the departments.

4.20 To overcome their physical separation and natural tendencies to be autonomous, the Committee urges the civil and defence offsets authorities to work more closely together, and to this end, suggests that they pursue all available avenues for liaison including a program of staff interchange and regular meetings of the IDC (Offsets).

Single Administration?

4.21 The Committee also inquired into reasons for dual administration of the offsets program. Defence stated that the arrangement is consistent with the fact that the program has dual goals which are the separate responsibilities of DITAC and Defence.⁷ DITAC stated that whilst the value of the program is an industry development measure, this needs to be tempered by the defence strategic capabilities considerations.⁸

4.22 The Committee supports the role of DITAC in the administration of offsets, but questions whether the defence-related goal of the program necessitates a similar role for Defence.

6. Minutes of Evidence, op cit, p 366

7. Ibid, pp 110, 127-138

8. Ibid, pp 421-422

4.23 As part of the AII program, all defence work which the Department of Defence considers must be undertaken in Australia because of its strategic significance is categorised as designated work. Defence offsets do not fall within this category and are therefore not considered essential on strategic grounds. Furthermore the department does not prescribe particular offsets nor does it pay a cost premium for them.

4.24 It has been stated also that there is no longer a clear distinction between the defence industry and other industry. More particularly the major industries engaged in defence offsets work also tend to be the major participants in civil offsets, such as electronics, aerospace, communications and software. This suggests that most civil offsets activities will be supportive or the defence-related goal of the program and vice versa.

4.25 The principal argument for Defence's involvement in offsets administration is the policy of using offsets to support defence industry capabilities. This policy has a close parallel in Telecom's policy of using offsets to maintain a strong local telecommunications industry. Both policies are not unreasonable but they do not form a sufficient basis for splitting the administrative responsibility for offsets amongst the affected segments of the bureaucracy.

4.26 The Committee believes that the reasons given for Defence's direct role in the administration of the offsets program are far from clear cut. Unfortunately, the Committee does not have sufficient data to make a firm recommendation along these lines. However, it does believe that the current situation of dual administration is unsatisfactory and needs to be resolved.

4.27 The Committee recommends that:

The Departments of Defence, and Industry, Technology and Commerce examine the need or otherwise for the current dual administration of offsets, and in particular, investigate means whereby the administrative role can reside solely within the Department of Industry, Technology and Commerce whilst maintaining suitable links with defence industry policy.

CHAPTER 5

OFFSETS APPROVAL

- . The Guidelines
- . Flexibility
- . Assessment of Technology
- . Other Aspects of the Approval Process

The Guidelines

5.1 The evaluation of offsets proposals is one of the main functions of the offsets authorities. The acceptability of a proposal is determined by a list of criteria which are explained in the guidelines booklet. The general criteria concern long-term commercial viability, price, level of technology and new activity. In addition there is a criterion specific to defence offsets.

New Work Criterion

5.2 The criterion that drew the most interest during the inquiry is that related to 'new work'. The guidelines state:

To meet this criterion offsets must be in addition to, or an extension of, the activities presently undertaken by overseas suppliers in Australia. They must be activities which:

- (a) are new to individual Australian firms or which enhance existing activities with work which would not otherwise be undertaken in Australia; or
- (b) result in local research, design, development, production or support which would otherwise have been undertaken overseas; or
- (c) open up markets new to Australian products.¹

5.3 In simple terms, the activity must be such that it would not have been undertaken except for reasons of the offsets program.

5.4 Several organisations, predominately from the computer industry, expressed concern that an activity which is undertaken for commercial reasons does not satisfy this criterion. This seems in conflict with another criterion that offsets must lead to commercially viable activity. The commercial viability criterion states:

1. Guidelines for Participants, op cit, p 8

To meet this criterion offsets must be likely to lead to commercially viable local activities which are:

- (a) competitive in price, quality and delivery within the local or preferably, in the relevant world market; and
- (b) capable of being sustained in the longer term without recourse to special levels of Government support.²

5.5 Prime Computer said:

It would appear that any activity which could be run profitably would be classified as a commercial enterprise and therefore could not qualify as an offsets activity. It was almost a 'catch 22' situation. For our R & D centre, we had to show that Prime Inc. could do its R & D cheaper outside Australia, and that the decision to set up and continue the Canberra R & D centre was based on offsets reasons (and not commercial reasons).³

5.6 Another company stated:

We are required to demonstrate that qualifying activities would not have occurred for other than offsets reasons...having proposed an economically viable project it may be difficult to prove (that).⁴

5.7 A corollary is the concern expressed to the Committee is that if a firm makes a commitment to an activity before it is approved under the offsets program, then the activity may be ineligible. In other words, there can be no retrospective credits for offsets work, even though offsets obligations/debits can be applied retrospectively.

5.8 IBM observed that in applying the 'new work' criterion, the offsets authority attaches emphasis to the supplier's motivation for the proposed activity. If however the motive is, for example, to be a good corporate citizen and is not dependent on offsets, it may be deemed ineligible. The examination of motive is unnecessary and adds to the administrative burden. IBM also observed that the offsets authority should be concerned only with the activity itself and whether it is consistent with the goal of Australia's industrial development.⁵

2. Guidelines for Participants, op cit, p 7

3. Minutes of Evidence, op cit, p 234

4. In camera evidence

5. Minutes of Evidence, op cit, pp 270, 273

5.9 It was also noted that the problem of meeting the criterion is particularly acute for an overseas supplier that has an extensive operation in Australia. It faces increasing difficulty in initiating new activities to satisfy its offsets obligations.

5.10 A related concern is that a firm incurs a range of additional costs when it engages in a new activity. Whilst these costs undoubtedly occur, witnesses differed in their opinions as to whether they result in higher prices being paid by the Commonwealth. To the extent that this is true, the 'new work' and 'price' criteria would be in conflict. A discussion on the issue of costs is contained in Chapter 7.

5.11 In response to these concerns, DITAC claimed that there are several recent examples where the criteria of 'new work', 'price' and 'commercial viability' are met simultaneously. The authority's approach is to check that the proposed activity, first, is not related to customer support or market enhancement, and secondly, is new to the firm's business plan. Considerable documentation is required in the process. However, DITAC did admit that the 'new work' criterion is not easy to apply.⁶ The Department stated:

our preference is to structure our evaluation around the commercial viability criteria, and to an extent the new work and cost criteria are used as supplementary considerations.⁷

5.12 Whilst the Committee heard evidence that, in practice, the 'new work' criterion is being interpreted in a flexible fashion and with an awareness of commercial realities, it acknowledges possible conflicts in interpreting the guidelines and considers that this matter needs to be addressed.

5.13 The Committee considers that 'new work' should be redefined simply as any new activity for the company in Australia which is unrelated to customer support, distribution or marketing of existing products. The current requirement that the activity must be new to the firm's business plan is discriminatory against those firms with ambitious and wide-ranging plans. The main emphasis should be on whether the work is genuinely new and potentially commercially viable, not whether it is being undertaken for offsets reasons. Offsets are and should remain an incentive to invest in new activities. However, to insist that only activities for which offsets are the principal or only incentive are eligible is unnecessary, difficult and potentially discriminatory.

6. Minutes of Evidence, op cit, p 439-440, 448

7. Ibid, p 440

5.14 The Committee recommends that:

- The 'new work' criterion in the guidelines be redefined as a new activity for the company in Australia which is unrelated to customer support, distribution or marketing of existing products.

Offsets Period

5.15 Allied to the 'new work' criterion is the question as to how long a particular activity should continue to earn offsets credits. A number of suggestions have been made, ranging from a fixed period through to a matter of open negotiation between the supplier and the offsets authority.

5.16 The guidelines specify, first, that the period will be agreed between the supplier and the Government and, secondly, that, for an individual purchase, it is normally up to 5 years.⁸ DITAC advised that for a one-off case an agreed period is settled during negotiations and is normally related to the type of activity envisaged.⁹ The period tends, for example, to be relatively longer in the aircraft industry because of its peculiar characteristics. The Department is, however, concerned at accusations that offsets are being provided as a continuing support measure.

5.17 The Committee agrees that a single fixed period, as implied by the current guidelines, is not appropriate in all instances. However, it is not fully supportive of the case-by-case approach that seems to be practised with a less predictable outcome.

5.18 The Committee is strongly of the view that the guidelines should state that the period will be determined on an industry by industry basis, taking into account the scale and nature of the activity. One further option is to distinguish between those activities that are internationally competitive or those which are dependent on other protective mechanisms. In the first case, credits could be earned for an unlimited period. In the latter case, the period in which the activity is an eligible offset would be specified in years with extension the subject of review.

Update of Guidelines

5.19 As mentioned previously many organisations spoke favourably about the new guidelines. Nevertheless, there was a general call to update the document, to remove some identified anomalies and inconsistencies and to clarify areas that are frequently queried.

8. Guidelines for Participants, op cit, p 12

9. Minutes of Evidence, pp 443-444

5.20 One area of uncertainty concerns the situation when imported components form part of goods supplied to the Commonwealth by a local firm.¹⁰ In addition, revision is necessary to accommodate the initiatives announced in the October 1986 statement by the Minister for Defence regarding defence exports.¹¹

5.21 The Committee notes that the Government has accepted the Inglis recommendation that the guidelines be regularly updated. DITAC advised that it envisages commencing the first review in the near future with the objective of developing a revised draft for consideration at the May 1987 meeting of the AITC.¹²

5.22 Apart from several specific areas requiring updating or clarification, it was a common complaint that the guidelines leave too much room for interpretation and judgement by the offsets authorities. This concern is addressed in detail in the next section. The Committee is of the view that the current level of administrative discretion needs to be clarified and that one important measure is a more rigorous set of guidelines.

Failure to consult

5.23 The offsets authorities often drew attention to the fact that the offsets program changed significantly in the light of the Inglis review and the Government's acceptance of most of its recommendations. One principal expression of this change is the publication of the new guidelines booklet. In view of the importance placed on the Inglis review, the Committee was disappointed to learn from members of the Inglis Committee that they were not consulted in the preparation of the new guidelines. Whilst that Committee's formal role concluded with its report, this Committee believes that follow-up consultation, by the administrative staff responsible for translating the Inglis Committee's findings into the guidelines, would have been valuable.

Flexibility

Arguments for Flexibility

5.24 The Committee heard many reasons why the administration of the offsets program cannot be a rigid or mechanical process. In essence, the main reasons are that offsets are a matter of negotiation and all cases are different. Consequently the offsets authorities need to be flexible and exercise discretion (within the written guidelines) in administering the program.

10. Minutes of Evidence, op cit, p 264

11. Ibid, p 161

12. JPCPA File

5.25 The offsets program operates on two fundamental principles. First, the Commonwealth can use its purchasing leverage to impose offsets obligations on its overseas suppliers. Secondly, accepted offsets activities are those which are likely to be commercially viable and are cost-free to the Commonwealth. It is acknowledged, though, that in some cases either the Commonwealth has limited purchasing leverage or there is limited industrial capacity in Australia to absorb the level or types of offsets activities that a particular supplier can offer.

5.26 As an illustration several witnesses drew attention to the civil aircraft industry. First, the industry is dominated by relatively few major suppliers, especially of large aircraft. This has a negative impact on the Commonwealth's purchasing leverage. Secondly, the industry worldwide is characterised by high levels of Government intervention through competitive offsets-type programs. Australian firms may, therefore, have difficulty winning work without the offsets program. Thirdly, the local aircraft industry has acknowledged capacity constraints and is heavily dependent on imported components and materials. Furthermore, the long life cycle of large civil aircraft inhibits the ability of local industry to become involved in post-purchase part production.

5.27 It was suggested that to some extent the local aircraft industry is adapting to the situation by early involvement with overseas suppliers in joint venture arrangements. Nevertheless the general consensus is that the administrators need to be flexible in applying the offsets rules in such circumstances or risk price increases and purchasing delays. One witness said that if the program was supportive of joint ventures, offsets could be used more as 'a stepping stone rather than the backbone of the industry.'¹³

5.28 A problem also can arise in the defence area for some purchases made via the US Foreign Military Sales arrangements where the Commonwealth's purchasing leverage is low. This is especially true if there is a sole supplier. Defence advises that offsets is ultimately achieved through the negotiating process.¹⁴ It further states:

The outcome of offsets negotiations is too much a function of the competitiveness of local industry and the competitive environment within which the prime contractors operate for a rigid formula approach to be viable.¹⁵

13. In-camera evidence

14. Minutes of Evidence, op cit, p 158

15. Ibid, p 136

5.29 In response to the AIP audit, the then Department of Defence Support stated:

It should be recognised that offsets and AIP objectives are secondary to the prime objective of equipment procurement which is to secure the timely and economical provision of suitable supplies....it is inevitable that there may be a degree of conflict between ... (these) objectives in which some compromise may be necessary to optimise the outcome.¹⁶

5.30 Many organisations highlighted apparent anomalies in the offsets rules or situations in which the industry development objectives of the program cannot be met by a simplistic or inflexible application of the rules.

5.31 One such situation is when an overseas supplier already has a significant and established local work program in place. It is suggested that the rigid application of offsets in this situation is inequitable. The definition of new work and the issue of retrospective offsets credits (refer earlier this chapter) are important in this regard.

5.32 Another 'anomaly' is when imported components form part of goods supplied to the Commonwealth by a local firm. Whilst the offsets obligation falls upon the overseas sub-contractors this raises two problems. First, and as mentioned elsewhere, the offsets obligations are likely to be imposed retrospectively. Secondly, the local supplier is in effect an unfortunate intermediary and may suffer costs or loss of business in attempting to force its sub-contractors into offsets arrangements with the Commonwealth. This undesirable result is more likely if the imported components from each single overseas source are insignificant in the final product and are supplied to the local firm under 'arms length' commercial arrangements. In such cases, the Commonwealth has little, if any, purchasing leverage on the overseas suppliers.

5.33 A further problem area concerns firms that have been operating or investing in offsets activities that are no longer strictly eligible under the new rules, most notably the rules concerning part production and level of technology. Rigid adherence to the rules may be very costly to these firms who may arguably be engaged in worthwhile activities.

5.34 Apart from the above areas of anomaly, several witnesses suggested that, as with defence offsets, DITAC should use its discretion to encourage 'quality' offsets which in its view are more likely to be internationally competitive and supportive of the Government's industry policy. It was stated that, with imagination and innovation, the offsets program can be

16. Reports of the Auditor-General on Efficiency Audits, Administration of the Australian Industry Participation Program in Relation to Overseas Procurement, op cit, p 84

a useful industry development tool. One particular concern in this regard is that offsets can, if applied rigidly, promote fragmentation in the industry, notably in the computer and electronics field. Whilst the Pre-Qualified Offsets Supplier Status scheme is generally viewed as progressive in that it permits a longer term perspective by suppliers, other innovations are needed to encourage collaborative ventures.

5.35 Clearly some flexibility is needed in the administration of the offsets program, though questions have arisen regarding the level of discretion available to the officers administering the program. The need for flexibility arises primarily in those cases where the Commonwealth has limited purchasing leverage or where local industry has limited capacity to absorb the proposed level of offsets. If, through a rigid application of the offsets guidelines, the Commonwealth's bargaining power is pushed too far, or local industry is stretched beyond its capacity, then substantial costs could arise and the Commonwealth will either pay a premium or subsidise uneconomic activity or both. All such outcomes are inconsistent with the ultimate goal of establishing internationally competitive activities within Australia.

Arguments against excessive discretion

5.36 The Committee received conflicting evidence as to how much flexibility is actually being used in the application of the offsets guidelines. Those organisations that drew attention to the various anomalies described above clearly see them as areas where there has been insufficient flexibility. Furthermore, both DITAC and Defence stated, for example, that although they have the facility, subject to Ministerial approval, to specify less than 30% offsets, neither has chosen to do so in recent times.¹⁷

5.37 Conversely, there were many witnesses that expressed considerable disquiet at what they see as the high level of subjectivity and discretion exercised by the offsets authorities.

5.38 One major concern is that the rules are apparently being applied inconsistently. Differences seem to occur between individual staff members in the offsets authorities and hence also between the different industries for which they are responsible. In this regard, mention was made of the valuation of imported content, the valuation of technology transfer, the voluntary nature of Pre-Qualified Offsets Supplier Status, retrospectivity in imposing offsets debits, and the time taken to grant approvals. To a varying extent, decisions on such matters seem to be left, as one witness said, to the 'vagaries of individual officers'.¹⁸

5.39 It was stated that this apparent lack of uniformity in the way the rules are applied not only creates confusion and uncertainty amongst firms but also raises the question of equity. Offsets activities often involve large investments by firms and such inconsistency can measurably affect a firm's competitive position in the marketplace.

17. Minutes of Evidence, op cit, pp 357, 451, 456

18. In camera evidence

5.40 One recurring assertion in the evidence before the Committee regarded such inconsistencies. No hard evidence was provided but the Committee believes that both the potential for inconsistency and the concern of many firms are problems in themselves.

5.41 One disaffected company felt it is being discriminated against in terms of the extra data it is being asked to provide and the delays in receiving approvals. Further, the discretionary power of staff members in the administration is apparently such that the firm is:

not sufficiently confident that the making public of our questioning of the administration would not result in subtle negative influence operating against us in our dealings with the Offsets Branch with a consequential impact on future approvals etc.

The power of individual officers to delay, withhold or reinterpret approvals and the recordings of claims is absolute.¹⁹

5.42 A closely related issue is that the offsets authorities maintain a certain degree of secrecy in their dealings with individual firms. Some witnesses consider that the combination of secrecy, discretionary power and high commercial stakes raises concerns of public accountability and probity. Whilst no one claimed, however, that corruption has actually occurred, at least one witness claimed that offset avoidance had occurred and several saw corruption as at least a possibility and offset avoidance as a clear danger.²⁰ The Committee considers that the views of some participants in the program concerning these matters together with the potential for problems to develop require tightening in several areas.

5.43 These criticisms were raised with the administrators who responded along the following lines. First, detailed procedure manuals are being or have been prepared for use by staff to ensure consistency. Defence produced its manual in September 1986 and DITAC's manual is currently under preparation. In addition, improved information systems that record offsets decisions and the offsets status of firms are being implemented.²¹ Secondly, both departments admit that whilst undue influence or bias by staff towards a particular company is possible, it would be extremely difficult. Defence said there are 'far too many players in the game.... So many checks and

19. In camera evidence

20. In-camera evidence

21. Minutes of Evidence, op cit, pp 77, 145, 149-150, 169

balances are in there...'.²² DITAC said that it countered this situation by getting as much information as possible and retaining a small close operation with all correspondence circulated to senior staff.²³ Thirdly, secrecy needs to be maintained to a large degree because offsets discussions with individual firms and their final outcomes are generally commercially sensitive.

5.44 The Committee accepts the many arguments described previously that offsets cannot be administered as a simple mechanical process. On the other hand, the Committee considers that the criticisms regarding inconsistency, inequity, lack of accountability, secrecy and probity are extremely serious.

Solutions

5.45 On the surface it would appear that the offsets administration is in a 'no win' situation. The rules it applies are criticised for being both too precise or not precise enough. However, the Committee believes that there is scope for improvement. It lies in a recognition of the distinction between:

- . flexibility and sensitivity in the way offsets are administered; and
- . administrative discretion and secrecy in the process.

5.46 The Committee is recommending a number of measures that will curtail the latter without sacrificing the former. The four measures are:

- . a clearer and more rigorous set of guidelines especially on the criteria and valuation of acceptable offsets;
- . a detailed public register of precedents;
- . thorough independent assessment prior to negotiations; and
- . comprehensive procedure manuals for staff.

5.47 It is acknowledged that none of these measures is either radical or new. The Auditor-General and the Inglis Committee mention them all in various contexts. The Committee also recognises that some steps have been or are being taken by the administration, but it considers that not enough is being done to overcome the problems.

5.48 A register of precedents was suggested by several organisations. In ideal circumstances, the offsets rules should cover all cases. Whilst this is a valuable target in the recommended revision of the guidelines, in practice there will

22. Minutes of Evidence, op cit, p 360

23. Ibid, pp 449-451

always be cases which are not adequately addressed. Nevertheless, the principles of consistency and equity should still apply with the aim to avoid ad hoc decisions but allowing innovative decisions where required. As the body of experience builds up, the level of discretion will reduce.

5.49 Furthermore, if the register of precedents is published (excluding commercially sensitive data) then public accountability can be safeguarded and there is a greater chance of equity. The Inglis Committee suggested two other reasons for publicising precedents:

it should greatly help both overseas suppliers and local subcontractors understand how the policy is operated; and it should provide a strong discipline on the ... Offsets Secretariat to develop sound and consistent decision making.²⁴

Additionally, the release of information from suppliers' offsets plans may assist local firms to target their proposals more directly to supplier needs. The Committee notes that DITAC has made public several recent offsets achievements, but insufficient details have been provided for use in this regard.

5.50 The Committee recommends that:

- . The guidelines booklet be revised and updated as a matter of priority. In addition to the matters covered in this report, the thrust of the revision should be to clarify areas of uncertainty and anomaly, and to reduce areas of unnecessary administrative discretion.
- . The results of decisions by the offsets authorities be well documented and published in order to establish a comprehensive register of precedents to ensure consistency and equity in subsequent decisions. Furthermore, significant precedents should be reported to the Minister and described in the annual report of the program.

5.51 Whilst offsets are one element of the wider procurement process and results can be circumscribed during negotiations, the Committee believes that this dependence on the outcome of negotiations should be minimised as far as possible within the overall goals of the program. Overseas suppliers face many Government imposts and regulations when conducting business in Australia. Obvious ones include taxation and regulations in the areas of customs, transport, employment and the environment. It is arguable that many of these have little negotiable element. Offsets should be in the same category and not be, as is sometimes implied, a matter of 'getting the best possible from across the negotiating table'.²⁵

24. Report of the Committee of Review on Offsets, op cit, pp 155-156

25. Minutes of Evidence, op cit, p 158

5.52 One important key to this is a thorough and independent assessment of each case prior to entering negotiations. An appropriate assessment would consider the circumstances in the industry, history and precedence, and conclude with a determination of such 'variables' as the level of offsets required and the value of relevant technology. These factors should not be left to the vagaries of open negotiation or competition which cause problems of inequity and lack of public accountability. Once set by the offsets authorities, they should be seen to be relatively inflexible.

5.53 The Committee recommends that:

- In any entirely new circumstances (especially those that may be open to challenge), the offsets authorities arrange or undertake an independent assessment of the situation prior to entering any negotiations with the overseas supplier.

Assessment of Technology

5.54 There was considerable comment on the technology emphasis of the new offsets program, and the difficulties associated with the valuation of technology.

5.55 The guidelines state that:

The prime objective of the Offsets Policy is to bring to Australian industry advanced technologies, skills and capabilities...

The emphasis on technology transfer leading to enhanced international competitiveness is intended to facilitate the establishment of long term work... The creation of employment is regarded as a desirable consequence....rather than a primary objective in itself.²⁶

5.56 Several organisations spoke in favour of this new emphasis, and cited examples where new technology has been attracted to this country with consequential benefits to our international competitiveness. Instances of technology transfer include the training of scientists and engineers by the offset obligor in new and/or specialised subjects who then bring those skills back to Australia; working with an Australian company to bring it up to US military specification standards and, the transfer of software packages developed by the overseas company to an Australian company.

5.57 Nonetheless, some witnesses were concerned that over-emphasis on technology transfer had resulted in the loss of real work. The strongest criticism by one witness was that the unquantifiable nature of technology transfer creates the potential for offsets avoidance, even corruption. Therefore, it was suggested that the emphasis must be removed.

26. Guidelines for Participants, op cit, p 3

5.58 The Committee sought data on the extent to which technology transfer has featured in offsets. Defence replied that about 80% of defence offsets arrangements have an element of technology transfer with an average range of 10% to 20% in value of the offset ²⁷(ie 3% to 6% of the value of the contract). However, DITAC advised that while there are a number of arrangements being negotiated, only one civil case had been settled.²⁸ In explanation DITAC suggested, first, that overseas suppliers are probably reluctant to transfer technology which may ultimately benefit their competitors. Secondly, that the Department has not attempted yet to specify 'desirable' technologies. The Committee is not convinced altogether that these factors explain the very different incidence of technology transfer within the defence and civil sides of the program.

5.59 The guidelines describe the current mechanism as

The offsets value of the technology transfer ...is calculated as follows:

- (i) the actual cost to the overseas supplier in transferring the technology; and
- (ii) the actual or notional value of licence fees or royalties foregone; or
- (iii) the selling price of all incremental sales of locally produced items derived from the technology over an agreed period.²⁹

5.60 The offsets authorities acknowledged that technology transfer is not easy to quantify and there is some scope for abuse.³⁰ As far as the Committee could determine the major potential area of abuse is in the valuation of technology. Whilst other witnesses confirmed that negotiation plays a large part in this matter, the Committee questioned whether there is a more consistent and objective mechanism.

5.61 It is accepted that item (iii), paragraph 5.59, represents the real value of the technology more closely. This measure, however, requires the offsets authority to either forecast the degree to which the technology will be used or withhold offsets credits until such time as the technology finds its way into product sales. The Committee acknowledges these difficulties and believes that as many valuations as possible be based on the real outcome of the technology transfer, not a notional valuation.

27. JPCPA File

28. Minutes of Evidence, op cit, p 446

29. Guidelines for Participants, op cit, p 18

30. Minutes of Evidence, op cit, pp 222, 360-363

5.62 The Committee considers that technology transfer should result in real work being generated within Australia. To that end it is of the strong view that if a notional valuation of technology is given at the time of technology transfer and it is transferred to a subsidiary or otherwise associated company of the overseas company, (ie not at arms length), then that valuation should be discounted. The Committee acknowledges that this is a very difficult and complex process, but it is not the preferred method of valuation. It is the Committee's strong view that the program should be designed to ensure a real product outcome.

5.63 The Committee recommends that:

- When valuing technology transferred, the offset authorities should use:
 - (i) paragraph 6.3 (a) (iii) of the Guidelines for Participants ie 'the selling price of all incremental sales of locally produced items derived from the technology over an agreed period.'; or, if this is not possible,
 - (ii) a discounted valuation if a notional valuation of technology is given at the time of technology transfer and it is transferred to a subsidiary or otherwise associated company of the overseas company.

5.64 However, the Committee has recommended that whatever approach is adopted, the valuation (and desirability) of the technology should be decided independently by the administration. It is the Committee's view that the details of the technology are obtained, an independent valuation carried out and then a valuation advised to the company. It should not be the subject of open negotiation with the supplier who naturally seeks a high valuation.

5.65 Independent assessment demands a high level of expertise particularly if the case is at the leading edge of technology. Several witnesses queried the technical competence of the administration and suggested that outside experts be called upon.³¹

31. In camera evidence

5.66 Both Departments explained that prior assessment is made as far as possible. Also outside technical experts may be used when it is considered necessary.³²

5.67 The comprehensive Defence document on defining and valuing technology transfer was noted. The Committee suggests that DITAC should consider producing a similarly detailed document for civil offsets. Furthermore the Committee gained the impression that outside technical expertise has only rarely been employed in this difficult subject area. It is suggested that such expertise is often needed and should be used.

Other Aspects of the Approval Process

5.68 Several organisations complained about the tardiness with which DITAC often responds to offsets proposals. One said it had experienced delays of up to 10 months and another of 3-4 months.³³ Such delays impact on the timely provision of equipment and on the viability of some proposals as 'opportunity windows' close. It was suggested that limited experience and staff resources within the administration may be the causal factors, although one organisation feels it is the victim of unfair discrimination.

5.69 DITAC stated that the approval process relies upon the receipt of all necessary documentation which is not always forthcoming. Once the data is to hand, the Department 'can normally guarantee a clearance...in under two months. In a lot of cases it is much quicker than that.'³⁴

5.70 The Committee believes that delays in the approval process are inconsistent with proper and accountable administration. It therefore agrees with the suggestion that, as with the Foreign Investment Review Board, the offsets authorities should be obliged to respond within 30 days.

5.71 Another complaint is that DITAC's records on the offsets status of firms are poorly maintained and inaccurate. The approval process is highly dependent on proper records, particularly on firms seeking Pre-Qualified Offsets Supplier Status. It appears at times that DITAC has to refer to firms' own records of sales and offsets activities.

5.72 The Committee heard evidence that DITAC is rectifying this situation but it notes that this same criticism was raised two years previously by both the Auditor-General and the Inglis Committee.³⁵ Defence advised that its data base is maintained in accordance with the Inglis recommendations.³⁶

32. Minutes of Evidence, op cit, p 222, 362-363

33. In camera evidence

34. Minutes of Evidence, op cit, p 452

35. Minutes of Evidence, op cit, p 455, Report of the Auditor-General on Efficiency Audit, Administration of the Offsets Policy, op cit, p 9, Report of the Committee of Review on Offsets, op cit, p 163

36. Minutes of Evidence, op cit, p 149

5.73 One firm observed that there is no appeal mechanism within the current administrative procedures.³⁷ If a company considers it has been unfairly treated, there is no impartial higher authority to which it can refer. The Committee notes the concern but considers that an appeal mechanism is not necessary if, as recommended, there is much greater public disclosure of offsets information and the whole administrative process is made more visible and publicly accountable. Nonetheless, the Committee regards the existence of an established and widely recognised approval 'hierarchy' within the administration as worthwhile. The level of the officer with authority to approve offsets linked to the value of the proposal should be acknowledged publicly.

5.74 The aforementioned concerns and suggestions all point to the definite need for a comprehensive procedures manual for administrative staff. This was one of the major recommendations of the Auditor-General. The Committee notes that Defence has recently produced a manual for its staff and DITAC is in the process of doing the same. It also recognises that the task of preparing a manual can be burdensome when there are other priorities. However, the Committee regards such documents as critically important. It urges DITAC to complete its manual. These manuals should eliminate unnecessary areas of discretion, and, if frequently used and revised where necessary, have a beneficial impact on the overall administrative task.

5.75 The Committee recommends that:

- . The proposed manual for staff of the civil offsets authority be completed as soon as possible. The manuals for both authorities should:
 - specify a time limit for response to offsets proposals;
 - detail the areas and limits of staff discretion including the levels of delegated authority;
 - dictate a methodical and reliable procedure for recording all offsets data;
 - be regularly revised; and
 - prescribe information that is to be made available to the public.

37. In camera evidence

CHAPTER 6

COMPLIANCE BY OVERSEAS COMPANIES

- . Response to the Program
- . Enforcement Measures
- . Outstanding Obligations

Response to the Program

General Attitude to Compliance

6.1 The Committee inquired into the general attitude to offsets of overseas companies participating in the program. Comments were sought directly from representatives of several overseas organisations as well as from other interested persons.

6.2 Of those overseas firms that gave evidence, one expressed general support for the program.¹ The program's emphasis on high technology was seen as beneficial to Australia's industrial development. The firm itself has a clear policy of fulfilling its offsets obligations, which are now an accepted part of international business. Notwithstanding the handicap of long distances, the program has encouraged it to look seriously at, and to utilise, the capabilities of Australian industry. The firm also said that the staff of the offsets authorities are co-operative and pragmatic in their approach, although sometimes lacking in understanding of the industry.

6.3 Representatives from other international companies, including Prime Computer, indicated their preparedness to satisfy their offsets obligations, although the placement of work such as the supply of electronic components is constrained by the small scale of local industry.² There is also some degree of uncertainty concerning the program guidelines, especially in regard to the new work criterion and the eligibility or some subsidiary company activities.

6.4 Amongst local industry it was generally acknowledged that overseas suppliers endeavour, where possible, to minimise their offsets obligations and the costs of satisfying them. At one extreme there are firms that accept that offsets are required in many countries and they comply with both the spirit and the letter of the Commonwealth program. There are others that only pay it 'lip service', or even choose not to supply the small Australian market because of the offsets requirements.

1. In camera evidence
2. Minutes of Evidence, op cit, pp 247-248, In camera evidence

6.5 One complaint was that some overseas suppliers attempt to avoid their offsets obligations by using 'creative accounting' to produce artificially low values for the imported component or their supplies.³ A more common phenomenon is for an overseas obligor to request tenders for offsets work under conditions which are impossible to meet at uninflated prices. The firm goes 'through the motions' of offering work to 'prove' that viable offsets work cannot be done in Australia.

6.6 Some organisations that complained about this behaviour suggested that it is less prevalent under the new guidelines and that the offsets authorities recognise the problem. The view of one overseas supplier was that offsets are sometimes refused by local firms because they are not prepared to make the necessary financial investment. Suppliers may not wish to damage their reputation by engaging in dishonest tactics to avoid offsets.

Technology Transfer and Foreign Owned Subsidiaries

6.7 In evidence concerning the response of overseas organisations to their offsets obligations, frequent reference was made to the abuse or restricted use of technology transfer. It was acknowledged by DITAC and others that overseas companies are reluctant to transfer technology which may ultimately benefit their competitors. Alternatively, the firms make exaggerated claims for the value of the technology or restrict its use by the local recipient.

6.8 Another apparently common approach in the computer industry is for an overseas firm to transfer any technology to its own Australian subsidiary and thereby keep it 'in house'. The benefit to Australia of such technology is, therefore, dependent on the extent to which it diffuses into the local economy, either through its use in manufacturing and exports or in the movement of skilled staff between organisations.

6.9 Several witnesses expressed the view that the ability of an overseas supplier to build a corporate barrier around its offsets activities, including its own technology, encourages the expansion of foreign-owned subsidiaries. This can disadvantage Australian industry by taking business away from existing firms, inhibiting their ability to compete, and lead to market fragmentation. The Department of Defence stated:

the offsets program in this (computer) industry could be seen as inviting the competition on-shore rather than opening export opportunities for locally developed products.⁴

3. Minutes of Evidence, op cit, p 18

4. Ibid, p 134

6.10 Some submissions suggested that preference should be given in the offsets program to Australian-owned firms. It was said that these firms show a more positive response to technological development and their decisions are more likely to be in line with the national interest.

6.11 The contrary view was expressed by a number of other organisations. It was explained, first, that commercial secrets are valued very highly and one cannot expect them to be unlocked completely under the offsets program. Australia does benefit, however, from any expansion of foreign-owned subsidiaries in terms of investment, employment, skill levels, technological base, production sub-contracts and exports. Secondly, one of the aims of the program is to encourage foreign-owned subsidiaries to move beyond the role of branch office and to expand their horizons into, for example, research and development.

6.12 Both offsets authorities reaffirmed their policy not to discriminate between locally-owned and foreign-owned companies. Nevertheless, in regard to offsets proposals involving the overseas supplier's own subsidiary, the authorities are keen to see work sub-contracted out to independent companies, and are particularly 'hard-nosed' in the assessment of any technology transfer.⁵

6.13 The Committee supports this approach by the offsets authorities to the issue of ownership.

6.14 During the course of the Committee's inquiry into this question, two foreign-owned companies that are long-established in Australia made an interesting observation. The offsets obligation falls upon the supplier's overseas parent, and under the guidelines, it is this overseas organisation that must generate 'new work' in Australia. Independent initiatives by the local firm, which has its own identity and considerable autonomy, are generally not valid for offsets purposes. One company stated:

If you are looking for independence in Australia in your operations, then you do not want to be kowtowing to an overseas corporation.⁶

Enforcement Measures

6.15 In previous years compliance with the offsets program rested largely on 'best endeavours' clauses in contracts and agreements between the Commonwealth and the supplier. These clauses have since been generally accepted as ineffective and not appropriate.

5. Minutes of Evidence, op cit, pp 380-381, 453

6. Ibid, p 285

6.16 The Government's revised policy regarding enforcement of offsets obligations as stated in the Guidelines for Participants is:

- (a) Where an overseas supplier does not discharge its offsets obligations in the agreed time or at the agreed rate, consideration will be given to:
 - (i) implementation of penalty clauses in the contract or Deed of Agreement between the Commonwealth and the overseas supplier
 - (ii) withholding an offsets clearance for future purchases unless a satisfactory alternative offsets proposal is received to acquit the outstanding obligations
 - (iii) the retention of further payments against the contract pending discharge of the outstanding offsets obligation
 - (iv) the delinquency of the overseas supplier being made public by Ministers.
- (b) The Commonwealth will initiate action to cancel approved offsets programs which, in the opinion of the Commonwealth, deviate so far from their original purpose that they circumvent the spirit of the policy.⁷

6.17 The Committee heard evidence from a number of witnesses, including both offsets authorities, on the pros and cons of the various options available to ensure compliance with offsets obligations. Both Defence and DITAC stated that compliance with the program was generally good, and they consider the detailed arrangements to ensure compliance are as rigorous as possible. Signed agreements are required to contain details of the offset obligation.⁸

6.18 Representatives of both Departments told the Committee of advice from the Attorney-General's Department stating that liquidated damages and penalty clauses are not considered enforceable.

7. Guidelines for Participants, op cit, pp 12-13

8. Minutes of Evidence, op cit, pp 198, 210-211

6.19 In Defence's case, legal advice was that in seeking liquidated damages it would be necessary to show damage to the Commonwealth, a matter that may be difficult given the ill-defined nature of offset obligations.⁹ In an attempt to get around legal complexities Defence has introduced new clauses into its contracts:

...seeking quite specific arrangements under which there is a monitoring of achievement at a particular milestone. If it results in an underachievement by a company at that stage there is then an agreement on the part of the company to increase the total obligation at the end of the contract.¹⁰

6.20 Samples of current and proposed documents provided by DITAC did not include any form of penalty clause. DITAC considers that, given advice received, the documents go as far as they can in terms of enforceability.¹¹

6.21 DITAC however considers other options as preferable in ensuring compliance with obligations. Initially, and from DITAC's view, the most effective market considerations (ie not being given offsets clearance for future contracts) are used to persuade the company to fulfill the obligation. Failing that, the Minister could contact the company. The final stage would be publication of the company's name. DITAC stated that it had not been necessary under the revised policy for Ministerial contact or publication of company names to have occurred.¹²

6.22 Options put forward by other witnesses include those specified in the Government's policy ((a) (i)-(iv) above). However, penalty clauses were generally considered not to be the best solution to the problem, possibly leading to companies preferring to 'buy out' the obligation rather than fulfill it.

6.23 The options that were considered by the private sector witnesses as having most weight and the most likely to achieve results were:

- (i) the threat of exclusion from bidding at future tenders or the withholding of offsets clearance for future Commonwealth purchases; and/or
- (ii) direct representation at Ministerial level to the Chief Executive of the overseas supplier as soon as it becomes evident that the obligation will not be met.¹³

9. Minutes of Evidence, op cit, p 199, 437

10. Ibid, p 200

11. Ibid, pp 208-209, JPCPA file

12. Ibid, pp 430-431

13. In camera evidence

6.24 Both Defence and DITAC stated that the risk or exclusion from future contracts was important in ensuring completion of obligations.¹⁴ However, in some cases where there is a restricted number of suppliers (or monopoly situation), market pressures will not be as appropriate.

6.25 Other, intangible, factors were important in companies completing their obligations. Private sector witnesses referred to the importance of corporate image and that offsets are based on goodwill. One witness stated that companies with very good records of compliance react adversely to what they believe are unnecessary attempts to enforce compliance.¹⁵

6.26 The Committee considers that some doubt still exists concerning the enforceability of the contracts/deeds of agreement. The Committee is concerned that penalty clauses are not used in contracts/deeds of agreement despite this. The reference in the Guidelines for Participants, to implementation of penalty clauses if offset obligations are not met as agreed, indicates that the Government's policy is to have a fall-back position if other measures fail. The Committee considers that this issue should be re-examined with the Attorney-Generals's Department.

6.27 It is clear that other measures may be more effective in ensuring compliance with obligations, namely goodwill by all parties, commencement of discussions as soon as difficulties begin to become apparent (use of milestones is very important) and, most effective of all, the threat that offsets clearance may be withheld on subsequent contracts. In addition, the use of direct and personal pressure from the responsible Minister would have good effect.

6.28 The Committee recommends that:

- Penalty clauses be included in all contracts/deeds of agreement entered into.

Outstanding Obligations

6.29 The issue that has attracted most attention in the media and was a major consideration in previous reviews is the seemingly huge volume of outstanding offsets obligations. The offsets authorities have provided the Committee with data regarding offset obligations, the amounts completed and amounts outstanding. The table in Chapter 1 gives these details.

14. Minutes of Evidence, op cit, pp 200, 204-205

15. In-camera evidence

6.30 DITAC indicated that, in October 1986, \$338m of offsets obligations had as yet no orders placed or work commenced. Only \$35m of that amount was considered 'bad' or not enforceable. The other \$303m was subject to agreements with work etc yet to commence. DITAC, however, believe that most, if not all, of the obligation will be completed.

6.31 Defence has advised the Committee that information on offsets outstanding from the period prior to 1980 is not available due to inadequate records and that the offset component of the then Australian Industry Participation program cannot be distinguished from other elements of that program.¹⁶ The information made available to the Committee in the period 1980 - 1986 can not be broken down into offset work that has commenced compared to that which is yet to start. However, Defence estimates that 20-30% of the outstanding offsets obligation would be in work at any time ie under contract in Australia. Defence also stated that it is estimated that 95% of obligations can be expected to be completed within the contract period, generally five years, although this can be longer.¹⁷

6.32 The Committee is extremely concerned that Defence has no record of offsets obligations entered into prior to 1980. The lack of records indicates that there is no requirement for any outstanding obligations from the period 1970 - 1980 to be fulfilled. By extrapolating from the figures provided by Defence for the period 1980 - 1986, it has been estimated that offsets obligations in the order of \$2100 million could have been incurred in the period 1970 - 1980. It is of great concern to the Committee that neither an accurate figure for offset obligations, nor those that have been discharged, is available. If any method can be developed to allow scrutiny of those figures, Defence should report in the Finance Minute on both the method and the situation regarding outstanding amounts over the whole period 1970-to-date.

6.33 The Committee is of the strong view that the success of the offsets program is very dependent on the completion or outstanding obligations. In this light, the Committee will continue to monitor the level and rate of discharge of all offset obligations. The Committee expects that in five years time all currently outstanding obligations will have been completed.

6.34 The Committee's attention has also been attracted to the quality of data provided to it by the civil offsets authority. The information contained a number of errors and inconsistencies which could not be readily explained, and tends to confirm the views of some witnesses that the Department's records are still in a poor state.¹⁸ The Department advised that the records are gradually being improved in consultation with the relevant firms, particularly those which are being reviewed in order to qualify under EQOSS. Some two-thirds of the

16. Minutes of Evidence, op cit, p 185

17. JPCPA File

18. Minutes of Evidence, op cit, pp 454-456

companies have been reviewed.¹⁹ The Committee believes that the current records are quite inadequate for proper control of the program and urges the authority to rectify this situation as quickly as possible.

6.35 The Committee recommends that:

- The work being undertaken to correct and update the records of both offsets authorities, together with any other work yet to be commenced and the timetable for its implementation, be reported in the Finance Minute.

19. Minutes of Evidence, op cit, p 455

CHAPTER 7

SOME COSTS OF THE PROGRAM

- Price Premiums
- Hurdle Costs for New Entrants

Price Premiums

7.1 One of the criteria that must be met for a proposal to be accepted as offsets is the price criterion. To meet this criterion offsets must not:

- a) result in any price increase of the supplies or services procured by the Commonwealth above that which would have resulted had an offsets requirement not been imposed; and/or
- b) require separate direct or indirect investment by the Commonwealth.¹

7.2 Many witnesses addressed the question of whether, as a result of participating in the offsets program, additional costs, tangible and intangible, were incurred by both the Commonwealth and domestic and overseas firms seeking and undertaking offsets. Whilst very little evidence was provided on actual premiums, a number of witnesses were convinced that, because the supplier is being obliged to do something by way of offsets it would not otherwise undertake for normal commercial reasons, it incurs additional costs and will seek to recoup these via its sales to the Commonwealth.

7.3 The type of costs referred to fall into 2 categories:

- i) administrative, ie staff employed specifically to arrange offsets and get approvals plus their overheads such as overseas travel; the need to set up specific reporting systems; consultants fees; the need to report to the offsets secretariat some years after a contract has been completed; and
- ii) intangible, eg if offsets work is uneconomic but carried out to get the contract; if offset is high technology and a learning curve is required; the new work criterion - see Chapter 5; misallocation of resources; discounts foregone.

1. Guidelines for Participants, op cit, p 7

7.4 The general view of witnesses was that such costs become part of the overheads of the company and are passed on to all consumers. The extent to which it is passed on depends very much on the competitive environment that the company is operating in. Some witnesses, including Defence and DITAC, suggested that with more competition, the greater the possibility that very little, or even none, of the overhead would be included in a particular tender in order to win that contract.² However, OTC put forward the proposition that in a competitive situation all companies could load their tenders with additional costs and know they are not alone in doing so.³

7.5 One of the recommendations of the Inglis Committee, in an attempt to determine how much of a premium was paid by the Commonwealth, was that mandatory dual tendering be introduced for a one year trial period. Under this system tenderers would be required to submit separate quotes with or without offsets. This proposal was rejected by the Government for civil purchases, which instead decided to establish, within the Bureau of Industry Economics (BIE), an independent system to monitor the costs and benefits of the civil aspects of the offsets program.

7.6 Part of the reason behind the lack of knowledge surrounding premiums paid by the Commonwealth may be the price criterion for acceptable offsets. It has been suggested to the Committee that additional costs are not identified in order to comply with the guidelines.

7.7 Whilst Defence and DITAC support the possibility that the Commonwealth is paying a premium as a result of the offsets program (although Defence considers any additional cost would be classified as designated work, not offsets)⁴ the question was raised by Defence as to:

... whether those (costs) are a consequence of the offsets program, or whether they are normal business expenses that would have been incurred anyway in setting up those sort of practices.⁵

7.8 The extent to which costs are passed on may be affected by what amount of the extra administrative costs are claimed as an acceptable offsets activity. The offsets program guidelines allow to be claimed:

... actual costs of the following items to a specified limit expressed as a percentage of the obligation concerned or the offsets directly generated. The costs which may be acceptable, where they are not otherwise paid for by the Commonwealth, are:

2. Minutes of Evidence, op cit, pp 166, 167

3. Ibid, p 479

4. Ibid, pp 162, 165, 453

5. Ibid, p 162

- i) travel and subsistence of local and overseas representatives of the overseas supplier investigating and arranging offsets; and
- ii) professional fees, travel and subsistence costs of personnel engaged by the overseas supplier to assist with or to supervise the establishment of offsets work; and
- iii) the salaries, expenses and operating costs of a local offsets office.⁶

7.9 One company, Prime Computer who has gained Pre-Qualified Offsets Supplier Status, referred to incurring significant costs in attaining that status, but said that all such costs were claimable.⁷

7.10 It is not clear to the Committee how much of the costs referred to by witnesses are in fact passed on to the Commonwealth and then claimed again as an offset activity to satisfy part of the obligation.

7.11 The major argument against price premiums is that in today's very competitive international marketplace, offsets and countertrade programs are becoming the norm. Tender prices are determined by what is necessary to win the contract and any costs from offsets are absorbed into general business. On this basis, therefore, DITAC stated:

If Australia was to drop its own offsets policy the probability is that we would not experience any change in the cost of items, simply because the cost is built into the activities of most of the overseas suppliers.⁸

7.12 The Committee did not form a view on the question of price premiums but considers that it warrants careful examination if the cost effectiveness/success of the offsets program is to be properly assessed. As referred to earlier, the Bureau of Industry Economics has been given the task of monitoring the civil side of the program.

7.13 The BIE has advised the Committee that its study is to be undertaken in 3 stages:

- 1) Review of offsets administration and information systems in order to improve Offsets Branch's data collection;
- 2) Assessment of the Program on the basis of indicators extracted from Offsets Branch's database and particularly the levels of achievement of post-offsets work induced by the Program; and

6. Guidelines for Participants, op cit, pp 19-20

7. Minutes of Evidence, op cit, p 237

8. Ibid, p 453

3) Determination of the value of a full-scale cost-benefit analysis of the program.⁹

7.14 It is expected that stage 1 will be completed by mid It will not be clear until Stage 3, due for commencement in late 1988, whether a cost-benefit analysis can be completed due to data limitations.

7.15 The Committee considers that a complete cost-benefit analysis is essential. The study should also cover such aspects of the program as the expansion of foreign owned subsidiaries in Australia and the impact of this on locally-owned industry and the effectiveness of the program; social costs of employment (as compared to unemployment benefits etc) flowing from the program; and, the impact of technology transfer on the wealth of the Australian economy.

7.16 The Committee recommends that:

- The planned study by the Bureau of Industry Economics on civil offsets be upgraded to a full cost-benefit evaluation and completed as soon as possible.

Hurdle Costs for New Entrants

7.17 Throughout the inquiry mention has been made of the difficulties faced by new firms trying to enter the offsets program, in particular the locally-owned, often smaller firms. Several witnesses referred to the considerable investment in both time and funds, as well as the need for a certain measure of stubbornness, necessary to overcome initial hurdles.

7.18 The types of problems confronting local firms include the need to maintain a presence overseas to make the company known, the distances and time differences, high costs of tendering and qualifying for offsets work and training in new technology. In particular, smaller firms might have difficulty getting to the level where they can participate in the program, in terms of manufacturing capability, quality assurance provisions, security and the cost of manufacturing.

7.19 The Committee considers that such costs are an accepted part of breaking into new areas of business, and normal commercial criteria should be used before pursuing such a route. In this respect the offsets criterion of commercial viability is relevant.¹⁰

9. JPCPA File

10. Guidelines for Participants, op cit, p 7

7.20 The Committee considers that the Government's role in assisting aspiring new entrants should not necessarily extend beyond the provision of information about the program to prospective overseas firms and guidance on how to proceed. It also notes that general industries assistance is available to offsets participants as with other industries that meet the qualifying requirements of particular schemes. In addition State Governments also provide various forms of industry assistance.

7.21 The Committee does not believe there is need for specific financial assistance measures as part of the offsets program.

TERMS OF REFERENCE

In forming the terms of reference for the inquiry, due consideration has been given to

- the recent reviews of the Offsets Program, most notably the Auditor-General's Efficiency Audit and the Inglis Committee of Review
- the changes to both the Program and its administration since these reviews
- the role of the PAC in examining the implementation of Government programs rather than policy

Accordingly, the focus of the inquiry is on the effective implementation of the current (and future) Offsets Program.

The terms of reference for the inquiry are as follows:

with due regard to the objectives of the Offsets Program, to examine its implementation and to make appropriate recommendations to remove any shortcomings therein.

Particular aspects that may be addressed include:

- the knowledge and understanding by all concerned of the Program's objectives and procedures
- the collection of appropriate data by the offsets administrators, including details of Commonwealth overseas purchases
- Commonwealth assistance to industry in the development of offsets proposals
- the procedures for examining and approving offsets proposals, including the appropriate areas and levels of discretion
- the recording (including contractual agreement) of agreed offsets proposals
- the monitoring of offsets performance
- the appropriate measures for enforcing compliance with the Program
- the costs (both tangible and intangible) of the Program.

CONDUCT OF THE INQUIRY

List of hearings and witnesses

24 September 1986, Canberra

Export Promotions International Corporation Mr J E Farrell

Observer Mr B Boland

6 October 1986, Canberra

In-camera hearing followed by

The Overseas Telecommunications Commission (Australia) Mr A G Stuart

Observers Mr B Boland
Ms K McKay

15 October 1986, Canberra

In-camera hearing followed by

Department of Defence Mr F R Harvey
Mr I J Locke
Dr M K McIntosh
Mr M C MorrisonDepartment of Industry, Technology & Commerce Mr P J Bradstreet
Dr A Hayman
Mr N Stevens
Mr G TaylorObservers Mr B Boland
Mr J Louttit
Mr P McIlwain
Ms K McKay

23 October 1986, Canberra

Prime Computer of Australia Ltd Mr R Denham

IBM Australia Ltd Mr B J Livermore

Telecom Australia Mr B A Endersbee
Mr E J HigginbottomObservers Mr B Boland
Mr J Louttit
Mr P McIlwain
Ms K McKay
Ms R Ragless

6 November 1986, Sydney

In-camera hearing

12 November 1986, Canberra

In-camera hearing

17 November 1986, Canberra

In-Camera hearing

19 November 1986, Canberra

Department of Defence

Mr I J Locke
Dr M K McIntosh
Mr N C Morrison
Mr R Richards

Department of Industry, Technology,
& Commerce

Mr P J Bradstreet
Dr A Hayman
Mr A Skeggs
Mr G Taylor

Observers

Mr B Kimball
Mr J Louttit
Ms K McKay
Ms A Roberts

In addition to formal hearings, the Secretariat had informal contact with a number of firms.

List of Submissions

Airbus Industrie
Australian Computer Equipment Manufacturers Association
Australian Computer Society Incorporated, Software Industry Association
Denis M. Gilmour & Associates
Department of Defence
Department of Industry, Technology and Commerce
Department of Local Government and Administrative Services
Eglo Engineering Pty Ltd
Export Promotions International Corporation
Hunter Development Board
IBM Australia Ltd
Institution of Engineers, Australia
Metals Trades Industry Association of Australia
Mr P W Liesch
Office Francais D'Exportation De Materiel Aeronautique (OFEMA), Australian representative
Overseas Telecommunications Commission (Australia)
Price Waterhouse
Prime Computer of Australia Ltd
Telecom Australia
Transfield Pty Ltd

Some of the above departments, organisations and individuals have forwarded more than one submission to the Committee during the Inquiry.

In addition a number of confidential submissions have been considered by the Committee. Parts of some of the submissions listed above have been supplied on a confidential basis.

2/7/4/87

THE SENATE

ROLL

SENATORS--

- | | |
|----------------------------------|--------------------------|
| 1. ALSTON | 39. WILGRIFF |
| 2. ARCHER | 40. KNOWLES |
| 3. AULICH | 41. LEWIS |
| 4. BAUME, Michael | 42. MACGIBBON |
| 5. BAUMH, Peter | 43. MCINTOSH |
| 6. BEBEKE-PETERSEN | 44. MCNEWMAN |
| 7. BLACK | 45. MACKLIN |
| 8. BOLKUS | 46. MAGNANE |
| 9. BOGHEIL | 47. MASON |
| 10. BROWNHILL | 48. MESONER |
| 11. BURTON | 49. MORRIS |
| 12. CARRICK, Sir John | 50. NEWMAN |
| 13. CHANEY | 51. PATER |
| 14. CHAMBERS | 52. POWELL |
| 15. COATES | 53. PUBLICICK |
| 16. GOLEMAN | 54. RAY |
| 17. COLBARD | 55. REID |
| 18. COLSTON | 56. REYNOLDS |
| 19. COOK | 57. RICHARDSON |
| 20. COONEY | 58. ROBERTSON |
| 21. CRICHTON-BROWNE | 59. RYAN |
| 22. CROWLEY | 60. SANDERS |
| 23. DEVLIN | 61. SHELL |
| 24. DURACK | 62. SHOES |
| 25. ELSTOB | 63. SIDRAA |
| 26. EVANS | 64. SIDDOONS |
| 27. FOREMAN | 65. TATE |
| 28. GEORGES | 66. TEAGUE |
| 29. GIBBS | 67. TOWNLEY |
| 30. GILES | 68. VALLENTINE |
| 31. GILLES | 69. VANSTONE |
| 32. GUIFOYLE, Dame Margaret | 70. VIGOR |
| 33. HATIVES | 71. WALSH |
| 34. HAMER | 72. WALTERS |
| 35. HARRADINE | 73. WATSON |
| 36. HILL | 74. WEST |
| 37. JESSEP | 75. WITHERS |
| 38. JONES | 76. ZAKHAROV |

3/4/87

THE SENATE

ROLL

SENATORS—

- | | |
|------------------------------|----------------|
| 1. ALSTON, | 39. KILGARIFF |
| 2. ARCHER | 40. KNOWLES |
| 3. AULICH | 41. LEWIS |
| 4. BAUME, Michael | 42. MacGIBBON |
| 5. BAUME, Peter | 43. McINTOSH |
| 6. BJELKE-PETERSEN | 44. McKIERNAN |
| 7. BLACK | 45. MACKLIN |
| 8. BOLKUS | 46. MAGUIRE |
| 9. BOSWELL | 47. MASON |
| 10. BROWNHILL | 48. MESSNER |
| 11. BUTTON | 49. MORRIS |
| 12. CARRICK, Sir John | 50. NEWMAN |
| 13. CHANEY | 51. PARRER |
| 14. CHILDS | 52. POWELL |
| 15. COATES | 53. PUPPICK |
| 16. COLEMAN | 54. RAY |
| 17. COLIARD | 55. REID |
| 18. COLSTON | 56. REYNOLDS |
| 19. COOK | 57. RICHARDSON |
| 20. COONEY | 58. ROBERTSON |
| 21. CRICHTON-BROWNE | 59. RYAN |
| 22. CROWLEY | 60. SANDERS |
| 23. DEVLIN | 61. SHELL |
| 24. DURACK | 62. SHORT |
| 25. ELSTOB | 63. SIBRAA |
| 26. EVANS | 64. SIDDBONS |
| 27. FOREMAN | 65. TATE |
| 28. GEORGES | 66. TEAGUE |
| 29. GIETZELT | 67. TOWNLEY |
| 30. GILES | 68. VALLENTINE |
| 31. GUILFOYLE, Dame Margaret | 69. VANSTONE |
| 32. GUILFOYLE, Dame Margaret | 70. VIGOR |
| 33. HAINES | 71. WALSH |
| 34. HAMER | 72. WALTERS |
| 35. HARRADINE | 73. WATSON |
| 36. HILL | 74. WEST |
| 37. JESSOP | 75. WITHERS |
| 38. JONES | 76. ZAKHAROV |

SENATE

1987

30th day of April

Question,

National Parks
Wildlife Package
That new bills be
had read 2^o time.

Senate

Committee

SENATORS -

NOES

- | | |
|------------------------------|------------------|
| 1. ALSTON | 39. KILGARIFF |
| 2. ARCHER | 40. KNOWLES |
| 3. AULICH | 41. LEWIS |
| 4. BAUME, Michael | 42. MacGIBBON |
| 5. BAUME, Peter | 43. McINTOSH |
| 6. BJELKE-PETERSEN | 44. McKIERNAN |
| 7. BLACK | 45. MACKLIN |
| 8. BOLKUS | 46. MAGUIRE |
| 9. BOSWELL | 47. MASON |
| 10. BROWNHILL | 48. MESSNER |
| 11. BUTTON | 49. MORRIS |
| 12. CARRICK, Sir John | 50. NEWMAN |
| 13. CHANEY | 51. PARRER |
| 14. CHILDS | 52. POWELL |
| 15. COATES | 53. PUPPICK |
| 16. COLEMAN | 54. RAY |
| 17. COLIARD | 55. REID (Jules) |
| 18. COLSTON | 56. REYNOLDS |
| 19. COOK | 57. RICHARDSON |
| 20. COONEY | 58. ROBERTSON |
| 21. CRICHTON-BROWNE | 59. RYAN |
| 22. CROWLEY | 60. SANDERS |
| 23. DEVLIN | 61. SHELL |
| 24. DURACK | 62. SHORT |
| 25. ELSTOB | 63. SIBRAA |
| 26. EVANS | 64. SIDDBONS |
| 27. FOREMAN | 65. TATE |
| 28. GEORGES | 66. TEAGUE |
| 29. GIETZELT | 67. TOWNLEY |
| 30. GILES | 68. VALLENTINE |
| 31. GUILFOYLE, Dame Margaret | 69. VANSTONE |
| 32. GUILFOYLE, Dame Margaret | 70. VIGOR |
| 33. HAINES | 71. WALSH |
| 34. HAMER | 72. WALTERS |
| 35. HARRADINE | 73. WATSON |
| 36. HILL | 74. WEST |
| 37. JESSOP | 75. WITHERS |
| 38. JONES | 76. ZAKHAROV |

Ayes 34

Noes 27

TELLER FOR THE NOES-SENATOR

John P. Reid

30th day of April

Question,

National Parks and
Wildlife Conservation
Amendment Bill 1967
+ 4 related bills.

20.

Senate

Committee

SENATORS -

AYES

- | | |
|------------------------------|------------------------|
| 1. ALSTON | 39. KILGARIFF |
| 2. ARCHER | 40. KNOWLES |
| 3. AULICH | 41. LEWIS |
| 4. BAUME, Michael | 42. MacGIBBON |
| 5. BAUME, Peter | 43. MCINTOSH |
| 6. BJELKE-PETERSEN | 44. MCKERNAN |
| 7. BLACK | 45. MACKLIN |
| 8. BOLRUG | 46. MASHIE |
| 9. BOSWELL | 47. MASON |
| 10. BROWNHILL | 48. MESSNER |
| 11. BUTTON | 49. MORRIS |
| 12. CARRICK, Sir John | 50. NEWMAN |
| 13. CHANEY | 51. PARR |
| 14. CHILDS | 52. POWELL |
| 15. COATES | 53. PUPPLICK |
| 16. COLEMAN | 54. RAY |
| 17. COLLARD | 55. REID |
| 18. COLSTON | 56. REYNOLDS |
| 19. COOK | 57. RICHARDSON |
| 20. COONEY | 58. ROBERTSON (Teller) |
| 21. CRICHTON-BROWNE | 59. RYAN |
| 22. CROWLEY | 60. SANDERS |
| 23. DEVLIN | 61. SHEIL |
| 24. DURACK | 62. SHORT |
| 25. ELSTON | 63. SIDRA |
| 26. EVANS | 64. SIDDONS |
| 27. FOREMAN | 65. TAFE |
| 28. GEORGES | 66. TEAGUE |
| 29. GLETZEL | 67. TOWNLEY |
| 30. GILES | 68. VALLENTINE |
| 31. GRIMES | 69. VANSTONE |
| 32. GUILFOYLE, Dame Margaret | 70. VIGOR |
| 33. HAINES | 71. WALSH |
| 34. HAMER | 72. WALTERS |
| 35. HARRADINE | 73. WATSON |
| 36. HILL | 74. WEST |
| 37. JESSOP | 75. WITHERS |
| 38. JONES | 76. ZAKHAROV |

Ayes 34

Nays 27

TELLER FOR THE AYES-SENATOR

John H. ...