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Офсетные сделки как инструмент внешнеторговой политики государства

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Аннотация: Офсетные обязательства экспортера являются, по сути, для него внешнеторговым ограничением. Но из-за специфики рынков, где применяются офсетные соглашения, а также за счет того, что офсетные обязательства могут включать в себя более широкие внешнеэкономические обязательства, чем чисто торговые, офсетные сделки могут рассматриваться как инструмент внешнеторговой политики, имеющий положительный эффект как для импортеров, так и для экспортеров. Предметом исследования в данной статье являются возможности и ограничения применения офсетных соглашений как инструмента внешнеторговой политики. Цель данной статьи – исследовать экономическую сущность офсетных соглашений и определить потенциал офсетных соглашений для России с точки зрения действенности этого инструмента внешней торговли в направлении повышения конкурентоспособности российской экономики на мировых рынках. Методологической основной исследования в данной статье являются научные работы российских и зарубежных ученых, российские и международные нормативно-правовые акты, касающиеся возможностей применения офсетных соглашений, а также исследования специализированных международных организаций. В статье показано, что в современных условиях международная торговля приобретает новые, более глубокие формы, поскольку в некоторых сферах, особенно сопровождающихся ускоренным инновационным развитием, покупатели стремятся к тому, чтобы самим принимать участие в процессе производства и разработке новых высокотехнологичных товаров, получая тем самым доступ к новым технологиям и иностранным инвестициям.
Ключевые слова: офсетные сделки, международная торговля, внешнеторговая политика, встречная торговля

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OFFSET TRANSACTIONS AS AN INSTRUMENT OF INTERNATIONAL TRADE POLICY

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Abstract: Offset obligations of the exporter are a foreign trade restriction in fact for him. Nevertheless, in view of the specifics of markets where offset agreements are applied, and because offset obligations may include extensive foreign economic responsibilities than regular trade, offset deals can be seen as an instrument of international trade policy which has a positive effect for both importers and exporters. The subjects of research in this article are the possibilities and limitations of the application of offset agreements as an instrument of international trade policy. The purpose of this article is to investigate the economic nature of offset agreements and to determine the potential of offset agreements for Russia in terms of the effectiveness of this international trade mechanism in the direction of increasing the competitiveness of the Russian economy in world markets. The main methodological study in this article is the scientific work of Russian and foreign scientists, Russian and international legal acts related to the possibilities of applying offset agreements, as well as studies of specialized international organizations. In modern conditions, international trade is acquiring new, deeper forms, since in some areas, especially those accompanied by accelerated innovative development, buyers are striving to take part in the production and development of new high-tech products themselves, thus gaining access to new technologies and foreign investments.
Keywords: Offset transactions, international trade, foreign trade policy, countertrade

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Introduction

In recent decades, in the world practice of public procurement in international trade, offset agreements have become widespread, representing a type of compensation transaction at importing products. It is based on the supplier's obligation to the customer to provide him with compensation in the way of purchasing goods and services from public or private enterprises from importing country, in the form of investing part of the price of the contract in the economy of the importing country, as well as in the form of technologies or production buildings placement on the territory of the importing country. At the same time, the spread of offset practice is co-occurred by severe criticism of governmental experts and researchers in the field of countertrade. The World Trade Organization (WTO) and Transparency International are also opposed to this practice. In general, the essence of this criticism boils down to the fact that offset transactions distort the structure of the market in which they are used due to an unjustified price increase (as exporters often put the cost of their offset obligations into the price of the underlying contract) and cause its high corruption. In recent decades, despite all this criticism, the dynamics and trend describing the practice of offset agreements, clearly demonstrate the fact that the export growth of military products will be accompanied by an increase in offset commitments of the countries exporting these products. We study the economic essence of offset agreements in order to understand whether this criticism is justified and how relevant this instrument of international trade policy is for modern Russia.

Economic-theoretical aspects of offset agreements

Government purchases in external markets for goods and services are often far from perfectly competitive equilibrium in the standard model of supply and demand. As a rule, this circumstance applies to such industries as the defense industry, aerospace, capital equipment, automotive and telecommunications industries. Complexity of transaction costs, incomplete and asymmetric information, limited rationality are the factors that lead to a significant deviation from perfectly competitive equilibrium. The economic theory, considering the influence of such factors, postulates that the equilibrium consumption volume distorted by these factors is less compared to the socially acceptable optimal level, and the subjects of the proposal often receive excess profits and quasi-rent. In such industries, production is characterized by high initial costs and substantial fixed costs including R & D costs. Increasing returns to scale are key constituents for the growth of such industries and the expansion of export supplies. The form of competition may vary in such markets depending on the specific industry. This may be the usual model of oligopoly with a positive profit. It can also be competition according to the type of Bertrand model, in which, increasing competition can lead to a price reduction into a perfectly competitive level, and both firms will receive zero economic profit.

For example, let's look at the global ground-to-air missile market. In the world market, the most well-known are Patriot installations (MIM-104) produced in the United States by Raytheon and the export version of the Russian Triumph S-400, produced by the Almaz-Antey concern. In the absence of cahoot between these two manufacturers, Bertrand competition may arise. To avoid a full price war, firms may seek different ways to influence on trading conditions. Illegal methods, such as corruption, we leave outside of our research. As for legal methods, here in varying degrees of their legality, such means as barter, countertrade and various agreements related to it are possible. These methods can be viewed, as a kind of product differentiation strategies in oligopolistic markets, in which, according to microeconomics, oligopolists use to preserve and increase profitability. It is quite easy to reduce competitive prices, but it is almost impossible to differentiate the product in exactly the same way as a competitor (you need to develop your own version). Countertrade transactions, being one of the varieties of such a differentiation strategy, become very attractive to buyers in such a trade. For example, government procurement based on mutual trade with foreign partners helps accelerate technology transfer, accumulate foreign currency, enter and strengthen positions in world markets, develop a system of personnel training, stimulate international investment, etc. [Brauer, 2004. P. 54-65; Taylor, 2004. P. 30-43]. Thus, for a buyer's country, a contract based on a countertrade, or an offset transaction, becomes a pretty important stimulus for economic growth. On the part of sellers, on the contrary, there is a desire to reduce these deliveries or introduce principles that reduce the negative consequences of offsets. The main problem on contracts lies in the exporters, not in the policy of these transactions, but in the fulfillment of obligations on them. Nowadays in many parts of the world, including America, Asia, and the Middle East offset agreements are widely practiced. In the early 1950s, about 20 countries utilized this type of transaction and today there are more than 130 of them[1].

In general form, the definition of an offset agreement involves an agreement based on countertrade between the government of the importing country and the exporting supplier, which has a mandatory condition for the sale of some product or service (so called "basic good") benefits either economics profits (otherwise the base transaction) of the importing country's economy. These advantages or benefits can take various forms: from directly counter industrial compensation agreements, under which the exporter undertakes to reinvest a certain amount of the essential contract value in advance in the importing country to various options for technology transfer, investment, and subcontracting schemes in the importing country.

1 SIPRI Yearbook 2016: Armaments, Disarmaments and International Security // https://www.sipri.org/sites/default/files/YB16-Summary-ENG.pdf.

Actually, the primary stipulation for the offset transaction is the requirement for a different level of reciprocation in the fulfillment of the trade. The main problem in the study of the economic consequences on offset transactions, is that being very attractive politically, these transactions are difficult to verify empirically. Firstly, it is difficult to assess what effect an importing country receives from entering into an offset transaction, so it is impossible to compare the benefits obtained in the conditions of implementing an offset agreement with the economic development situation of an importer without entering into this agreement. Secondly, these benefits cannot be expressed in terms of one-time cash transfer, because the importing country receives them for a continuous period of time. Thus, according to the US Department of Commerce, in concordance with the terms of the offset agreement, the average period for the fulfillment of obligations by the exporter is approximately 7.5 years [The United States Department of Commerce, 2007] on the territory of the importer's country. Given this circumstance, the calculations and estimates of the primary potential, technologies and other time-sensitive assets that are inherent in an offset transaction are quite complex and often unreliable. Thirdly, the government of the importing country needs to carefully assess the potential economic costs of the offset agreement that is being concluded. It is also not easy since the economic spendings include the costs of lost opportunities for using the resources involved in the offset transaction, as well as additional variable and fixed costs, which are sustained by the government of the importing country in the process of fulfilling the required conditions of the offset transaction. In this regard, sometimes in such agreements, the exporter uses a mark-up to the price, thereby transferring a part of the additional variable and fixed costs to the buyer. Thus, according to the estimates shown in Taylor, the average extra charge in offset transactions in the global economy as a whole is from 3 to 5% [Taylor, 2005. P. 117-132]. So, in most studies of the economic implications of offset transactions for an importing country, there is some skepticism, based on the inability to empirically estimate the direct benefits of such agreements.

The history of offset agreements

For the first time, offset deals appeared in Europe after the Second World War as an auxiliary mechanism to assist the economic recovery of a war-torn European economy. In the 20th century, after fulfilling the implementation of the Marshall Plan in the 60s, Western European countries, while buying American military goods, began to put forward additional requirements. The requirements imply organizing on the territory of these countries of subcontracting production of parts and components for various types of weapons and military equipment they buy. Historically, offset agreements have evolved in such a way that, in fact, at the initial stages of their appearance, offset transactions became a means of financing trade between countries in conditions when there is a threat of significant trade risk, as well as any problems with the use of different national currencies in a trade transaction (for example, when two countries establish trade relations with each other, the amount of a trade transaction is significant, but the currency of one country is too susceptible to inflationary fluctuations).

Gradually, the practice of entering into offset agreements extended to developing countries that were primarily interested in the inflow of foreign investment from developed countries, as well as in the growth of their own infrastructure through the use of offsets. Offset transactions have received the most intensive development in the last two decades of the 20th century. Simultaneously, the forms of these transactions mainly depended on the level of economic development of countries. For example, developed countries used more modern versions of offset agreements based on the technology of transfer, development of co-production, and implementation of educational programs. At the same time, countries formed as a result of the collapse of the socialist bloc in the 90's of the 20th century, these new countries of Eastern Europe and the former USSR used various forms of offset agreements – from more modern forms in establishing trade relations with developed countries to the simplest options in expanding international trade with third world countries.[2] Thus, at the end of the 20th century, the total volume of offset agreements in the global economy began to grow immediately, as developing countries and countries forming the market realized that this mechanism provides additional benefits in international trade. Despite the fact, that theoretical economists argued that offset agreements have a distorting effect on commerce and reduce the effectiveness of international trade, in the early 1950s the number of countries using offset agreements in international trade was about 20, then by the end of the 20th century, their number has increased to 100[3]. Currently, almost 100% of offset transactions are in the field of international trade in armaments or other military goods, with more than 70% of these transactions due to the importing countries of defense industry products requiring the seller to sign such an agreement, the price of which must fully refund or exceed the essential cost of the contract. For example, in Austria and the Netherlands, the price of offsets in relation to the cost of acquisition contracts is the highest, and amounts to 174% and 118% respectively. Countries, having their foreign trade strategy aimed at avoiding offsets, are tending to reduce this figure. The lowest is in Taiwan and Thailand – 20% and 27% respectively [The United States Depart-

2 E. g., the Chinese government, demandingly included in offset agreements with countries of the former socialist bloc a requirement, according to which importers were obliged to reimburse Chinese-made goods as the barter to at least 40% of the transaction value.

3 The half-trillion dollars challenge: Designing offset strategies to build reputation, promote development. Avascent International, July 2012 // http://www.avascent.com/wp-content/uploads/2013/02/Avascent-Offsets-2-White-Paper.pdf.

ment of Commerce, 2007]. According to others, there has also been a significant increase in the intensity of the use of offset transactions in international trade. At the same time, the average cost of offset agreements in percent to the value of contracts for the purchase of the primary good increased in 1995 from 49% to 103% in 2005[4]. For major world manufacturers of defense products, offset obligations are so significant that companies have specific structural divisions[5].

Modern stipulations of intensive development in international trade are rearranging the direction of changes in the content and forms of offset agreements. In general, there are three such directions. The first is to stimulate the development of clusters and cluster initiatives. This direction leads to the fact that offset transactions not only help to accelerate the advancement of defense industries and related industries but also contribute to the development of entire macro regions. For example, in 1998, the Malaysian government entered into an agreement for the joint production of warships with Germany at the Bashford shipyard, which included further investment in the development of the Malaysian economy. Moreover, according to this agreement, the Academy of the Navy and Shipping Industry, and the University of the Navy were established [Brauer, 2004. P. 54-65]. The second direction is the improvement of the institutional foundations of national innovation systems, which provide the possibility of conducting joint sectoral research, private sector partnerships, the dissemination of technology, and the constant renewal of personnel. Offset transactions in this direction are a tool that contributes to improving the quality of interaction between the sectors both in a separate national macro economy and in the global economy as a whole. Offset transactions are used recently to develop technology parks that provide for the development of scientific and technological base of countries. For this purpose, specialized universities are created, located on the territory of such parks, they have the aim of organizing innovative work, ensuring the growth of efficiency indicators, the R & D scale, and improving the quality of personnel. For example, Malaysia is in the process of developing a technological park of safety and security that is unmatched in South-East Asia. Turkey shows a similar example: the government intends to develop a techno-park using offset agreements. The fourth direction assumes that offset agreements contribute to the introduction of small and developing countries into global production chains. Such chains, during the past decade, have significantly transformed the way in which production models function around the world, having a significant impact on international capital flows. It allowed many countries, using joint production under offset agreements, to gain access to world markets of goods and services and obtain a competitive position there. These four directions of modern developments in the content and forms of offset agreements, in general, contribute to establishing partnerships between different countries, which is also an additional positive stimulus for the development of the modern world economy.

Offset agreements and the WTO

Since offset agreements are becoming increasingly important in international trade, it is also necessary to consider the problem of the relationship of offset agreements with the basic principles and norms of the World Trade Organization (WTO). Thus, the "Government Procurement Agreement" signed in 1994 within the framework of the Uruguay Round of WTO Negotiations prohibits the use of offset agreements in international trade as tools that contradict the basic principles of the WTO (for the national regime and the most favored nation). So, Article XVI of this agreement defines the official position of the WTO in relation to offset transactions[6]. This article says that organizations in choosing sellers and suppliers of goods and services, or in evaluating applications and making contracts, should not use offset transactions. However, later in this article, it is stated that exceptions are possible. In regard to developing countries, namely that at the stage of accession, a developing country has the right to add a condition on the use of offset agreements that allow the importer to purchase local components for their products. Paragraph 2 of Article XVI stipulates that such a requirement should be a condition for participation in the procurement process, and not a criterion for fulfillment of contracts, the circumstances of which must be objective, clearly defined and non-discriminatory.

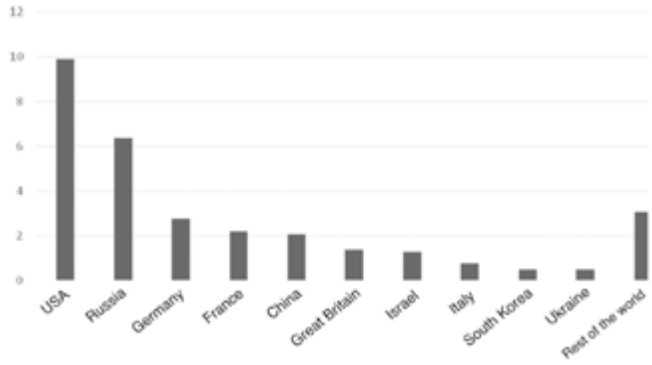
Article XVI is a decree of a multilateral agreement of the WTO, therefore, following it is advisory for members of the WTO and signing is not mandatory. In 2010, 40 of the 153 WTO members, at that time, joined this agreement (WTO-2010), announcing the need to comply with the conditions of perfect competition and transparency in government procurement policies. Thus, Article XVI reflects the general agreement of the WTO signatories of this convention in the issue of banning offsets from public procurement. However, this agreement goes with a number of notable exceptions. First, developing countries are not required to comply with this agreement. In particular, Article V defines special and differential treatment in public procurement for developing countries. The article argues that when signing trade arrangements, the parties, attempting to implement and apply the WTO government procurement agreement, should take into account, pri-

4 SIPRI Yearbook 2016: Armaments, Disarmaments and International Security // https://www.sipri.org/sites/default/files/YB16-Summary-ENG.pdf.

5 For example, for the company Lockheed Martin, one of the largest manufacturers in the world market for aerospace products, there are offset obligations on $19 billion, which based on offset agreements with 12 countries of the world [The United States Department of Commerce, 2007].

6 The Agreement on Government Procurement (1994) // https://www.wto.org/english/docs_e/legal_e/gpr-94_e.pdf

Figure 1. Sales of primary arms exporting countries in the global arms market in 2016 (in billions of US dollars)



marily, the specifics of socio-economic development, as well as financial and trade needs of the developing country (especially if the country relates to the group of least developed).

The conceptual framework that forms the possibility of such an exception from WTO rules is very similar to explanations formulated by the theory of the protection for nascent industries. According to this theory, as a rule, in developing countries there is a large share of new and inefficient firms with relatively high average total costs in comparison with the multinational corporations (MNCs) from developed countries that have been operating on the market for a long time. If these new firms begin to compete with MNCs, over time most of the "young" firms will disappear. In such a situation, the government may temporarily introduce an import tariff, which will allow new firms to gain explicit knowledge of the production process and introduce innovations, thereby reducing average costs. And while researchers are skeptical about the possibilities for obtaining clear benefits from the implementation of such a policy, other researchers find it logically justified and politically attractive.

The second reason for exceptions to Article XVI relates to national security and public health. Acquisition of military and defense goods in accordance with WTO regulatory requirements may be carried out within the framework of different forms of offset agreements. It is noted that this exception can be applied to all countries, and offsets may be involved in the request for proposals procedure, but they cannot be the decisive factor in determining the winner of the offer. Similar exclusion conditions are possible in situations where the government purchases goods and services for the healthcare sector.

Possibilities for Russia to use offsets in the arms trade

Currently, in the global market offset agreements are mainly used for weapon and military equipment. In view of the specifics for the development of this market, and the nature of competition in it, in fact, led to the formation of a buyer's market, which gained all the market advantages in fulfillment trade agreements. The subjects of the proposal in this market trying to preserve and expand its market share are bound to use offset transactions in this market [Khmelev, 2016]. In addition, in the global arms market in recent years there have been such trends as the increasing influence of globalization processes, a notable increase in competition between the leading weapon manufacturers, as well as marked rise in the cost of modernizing weapons by the countries – the largest weapon manufacturers, but at the same time an increase of the world arms exports in comparison with rising costs for the modernization and procurement of products of the military-industrial complex on a global scale.

In recent years, there has been an increase in the concentration of world exports in a limited number of countries. Thus, according to the Stockholm International Peace Research Institute (SIPRI), total world exports of primary types of weapons amounted to $31 billion[7]. In this value, 90% of the transactions fall on the 10 countries – leading exporters of weapons in the world economy. Russia ranks on the second place, and its share in total exports of primary types of weapons is 21.3%.

Although the global arms market in the total volume of world trade in the last fifty years has steadily decreased (from 3% to 0.5%, mainly due to a notable increase in production and export of civilian goods), its macroeconomic and political importance for arms exporters is quite significant. Stimulation of arms exports for a country, which has comparative advantages in the production of military and defense goods, contributes to a fuller usage of resources in its macro economy, provides an inflow of financial resources to the military-industrial sector, has a positive effect on the renewal of the armed forces, indirectly providing to the improvement of R & D, including in neighboring industries. Also, the countries-exporters of weapons solve their geopolitical tasks by participating in the world arms trade, including the military-political influence in the world and strengthening partnerships with the most significant geostrategic partners.

The share and place of Russia in the ranking of world exporters of weapons, shown in Figure 1, have become constant in recent years. However, conflicting data on the total value of contracts settled for the future, as well as possible and already occurring changes in the geographical and commodity structure of Russian arms exports, can lead to a reduction in Russia's share in this market. This conclusion is in favor of the fact that in recent years there has been a shift in exports of made military products to the supply of spare parts and components, as well as avoidance of trade with Russia by its usual trading partner towards the purchase of arms from the United States and the EU. It is directly related to the change in the military-political balance of power in certain regions of the world, as well as economic and legal aspects of the state policy of foreign trade in armaments in different countries.

7 SIPRI Arms Transfers Database // https://www.sipri.org/databases/armstransfers

Many researches have been committed to studying the significance of offset transactions in the development of the global arms market. In the work of D. Kilma, the forecast is made, according to which between 2012 and 2021 the total value of offset transactions for the 20 countries in which the practice of offset agreements is most popular will reach approximately 424.57 billion US dollars. Among these countries, for example, Indonesia, South Korea, and Taiwan show the highest growth rates on the cost of offset agreements, and by 2021 the Saudi Arabian market is expected to create the highest total value of military compensation obligations equaling 62.63 billion US dollars [Kilma, 2013].

According to a study by the consulting company Avascent Group, the global cost of offset agreements in 2016 should have increased by 225 billion US dollars[8]. At the same time, it is noted, in terms of increase in the accumulated offset obligations, that countries in the Middle East, North Africa, and Asia are leading.

Conclusion

The practice of offset transactions in Russia has insufficient attention. There are no regulatory legal acts that rule the procedure for the use of offset agreements by Russia in foreign trade transactions. In 2010, the Letter of the Ministry of Economic Development of Russia on December 10, 2010, No. 24106-CV / D13 appeared: "The main directions for introduction of the offset mechanism in the Russian Federation" [Maksimov, Magomedova, 2012. P. 11-18]. The content of the letter is not disclosed, but it is known that it initiated the amendment of the Federal Law No. 94-FZ on July 25, 2010: "On Placing Orders for Goods, Works, Services for State and Municipal Needs", aimed at resolving offset obligations in government procurement (in particular, paragraph 5.3 appeared, providing the possibility of implementing government contracts with the inclusion of counter-obligations).

In the main activities of the Government of the Russian Federation for the period up to 2018 such a direction as stimulation of the transfer and adaptation of modern technologies by expanding the practice of using offset mechanisms [The main activities…, 2015; Kharlamov, Kharlamova, 2015. P. 121-124] is noted, but the term "offset transaction" in legal acts on federal and regional levels is absent. This serious legislative gap is present with significant restrictions on foreign economic and tax legislation, which form notable obstacles to implementing offset requirements for international customers. Therefore, at present, in the practice of Russian arms exports, such a system has emerged, that to a significant extent reduces the attractiveness of transactions for the purchase of Russian weapons to most important trading partners of Russia in this market.

Thus, for Russia, encouraging the practice of using offset schemes in the establishment of trade contracts on the world arms market, unlike technology transfer or organization of joint ventures [Amirova, 2017], creates opportunities to take a substantial share in this market and firmly establish itself on it for a long time.

It should be noted that despite the absence of legislative norms governing the practice on offset actions Russia has already arranged a number of general transactions in the world arms market that have all the signs of a classic offset. For example, MiG, the largest Russian manufacturer in the field of aircraft construction, commenced two offset contracts with India for a total amount of 55 billion US dollars in 2013. According to these agreements, the company has pledged to create repair and modernization centers for airborne radar stations and the maintenance of fighter equipment it supplies to India [Bombs in exchange…, 2013].

8 The half-trillion dollars challenge: Designing offset strategies to build reputation, promote development. Avascent International, July 2012 // http://www.avascent.com/wp-content/uploads /2013/02/Avascent-Offsets-2-White-Paper.pdf. Estimated data, actual data hasn't been presented yet.

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