



GOVERNMENT OF THE REPUBLIC OF LITHUANIA

RESOLUTION ON THE APPROVAL OF THE PROCEDURE OF COMPENSATION WHEN PURCHASING ARMS, AMMUNITION, EXPLOSIVES OR OTHER MILITARY PURPOSE GOODS

15 July 2003 No. 918
Vilnius

Following paragraphs 7 and 9 of Section 1 of Article 9 of the Law of the Republic of Lithuania on Public Procurement (*Official Gazette*, 1996, No. 84-2000; 2002, No. 118-5296; 2003, No. 57-2529), the Government of the Republic of Lithuania hereby r e s o l v e s:

1. To approve the Procedure of Compensation When Purchasing Arms, Ammunition, Explosives or Other Military Purpose Goods (attached hereto).

2. To specify that the Procedure approved by this Resolution is not applicable when carrying out the procurement the procedure of which started before this Resolution coming into force.

3. To assign the Ministry of Economy within 2 months following the day of this Resolution coming into force:

3.1. to create the Commission on Compensation Matters When Purchasing Arms, Ammunition, Explosives or Other Military Purpose Goods, approve the Statute and composition of this Commission;

3.2. to prepare and having coordinated it with the Ministry of Defence, to approve the Rules of Compensation When Purchasing Arms, Ammunition, Explosives or Other Military Purpose Goods.

4. On the accession of Lithuania to the European Union, the Ministry of Economy must revise the Procedure of Compensation When Purchasing Arms, Ammunition, Explosives or Other Military Purpose Goods approved by this Resolution and, where necessary, to present its amended version to the Government of the Republic of Lithuania.

Prime Minister

Algirdas Brazauskas

Minister of Economy

Petras Cesna

APPROVED
by Resolution No. 918
of the Government
of the Republic of Lithuania
of 15 July 2003

PROCEDURE OF COMPENSATION WHEN PURCHASING ARMS, AMMUNITION, EXPLOSIVES OR OTHER MILITARY PURPOSE GOODS

I. GENERAL PROVISIONS

1. The Procedure of Compensation When Purchasing Arms, Ammunition, Explosives or Other Military Purpose Goods (hereinafter referred to as the Procedure) sets out the essential principles of applying compensation requirements to institutions of the Republic of Lithuania procuring arms, ammunition, explosives or other military purpose goods from foreign suppliers.

2. For the purpose of this Procedure the following definitions shall be used:

The Procuring Institution means a state institution purchasing arms, ammunition, explosives or other military purpose goods – the Ministry of Defence or the Arms Fund of the Republic of Lithuania under the Government of the Republic of Lithuania.

The Foreign Supplier means a foreign economic entity selling arms, ammunition, explosives or other military purpose goods to the Procuring Institution (a foreign economic entity entering into the purchase-sale agreement with the Procuring Institution or a foreign economic entity making a sale transaction through an intermediary – a Lithuanian economic entity). A foreign state institution selling arms, ammunition, explosives or other military purpose goods to the procuring institution shall not be deemed a foreign supplier.

Compensation means the activity of the foreign supplier or other foreign economic entities acting on behalf of them (ordering goods of Lithuanian economic entities, investments in the Lithuanian business, sharing technologies with a Lithuanian economic entity, organising a single manufacturing process in Lithuania, etc.) by which the procurement of arms, ammunition, explosives or other military purpose goods from abroad is compensated providing economic benefits to the Lithuanian economy.

The Compensation Agreement means the agreement entered into by and between the foreign supplier and the Ministry of Economy according to which the foreign supplier assumes compensation commitments.

The compensation operation means a component of commitments defined in the compensation agreement (transactions related to goods manufacturing, service providing, investments, sharing technologies, etc.).

3. The compensation requirements are applied so as to receive additional orders for the Lithuanian enterprises to manufacture goods or provide services, to attract the capacity of foreign modern arms-manufacturing enterprises (their experience, state-of-the-art technologies, connections, etc.), to establish long-term relationship of economic

cooperation between foreign and Lithuanian economic entities and thus promote the development of the Lithuanian economy and at the same time:

- 3.1. to look for new markets to export Lithuanian goods;
- 3.2. to implement innovations and promote technological progress of the Lithuanian economy;
- 3.3. to increase employment in Lithuania.

II. CONDITIONS OF APPLICATION OF COMPENSATION REQUIREMENTS

Compensation must be required in case all following conditions are met:

4.1. arms, ammunition, explosives or other military purpose goods listed in the Appendix to this Procedure are being procured;

4.2. the procurement is made from a foreign supplier (also in cases when the foreign supplier is represented by an agent – a Lithuanian economic entity – for completing the transaction);

4.3. the value of the procurement transaction (the price that the Procuring Institution is to pay pursuant to the purchase-sale agreement) exceeds 5 million Lit.

5. In exceptional cases (for legitimate economic, political or other reasons), the Procuring Institution having agreed with the Ministry of Economy and having obtained the permission of the Government of the Republic of Lithuania, when performing the procurement transaction satisfying the conditions referred to in paragraph 4 of this Procedure the compensation requirements may be inapplicable to the foreign supplier or the requirement defined in paragraph 10 of this Procedure may be inapplicable.

6. The Procuring Institution having agreed with the Ministry of Economy, the compensation requirements may apply to the foreign supplier also in case of procurement transactions that do not meet the condition defined in paragraph 4.3. of this Procedure.

III. RELEVANCE OF COMPENSATION PROPOSALS

7. The activity proposed by the Foreign Supplier shall be deemed proper compensation in case both of the following conditions are satisfied:

7.1. this activity is performed within the priority compensation fields defined in paragraph 8 of this Procedure and is essentially new and undoubtedly promising in Lithuania (when a new business or fundamental expansion of the existing business, modernisation or other renovation are being started);

7.2. the main reason for starting this activity in Lithuania is the applicable compensation requirement (i.e. this activity would not be carried out in Lithuania unless the Foreign Supplier was required to fulfil compensation commitments).

8. The following compensation fields shall be given priority:

8.1. manufacturing of arms, ammunition, explosives or other military purpose goods as well as manufacturing of double-purpose goods in Lithuania;

8.2. development of the state-of-the-art technologies (lasers, biotechnology, information technology, radio electronics, manufacturing of medical equipment).

9. The term for fulfilling compensation commitments shall not exceed 10 years following the day of signing the purchase-sale agreement. No less than 50 percent of the compensation commitments must be required to fulfil within the first 5 years.

IV. COMPENSATED VALUE

10. Provided that all conditions defined in paragraph 4 of this Procedure are fulfilled, the total compensated value must be not less than the value of the procurement transaction. The total compensated value shall be the sum of the values of separate compensation operations calculated with account of multipliers applicable to such operations.

11. The grounds for the assessment of every compensation operation shall be the estimation in the project of the Lithuanian part (Lithuanian added value, use of Lithuanian raw materials, work and services).

12. Taking into account the beneficial amount of compensation to the Lithuanian economy (whether the compensation operation is performed in one of the priority fields, how well it meets the development goals of the Lithuanian economy within the long-term strategy up to 2015 approved by Resolution No. 853 of the Government of the Republic of Lithuania of 12 June 2002 (*Official Gazette*, 2002, No. 60-2424)), compensation operations may be assessed using multipliers up to the value of 5.

V. INSTITUTIONS RESPONSIBLE FOR THE APPLICATION OF COMPENSATION REQUIREMENTS AND THEIR COMPETENCE

13. The Procuring Institution when performing the procurement to which compensation is applicable pursuant to the provisions of Section II of this Procedure must include the compensation requirement to prospective foreign suppliers in the procurement conditions in the procurement documents. The Procuring Institution must notify the Ministry of Economy about the current procurement to which compensation is applicable specifying the estimated value of the procurement transaction and prospective foreign suppliers.

14. The Ministry of Economy shall:

14.1. accept compensation proposals presented by foreign suppliers and consider the issues of relevance and establishment of the value of the proposed compensation and its assessment;

14.2. negotiate with the Foreign Supplier the compensation conditions and sign the Compensation Agreement;

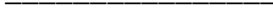
14.3. monitor the fulfilment of commitments of the Foreign Supplier assumed according to the Compensation Agreement, take decisions with regard to the certification of the fulfilment of commitments as well as applicable sanctions in case the commitments are not fulfilled or are fulfilled improperly.

15. The Ministry of Economy shall sign the Compensation Agreement and take other decisions concerning the application of compensation requirements only after the Commission on Compensation Matters When Purchasing Arms, Ammunition, Explosives or Other Military Purpose Goods (hereinafter referred to as the Commission) considers these issues. The Commission shall act as a collegial advisory institution that assesses the application of compensation requirements when purchasing arms, ammunition, explosives or other military purpose goods from foreign suppliers and presenting proposals to the Ministry of Economy with regard to taking decisions related to such issues. The opinion of the Commission shall be of recommendatory character. The Statute and composition of the Commission shall be subject to the approval of the Minister of Economy. The Commission must include representatives of the Ministry of Economy and at least one representative of the Ministry of Defence. The Commission shall also consist of representatives of other stakeholder institutions or organisations the activity goals of which are directly connected to the promotion of the economic development of Lithuania and defending interests of business entities or to organising the procurement of arms, ammunition, explosives or other military purpose goods.

16. The Procuring Institution when performing the procurement to which compensation is applicable pursuant to the provisions of Section II of this Procedure shall make a provision in the purchase-sale agreement according to which this agreement comes into force not before the Ministry of Economy has signed the Compensation Agreement with the Foreign Supplier. In case the Foreign Supplier whose proposal is the best acceptable to the Procuring Institution refuses to enter into the Compensation Agreement with the Ministry of Economy, the first on the list of suppliers following the one having refused to enter into the Compensation Agreement (the foreign supplier placed on this position shall also be required to fulfil compensation requirements) shall be deemed to be the supplier having presented the best proposal to the Procuring Institution.

17. The Ministry of Economy and the Procuring Institution must notify each other about significant decisions taken or events related to the signing and fulfilment of the Compensation Agreement, the signing and fulfilment of the purchase-sale agreement and, where appropriate, coordinate their decisions or actions. The institutions shall inform each other about decisions taken in writing within 3 working days following the moment of taking the decision.

18. The procedures of presenting and coordinating compensation proposals shall be defined in the Rules of Compensation When Purchasing Arms, Ammunition, Explosives or Other Military Purpose Goods.



**ARMS, AMMUNITION, EXPLOSIVES OR OTHER MILITARY PURPOSE GOODS
PURCHASING WHICH FROM FOREIGN SUPPLIERS COMPENSATION
REQUIREMENTS ARE APPLICABLE**

1. Portable and automatic fire-arms: guns, carbines, revolvers, pistols, submachine guns and machine-guns, with the exception of hunting rifles, pistols and other small-calibre arms whose calibre is less than 7 mm.
2. Artillery, smoke, gas arms and flame throwers:
 - 2.1. cannons, howitzers, mine throwers, artillery, antitank weaponry, rocket launchers, flame throwers, recoilless guns;
 - 2.2. military smoke and gas arms.
3. Ammunition for the weaponry referred to in paragraphs 1 and 2.
4. Bombs, torpedoes, rockets and rocket bombs:
 - 4.1. bombs, torpedoes, grenades including smoke grenades, smoke bombs, rockets, mines, rocket bombs, underwater grenades, incendiaries;
 - 4.2. military purpose equipment and its components specially designed for using, assembling, disassembling, destroying or detecting the weaponry listed in paragraph 4.1.
5. Military purpose fire management equipment:
 - 5.1. fire control computers, infrared detection control systems, other night vision devices;
 - 5.2. rangefinders, site indicators, height-indicators;
 - 5.3. electronic, gyroscopic, optical and acoustic surveillance components;
 - 5.4. bomb and guns backsights, periscopes of the installations listed herein.
6. Tanks and special purpose machines:
 - 6.1. tanks;
 - 6.2. military purpose armed or armoured machines including amphibian ones;
 - 6.3. armoured automobiles;
 - 6.4. half-track war machines;
 - 6.5. war machines – tank models (for deceiving the enemy's intelligence);
 - 6.6. trailers specially designed for transporting the ammunition listed in paragraphs 3 and 4.
7. Toxic and radioactive substances:
 - 7.1. toxic biological, chemical and radioactive substances for destroying people, animals or crops at war;
 - 7.2. military purpose equipment for manufacturing, detecting and identifying the substances listed in paragraph 7.1.;
 - 7.3. countermeasures against the substances listed in paragraph 7.1.
8. Powder-like explosive, liquid or solid gunpowder:

8.1. powder-like, liquid or solid gunpowder made for using with the goods listed in paragraphs 3, 4 and 7;

8.2. military explosives;

8.3. military purpose incendiary and frigorific substances.

9. War ships and special purpose equipment:

9.1. war ships of all kinds;

9.2. installations for mining, detecting mines and demining;

9.3. underwater cables.

10. Military purpose airplanes and equipment.

11. Military purpose electronic equipment.

12. Surveillance (photographing, filming) equipment designed exclusively for military use.

13. Other military equipment and substances.

14. Special parts of the goods included in the list herein if they are military purpose.

15. Mechanisms, installations and products specially designed for watching, manufacturing, examining and controlling the arms, ammunition, explosives or other military purpose goods and special purpose devices listed herein.
