



India's Defence Acquisition Procedure

POLICY RECOMMENDATIONS

SEPTEMBER 2024

Since its introduction in 2020 in place of the earlier Defence Procurement Procedure (DPP), the Defence Acquisition Procedure (DAP) has enabled a transformation in India's military industry, in support of the country's national security and economic objectives. As the Ministry of Defence (MoD) begins considering the next amendment to the DAP, the time is ripe for India's defence sector to take the next step in its transformation. Accordingly, the U.S.-India Business Council (USIBC) and The Asia Group (TAG) conducted a series of consultations and other engagements with industry stakeholders from India, the United States, the United Kingdom, and the European Union, to generate a set of policy recommendations for the MoD's consideration.

The following paper summarizes the recommendations that resulted from this process, reflecting areas of consensus across the diverse group of stakeholders. Some of the ideas are beyond the scope of the DAP. However, they, along with the ideas that are within the DAP's scope, are aimed at further enhancing India's military preparedness and defence industrial capabilities, through closer

industrial collaborations and integration with trusted like-minded partners.

International markets provide an important way to achieve scale as India seeks to build upon its defence industrial capability. India's defence exports grew by 78 percent between April-June 2023 and April-June 2024, from INR 3,885 crore to INR 6,915 crore, respectively. India's export markets cover over 90 countries across regions: Southeast Asia (e.g., the Philippines), West Asia (e.g., Armenia), Europe (e.g., France), and North America (the United States). The United States now accounts for around 50 percent of India's defence exports. The volumes of India-U.S. defence exports are poised to grow further, thanks to the Security of Supply Agreement (SOSA) signed during Raksha Mantri Rajnath Singh's official visit to the United States in August 2024.

India is now well positioned to explore policies that mutually support industrial capability for national defence, resilient supply chains, and exports, and to enable greater cost-efficiencies and global competitiveness through scale.

1. Deploy Additional Measures for Innovate in India and Make in India by 2030

- **Conduct Detailed, System-Specific**

Consultations: In addition to the Long-Term Procurement Plans that cover 15-year and 5-year time spans, the MoD and the Services could interact with industry on specific platforms or systems of interest. These discussions could involve specifications, timelines, and processes, which would offer greater predictability for business planning purposes. This exercise could support the MoD and Services to achieve ambitious targets for procurement and indigenization.

- **Offer Incentives for R&D and Manufacturing:**

As part of the roadmap for indigenization, the MoD could introduce incentives for the private sector to invest in domestic R&D and manufacturing. Incentives could have the added benefit of levelling the playing field between legacy and new investments, in order to attract more advanced technologies and manufacturing processes and greater competition. Legacy investments have cost advantages due to expenditures on land, capital equipment, etc. being fully amortized. As a result, new investments are often at a cost disadvantage. The following are a few ideas for incentive structures:

- Capital subsidies, similar to two initiatives deployed by the Ministry of Electronics and IT (MeitY) in the semiconductor industry: Design-Linked Incentives and the Scheme for Promotion of Manufacturing of Electronic Components and Semiconductors (SPECS).
- Modalities such as Singapore's A*STAR consortium, which attracts private sector investments into pre-competitive research and to pool risks and costs involved.

- Revisiting the past tax structure in India that permitted R&D expenses to be declared and defrayed, thereby serving as an indirect incentive for R&D investments.

- **Incorporate Innovation into Procurement:** The MoD and the Services could build R&D into procurement processes, adapting global best practices when helpful. For instance, countries such as the United States and United Kingdom short-list vendors to competitively develop and test competing prototypes, which are then evaluated for procurements. This approach would reduce investment risks for private companies in R&D for defence articles and in turn incentivize Indian and foreign Original Equipment Manufacturers (OEMs) to collaborate on stated requirements.

- Additionally, the MoD could consider an approach similar to the U.S. Defense Advanced Research Projects Agency (DARPA), which enables greater innovation in procurements by offering government R&D funds for the development of technologies by nominated private sector partners. The MoD could similarly offer R&D funds to short-listed vendors, to increase the pace and scale of indigenous innovation.

- **Attracting Further Investments into Defence Industrial Corridors:** The MoD could convene regular roadshows in India and in Indian missions abroad involving industry (Indian companies and Indian subsidiaries of foreign OEMs) as well as the Union and state governments to showcase opportunities in the defence industrial corridors in Uttar Pradesh and Tamil Nadu. This could include showcasing new incentives to promote manufacturing and R&D.

2. Refine Procurement Categories and their Application

- **Simplify Categories:** The MoD could consider the procurement categories in the DAP to reduce confusion and complexity and streamline the process. For example, the 'Buy (Indian)' and 'Buy (Indian-IDDM)' categories could be combined into a single category with graded incentives for indigenous design and content.
- **Revise and Promote Strategic Partnership Model (SPM):** The MoD could consider reassessing the Strategic Partnership Model (SPM) policy to enhance its impact. For instance, FDI restrictions could be revisited to make the policy more attractive to foreign OEMs and attract their investments, building on the path-breaking approval to Saab's fully owned subsidiary in India and the approvals granted to the Joint Ventures (JVs) of Tata Advanced Systems Limited with global companies. FDI in

the defence sector could be liberalized similar to the Indian Space Policy 2023, which defines different FDI entry routes for different space sectors / activities.

- **Integrate 'Buy and Make (Indian)':** The MoD could consider combining the 'Buy and Make (Indian)' category with the SPM to promote Indian industry as system integrators. This would enhance domestic capacities in the Indian defense industry and support the vision of building advanced defence platforms.
- **Formalize Graded Indigenization Timelines for Different Categories:** The MoD could consider revisions to Indigenous Content (IC) calculation to include a graded calculation system that is spread over the performance period of a contract or program.

3. Enhance Expeditious Procurement, Competition, and Accountability

- **Streamline Procurement Processes:** The MoD and the Services could consider means to expediting procurement processes, particularly in formulating Qualitative Requirements (QR) and trial procedures. These processes significantly impact procurement timelines and costs.
- **Utilize Delegated Powers for Fast-Track Procedures:** The MoD could consider using delegated powers to process procurements under the fast-track procedures (FTPs), reducing

delays and shortening the procurement cycle.

- **Permit More Time for Responses to Expression of Interest (EOI):** In order to be considered for RFPs, foreign OEMs are required to respond within 2 months to EOIs, including with proof that their governments would grant the necessary licenses for technology transfers. These licenses can be challenging to obtain within 2 months. So, the MoD could consider permitting more time for responses to EOIs.

- **Deem Fully Owned Subsidiaries as Indian Companies:** The MoD could consider deeming Indian subsidiaries involving 100 percent FDI from global companies in trusted geographies as Indian companies, with the same access to procurement opportunities as other Indian competitors. This measure could be offered on a reciprocal basis (please see the point below in the section “Broader Recommendations to Expand India’s Footprint in Global Defence Value Chains”), in order to give Indian companies access to procurement opportunities in the trusted geographies too. Doing so would immediately enable India’s military to rapidly access the world’s best technologies and capabilities.
- **Clarify Methodology for Domestic Value Addition Calculations:** The MoD could consider including a clear methodology for calculating the value of domestic components in a product or system. Such guidelines would give industry clear guidance on how to meet the MoD’s targets, while also avoiding uncertainty and confusion between both sides. Other ministries

are similarly developing and clarifying such guidelines, e.g., the Ministry of Heavy Industries for the FAME scheme for electric vehicles, MeitY for electronics-focused Production-Linked Incentives (PLI) schemes.

- The MoD could consider including investments into R&D and Maintenance and Repair Operations (MRO) as contributing to domestic value addition and Indigenous content.
- **Defence Public Sector Undertakings (DPSUs):** Nomination of orders to DPSUs poses risks to the growth of India’s defence ecosystem. DPSUs have establishment and cost advantages over the private sector – including Indian and foreign OEMs – due to government support. To further accelerate the development of India’s defence industry – including DPSUs and the private sector – into innovative, competitive, and world-class global entities, the MoD could consider means to encouraging DPSUs to more competitively bid for contracts.

4. Liability & Intellectual Property Rights

- **Defining Liability:** The MoD could consider including clauses limiting a contractor’s liability. Defining fair, proportionate, and clear limitations of liability or the allocation of liability under contracts is key to reducing the cost of tendering through reductions in the allocation of legal risk.
- **March-In Rights:** The potential to exercise march-in rights under the DAP2020 negatively affects innovation and investments in defence R&D. The MoD could explore alternative approaches to addressing and penalizing contractors for non-compliance of guidelines.

- **Intellectual Property Rights:** The MoD could consider including additional clauses and rules to govern Intellectual Property Rights (IPR) in defence acquisition in certain procurement categories and especially in JVs with restricted foreign equity participation.
 - Additionally, the MOD could set up a system for governing IP generated using government funding. The system could permit the company to retain all IP or share IP with a consortium of companies (as in A*STAR) or consider other approaches.

Broader Recommendations to Expand India's Footprint in Global Defence Value Chains

- **Bilateral Agreements & Frameworks:** Collaborative frameworks and agreements like the Initiative on Critical and Emerging Technology (iCET), India-United States Defence Acceleration Ecosystem (INDUS X), and the Security of Supply Agreement (SOSA) are examples of meaningful steps the MoD has taken with counterparts from like-minded countries, to foster closer defence industrial cooperation and reciprocity. India could explore additional defence cooperation agreements, in order to fully realize the potential of defence commerce.
- **Enter Into More Supply Chain Agreements:** The MoD could explore additional supply chain agreements to enable India to increase its role as a key participant in global value chains. The SOSA—signed during Raksha Mantri Rajnath Singh's recent official visit to Washington, D.C.—will enable the United States to prioritize Indian suppliers for contracts. India could explore similar agreements with other Quad countries, the United Kingdom, and partners in the European Union.
- **Adopt Armaments Cooperation Agreements:** India can benefit from opportunities to grow exports to like-minded countries that are looking to increase their arsenals, given ongoing conflicts and tensions worldwide. To do so, the MoD could explore arrangements involving full reciprocal access to defence procurement markets with partner countries.
- **Collaborative Maintenance, Repair, & Overhaul (MRO) Agreements:** The MoD could look into establishing agreements and market carveouts with like-minded countries for platform-specific MRO capacities. This would help to create the necessary economies of scale, enabling industry to align its investment decisions.
- **Define Export Controls for Defence Articles:** Export of defence articles is subject to export permissions/no-objection certificates (NOC) end user certificates and other restrictions and in many cases considered on a case-by-case basis. A well-defined export policy aligned with India's foreign policy imperatives is key to incentivizing third country exports.
- **Catalyse Third Country Exports:** The MoD could consider offering incentives for joint ventures between Indian industry and foreign OEMs to promote military hardware exports to third- country partners, particularly in large emerging markets in Asia, Africa, and Latin America. This could include access to bilateral lines of credit to build third-country defence capacity. The MoD could consider working with relevant agencies to provide easier access to export financing. This is a major concern for Indian companies, particularly in the private sector. The MOD could address this challenge by, for example, leading an effort with appropriate agencies to offer financing for defence exports.

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Acknowledgements

The authors would like to thank **Ashok Malik, Basant Sanghera, Aman Raj Khanna**, private sector participants from the memberships of the US-India Business Council (USIBC), UK-India Business Council (UKIBC), Society of Indian Defence Manufacturers (SIDM), and the Swedish Chamber of Commerce in India for their valuable inputs, support, and participation in the consultations.

Cover photograph: **Angad Singh**

Design: **Anil Ahuja**

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