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Issue Brief

Decoding Defence Acquisition Procedure 2020

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S*ummary*

The Defence Acquisition Procedure (DAP 2020), which supersedes the Defence Procurement Procedure 2016 (DPP 2016), is a sincere effort by the Ministry of Defence to improve the capital procurement procedure. While there is a fundamental architectural continuity between the two documents, DAP 2020 encourages 'forcible indigenisation' and tweaks the defence planning system, which forms the basis of capital procurements. However, in the absence of an overarching bespoke organisation dedicated to defence planning or a national security strategy document guiding the process, coupled with lack of financial pragmatism, the problems that beset defence acquisitions in the past may endure. DAP 2020 also contains several concepts and ideas which are ambiguous or lack clarity of purpose, which could lead to indecisiveness or sluggish decision-making.

It is a challenge to encapsulate the Defence Acquisition Procedure 2020 (DAP 2020), released by the Ministry of Defence (MoD) on September 30, 2020.¹ It is spread over 12 chapters and runs into 657 pages, which is 5 chapters and 168 pages more than the Defence Procurement Procedure 2016 (DPP 2016). While its heft is overwhelming, comfortingly, there is a fundamental architectural continuity between the two documents.

As with the DPP 2016 and its earlier versions, the DAP 2020 is predicated on a system of classification of capital procurements intended to promote indigenous design and development (D&D), a multi-stage procurement cycle, bespoke procedures for certain types of procurement, standardisation of tender and contract documents, and offsets.

Some conceptual, structural and procedural changes have been made within this broad framework “to ensure timely acquisition of military equipment, systems and platforms as required by the Armed Forces in terms of performance, capabilities and quality standards, through optimum utilisation of allocated budgetary resources”.² This objective has remained unchanged since the promulgation of the first DPP in 2002. That said, to develop a broad understanding of the DAP-2020, its contents can be notionally divided into six segments, as shown in table below.

Table 1
DAP-2020 contents

| Sr No | Segment | Content | Chapter in DAP-2020 |
|-------|--------------------------|--|---------------------------------|
| 1 | Policy framework | Defence planning as the basis for acquisitions and focus on indigenisation | Preamble & Chapter I |
| 2 | Procurement categories | Prioritised and special categories | I, II & III |
| 3 | Acquisition cycle | From identification of requirement to award of contract and associated processes | II |
| 4 | Other special procedures | Acquisition of systems designed and developed by the Defence Research and Development Organisation (DRDO), Defence Public Sector Undertakings (DPSU) and the Ordnance Factory Board(OFB); Fast Track Procedure; Revitalising Defence Industrial Ecosystem through Strategic Partnerships; Acquisition of Systems Products and ICT Systems; Other Capital Procurement Procedure; and, Procedure for Defence Ship Building | IV, V, VII, VIII, IX, X and XII |
| 5 | Miscellaneous features | Standard Contract Document and offsets | VI & Annex E to Ch II |
| 6 | Post-contract Management | Administration of contracts | XI |

¹ Ministry of Defence, *Defence Acquisition Procedure 2020* (DAP 2020).

² Ibid, Chapter I, Para 1, p. 1.

Policy framework

Like its predecessors, the DAP-2020 contains several statements and provisions that require to be pieced together to get an idea of its underlying policy orientation. While there is no change in the overarching policy of meeting the armed forces' requirements by promoting indigenous production of defence materiel, three shifts are discernible.

First, in what can be described as 'forcible indigenisation', import of certain items is to be disallowed,³ as per the guidelines and the list notified by the MoD.⁴ The embargo on 100 listed items⁵ will come into effect from December 2020 to 2024, with import of another item – Long-range Land Attack Cruise Missile - being banned in December 2025.

Enforcing the embargo on items already being made/likely to be made shortly, conforming to the specifications/services' qualitative requirements (SQRs) laid down by the armed forces – such as the Light Combat Aircraft Mk IA Enhanced Indigenised Content, may not pose any problem. The MoD however will have no option but to waive the embargo if an indigenously designed and manufactured equipment/platform conforming to the SQRs is not available when the embargo sets in for that item.

Second, the DAP-2020 emphasises the use of artificial intelligence, indigenously developed military materials, special alloys, indigenous software, aero-engines, and silicon wafers. This seems relevant for SQR formulation, but the associated instructions are tenuous and not well integrated with the procurement procedure.⁶

Third, the planning system, which forms the basis of capital procurements, has been tweaked.⁷ (Table 2) However, in the absence of an overarching bespoke organisation dedicated to defence planning or a national security strategy document, or even composite plans covering not just the armed forces but all other MoD instrumentalities like the Coast Guard and Border Roads Organisations, coupled

³ Ibid, Chapter II, Para 6, p. 2.

⁴ The guidelines and the list do not seem to be included in the DAP-2020, but the provision in the DAP-2020 certainly allude to the list of 101 items notified through two Press Information Bureau (PIB) releases. See PIB, [“MoD's big push to Atmanirbhar Bharat initiative: Import embargo on 101 items beyond given timelines to boost indigenisation of defence production,”](#) August 9, 2020; and PIB, [“Clarification: Indigenously manufactured items amongst negative list for imports,”](#) August 10, 2020.

⁵ The list includes items ranging from components to artillery guns, assault rifles, corvettes, sonar systems, aircraft, radars, combat vehicles, and submarines.

⁶ For example, for development of military materials by the Indian material manufacturers, the DAP-2020 states that they can identify the suitable military materials and share the details with defence and other public sector undertakings, platform manufacturers, research and development establishments and Service headquarters for factoring it in their developmental plans, or take up such projects under Technology Development Fund/Innovation for Defence Excellence scheme. This is vague and not result-oriented. It would have been more result-oriented to nominate just one PSU, like MIDHANI, to coordinate this national effort.

⁷ Ministry of Defence, [Defence Procurement Procedure 2016](#) (DPP 2016), Chapter I, Para 16, p. 3 and DAP 2020, n. 1, Chapter I, Para 24, pp. 6-7.

with lack of financial pragmatism, the problems that beset defence acquisitions in the past may endure.

Table 2
Changes in the Planning Structure⁸

| DPP-2016 | | | DAP-2020 | |
|--|----------------|--|--|----------------|
| Plan | Period | | Plan | Period |
| Long-term Integrated Perspective Plan (LTIPP) | 15 years | | Integrated Capability Development Plan (ICDP) | 10 years |
| Five years Services Capability Acquisition Plan (SCAP) | 5 years | | Five years Defence Capital Acquisition Plan (DCAP) | 5 years |
| Annual Acquisition Plan (AAP) – two sections | 2-year roll-on | | Annual Acquisition Plan (AAP) – four sections | 2-year roll-on |

Procurement categories

The changes made in the procurement categories (Table 3) include (a) substitution of the ‘Buy and Make’ category by ‘Buy (Global-Manufacture in India)’, though their essential features remain the same, (b) splitting of the ‘Make’ category into three sub-categories, and (c) creation of ‘Innovation’ and ‘Leasing’ as new categories.

Table 3

| Hierarchically arranged categories (in descending order of priority) | Special categories |
|--|-----------------------------|
| Buy (Indian - Indian Designed, Developed, and Manufactured), or Buy (IDDM) | Make – Make I, II & III |
| Buy (Indian) | Innovation |
| Buy and Make (Indian) | Strategic Partnership Model |
| Buy (Global – Manufacture in India) | Leasing |
| Buy (Global) | |

Buy (Global – Manufacture in India)

This category entails outright purchase of equipment from a foreign vendor in pre-determined quantities (which may be nil), followed by indigenous manufacture “of the entire/part of the equipment and spares/assemblies/sub-assemblies/Maintenance along with Repair and Overhaul (MRO) facility (only in cases these are part of the main contract) for the equipment, through its subsidiary in India/through a Joint Venture/through an Indian Production Agency (PA) (with ToT of critical technologies as per specified range, depth and scope to the Indian PA,

⁸ While all these plans are classified, the ICDP will have a public version called Technology Perspective and Capability Roadmap (TPCR), intended to sensitise the industry about the future requirements of the armed forces. Its impact on defence production is unlikely to be any different from that of the earlier TPCRs unless its format is made more industry friendly. The TPCRs issued in 2013 and 2018 can be accessed at <https://www.mod.gov.in/dod/technology-perspective-and-capability-roadmap>.

meeting a minimum of 50 per cent IC [indigenous content] on cost basis of the Base Contract.”⁹

Make I, II & III

Introduced in 2006, the ‘Make’ procedure/category was intended to promote D&D of the prototypes of military equipment. A new sub-category has now been added to the two that already existed. The essential features of these sub-categories are:

- Make-I (government funded): Projects involving D&D of equipment, systems, major platforms or upgrades thereof by the industry with financial support up to 70 per cent (reduced from 90 per cent) of prototype development cost or maximum of ₹ 250 crores per Development Agency (DA). The upper limit may vary in individual cases.
- Make-II (Industry Funded): Projects involving D&D and innovative solutions by the Indian vendors without any government funding; solutions offered even by a single individual or a firm as a suo-moto proposal to be progressed as a Resultant Single Vendor case.
- Make-III: Products not designed/developed indigenously, but which can be manufactured in India as import substitution for product support of weapon systems/equipment held by the Services, either in collaboration with, or with Transfer of Technology (ToT) from, the foreign Original Equipment Manufacturers (OEMs).

Incentives for Micro, Small and Medium Enterprises (MSMEs)

Projects under the Make II & II sub-categories, with procurement cost not exceeding ₹ 100 crore per year, will be earmarked for the MSMEs.¹⁰ Entities recognised as ‘Start-up’ by Department for Promotion of Industry and Internal Trade (DPIIT) will also be eligible to participate in Make II cases. After successful development of the prototype under the first two sub-categories, the indigenously designed and developed equipment with a minimum of 50 per cent IC will be acquired from the successful DAs through the ‘Buy (IDDM)’ category, and under the ‘Buy (Indian)’ category for products developed under the Make-III sub-category with a minimum of 60 per cent IC.¹¹

⁹ DAP 2020, n. 1, Chapter I, para 11, p. 3.

¹⁰ Ibid., Chapter III, Paras 6 (b) & (c), pp. 322-323.

¹¹ Ibid., Chapter III, para 6 (d), p. 323.

Innovation

This new category is intended to foster innovation by involving individual innovators, technocrats, professionals, academics, smaller enterprises, start-ups and MSMEs,¹² who could develop innovative solutions making use of any one of the following routes:

- (a) Innovations for Defence Excellence (iDEX) Scheme under the aegis of the Defence Innovation Organisation (DIO);
- (b) Technology Development Fund (TDF) Scheme managed by the DRDO; and,
- (c) Indigenous Development by Services through Internal Organisations, such as the Base workshops/Dockyards/Base Repair Depots/ Internal Indigenisation organisations/Design Agency, etc.¹³

Leasing

This is ‘an innovative technique’ for possessing and operating assets without owning them, to save on initial capital cost, by making periodical lease payment to the Lessors, who could be Indian or foreign companies.¹⁴ It could be an operating lease (dry, wet or damp, depending on the kind of services required) or finance lease, with the MoD retaining the option of owning the asset for a nominal pre-determined consideration or returning it to the Lessor at the end of the lease. An elaborate procedure has been laid down for this category.

This will be a useful method for meeting the requirement where

- a) Procurement is not feasible due to time constraint,
- b) (b)Asset/capability is needed for a specific period or it would remain underutilised if procured,
- c) (c)Requirement is limited in number and administrative /maintenance infrastructure cost is likely to be high,
- d) Paying rent is a better option than incurring one-time acquisition cost,
- e) Experience is to be gained for operational exploitation of the equipment, or
- f) If the equipment is considered to be an operational necessity.¹⁵

There is not much change in the essential features of other procurement categories, except in two respects: the features of the Buy (IDDM) and Buy (Indian) categories have been swapped and the requirement of IC has been raised across all categories generally by 10 per cent in the prioritised categories. This is one of the two distinguishing features of the procurement categories, the other one being the

¹² Ibid., Chapter III, Section B, pp. 341-344.

¹³ Ibid., para 66, p. 341.

¹⁴ Ibid., Chapter IX, pp. 554-587.

¹⁵ Ibid., Para 5, p. 554.

eligibility of the vendors to participate in the tender (Table 4) While the definition of the IC remains unchanged, the method of calculating it has been simplified.¹⁶

Table 4

Category-wise IC requirement¹⁷

| Category | Vendors eligible to participate | Indigenous Content |
|--|---------------------------------|--|
| Buy (IDDM) | Indian | Indigenous design and $\geq 50\%$ |
| Buy (Indian) | Indian | In case of indigenous design $\geq 50\%$, otherwise $\geq 60\%$ |
| Buy and Make (Indian) (Buy portion may be nil) | Indian | $\geq 50\%$ of the 'Make' portion and transfer of critical technologies from the foreign vendors as per the specified range, depth and scope |
| Buy (Global – Manufacture in India) | Foreign and Indian | $\geq 50\%$ |
| Buy (Global) | Foreign and Indian | Foreign Vendor – Nil Indian Vendor $\geq 30\%$ |

There is a case for reducing the procurement categories as the essential features of some of them overlap. For example, the Buy (Indian – IDDM) and Buy (Indian) can be merged. It is the same with Buy and Make (Indian) and Buy (Global – Manufacture in India) which collectively overlap with the Strategic Partnership Model.

Acquisition cycle and procedure

There is no significant change in the acquisition cycle¹⁸ which comprises the following stages for all prioritised categories:¹⁹

- (a) Request for Information (RfI)
- (b) Formulation of Services Qualitative Requirements (SQRs)
- (c) Acceptance of Necessity (AoN)
- (d) Solicitation of offers through Request for Proposal (RFP), including offset offer, if applicable
- (e) Evaluation of technical offers by the Technical Evaluation Committee (TEC)(f) Evaluation of the offset offers by the Technical Offset Evaluation Committee (TOEC)
- (f) Field Evaluation Trials (FET)
- (g) Staff Evaluation
- (h) Oversight by Technical Oversight Committee (TOC), if required

¹⁶ Ibid., Chapter I, Appendix B, pp. 14-19.

¹⁷ Ibid., Chapter I, Para 21, p. 6.

¹⁸ Ibid., Chapter II, para 1, p. 20.

¹⁹ These stages are not applicable to other categories like 'Make' and the 'Strategic Partnership Model', for which the procedures are laid down in the relevant chapter of the DAP-2020. There is, however, a considerable overlap between all these procedures, especially regarding the tendering process, evaluation of bids and contracting, etc.

- (i) Contract negotiations by Contract Negotiation Committee (CNC)
- (j) Approval of the Competent Financial Authority (CFA)
- (k) Award of the Contract/placing of Indents
- (l) Post-Contract Management

A few changes have been made in the processes linked with each stage in the acquisition cycle, especially regarding RfI, but textual ambiguity endures.²⁰

Other special procedures

Separate procedures have been laid down in chapters on

- (a) Acquisition of systems designed and developed by the DRDO/DPSU/OFB;
- (b) Fast Track Procedure (FTP);
- (c) Revitalising Defence Industrial Ecosystem through Strategic Partnerships;
- (d) Acquisition of Systems Products and ICT Systems;
- (e) Other Capital Procurement Procedure; and,
- (f) Procedure for Defence Ship Building.

The first three of these special procedures are not new additions to the DAP-2020²¹, though some minor changes have been made. For example, an earlier ambiguity in the case of the FTP has been removed by providing that the Empowered Committee (EC) may be authorised by the Defence Acquisition Council (DAC) to negotiate and conclude contracts, but where it is not so authorised, a CNC may be constituted to negotiate the contract on receipt of the EC's report.²²

Procedure for Defence Shipbuilding

The Procedure for Defence Shipbuilding which was divided into two sections in the DPP-2016 has now been split into three sections as follows:

- Section 'A': Acquisition of weapon intensive and/or specialised naval platforms requiring transformational and evolutionary design like Aircraft Carrier, Next Generation Destroyer, through indigenous design

²⁰ For example, a new provision in the DAP-2020 says that the FET "will not be conducted as a process of elimination but with an objective to nurture competition" and that the "primary focus of the evaluation should, therefore, be towards testing the equipment based on its anticipated employability" (DAP-2020, n. 1, Chapter II, Para 66, pp. 44-45). Unless translated into specifics and included in the Trial Methodology/Trial Directive, this provision may result in subjective and varying interpretation by the Trial Teams or Trial Wings to be set up at the Indian Army's Training Institutions/Establishments for conducting trials for the army-related acquisitions.

²¹ While the DPP-2016 also had the chapters mentioned at (b) and (c), Para 72 of Chapter 1 thereof has been expanded into Chapter IV of DAP-2020 that covers acquisition of systems D&D by the DRDO/DPSUs/OFB.

²² DAP-2020, n. 1, Chapter V, Para 16, p. 392.

by the Service Headquarters (SHQ) and construction by Indian shipyard(s) on nomination basis.

- Section 'B': Acquisition of Naval Ships/Submarines, Coast Guard ships, Yard crafts and Auxiliary Crafts etc. to be constructed on competitive basis.
- Section 'C': Acquisition of Naval Ships/Submarines of indigenous design by SHQ to be constructed by Indian Shipyards on competitive basis.

Procedure for acquisition of Systems Products and ICT Systems

This procedure is for acquisition of items such as the Electronic Warfare Equipment, Satellite based Communication Systems, Command, Control & Communication Intelligence Network systems, Intelligence gathering equipment, Satellite Imaging and Mapping Systems and surveillance systems, Artificial Intelligence solutions, etc., mostly on turn-key basis, because of the peculiarities of such acquisitions.

Other Capital Procurement Procedure (OCPP)

This procedure, included in the DAP-2020 for the first time, is predicated on the system introduced in 2007, which later came to be known as the Capital Budget Revenue Procedure (CBRP). It will now be applicable to repetitive expenditure of capital nature that enhances the utility of the existing assets. This could include overhauls, major refits, and upgrades, as also replacement, of the existing platforms/equipment.²³

It will not be mandatory to issue RfI or formulate SQRs in these cases and the AoN will be accorded by the Competent Financial Authorities (CFA) as per delegation of powers for capital acquisition. In addition, powers have also been delegated to the Army Commanders and their equivalent up to ₹ 100 crore and some Principal Staff Officers in the Service Headquarters up to ₹ 200 crore.²⁴

This may create some difficulty as the Finance Minister is the CFA for cases falling between ₹ 2,000 crore and ₹ 3,000 crore and the Cabinet Committee on Security (CCS) for all cases beyond that limit. It will be cumbersome to approach these authorities twice: first for the AoN and then for obtaining financial approval to award the contract.

²³ A new list of items/activities covered by this procedure will be notified by the MoD.

²⁴ DAP-2020, Chapter X, para 5, p. 589

Miscellaneous features

Standard Contract Document (SCD)

Apart from inclusion of the definition of various contractual terms in the Preamble, some textual changes have been made as in the case of the clause relating to taxes and duties. Some new clauses have also been added. These are Monitoring of projects based on contractual milestones, Title and risk of loss, Payment deductions and damages for shortfall in AMC/CMC/PBL/LCSC²⁵ services, Termination (of the contract), Risk purchase, Buyer's right to optimisation of life cycle support and system enhancements, and Survival (of certain clauses) after cancellation or expiration (of the contract). Besides textual ambiguities, implementation of some of the new clauses may be a challenge.²⁶ Be that as it may, the efficacy of the contracts will depend on the ability of the MoD personnel to customise the SCD clauses according to the need in individual cases, which has always been a challenge.

Offsets

The changes made in the offset policy include discontinuance of transfer of equipment and services (except MRO) as an eligible avenue/area for discharging the offset obligation, recasting of the list of eligible products which is now focussed more on finished equipment and platforms rather than components, revision of the list of transferable technologies that qualify for offsets, rejigging of the multipliers (the multiplier for components being reduced to 0.5), and permission to entities other than the prime vendor/Tier-I sub-vendors to discharge offset obligation on a case-to-case basis.

Curiously, the ab-initio Single Vendor Cases (SVCs), which include all procurements made through Inter-governmental Agreements and the US Government's Foreign Military Sales programme, have been exempted from offsets. Considering that a large proportion of procurement in the recent years has been through these routes, the number of offset obligation carrying contracts exceeding ₹ 2,000 crore – the present cut off for stipulating the offset requirement in a contract, would come down significantly.

Post-contract management

The DAP-2020 casts the responsibility for contract administration on the SHQs and for post-contract monitoring on the MoD's Acquisition Wing. This entails management of pre-dispatch and joint-receipt inspections, change in the vendor's name, bank guarantees, payments, delivery schedule, liquidated damages, contract

²⁵ AMC (Annual Maintenance Contract), CMC (Comprehensive Maintenance Contract), PBL (Performance Based Logistics), LCSC (Life Cycle Support Contract)

²⁶ For example, harmonising the clause which gives MoD the right to optimise life cycle support and system enhancements by involving third parties with the seller's Intellectual Property Rights and the warranty obligations could be problematic.

amendment, IC verification, buy-back, claims, arbitration, termination of contract, etc. These functions are important, but in the absence of step-by-step instructions for the contract managers, the new chapter may be of limited help. It would have been more useful to draw up checklists, highlight the problems likely to be faced by them at various stages, and instruct them on how to deal with those situations.

Conclusion

The DAP-2020 is a sincere effort by the MoD to improve the procurement procedure, but it is replete with several concepts and ideas, some of which are ambiguous and lack clarity of purpose. For instance, the Technical Managers (TMs) and their deputies -an integral part of the Capital Acquisition Wing from the beginning- have been re-designated as Additional and Deputy Directors General (Technical) respectively, while the designation of the Finance Managers and the Acquisition Managers, who work alongside the TMs, remains unchanged.²⁷ Such changes do not contribute to any improvement but send a wrong signal. The best of systems and procedures can be rendered ineffective by indecisiveness, sluggish decision-making and needless embellishment.

²⁷ DAP-2020, Chapter I, para 31, p. 11

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