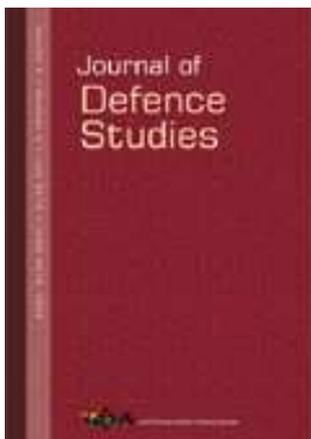


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Galvanising 'Make in India' in Defence The Experts' Committee Chips In

*Amit Cowshish**

In spite of spending close to Rs 500,000 crore on capital acquisitions between 2002–03 and 2014–15, the Indian Armed Forces continue to suffer from a chronic shortage of equipment and ammunition, low levels of serviceability of equipment already in service, and a heavy dependence on imports. The procurement programmes keep getting stalled or take inordinately long to fructify. There are several reasons for this morass; the primary ones being disjointed defence planning, limited budgetary support for modernisation of the armed forces, procedural complexities, and bureaucratic indolence. Of these, the factor that receives the greatest attention is the procedural complexity besetting defence procurements. The Defence Procurement Procedure (DPP) was first promulgated in 2002 and has been revised several times thereafter by the Ministry of Defence (MoD), in consultation with the users and the industry, but the problems, whether real or perceived, have persisted. More than a year into its five-year term, the present government set up a Committee of Experts (CoE) to address this problem holistically, against the backdrop of its 'Make in India' drive. This article presents a perspective on the report of the Committee and ends with a broad approach for phased implementation of the acceptable recommendations of the Committee.

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RUN UP TO THE SETTING UP OF THE CoE

The Kargil operations in 1999 exposed the deep-rooted malady afflicting defence procurements. One of the steps taken by the government in the aftermath of the operations was the setting up of new defence procurement structures and systems in 2001 to implement the recommendations of the group of ministers (GoM) on reforming the national security system.

In 2002, MoD came out with a DPP with the primary objective ‘to ensure expeditious procurement of the approved requirements of the Armed Forces in terms of capabilities sought and (the) time frame prescribed by optimally utilising the allocated budgetary resources’, while all the time keeping in mind ‘the goal of achieving self-reliance in defence equipment.’¹ Every subsequent edition of DPP² starts with the same narration about its lineage and objectives.

The biennial review mandated by DPP 2002, as indeed by all subsequent versions, is seen by many as an indication of MoD’s fickle-mindedness, or worse, as an oblique admission that the frequent reviews are warranted because the procedure continues to be inefficient, preventing the ministry from achieving the stated objectives. This is an uncharitable view considering that since 2002–03, MoD has spent around 90 per cent of the budgetary allocation made at the initial stage for capital procurements³, and there is no empirical evidence to establish that the remaining amount could not be spent entirely, or even primarily, on account of the procedural tangles. Be that as it may, the popular perception about the procedure being inefficient persists, reinforced by the fact that there is hardly a procurement proposal that progresses according to the time frame prescribed in the DPP.

Delivering his first budget speech in the Parliament on 10 July 2014, Finance Minister Arun Jaitley, who also happened to hold the defence portfolio at that point of time, said, ‘Urgent steps would also be taken to streamline the procurement process to make it speedy and more efficient.’⁴ To be sure, despite his preoccupation with the Ministry of Finance (MoF), he did manage to clear procurement proposals worth more than Rs 100,000 crore before the present incumbent, Manohar Parrikar, took over as the 36th Defence Minister of India in November 2014.

While Defence Acquisition Council (DAC) approvals did pave the way for the tendering process to begin in respect of a large number of procurement proposals, the promise made in the budget speech of taking

urgent steps to streamline the procurement process to make it speedy and more efficient remained on the back burner for almost a year after it was made. It was only on 1 May 2015 that a CoE was set up by the MoD for recommending 'amendments to DPP 2013 including formulation of (a) policy framework'.

TERMS OF REFERENCE OF THE CoE

The Committee comprising 10 members, including serving and retired officers from MoD, the three Services and the Defence Research and Development Organisation (DRDO), apart from a professional from the Confederation of Indian Industry (CII), was set up with the following terms of reference:

1. To evolve a policy framework to facilitate 'Make in India' in defence manufacturing and align the policy evolved with the DPP (2013).
2. To suggest the requisite amendments in DPP 2013 to remove the bottlenecks in the procurement process and also simplify/rationalise various aspects of the defence procurement.⁵

These terms of reference are a bit perplexing. The first term of reference gives the impression that there has been no defence manufacturing policy in India so far and, even if it exists, it is bereft of any make-in-India element. This is clearly not the case. In January 2011, MoD had released Defence Production Policy,⁶ which specifically stated:

The objectives of the Policy are to achieve substantive self reliance in the design, development and production of equipment/weapon systems/platforms required for defence in as early a time frame as possible; to create conditions conducive for the private industry to take an active role in this endeavour; to enhance potential of SMEs in indigenization and to broaden the defence R&D base of the country.⁷

It went on to say, 'Wherever the required arms, ammunition and equipment are possible to be made by the Indian industry within the timelines required by the Services, the procurement will be made from indigenous sources.'⁸

The Defence Production Policy of January 2011 coincided with the release of DPP 2011, which also, like all its earlier editions, emphasised 'the goal of achieving self-reliance in defence equipment'. This goal cannot obviously be achieved without promoting design, development

and manufacturing of defence equipment in India. The entire system of defence procurement is designed to do exactly that, although the results have belied the expectations.

The first term of reference set for the CoE, therefore, left it to the Committee to figure out what was new about the government's 'Make in India' trope and in what respect the existing Defence Production Policy and the procedure laid down in the successive DPPs did not fit into the new concept of 'Make in India' in the defence sector.

In the event, the Committee started by defining what it thought 'Make in India' meant for the defence sector in the following words:

3.1.02 A 'Make in India' policy for the defence sector would ideally aim to reverse the current imbalance between the import of defence materiel and indigenous manufacture of defence materiel without adversely affecting the requirements, capability and preparedness of the user. There are several aspects of this process, the best case scenario being that we have the ability to design, develop, make, i.e. the ability to manufacture and integrate, test, maintain and upgrade the defence systems we require and, if possible, export these on one hand while developing synergy with the civilian sector on the other. Where this is not feasible, we should be able to at least manufacture or integrate the system within the country with the help of full technology transfer. Given the nature of the defence materials, this may not be possible all the time. In such cases we should at least have the ability to provide a life cycle support i.e. repair and maintenance if not mid-life upgrade...⁹

This conceptualisation of 'Make in India' in relation to defence production in terms of the need for promoting indigenous production of the defence equipment is not any different from the underpinning of all policies and procedures rolled out by the MoD in the past. In fact, the emphasis on reversing the ratio of imports to exports goes back to the Professor A.P.J. Abdul Kalam Committee of the 1990s.¹⁰

The second term of reference, as mentioned earlier, required the Committee to 'suggest the requisite amendments in DPP 2013 to remove the bottlenecks in the procurement process and also simplify/rationalise various aspects of the defence procurement'. All previous reviews of DPP 2002 had the same objective but the changes made in the procedure over the years failed to remove the perception that the procurement procedures are cumbersome, inefficient and even archaic. Therefore, it was left to the Committee to diagnose the problem and suggest the remedy.

While all previous reviews were carried out directly by MoD, in consultation with the industry and other stakeholders to the extent possible, asking an independent committee to suggest amendments was a smart move as it meant the various stakeholders could have a more detailed, free and frank interaction with the committee members, who would not be hard-pressed for time and hamstrung by impregnable reticence that typifies the officialdom.

What was lacking, however, was the directive to study a few actual cases to determine what is wrong with the existing procedure. In the circumstances, the Committee did the best it could by including a question in the questionnaire it sent out to the Acquisition Wing, Services Headquarters (SHQs), and others, on the specific/perceived reasons for delay vis-à-vis the schedule given in the DPP for processing of procurement proposals and seeking their suggestions for addressing the problem.

Without in any way discounting the significance of the feedback sought by the CoE on this issue, it needs to be said that the level of objectivity required for diagnosing the root cause of any malady cannot always be achieved through self-analysis by the affected entities.

As argued in the next part of this article, the infirmities in the terms of reference and reliance on feedback as regards the factors responsible for the procedural inefficiencies and suggested remedies from the agencies responsible for procurement resulted in diffusion of focus on the implementability of the recommendations.

RECOMMENDATIONS OF THE COMMITTEE

The Committee has made separate recommendations in respect of the two terms of reference which broadly relate to: (a) policy and procedure for facilitating 'Make in India' in defence manufacturing; and (b) amendments required to be made in the DPP 2013 to remove the bottlenecks in/simplify the procurement process.

The First Term of Reference

At the policy level, the main recommendations revolve around: (a) review of the Defence Production Policy of 2011; (b) adoption of 'strategic partnership' model; (c) broad-basing of the 'Make' category; (d) improving the contents of the Technology Perspective and Capability Roadmap (TPCR) and sharing the information with the industry; (e) devising the criteria for selection of production agencies from the

private industry for transfer of technology (including maintenance technology) from the foreign entities; (f) increasing the indigenous content in the Buy (Indian), Buy and Make (Indian) and Make projects; (g) creating an export arm for the DRDO; (h) corporatisation of the Ordnance Factory Board (OFB); and (i) merger of the four defence shipyards into one corporate entity.¹¹

Apart from these, the CoE has recommended that the MoD should start working on formulation of an appropriate technology security policy and the institutional framework for its implementation. The Committee also wants that in addition to reviewing the Defence Production Policy, the MoD should promulgate a 10-year road map for the Indian defence industry, 'with measurable targets both in terms of revenue as percentage of defence capital expenditure as well as in terms of indigenous content value.'¹²

Each of these recommendations is important in its own right but the package does not seem to add up to a comprehensive and ready-to-implement policy framework. This is partly because the first term of reference did not define the objective of 'Make in India' in defence production in precise terms. This omission seems to have created a dilemma for the Committee: whether the primary objective of 'Make in India' in defence production is to meet the requirement—most of which are immediate—of the armed forces or is it to promote indigenous production of defence equipment to meet that requirement?

The Committee undoubtedly tried to harmonise these objectives but, in the process, ended up making recommendations which lean more towards the latter objective, without considering the practicality of some of the recommendations or the implications in terms of the time it would take to implement those recommendations.

Take, for example, the recommendation concerning the 'strategic partners', which is one of the most significant steps recommended by the Committee. Defence procurements are classified under five categories. Two of these, namely, 'Buy and Make (Indian)' and 'Buy and Make', entail manufacturing of equipment in India with the help of technology transferred by the foreign manufacturer. Another one, namely, 'Make' category, entails indigenous design and development of prototype of high-technology futuristic systems.¹³

The Committee has recommended 'strategic partnership model' for the 'Buy and Make category',¹⁴ which entails transfer of technology by foreign manufacturers to Indian companies. The MoD was quick to

appoint a committee under V.K. Atre, a former Scientific Advisor to the Defence Minister, to recommend the criteria which could be adopted for identifying such partners. As of 20 December 2015, the committee was yet to submit its report, but going by the press reports, the criteria likely to be proposed could eliminate most of the Indian private sector manufacturers from the race.¹⁵

If true, this is bound to be opposed by the industry which, even otherwise, is not likely to be happy with the recommendation that:

...having been declared a Strategic Partner in [a project relating to] any platform, or a family of complex weapons or a major network programme that entity or its associate or subsidiary should not be eligible to be chosen as a Strategic Partner for any other purpose under this dispensation.¹⁶

It may be recalled that a similar effort made about a decade back to notify Raksha Udyog Ratnas (RURs), or Industry Champions, to undertake 'Make' projects was abandoned by the MoD after going through the trouble to identify them. There is no guarantee that a similar fate does not await the efforts to identify 'strategic partners'. The Committee also does not seem to have examined the feasibility of adopting the 'Avro replacement model' for 'Buy and Make' cases, in which MoD permitted the foreign vendors to choose Indian partners on their own for transfer of technology. This model would have been more easily implementable as it frees the Ministry from the responsibility of nominating an Indian partner from the private sector, which is bound to be contentious.

Thus, the recommendation concerning one of the important procurement categories that has a bearing on private sector participation in defence production faces the prospect of running into rough weather. The committee seems to have been influenced by the idea underlying the first term of reference that 'Make in India' in defence is a new concept which requires a drastic departure from the existing procedure applicable to 'Buy and Make' procurements as envisaged in the DPP, although the same objective could possibly have been achieved by adopting the 'Avro-replacement' model.

Some of the other recommendations also entail similar uncertainty and possibly a long gestation period. Corporatisation of the OFB, for example, is an old idea that has met with stiff resistance from the labour unions in the past. Not much has changed in terms of the electoral imperatives faced by the political parties. Therefore, it is not going to

be easy to implement this recommendation, as also the one concerning merger of the four defence public sector shipyards into one entity.

The issue is not about the merits of these proposals concerning OFB and the public sector shipyards but about their implementability, and even if these measures somehow do get implemented, the results may still fall short of the expectation because of the inefficiency inherent in the ministerial control over the public sector/corporate entities. To a large extent, the defence public sector undertakings (DPSUs) have been the victim of the system of ministerial control. Tackling this problem is going to be not only difficult but also time consuming.

The purpose here is not to analyse each recommendation made by the CoE but to underscore the point that because of the way the first term of reference was formulated, the Committee ended up assuming that the objective of 'Make in India' in defence has to be different from the objectives of the defence procurement regime introduced in 2001. Consequently, it has made wide-ranging recommendations about various aspects of procurement that will need further examination and deliberations before a comprehensive and implementable policy framework can be evolved, which may, in any case, turn out to be something not very different from the policy underpinnings of the existing procurement procedure.

The Second Term of Reference

The second term of reference concerns amendments in DPP 2013 to remove the bottlenecks in the procurement process and to simplify/rationalise various aspects of defence procurement. The Committee has retained the basic architecture of the procurement procedure, which is predicated on categorisation of procurements into five distinct categories, as mentioned in the first part of this article, and 10 different stages in the complete procurement cycle from the stage of acceptance of necessity (AoN) to signing of the contract.¹⁷

It has, however, made a large number of recommendations relating to various aspects of the procedure. These include: definition of an Indian vendor; attributes of various procurement categories; request for information (RFI); services qualitative requirements (SQRs); AoN; technical, field and staff evaluations; technical oversight; contract negotiation; single-vendor situation; debarment of entities; agents/marketing intermediaries; integrity pact; standard contract document; payment terms for the Indian vendors; royalty/fee for technical services;

'Make' procedure; offsets; ombudsman; eminent persons group (EPG); pre-audit of contracts by the Comptroller and Auditor General (C&AG); level playing field; taxation, incentives and deemed export status for the defence industry; acquisition organisation; acquisition workforce; micro, small and medium enterprises (MSMEs); and the procedure for shipbuilding.¹⁸

These recommendations fall into three categories: recommendations that are related more to the policy than the procedure; those that are not within MoD's remit; and those that can be implemented by MoD on its own.

The most significant of the recommendations that falls in the first category is the one relating to a 'procurement executive', which quintessentially amounts to virtually outsourcing of the responsibility for spearheading the entire gamut of activities related to defence production and procurement to an entity 'working outside the staff oriented environment of a Government of India Ministry'.¹⁹ This idea, coupled with the idea of a dedicated acquisition workforce, is similar to the one which led to setting up of a separate Defence Acquisition Wing in MoD in 2001. However, taking it a step forward, as suggested by the Committee, is bound to entail a long-drawn debate about its merits and demerits, modality of implementation and the implications it would have on the administrative system of the country.

The second category comprises the recommendations such as those related to taxation, incentives and deemed export status for the defence industry, which are not within MoD's remit. An important recommendation that falls in this category is the creation of an innovative funding mechanism for channelising the foreign direct investment (FDI) received through the offsets route. These recommendations are important for the Indian industry and can be implemented in a relatively short time in consultation with other ministries, notably MoF.

The third category comprises all other recommendations that are specifically linked with the existing provisions of the DPP. The Committee has done well to recommend in specific terms what exactly needs to be done, as in the case of the changes required to be made in the standard contract document. It is the last category of recommendations that redeems the report from being overwhelmed by macro issues concerning 'Make in India' in defence as a concept different from the policy underpinnings of the existing defence procurement regime.

BREAKING THE CONUNDRUM

Five months after the report was submitted by the CoE, uncertainty continues to surround its recommendations. Any changes made in the policy and procedures will start showing results after a couple of years as defence production and procurement entail a long gestation period. For a government that is committed to ensuring better defence preparedness, coupled with self-reliance in defence through increased indigenous production of the defence equipment, it is imperative to evolve a plan of action to implement the recommendations made by the Committee, to the extent these are acceptable to it.

Clearly, the implementation of the report should start from the last category of recommendations made by the Committee to amend DPP 2013. These recommendations aimed at removing the bottlenecks in the procurement process and simplification/rationalisation of the various aspects of the defence procurement procedure are independent of any policy framework for 'Make in India' that the MoD may like to eventually formulate. Implementation of these recommendations is also entirely within the purview of the MoD and will start showing results in the near future, especially if these are made applicable to all ongoing procurement proposals and contracts, to the extent feasible.

All recommendations that relate to the procedure—as distinct from the policy—for procurement of equipment under the 'Buy (Indian)', 'Buy and Make (Indian)', 'Buy and Make' and 'Buy (Global)' categories must receive priority. Most of the procurement in the near future will continue to be through these categories. Even the inter-governmental agreements/government-to-government (G2G) agreements typically follow the procedural steps related to these categories, barring procurements under the Foreign Military Sales (FMS) programme of the United States government which, in any case, is not affected by the procedure laid down in the DPP, barring the offset component of purchases made through this route. It is, therefore, also important to take a final view on what changes need to be made in the offset policy.

The 'Make' procedure can be delinked from the rest of the DPP as the projects under this category are always going to be limited in number. If anything, this will reduce the bulk of the DPP, which many consider quite intimidating.

The recommendations that are beyond MoD's remit but nevertheless have a bearing on procurement, such as those related to taxation, incentives and deemed status for the defence industry, need to be taken

up with MoF immediately so that, to the extent possible, these get implemented in the budget for 2016–17.

It might take a long time for the government to take a decision on other recommendations that have larger policy ramifications, such as those related to creation of a defence procurement executive or creation of a funding mechanism for channelising FDI received through the offset route. It will make little sense to hold up the release of the new version of DPP 2013 because of the recommendations on which the decisions cannot be taken immediately.

To conclude, defence production and procurement would get an immediate shot in the arm if small steps are taken to make the existing system more efficient, based on the micro recommendations made by the Committee concerning improvement in the procurement procedure. Formulation of a new comprehensive policy on 'Make in India' in defence, based on the recommendations of the Committee, is going to be tedious and time consuming and, therefore, should not hold the ministry back from taking steps that will start showing results before the time runs out.

NOTES

1. DPP, 2002, para 2. The document is unavailable online.
2. The DPP was revised in 2005, 2006, 2008, 2011 and 2013.
3. This is based on the information gathered from various public sources, primarily the Defence Services Estimates of the relevant years and the reports of the Standing Committee on Defence.
4. Speech of Arun Jaitley, Finance Minister, 10 July 2014, paragraph 141, p. 26, available at http://finmin.nic.in/fmspeech/FM_BudgetSpeech_july2014.pdf, accessed on 29 December 2015.
5. MoD, ID No 1(3)/D(Acq)/15, dated 1 May 2015. This is appended as Appendix A to the Report of the Experts' Committee, available at <http://mod.nic.in/writereaddata/Reportddp.pdf>, accessed on 29 December 2015.
6. MoD, Department of Defence Production, 'Defence Production Policy', January 2011, available at <http://ddpmod.gov.in/showfile.php?lid=94>
7. *Ibid.*, para 2.
8. *Ibid.*, para 3.
9. 'Report of the Experts' Committee', New Delhi, July 2015, para 3.1.02, p. 39, available at <http://mod.nic.in/writereaddata/Reportddp.pdf>, accessed on 29 December 2015.

10. For a detailed analysis, see Laxman K. Behera, 'Estimating Self-reliance in India's Defence Production', IDSA, New Delhi, 20 July 2012, available at <http://www.idsa.in/event/EstimatingSelfRelianceinIndiasDefenceProduction>, accessed on 29 December 2015.
11. This is not an exhaustive summary of the recommendations.
12. This is mentioned in paragraph 6.5.08 on p/177 of the report of the Experts' Committee, referred to in n. 5.
13. For a detailed account of the procurement categories, see DPP 2013, chapter 1, para 4, pp. 3–4.
14. Report of the CoE, n. 9, para 3.3.10, p. 49.
15. Sushant Singh, 'Proposed Criteria to Shut Out Most Indian Pvt Defence Manufacturers', *The Indian Express*, 30 November 2015, available at <http://indianexpress.com/article/india/india-news-india/proposed-criteria-to-shut-out-most-indian-pvt-defence-manufacturers/>.
16. 'Report of the Experts' Committee', n. 9, para 3.3.13, p. 50.
17. DPP 2013, n. 12, chapter 1, para 12, p. 6.
18. As in the case of the first term of reference, the recommendations, referred to here, are not exhaustive.
19. Report of the CoE, n. 9, p. 215.