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Upset over offsets: India, US to fix old problem to take ties to new heights

By [Manu Pubby](#), ET Bureau | Sep 04, 2018, 07:17 AM IST

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Representative image.

The inaugural '2+2 dialogue' between [India](#) and the United States later this week aimed at strengthening defence ties is likely to include a discussion on the offset policy that overseas firms complain makes it tough to do business in the country.

Although India-US defence trade has grown from nil to \$15 billion, companies such as [Boeing](#), Lockheed Martin and Textron, which execute military contracts, maintain that they are finding it difficult to adhere to India's offset

rules which mandate that at least 30% of the contract cost should be invested in the domestic industry.

While France has stumbled into a political controversy over the offset deal for the [Rafale fighter jets](#) to Reliance Defence, US companies operating in India are seeking to surmount the wall of bureaucracy over the policy that potentially impedes the government's 'Make in India' plan.

Offset Offence

Almost all companies operating in India have run into trouble over offset policy – Lockheed Martin has been fined half a million dollars for failing to meet obligations, Textron shut down its India offices after getting slapped with a stiff penalty and Boeing has been struggling to discharge offsets for the \$4.7 billion deal for C-17 transporters.

Boeing is also facing a unique problem that forced it to take an extension from the defence ministry to execute offsets.

In 2011, when the aircraft deal was signed with Boeing, India saw it as an opportunity to bring in cutting edge technology to the country as part of the offsets. The Defence Research and Development Organisation (DRDO) identified the Trisonic Wind Tunnel as a desirable technology which would help in the design and development of future aircraft and unmanned aerial vehicles or UAVs. However, with the technology being restricted for export, it took discussions at the defence minister level to get clearances for the project.

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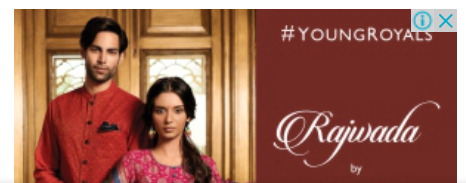
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In a twist, however, while the permissions from the US side came through after six years in 2017, the DRDO has not moved ahead on the project since. While 18 months have gone by after US government approved the licence, the DRDO appears to be having a rethink on the project. Although an extension has been granted to Boeing, if the project does not go through the company would be sitting on a huge offset liability that could get difficult to execute.

This particular issue is likely to come for discussion at the ministerial talks later this week, given that it ticks all the boxes on transfer of critical technology but has taken a backseat even though the funding already exists for it.

Unlimited Liability

The ministry's unbending approach on offsets to meet all rules in the book has left not just the US firms but also other overseas firms in a quandary. From the ministry's side, there is no room for manoeuvre given that there have been at least three corruption cases under investigation in which the offsets route was allegedly used to route payments to corrupt individuals.

As per the rule book, the defence ministry has to approve all execution of offsets and, at the end of the contract, give an undertaking to the company freeing it of all obligations.

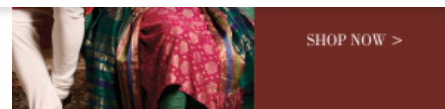
However, despite the offsets rule being in force since 2005, not a single major offset contract has been closed so far. This means the ministry has not yet fully audited and approved them.

Take the case of the Boeing P-8I naval aircraft, for example, which came under fire from the Comptroller and Auditor General (CAG) recently for non-compliance of offsets, among other issues.

The CAG said that the company had not met obligations worth \$641 million, even as the contract was signed in 2009. However, with the ministry yet to conclude its internal audits, the offsets are still shown as outstanding, leaving a liability on the books of the arms manufacturer.

Among several issues on offsets that were taken up for discussions over the past few months between India and the US in the run-up to the 2+2 dialogue, a key point raised was that the offset guidelines place an unlimited financial liability on the company for not being able to fulfil them. The US suggested a capping of penalty at 5% on the unfulfilled obligation.

Experts suggest it is time to change the policy of fining companies for offset non-



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"Indian MoD (ministry of defence) would have strictly followed the prevailing process in levying such penalties, but maybe it's time to review our processes to ensure our policies are coupled with ease of doing business. While India and the US are working overtime to strengthen their defence trade relationship, these hiccups could be detrimental if they lead to potential disputes," she said.

A key problem, according to experts, is that with an indefinite liability of offsets, companies need to show in the books that they have adequate capital to pay the fine or penalty on implemented projects.

This ties down part of the capital available with companies.

Tweaks Suggested

While India is planning to tweak its offsets policy – a draft is already doing the rounds that will include the creation of a dedicated fund approved by stock market regulator Sebi that foreign companies can invest in – the US side has suggested several changes that can streamline the process. These include electronic submission, monitoring and auditing of offset deals, extending the period of performance that is currently linked to the delivery period of the product to at least 10 years and enabling a provision to use offsets for skill development in India.

The industry feels that even the State Trading Corporation has a far better offsets monitoring mechanism and is able to process offset credits with efficiency. At present, the defence ministry takes over six months to add an Indian offset partner for such contracts, a time period that could be shrunk with an online system.

While these tweaks could be rolled out shortly, the Indian industry is keen that the focus not be shifted away much from using these obligations to encourage manufacturing in India. For Indian companies such as Tata, which makes major components for the Apache helicopters, including the fuselage for international orders with its joint venture with Boeing as part of offset deal, these are the stepping stones to fulfilling their global ambitions.

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CBI bickering, PMO summons top two

IANIS | Oct 22, 2018, 11.14 PM IST

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In Pic: The CBI Headquarters in New Delhi.

The rift in the top in [CBI](#) took a serious turn on Monday when a Deputy Superintendent of Police was arrested for alleged falsification of records in the bribery allegations against Special Director Rakesh [Asthana](#) as Prime Minister [Narendra Modi](#) stepped in amid the fracas between the top two officials.

The [PMO](#) summoned CBI Director [Alok Verma](#) and Asthana in an apparent bid to put a lid on the open war between the two officials, who had levelled bribery allegations

against each other.

There was no official word on what the officials discussed with the higher-ups in the Prime Minister's office, but it is understood that the two officials have been told to make amends

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During the day, the agency arrested its Deputy Superintendent Devendra Kumar, who was earlier the investigation officer in a case involving meat exporter Moin Qureshi, on a charge of "falsification of records".

Kumar's arrest comes a day after the agency registered an FIR against Asthana and several others for allegedly accepting bribes to settle a case of meat exporter Moin Qureshi, who is facing multiple cases of money laundering and corruption. The CBI has alleged that bribes were given at least five times between December, 2017 and October this year.

"Kumar, who has been the investigation officer in the Qureshi case, has been arrested on the allegation of falsification of records," the agency said in a statement.

It said Kumar had fabricated the statement of Sathish Sana, a witness in the Quershi case, showing he recorded the statement on Septemebr 26, 2018 in Delhi.

"However, investigation revealed that Sana was was not in Delhi on September 26. He was in Hyderabad on that day and joined the investigation only on October 1, 2018," it added.

The CBI said "It was found that Kumar had fabricated the statement as an after-thought to corroborate the baseless allegations made by Asthana against CBI director to CVC."

An CBI official said that Sana's statement was recorded on October 3.

He said the agency was also probing the role of other officers of the CBI Special Investigation team (SIT) then supervising the Qureshi case.

The official said the agency during the searches at Kumar's residence and his office at the agency's headquarters in south Delhi's Lodhi road. The CBI seized eight mobile phones, one iPad and documents pertaining to Qureshi case.

The statement said the role of Kumar became suspect as the fabricated statement signed by Kumar on September 26 quoted Sana as saying that during June 2018, he had discussed his case with one of his old friends C.M. Ramesh, a Rajya Sabha member who assured him of that he would take tp the concerned Director.

"Subsequently, when met with Ramesh, he told that he had met CBI Director personally regarding my case and examination by CBI. Ramesh also informed that I will not be called by again in this case. Since from June onwards, I was not called by CBI. I was under the impression that investigation against me is completed," the statement said.

The official further said that during investigation it was revealed that Sana was detained on September 25 at Hyderabad International Airport.

Asthana, a 1984 batch Indian Police Service officer of Gujarat cadre, is accused of accepting a bribe of Rs 2 crore from a businessman who was under probe in the Qureshi case in order to "wreck" the investigation. The case was being examined by a special investigation team (SIT) headed by Asthana.

When asked about did the agency take permission from the government under section 17 (A) of Prevention of Corruption Act while filing a case against Asthana, the official replied

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Asked about the allegations pertaining to CBI Additional Director A.K. Sharma's family having shell companies in partnership with undesirable contact men (UCM), the official said that he has no comments to offer as CVC was already looking into those charges.

Asthana had mentioned about it in his August complaint to CVC, the official said.

According to CBI sources, Manoj Prasad who was also arrested on October 16, had met Chetan Sandesara in London.

He said, however, the CBI has no information when and where this meeting took place in London.

Chetan along with his brother Nitin Sandesara are promoters of Sterling Biotech which had duped banks to the tune of Rs 5,000 crore. They are being investigated by the CBI and the Enforcement Directorate.

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PTI | Oct 22, 2018, 10.11 PM IST

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Indian Hindu devotees line up to worship at the Lord Ayyappa temple at Sabarimala in the southern state of Kerala.

SABARIMALA: The doors to Sabarimala temple closed Monday night, six days after opening for the first time since the Supreme Court lifted the ban on entry of women of menstruating age, but climbing the 18 "sacred steps" leading to the sanctum sanctorum proved a tall order for them.

Valiant attempts by around a dozen women, including activists and journalists in the 10-50 years age group to script history came to nought as frenzied devotees of Lord Ayyappa, the eternally celibate deity, heckled and

hassled them and forced them to retreat.

Yet another woman in the "barred" age group made a futile attempt Monday to reach Sabarimala but was turned back by agitated protesters.

Bindu, a Dalit activist, who was proceeding to Pamba at the foothills of Sabarimala temple from where devotees undertake an arduous 5 km trek to the shrine, was given police protection at her request, officials said.

However, when the Kerala State Road Transport Corporation bus she was travelling on with police personnel was about to reach Pamba, a group of BJP workers and those opposing the entry of girls and women aged between 10 and 50 years into the temple, blocked the road and forced her to alight.

She was then escorted to safety in a police jeep, officials said.

'Melsanti' or the head priest and other priests stood on both sides of the idol of Lord Ayyappa and recited divine song "Harivarasanam" and began putting off the lamps in the sanctum sanctorum halfway down the rendition.

As the last line was sung, the doors were closed and locked, shutting out, at least for the time being, spirited women of menstruating age from offering prayers to the deity.

The iron gates to the shrine were opened on Wednesday and every day since then women of the "barred" age group made brave but futile attempts to enter the shrine. Six women were prevented from entering the temple Sunday alone.

Kerala women's rights activist Rehana Fathima and Hyderabad journalist Kavitha Jakkal, wearing helmets and khaki, and surrounded by a police contingent, could manage to go up to Valiya Nadappandal, the queue complex located a few metres away from the holy 'pathinettam padi', the 18 sacred steps, but not beyond.

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to enforce the Supreme Court order.

Hindu fringe groups called a strike the next day and both the Congress, the main opposition party in Kerala, and the BJP, which is desperately seeking to expand its footprint in the state, lent support to the agitation.

Meanwhile, the Travancore Devaswom Board (TDB), which manages Sabarimala temple, is meeting on Tuesday to discuss how to make an intervention in the Supreme Court while protecting the "interest of devotees".

"The TDB has the legal responsibility to protect the interest of devotees. We also have to look at the rituals and customs of the temple. The board will make its intervention in Supreme Court without harming this," its chief A Padmakumar told reporters in Thiruvananthapuram.

He said the meeting would decide the "nature" of the report to be submitted to the apex court.

The Supreme Court Monday said it would decide tomorrow as to when the petitions seeking a review of its Sabarimala verdict will be listed for hearing. In all, 19 review petitions are pending before it for hearing.

The state's Devaswom Minister Kadakampally Surendran welcomed the TDB's decision to approach the Supreme Court with a comprehensive report about the recent developments in Sabarimala.

"It's a good decision...the TDB's move is to bring to the notice of the Supreme Court the difficulties faced by the real devotees," Surendran said.

He conceded that the LDF government was caught between the "devil and the deep sea" while executing the apex court order.

The Congress-led UDF has decided to hold a series of foot marches, vehicle rallies and meetings across the state to explain to people its stand on the issue and "expose" the ruling CPI(M) and BJP's "hidden agenda".

The temple will open briefly on November 5 evening for the next day's 'Chithira Attavisesham' to celebrate the birth anniversary of Chithira Thirunal Balarama Varma, the last king of Travancore.

The doors of the shrine will open on November 17 for the three-month-long Mandalam Makaravilakku celebrations when lakhs of devotees from the country and abroad visit the place every year.

If the Supreme Court does not stay or overturn its own verdict by then, enforcing its historic order may prove to be a daunting task for the [Kerala government](#).

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