



# Defence and Aerospace policy update: Guidelines for use of Government test facilities by defence industry

September 12, 2019

Dear Readers,

In lieu of the private sector's participation to improve India's defence production base, the Ministry of Defence (**MoD**) has introduced certain guidelines that would enable it (private sector) to better utilize the Indian Government's testing facilities that had been previously made available to them. All defence equipment that is produced to meet the requirements of the armed forces or is exported to friendly foreign countries, must be subjected to rigorous qualification testing and certification by Government authorities before being delivered to the end user. In this regard, the Government had opened up its testing facilities to be used by the private industry so as to expedite the production and supply of defence materials/equipment.

Despite opening up the Government's testing facilities to the private industry, the MoD has received numerous complaints about the overall procedure, and thus in response to the same, it has issued the following guidelines to improve the existing system and make it more user friendly for the development of the defence ecosystem:

- **No need for End User Certificate for R&D purposes** – Previously, in order to avail the test facilities, the private entities were required to submit an End User Certificate (**EUC**). The Government has now held that for private companies requiring access to testing facilities for their own R&D purposes or for development of an item for export or indigenization of an item being imported, an EUC shall not be insisted upon in the following cases:
  - If the testing facility is required for R&D purposes, provided the items are meant for defence application;
  - For initial validation of product, if an Indian company manufactures the product for export purposes; and
  - If a product is being developed in lieu of the imported product, irrespective of the demand at the time.
- **Fixation of Insurance cost** – The Government agencies shall amend their existing procedures so that all insurance costs and coverage shall be included in the total cost of testing and not separately borne by the private entity.
- **Transparency in declaration of test results** – The private entities shall now be allowed to witness the testing process, if they so desire. This will help them to understand the testing procedures and processes so that they can remove any deficiencies and short-comings in the manufacturing process.
- **Minimizing Delays** – MoD has called upon Government agencies to view these testing facilities as national assets and thereby utilize them efficiently so as to minimize the waiting period that private entities must endure to test their products. It further stated that items sought to be indigenized by the private industry should be given high priority for testing and certification.

## ELP Comments

This notification furthers the Government's resolve to boost efforts on Make-in-India in the defence sector. While these guidelines do attempt to address the problems of the private industry, a number of the measures provided, such as the fixation of the insurance cost and minimization of delays, require the Government agencies to amend their existing policies or take appropriate measures to inculcate the same. No time period has been given for such steps to be taken by these agencies and could therefore be subject to a great deal of bureaucracy and red tape. The MoD should insist on a clear timeline within which all these guidelines need to be enforced by numerous Government agencies.

Notwithstanding the above issue, these guidelines are a great step forward in the promotion of the private defence industry. By allowing private entities to use the testing facilities for Research & Development without the requirement of an EUC as well as allowing them to witness the testing process, will enable industry to modify and perfect their defence products in a much shorter time span than was previously possible. As a result, in the long run they will be able to develop

higher quality equipment that can be exported to foreign countries as well as become self-sufficient entities that would not require technology from foreign OEMs to innovate.

We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at [insights@elp-in.com](mailto:insights@elp-in.com).

We welcome your feedback and comments.

***Disclaimer:** The information provided in this update is intended for informational purposes only and does not constitute legal opinion or advice. Readers are requested to seek formal legal advice prior to acting upon any of the information provided herein. This update is not intended to address the circumstances of any particular individual or corporate body. There can be no assurance that the judicial/ quasi-judicial authorities may not take a position contrary to the views mentioned herein.*



ECONOMIC  
LAWS  
PRACTICE  
ADVOCATES & SOLICITORS

MUMBAI | NEW DELHI | BENGALURU | AHMEDABAD | PUNE |  
CHENNAI

[Email: Insights@elp-in.com](mailto:Insights@elp-in.com)

© Economic Laws Practice 2019