



After consultation with the various stakeholders, the Defence Minister promulgated the new Defence Acquisition Procedure 2020 on September 28, 2020 (<https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1659746>). This shall serve as the standard document governing capital procurement of defence equipment in India. This Defence Acquisition Procedure 2020 (**DAP 2020**) will come into effect from October 1, 2020 and has been aligned to the vision of the Government to empower the Indian domestic industry through its Make in India initiative with the ultimate aim of turning India into a global manufacturing hub. While the DAP 2020 is expected to be made available shortly, here are some of the key reforms introduced under the DAP 2020 as notified by the Government:

## Indigenization of Imported Spares

The Government has already released a list of 101 platforms/weapons for which imports have been banned, thereby promoting their domestic development. In addition to this measure, the DAP 2020 now provides that the Request for Information (**RFI**) stage will now explore the willingness of the foreign vendor to progressively undertake manufacturing in India and set up an indigenous ecosystem at the spares/ sub-component level. It also includes a new category of procurement i.e. Buy (Global – Manufacture in India) wherein manufacture of either the entire/part of the equipment or spares/assemblies/sub-assemblies/Maintenance, Repair and Overhaul (**MRO**) facility for the equipment will be done by the foreign vendor through its subsidiary in India.

## Offsets

The Offset guidelines have been revised wherein preference has been given to manufacture complete defence products vis-à-vis just components and various multipliers have been added to give incentivization to discharge of offsets. Further, the Government has done away with the need for foreign companies to invest a minimum 30% of the contract value in the Indian manufacturing sector if the deal is being processed under the Government to Government or Single Vendor case. However, competitive multi-vendor procurement cases will still have the offsets clause.

## Foreign Direct Investment

The Government has increased the sectoral cap for FDI in the defence sector up to 74% under the automatic route as compared to the earlier cap of 49%, albeit with certain conditions. FDI beyond 74% will be permitted under the Government route wherever it is likely to result in access to modern technology or for other reasons to be recorded, only for new licenses. With the announcement of new FDI Policy, suitable provisions have been incorporated in the DAP 2020 like a new category - '**Buy (Global – Manufacture in India)**', which has been done to encourage foreign OEMs to set up manufacturing/maintenance entities through its subsidiaries in India while enabling requisite protections to the domestic industry.

## Reservation of Categories for Indian Vendors:

The categories of Buy (Indian-IDDM), Make I, Make II, Production Agency in Design & Development, OFB/DPSU and Strategic Partnership model will be exclusively reserved for Indian Vendors meeting the criteria of Ownership and Control by resident Indian Citizens with FDI not more than 49%. This reservation will provide exclusivity to the domestic Indian industry.

## Time-bound and Efficient Defence procurement process

A Project Management Unit (**PMU**) has been set up by the DAP 2020 to facilitate contract management by obtaining advisory and consultancy support to streamline the acquisition process. Further, the Services Qualitative Requirements (**SQRs**), upon which all capital procurement is based, shall be refined to include more realistic parameters that are available in the world and domestic markets, while the procedures to conduct trials have also been simplified.

## Ease of Doing Business

Single stage accord of Acceptance of Necessity (**AoN**) has been instituted in all cases up to INR 500 crores, thereby reducing timelines. Fast Track cases, post accord of AoN, will be progressed as per delegated powers thereby reducing the procurement cycle considerably. Certain measures have also been taken to provide clarity and alignment of requirements in the Request for Proposal (**RFP**) and Standard Contract Document in terms of Flow Chart driven guidelines, provision of in-storage preservation and termination of contracts in cases where projects are not progressing as per pre-defined milestones.

## ▪ Enhancement of Indigenous Content

The Government has increased the overall requirement of Indigenous Content (IC) under the various acquisition categories, including, but not limited to a minimum of 50% IC under Buy (Indian – IDDM) category, 50% IC under Buy (Global – Manufacture in India), 30% IC under Buy (Global) for Indian Vendors, 50% IC under Buy (Indian) category in case of indigenous design, otherwise minimum 60% IC and so on.

### ELP Comments:

After over 2 years of deliberation and stakeholder consultation, the Government has finally revised its Capital Procurement Process now called Defence Acquisition Procedure (DAP). Indian Ministry of Defence has introduced a wide range of provisions with an intent to spur the defence industry in India into a global manufacturing hub (through exports). This is one of the most path-breaking DAPs (erstwhile DPPs) whereby the Government has clearly stated its intent to achieve its objectives. Not only have new chapters covering issues such as procurement of Information Communication Technology, Leasing of capital equipment, etc. been included but simplified procedures such as post contract management, levying of Liquidated Damages/Contract Amendments, new procedure for the Services to procure essential items through Capital Budget under a simplified procedure in a time bound manner have been focused upon. Additionally, the DAP 2020 has also addressed a lot of industry concerns, including the introduction of a Price Variation Clause for large and protracted contracts in order to avert inflated initial quotes by vendors and arrive at a realistic price of the project and parallel processing of documents by SHQ within laid down timelines to ensure timely payment to vendors. In order to ensure that the ease of doing business in the defence industry improves at a rate similar to other industries, a number of procedures have been simplified in the DAP 2020 such as trial and testing procedures, inspections and Design & Development so as to reduce timelines and avoid repetition of inspections/ duplications of trials and waivers. Another major decision communicated in the DAP 2020 is the removal of offsets in all Government to Government/ Single Vendor cases. This will largely benefit foreign OEMs since not many Buy (Global) programs are expected to materialize.

Another major change is that Government in the draft version of the DAP was hinting at allowing Foreign OEMs with 74% FDI into Indian Programs, while the final DAP 2020 has acceded to Indian Industry's demand that this should be restricted to companies owned and controlled by Indians. In light of the recent FDI policy read with DAP 2020, Foreign OEMs will need to participate in the Indian Programs along with an Indian company only and not through their majority owned subsidiary except a few categories of procurement where they can also participate through their wholly owned subsidiary subject to meeting the conditions under the FDI Policy.

Thus, the Government has incorporated many of the comments/ suggestions of the industry stakeholders so that it could push India towards its goal of self-reliance and in doing so attract foreign OEMs to set up their manufacturing hubs in the country. The DAP 2020 serves as a positive step forward and now all eyes will turn towards its effective implementation by the various Ministries and Departments of the Government.

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)

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

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