

Department of Heavy Industry  
(HE&MT Section)

**Minutes of the first meeting of Inter-Ministerial Standing Committee (IMSC) held on 08.03.2017 to address the issues of Capital Goods Sector**

The first meeting of Inter-Ministerial Standing Committee (IMSC) to address the issue of Capital Goods Sector, was held on 08.03.2017 under the chairmanship of Secretary, Heavy Industry. The list of participants is annexed.

2. The terms of reference of the Committee include deliberating and reviewing the Public Procurement Guidelines, addressing the issue of import of 2<sup>nd</sup> hand Capital Goods (CG) and reviewing the Inverted Duty Structure in the CG Sector.

3. While welcoming the Group, Chairman asked the gathering about their frequency on holding of the IMSC meeting. The Group desired that this meeting should be held in every quarter.

4. Director (HE&MT), Smt. Ritu Pande made a presentation on the issues received from the Industry and the same were discussed. The various issues in respect of each of the three agenda items were discussed:-

4.1 **First agenda item on Public Procurement Guidelines** included issues of non-uniform procurement policy and qualifying criteria for vendors, non-level playing field between domestic and foreign players, not accounting exchange rate variation in tender conditions, selection of LI bidder without taking into account life cycle cost, prior supply conditions, longer payments cycles, fixed and firm prices till project completion.

4.1.1 Mr Krishankumar, SIEMENS and representative of FICCI Capital Goods Committee mentioned that there is a disparity in guarantee, warrantee and payment terms and conditions which lead to the locking of working capital. He stated that even different offices of same PSUs have different terms and conditions. He requested that there should be an Independent Arbitration Tribunal in line with the New Arbitration Act, instead of the current practice in most PSUs where they maintain panel of their own Arbitrators and ask the contractor to choose from the panel. He also discussed about the payment terms stating that the payment terms vary from one utility to another and that only 5 % of payment should be linked to commissioning and the advance paid should be interest free.

4.1.2 Chairman stated that Public Procurement Policy is being revised by the Government. Group of Secretaries have already given their recommendation for promoting domestic manufacturing in the country. Commerce Secretary has been requested to draft the policy in this regard on which Ministry of Finance would give their comments. In such a policy, value addition within the country will be given a push. Also the issue of giving "Letter of Credit" to

domestic manufacturers shall be considered under this proposed policy, so that a push is given to "Make in India".

4.1.3 Shri Sunil Mishra, representative from IEEMA mentioned that while they are getting positive response from the Central Government, such response is not received from the State Government. He mentioned that after the Central Government, state utilities are the major buyers and they are facing issues of procurement with state utilities. He further requested for support from DHI and Ministry of Power for holding regional meetings on metro locations along with regional utilities wherein they requested the support from.

4.1.4 Shri Chetan Bijesure, Director FICCI informed that a Committee chaired by Dr. Arvind Pangariya, Chairman, NITI Aayog is also looking into the issue of discrimination between Foreign and Indian vendors.

4.1.5 Shri Sanjay, Director, Department of Expenditure informed that new General Financial Rules have already been brought out by the Central Government which provides for "life cycle cost".

4.1.6 Representative from Honeywell raised the issue of "fixed time fixed cost" provision which leads to a situation wherein a larger amount of vendors' money gets blocked, with delay in projects. She mentioned that specifically in case of Oil & Gas Projects payment should be linked up with milestones and scope should not be increased midway, without any financial consideration. She stated that Defence Procurement Policy has addressed the issue to some extent. However, same should be done for public procurement in Oil & Gas Sector also.

4.1.7 Shri Nand Kumar, representative from PPMI mentioned that large amount of cost is blocked under Bank Guarantees, sometimes to the tune of 50-90% of the project cost. He also stated that there is a need to define "Indian Company". He further mentioned that in order to promote value addition in the country, Government Departments/ Public Sector companies shall be encouraged to have bid evaluation criteria based on a matrix mark system encompassing some of the vital requirements that an Indian registered company needs to commit; which will help realization of 'Make in India', 'Skill India' and 'Start-up India'. He further stated that since 50% of the procurement is handled by Central Public Sector units; implementation of GFR 2017 by Central Public Sector units also should be ensured. He also raised the issue of clearly defining of contracts liabilities and all liabilities of whatsoever nature arising from the contract, shall not exceed the value of the contract. He further raised the issue of present system of specifying Proven Track Record (PTR) which is an Entry Barrier for the new entrants/ start ups to sell their products as they will not be able to get the PTR specified by the PSUs. He suggested that development orders should be given for trial installation (this should be a normal practice without having a specific enquiry/ requirement) and India developed Products shall be accepted for non-critical applications without proven track record. He added that large Corporate / Navratna / Mini Ratna Companies should be encouraged to function as ANCHOR Companies for Micro and Small industries.



4.1.8 Mr. Balgi, representative from Plastic Machinery Manufacturers' Association mentioned that in Plastic Machinery Sector, generally the companies are subsidiaries of foreign companies and they have contributed to the growth of plastics in the country and even export of plastic machinery to other countries from India. There should not be any discrimination and even the wholly owned subsidiaries of foreign companies manufacturing in India should not be discriminated against.

4.1.9 Mr Kuldeep Goel, Vice President, Larsen & Toubro Limited and representing FICCI Capital Goods Committee mentioned that the new proposed Price Purchase Preference Policy have lowered the domestic contents, though these capabilities have already been achieved in the country. Further, Price Purchase Preference Policy should be implemented fast. He further stated that shallow and deep water exploration is a new area wherein there are no domestic players and therefore, encouragement should be given to the domestic players for exploration in deep water. He mentioned that the proposed purchase preference policy of oil and gas sector is not applicable for Deepwater/ HP-HT for the time being.

Ms Anuradha, Director Ministry of Petroleum and Natural Gas informed that a thorough review was done, based on which the draft preference policy has been framed and the same is going to be finalised shortly.

5.1.10 Mr Ambu, Director General of IMTMA mentioned that Machine Tools should be considered under defence offset. Further, prior supply condition which limits innovation in the sector, should be removed and the concept of development contract should be implemented. In general requests emanated from the participants that Capital Goods should qualify for inclusion within the ambit of Defence Offset.

5.1.11 Representative of Railway Board mentioned that they have already considered electronics under their policy of development contracts and they can consider expanding the same in other sectors as still 30% of their requirement is met from import. He also informed the Group that they are considering for letter of credit for domestic players / incorporating exchange rate variation clause in the offset policy.

5.1.12 Representative from INGERSOL mentioned that there is a need to continuously upgrade the technical specification in Government/ PSU tenders, which is sometimes very outdated. CMD, BHEL responded that they review their technical specifications on yearly basis. CMD BHEL stated that this is over stated and the specifications in the Government are not that outdated.

5.1.13 Representative from FISME mentioned that tenders for Public Procurement were available on different websites and sometimes they are available only on that Public Sector's Website. There is no single common website where all the Government / PSUs tenders are mandated to be uploaded. Mr Sanjay, Director, Department of Expenditure informed that the requirement of publishing of the tenders on the "Indian Trade Journal" has been dispensed

with. Now, it is mandatory to publish all the tenders on Central procurement and e-market place. And in case there is specific case of violation by a Public Sector Enterprise, same can be brought to the notice of Department of Expenditure.

5.1.14 Representative from FISME mentioned that even for ordinary items, there is a “prior supply condition” and sometime the standard required by different PSUs are different from the standards specified by BIS like in case of a particular welding system requirement by Railway. Member, Railway Board mentioned that such cases may be brought to their notice so that they can examine as to how far the requirement can be reconciled, with the standards specified.

5.1.15 Representative from FISMI raised the issue of interpretation of the CEA notification, issued based on DHI’s recommendations in respect of third party verification of the foreign joint venture partner of the Indian firm. Representative from Ministry of Power stated that some kind of third party verification would be required. However, the issue can be looked into afresh by them.

5.1.16 Representative from SIEMENS mentioned that long terms sustainability of Sector should be looked into while framing the procurement policies especially for reverse auction. Though reverse auction option is good for the Industry but since every Ministry is following the different pattern, there is confusion. It would be better that some general guidelines are issued. However international reverse auction option system has worked for basic equipments but not for design based equipments.

5.1.17 JS, Ministry of Steel informed that they are putting up a Cabinet Note shortly for giving preference to local value addition while procuring the steel products.

5.1.18 Smt. Ratika, Jain, CII mentioned that though the PMA policy is available for electronic sector, the implementation of the same is very poor.

Shri Sanjay, Director , Department of Expenditure informed that for the first time reverse auction option has been introduced in the new GFR and the same can be improved upon, based on the feedback from the industry.

## 5.2 INVERTED DUTY STRUCTURE

5.2.1 The 2<sup>nd</sup> agenda point on inverted duty was discussed thereafter. The issue of duty inversion due to FTAs leading to routing of the products through 3<sup>rd</sup> country was raised specially in Plastic Machinery Manufacturing.

5.2.2 Representative from Tariff Commission mentioned that they have received request for examining the Inverted Duty Structure in Machine Tools, Textile Machinery, Process Plant and Plastic Machinery. However, request from other sectors are yet to be received. He requested the associations should co-operate in submitting the representative data from the



Industry. Response from the Industry is not forthcoming and therefore due to the lack of desired sample size, they are not able to give the report. He agreed to revisit the data sought by them in case Industry finds it difficult to provide the same. They express their willingness to sit with the Industry and modify their requirement, wherever possible.

5.2.3 Issue of inverted duty was also raised by representative of IEEMA and Shri Rajendran, President TMMA. Members from the Industry mentioned that Capital Goods Sector has de-grown in the past one year and we need to really give a boost to the Sector.

### 5.3 SECOND HAND IMPORTS

5.3.1 Director, HE&MT remarked that there is not much representation from the Industry. However, representative from Plastic Machinery mentioned that 18% of the machinery used in the country for Plastic Machinery Sector is through second hand imports, which gives a serious threat to "Make in India". He also stated that their case has been supported by Tariff Commission and their report in this regard has already been forwarded to DHI.

Consultant, Sushil Lakra informed that such a report has not been received and requested them to resend the report, so that DHI can take further action.

6. JS, HE&MT mentioned that any representation /issue involving resolution through different Ministries can be flagged in the Meeting.

The Meeting ended with vote of thanks to the Chair.

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List of Participants in the First Meeting of the "Inter-Ministerial Standing Committee (IMSC) for Development of Capital Goods Industry" held on 8.3.2017

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