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**भारतीय आयुर्विज्ञान अनुसंधान परिषद**  
**INDIAN COUNCIL OF MEDICAL RESEARCH**  
**स्वास्थ्य अनुसंधान विभाग ( स्वास्थ्य एवं परिवार कल्याण मंत्रालय )**

**DEPARTMENT OF HEALTH RESEARCH ( MINISTRY OF HEALTH & FAMILY WELFARE)**

**वी. रामलिंगस्वामी भवन, अन्सारी नगर, पोस्ट बॉक्स 4911, नई दिल्ली-110 029**  
**V.RAMALINGASWAMI BHAWAN, ANSARI NAGAR, POST BOX-4911, NEW DELHI-110029**

No.18/1/2018-Admn-II

Dated: 5.1.2018.

To

The Directors/Directors-in-Charge of  
Permanent Institutes/Centres of the Council

Sir/Madam,

Please find enclosed herewith a copy of D.O. No. P-45021/12/2017-Public Procurement (BE-II) dated 18<sup>th</sup> December, 2017 received from Secretary, Deptt. of Industrial Policy and Promotion, Ministry of Commerce & Industry, New Delhi regarding implementation of Public procurement (preference to make in India) order, 2017 alongwith its enclosures for information and necessary action.

Yours faithfully,

(Bharat Bhushan)  
Sr. Administrative Officer  
for Director General

Encl : As above

Copy to:-

- 1 PS to DG/PS to Addl. DG/Sr. DDG (A)/Sr. FA
- 2 All Divisional Heads
- 3 PS to Dy. Director General(A)
- 4 Asstt. Director-General (Admn.) (AX)/(RR)
- 5 Dr. R.S. Sharma, Scientist-G & Procurement Officer
- 6 ✓ IRSM Division- with the request to place above circular on ICMR website.

रमेश अभिषेक

RAMESH ABHISHEK

सचिव

Secretary



सत्यमेव जयते

भारत सरकार

औद्योगिक नीति और संवर्धन विभाग

वाणिज्य एवं उद्योग मंत्रालय

उद्योग भवन, नई दिल्ली-110 011

Government of India

Deptt. of Industrial Policy and Promotion

Ministry of Commerce &amp; Industry

Udyog Bhawan, New Delhi-110 011

Tel. : 23061815, 23061667 Fax : 23061598

e-mail : secy-ipp@nic.in

18<sup>th</sup> December, 2017

Dear Secretary,

As you are aware, the Cabinet in its meeting held on 24th May 2017 had approved "Policy to Provide Preference to Make in India in Public Procurement". Accordingly, this Department had issued the "Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order)" pursuant to Rule 153(iii) of General Financial Rules, 2017.

The Order provides, inter-alia, for constitution of a Standing Committee to oversee its implementation. A meeting of the Standing Committee was held on 6<sup>th</sup> December, 2017 to deliberate upon some specific issues and grievances related to public procurement. The Committee observed that some of the government institutions/autonomous bodies/PSUs/JVs/companies etc. had included certain restrictive conditions in the bid documents, which were highly discriminatory against the domestic manufacturers.

In this regard, Principal Secretary to Prime Minister has, in his D.O. letter dated December 10, 2017 addressed to Secretary, Department of Industrial Policy & Promotion, expressed his anguish as under:

*"It is very disturbing that the broad message has not been appreciated by various Departments. It should be the responsibility at the highest level in each Department to ensure that the tender conditions are strictly in sync with the public procurement order and each tender must be examined from the point of view of the interest of Indian manufacturers."*

(A copy of the said D.O. letter is attached herewith for reference)

In the light of the above, it is requested that the directions in the above letter may be followed in letter and spirit. Further, Nodal Ministries are requested to adhere to the "general directions" as contained in Para 3.9 of the Minutes of the Standing Committee, as under :

S.O. (A-II)  
21/11/18

23/11/18

1348  
03/04/2018

4436

234  
"3.9.1 The Committee decided that the following may be brought to the notice of all Nodal Ministries for effective implementation of PPP-MII Order in letter and spirit:

- a) All nodal Ministries must notify domestic content in respect of items assigned to them at the earliest.
- b) The Nodal Ministries are also advised to study the Phased Manufacturing Programme (PMP) being implemented by Ministry of Electronics and Information Technology to progressively increase domestic content in manufacture of electronic products and consider similar strategies in respect of products/services assigned to them for implementing the PPP-MII Order.
- c) Evolve an internal system of vetting the restrictive and discriminating terms & conditions against domestic manufacturers especially included in tenders or pre-qualification bids or expressions of interest floated by them or their Attached/ Subordinate Offices, Autonomous Bodies, PSUs, JVs, with State Governments and JVs formed among Central PSUs."

A copy of the Minutes of the Meeting of Standing Committee is enclosed for reference.

With regards,

DG, ICMR OFFICE

DIARY NO.. 2380

DATE: 28/12/2017

Shri K. VijayRaghavan  
Secretary  
Department of Health Research  
Indian Council of Medical Research,  
V. Ramalingaswami Bhawan,  
Ansari Nagar , New Delhi - 110029

Encl. : As above

Yours sincerely,

*[Signature]*  
(Ramesh Abhishek) 18/12/2017

*ADG, S-ADG*  
*Very important*  
*Pl. follow up*  
*22/1/18*

*ADG (A)*  
*Pl. circulate*  
*amongst Institute as well*  
*22/1/18*  
*22/1/18*



सत्यमेव जयते

नृपेन्द्र मिश्र

**Nripendra Misra**

Principal Secretary to Prime Minister

December 10, 2017

No. 4745327

Dear Shri Ramesh,

Please refer to your D.O. letter No.P-45021/12/2017-B.E.-II dated 8<sup>th</sup> December, 2017 conveying the Department's concerns regarding implementation of Public Procurement (Preference to Make in India) Order, 2017. It is very disturbing that the broad message has not been appreciated by various Departments. It should be the responsibility at the highest level in each Department to ensure that the tender conditions are strictly in sync with the public procurement order and each tender must be examined from the point of view of the interest of Indian manufacturers. Needless to mention that both the quality and price considerations would not be compromised and adhere to the standing orders on the subject. The requirement of significant global experience in terms of trade performance may eliminate many domestic manufacturers. Any tender which is not sensitive to 'Make in India' message deserves scrutiny. There has to be strong justifiable reason for incorporating any restrictive provision.

→ Please circulate this letter to Secretaries of all Departments. There should be standing arrangement in DIPP to entertain any such grievances of the domestic manufacturers and intervention where necessary may be made effective.

With regards,

Yours sincerely,

  
(Nripendra Misra)

**Shri Ramesh Abhishek**

Secretary

Department of Industrial Policy and Promotion

New Delhi.

प्रधान मंत्री कार्यालय, साउथ ब्लॉक, नई दिल्ली-110 011

PRIME MINISTER'S OFFICE, SOUTH BLOCK, NEW DELHI-110 011

TEL. 23013040 FAX-23017475

1. **Minutes of the 2<sup>nd</sup> Meeting of the Standing Committee for implementing the policy related to "Public Procurement (Preference to Make in India) Order, 2017" held on 6th December, 2017 in Udyog Bhawan New Delhi**

1. The 2<sup>nd</sup> Meeting of the Standing Committee for implementing the policy related to "Public Procurement (Preference to Make in India) Order, 2017" (PPP-MII Order) was held under the Chairmanship of Secretary, DIPP in Udyog Bhawan New Delhi on 6<sup>th</sup> December, 2017.

2. The meeting of the Standing Committee had been convened to deliberate upon certain specific issues and grievances raised by certain Ministries and industrial undertakings about the implementation of the Order. Hence, the Committee decided to hear their views along with the views of concerned Departments. List of participants is at Annexure-I.

3. The following decisions were taken by the Committee :

**3.1 Procurement of works, services are also covered by "Public Procurement (Preference to Make in India) Order, 2017"**

3.1.1 It is clarified that PPP-MII Order is not limited in its scope to mere supply of either goods or services alone, and that the contracts for procurement of works are also covered by this order as construction contracts entail rendering of both goods and services during course of execution.

**3.2 Amendments to the approved list of categories and nodal Ministries/Departments:**

3.2.2 The Standing Committee deliberated and agreed to the following categorization of new 'product categories' alongwith the corresponding Nodal Ministries/Departments:-

S.No.	Product Category	Nodal Ministry/Department
1.	Construction Works	
	(a). All Railway Works	Ministry of Railways
	(b) All Defence Works	Ministry of Defence
	(c) Roads and Bridges [except for Railways and Defence Projects]	Ministry of Road Transport and Highways
	(d) All other works	Ministry of Housing & Urban Affairs
2.	Metro Rail Systems	Ministry of Housing & Urban Affairs

3.3.1 BEML has approached the Committee with the grievance that there are many restrictive conditions in pre-qualification tender of MMRCL line3. BEML has not been shortlisted in the above tender because of these restrictive conditions. Special mention was made of the condition on experience of operational performance i.e. "130 metro coaches should have been in revenue service for at least 5 years." BEML has the operational performance of 140 coaches (including consortium share of 34 coaches) for 3 years running since 1st January, 2014.

3.3.2 The condition has two components: (a) 130 metro coaches should have been in revenue services and (b) for at least 5 years. These numbers are arbitrary and must be reviewed by MMRCL especially when their adoption results in exclusion of competent domestic suppliers like BEML, a Central Public Sector Undertaking. BEML has informed the Committee that by October 2017, BEML had manufactured more than 1200 metro coaches out of 2500 metro coaches supplied to various metro rail corporations.

3.3.3 Representative of MMRDA informed that many conditions in the tender are included as per the norms set by the Japan International Cooperation Agency (JICA), who are funding the project and that JICA has insisted upon putting these conditions in the tenders. Hence, it is not possible for them to remove these conditions. They also informed that BEML has not been found eligible on some other parameters like ability to design the supplied coaches, a point contested by BEML.

3.3.4 Representative of Ministry of Housing & Urban Affairs informed that they have already issued the directions for minimum local content to be adopted for procurement of items by various Metro Rail companies, in case the quantity to be procured is above 100. For rolling stock, it is 40%, which is to be increased to 50% after one year. Margin of purchase preference has been kept at 10%.

3.3.5 Representative of MMRDA informed that the procurement is for 210 Metro coaches and that these coaches are expected to be pressed into service four years from now. They could not provide justification for the figures of 130 coaches or five years of revenue service.

3.3.6 The Committee concluded that the condition of operational performance of 130 coaches and being in revenue service for five years laid down by MMRCL are restrictive and precludes domestic manufacturers like BEML from participating in the procurement process, despite having the capacity to manufacture as also having manufactured sufficient number of coaches in the past several years. The Committee noted that JICA is just one of the financiers of the project and should not be allowed to impose tender conditions that are at variance with explicit decisions of the Government of India like the PPP-MII Order. The Committee also noted that having multiplicity of designs of metro coaches across the country will fragment the market and work against economies of scale, maintainability and inter-operability.

Housing and Urban Affairs will

- (a) Amend the instant tender after deletion of such restrictive and discriminatory clauses against domestic manufacturers
- (b) Issue directives to all PSUs /Government companies under it with regard to applicability of Public Procurement Order as per Para 15 of PPP-MII Order.
- (c) Review tender conditions and negotiate with JICA to drop restrictive conditions against domestic manufacturers.
- (d) Consider the issue of standardization in design of Metro systems across the country with a view to provide appropriate economies of scale, maintainability and inter-operability.

[Action: Ministry of Housing and Urban Affairs]

**3.4 Restrictive eligibility conditions in the tender of Talcher Fertilizers Ltd. for Gasification Project - grievance raised by FICCI and Larsen & Toubro:**

3.4.1 Representative of L&T informed about restrictive conditions being imposed on the domestic industry in finalizing EPC Contractor for Talcher Fertilizer Ltd. (TFL) for Gasification project by inserting a requirement of having set up Ammonia & Urea fertilizer project in last 20 years, when the Indian fertilizer industry has not seen a greenfield ammonia and urea fertilizer project in last 20 years. They contended that local EPC players having experience of successfully executing units in related sectors like petrochemical, refinery etc. may be given the opportunity to participate in the tenders. Further, PPP-MII Order may be made applicable to autonomous public limited companies owned by PSUs like Talcher Fertilizer Ltd., which is co-owned by CPSUs. The representative also pointed out the contradiction in the bid document wherein it is mentioned that there has been no new ammonia and urea fertilizer project set-up in India in past 20 years and yet the same condition has been imposed.

3.4.2 The representative of Deptt. of Fertilizers informed that the above tender has been withdrawn and the project will be re-tendered with the modified conditions.

3.4.3 The Committee concluded that all joint ventures of public sector undertakings shall be covered under PPP-MII Order. Talcher Fertilizers Ltd. being the joint venture of RCF, Coal India Limited (CIL), GAIL and FCIL (all CPSUs) shall be covered under the Public Procurement Order. It was also decided that D/o Fertilizers may issue directives to all PSUs to comply with the Order. It was further decided that technical experience requirement should be made broad-based so as not to discriminate against competent domestic manufacturers.

[Action : Department of Fertilizers]

3.5.1 The Forum Coordinator, AIMED informed the Committee about the problems being faced by various stakeholders of All India Medical Device Industry in the public tenders floated by Government Hospitals/Institutions. He cited various examples wherein various Govt. Hospitals and Procurement Institutions of Centre & State Govt. continue to ignore the PPP-MII order and put discriminatory clauses such as seeking compliance to USFDA approval to debar Indian Manufacturers from bidding in tenders for supply of drugs/medicines and medical devices. He also requested for adopting 15% preferential pricing policy for Indian Origin medical devices in line with policy adopted by other countries and tenders under UN funding.

3.5.2 Representative of Deptt. of Pharmaceutical informed that they had already prepared and circulated a draft for indigenous content for various medical devices and invited the comments from all the stakeholders. However, Ministry of Health & Family Welfare has informed that they are the nodal ministry for the medical devices sector. Representative from MoHFW intimated that their Ministry is going to issue a Regulation on Medical Devices for January, 2018 and they will consider the issues raised by the concerned stakeholders. He requested that the compliance for the PPP-MII may only be decided after the issue of order for Medical Devices Regulation.

3.5.3 The Committee noted that a 'mandatory' requirement of 'USFDA approval' is clearly untenable though the public procurers are free to set quality requirements and prescribe other, less prescriptive ways of assuring themselves about quality of supplies. As regards, providing 15% preferential pricing to Indian manufacturers, the Committee noted that it was outside its purview and it was up to the concerned nodal ministry to take a decision on this issue.

3.5.4 The Committee decided that MoHFW is already notified as the nodal Ministry for medical devices for the purpose of this order, and they may expeditiously conclude stakeholder consultations and notify detailed guidelines on domestic content requirements and quality standards for various medical devices. MoHFW must consult M/o Pharmaceuticals and MEITY as the 'medical devices' also include 'electronic devices'. It was also decided that MoHFW will issue necessary directives citing PPP-MII Order that while USFDA approval may be a sufficient condition, it cannot be a mandatory eligible condition for bid participation. This directive should also be applicable to all procurement under CGHS, by Railways, the Armed forces and all other Central Departments and Central PSUs/Government companies and hospitals funded by Government of India. MoHFW will also issue a similar advisory to all State Governments for procurement at their end as also by State PSUs.

**[Action : MoHFW, Deptt. of Pharmaceuticals, MEITY and all nodal Ministries which procure medical devices]**



Restrictive eligibility conditions in the tender for Metro Railway Rake Maintenance Depot cum POH shop at Joka by RVNL, a PSU of Ministry of Railways - grievance raised by Hyt Engineering Company Pvt. Ltd.,

3.6.1 The representative from Hyt Engineering Company Pvt. Ltd. made a detailed presentation citing how RVNL had recently floated a tender for "Construction of Metro Railway Rake Maintenance Depot cum POH shop at Joka", which is discriminatory in nature as it only allows foreign players to participate and does not consider domestic bids. The said tender calls for products of M/s Hagenscheidt Germany, M/s Danobat Spain and M/s Talgo Spain and not a single indigenous manufacturer. Also the minimum eligibility criterion for bidder is to have supplied 350 such machines outside the country of origin and has service centers in at least 7 countries including India.

3.6.2 Representative of RVNL stated that they have withdrawn the said tender and it will be issued with the modified conditions.

3.6.3 The Committee concluded that the condition of "experience of supplying 350 machines outside the country of origin and having service centers in at least 7 countries was totally disproportionate to the actual order of just 1 machine. These clauses clearly discriminate against domestic manufacturers.

3.6.4 The Committee decided that preferably only users' functional requirement and technical specification should be specified in the tender document rather than over-specifying the product in terms of its make. All the companies, whether domestic or foreign, should be considered if they meet these requirements. Also, the requisite experience should not be disproportionate to the supply order in hand. Ministry of Railways will direct RVNL to revise the tender condition accordingly and ensure strict compliance of PPP-MII order.

[Action : Railway Board]

### **3.7 Debarring foreign firms from tender participation –clarification sought by Railways board**

3.7.1 Railway Board had sought to know if there was any guideline/rule wherein the participation of foreign firms (individually or in JV with Indian firm) in Indian Government construction contracts may be restricted using the concept of reciprocity. It has also sought to clarify whether the PPP-MII Order is applicable to Construction Contracts.

3.7.2 The Committee pointed out that the provisions under Para 10 (d) of the "Public Procurement (Preference to Make in India) Order, 2017" provides the concerned Nodal Ministry the discretion to take a suitable decision on such specific cases. A copy of decision taken in this regard shall be sent to DIPP. It was also clarified that since a Construction Contract essentially involves an agreement enforceable by law for supply of goods and services, hence the "Public Procurement (Preference to Make in India) Order, 2017" is applicable to all Construction Contracts as well. The M/o Railways will be the

[Action : Railway Board]

**3.8 Unjustified call for splitting a tender by M/o Railways – grievance raised by Bharat Forge Pvt. Ltd.:**

3.8.1 CMD, Bharat Forge Ltd (BFL) informed that they had quoted against tender No 101710260 of Ministry of Railways on 4.9.2017 for 255 nos. crankshaft. The BFL was declared L1 in the tender. BFL has further informed that they have come to know that the order is likely to be split between L1 and L2, L2 being a Chinese company in the ratio of 60:40. BFL has stated that as per Public Procurement Order Para 3(b)(i) if among all the qualified bids the lowest bid (L1) is from local supplier, the contract for full quantity will be awarded to L1. Therefore, splitting the order with the L2 bidder, a Chinese company is against rules especially since they have the proper capacity and capability to supply the entire order. They have therefore requested that they should be considered for 100% quantity for aforesaid tender.

3.8.2 The representative of the Railway Board informed that they are not aware of the issues involved and assured that the matter will be looked into and action as appropriate will be taken.

[Action : Ministry of Railways]

**3.9 General directions to the Nodal Ministries**

3.9.1 The Committee decided that the following may be brought to the notice of all Nodal Ministries for effective implementation of PPP-MII Order in letter and spirit:

- a) All nodal Ministries must notify domestic content in respect of items assigned to them at the earliest.
- b) The Nodal Ministries are also advised to study the Phased Manufacturing Programme (PMP) being implemented by Ministry of Electronics and Information Technology to progressively increase domestic content in manufacture of electronic products and consider similar strategies in respect of products/services assigned to them for implementing the PPP-MII Order.
- c) Evolve an internal system of vetting the restrictive and discriminating terms & conditions against domestic manufacturers especially included in tenders or pre-qualification bids or expressions of interest floated by them or their Attached/ Subordinate Offices, Autonomous Bodies, PSUs, JVs, with State Governments and JVs formed among Central PSUs.

[Action : All Nodal Ministries]

4. The meeting ended with a vote of thanks to the Chair.

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MEETING OF THE STANDING COMMITTEE FOR IMPLEMENTATION OF  
PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA) ORDER 2017  
HAWAN, WEDNESDAY 16<sup>TH</sup> DECEMBER 2017 ROOM NO. 157 DIPP, BHAWAN  
BHAWAN]

List of Participants

Sl. No.	Name/Designation/	Ministry/Department /Organization
1.	Shri Ramesh Abhishek, Chairman, Standing Committee and Secretary	DIPP
2.	Dr. Subhash Chandra Pandey, Addl. Secy. & Financial Advisor	DIPP
3.	Shri Rajiv Aggarwal, Joint Secretary	DIPP
4.	Shri Arun Mahendru Balraj, Sr. DO	DIPP
5.	Shri B S. Nayak, Under Secretary	DIPP
6.	Shri Mukund Kumar Sinha, Joint Secretary	M/o Housing & Urban affairs
7.	Shri Ambuj Bajpai, Under Secretary	do
8.	Shri Rajiv Kumar, Director	M/o Health & Family Welfare
9.	Shri Dinesh Kapila, Eco. Adviser	D/o Pharmaceuticals
10.	Shri Niranjana Lal, Director	D/o Fertilizers
11.	Shri Ajay Sawhney, Secretary	M/o Electronics & IT (MEITY)
10.	Shri S.K. Marwaha, Director	do
11.	Shri K.N. Reddy, Under Secretary	D/o Expenditure
12.	Shri A.P. Dwivedi, ED (PSU)	M/o Railways
13.	Shri P.S. Gupta, EDCE (G)	do
14.	Shri P.P. Pandey, GM (HR)	Rail Vikas Nigam Ltd.

16	Shri D K Hota, Chairman & Managing Director	General Earth Moving Ltd (BEML)
17	Shri Ramesh K N, General Manager	do
18	Shri Pawan Kumar, General Manager	do
19	Shri Kuldip Goel, Vice President	L&T/ FICCI
20	Shri Rajiv, General Manager (Rolling Stock)	MMRCL, Mumbai
21	Shri Shailender Birla	Alstom Transport India Ltd.
22	Shri Bhojraj Teli, Managing Director,	HYT Engg. Company Ltd.
23	Ms. Kiran Gulati, Vice President	do
24	Shri Hrishikesh Darunkar, Manager	do
25	Shri Rajiv Nath, Forum Coordinator	Association of Indian Medical Device Industry (AIMED)
26	Shri Suresh Vazirani	do

# APPROVED PRODUCT CATEGORIES AND ASSOCIATED MINISTRY/DEPARTMENT

S. No.	Product categories	Associated Ministries/Department
	Pharmaceuticals	Department of Pharmaceuticals
	Medical Devices	Department of Health & Family Welfare
	IT and Electronics (including softwares)	Ministry of Electronics & IT
	Telecommunications	Department of Telecommunications
	Automobile and Automotive Components, Capital Goods (Heavy Machinery, Machine Tools etc.)	Department of Heavy Industries
	Petroleum and Natural Gas	Ministry of Petroleum and Natural Gas
	Chemicals	Department of Chemicals & Petrochemicals
	Paper Products, Cement, Leather Products	Deptt. of Industrial Policy & Promotions
	Construction, Metro Rail Systems, All other works	Ministry of Housing & Urban Affairs
	Textiles & Apparel	Ministry of Textiles
	Shipping	Ministry of Shipping
	All Railway Works	Ministry of Railways
	All Defence Works	Ministry of Defence
	Defence	Department of Defence Production
	Power (generation, transmission and distribution)	Ministry of Power
	Non-conventional energy	Ministry of Renewable Energy
	Aviation	Ministry of Civil Aviation
	Iron and Steel	Ministry of Steel
	Mining	Ministry of Mines
	Roads and Bridges (except for Railways and Defence Projects)	Ministry of Road Transport and Highways

No F-45021/2/2017-B E -II  
Government of India  
Ministry of Commerce and Industry  
Department of Industrial Policy and Promotion  
\*\*\*\*

Dated 15<sup>th</sup> June, 2017  
Udyog Bhawan, New Delhi

To

All Central Ministries/Departments/CPSUs/All concerned

**ORDER**

**Subject: Public Procurement (Preference to Make in India), Order 2017**

**Whereas** it is the policy of the Government of India to encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

**Whereas** procurement by the Government is substantial in amount and can contribute towards this policy objective, and

**Whereas** local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them,

**Now therefore the following Order is issued :**

1. This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.
2. **Definitions:** For the purposes of this Order:

*'Local content'* means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

*'Local supplier'* means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed under this Order or by the competent Ministries / Departments in pursuance of this order.

*'L1'* means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

*'margin of purchase preference'* means the maximum extent to which the price quoted by a local supplier may be above the L1 for the purpose of purchase preference.

*'Nodal Ministry'* means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services.

.....Contd. p.2/-

*Procuring entity* means a Ministry or department or attached or subordinate office of or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

3. **Requirement of Purchase Preference:** Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to local suppliers in all procurements undertaken by procuring entities in the manner specified hereunder:
- a. In procurement of goods in respect of which the Nodal Ministry has communicated that there is sufficient local capacity and local competition, and where the estimated value of procurement is Rs. 50 lakhs or less, only local suppliers shall be eligible. If the estimated value of procurement of such goods is more than Rs. 50 lakhs, the provisions of sub-paragraph b or c, as the case may be, shall apply.
  - b. In the procurements of goods which are not covered by paragraph 3a and which are divisible in nature, the following procedure shall be followed:
    - i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract for full quantity will be awarded to L1.
    - ii. If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher local supplier within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.
  - c. In procurements of goods not covered by sub-paragraph 3a and which are not divisible, and in procurement of services where the bid is evaluated on price alone, the following procedure shall be followed:
    - i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract will be awarded to L1.
    - ii. If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such local supplier subject to matching the L1 price.
    - iii. In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.

.....Contd. p.3/-

4. **Exemption of small purchases:** Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.
5. **Minimum local content:** The minimum local content shall ordinarily be 50%. The Nodal Ministry may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.
6. **Margin of Purchase Preference:** The margin of purchase preference shall be 20%.
7. **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.
8. **Government E-marketplace:** In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.
9. **Verification of local content:**
  - a. The local supplier at the time of tender, bidding or solicitation shall be required to provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
  - b. In cases of procurement for a value in excess of Rs. 10 crores, the local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
  - c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
  - d. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.
  - e. Nodal Ministries and procuring entities may prescribe fees for such complaints.
  - f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.
  - g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the



duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 9h below.

- h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:
  - i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;
  - ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);
  - iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.

**10. Specifications in Tenders and other procurement solicitations:**

- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
- c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.
- d. If a Nodal Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and/ or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.
- e. For the purpose of sub-paragraph 10 d above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more that 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India."

11. **Assessment of supply base by Nodal Ministries.** The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.
12. **Increase in minimum local content:** The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.
13. **Manufacture under license/ technology collaboration agreements with phased indigenization:** While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.
14. **Powers to grant exemption and to reduce minimum local content:** Ministries /Departments of Government of India and the Boards of Directors of Government companies or autonomous bodies may, by written order,
- reduce the minimum local content below the prescribed level;
  - reduce the margin of purchase preference below 20% ;
  - exempt any particular item or procuring or supplying entities or class or classes of items or procuring or supplying entities from the operation of this Order or any part of the Order.
- A copy of every such order shall be marked to the Member-Convenor of the Standing Committee constituted under this Order.
15. **Directions to Government companies:** In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.
16. **Standing Committee:** A standing committee is hereby constituted with the following membership:
- Secretary, Department of Industrial Policy and Promotion—Chairman
  - Secretary, Commerce—Member
  - Secretary, Ministry of Electronics and Information Technology—Member
  - Joint Secretary (Public Procurement), Department of Expenditure—Member
  - Joint Secretary (DIPP)—Member-Convenor
- The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

17. **Functions of the Standing Committee** The Standing Committee shall meet as often as necessary but not less than once in six months. The Committee
- shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
  - shall annually assess and periodically monitor compliance with this Order
  - shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
  - may require furnishing of details or returns regarding compliance with this Order and related matters
  - may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures
  - may examine cases covered by paragraph 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization
  - may consider any other issue relating to this Order which may arise.
18. **Removal of difficulties:** Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.
19. **Ministries having existing policies:** Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1<sup>st</sup> January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.
20. **Transitional provision:** This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.

  
(B. S. Nayak)  
Under Secretary to Government of India  
Ph. 23061257