

SECURITY OF SUPPLY ARRANGEMENT

BETWEEN

THE MINISTRY OF DEFENCE OF THE REPUBLIC OF INDIA

AND

THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF

AMERICA

INTRODUCTION

This Security of Supply Arrangement (the "Arrangement") between the Ministry of Defence of the Republic of India (IN MOD) and the Department of Defense of the United States of America (U.S. DoD), hereinafter referred to collectively as the "Participants";

Recognizing that this Arrangement sets forth the principles that the Participants intend to follow to provide each other with reciprocal priority support;

Recognizing that this Arrangement is not intended to be binding under international law;

Recognizing the benefits of improving cooperation on security of supply for national defense requirements and that it is in the national interest of both Participants to extend existing cooperation by concluding an Arrangement on security of supply;

Noting that among the consequences of globalization and industrial restructuring are the creation of transnational defense companies, possible loss of certain domestic industrial capabilities and capacities, and increasing acceptance of mutual interdependence of supplies needed for approved national defense requirements;

Recognizing, in this environment, the value of dialogue, consultation, and agreements and arrangements that facilitate the supply of defense articles and defense services; and,

Recognizing that it is desirable that each Participant develop and/or utilize a Priorities System that enables it to provide for preferential treatment of contracts and subcontracts that promote national defense to each other;

Have reached the following understandings:

SECTION 1 - DEFINITIONS

The following definitions apply to this Arrangement:

- a. Accredited Indian Companies - Companies incorporated under Indian law and accredited under, and participating in, the Code of Conduct.
- b. Code of Conduct - A system of conduct established in writing between the IN MOD and its contractors, subcontractors, and suppliers to detail and effect the Priorities System in the Republic of India for the purposes of this Arrangement.
- c. Controlled Unclassified Information - Unclassified Information that requires safeguarding or dissemination controls pursuant to and consistent with applicable national laws, regulations, or Government-wide policies. It could include Information that has been declassified, but remains controlled.
- d. Defense Priorities and Allocations System (DPAS) - The Priorities System (15 U.S. Code of Federal Regulations Part 700) administered by the Department of Commerce of the United States of America (U.S. Department of Commerce) that implements the priorities and allocations authorities under Title I of the Defense Production Act of 1950, as amended, which have been delegated to the Secretary of Commerce by the President of the United States with respect to Industrial Resources. Unless specifically stated otherwise, the DPAS applies to transactions in any state, territory, or possession of the United States. The U.S. DPAS regulation can be found here: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-700>.
- e. Industrial Resources - Materials, services, and facilities, including construction materials, needed to meet approved defense requirements. This term includes any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical Information, process, or service. Industrial Resources does not include commercial end items commonly available in the country of the supplier, nor does it include construction or construction material supplied under construction contracts.
- f. Information - Knowledge that can be communicated by any means, regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, computer software, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to intellectual property rights.
- g. Priorities System - Procedures under which one Participant, with the assistance of the other Participant, may request a contractor to provide a priority to, including preferential acceptance and performance of, certain contracts (including subcontracts and purchase orders) over other contracts to meet approved defense requirements. As defined here, a Priorities System addresses only the Industrial Resources defined above.
- h. Security of Supply- A nation's ability to ensure a supply of defense products, materials, and services sufficient to discharge its military commitments in accordance with its foreign and security policy requirements.

SECTION 2 - PRINCIPLES

Security of Supply presupposes, where possible, cooperation and coordination, including the mutual acceptance and support of Industrial Resource priorities set by either Participant.

Complementary, mutual Priorities Systems arrangements between the Participants enable each Participant to acquire the Industrial Resources needed to meet urgent and critical defense requirements in a timely, effective, and efficient manner. Priorities Systems are not designed to rectify poor provisioning and should not be used as a substitute for the normal contracting process.

Each Participant is to provide reciprocal priorities support, including any necessary exchange of Information relative to such reciprocal priorities support, to the other. The IN MOD may provide reciprocal priorities support to the U.S. DoD by utilizing a system based on a Code of Conduct to be signed by Accredited Indian Companies. The Code of Conduct is voluntary and will not create any legal binding obligations neither to MoD, Government of India, nor to Accredited Indian companies. Similarly, the U.S. DoD may provide reciprocal priorities support by utilizing the existing Priorities System that is based on applicable U.S. law.

A Participant should, to the greatest extent practicable and with due regard to its international commitments, consult with the other Participant upon request to enable each Participant to:

- a. assign or facilitate the assignment of priority, to specified defense contracts that are issued by the other Participant, or by contractors, subcontractors, or suppliers working on an approved defense program requirement of the other Participant, to suppliers located in its territory;
- b. facilitate the acceptance and priority performance by participating contractors, subcontractors, or suppliers located in its territory of designated defense contracts as necessary to meet customer delivery requirements;
- c. provide assistance, when requested, to seek to resolve problems in order to ensure timely delivery of Industrial Resources under designated contracts; and
- d. endeavor as appropriate, to enter into Security of Supply arrangements, on a reciprocal basis, with the defense establishments of members of other alliances or organizations to which the Governments of the Participants are members.

SECTION 3 - ACTIONS

IN MOD

In furtherance of the above principles, the IN MOD, acting within its authorities, intends to invite specific Indian companies to participate in a Code of Conduct. Pursuant to the Code of Conduct with Indian companies, when requested to do so by the U.S. DoD Designated Point of Contact identified in Section 5, the IN MOD is to use its best efforts to ensure that Accredited Indian Companies do all they can to provide priority support to U.S. DoD contracts supporting U.S. DoD programs, including:

- a. Accepting that a contract it enters into, or is a part of, with the U.S. DoD or with one of its contractors, after approval by the Designated Point of Contact of the IN MOD, be accepted as a contract falling under the Code of Conduct (these contracts will be known as “Code of Conduct contracts”);
- b. Inserting into any subcontract provisions designed to ensure due performance of such a Code of Conduct contract;
- c. Responding in a timely manner to requests of the U.S. DoD, transmitted through the IN MOD, for modifications to the timing of deliveries, provided that the customer is able to compensate them, as required by the relevant contractual provisions; and
- d. Informing the Participants of priority conflicts between Code of Conduct contracts and other contracts.

The IN MOD is to notify the U.S. DoD of the Accredited Indian Companies. The IN MOD is to consult with Accredited Indian Companies, their subcontractors, and suppliers as described below, when requested to do so by the U.S. Assistant Secretary of Defense (Industrial Base Policy) and/or the involved Accredited Indian Company. The IN MOD should use its best efforts to facilitate U.S. DoD requests for priority.

In the event that an Accredited Indian Company refuses to provide priority support requested by the U.S. DoD, the IN MOD, acting within its authorities as detailed in the Code of Conduct, should investigate the circumstances surrounding the refusal of such request. The U.S. DoD should have the opportunity to provide the IN MOD with details of the request. The Accredited Indian Company may respond either in writing or orally. The IN MOD should take measures necessary to assess/evaluate the circumstances surrounding the request for priority support and subsequent refusal of such request.

- a. If the IN MOD considers that the Accredited Indian Company has complied with the Code of Conduct, the IN MOD, if requested to do so by the Accredited Indian Company, should notify the U.S. DoD. The U.S. DoD may act on that notification as it considers appropriate. The IN MOD may use its offices with the U.S. DoD to resolve any remaining difficulties. Participation of the Accredited Indian Company in the Code of Conduct and the benefits received under the system should not be affected.
- b. If the Accredited Indian Company is deemed non-compliant with the Code of Conduct, the IN MOD should use its offices to obtain assurance that the Accredited Indian Company takes such steps considered necessary to rectify the situation, and notifies the U.S. DoD. Failure to comply with this request may result in the suspension or

discontinuation of the Accredited Indian Company's participation in the Code of Conduct.

In the event that an Accredited Indian Company cannot satisfy a request to amend a contract falling under the Code of Conduct without incurring a financial loss, and the relevant customer is unwilling to reimburse it, the Accredited Indian Company may decline the request.

The Participants recognize that the U.S. DoD or one of its contractors may require assistance in obtaining priority performance from a Indian company that is not participating in the Code of Conduct. In such cases, if so requested by the U.S. DoD, the IN MOD is to request the company join the Code of Conduct, or otherwise provide priority for the U.S.DoD defense order.

U.S. DoD

In furtherance of the above principles, and when requested to do so by the IN MOD Designated Point of Contact identified in Section 5, the U.S. DoD should arrange for the IN MOD, or Indian contractors, subcontractors, or suppliers, to use priority ratings on defense contracts placed with U.S. contractors, subcontractors, and suppliers. Priority performance should be provided in accordance with the U.S. DPAS. The U.S. DPAS:

- a. Establishes priority designations for contracts performed in the United States and provides preference in performance of those contracts;
- b. Defines U.S. industry's responsibilities, setting forth rules to ensure timely delivery of Industrial Resources to meet approved national defense program requirements;
- c. Provides procedures to request assistance if production or delivery problems arise; and
- d. Determines compliance procedures.

The Office of the Assistant Secretary of Defense (Industrial Base Policy) should keep the U.S. public informed of Indian Companies participating in the Code of Conduct System.

IN MOD and U.S. DoD

All activities under this Arrangement should be carried out in accordance with the respective national laws and regulations of the Participants.

The Participants do not intend to place the financial responsibility of implementing this Arrangement in the Republic of India with Indian industry or in the United States with U.S. industry.

In fulfilling their understandings under this Arrangement, the Participants recognize that Accredited Indian and U.S. companies may have contracts with other customers, which the Participants do not intend to undermine.

Any dispute arising from the interpretation and implementation of this Arrangement, including prioritization of supply, is to be resolved only by means of consultation between the Participants. Each Participant may decide final prioritization requirements within its territory, and the other Participant should give deference to such requirements.

Participation in the Code of Conduct System may be offered by Accredited Indian Companies as an indication of their reliability in supplying Industrial Resources to the U.S. DoD and the contractors supplying it. Likewise, U.S. Companies may offer being subject to the U.S. DPAS as an indication of their reliability in supplying Industrial Resources to the IN MOD and the contractors supplying it.

SECTION 4 - EXCHANGE OF INFORMATION

No classified Information may be transferred under this Arrangement. Transfer of Information should be consistent with the furnishing Participant's applicable export control laws and regulations, defense priority and allocation laws and regulations, as well as other laws and regulations pertaining to the protection of Information. Information should be furnished without charge and used for information and evaluation purposes only.

Controlled Unclassified Information should be transferred only through official government-to-government channels. The Designated Points of Contacts identified in Section 5 should ensure that any Information provided in accordance with this Arrangement is used only by the Participants and then only for the purposes for which it has been provided. Information may not be used for any other purpose without the prior written consent of the furnishing Participant.

SECTION 5- DESIGNATED POINTS OF CONTACT AND REVIEW

Designated Points of Contact

Essential to the implementation of this Arrangement and the ability of the Participants to provide priority support to each other when needed is the designation of Designated Points of Contact for the Participants. The Designated Points of Contact serve as the focal point for the implementation and administration of this Arrangement, and are the points of contact to whom all requests for priority support and related issues should be directed for approval.

IN MOD

- a. Requests for priority support and/or assistance in the Republic of India should be directed to:

Department of Defence Production
Ministry Of Defence
Office Address: 802 A&B, 8th Floor, Konnectus Tower-2,
Bhavbhuti Marg, Connaught Place, New Delhi-110002

Electronic correspondence may be routed to: osdepc@ddpmod.gov.in

- a. Requests for priority support and/or assistance in the United States should be directed to:

The Assistant Secretary of Defense (Industrial Base Policy)
Office of the Under Secretary of Defense for Acquisition & Sustainment
3330 Defense Pentagon
Washington, DC 20301

Electronic correspondence may be routed to: osd.pentagon.osd-a-s.mbx.indpol-dpa-title@mail.mil

- b. Copies of correspondence related to priority support and/or assistance in the United States should be provided to:

Director, Defense Programs Division
Office of Strategic Industries and Economic Security
U.S. Department of Commerce
Room 3876
Washington, DC 20230

Electronic correspondence may be routed to: DPAS@bis.doc.gov

Modification of Designated Points of Contact

In the event of any reorganization or reassignment of responsibilities of a Designated Point of Contact of either Participant, that Participant should notify the other Participant in writing of the new Designated Point of Contact as soon as practicable. Such notification does not require a modification of this Arrangement.

IN MOD and U.S. DoD- Review of Priorities Systems Policies and Procedures

Representatives of the Participants should review their established or developing Priorities Systems policies and procedures at the request of either Participant, and should adjust them and the provisions of this Arrangement as feasible and necessary to conform to evolving national Priorities Systems and to provide Security of Supply.

SECTION 6 - EFFECTIVE DATE, MODIFICATION, DURATION, AND DISCONTINUATION

This Arrangement becomes effective on the date of the last signature below. Requests for priority assistance may be made after each of the Designated Points of Contact in Section 5 have acknowledged receipt of notification that the respective internal procedures to effect this Arrangement have been established.


This Arrangement may be modified by written consent of the Participants.

If either Participant considers it necessary to discontinue its participation under this Arrangement, it will notify the other Participant in writing. In such a case, the two Participants are to immediately consult to evaluate the consequences of discontinuation. If satisfactory arrangements cannot be reached on the way forward, this Arrangement discontinues six months after the date of notification.

Signed in duplicate in the English language.

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA

FOR THE MINISTRY OF DEFENCE OF
THE REPUBLIC OF INDIA



Signature



Signature

Ramboss, Vic S

Name

SAMIA KUMAR SINHA

Name

Deputy Secretary of Defense

Title

Additional secretary & DG, Acquisition

Title
Ministry of Defense

Washington DC 8/22/24

Place and date

Washington DC 22 August 2024

Place and date