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Shield & Sword: The Legal Blueprint of India's Defence Sector

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INTRODUCTION

Back in 2016, when a Bengaluru-based startup delivered its first batch of SWITCH UAVs to the Indian Army, few imagined that an Indian startup could compete with global defense giants that we were used to importing from. India's defense sector has emerged as one of the most promising segments of the Indian economy since the launch of the 'Aatmanirbhar Bharat' and 'Make in India' initiatives. With defense production hitting ₹ 1.27 lakh crores in FY 23-24, exports hitting ₹ 23,622 crores in FY 24-25 (up by 34x in a decade!), India has gone from buying security to building it.[1] The private sector has played a significant role in this growth, contributing about 64% (sixty four percent) of the total exports.[2]

How did we get here and what is keeping the momentum going? The answer lies in the policies and laws quietly reshaping India's defense sector, promoting indigenous defense manufacturing, reducing dependency on imports and betting on net exports in the sector. In the pages ahead, we dive deeper into the legal framework driving this growth, the openings it creates, and the regulatory hurdles that still stand in the way of true self-reliance.

KEY LAWS AND REGULATORY FRAMEWORK GOVERNING DEFENSE MANUFACTURING AND PROCUREMENT

1. Ministry of Defence ("MoD") – The Command Structure

Running on a budget of ₹ 6.81 lakh crores in FY 2025–26, the MoD is the primary institution responsible for overseeing the defense sector. It is not just another ministry; it is the nerve center of India's defense ecosystem. The MoD provides policy direction on defense procurement, research, and development, manufacturing and related matters through three operational departments:[3]

- **Department of Defence**:[4] Manages defence budget, lands, cantonments, policy, parliamentary matters, international defence cooperation, and coordination of all defence activities. Headed by the Defence Secretary, supported by the Directorate General (Acquisition), Additional and Joint Secretaries.

- **Department of Defence Production**:[5] Led by the Defence Production Secretary, focuses on self-reliance in design, development, and production of defence equipment and systems, indigenisation of imports, and oversight of Defence Public Sector Undertakings ("**DPSUs**").

- **Department of Defence Research and Development**:[6] Headed by the Secretary (Defence R&D) and Defence Research & Development Organisation ("**DRDO**") Chairman, responsible for research and development ("**R&D**") of defence technologies, systems, and equipment for the Armed Forces.

[1] "Make in India Powers Defence Growth; Exports at ₹23,622 crore in FY 2024-25, while production hit ₹1.27 lakh crore in FY 2023-24", Press Information Bureau, March 29, 2025 (Press Release: Press Information Bureau).
[2] *ibid*
[3] "From Indigenous Production to Global Exports, Redefining National Security" June 10, 2025 (Press Release: Press Information Bureau).
[4] About The Department | Department Of Defence.
[5] About us | Department of Defence Production.
[6] About DRDO | Defence Research and Development Organisation - DRDO, Ministry of Defence, Government of India.

2. **Industrial License**

Remember when only government entities could produce defense equipment? Those days are long gone. By way of Press Note 4 of 2001, the defense sector was opened up to 100% (one hundred percent) for private sector participation.[7]

Defence manufacturing requires a license under the Industries (Development & Regulation) Act, 1951 ("**IDRA**"), from the Department for Promotion of Industry and Internal Trade ("**DPIIT**").[8] For years, it was unclear which defense items would fall within this license regime. Broad headings for compulsory licensing included "*tanks and other armored fighting vehicles*"; "*defense aircraft, space craft and parts thereof*"; "*warships – all kinds*"; "*arms and ammunition and allied items of defense equipment; parts and accessories thereof*" - without providing any details or explanation on the equipment and items covered.

Subsequently, by Press Note 3 of 2014 ("**PN3 of 2014**"),[9] erstwhile Department of Industrial Policy & Promotion (now DPIIT), addressed this by providing a consolidated list of items requiring licensing. PN3 of 2014 also clarified that: (i) items not included in the list would not require an industrial license for defense purposes; and (ii) items having military as well as civilian applications, other than those specifically mentioned in the list, would also not require an industrial license.

In 2016, the government notified the Arms Rules, 2016 (under the Arms Act, 1959), which added ambiguity around the licensing process. Rule 52 of the Arms Rules, 2016 states that the "*licensing authority (Ministry of Home Affairs) may grant a license…..for the following types of arms for manufacture or proof test or both, namely:-….(iii) items configured for military use…*" thus raising apprehension that the Arms Rules had shifted the licensing regime from the simpler and faster DPIIT process to the Ministry of Home Affairs ("**MHA**").

However, on May 19, 2017 ("**2017 MHA Notification**"), the MHA passed on the power to issue licenses in respect of the arms and ammunition and defense items under the Arms Rules, 2016 to the DPIIT (then DIPP).[10] It was still unclear whether the manufacture of defense items which are common under both PN3 of 2014 and 2017 MHA Notification would be governed by the IDRA or the Arms Act, 1959. The ambiguity was finally resolved by way of a notification by the MHA on December 14, 2018, which clarified that the Arms Act, 1959 would cover only tanks, armored vehicles, and arms/ammunition and allied items of defence equipment, while aircraft, spacecraft, and warships continued to be covered within the ambit of the IDRA.

In order to resolve this ambiguity, the MHA issued a notification on December 14, 2018 in supersession of the 2017 MHA Notification which limited the purview of the Arms Act to "tanks and other armored fighting vehicles" and "arms and ammunitions and allied items of defense equipment". Accordingly, manufacture of "defense aircraft, spacecraft and parts thereof" and "warships of all kinds" were not within the scope of the Arms Act but the IDRA.[11] This was further clarified vide Press Note 1 of 2019,[12] which clearly sets out the defense items requiring licenses under the IDRA and the Arms Act. DPIIT now remains the single licensing authority for both the groups of items.

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[7] Press Note No. 4 of 2001 - Revision of existing sectoral guidelines and equity cap on Foreign Direct Investment (FDI), including investment by Non Resident Indians (NRIs) and Overseas Corporate Bodies (OCBs) (Government of India, Minstry of Commerce & Industry, Department of Industrial Policy & Promotion).

[8] Sr. No. 37 of Schedule I of IDRA, read with Notification No. S.O.477(E) dated July 25, 1991 as amended by Notification No. S.O.11(E) dated January 3, 2002 of the (then) (Department of Industrial Policy and Promotion, Ministry of Commerce and Industry).

[9] Press Note No. 3 of 2014 – List of defense items requiring industrial license, (Government of India, Ministry of Commerce & Industry Department of Industrial Policy & Promotion).

[10] Notification No. S.O. 1636(E) – dated May 19, 2017, (Ministry of Home Affairs).

[11], Notification S.O. 6203(E) – dated December 14, 2018, (Ministry of Home Affairs) .

[12], Press Note No. 1 of 2019 – List of defense items requiring industrial license, (Government of India, Ministry of Commerce & Industry Department of Industrial Policy & Promotion).

3. **Security Manual for Licensed Defence Industries**

Security is not just a concern, it is the foundation of defence manufacturing. Licensed defense producers must adhere to the guidelines specified in the Security Manual for Licensed Defence Industries, issued by the Department of Defence Production ("**Security Manual**").[13] Think of it as the industry's essential rulebook, establishing minimum security standards that every manufacturer must implement. The implementation of the Security Manual is undertaken by various agencies in collaboration such as the Intelligence Bureau, Ministry of Home Affairs and Department of Defence Production.

Key requirements under the Security Manual include:

- implementation of prescribed minimum security standards for production and sale of defense items;
- regular security audits by intelligence agencies;
- annual cybersecurity audits by CERT-In empaneled auditors;
- stringent measures to ensure sensitive technologies are not disclosed to unauthorized parties;
- annual and quarterly reporting obligations to Intelligence Bureau, Ministry of Home Affairs, Department of Defence Production; and
- appointment of compliance officers such as Chief Security Officer, Cyber Information Security Officer for undertaking compliance and liaison with governmental authorities as set out in the Security Manual.

These security protocols are crucial for protecting sensitive defense technologies and ensuring that manufacturing activities align with national security interests.

4. **Defence Acquisition Procedure, 2020 ("DAP 2020")**[14]

If you want to sell to India's armed forces, DAP 2020 is your bible. This document governs all capital procurements, replacing the earlier Defence Procurement Procedure. It is a statement of intent, designed to prioritize indigenous design/content and manufacturing.

The procurement categories are as follows:

- Buy (Indian-Indigenously Designed, Developed and Manufactured) - For products designed and developed in India;
- Buy & Make (Indian) - For products to be initially purchased from Indian vendors followed by indigenous production.
- Make-I/Make-II - Government or industry-funded design projects respectively.

DAP 2020 was updated in 2023 to raise indigenous-content requirements, fast-track approvals for Start-ups/Micro, Small and Medium Enterprises ("**MSMEs**"), and simplify procedures. The aim was for these categories to create a preference cascade, with Indian-designed products getting priority.

MoD declared 2025 as the 'Year of Reforms',[15] initiating a comprehensive review of the DAP 2020 to ensure

[13] Security Manual for Licensed Defence Industries, June 2014, (Ministry of Defence, Department of Defence Production).
[14] Ministry of Home Affairs, Notification S.O. 6203(E) – December 14, 2018, (Ministry of Home Affairs).
[15] "Ministry of Defence declares 2025 as 'Year of Reforms'", , MoD, January 01, 2025 (Press Release: Press Information Bureau).

modernization of the armed forces and boosting self-reliance and make in India initiatives.[16] Industry insiders expect these changes to address long-standing issues of procedural delays and complex approval processes.

5. **FDI Norms in the Defence Sector**

India's approach to foreign investment in defense reflects an interesting tension between how to attract global expertise while building domestic capabilities. The evolution of foreign investment norms for this sector tells this story.

India does not have a fully convertible currency and foreign direct investment in India ("**FDI**") is primarily governed by the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 and the Consolidated FDI Policy effective from October 15, 2020, formulated and issued under the Foreign Exchange Management Act, 1999 (collectively, the "**FDI Policy**"). The FDI Policy stipulates the entry routes for FDI (automatic route - where no prior government approval is needed; and the government (approval route - requiring prior government approval). It also details the sectoral caps for FDI in certain sectors.

The FDI Policy for India's defense sector has evolved significantly over the years. Prior to 2001, investment in India's defense industry was reserved exclusively for the government and state-owned entities. Although the sector was subsequently opened to 100% (one hundred percent) equity participation from the private sector, FDI was permissible only up to 26% (twenty six percent), with initial conditions and requirements being quite restrictive.

The government steadily relaxed the FDI Policy for the defense sector 2014.[17] A major shift occurred in 2020 when the FDI limit in defense sector was raised to 74% (seventy four percent) (from 49% (fourty nine percent)) under the automatic route for companies seeking new industrial licenses.[18]

The current FDI Policy for the defense sector is as follows:

- **Automatic Route:** FDI up to 74% (seventy four percent) is permitted through the automatic route for companies seeking new industrial licenses.

- **Government Approval Route:** FDI beyond 74% (seventy four percent) and up to 100% (one hundred percent) requires government approval and is permitted in cases where it is likely to result in access to modern technology or for other reasons to be recorded.

- **Conditions and Compliance Requirements:** FDI in the defense sector is subject to several conditions and compliance requirements:

    - **Industrial Licensing:** All FDI in the defense industry is subject to industrial licensing of the investee entity under the IDRA or Arms Act (as applicable).
    - **Security Clearance:** Foreign investment requires security clearance by the MHA, as per the guidelines of the MoD.
    - **Self-Sufficiency Requirement:** The investee company should be structured to be self-sufficient in areas of product design and development.
    - **Maintenance and Lifecycle Support:** The investee or joint venture company, along with the manufacturing plant, should have facilities for maintenance and lifecycle support for the products being

[16] Rahul Singh, "Defence ministry sets up panel to review acquisition procedure", Hindustan Times, June 20, 2025 (Hindustan Times).
[17] In 2014, the FDI Policy was amended to allow FDI beyond 26% on a case-to-case basis, when the same was likely to result in access to modern and state-of-the-art technology in India subject to certain conditions. Vide FDI Policy of 2016, FDI up to 49% was permitted under the automatic route; and beyond 49% under government route on case-to-case basis, where FDI was likely to result in access to modern and state-of-the-art technology.
[18] Press Note No. 4 of 2020 – Review of Foreign Direct Investment in Defence Sector, (Government of India, Ministry of Commerce & Industry, Department of Industry and Internal Trade Policy).

manufactured in India.

- **Change in Ownership Pattern:** For companies not seeking an industrial license or which have already received government approval for FDI in defense, any fresh infusion of foreign investment up to 49% (forty nine percent) requires a declaration to be submitted to the MoD within 30 days in case of a change in equity/shareholding pattern.

Despite this liberalization, actual FDI inflows in the sector have been modest, accounting for cumulative FDI from 2000 to September 2024 of about US $22 million only.[19] The reason for the disconnect as explained by most industry veterans is that the 74% (seventy four percent) cap is attractive but for them the real challenge is finding the right partner with complementary capabilities and aligned strategic vision. Most foreign OEMs have opted for joint ventures and strategic partnerships rather than direct investment. For example, the Tata-Airbus collaboration for C-295 aircraft production represents a more typical model of foreign participation in India's defense sector.

GOVERNMENT INITIATIVES TO BOOST THE SECTOR

1. **Defence Industrial Corridors:** Established in Uttar Pradesh and Tamil Nadu to boost local manufacturing, these corridors provide plug and play infrastructure and industrial support to foreign Original Equipment Manufacturers ("**OEMs**"), along with customized incentive packages based on investment, employment and project location.[20] By February 2025, the corridors had attracted over ₹8,658 crore of investment and 253 MoUs with potential investments of ₹53,439 crore.[21] These corridors are not just industrial parks, they are integrated ecosystems designed to nurture defense manufacturing through geographic clustering. Think of them as India's answer to aerospace hubs like Toulouse or Seattle, but with a distinctly Indian focus on cost-effective innovation.

2. **Positive Indigenization Lists - The Ban Lists:** One way the government is promoting indigenization is by banning imports. The MoD has issued five Positive Indigenization Lists covering over 5,500 items that must be sourced from Indian suppliers. About 3,000 of these have been successfully indigenized as of February 2025.[22] These lists include everything from ammunition and radars to aircraft components. For defense manufacturers, these "ban lists" create captive markets, giving them confidence to invest in R&D and production facilities.

3. **Ease of Doing Business Measures:** Introduction of measures to help improve the ease of doing business in the sector, which notably include among others: (i) streamlining of defence products list to reduce the number of items requiring a manufacturing license; (ii) increasing the validity of defence licenses under the IDRA from 3 years to 15 years with a possible extension of up to 18 years; (iii) introduction of end to end digital export authorization system; and (iv) de-licensing of parts and components to encourage investment in supporting industries extending the validity of export authorizations, reducing the number of items requiring manufacturing licenses, extending the validity of industrial license, and introducing an end-to-end digital export authorization system.

4. **Strategic Partnerships and G2G Agreements:** India has been actively pursuing strategic partnerships and government-to-government agreements to boost defense exports and collaboration. India has defense cooperation agreements with over 50 countries, opening up new markets for Indian defense products. India now exports defence equipment to over 100 countries, with the USA, France and Armenia emerging as the top buyers in the financial year 2023-24.[23]

5. **Innovations for Defence Excellence ("iDEX"):** iDEX is revolutionizing how the military sources innovation. Launched to engage startups and MSMEs, iDEX has awarded 250+ contracts worth over ₹600 crore to solve

[19] India's Defence Manufacturing Sector: Policy Support, Top Exports, Key Firms, January 27, 2025 (India-Briefing).
[20] Defence Industrial Corridors in India, (Make in India).
[21] Make in India Powers Defence Growth, Government of India, Press Information Bureau, March 29, 2025 (Press Release: Press Information Bureau).
[22] India's Defence Leap, From Indigenous Production to Global Exports, Redefining National Security, Government of India, Press Information Bureau, June 10, 2025, (Press Release: Press Information Bureau).
[23] Make in India Powers Defence Growth, Government of India, Press Information Bureau, March 29, 2025 (Press Release: Press Information Bureau).

defense challenges. The armed forces have already procured 43 items worth over ₹2,400 crore from iDEX-supported firms.[24] The initiative has catalyzed an explosion of defense startups – about 2,000 defense startups and 300 space startups now operate in India.[25]

THE EVOLVING ROLE OF DEFENSE PSUS

India's legacy for defense firms is rooted deeply in the DPSUs and erstwhile Ordinance Factory Board, which even today remain the backbone of defense production. Hindustan Aeronautics Limited dominates aerospace, Bharat Electronics Limited leads in electronics, Mazagon Dock Shipbuilders Limited and Garden Reach Shipbuilders and Engineers Limited build warships, and Bharat Dynamics Limited produces missiles. But even these giants are being pushed to reform. The 41 Ordnance Factory Boards were corporatized in 2021 into seven companies to improve efficiency and competitiveness.

The results are becoming visible. HAL is now partnering with Airbus and Boeing on aircraft projects.[26] BEL has transformed from a pure manufacturer to a systems integrator working with dozens of private MSMEs.[27] This ecosystem approach, where Public Sector Undertakings act as anchors for private innovation, is creating a more dynamic and responsive industry structure.

JOINT VENTURE AND TECHNOLOGY TRANSFER

India has aggressively pursued joint ventures and co-development programs with foreign partners. The BRAHMOS missile (with Russia), K-9 Vajra artillery (with South Korea), and LCA engine development are examples of successful collaborative projects. India and France signed an Inter-Governmental Agreement for the acquisition of 26 Rafale-Marine fighter aircraft for the Indian Navy.[28] Projects for strategic partnership are also linking the Indian consortia with global OEMs for fighter jets, helicopters, and submarines. These arrangements typically include technology transfer clauses and local manufacturing requirements, like the arrangement with France incorporates requirement for integration of indigenous weapon systems and the establishment of fuselage manufacturing and MRO facilities in India.

INDIA'S PATH TO SELF-RELIANCE IN DEFENSE

India has made significant strides towards self-reliance in the defense sector, with several notable achievements in recent years. These include the successful test launch of 2 short-range ballistic missiles – Prithvi-II and Agni-I[29] and the induction of the HAL Tejas Advanced Light Combat Aircraft into the Indian Air Force.[30] India successfully carried out the Agni-5 missile (capable of travelling 5000kms/3100 miles) test launch, marking another confident stride in its growing defense and technological strength. The Technology Information Forecasting and Assessment Council has prepared a Technology Roadmap 2047 for the Defence Sector for DRDO, which envisions transforming India's defense sector into a self-reliant, globally competitive industry.[31] This roadmap, along with other initiatives such as the 'Make in India' program and the 'Aatmanirbhar Bharat

[24] India's Defence Leap, From Indigenous Production to Global Exports, Redefining National Security, Government of India, Press Information Bureau, June 10, 2025, (Press Release: Press Information Bureau).
[25] *ibid*
[26] Airbus bolsters MRO industry in India, partners with HAL to service A320 family aircraft, November 9, 2023 (Press Release: Airbus).
[27] Defense System Integration Complex, (Press Release: Press Information Bureau).
[28] "Inter-Governmental Agreement inked with France for 26 Rafale-Marine aircraft for Indian Navy", Press Information Bureau, MoD, April 28, 2025 (Press Release: Press Information Bureau).
[29] TOI News Desk, "India test fires Prithvi-II, Agni-I: Trials under nuclear command successful; follows launch of Akash Prime", Times of India, July 17, 2025 (Times of India).
[30] PTI, "Indian Air Force to get at least 6 Tejas light combat aircraft in 2026, says HAL", Hindustan Times, June 24, 2025 (Hindustan Times).
[31] "Department of Science and Technology Year End Review 2024", Press Information Bureau, Ministry of Science and Technology, December 24, 2024 (Press Release: Press Information Bureau).

Abhiyan', reflects the government's commitment to achieving greater self-sufficiency in defense manufacturing.

The MoD has set a target of 70% (seventy percent) defense indigenization by 2027, creating significant opportunities for industry players.[32]

1. **Opportunities and Future Outlook**

The most exciting development is the emergence of defense startups. These companies are bringing cutting-edge technologies to India's armed forces. The ₹500 crore iDEX budget has been a game-changer, allowing small firms to solve specific military challenges.

Acing Development of Innovative Technologies with iDEX (ADITI), a sub-scheme within iDEX, aims to support critical and strategic technologies such as satellite communication, advanced cyber technology, autonomous weapons, semiconductors, AI, quantum technology, nuclear technologies, and underwater surveillance.

2. **Suggestions for Regulatory Improvements**

To accelerate India's journey towards self-reliance in defense and further boost the sector's growth, several regulatory improvements could be considered:

- **Streamlining Procurement Processes:** Further simplify and expedite defense procurement procedures to reduce delays and enhance efficiency. The ongoing review of DAP 2020 presents an opportunity to address bottlenecks and introduce more streamlined processes.

- **Enhancing Public-Private Partnerships:** Develop a stronger framework for Public-Private Partnerships in the defense sector, with clear guidelines to ensure national security is not compromised. Projects like the Advanced Medium Combat Aircraft could benefit from increased private sector involvement.[33]

- **Expanding Production Linked Incentive ("PLI") Scheme:** The government's PLI schemes aim to boost indigenous manufacturing. However, no dedicated PLI scheme currently exists for defense manufacturing. The PLI scheme for drones and drone components, introduced in 2021 has now expired.[34] The government could consider expanding the PLI scheme to include a broader range of dual-use technologies.

CONCLUSION: A STRATEGIC IMPERATIVE

India's defense sector stands at a pivotal juncture, with significant growth potential and strategic importance for the nation's security and economic development. The government's push for self-reliance through initiatives like 'Make in India' and 'Aatmanirbhar Bharat', coupled with liberalized FDI policies, has created a conducive environment for both domestic and foreign investments in the sector.

The regulatory framework governing the defense sector continues to evolve, with a focus on balancing national security concerns with the need for innovation and efficiency. The IDRA, the Security Manual for Licensed Defence Industries, and the DAP 2020 form the backbone of this framework, providing guidelines for manufacturing, security, and procurement in the defense sector.

While challenges remain, the opportunities for growth and development are substantial. What is clear is that India's defense industry has moved beyond mere assembly to genuine innovation and manufacturing. With

[32] Ajay Shukla, "Ministry of Defence targets 70% indigenization by 2027", Business Standard, December 11, 2015 (Economy & Policy News - Business Standard).
[33] "Aatmanirbhar Bharat: Raksha Mantri approves Advanced Medium Combat Aircraft Programme Execution Model through industry partnership", Press Information Bureau, MoD, May 27, 2025 (Press Release: Press Information Bureau).
[34] "Government Approves PLI Scheme for Drones and Drone Components", Press Information Bureau, Ministry of Civil Aviation, September 15, 2021 (Press Release: Press Information Bureau).

continued reforms and focus on building technological capabilities, India has the potential to not only achieve greater self-reliance in defense manufacturing but also emerge as a significant exporter of defense products and technologies.

As India continues its journey towards becoming a global defense manufacturing hub, the synergy between government initiatives, private sector innovation, and international collaborations are creating pathways for innovative companies to contribute to national security while building a globally competitive industry.

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