

MINUTES OF THE MEETING OF FIFTH STANDING COMMITTEE ON DMI&SP
POLICY HELD ON 21-12-2017 AT 11:30 A.M. UNDER THE CHAIRMANSHIP OF
DR. ARUNA SHARMA, SECRETARY, MINISTRY OF STEEL

1. List of Officers who attended the meeting is at *Annexure-I*.
2. At the outset, Chairman of the Standing Committee welcomed all the participants. Standing Committee was apprised that initially Ministry of Railways (MoR) floated a global tender on 18.10.2017 and approached the Standing Committee for waiver on 18.10.2017. The Grievance Committee in a meeting held on 31.10.2017 and Standing Committee in its meetings held on 03.11.2017 and 11.12.2017 deliberated upon the request of MoR. It was *interalia* advised to MoR to approach the Standing Committee once technical assessment of rail manufacturer other than SAIL is available.
3. MoR informed in its letter dated 20.12.2017 that tender is being opened on 22.12.2017. MoR has again requested Standing Committee on DMI&SP to consider exemption asked for on priority.
4. MoR further informed that as observed by Standing Committee, an expert committee of RDSO has been directed for carrying out technical assessment of manufacturing capability of the rails of the second Indian supplier, M/s JSPL, after due inspection, verification & testing in parallel with the tendering process. It was mentioned that RDSO's results are expected in a fortnight. MoR also informed about the decision that domestic rail manufacturer will be considered for developmental order upto 20% of Net Procurable Quantity in tender under consideration, if Railways is *prima facie* satisfied that they are technically suitable and capable of executing the order and fulfill other relevant eligibility criteria specified in the tender.
5. Standing Committee was also informed about letter of MoR dated 18.12.2017 (*Annexure-II*) seeking modification in minutes in fourth meeting of the Standing Committee held on 11.12.2017.
6. As regards quantum of rails to be procured by MoR, it informed that the requirement of MoR for rails in 2017-18 and 2018-19 is 14.59 and 14.78 lakh metric tonnes respectively which amounts to a total requirement of 29.37 lakh metric tonnes.

7. SAIL mentioned their rail making capacity as 15 lakh metric tonnes (2018-19). SAIL have supplied 5.55 lakh metric tonnes of rails till November, 2017 and they would be able to supply total rails quantity of 9.5 lakh metric tonnes in FY 2017-18 and 15 lakh metric tonnes of rails in FY 2018-2019.
8. JSPL indicated their rail manufacturing capacity as 7.5 lakh metric tonnes. They can supply upto 6 lakh metric tonnes per annum to MoR. They can supply rails in 21 days once order is placed.
9. Standing Committee observed that MoR is procuring shorter length rails under global tender as supply of long rails cannot be done by importers due to transport constraint. It was also noted that both domestic manufactures can supply long rails which do away with the requirement of weld joints needed in laying of shorter length rails of 25/26 m as well as possible damage of rails due to multiple handling & transport to the work site.
10. The Standing Committee deliberated on the domestic rail making capacity of two rail manufactures in India viz SAIL and JSPL. It is noted that that while SAIL is supplying rails as per MoU with MoR, JSPL is new domestic entrant for MoR which has capability to supply rails to MoR. MoR has revised the tender quantity to 4.87 lakh metric tonnes from 7.17 lakh tonnes based on supply being made by SAIL. MoR has also provided tender clause for the purpose of upto 20% of Net Procurable Quantity to be considered as placement of developmental order to new domestic entrant.
11. The Standing Committee noted that the DMI&SP policy and Public Procurement Order, 2017 have been notified by the Government to facilitate domestic manufacturing with larger objective of "Make in India". Once domestic manufacturers satisfies value addition criteria for specified products, tender had to be processed as DMI&SP policy unless exemption is obtained which can be given when specific quantity or specific grades are not available domestically.
12. As per clause 10(b) of the Public Procurement Order, 2017 issued by DIPP, 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. Further, if lowest bid is from other

than domestic local manufacturer, local supplier will be invited to match lowest bid within the margin of purchase preference. These provisions in Public Procurement Order, 2017 have the intention that the domestic manufacturer should not be excluded from Government procurements.

13. Any award of global tender has to consider the policies notified by the Government. MoR informed that as per conditions in global tender there is provision for placement of developmental order upto 20% of Net Procurable Quantity on new domestic entrant, if Railways is prima facie satisfied that they are technically suitable and capable of executing the order.

14. Standing Committee after deliberations made following observations,-

(i) The basic objective of the DMI&SP policy, 2017 is strengthening "Make in India" with the objective of nation building and encouraging domestic manufacturing. The global tender by MoR goes against the very spirit of this policy. However, waiver from DMI&SP policy is granted to MoR for tender dated 18.10.2017 for quantity of 4.87 lakh metric tonnes subject to 20% of quantity procurement (developmental order) from domestic producer in line with "Make in India" vision. The waiver to be considered as one time exception and not to be used as a precedent for rails or any other products covered under DMI&SP policy 2017. MoR may also make a realistic assessment of their requirement of rails over the next two years.

(ii) Attention is also invited to letter no. 4745327 dated 10.12.2017 from Principal Secretary to Prime Minister making following observation:-

"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 above letter is enclosed as **Annexure-III**.

(iii) Technical assessment of manufacturing capability of the rails of the second Indian supplier is to be expedited by MoR.

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(iv) MoR has issued global tender without first obtaining waiver under clause 3 of DMI&SP policy. Standing Committee noted that MoR had floated the global tender on the same day i.e. 18.10.2017 on which they approached the Standing Committee for waiver. This could have been avoided by MoR in view of policies already notified for Government procurements. It is advised that in future MoR should obtain prior waiver under DMI&SP policy before floating any global tender for procurement of rails.

(v) MoR to ensure that rails requirement in future is met domestically in terms of extant Government policies especially when there is domestic rail making capacity. Moreover, MoR should ensure that eligibility conditions in tender do not result in unreasonable exclusion of domestic manufacturer from Government procurements.

Meeting ended with vote of thanks to Chair.

Annexure-1

List of Officers attending the 5th meeting of the Standing Committee on DMI&SP Policy held on 21-12-2017 at 11-30 A.M. under the Chairpersonship of Dr. Aruna Sharma, Secretary, Ministry of Steel.

Member of Standing Committee

1. Dr. Aruna Sharma , Secretary(Steel)
2. Shri Saraswati Prasad, AS&FA (Steel)
3. Shri Sunil Barthwal, Joint Secretary (Steel)
4. Shri Atul Bhatt, CMD, MECON
5. Shri A.S. Firoz, Chief Economist, ERU

Members from Ministry of Steel

6. Shri Anupam Prakash, Director (Steel)
7. Shri R.K. Gupta, Under Secretary
8. Shri Pritam S. Purukasyatha, DGM (TTD)/OSD to Secretary (Steel)
9. Shri S. P. Bist, SO, ID Division
10. Shri Amit Singh, DM, ID Division

Representatives from organization/association

11. Shri Alok Ranjan, AM(CE), Ministry of Railways
12. Shri B.P. Awasthi, ED/ Track (P), Ministry of Railways
13. Shri Alok Sahay, ED (Commercial), SAIL
14. Shri N.A. Ansari, CEO, JSPL
15. Shri Vijay Kumar Chama, EVP (SM), JSPL
16. Shri A. K. Agrawal, GM (TS), MECON
17. Shri T. Kant, DGM (M-RC), SAIL
18. Shri Rajan Anand, GM, JSPL
19. Shri Sanjay Bajaj, GM (Logistics), JSPL

Annexure - II

भारत सरकार/GOVERNMENT OF INDIA
रेलवे मंत्रालय/MINISTRY OF RAILWAYS
रेलवे बोर्ड (RAILWAY BOARD)

सं/No. 2016 Track-1(P)/5/10

दिनांक/Date: 18.12.2017

Secretary
Ministry of Steel
Udyog Bhavan,
New Delhi.

विषय/Subject: Minutes of the fourth Meeting of Standing Committee on DMI&SP Policy held on 11.12.2017 at Udyog Bhavan, New Delhi.

संदर्भ/Reference: Your office letter No. 11(34)/2015-JDD dated 15.12.2017.

Please refer to the meeting of Standing Committee on DMI&SP Policy held on 11.12.2017, the minutes of which have been received vide reference mentioned above. In regard to the minutes, it is to be mentioned that while views of various stakeholders who attended the meeting, have been included in the minutes; however, the views/clarifications of Ministry of Railways have not been included. Following was mentioned in the meeting, and is being reiterated again as under:

- a) A developmental order is to be considered for the quantity up to 20% of the total quantity only (and not 20% of total requirement), for which there are established rules in the Ministry of Railways;
- b) Rail is a specialized product and involves complex manufacturing process. It is not appropriate to treat rail at par with other routine steel products. Besides technology, the consistency in the process of production of rails is essentially necessary. It was brought out that despite long experience of SAIL, it is still having rejection of the order of 15%, which was also confirmed by CMD/SAIL who was present during the meeting. Thus, keeping in view the safety implications involved, it is necessary that the vendor has to be an established manufacturer with proven performance of supply of rails to passenger carrying railway system.

It is requested that the above viewpoints which were put up in the Standing Committee meeting also, may be included in the minutes of the said meeting; and corrigendum to the minutes of the meeting issued vide reference mentioned above, may also be issued.

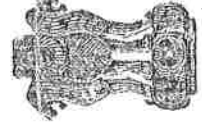
(B P. Awasthi)
Executive Director Track (P),
Railway Board.

Office of Secretary
Ministry of Steel
Diary No. 15.6.29/2017/Secy
Date: 19/12/2017
रुचिष (इस्यसे) कार्यालय

JS (B)
SAIL
19/12/17

will be sent to
SAIL
19/12/17

JS (B)
SAIL
19/12/17



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 8th 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.