

Chapter III: Co Production Arrangements, Collaboration Agreements and Memorandum of Understanding

3.1 Dealings with Singapore Technologies to supply CQB⁹ Carbine to Paramilitary forces

OFB is the nominated industry for production of Carbines both for Protective and Close Quarter Combat role and is capable of absorbing technology and produce any type of Carbine.

On 12 Jun 2008, OFB received a communication from the Singapore Technologies Kinetics (STK) addressed to the former DG. In this, a meeting in September 2007 was referred to in which discussions had taken place regarding collaboration between OFB and STK on offset arrangements for selected programmes of the Ministry. It was stated in that letter that STK had now received from Ministry RFPs for Close Quarter Battle Carbines and ammunition and also other items like Light weight Howitzer and Towed Gun system. STK requested OFB to offer the draft terms and conditions for provision of offset.

In the backdrop of the above, a meeting took place on 8 July 2008 between former DG and other officials of OFB Headquarters and the representatives of STK at OFB. ST informed that Ministry of Home Affairs (MHA) was likely to make outright purchase of CQB carbine and they would like to participate in the same. Chairman / OFB stated that the subject matter can be taken up with MHA stating that “an offset agreement has been signed between OFB and STK and the latter has developed the carbine using Indian components so that the indigenization process becomes faster for supply to MHA”.

The decision to "take up" the matter with the Joint Secretary, Ministry of Home Affairs stating that "an offset agreement *has been* signed between OFB and STK and that STK has developed the Carbine by using Indian Components so that the indigenization process" was incorrect and amounted to falsification of facts. The fact was that as on that date, neither any offset agreement had been signed nor had STK

⁹ Close Quarter Battle Carbine

developed any carbine "by using Indian Components". Even the most rudimentary details of such a contractual arrangement for such co-development and co-production had not been thought of. As subsequent developments would indicate, this was the beginning of a web of falsifications and conspiracy that surrounded the deal between STK and OFB.

Though it was further decided in that meeting that the above can be taken up with the Ministry of Home Affairs only when the Carbine with Indian Component is developed and test fired in India in the presence of OFB, subsequent actions of the OFB belied that decision and confirmed the intention to mislead the MHA.

Close on the heels of this meeting, another meeting took place between MHA and officers from the OFB Headquarters on 24 July 2008. MHA expressed the need for acquiring 5.56 mm Carbine on most urgent basis as the plan for modernization of police forces was coming to an end on 31 March 2010. It was pointed out that 5.56mm carbine provided by OFB earlier for carrying out trial evaluation had failed. OFB officials informed that fresh trials for ammunition would take place on 25 July 2008 in which representatives of the Para Military Forces would be present. If the trials were successful, OFB would provide sample by end of August and trials could take place by 15 September 2008. OFB's representative also suggested that they can supply 5 Nos Carbine developed by "one Singapore firm" with which OFB "will have Transfer of Technology (TOT) arrangements". The representative's promise of TOT was at that stage only a promise.

In an internal note on 29 July 2008, on a proposal whether OFB should provide the carbines offered by STK for trials by MHA, it was opined by Member (Ammunition & Explosives) and Member (Weapons, Vehicles & Equipment) that the carbines should not be offered to MHA since they had not been evaluated by the Ordnance Factories. The former DG on that note directed to call STK for a meeting.

The meeting was convened on 11 August 2008. In Phase I of the meeting which was internal, it was decided to offer to MHA the STK carbine having minimum 50 *per cent* work share with OFB along with OFB's own AMOGH carbine. In the Phase II of the meeting in which STK participated, it was decided that six carbines should be provided by STK out of which five should be offered to the MHA. STK assured that they would send two carbines immediately by 25 August which could be used by

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Ordnance Factories for their trials. To facilitate import, it was decided to sign the end user agreement and non disclosure agreement "today (11 August 2008) itself".

It was also informed in that meeting that "supply to MHA needed to start within 6 months after the placement of order and the supply of 50,000 carbines would have to be completed within 18 months thereafter. OFB would like to take up the component which could be productionized in 6 months time by making use of OFB's existing facilities." For the purpose of progressing the project in a time bound fashion two committees – a commercial committee and a technical committee were also formed.

Arrangements were then made for carrying out trials of the two STK SAR 21 MMS¹⁰ carbines at SAF¹¹ Kanpur on 15 September 2008. Trials were conducted at 50 m and 200m range beyond which facilities were not available. Ability to fire with One Hand grip was found "Not suitable". Sustained firing was conducted where 720 rounds were fired in 10 minutes. Overheating was noticed at various points. At the end of the firing, safety lever became loose and could not be rectified on the spot. At the drop test at 5 metres, major misalignment problem was observed in one machine and it became non-functional. In case of the other machine, minor problems cropped up which, however could be rectified on the spot. Effect of dust as in a desert like condition was not evaluated.

MHA trials were held from 17 November to 21 November 2008 at NSG premises at Manesar. Prior to the trials STK apprehended that there might be technical complications if their carbine is subjected to reliability test specifications as spelt out in the MHA's trial directive and requested for safety certificate from OFB. This would be required as the carbines were being offered as OFB's carbines that would be produced through a TOT arrangements. OFB did not hesitate to provide the required safety certificate and other certificates for recoil forces, noise levels etc. that were issued by DDG/R&D based on the certificate issued by STK. Without formal collaboration with STK, issuing safety certificates by OFB to facilitate trial by MHA was incorrect as the carbine was fully imported and it had failed on several parameters when tested in SAF Kanpur.

On several parameters, in which SAR 21 was found deficient in SAF Kanpur, NSG trials found the carbine completely satisfactory. The drop test was done at the height

¹⁰ Singapore Assault Rifles Modular Mounting System

¹¹ Small Arms Factory, Kanpur

of 5 feet as against 5 metre tested at SAF. While SAF complained of smoke, NSG trial did not find any trace of smoke. NSG also found that the weapon could easily be handled and fired with one hand.

DDG/R&D who was nominated as OFB's representative at MHA trial brought out that large number of stoppages were observed during the firing of OFB 'AMOGH' carbine of Small Arms Factory being fielded by OFB. These stoppages were primarily on the account of defective feeding of ammunition by the magazine. DDG opined that the gun has otherwise performed satisfactorily as far as accuracy, consistency and other parameters are concerned. He further observed that "**Poor performance of SAF Carbine during trials of NSG could have been avoided, had SAF taken more care in preparing the Weapons Systems before sending to NSG.**"

In a meeting in the MHA on 18 February 2009 regarding procurement of carbines, OFB committed that they can supply the first batch of 2627 carbines on 1.9.2009, 18,369 by 31.3.2010 at the same monthly rate and the total quantity by 28 February 2011. BSF opted to procure the weapon from the OFB. CRPF also agreed with that.

It was only after this commitment, the issue to undertake productionization of STK make Carbine was deliberated in the Board meeting held on 26 February 2009 which passed the following resolution:

"Production of 5.56 mm Carbine of Singapore Technology with 45mm chamber length would be undertaken subject to (a) MOD's approval of collaborative instrument with Singapore Technologies and (b) MHA's commitment to procure economically viable quantities from Ordnance Factories. The background of selection of Singapore Technologies for obtaining technology for production of 5.56 mm carbine inter-alia bringing out that no RFP was issued to identify the collaborator would be spelt out to MOD at the time of sending the collaborative instrument for their approval."

The cost of STK carbine was likely to be more than six times cost of in-house developed carbine.

The case could not proceed further as the transaction with STK was put on hold in June 2009 by MOD after STK had indirectly been mentioned in the FIR registered by the CBI against former DGOF.

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On the day on which OFB committed supply of carbines to MHA, OFB did not have any production arrangements with STK for production of these in India. There was no authorization from the Ministry to commence any production arrangements. OFB by committing the supply to the MHA, created a *fait accompli* situation to facilitate STK to supply the carbines piggybacking Ordnance Factories. While MHA could avoid floating the normal tendering procedures by procuring it from OFB, the fact is that OFB in absence of any co production arrangements would have supplied carbines produced by STK. The process amounted to a sophisticated connivance by OFB and STK to sell STK carbines to MHA without going through the approved laid down procedures.

Assertion of OFB before MHA that it will have TOT arrangements was not based on facts and was intended to mislead the MHA. Even the rudimentary terms and conditions of TOT and co-production arrangements had not been contemplated at that stage. OFB falsely presented before MHA the SAR 21 MMS as OFB's offer, with production and TOT arrangements with STK. The officials from the MHA and the Paramilitary forces accepted OFB's offer without any further examination or investigation. Such lack of diligence was unbecoming of senior management dealing with such procurement. Officials from the MHA never enquired about the production facilities knowing fully well that SAR 21 MMS is not an indigenous carbine.

OFB's decision to approach the Ministry of Defence at a very late stage for approval of collaborative instrument between STK and OFB amounted to a *fait accompli* situation in which little alternative was available. If the proposal was rejected, the supply to MHA would have been jeopardized and the modernization of paramilitary forces would have been adversely affected.

Strangely, Ministry of Defence was not even aware of these developments. They came to know only after the receipt of two anonymous complaints in February 2009 through MHA and initiated disciplinary action thereafter.

Incidentally, SAR 21 MMS is a well respected carbine internationally and is in use in armies of several countries. Ministry of Home Affairs and Ministry of Defence should review the procedures and analyze the reasons why such procurements could not be made in a transparent manner without so much of falsities and lies.

To sum up:

- (i) OFB continuously presented to Ministry of Home Affairs as if it has already entered into a co-production arrangements with Singapore Technologies, which was intentional falsification of facts;
- (ii) Officials of the Ministry of Home Affairs also did not enquire about the capacity of the Ordnance Factories to produce such Carbines;
- (iii) Ministry of Defence was in complete dark about the activities of the OFB with regard to the offer to MHA.

Ministry in its reply accepted that the following serious and substantive lapses have been committed by OFB in this case:

- (i) STK's carbines were offered to MHA without going through the due process. No assessment of their capabilities or track record was seen to have been made;
- (ii) Even after the failure of the STK carbine in the drop test during trials, it was decided to offer it to MHA despite the valid objections raised by the Members of OFB. The sample size of two carbines was also inadequate;
- (iii) Offering a defective carbine which had failed in critical test during trials to the paramilitary forces was another serious aspect. Acceptance of the carbine would have serious adverse implications in terms of national security.

Ministry informed that it had taken a very serious view of the matter and decided to initiate disciplinary proceedings against officers who were responsible. CVC was approached for first stage advice and they have endorsed the stand by the Ministry.

3.2 Collaboration agreement with CDR Russia

In a similar case, Ministry of Defence issued two RFPs for the procurement of Light Bullet Proof Vehicles (BPV) and Light Strike vehicle (LSV) with accessories in June 2008 and August 2008 respectively. Against the above backdrop, Defence Corporation Russia (CDR) showed interest in a letter dated 8 October 2008 in formulating strategic alliance with OFB for joint production of BPV and LSV in India. CDR expressed their intention to OFB to send a team of expert to explore the various avenues of co-operation and finalize the Teaming Agreement. OFB invited CDR on 13 October 2008 to a meeting on 23 October 2008. The decision for

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collaboration with CDR for participation on BPV was taken in the Board Meeting dated 31 October 2008. Thus, the whole exercise was concluded in one month at an astonishing speed. Two Collaboration Agreements(CAs) were signed on 15 April 2009 between CDR and OFB to enter into strategic long-term collaboration for the production and supply of the LSV and BPV to OFB.

It was noticed in audit that such CAs were entered into by the OFB with exploring the market. The work share arrangements did not favour OFB in any way as work-share in respect of light strike vehicle (LSV) was distributed between CDR and OFB as 84.87 *per cent* and 15.13 *per cent* respectively. The share of OFB included items, which can be purchased from trade by outsourcing (wheel, tyres, lighting system, battery, assembly, painting etc.). Similarly, in respect of BPVs, the share of CDR and OFB was distributed as 64.92 *per cent* and 35.08 *per cent* respectively. It included all the above low technology items. OFB was not to get any benefit from these CAs from technology point of view as all the major components were to be supplied by CDR and only to be assembled by OFB. On the other hand, CDR would supply their product at the cost fixed by them and without entering into any competitive bids.

The CAs entered by OFB with a foreign company violated the laid down procedures for procurement of such services. The intense speed with which the agreement was finalized was also suspect. It was noted that there was no oversight by the Ministry of Defence to ensure that such actions are scrutinized at different levels.

Ministry in its reply stated that OFB was always tight on time while participating against RFP with a foreign partner. In these cases 82 days and 84 days were available to respond to the RFP issued by Ministry of Defence. Hence fast actions are pre requisite for successful participation in RFP.

It is however to be noted that the work share arrangements were such that Ordnance Factories instead of producing were actually selling a foreign product under the garb of the Ordnance Factory produce. The *modus operandi* is very similar to the one adopted in case of Close Quarter Battle Carbine.

3.3 Co-production arrangements for FSAPDS¹² with IMI

A Memorandum of Understanding (MOU) entered into on 26 October 2003 by and between OFB and IMI for production of following types of products:-

Type A Products: Products which shall be pioneered and introduced for the first time through collaboration between IMI and OFB.

Type B Products: Products that have already been established by IMI, but shall be jointly produced by IMI and OFB with their respective resources, so that owing to this synergy the same product though already established by IMI can be produced at a lower cost without compromising the quality.

Against the above background, OFB entered into a co-production arrangement with IMI Israel to produce FSAPDS ammunition. In the phase I, the work share of OFB was to provide Primer and Igniter (US\$ 17), Stub Case (US\$ 41), Assembly of complete round, Test (US\$ 56), Packaging, Transportation and Proof Cost (US\$ 40). Compared to this, IMI was required to supply complete penetrator assembly (US\$ 508) and Combustible Cartridge Case and Propellant (US\$ 227). In Phase II, IMI was required to supply blank penetrator (US\$ 278). Machining & complete penetrator assembly (US\$ 215) was required to be done by the OFB. Thus in effect, in phase I, OFB was essentially required to assemble the final product.

A contract agreement was signed between OFB and IMI Israel in September 2004 for supply of 15,000 units MK-I FSAPDS 125mm anti-tank ammunition in two phases. The first batch assembled in India was subjected to proof test in May 2005. Controller of Quality Assurance (Ammunition) did not accord Bulk Production Clearance as it failed in the proof test. Meanwhile, in the Target Fixation meeting for 2005-06 held in January 2005, it was decided that OFB would supply further 30,000 of the ammunition during 2005-06 (cumulative 45,000). Though the consignment of 15,000 units was awaiting Bulk Production Clearance from inspectorate authority, OFB imported further 30,000 units in September 2005 valuing Rs 99.34 crore (US\$ 22 million) at the Phase-I rate. 45,000 units valuing Rs 141 crore were still lying idle as of May 2010.

¹² FSAPDS : Fin Stabilized Armour Piercing Discarding Sabot

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Without stabilizing the co-production of FSAPDS from the first consignment of imported components, OFB's procurement of 30,000 additional units worth Rs 99.34 crore and MOD's sanction thereof was a case of wrong judgment.

Though it was repeatedly mentioned by OFB and MOD at the time of processing of case that the agreement was meant for 'co-production and co-development' of 125 mm FSAPDS, the details of work-share worked out by OFB indicated that it was neither a co-development nor co-production in the initial phases. The share of IMI to OFB was 83 *per cent* to 17 *per cent*. Further, the 17 *per cent* contribution of OFB was insignificant.

Between 2001 and 2003, Army had directly procured 46000 rounds of 125 mm FSAPDS from IMI Israel without any problem relating to quality. DGQA was the Inspection authority also for imported ammunition. The ammunition was acceptable both DGQA and Army. However, when the ammunition against the agreement dated September 2004 was received by OFB, both DGQA and Army could not clear the ammunition. Ministry remained the silent spectator during the whole process and failed to resolve the issue which resulted in 45000 units of FSAPDS worth Rs 141 crore lying idle. The ammunitions procured by OFB and Army were proven products and were supplied by the same supplier.

Ministry replied that bulk production clearance was accorded in June 2009 and in view of the selective permission for business dealings with IMI, the preparatory action was being taken.

Ministry's reply was silent as to why the procurement was done for the second phase, when the bulk production clearance was not given even for first phase.