



**Please note: This is an informal translation**

Mandatory Tenders Regulations (Mandatory Industrial Cooperation), 5767 - 2007  
By the power vested therein under Article 3A (a) of the Mandatory Tenders Law,  
5752 - 1992[1] and with the approval of the Constitution, Law and Justice  
Committee of the Knesset, the government enacts these regulations:

**Chapter A: Interpretation**

Definitions 1. In these  
regulations

"USD" - US dollar, according to the official  
currency rate as published by the Bank  
of Israel on the day of the tender's  
publication or the day of exemption  
from the tender process, whichever is  
relevant;

the "Buyer" - The State, a Government corporation,  
local corporation and health fund who  
enter into a contract under these  
regulations, except for a company  
which, in accordance with Article 63A  
of the Government Companies Law,  
5735 - 1975[2] (hereinafter - the  
Government Companies Law), is not  
subject to the authorizing provision of  
Article 4(a) of said Law and a  
subsidiary of such a company;

The "ICA" - The Industrial Cooperation Authority  
operating in the Ministry of Industry,  
Trade and Labor

"Local  
Subcontract"- A contract of a foreign supplier that  
won a tender, for the purchase of Israeli  
manufactured goods or for the  
execution of work or services in Israel,  
all for the purpose to carry out the  
contract which is the subject of the  
tender;



“Production” - The generation of goods or their substantial transformation as a result of which new or different goods or services were obtained;

The “Bid Price” - Including taxes, imposts, fees, insurance and transportation expenses and, with regard to imported goods - their price CIF at a port in Israel, including taxes, imposts, fees, insurance and freight costs:

“Israeli-Made Goods” Goods manufactured in Israel or in another region or place, with the approval of the ICA, in one transaction or in several consolidated transactions or during a period that shall be determined, all at the discretion of the ICA, provided that the price of the Israeli content therein constitutes at least 35 percent of the Bid Price or a lesser value, pursuant to criteria published by the ICA in the Official Gazette;

“Imported Goods” - Goods that are not manufactured in Israel;

“Foreign Supplier”- A manufacturer, supplier or importer of imported goods or a supplier of work that is not performed in Israel, whether themselves or by means of others;

“Work in Israel” - Work, including services, that is performed in Israel or in the region by an Israeli citizen or a permanent resident of Israel or a corporation registered in Israel, or in another place with the prior approval of the ICA;

“Industrial Business activities in Israel as set



Cooperation” - forth in Regulation 4;

- Interpretation of undefined terms
2. Terms in these Regulations that have not been defined in Regulation 1 shall be interpreted as their meaning in the Mandatory Tenders Regulations, 5753 - 1993[3] (hereinafter -the Mandatory Tenders Regulations), and in the matter of contracts with the defense establishment - within their meaning in the Mandatory Tenders Regulations (Defense Establishment Contracts) 5753 - 1993[4], on a case by case basis unless otherwise explicitly stated therein.

## Chapter B: Mandatory Industrial Cooperation

- Mandatory Industrial Cooperation
3. (a) The provisions of this chapter shall also apply, mutatis mutandis, to contracts made not by way of a tender.  
  
(b) The Buyer shall include in the tender documents for the purchase of goods or the performance of work, when the value of contract therein exceeds the threshold set forth in section (1) or (2), a provision regarding the obligation of a Foreign Supplier, should it win the tender, to carry out Industrial Cooperation pursuant to these Regulations, unless a prior full or partial exemption was given thereof by the ICA:
    - 1) The value of contract exceeding the amount in New Israeli Shekels of USD 5 million;
    - 2) A follow on procurement to a contract whose value in New Israeli Shekels exceeds USD 5 million, and whose value exceeds the amount in New Israeli Shekels of USD 500,000, made within a period of five years from the date of the original contract.
  - (c) The wording of the provision shall be determined by the ICA and published for the public.
- Reporting Duty
- 3.a (a) Each year in January, the Buyer will submit to the ICA a detailed report indicating all prospective contracts to be executed throughout the current year whether by virtue of a tender or not, the value of which is as stated in regulation 3(b)(1) and (2) (hereinafter – the yearly report).



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(b) Without derogating the said in sub-regulation (a), the Buyer will furnish the ICA with a written notification with regard to any tender issue, or contract award without a tender, 60 days before the prospective tender issue or otherwise, the tender exempt request (hereinafter – the preliminary report)

(c) The yearly report and the preliminary report will be edited in a way instructed by the ICA and in accordance with the directives published, within a reasonable period of time that the buyer was notified about.

(d) Following the receipt of the yearly report or the preliminary report, the ICA is entitled to require from the buyer additional details, clarifications and other information completion, to be submitted to the ICA within a reasonable period of time, that the Buyer was notified about.

(e) In case of the Buyer's non compliance with sub-regulations (a) to (d), the ICA shall be entitled, in consent with the Accountant General of the Ministry of Finance and after the Buyer has been given the opportunity to voice its arguments to the ICA, to notify the Buyer of the freezing of the tender proceedings, or the process of contract to be awarded without any tender, all or part of it, until the provisions of these Regulations are fulfilled to its satisfaction.

#### Modes of Industrial Cooperation

4. (a) Industrial cooperation shall be by means of Local Subcontracting, investments, research and development, transfer of know-how or purchase of Israeli-Made Goods, or Work in Israel or in another manner approved in advance by the ICA, except for the following:

1) Expenses, including agent's commission, incurred to promote the sales of a Foreign Supplier in Israel;

2) The purchase of shares of companies that are subject to the Securities Law, 5728 - 1968[5], at a rate at which the buyer does not become an interested party as defined in that Law.

(b) Investments, acquisition and funding of research and development work that shall be deemed Industrial cooperation,



shall not include grants given by the government as part of an investment program or funding as stated.

Undertaking of  
Industrial  
Cooperation

5. (a) The tender documents shall include, inter alia, the following:

1) A form of an undertaking by a Foreign Supplier, which wins a tender, to carry out Industrial Cooperation as stated in these Regulations (hereinafter – Undertaking);

2) The extent of Industrial Cooperation required;

3) Rules of reporting in compliance with the conditions of the Undertaking to be determined by the ICA.

(b) Should a Foreign Supplier win a tender, it shall be required to attach to the tender documents an Industrial Cooperation Undertaking: the Undertaking shall be in favor of the State of Israel.

(c) The tender terms shall determine threshold conditions whereby the participation of a Foreign Supplier in the tender will be subject to the submission along with its offer, of a program for complying with its Undertaking to carry out Industrial Cooperation pursuant to these Regulations, if it wins the tender.

(d) Should the Buyer not include in the tender documents everything stated in Subregulations (a) and (c), the ICA shall be entitled, with the consent of the Accountant General of the Ministry of Finance, and after the Buyer has been given the opportunity to voice its arguments to the ICA, to notify the Buyer of the freezing of the tender proceedings until the provisions of these Regulations are fulfilled to its satisfaction.

(e) Should the tenders committee decide that a Foreign Supplier is the winner of a tender, an agreement shall only be signed with the Foreign Supplier after the ICA confirms that the provisions of this Chapter have been fulfilled, including the submission to the ICA of a program for fulfilling the Industrial Cooperation Obligation. If the ICA does not notify the Buyer within 21 days as of the date on which it was informed of the decision of the tenders committee, to refuse confirmation as stated, the Buyer shall be entitled to sign the agreement.



(f) The ICA shall be entitled to sign an umbrella agreement that shall contain a comprehensive calculation of all the business activities of the Foreign Supplier and its purchases in Israel, without the need for obtaining a separate undertaking for each purchase.

The Extent of  
Cooperation Required

6. (a) The extent of the Industrial Cooperation shall be an amount equal to at least 35 percent of the value of the transaction or the value of the contract, as the case may be. If the purpose of the transaction is to purchase security equipment of the Ministry of Defense, including a reference unit as it is defined in the Mandatory Tenders Regulations (Contracts with the Defense Establishment), 5753 - 1993, the extent of the Industrial Cooperation required shall be at least 50 percent of the price of the transaction or the contract.
- (b) The ICA, in consultation with the Accountant General and with the approval of the government, shall be entitled to determine in rules that in certain spheres of activity and in certain areas, the activities of a Foreign Supplier shall be recognized for determining the extent of the Industrial Cooperation, at rates in excess of 100 percent.
- (c) The ICA shall be entitled to determine the wording of an Industrial Cooperation Undertaking in accordance with these Regulations. Said determination shall be published in the Official Gazette.
- (d) At the request of the Buyer, the ICA shall be entitled to grant an exemption from the Industrial Cooperation Obligation or to approve Industrial Cooperation at an extent that is less than 35 or 50 percent respectively, if one or more of the following conditions exists:
- 1) A requirement for Industrial Cooperation or determination of a rate of 35 or 50 percent respectively -
    - a) would substantively harm the profits or ordinary course of business of the Buyer;
    - b) in respect of a Body Corporate set up by Law - it



would be harmed in fulfilling its duties under the law;

2) The contract constitutes a commercial or political breakthrough;

3) The contract has special characteristics;

4) There is a valid umbrella agreement, as stated in Regulation 5(f), between the ICA and the Foreign Supplier;

5) The Foreign Supplier is the only supplier;

6) The contracts relate to fuel acquisition;

7) The supplier has implemented Industrial Cooperation in the past at a significant and prominent rate in excess of the requirement under these Regulations. The ICA shall determine, with the consent of the Accountant General, criteria for granting an exemption under this section.

(e) Should the ICA decide to grant in advance an exemption from the Obligation for Industrial Cooperation or approval in advance a rate of Industrial Cooperation less than 35 or 50 percent respectively, the Buyer shall include a statement in that respect in the tender documents.

Local  
Subcontracting

7. (a) With regard to tenders in which the value of the contract therein exceeds the amount in New Israeli Shekels of USD 5million and which, in the opinion of the ICA, are important for the advancement of industry and technological development in Israel, the tender documents shall include a provision regarding the undertaking of the Foreign Supplier, that within the framework of its undertaking for Industrial Cooperation in the extent as stated in Regulation 6, to enter into Local Subcontracting to an extent of not less than 20 percent of the value of the contract.

(b) Without derogating from its obligations pursuant to that stated in Regulation 5(b) and 7(a), a Foreign Supplier that undertakes to enter into Local Subcontracting as stated, shall present to the Buyer and to the ICA, at the end of performance of the work, an accountant's certification regarding the scope of the Local Subcontracting as actually implemented and the nature thereof.





- Period of Accomplishment of the Undertaking of Industrial Cooperation
8. The undertaking of Industrial Cooperation shall be implemented during the period of validity of the contract which is the subject of the tender. The ICA shall be entitled, due to considerations pertaining to the nature of the Industrial Cooperation or the complexity of the contract, to extend the period for the implementation of the Industrial Cooperation.
- Application to Change a Decision
9. (a) A Buyer that is the State, a government corporation, a local corporation or a health fund shall be entitled to apply to a committee that is headed by the Minister of Finance and members of which are the Minister of Industry, Trade and Labor and the minister connected with the matter, or anyone authorized by any of the aforementioned thereof (hereinafter -the Committee), to change a decision of the ICA. The Committee shall be entitled to approve, change, or cancel the decision of the ICA or return the matter to the ICA with instructions.
- (b) In matters that concern the President of the State of Israel, the Knesset, the State Comptroller, the Bank of Israel, and the Central Elections Committee of the Knesset, Subregulation (a) shall be deemed to state, in place of "the minister connected with the matter," "the Director General of the Office of the President of the State of Israel," "the Speaker of the Knesset," "the Governor of the Bank of Israel," "the State Comptroller," or "Chairman of the Knesset Central Elections Committee," as the case may be.
- (c) A decision of the Committee shall be deemed equivalent to the decision of a ministerial committee established under the Basic Law: The Government[6].
- Enforcement of Undertaking for Industrial Cooperation
10. (a) Follow-up on implementation of the Industrial Cooperation Undertaking shall be conducted by the ICA after the signing of the contract between the Buyer and the Foreign Supplier.
- (b) Without prejudicing the rights of the Buyer, the ICA shall be entitled, after having given the Foreign Supplier the opportunity to voice its claims to the ICA, to determine, with the consent of the





Accountant General of the Ministry of Finance and in consultation with the Minister that it believes is connected with the matter, that a Foreign Supplier that did not comply with its Industrial Cooperation Undertaking pursuant to these regulations, shall not be entitled to engage in supply contracts with a Buyer for a period that shall not exceed five years.

### Chapter C: Applicability

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|---------------------------------------|---|
| Applicability to Government Companies | 11. (a) The government shall be entitled to exempt from the applicability of these Regulations, in whole or in part, a government company or a government subsidiary.<br><br>(b) The ministerial committee for privatization, as defined in the Government Companies Law, shall be entitled to exempt a company as stated from the applicability of these Regulations, in whole or in part, for reasons lying in the privatization act. |
| Import of Security Equipment          | 12. These Regulations shall not apply to imports by the defense establishment which are funded by FMF of foreign countries  |
| Exemption for reasons of security     | 13. The Minister of Defense shall be entitled to exempt from the applicability of these Regulations transactions that are not funded by FMF, for reasons related to National security.  |
| Exemption for the Bank of Israel      | 14. These Regulations shall not apply to contracts of the Bank of Israel involving the production of currency.  |
| Inception and Applicability           | 15. The inception of these Regulations shall be on the date of their publication and they shall apply to a tender that is published beginning on the date of their inception.   |
| Transition provisions                 | 16. Tenders that are published prior to the inception of these Regulations shall be subject to the Mandatory Tenders Regulations (Preference for Israeli Products and Mandatory Business Cooperation), 5755 - 1995, as worded prior to this amendment.  |

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**Ministry of Economy and Industry**  
Industrial Cooperation Authority, ICA

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Ehud Olmert  
Prime Minister

- [1] Code of Laws 5752, at p. 114: 5753 at p. 108
- [2] Code of Laws, at p. 132
- [3] Compendium of Regulations 5753, at p. 826
- [4] Compendium of Regulations, 5753, at p. 841
- [5] Code of Laws 5728, at p. 234
- [6] Code of Laws 5761, at p. 158