

# CAG and its recent report on Rafale deal

October 16, 2020

CAG is one of the bulwarks of Indian constitution. The recent audit report tabled by the CAG has raised important observations regarding the Rafale contract by stating that the French firms had not complied with their Offset obligations. This has again brought to the fore the Indian offset schemes which are plagued by implementation problems.

**In news:** CAG submitted report on Rafale deal

**Placing it in syllabus:** CAG

**Static dimensions**

1. What is CAG?
2. Functions and Powers
3. Limitations
4. Reforms needed

**Current dimensions**

1. In news

**Content:**

**In news:**

- The CAG in its latest report on Rafale deal has said that foreign vendors often make offset commitments to win contracts but dilly-dally once they are won.
- It has cited the example of a proposal from French defence major Dassault Aviation and European firm MBDA that was struck as part of the Rafale deal.
- The offsets proposal in question dealt with technology-transfer for the development of an indigenous engine for light combat aircraft (LCA).

## What are Offset contracts?

- Offset contracts are those struck as part of a defence deal involving imports.
- Under this arrangement, a vendor chosen for a contract is required to invest a certain share of the purchase sum into the importing nation.
- The report said that though DRDO wanted to obtain technical assistance for the **indigenous development of an engine, Kaveri, for LCA** till date the vendor had not confirmed the transfer of this technology (ToT).
- The **agency involved here is Safran**, which is the engine group and includes Snecma, the engine manufacturer.
- While Dassault Aviation is the main agency responsible ensuring compliance of the Offset obligations, the **Offset commitments are shared by the four main agencies** involved in the manufacture of the aircraft –

**Dassault Aviation (DA)** who is the overall integrator of the aircraft and is responsible for the contractual delivery;

**Safran**, which is responsible for the engines;

**Thales**, which is responsible for the electronics, avionics, and radar systems;

**MBDA**, which is responsible for weapons and related equipment.

- From 2005 to March 2018, though 46 offset contracts had been signed with foreign vendors valued at Rs 66,427 crore only 59 percent of the claims were submitted by that time.
- Only 48 percent of these offset claims submitted by the vendors were accepted by the ministry and the rest were rejected as they were not compliant to the contractual conditions and the Defence Procurement Procedure.
- This highlights the inefficiency or difficulty of ensuring implementation by the vendors.

## What is CAG?

- The Constitution of India provides for an independent office of the CAG who is the head of the Indian audit and accounts department.
- He is the guardian of the public purse and controls the financial system of the country both at the central level and state level.
- **Part 5** of the Constitution talks about the CAG.
- **Article 148** speaks of the CAG, his appointment, the oath of his service.
- **Article 149** broadly speaks of the duties and powers of the CAG.
- **Article 150:** The accounts of the Union and States shall be kept in such form as the President may prescribe on the advice of the CAG.
- **Article 151:** The reports of the CAG relating to the Union shall be submitted to the President. The reports of the CAG relating to the State shall be submitted to the Governor.
- **Section 4 of the Third Schedule** of the Constitution prescribes the form of oath or affirmation to be made by the Judges of the Supreme Court and the CAG at the time of assumption of office.

### ***Constitution safeguards to ensure the independence of CAG –***

- Though the President appoints him, he can be removed only by a process mentioned in the Constitution. Thus he has security of tenure.
- The salary and other conditions of service of the CAG shall be such as may be determined by Parliament by law but neither the salary nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.
- He shall not be eligible for further office after he has ceased to hold his office.
- The conditions of service of persons serving in the

Indian Audit and Accounts Department shall be prescribed by rules made by the President after consultation with the CAG.

- The administrative expenses of the office of the CAG are charged upon the Consolidated Fund of India.
- No minister can represent the CAG in Parliament.
- No minister can be called upon to take any responsibility for any actions done by him.

### **Functions and Powers:**

- The CAG is an agent of the Parliament and conducts audits of expenditure on behalf of the Parliament and hence he is responsible only to the Parliament.
- He has to ascertain whether the money spent was authorised for the purpose for which they were spent.
- He focuses on whether expenditure made is in the public interest or not.
- His role in the auditing of public corporations is limited.
- Some corporations are audited directly by the CAG. E.g. ONGC, Air India, and others.
- Some corporations are audited by private professional auditors who are appointed by the Central Government in consultation with CAG.
- The role of the CAG in the auditing of Government Companies is also limited. They are audited by private auditors who are appointed by the Central Government on the advice of the CAG.
- He audits the accounts related to all expenditure from the Consolidated Fund of India, Consolidated Fund of each state and UT having a legislative assembly.
- He audits all expenditure from the Contingency Fund of India and the Public Account of India as well as the Contingency Fund and Public Account of each state.
- He audits all trading, manufacturing, profit and loss accounts, balance sheets and other subsidiary accounts

kept by any department of the Central Government and the state governments.

- He audits all transactions of the Central and state governments related to debt, sinking funds, deposits, advances, suspense accounts and remittance business.
- He audits the accounts of any other authority when requested by the President or Governor e.g. Local bodies.
- He submits his audit reports relating to the accounts of the Centre to the President, who shall, in turn, place them before both the houses of Parliament.
- He submits his audit reports relating to the accounts of a State to the Governor, who shall, in turn, place them before the state legislature.
- He acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament.

### Limitations:

- Its **report is post-facto** i.e. after the expenditure is incurred and has only prospective value in improving systems and procedures.
- **Secret service expenditure is outside the purview of the CAG** and he cannot call for particulars of expenditure incurred by the executive agencies, but has to accept a certificate from the competent administrative authority that the expenditure has been so incurred.
- The **authority of CAG to audit the PRIs and ULBs is limited** as in most states, the Examiners functioning under the Finance Department audit the accounts of local bodies.
- DRDAs (District Rural Development Authority) which are managing large sums of money for rural development are outside the purview of CAG audits.
- CAG **does not have the power to audit Public Private Partnership (PPP) investments.**
- There is **no provision for auditing of funds that are**

**given to an NGO** and elected local bodies.

- The **continued appointment of 'outsiders' as CAG**, ignoring the claims of the audit department's own top management has a demoralising impact on the entire department and has severely lowered its efficiency.
- Recent years saw a huge **decline in the number of audit reports** submitted to parliament, as well as state legislatures.

### **Reforms needed:**

- An amendment to the Audit Act is required to enable a comprehensive audit of public funds and bodies rendering public service, and for a structured and time-bound response to the audit reports.
- The tabling of CAG reports to the legislature by the executive, within seven days of their receipt from the auditor compulsorily must be ensured. This upholds accountability of the executive to the legislature.
- There needs to be an enhanced role for the CAG for comprehensive financial oversight over autonomous and statutory entities as in the present environment of an open economy PPP model has gained popularity.
- NGOs need to be brought under the ambit of CAG.

### **Mould your thought:**

1. Though CAG is an independent Constitutional body, it is undermined by several limitations. What reforms are needed to strengthen the office of CAG?

### **Approach to the answer:**

- Give introduction in 3-4 lines (Mention related articles)
- Write how CAG office is independent
- Write down the limitations
- Write the reforms needed
- Conclude on a positive note