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Director (Exploration-I)
Ministry of Petroleum and Natural Gas
Room No. 206 (B), Shastri Bhavan
Dr. Rajendra Prasad Road
New Delhi-110 001

**Sub.: Views/Comments on Consultation Paper on New Fiscal
& Contractual Regime for Award of Hydrocarbon
Acreages**

Dear Sir,

This has reference to the consultation paper put out by the Ministry of Petroleum & Natural Gas to invite comments from stakeholders on New Fiscal & Contractual Regime for Award of Hydrocarbon Acreages.

The key views of the hydrocarbon industry in this regard are annexed.

These may be treated in addition to the views submitted by the members of PetroFed.

We will be happy to provide any clarifications that you may desire.

Thanking you,

Yours faithfully,

Y. Sahai
Director (Comm. & Coord.)

Encl.: as above



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Views/Comments for the New Fiscal & Contractual Regime for Award of Hydrocarbon Acreages

In the absence of any base document for OALP and its procedure only broad suggestions/expectations are given hereunder. Detailed comments on various issues can be provided only after a base document is provided for views/comments. Our main suggestions on OALP are:

I. Operationalising Open Acreage Licensing, Modalities and Standard Procedure thereof

1. When areas are offered under OALP, all necessary initial clearances such as EC, Forest clearance, CRZ clearance, MoHA / MoD / MoST / MoS clearance amongst others should be granted as a bundled offer before bidding so that the successful bidder can straight away commence the seismic and exploratory drilling.

Data accessibility for viewing should be online through virtual data room at very nominal cost with no time limit for data viewing.

- 2.1 The size of acreage should be clearly defined and the minimum block size should be comparable to similar acreage in other countries.
- 2.2 The number of contiguous blocks that can be bid by a single company or consortium should be earmarked depending on the status of exploration in the area. The bid for contiguous area shall be built up on multiples of grid specified by DGH.
- 2.3 If a single bid is received for a very large area and other parties are also interested there should be provision for carving out clusters of blocks by DGH and competing bids invited for the same.
- 3.1 The best international practices should be followed in the bidding process and total transparency demonstrated.
- 3.2 The PNGRB model in bidding for award of gas pipeline projects can be considered for adoption with minor modifications.
- 4.1 Towards licensing modalities two types of licenses can be



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considered:

- a) Petroleum Reconnaissance License (PRL).
- b) Petroleum Exploration License (PEL)

The PRL would be for studies and reconnaissance surveys, without the requirement of either a Work Programme or fiscal commitment. The only requirement for the license holder should be to submit a reconnaissance report upon the expiry of PRL. This license should normally be awarded for areas with limited or no geological information.

PEL would require commitment of Work Programme and fiscal terms to be agreed before award of license. This should normally be for those areas, where in the opinion of the EOI proposing entity, there is geo-scientific evidence to make firm commitments.

Companies should be allowed to propose acreage to put on offer under both categories depending on their assessment of data adequacy. When an acreage receives EOI under both categories the DGH will decide the type of license.

- 4.2 There should be a time-bound process for award of blocks by DGH on receipt of EOI. The entire process of DGH validating the authenticity of submitted EOI, carving out block, necessary clearances, inviting comments from other bidders and the final award of bid should be completed within six months of an EOI submission.

PRL may be awarded for a period of two years from the date of receipt of necessary approvals/permits, with an option to extend up to one year by committing additional studies and surveys.

- 4.3 The criterion for awarding PRL should be largely governed by the technical capabilities of the applicant and the proposed technical studies/surveys.
- 4.4 The transition from PRL to PEL can be implemented in either of the following ways:
 - A. At the expiry of PRL, the acreage is put on offer for the award of PEL within a stipulated time, of say six months.



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The original PRL holder should be suitably rewarded for identifying high grade area and at least reimbursed the costs incurred, if he opts not to participate in the bid for PEL or is unsuccessful in the PEL bid round.

The original PRL holder can be rewarded by:

- a) Assigning bid weightage points of 15 to 20% during PEL bid round
- b) Provide back-in right (30% PI) if their bid turns out to be unsuccessful.

(The winner of PEL round should reimburse the cost incurred if the original PRL holder is not interested in participating in the PEL bid round. This reimbursement could be in line with the LD being recovered by Government on unfinished Work Programme and paid within three months of award of the Work.)

- B. The PRL is awarded with an option to convert the PRL into a PEL at the expiry of the PRL.

(In some countries, for areas with minimal data, a 'technical evaluation license' is awarded which allows the licensee to study an area with minimum exploration commitments before carving out an area to commit to PEL with further exploration commitments. In such cases the technical capability and Work Programme are primary criteria while fiscal considerations carry a lower weightage.)

II. Work Programme - Mandatory or Biddable - Weightage in Bid Evaluation

1. The concept of 'work units' should be introduced where DGH will publish pre-defined conversion ratios between different elements of Work Programme (WP) for onshore, shallow water offshore and deep/ultra-deep water offshore. The WP component of the bid should be evaluated based on the number of units bid by respective companies.
2. There should be no mandatory Work Programme in work units but the Work Programme should be biddable.



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3. More weightages should be given for seismic surveys in case of deep water and third and fourth category basins and exploration well for first and second category basins.
4. In frontier areas viz. deep water, third and fourth category basins and north east, special incentive should be given to interested parties who want to bid. Work Programme should have at least 50% weightage in case of deep water and frontier blocks for bid evaluation.

III. Pricing and Marketing of Natural Gas Produced from the Areas to be Awarded under the New Contractual & Fiscal Regime

1. The existing PSC provisions regarding gas pricing should be followed in letter and spirit and the gas pricing should be determined on arm's length basis by competitive market forces. Such pricing is reflective and responsive to demand-supply dynamics. To put a cap on gas price it may be considered permissible up to the maximum of import parity price of LNG in the country. The transportation costs, as per PNGRB regulations, should be considered as extra depending on distance and type of transportation. This will help build confidence of the investors on the future implementation of the above policy.

In addition to natural gas, there should be pricing and marketing freedom for all forms of hydrocarbons.

2. The cost of offshore transportation of gas from well head to shore location for shallow/deep offshore blocks and other costs towards processing to meet customer specification should be rationalized and added to the cost of gas.
3. The operator/consortium should have freedom in marketing of gas without any constraint. There should, therefore, not be any allocation of produced gas and if required, it should only be a percentage of the production.
4. The concerns of the existing operators/consortia should be addressed on priority to set an example for the proposed bidders who will judge future policies on the basis of existing programmes.



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IV. Technical Qualification - Weightage in Bid Evaluation

1. Technical qualification should only be a qualifying criteria and largely applicable only for deep water and frontier blocks.
2. In order to promote joint ventures, there should be no technical qualification criteria for non-operating partners.

V. Incentivizing E&P in the Unconventional Hydrocarbon

The Definition of unconventional hydrocarbons to include all forms of oil and gas produced from low permeability geological formations. Thus, definition of Unconventional Hydrocarbons should include tight oil and gas from conventional sources.

The incentives for unconventional hydrocarbon production can be in two forms:

- a) Physical incentives in terms of single window clearances to foster ease of operation and more user friendly and defined guidelines for statutory and environmental clearances. The time lines should be defined but not rigid with ease of time extension.
- b) Fiscal incentives, e.g. as proposed in marginal field round. There should, in fact, be no cess and no royalty for a period of ten years to encourage investment.

VI. Role of DGH and Management Committee to Align with the Government's Goal of 'Minimum Government - Maximum Governance'

1. The role of DGH and Management Committee should be only for technical guidance and milestone based monitoring. Its role should be like Steering Committees for CBM assets and there should be time limits for all approvals from DGH without seeking bank guarantees from operators on account of time delays by DGH.
2. In royalty - PLP contracts the role of DGH should be confined to only reviewing of minimum Work Programme and checking the royalty/PLP being paid.



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There should be no approval or monitoring of commercial/ financial aspects of projects by DGH/MoP&NG.

Some of the suggestions to improve the functioning of DGH submitted in a paper to MoP&NG are given in Annexure-I.

VII. Methodology for Calculation of Cost of Unfinished Work Programme

Any ambiguity in calculation of cost of unfinished Work Programme should be avoided by making it pre-defined (as given in round VIII and IX of NELP). The DGH should publish pre-defined LD values for various elements of WP and companies will pay LD as per the outstanding work units.

VIII. Timely Implementation of Field Development Plans Submitted by the Operator

1. Statutory clearances should be the responsibility of the Government and DGH should act as a Nodal Agency to facilitate and enable importing equipment in a timely manner. The existing limits under various categories for contracting should be revised upwards and aligned with international standards. Different time lines should be defined for onshore/shallow offshore/deep offshore blocks for submission of development plan and implementation of the same. There should be an easy extension process with marginal LD/penalty provisions. More time should be given prior to FDP for offshore discovery.

It needs to be appreciated that there is no commercial justification for the Contractor to delay the FDP as it is only through production and sale of hydrocarbon that the investment made can be recovered. The contractor needs absolute clarity on project economics before investing in the field development as 80% of Investment in Lifecycle of a block is in FDP Stage. There should also be recognition of reservoir complexities, subsequent engineering and logistic challenges during implementation and change in global environment post submission of FDP.

2. The DGH guideline for PSUs for Field Development Policy for 100 million barrels in place reserves should be extended across the board.



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IX. Environmental and Social Issues in Exploration & Production of Oil & Gas

1. The processes related to environmental clearance need streamlining and a land acquisition policy should be in place.
 2. Use of water based mud system should be promoted for exploration work and drill cuttings with water based mud system should not be treated as hazardous waste. Only drill cuttings with oil based mud systems should be in the category of hazardous waste.
 3. Process of treatment of solid waste generated out of drill cuttings should be defined and the process of waste disposal simplified. Regulations should be brought to facilitate oil based DC and other oily sludge, filters etc. for co-processing in cement industry as like fly ash utilization in cement industry. Technology is already proven and is a win- win scenario.
 4. Role of DGMS/ OISD to be made clear with explicit mention of safety/HSC expectations with respect to offshore/onshore blocks in line with good industry practices internationally.
- MoP&NG & MoEF need to spell out the Plugging & Abandonment (P&A) requirements clearly and provide for the fiscal arrangements for the abandonment in case GOI would like to make use of such facilities after the expiry of the PSC.

Block wise integrated EC should be issued to the Lesse/ Operator covering the maximum possible production rate scenario to avoid multistage ECs and Public hearings. EC shall be valid for 10 years instead of 5 years as is the current practice.

X. Any Other Issue

1. Contract duration should be till end of economic life of the field to maximize economic recovery.

Contractors should be free to adopt and follow their own policies for procurement of goods and services to optimize hydrocarbon resources.



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Enhanced oil recovery programme should be incentivized through tailor-made fiscal policy to maximize hydrocarbon recovery.

In general, there should be ease of doing business and obtaining statutory approvals including environmental clearances. There should be a single window approach for process approvals and DGH should facilitate the same.

2. Flexibility should be permitted in Field Development Plan for mid-course correction.
3. Sanctity of contracts and fiscal stability should be adhered to and there should be no change in policy subsequent to award of a contract.
4. It may be mentioned here that though comments have been sought under the revenue sharing contract regime, in the context of India, the Production Sharing Contract regime may be better as it strikes a competitive balance of risk and reward.
5. In case of unsuccessful exploration, the operator should be allowed reimbursement of tax deduction in other profitable business, as prevalent in Norway. The tax deduction allowed for the exploration cost incurred could be pre-determined as a multiple of the LD cost defined in the contract.
6. The PSC provides the right incentives for the contractor to operate economically and optimally. It may be borne in mind that:
 - a) Under PSC, Contractors take the exploration risk. Only in case of success, are financial returns possible, which too are shared between Contractor and the Government.
 - b) When Contractor benefits, the Government automatically benefits and with higher profits the Government's share of revenues continues to increase exponentially. Higher costs have significantly greater negative impact on the Contractor than on the Government. The Contractor is never incentivised to incur any expenditure, which has negative impact on the



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economics of the Block.

- c) The Government take is 'zero' if there is no activity by the Contractor. Hence it is in Government's interest to increase the E&P activities.
- d) Given the long and dynamic nature of the E&P business no contract can cover all issues explicitly. However, it should provide enough flexibility for progressing E&P activities efficiently.

The removal of cost recovery in the Revenue Sharing Model takes away the basic comfort of an investor in putting upfront risk capital. Since development of frontier and deep water areas are more challenging, uncertain, risky and costly it is apprehended that private investors may bid conservatively in a regime that does not provide downside protection for risk capital recovery in frontier and deep water blocks.

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Annexure-I

Role of DGH

The regulator should possess the attributes of good governance practices viz. effective, efficient, adaptable, predictable, fair and transparent

- Suggestions to improve the functioning of DGH are summarized below:
 - **Empowered Regulator** : There is a need to have an empowered regulator for Oil & Gas sector with clear separation between the policy making entity (the Government) and policy implementing body (the Regulator). Distinct and clearly defined role for Resource Owner/Regulator/Policy maker which will lend significant credence to governance of the sector and will be a key enabler.

The role of MoP&NG and DGH is clearly defined and segregated both for regulation and contract management and the same is required to be followed in letter and spirit to avoid overstepping of the respective roles.

It is felt that the primary role of DGH should be resource management. It should ensure acceleration of exploration efforts in the country for both conventional as well as unconventional hydrocarbon resources. E&P data management and making it available to the bidders and operators is another important role of the DGH.

- **Single Window Clearance**: It is both an interface (i.e. a single point of contact) and a process (i.e. navigation through the regulations system). DGH should act as the single point of contact for the operators and obtain all clearances viz. Environment, Forest, Defence, etc. and approvals on behalf of the E&P project owners. It provides a single contact person for all functional matters including information, applications, decisions, compliance, monitoring and enforcement.



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- **Improved Workflow and Process:** It has a portal (preferably electronic) for information management. This includes obtaining information about process rules, submitting an application, receiving a permit and providing information to support monitoring and compliance throughout the project lifecycle. It requires setting timelines both for individual stages in decision making and for overall clearance/approval process. This should be time bound and rule based. This should be supported by electronic approval tracking system. The information management in electronic mode could be implemented by the Ministry along with the National Informatics Centre (NIC).
- **Autonomous and Vompotent:** DGH should have adequate access to technical expertise, budget and permanent manpower. It must be independent and have an Appeals forum.
- **Transparent:** The decisions should be published with reasons and there should be opportunity to appeal against decisions.
- The suggestion of '*single window concept*' is supported by good governance practices followed internationally. The leading drivers of using a single regulator are to reduce the duplication, complexity, overlap, and unnecessary delays of the current regulatory regime without sacrificing the integrity of safety and environmental protection.
- The Regulator by design should be proactive in addressing the concerns of the upstream industry, mainly in the area of ensuring appropriate approval for the start of implementation of the project.
- In royalty - PLP contracts the role of DGH should be confined to only reviewing of minimum Work Programme and checking the royalty/PLP being paid. It should have no role in matters like choosing technology.

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