

Petroleum Federation of India



Review of NELP VII and industry recommendations for NELP VIII & CBM IV

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Disclaimer

This Discussion Paper (“The Paper” or “Paper”) is presented by Petroleum Federation of India (“PetroFed”) in its capacity as an industry association. The Paper is developed as a result of discussions held with the upstream petroleum industry and associated bodies. PetroFed engaged PricewaterhouseCoopers Pvt Ltd (“PwC”) as knowledge partner for this Paper.

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Citation Guideline

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1. Background to the Discussion Paper

1.1. Engagement Background

- 1.1.1. In 2005 PetroFed, in knowledge partnership with PricewaterhouseCoopers (PwC), had released a publication titled “*Review of E&P Licensing Policy*” which was a critique on India’s existing licensing policy for award of acreages for exploration and production of hydrocarbons in India. The publication, based on responses of E&P companies and a study of the prevalent international practices, recommended certain changes/modifications to the existing E&P licensing policy i.e. NELP V. Some of those recommendations, in spirit if not in form, were considered by MoPNG while announcing the Sixth Round of Bidding under NELP. The publication was released by the then Minister of Petroleum and Natural Gas (MoPNG) followed by a presentation made by the knowledge partners.
- 1.1.2. After conclusion of NELP VI PetroFed again engaged knowledge partner and member company PwC in February 2007 to undertake a similar review of the sixth round of NELP with a view to suggesting changes/modifications for the seventh round of NELP. PetroFed prepared and circulated a Discussion Paper to industry stakeholders who were invited to give comments thereon. Based on suggestions received from various companies, a consolidated and comprehensive report incorporating industry suggestions/ recommendations for NELP VII was submitted to the Government. PetroFed takes pride in the fact that some of our suggestions/recommendations were accepted by the Government and incorporated in the seventh round of bidding under NELP.
- 1.1.3. Government of India achieved yet another milestone in India’s exploration history by successfully concluding the seventh round of bidding under NELP. On December 22, the Government signed production sharing contracts (PSCs) with the successful awardees of NELP VII. With one more round of bidding completed, the Government has set out in its task of rolling out yet another round of bidding under NELP. The Minister of Petroleum and Natural Gas, in his speech, announced that the Government will launch the eighth round of bidding under NELP (NELP VIII) in the first quarter of 2009. Therefore, before announcing the next round of bidding, the Government wishes to reflect whether or not the objectives for which NELP was introduced were achieved in NELP VII and whether some changes/modifications are required to be made to the exploration policy or to any other facet of the bidding process under NELP to make it more investor friendly.
- 1.1.4. Towards this end the Government has invited comments/ suggestions from industry stakeholders including PetroFed. PetroFed wishes to thank MoPNG for the confidence reposed in us. PetroFed, in turn, has approached PwC, a member company, to associate as a knowledge partner for undertaking this exercise.
- 1.1.5. Owing to the limited time available, PetroFed decided to undertake the following activities with assistance of the knowledge partner in a time bound manner:
 - Prepare a draft ‘Discussion Paper’ incorporating suggestions/recommendations on behalf of the industry to the Government;
 - Circulate the draft ‘Discussion Paper’ to industry stakeholders to enable them to mobilize their thoughts on proposed industry recommendations;

- Organize a meeting of industry stakeholders to finalize industry suggestions/recommendations for modification in the policy before NELP VIII is rolled out;
- Finalize suggestions/recommendations based on discussions held with industry stakeholders for submission to MoPNG.

1.1.6. PetroFed circulated the draft Discussion Paper on January 12, 2009 to industry stakeholders inviting their views/comments on the suggestions/recommendations included therein. PetroFed also encouraged industry stakeholders to give comments beyond the suggestions/recommendations captured in this Discussion Paper provided such suggestions/recommendations pertain to changes to be made either in the policy or to the process of inviting and evaluating bids or any other change which helps the Government in realizing its exploration policy objectives.

1.1.7. PetroFed then organized a meeting of industry stakeholders on January 16, 2009. In this meeting the suggestions/ recommendations included in the draft Discussion Paper were discussed with the industry representatives one by one. Views expressed by industry members were noted in relation to each suggestion/ recommendation. Some suggestions/recommendations were agreed to by industry members unanimously. Some evinced conflicting/discordant views. PetroFed, as a measure of transparency in the consultation process, has decided to convey both the unanimous as well as the discordant views to the Government.

1.1.8. The revised report incorporating the comments received from companies during the industry meeting was prepared and circulated to the industry on January 23, 2009. Comments received from industry have been incorporated in this final report.

1.2. The Discussion Paper Process: An Overview

1.2.1. This submission of industry views on the recently concluded NELP VII round of award of upstream acreages and recommendations for modification to NELP VIII terms was decided to be made in form of a Discussion Paper. Rather than wait until the end of industry discussion process to issue a report on industry views PetroFed decided that consultation would be more meaningful if it took place through a draft developed in advance of the Discussion Paper.

1.2.2. The Draft Discussion Paper was circulated to industry stakeholders on January 12, 2009 for their review and comments. The Paper was then taken up for substantially building upon through a round of discussions in a meeting scheduled by PetroFed on January 16, 2009 in New Delhi.

1.2.3. This Discussion Paper, therefore, in effect, provides comments by upstream companies on NELP VII and suggestions for NELP VIII. It is intended to stimulate discussions among senior policy makers and associated organizations about how the Government of India can best:

- Encourage increased and meaningful exploration activity in India leading towards higher hydrocarbon resource base;
- Address to issues that concern the investor community represented by small, medium and large enterprises; and
- Adopt best practices for improvement in licensing policy.

1.3. Structure of the Discussion Paper

- 1.3.1. In the following chapter titled “**Executive Summary**”, all the major industry recommendations for both NELP VIII and CBM IV have been summarized for an executive review with proper references.
- 1.3.2. In the chapter titled “**Analysis of NELP VII**”, a commentary on the outcome of NELP VII and its analysis is captured. This is a broad overview and the detailed analysis is contained in the subsequent chapters.
- 1.3.3. In the Chapter titled “**Industry Recommendations for NELP VIII**”, the issues troubling investors have been explained along with industry suggestions/recommendations on the same.
- 1.3.4. In the Chapter titled “**Industry Recommendations for CBM IV**”, the issues troubling investors have been explained along with industry suggestions/recommendations on the same.
- 1.3.5. In the Chapter titled “**Score Card: Industry Recommendations for NELP VII post review of NELP VI**”, all major suggestions/recommendations made by PetroFed in February 2007 on behalf of the industry have been tabulated along with comments on whether or not they were accepted by the Government.
- 1.3.6. In the chapter titled “**Compendium of Company Responses**”, all the written responses received from companies have been compiled. Unadulterated comments have been tabulated without naming the companies.

2. Executive Summary

2.1. Key Suggestions/ Recommendations

- 2.1.1. Pursuant to the industry discussions organized by PetroFed, the suggestions/ recommendations have been categorized based on whether it was unanimously accepted by all companies present in the meeting, or whether that issue received discordant/divergent views from companies.
- 2.1.2. On behalf of the industry, PetroFed recommends, in summary, the following for incorporation in **NELP VIII**:

Issues which received unanimous views of companies

1. **Clearly define policy objectives:** As some in the industry opine, the New Exploration Licensing Policy is no longer “new”. While, the name of the policy can change, the industry recommends that the objectives of policy be debated and firmed up; goals to be achieved over the years be set and policies be developed to meet those goals. Procedures for implementing the policies could well be the last detailing. *(Refer para 4.1)*
2. **Scientifically categorize the blocks:** Investors analyse blocks from the risk-reward perspective. Based on a scientific risk profiling, each block should be duly categorized and the bid evaluation criteria as well as the associated contractual and fiscal terms and conditions should be customized accordingly. *(Refer para 4.2)*
3. **Rationale for deciding on blocks for awards:** Companies have suggested that surface geological maps, aeromagnetic survey maps, gravity survey maps and any other maps available with DGH should be superimposed on each other to build a Definitive Map. This Definitive Map should be used for carving out contract area. Also, data should be enriched in order to enable the Government to categorize the basins and therefore the blocks. *(Refer para 4.3)*
4. **Deciding size of blocks for awards:** Exploration contract area size should be determined on the basis of (i) The level of exploration which has taken place in the basin of interest; (ii) The prospectivity of acreage and (iii) The competitive situation. *(Refer para 4.4)*
5. **Customize BEC and PSC terms:** Customize policy design based on risk-profiling/scientific block categorization and the objective(s) which the Government wishes to achieve by the award of blocks under each category. *(Refer para 4.5)*
6. **Income Tax holiday:** The term ‘mineral’ includes natural gas, in addition to crude oil which is already included, and that the benefit of seven year income tax holiday under section 80 IB (9) should be extended to companies in case they discover natural gas. Also, the provisions of Section 80-IB (9) should be amended to extend the period of seven years of tax holiday to ten years and to allow flexibility to E&P companies to choose the period of tax holiday during initial fifteen year period. *(Refer para 4.7)*
7. **Obtain all clearances before offer of blocks:** Requisite clearances from all concerned ministries of Govt and concerned State Governments should be made available prior to offer of blocks. Single window methodology is suggested. Some companies have also suggested that concerned stakeholders be made signatories to the PSC with addition of suitable addendums defining explicitly terms of reference/ requirements and stipulated time lines for grant of clearances. *(Refer para 4.10)*

8. **Fiscal package:** Companies have suggested that calculation of NPV of Government share of Profit Petroleum should be simplified by doing away with the nine scenarios and the weights attached to each of them. Instead just one price may be used for evaluation purposes. *(Refer para 4.11)*
9. **Reconnaissance licence/permits:** Government is requested to offer unexplored and poorly explored basins to companies as separate type of blocks. Such blocks may be called Reconnaissance Blocks. These blocks should be awarded to companies on the basis of G&G work committed by them. Drilling of wells should be optional. During discussions with companies it came out clearly that companies, as an incentive, would like to be treated preferentially in case they wish to convert the Reconnaissance licence into an exploration licence. This preference could be in the form of giving first right of refusal to the incumbent in the issue of a PEL. The incumbent may be asked to match the best bid received for that block. *(Refer para 4.12)*
10. **Cost Recovery for S Type Blocks:** Companies are of the view that S Type blocks should not be treated any differently as regards cost recovery of minimum work programme and that Article 15.13 of the MPSC should be retained. In any case the onus lies on the Contractor to prove to the Management Committee's satisfaction that the excess costs incurred were bona fide and were incurred due to change in circumstances after the Contract comes into effect. *(Refer para 4.14)*
11. **Gas in Kind:** The Government should exercise its option to take Profit Petroleum either in cash or in kind by giving a written notice to the Contractor and once the Government exercises its option, the same should continue for the entire period of the Contract. *(Refer para 4.15)*
12. **Time period for award of blocks:** Some companies are of the opinion that the time taken by the Government in finalizing the list of winners under NELP VII was too long. Bids were submitted on June 30, 2008 and the PSCs were signed on December 22, 2008, almost after six months. Companies have requested that the Government should shorten this period substantially. *(Refer para 4.17)*
13. **Nomination acreage:** In order to improve the quality of the bid rounds, relinquished part of the acreages awarded to NOCs on nomination basis should be brought under NELP in a time bound manner. *(Refer para 4.17)*

Issues which received discordant/divergent views of companies

1. **Simpler regime for S type blocks:** The Government may consider adopting such a licensing policy for S Type blocks which reduces Government effort required in monitoring of E&P activities and associated costs for these blocks. Pure royalty/tax regime or Production-linked-payment regimes as applicable in CBM blocks may be evaluated. *(Refer para 4.6)*
2. **Marks for Indian company-foreign company consortium for DW blocks:** During industry discussions the Indian companies suggested that such a stipulation puts undue pressure on Indian companies to look out for foreign partners and this provision should be discontinued and marks suitably distributed over other technical capability evaluation criteria. The foreign companies, on the other hand, recommended for continuation of such a provision. One of the foreign companies recommended zero weightage to technical capability for deepwater blocks. *(Refer para 4.8)*
3. **Technical qualification for S type blocks:** Technically qualify bidders for S Type blocks based on identified traits required to be demonstrated by companies interested in bidding for S Type blocks. *(Refer para 4.9)*

4. **Inclusion of policy guidelines in the PSC:** Some companies have observed that at times certain clauses of the policies are not in tune with the provisions of the PSC leading to ambiguities in interpretation and non-uniformity in approach. Therefore PSCs should be modified to give proper effect to all such policy guidelines issued by the Government. Another company was of the view that the extension policy should not form part of the PSC at all. (*Refer para 4.13*)
5. **Adopting Cost based MWP:** Some companies suggested that the Government should ask for a cost based MWP commitment instead of physical MWP commitment. Others argued that such cost based MWP commitment may not work since the substitutability amongst the work programme elements is very limited. For example, a well may not possibly be substituted by shooting additional 2D or 3D work programme on the block. Also, monitoring and benchmarking of costs for the purposes of cost recovery may be difficult since the costs for a similar MWP commitment varies from operator to operator. (*Refer para 4.16*)
6. **Encourage NOC-Private Partnerships:** Create win-win partnership between NOCs and private/global companies by awarding 10 points to a 50%:50% JV between non-affiliated Indian/global companies and Indian NOCs. These points would reduce on a declining scale to zero where there are no such partnerships (bell curve). (*Refer para 4.17*)

Other Suggestions

1. Bring a sense of rationality in bidding, for both the physical MWP and fiscal package by discounting the outlying bid and scaling the bids as a percentage of the average offer. This will compress the sensitivity particularly in case of one or two skewed bids. It will ensure selection of the right operator for exploration, particularly in frontier areas which are both risky and technologically challenging. It will also assure that the value division between government and contractor fairly reflects the risk and return profile of working in challenging areas. (*Refer para 4.17*)
- 2.1.3. On behalf of the industry, PetroFed recommends, in summary, the following for incorporation in **CBM IV**:
1. **State level approvals:** It is suggested that the State Governments may be made signatories to the Contract or necessary approvals may be 'packaged' with the Contract itself by DGH. (*Refer para 5.1*)
 2. **Relinquishment:** Operator should not be asked to relinquish particular percentage of area. In case clause of relinquishment is required to be retained then it should be at the discretion of operator whether he wants to relinquish any area or not. (*Refer para 5.2*)
 3. **Production of CBM in Phase I & II:** Clarity in terms of PEL-ML conversion, income tax holiday consideration and marketing/pricing mechanisms is required in case the operator sells gas produced during testing of wells drilled. (*Refer para 5.3*)

3. Analysis of NELP VII

3.1. Income Tax holiday

- 3.1.1. The spirit of fiscal stability clause of the PSC was again challenged when Union Budget 2008 redefined the term 'mineral oil'. The doubt was whether or not the benefit of Income Tax holiday, would be available under section 80 IB (9) of Income Tax Act to companies producing crude oil as well as to companies producing gas. The comments in the Union budget were followed by statements made by the Finance Minister in the Parliament who left the interpretation to be decided by the courts.
- 3.1.2. While such comments and statements were being made by the Finance Ministry, the Petroleum Ministry kept on reassuring the wary investors evaluating the blocks offered under NELP VII. It was only two days before the bid submission date that MoPNG clarified to the investors that, as advised by the Finance Ministry, income tax holiday will be available for commercial production of crude oil only. Interested bidders were requested to bear the above clarification in mind and bid 'wholeheartedly'.
- 3.1.3. India's exploration policy is considered as one of the most attractive investment regimes in the world. Fiscal terms such as the seven year corporate income tax holiday coupled with the fiscal stability provision in the production sharing contract (PSC) play a significant role in attracting E&P risk capital to a relatively unexplored India with a relatively low perceived prospectivity. Uncertainty as regards applicability of the income tax holiday incentive to natural gas at the time of bidding may have prompted many investors, specially foreign companies, to reconsider their investment decision.

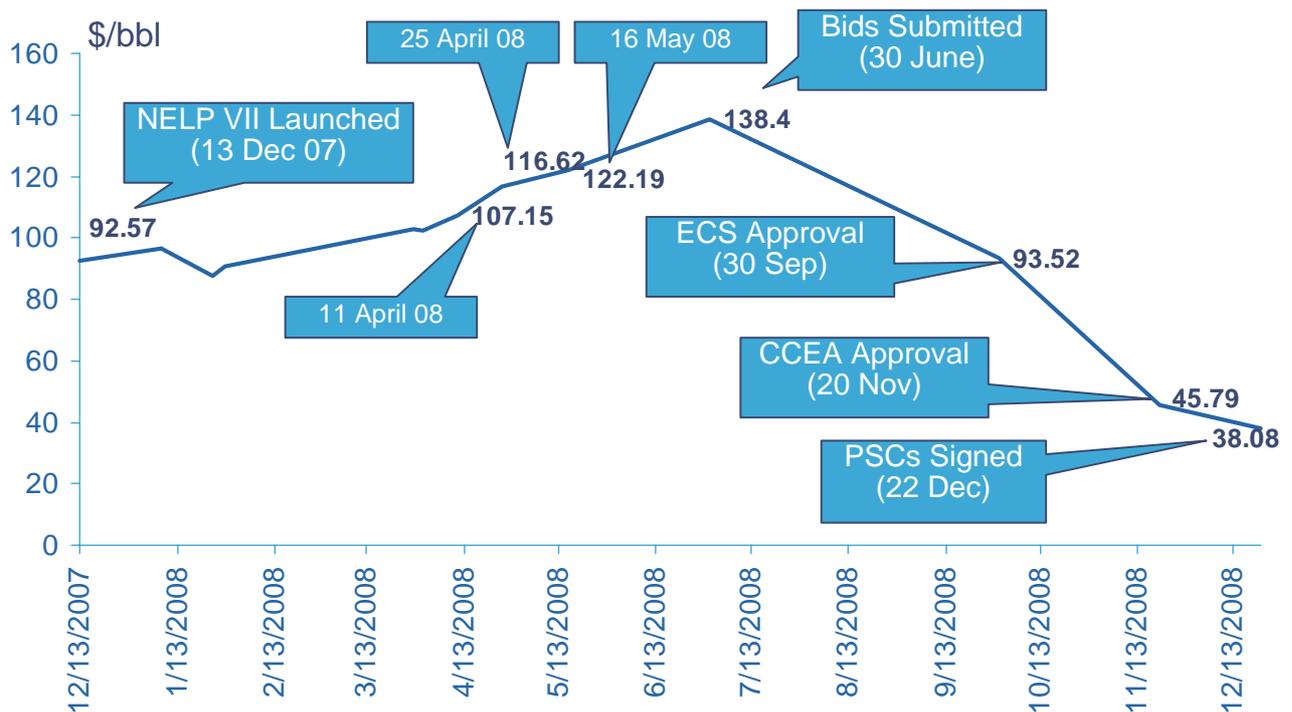
3.2. Marketing Freedom

- 3.2.1. One of the most attractive features of India's NELP regime the way it is notified to interested bidders is "Freedom to the contractor for marketing of oil and gas in the domestic market". The developments witnessed by the investors during the course of approval of price for gas to be produced from the KG D6 block, has left the investors puzzled, to say the least. The price of gas was capped and eventually the gas has now been directed to be sold to designated sectors. The investors wonder as to what the "freedom" then means.

3.3. Aggressive bidding

- 3.3.1. Learning from its experience of having received 'regressive' fiscal bids under NELP VI, the Government made requisite changes to the biddable fiscal parameter to ensure that it received 'progressive' bids under NELP VII. This round saw aggressive bidding by companies, specially for the S type blocks (<200 km²). The aggressiveness was in the form of low cost recovery percentages (as low as less than 10%) and higher government share at the two tranches of Investment Multiples (IMs) i.e. less than or equal to 1.5 and greater than and equal to 3.5.
- 3.3.2. It would be of interest to note that this aggressiveness was observed notwithstanding the fact that the weightage given to fiscal package in NELP VII for bid evaluation purposes either remained unchanged or decreased marginally over the previous round.

- 3.3.3. For S Type blocks the average cost recovery % bid was below 20%. The average percentage of Government share at the lowest and highest IM tranche was 73% and 79% respectively. About one third of the total well commitment under NELP VII is on these nine S Type blocks.
- 3.3.4. Investors are driven by their own strategic and tactical reasons while investing. Therefore, various reasons could be cited for such aggressive bids. Some new entrants may have treated this as a premium for attaining an 'operator' status which would qualify them for bidding for ONN and OSN category blocks in subsequent NELP rounds as well as qualify them to bid for acreages abroad as an operator. NOCs might be under pressure to retain their market share in their home turf and therefore bid aggressively.
- 3.3.5. Perhaps one of the biggest reasons could have been the phenomenal rise in the price of crude oil at the time of bid submission with projections of sustained high price. Windfall profits generated by E&P companies across the world, including India, must have caught the imagination of Indian entrepreneurs. While oil market behavior over the last couple of months may not have come as a total surprise to companies who have closely followed the journey of crude oil price since the days following the Arab Oil Embargo of 1973, for new entrants it may have come as a 'crude shock'.



Source: PIB release, EIA, PwC analysis

3.4. Relinquished blocks

- 3.4.1. NELP VII round may well be known as the round of relinquished and recycled blocks. While the fact that the block has been relinquished by an operator does not tantamount to the block being non-prospective, it does, however, cast a shadow of doubt in the minds of investors.

- 3.4.2. Others argue that fresh ideas and new ways of looking at the same data may result in new prospects, hitherto unidentified under the old approach, being identified. This was demonstrated when an E&P company made a commercial hydrocarbons discovery in India in a block relinquished by an international operator. Notwithstanding this demonstration, the general perception of prospectivity of a relinquished block is low for E&P companies.
- 3.4.3. Of the total 57 blocks on offer, 39 blocks were carved out of relinquished older exploration blocks, and those which were offered earlier. Out of these 39 relinquished/recycled blocks 27 blocks received bids. A total of 12 blocks (7 DW, 2 OSN and 3 ONN) offered under NELP VII did not receive any bids. Also another 19 blocks (9 DW, 1 OSN and 9 ONN) received only single bids. Of the 19 blocks for which single bids were received 6 were by BHP Billiton and 8 by ONGC. Other single bidders included Cairn (1), Essar (1), Deep Industries (1) and Geo Global Resources (2).

3.5. Success of NELP VII?

- 3.5.1. The PIB release by the Ministry of Petroleum and Natural Gas dated Monday, June 30, 2008 declared NELP VII as successful based on certain parameters listed in the table below. We shall carefully analyse each of these parameters and also compare it with the previous round.

Parameter	Analysis and comparison with NELP VI
181 bids, highest ever, received for 45 blocks under NELP-VII against 165 highest bids received for 52 blocks in last round of NELP-VI.	Although no. of bids received was highest in NELP VII it was purely on account of the introduction of S type block. If we remove the 103 bids received for S type blocks, only 78 bids were received for 36 non S type blocks. Average No. of bids received per DW blocks was 1.25 (2.48 in NELP VI); for OSN blocks was 4.14 (4.0 in NELP VI); for ONN blocks (excluding S type) was 2.24 (3.61 in NELP VI excluding 7 blocks <200 sq km); and for S type blocks was 11.44 (3.43 in NELP VI).
A total of 535 data packages amounting to Rs 85 crore were sold as against the previous best sale of Rs 78.60 crore in NELP-VI.	Chances that maximum sale of data would be on account of data packages sold for S type blocks. Also this appears to be a parameter which would not correctly reflect the success of round of awards.
A total of 96 companies have bid against the previous best of 66 companies in the NELP-VI round.	Of the 96 companies who bid 42 are new companies who bid for S type blocks only. If we remove these 42 companies then only 54 companies bid for the 36 non-S type blocks.
A total of 9 new foreign companies out of 21 foreign companies submitted bids under NELP-VII.	In NELP VI 35 foreign companies had bid out of which 20 companies were new.
26 blocks out of the bid 45 blocks attracted multiple bids.	In NELP VI 39 out of 52 blocks received multiple bids.
2 S-type blocks received 17 bids each.	In NELP VI one of the small blocks (113 sq km) in Cambay basin received 10 bids.
19 blocks received single bid.	In NELP VI 13 blocks received single bid.

Parameter	Analysis and comparison with NELP VI
Bids have also been received for 9 frontier on-land blocks out of a total of 12 frontier blocks offered.	In NELP VI all 12 frontier blocks received bids. In fact 6 blocks received multiple bids. As against this only 1 block received multiple bids in NELP VII.

- 3.5.2. Careful analysis of the bidding pattern of NELP VII as compared to NELP VI reveals that achievement of some of the statistical landmarks was possible only because of the introduction of the nine S type blocks. Also it remains to be assessed as to how the round was successful in terms of total exploration commitment received from bidders as compared to earlier rounds.

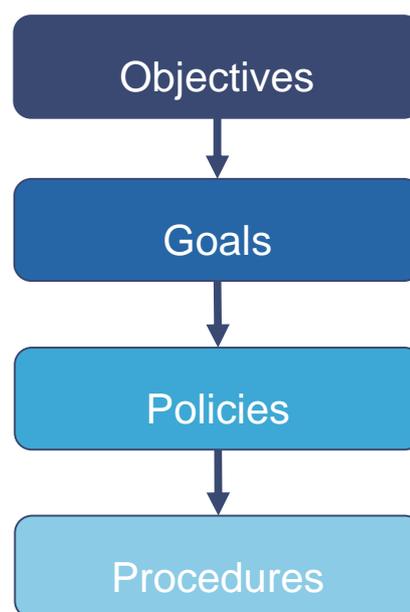
3.6. Consortium points for deepwater blocks

- 3.6.1. In NELP VII, Government decided to award 10 marks out of 30 under the technical capability parameter for partnering with foreign company. The unprecedented changes in deepwater technical evaluation criteria in the Seventh round of NELP was perceived by the industry as a measure of the Government to attract foreign companies and capital specially in deepwater blocks. The responsibility of attracting foreign investors appeared to have been shared with Indian bidders, who had shown very high interest in the asset licenses in contrast to the foreign oil companies and their aggressive bidding was one of the reasons dissuading foreign companies to participate.
- 3.6.2. The decision to award 10 marks out of 30 under the technical capability parameter for partnering with a foreign company made Indian companies, including the large NOCs, to spend almost all of the bidding time in eliciting interest of major oil companies. It would not have helped them if they tied up with intermediates and small sized companies. Every mark lost on the technical score of their foreign partner, was possible to be made up either by committing additional tens of million dollars of work program or by promising a sizeable profit share to the Government. Therefore the Government, using the bid evaluation policy tool, made Indian licence aspirants partners of the Government in getting foreign companies to bid in India.
- 3.6.3. Unfortunately, the bidding pattern proves that the policy changes did not serve the purpose; although Indian companies tried their best to partner the major oil companies, only two foreign companies bid in consortium with domestic companies. BHP Billiton bid for seven blocks with new entrant GVK and BP bid for two but won only one with Reliance Industries. Out of the 19 deepwater blocks offered 7 blocks did not receive any response at all while another 9 received single bids.
- 3.6.4. The reasons could be many, but the two most probable are – the data did not convince bidders about the prospectivity of the blocks and that companies did not find it worth making up for loss of marks due to failure to tie up with a winning foreign partner by making aggressive work program and fiscal commitments. The disclarity on availability of income tax concessions in case of a natural gas discovery may well have served a seal on decision not to bid. The new evaluation policy also discouraged Indian companies to bid as operators; majors would probably not agree to be led neither would the existing deepwater players in India be ready to be led.
- 3.6.5. It's time, therefore, to introspect and evaluate the true reasons for the majors to stay away from India, rather than relying on command and control policies and hoping for the best. Can we couple policies with measures to mitigate under-ground and above-ground risks to change behaviours?

4. Industry Recommendations for NELP VIII

4.1. Clearly define policy objectives

- 4.1.1. As some in the industry opine, the New Exploration Licensing Policy is no longer “new”. While, the name of the policy can change, the industry recommends that the objectives of policy be debated and firmed up; goals to be achieved over the years be set and policies be developed to meet those goals. Procedures for implementing the policies could well be the last detailing.
- 4.1.2. Introduced in 1997, NELP has evolved over the last 10 years, developed and fine tuned largely by changes made to the original policy to either iron out any unintended anomalies detected in the preceding round or to encourage certain desirable investor behavior in the subsequent rounds. Government should be applauded for the transparency brought about in the award process and the objectivity of the evaluation process. The level of transparency of the system can be ascertained from the fact that in NELP I round of awards, the weights assigned to each of the bid evaluation parameter was not known to the bidders, today a bidder can compute its NPV under various scenarios and can strategize accordingly.
- 4.1.3. The said transparency combined with an ambiguous provision in the manner of bidding profit petroleum share, resulted into the Government landing up in receiving numerous ‘regressive’ bids under NELP VI. The Government did realize its attendant risks and corrected the anomaly in the next round of awards. Although adhoc changes of this nature are necessary, some changes made were to ensure that the bid parameter has intended consequence, it is wondered if all such changes were keeping with any stated policies or only to meet targets set from time to time. Hence it is suggested to arrive at the bid parameters which are procedures derived from polices, which must be derived from Objectives and Goals defined.
- 4.1.4. It is interesting to note that the cumulative effect of such incremental changes, made round after round, clearly indicate a paradigm shift in the government’s policy focus. It seems, at least from the bid evaluation criteria, that the policy objective has changed from ‘accelerated exploration’ to ‘profit maximization’. The weight assigned to the fiscal package offered to the government has almost doubled. Given the market dynamics and the phenomenal rise in crude oil prices, many countries have demanded a greater share of the wealth generated from their sovereign assets. Extreme end of this spectrum is the nationalization of assets. Therefore, any criticism from the bidders that profit maximization is not advisable may not be well-founded.
- 4.1.5. Having said that, before the launch of the next round, the Government should pause to introspect – introspect as to what is (are) the objective(s) of the exploration policy? Clearly laid down policy objectives are the foundation of any successful policy design. Is achieving energy security/independence the larger policy objective? Is bringing the entire sedimentary basins of India under exploration in a time bound manner the policy objective? Is encouraging private



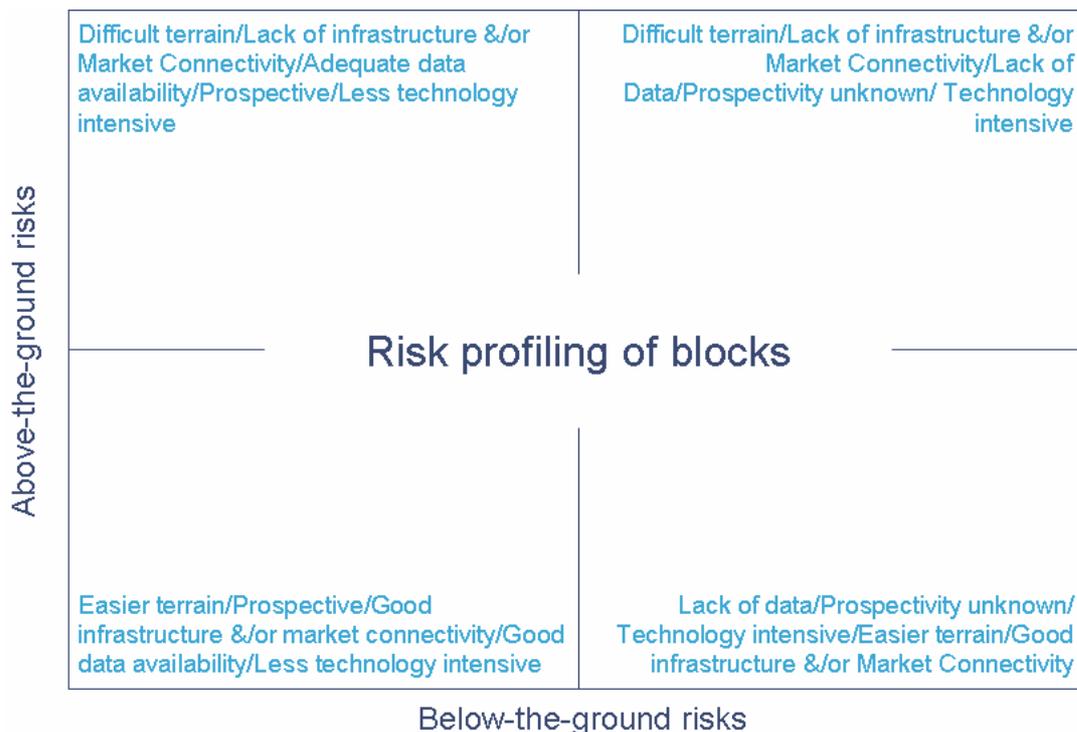
investment and technology infusion a policy objective? Is maximizing returns under the prevalent contractual arrangement with companies the policy objective? Is generating maximum data in the shortest span of time the policy objective?

- 4.1.6. While some of the above mentioned objectives are synergetic, the challenge, of course, lies in striking the right balance between the ones which are conflicting. For example, should “exploration” be the objective rather than “exploration-development-and-production”, then contracts like “reconnaissance survey license” or “promote licence” are the solution than 5 to 7 years long exploration phase combined with 20 to 25 year production phase in a PSC. Similarly, if “accelerated production” is the objective then the Government may like to give priority to award of blocks only in highly prospective basins, development of discovered fields which have not been put to production, award of marginal fields, IOR/EOR etc.
- 4.1.7. Striking the right balance may require a scientific approach to prioritize such objectives/goals. Also the prioritization needs to be applied based on different block categories. Block categorization should be done in such a manner that it mirrors the below-the-ground and above-the-ground risks attached to undertaking exploration activity on any acreage. Also, since block categorization is a dynamic concept there is a need to review the categories at regular intervals.

4.2. Scientifically categorize the blocks

Background

- 4.2.1. Investors analyse blocks from the risk-reward perspective. Higher the risk, greater is the expectation of rewards. Since all blocks do not carry the same risk profile, the criteria for award of blocks, and terms for development and production from the blocks – in brief the policies – are suggested to be decided in line with the associated risks.



4.2.2. Risks attached to a block constitute both above-the-ground risks and below-the-ground risks.

- **Above-the-ground risks:** Parameters like ease of exploration, depth of water, availability of infrastructure and connectivity to markets.
- **Below-the-ground risks:** Lack of availability or sufficiency of geological and/or geophysical data; perceived prospectivity based on past exploration successes; necessity to use advanced technology during exploration and production activities.

4.2.3. Although business environment, political stability, fiscal regimes, track record of law enforcement, effectiveness of judiciary and such parameters will also form part of the above-the-ground-risks, they need not form a part of parameters to decide the category of blocks, since they are applicable to all the blocks.

4.2.4. Blocks can be categorized as illustrated below:

Table 4.1: Illustrative Block Categorization Matrix

Risks/ Parameters	S Type	Onland		Shallow Water		Deepwater	
		Normal	Frontier	Normal	Frontier	Normal	Frontier
<i>Below-the-ground risks</i>							
Data Availability	YY	Y	N	Y	N	Y	N
Prospectivity	YY	Y	N	Y	N	Y	N
Conventional Technology	YY	Y	N	Y	N	Y	N
<i>Above-the-ground risks</i>							
Easy to operate	YY	Y	N	Y	N	Y	N
Infrastructure availability	YY	Y	N	Y	N	Y	N
Market connectivity	YY	Y	N	Y	N	Y	N

Note: This categorization is for illustration purposes only.

4.2.5. A block could fall under more than one category listed in above table based on answer to each of the parameters listed on the left. For example, there could be a block for which data availability is adequate but may be in such a terrain which makes it difficult to operate. The magnitude of each of the above risk parameter as applicable to each block will have to be ascertained in a scientific manner in order to classify them under different categories. Each block, therefore, needs to be carefully analyzed on the above risk parameters and categorized accordingly.

Recommendation for NELP VIII

4.2.6. Based on a scientific risk profiling, each block should be duly categorized and the bid evaluation criteria as well as the associated contractual and fiscal terms and conditions should be customized accordingly.

4.3. Rationale for deciding on blocks for awards

Background

- 4.3.1. The Government should conduct a technical audit of the prospectivity in Indian Territory. Such an audit would enable prospective reserves to be calculated in multiple structures in the contract area. They are identified by a process of geological reasoning. Even if part of the area is contracted, the audit would assess value for exploration purposes.
- 4.3.2. The purpose of undertaking such a technical audit is to prepare a Definitive Map to be used to define petroleum prospective areas in the national territory and to define the areas to be awarded for licensing. The map is proposed to be prepared by specialists using:
- **Surface Geological Maps** – which show the surface geology on the appropriate scale as well as any stratigraphic or any other bore holes drilled. The wells shall be posed on the map with Total Depth and formation at the Depth. Oil & gas fields are shown in outline together with any production data known. Of particular importance is the outcrop of any geological basement which will form a natural horizontal limit to any contract area. The outcrop of known source rocks and reservoirs is also of interest to potential explorers. If acreage is awarded offshore, bathymetry maps which also show the coast line are important.
 - **Aeromagnetic Survey Maps** – which show interpreted depth to basement of areas likely to be attractive for petroleum licensing. They may form a transparent overlay to the geological maps or bathymetric map or may be overprinted in some colour code above it.
 - **Gravity Survey Maps** – which show contoured values of measured gravity expressed in milligalls. Together with the aeromagnetic maps, these will hopefully define the shape of the basinal areas and will also show an interpreted depth to the basement.
- 4.3.3. If any specific maps are available, contoured on specific horizons, then they should be incorporated in the Definitive Maps, together with any prospects that have been identified.
- 4.3.4. Armed with this map, the petroleum licensing specialist is almost in a position to define contract areas. The steps that go into carving out contract areas would include:
- Categorize different basins and also areas within basins according to their prospectivity. This will enable award of large areas of less prospective acreage and small areas of most prospective areas;
 - Establish a gridding system; and
 - Make a comparison of contract area sizes with neighbouring countries
- 4.3.5. These important considerations will enable us to come to some judgments as to how the surface of the national territory is to be broken up for the purposes of petroleum licensing.

Recommendation for NELP VIII

- 4.3.6. Companies have suggested that surface geological maps, aeromagnetic survey maps, gravity survey maps and any other maps available with DGH should be superimposed on each other to build a Definitive Map. Also, data should be enriched in order to enable the Government to categorize the basins and therefore the blocks.

4.4. Deciding size of blocks for awards

4.4.1. The technical audit, as mentioned in the previous point, would most importantly be useful when size of the contract area is to be determined. The contract area, as a rule of thumb, is determined on the basis of:

- In 'frontier basins' which are remote from producing basins and where basin areas are only imperfectly known, contract areas may be rather large.
- Where geological conditions are well known and extensive exploration has been carried out, the contract areas to be defined may be rather smaller than for frontier areas.

4.4.2. Exploration contract area size should be determined on the basis of:

- **The level of exploration which has taken place in the basin of interest** – Frontier contract areas poorly known will be much larger than those in mature basins. The amount of exploration and the density of data that is available will also make a difference. In a totally unexplored basin the risk for the investor is enormous and that therefore it must be awarded the opportunity to explore areas of deep and shallow basement in a wide area.
- **The prospectivity of acreage** – Very prospective acreages may be subdivided into quite small parcels so as to establish a market and encourage competition. In this way Government will be assured of gaining its best price for the acreage to be licensed.
- **The competitive situation** – the size of acreage awarded in neighbouring countries will tend to have an effect on the ability of government to depart from the precedents that may have been set. Bidders will naturally move to countries offering the largest size of contract areas. This will provide them the maximum flexibility to operate and explore different geological plays. The large oil companies would also want to dominate the market. They would want to license an entire prospective basin rather than just a portion of it. Particularly if it is frontier territory. On the contrary, the Government would wish to award the smallest size of contract area so that acreage is available to a number of competing bidders.

4.4.3. The Definitive Map should be used as a guide for definition of the contract area. Each area should contain three or four, or more, prospects if they can be identified. In this way the bidders gain confidence that their interests are taken into account in providing with attractive exploration targets.

4.4.4. Besides considering the geological and geographical factors in deciding block sizes the attractiveness of the block from the bidder's perspective should also be considered while carving out blocks. Frontier high risk deep water area requires materiality to develop in case of discovery. Large areas will have higher probability of providing such materiality.

4.5. Customize BEC and PSC terms

Background

4.5.1. Once the blocks are categorized in a scientific risk-based manner, next step would be to design the policy for each such identified category. The bid and license terms would, in turn, depend upon the category of the blocks and may be altered based on objectives/goals the Government wishes to achieve by offering blocks under various categories.

- 4.5.2. Therefore, categories with low “under-the-ground” risk may be offered to inexperienced big or small companies. But categories with high, both “under” and “over” the ground, risk could be offered only to experienced E&P companies. Therefore the need to customize policy design based on risk-profiling/block categorization.
- 4.5.3. The bid evaluation criteria and some specific contractual and fiscal terms of PSC will be used to qualify the target investor.

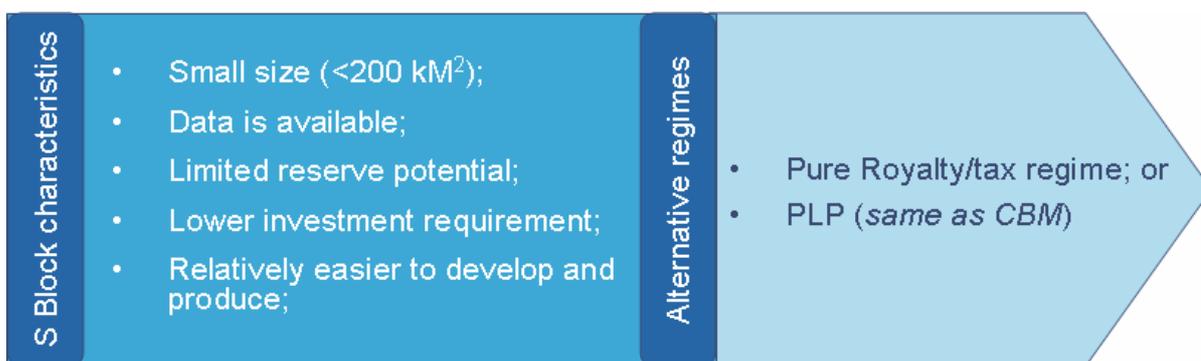
Recommendation for NELP VIII

- 4.5.4. Customize policy design based on risk-profiling/block categorization and the objective(s) which the Government wishes to achieve by the award of blocks under each category.

4.6. Simpler regime for S type blocks

Background

- 4.6.1. The underlying assumption while carving out small size blocks under S Type category was that while the blocks are prospective, reserve potential and size of discovery would be relatively smaller which could be developed by small and medium investors willing to enter the E&P business. Also, given the inadequate strength of DGH staff a large block with a larger reserve potential merits more attention of DGH rather than a small block with relatively limited reserve potential.
- 4.6.2. Given the uniqueness of this category of blocks, can we not think a bit differently and make the monitoring of E&P activity on such block a bit easier than what is currently applicable? Rather than having S Type blocks under production sharing regime, we can assess if the Government by doing away with some of the overseeing required, offer a pure Royalty/Tax regime rather than the current



system of royalty-plus tax-plus-production sharing?

- 4.6.3. In case we wish to continue with the production sharing regime, then maybe simpler benchmarks for sharing the profit oil split may be devised. Production linked regime as applicable in CBM blocks can also be assessed for applicability to S Type blocks.

Recommendation for NELP VIII

- 4.6.4. The Government may consider adopting such a licensing policy for S Type blocks which reduces Government effort required in monitoring of E&P activities and associated costs for these blocks.

Pure royalty/tax regime or Production-linked-payment regimes as applicable in CBM blocks may be evaluated.

Other Views

- 4.6.5. While some companies welcomed this suggestion others were of the view that the pure royalty/tax regime may not be as simple as it may seem to be and therefore a detailed analysis need to be undertaken by studying licensing policies of countries such as Canada and Australia before recommending this regime for S Type blocks.

4.7. Income Tax holiday

Background

- 4.7.1. The long term and capital intensive character of investments in the oil and gas industry underlines the vulnerability of the investors, specially foreign, to unilateral alteration of the petroleum contract by the host government at some moment in the life of the contract. The provision of a guarantee for stability in the contract itself is one way of mitigating that risk.
- 4.7.2. The industry is unanimous in its stand that the term 'mineral' includes natural gas along with crude oil and that the benefit of income tax holiday should be extended to companies in case they discover natural gas.
- 4.7.3. Tax holiday u/s 80-IB (9) is available to E&P companies for seven consecutive years starting from the year in which commercial production commences. The period of seven years of tax holiday is lesser than the tax holiday period available to companies in Infrastructure sector – such as Power Generation and Distribution companies. Further, during the initial seven years, companies have large expenditure to set off and hence actual benefit of tax holiday does not flow to them.
- 4.7.4. The companies have therefore suggested that the provisions of Section 80-IB (9) should be amended to extend the period of seven years of tax holiday to ten years and to allow flexibility to E&P companies to choose the period of tax holiday during initial fifteen year period.

Recommendation for NELP VIII

- 4.7.5. The term 'mineral' includes natural gas , in addition to crude oil which is already included, and that the benefit of seven year income tax holiday under section 80 IB (9) should be extended to companies in case they discover natural gas. Also, the provisions of Section 80-IB (9) should be amended to extend the period of seven years of tax holiday to ten years and to allow flexibility to E&P companies to choose the period of tax holiday during initial fifteen year period.

4.8. Marks for Indian company-foreign company consortium for DW blocks

Background

- 4.8.1. In NELP VII, Government decided to award 10 marks out of a total of 30 marks under the technical capability parameter for partnering with a foreign company in which the foreign company should come as an operator with a minimum participating interest of 10 percent.

- 4.8.2. The purpose of giving this 10 marks to the foreign company-domestic company consortium was two fold:
- To give advantage to experienced deepwater players in order to effectively explore and develop complex and challenging fields; and
 - To provide exposure of deepwater exploration and development to the Indian partners to develop indigenous expertise.
- 4.8.3. The purpose was to get the experienced and capable operator with proven track record in order to utilize the experience and capability of the operator and also the technology they apply. *(Please refer to para 3.6 for detailed background.)*

Recommendation for NELP VIII

- 4.8.4. During industry discussions the Indian companies suggested that such a stipulation puts undue pressure on Indian companies to look out for foreign partners. Also, the club of foreign operators producing in deep waters is quite small. Some of these foreign operators accord a lower priority to India as compared to some other regions of the world. Also, convincing these foreign companies, in absence of good quality data for the offered deepwater blocks, is also quite a challenge.
- 4.8.5. Countering the under pressure argument foreign companies contend that such a provision, on the contrary, ensures that foreign experienced bidders are encouraged to bid with Indian partners. Also, recent discoveries in India have sufficiently excited foreign players and with the creation of a data repository data will also not be a bottleneck for foreign players.
- 4.8.6. Further, this criteria never stopped other oil and gas companies to bid (D16 is a good example). It only provided some advantage for experienced operators, which seems logical given the need for expertise and technology in these challenging areas. If some of the deepwater blocks did not receive any bids, it was not on account of this provision but on account of the high risk (or low potential) of these blocks as perceived by the bidders which was exacerbated by the uncertainty over the income tax holiday issue.
- 4.8.7. Foreign companies have recommended continuation of such a provision saying that this provision along with the technical capability criterion provide a level playing field to them since under the current marking system full marks are awarded where a foreign company has proven track record in deepwater. Behind this statistically proven success or track record of a foreign company is the investment made in R&D and in emerging technologies in frontier/ geologically complex area. These all point towards higher success in exploration and an improved recovery thereafter which is beneficial to the country. Also, as India is focusing on exploration and development of frontier, deepwater and ultra-deepwater areas, technology and experience play a key role in operator selection to effectively explore and develop complex and challenging fields.
- 4.8.8. One of the foreign companies even suggested that no weightage should be given to technical capability for deepwater blocks as it did not have the desired impact in NELP VII and rather discouraged other interested companies.

4.9. Technical qualification for S type blocks

Background

- 4.9.1. During industry discussions some of the companies opined that there should be some technical qualification of bidders for S Type blocks. This is to ensure that only serious players enter the E&P business. No show during the PSC signing ceremony by one of the winners of S Type block in NELP VII adds credence to this argument.
- 4.9.2. This technical qualification could be in terms of proving to the satisfaction of DGH that given a chance it will be able to give proper effect to the licence. Therefore, the company needs to prove that it has the technical capability and/or experience to carry out the work programme and to secure the correct equipment.
- 4.9.3. The Government may like to see how other countries technically qualify bidders and suitably use some of those parameters for qualification of S Type block bidders. New Zealand uses a set of parameters against which bids received from companies are evaluated for technical capability. The table below captures some of those parameters which may be relevant for S Type blocks. For detailed technical capability evaluation criteria of bidders in New Zealand refer to Annexure 1.

Evaluation Criteria of Technical Capability – New Zealand (NZ)	
Parameter	Particulars
Geology	<ul style="list-style-type: none"> ▪ Quantity and quality of internal resources with relevant qualifications and experience to give proper effect to the proposed work programme. ▪ Proposed level and reliance on external resources. ▪ Overall technical capacity to manage proposed work programme with other exploration programme commitments (NZ and/or international as appropriate).
Geophysics & Petrophysics	<ul style="list-style-type: none"> ▪ Quantity and quality of internal resources with qualifications and experience to give proper effect to the proposed work programme. ▪ Proposed level of reliance on external resources. ▪ In house capability to design and interpret seismic data acquisition/ reprocessing programmes focusing on the targeted plays.
Specialists	<ul style="list-style-type: none"> ▪ Level of in house drilling and well completion experience for identified play types. ▪ Level of in house expertise and experience in exploring and developing structural compartmentalised reservoirs with reservoirs with vertical and lateral variations. ▪ Level of in house expertise and experience in reservoir stimulation.
Specialist Equipment	<ul style="list-style-type: none"> ▪ Ownership, access/contracts for offshore seismic equipment/crews with 2D & 3D capability. ▪ Ownership, access or contracts for drilling rigs with appropriate well completion and testing equipment for the targeted plays.
Others	<ul style="list-style-type: none"> ▪ Assessment of any anticipated material events, risks, activities or plans which have either a significant impact positive or negative on the proposed permit holder(s) ability to perform operations in NZ.

Source: NIO Ministry of Economic Development

(For illustration purposes only)

Recommendation for NELP VIII

- 4.9.4. Technically qualify bidders for S Type blocks based on identified traits required to be demonstrated by companies interested in bidding for S Type blocks.

4.10. Obtain all clearances before offer of blocks

Background

4.10.1. During industry discussions all companies expressed their concerns regarding this issue. It was felt that clearances required to be taken from various authorities is a time consuming and tedious process which distracts companies from their core activity of exploration and production. Adding to their woes is lack of coordination between the Central and the State level Governments.

Recommendation for NELP VIII

4.10.2. Requisite clearances from all concerned ministries of GoI and concerned State Governments should be made available prior to offer of blocks. Single window methodology is suggested.

4.10.3. Some companies have also suggested that concerned stakeholders be made signatories to the PSC with addition of suitable addendums defining explicitly terms of reference/ requirements and stipulated time lines for grant of clearances.

4.11. Fiscal package

Background

4.11.1. Prior to NELP V the assumptions regarding price-production scenarios and the attached weights were not disclosed to bidders by DGH. Starting from NELP VI, DGH disclosed the three price and production scenarios (viz. low, most likely and high) under which the NPV of Government share of Profit Petroleum was to be tabulated. Also to arrive at a single NPV figure, for comparison purposes, the block category-wise weights assigned to each price-production scenario (total of 9 scenarios) was also made available to bidders.

Recommendation for NELP VIII

4.11.2. Companies have suggested that calculation of NPV of Government share of Profit Petroleum should be simplified by doing away with the nine scenarios and the weights attached to each of them. Instead just one price may be used for evaluation purposes.

4.12. Reconnaissance licence

Background

4.12.1. Certain sedimentary basins in India remain unexplored or poorly explored. Exhaustive G&G studies, therefore, need to be conducted for such basins. Additionally, a large portion of the sedimentary basins are still open and they are likely to remain so in absence of the National E&P data repository. It is suggested that such area should be considered for future NELP rounds as a separate type of block i.e. Reconnaissance Blocks.

4.12.2. Evaluation criteria for selection of contractors for such blocks should be different from other blocks. Biddable work programme for such blocks should necessarily be only data acquisition and G&G studies. Exploratory drilling should only be optional and should not carry any marks for evaluation.

4.12.3. Such Reconnaissance Permits are being used in the mining sector in various states of India. In Tamil Nadu, for example, Reconnaissance Permits for any mineral or prescribed group of associated minerals is granted under the following terms and conditions:

- Reconnaissance Permit is granted for a maximum period of 3 years and for a maximum area of 5,000 km², to be relinquished progressively.
- After 2 years, the area should be reduced to 1,000 km² or 50% of the area granted, whichever is less.
- At the end of 3 years, area held under a Reconnaissance Permit should be reduced to 25 km².
- Reconnaissance Permit cannot be renewed.
- A person can be granted a maximum area of 10,000 km² in two or more Reconnaissance Permits.
- The person who undertakes reconnaissance operations under a Reconnaissance Permit enjoys preferential right for grant of prospecting license.

4.12.4. Such Reconnaissance Permits are also being used by countries such as Pakistan. In Pakistan, such permits give non-exclusive rights to companies for geophysical, geochemical and geological operations including the drilling of stratigraphic wells. The permit however does not give rights to negotiate or convert into an exploration licence. A period of 1 year is given to the company with possible renewal of 1 year. The maximum acreage that can be awarded is unlimited in open areas. Any potential investor is entitled to apply for a permit via direct negotiations with concerned authorities.

Recommendation for NELP VIII

4.12.5. Government is requested to offer unexplored and poorly explored basins to companies as separate type of blocks. Such blocks may be called Reconnaissance Blocks. These blocks should be awarded to companies on the basis of G&G work committed by them. Drilling of wells should be optional. During discussions with companies it came out clearly that companies, as an incentive, would like to be treated preferentially in case they wish to convert the Reconnaissance licence into an exploration licence. This preference could be in the form of giving first right of refusal to the incumbent in the issue of a PEL. The incumbent may be asked to match the best bid received for that block.

4.12.6. Another suggestion received during industry discussions was that the Government may, as an incentive to companies willing to take up Reconnaissance permits in areas perceived to be non-prospective or difficult to operate, award a marginal field along with Reconnaissance Block.

4.13. Inclusion of policy guidelines in the PSC

Background

4.13.1. The Government has over the last few years issued certain policy guidelines on matters such as extension of exploration phases, substitution of additional meterage drilled against total meterage, and determination of unfinished minimum work programme.

4.13.2. Companies have observed that at times certain clauses of the policies are not in tune with the provisions of the PSC leading to ambiguities in interpretation and non-uniformity in approach.

Recommendation for NELP VIII

4.13.3. It is therefore suggested that the PSCs should be modified to give proper effect to all such policy guidelines issued by the Government.

4.13.4. Another company was of the view that the extension policy should not form part of the PSC at all. The whole purpose of the Government is defeated if within the PSC we provide scope of extension. The fundamental principle of the Government is to get speedier exploration of the available acreage.

4.14. Cost recovery for S Type blocks

Background

4.14.1. While the Government held out that the Model PSC will be applicable for S Type blocks also, but at the time of signing of PSCs the Government made a departure to the MPSC clause relating to cost recovery of amount spent on minimum work programme committed in the block. Article 15.13 of the MPSC gives a degree of flexibility to the Contractor by allowing it recover the difference between the actual costs and the cost estimates submitted at the time of bidding if the Government is satisfied that the difference is due to change in circumstances after the Contract comes into effect. The Government has not given this flexibility to the winners of the S type blocks under NELP-VII.

4.14.2. Cost estimates indicated in the bid documents are based on prevailing market conditions. Due to a time lag between bid submission and execution of actual work the market conditions are liable to change significantly and more so in the highly volatile E&P sector. It is practically not possible to accurately estimate costs that may be actually incurred in seismic and drilling operations during the exploration period of seven years. Also, the modification would expose the Contractor to circumstances totally beyond its control.

4.14.3. Above all, bids submitted by companies were based on the terms and conditions provided by the Government in the MPSC. Therefore, provisions should not be modified subsequent to the award of blocks.

Recommendation for NELP VIII

4.14.4. Companies are of the view that S Type blocks should not be treated any differently as regards cost recovery of minimum work programme and that Article 15.13 of the MPSC should be retained. In any case the onus lies on the Contractor to prove to the Management Committee's satisfaction that the excess costs incurred were *bona fide* and were incurred due to change in circumstances after the Contract comes into effect.

4.15. Gas in kind

Background

- 4.15.1. The right of the Government to vary its option to take its entitlement either in cash or in kind every year in case of crude oil/condensate and every 5 years in case of natural gas may prevent the Contractor from realizing best value by sale of the Petroleum, as the available quantities may be undeterminable for long-term sale and purchase contracts. Particularly in the case of natural gas, such flexible option may not be workable.

Recommendation for NELP VIII

- 4.15.2. The Government should exercise its option to take Profit Petroleum either in cash or in kind by giving a written notice to the Contractor not later than 30 days after the approval of the Development Plan by the Management Committee or the Government, as the case may be, and once the Government exercises its option, the same should continue for the entire period of the Contract.

4.16. Adopting Cost Based MWP

Background

- 4.16.1. Some of the companies desired to have flexibility of choosing the optimum MWP once they actually start exploring the block and do not want to be tied down by the MWP commitment made at the time of bid submission. Decisions relating to the MWP commitments are made based on very limited data made available to bidders by DGH. Additional data obtained during actual operations may warrant a change in those MWP commitments. Therefore, some of the companies have suggested that the Government should ask for a cost based MWP commitment.

Recommendation for NELP VIII

- 4.16.2. Government should ask for a cost based MWP commitment instead of physical MWP commitment.
- 4.16.3. Some companies commented that such a cost based MWP commitment may not work since the substitutability amongst the work programme elements is limited. For example a well may not possibly be substituted by shooting additional 2D or 3D work programme on the block. Also, monitoring and benchmarking of costs for the purposes of cost recovery may be difficult since the costs for a similar MWP commitment vary from operator to operator.

4.17. Other recommendations

- 4.17.1. Some companies are of the opinion that the time taken by the Government in finalizing the list of winners under NELP VII was too long. Bids were submitted on June 30, 2008 and the PSCs were signed on December 22, 2008, almost six months. Companies have requested that the Government should shorten this period substantially.
- 4.17.2. Bring a sense of rationality in bidding, for both the physical MWP and fiscal package by discounting the outlying bid and scaling the bids as a percentage of the average offer. This will compress the sensitivity particularly in case of one or two skewed bids. It will ensure selection of the right operator for exploration, particularly in frontier areas which are both risky and technologically challenging. It will also assure that the value division between government and contractor fairly reflects the risk and return profile of working in challenging areas.

- 4.17.3. In order to improve the quality of bid round relinquished part of the acreages awarded to NOCs on nomination basis should be brought under NELP in a time bound manner.
- 4.17.4. Create win-win partnership between NOCs and private/global companies by awarding 10 points to a 50%:50% JV between non-affiliated Indian/global companies and Indian NOCs reducing on a declining scale to zero where there are no such partnerships (bell curve). Also, each partner should qualify on their own – minimum net worth as an oil and gas player.

5. Industry Recommendations for CBM IV

5.1. State level approvals

Background

- 5.1.1. Government has, at various occasions, reiterated its stand that the CBM operators should ensure that the process of exploration is accelerated so that production from the resources of the blocks is achieved quickly, which is also the prime objective of exploration policy of the Government.
- 5.1.2. In the above background it is observed that once the CBM blocks are awarded and the contracts signed, the process of obtaining statutory grants/approvals from respective State Governments viz. PEL grant, execution of PEL deed, permission to establish and operate, clearances from the Pollution Control Board (PCB), land acquisition and related issues generally take several months to at times one to two years even after aggressive pursuance.
- 5.1.3. It is therefore vital to evolve a mechanism to hasten this process so that the lead time for commencing activity in a block is reduced substantially. This issue was also raised by companies during discussions for recommendations for NELP VIII.

Recommendation for CBM IV

- 5.1.4. It is suggested that the State Governments may be made signatories to the Contract or necessary approvals may be 'packaged' with the Contract itself by DGH.

5.2. Relinquishment

Background

- 5.2.1. The concept of relinquishment for the CBM blocks has mainly been picked up from conventional oil fields where after drilling few wells if oil or gas could not be found the same can be relinquished. However, in CBM where coal layers are running in kilometers below the earth, probability of finding CBM is everywhere.

Recommendation for CBM IV

- 5.2.2. Therefore, operator should not be asked to relinquish particular percentage of area. In case clause of relinquishment is required to be retained then it should be at the discretion of operator whether he wants to relinquish any area or not.

5.3. Production of CBM in Phase I & II

Background

- 5.3.1. The CBM contract provides for production of CBM from wells drilled during the Exploration and Pilot Phases (Phase I and II). The de-watering process in CBM wells is very lengthy and during the process of de-watering, gas is needed to be flown to establish stable gas production for production forecasting, reserve estimation and market commitment. Such testing of wells for their deliverability

is otherwise also necessary for formulating development plans. During this period, the operators generally resort to technical flaring of gas. Such incidentally produced gas though can be sold in market as per clause 10.9 of Article 10, however, the clause require further clarity in terms of PEL-ML conversion, income tax holiday consideration and marketing/pricing mechanisms.

Recommendation for CBM IV

- 5.3.2. Clarity in terms of PEL-ML conversion, income tax holiday consideration and marketing/pricing mechanisms is required in case the operator sells gas produced during testing of wells drilled.

5.4. Other recommendations

- 5.4.1. Instead of taking essentiality certificate for every purchase, operator should be given an authority to avail custom and excise exemption. The operator can file a return with DGH anytime such authority is exercised to confirm that it is in line with the rules and regulations.
- 5.4.2. The operator should be authorized to avail excise exemptions for domestic purchases (as it amounts to a deemed export). Currently, a lot of difficulty is faced in availing this exemption. The operator can file a return with DGH anytime such authority is exercised to confirm that it is in line with the rules and regulations.
- 5.4.3. CBM well requires de-watering throughout its life period and hence robust maintenance of well through workover jobs. Such maintenance jobs are considered to be much more rigorous than in conventional oil and gas operations. Therefore, the overhead cost for CBM operations in many cases may be either comparable or more than overhead cost of conventional oil and gas operations. Keeping above in view, it is proposed that the annual overhead charge (Appendix-C: Section-2 Clause 2.6.2) should be increased from 1% to 3% in line with the NELP contracts.

6. Annexure 1: Detailed Evaluation Criteria for Technical Capability of Bidders in New Zealand

Detailed Evaluation Criteria of Technical Capability – New Zealand (NZ)	
Parameter	Particulars
Geology	<ul style="list-style-type: none"> ▪ Quantity and quality of internal resources with relevant qualifications and experience to give proper effect to the proposed work programme. ▪ Proposed level and reliance on external resources. ▪ Any experience of the geology of the NZ region and basin. ▪ Level of experience with analogous basins. ▪ Level of experience and success with play types. ▪ Level of experience and understanding of source rocks. ▪ Level of experience with clastic sand reservoirs. ▪ Overall technical capacity to manage proposed work programme with other exploration programme commitments (NZ and/or international as appropriate).
Geophysics & Petrophysics	<ul style="list-style-type: none"> ▪ Quantity and quality of internal resources with qualifications and experience to give proper effect to the proposed work programme. ▪ Proposed level of reliance on external resources. ▪ In house capability to design and interpret seismic data acquisition/ reprocessing programmes focusing on the targeted plays. ▪ Capability and experience to construct and manage large seismic data acquisition programmes. ▪ Capability and level of experience to manage seismic processing and reprocessing programmes. ▪ Understanding and level of experience with specialised seismic analysis techniques specific to the range of play types. ▪ Level of experience in subsurface mapping and interpretation of seismic facies and correlation to petrophysical/well data. ▪ Level of experience in petrophysical analysis and interpretation for targeted play types.
Specialists	<ul style="list-style-type: none"> ▪ Level of in house drilling and well completion experience for identified play types. ▪ Level of in house expertise and experience in exploring and developing structural compartmentalized reservoirs with reservoirs with vertical and lateral variations. ▪ Level of in house expertise and experience in reservoir stimulation.
Specialist Equipment	<ul style="list-style-type: none"> ▪ Ownership, access or contracts for offshore seismic equipment/crews with 2D and 3D capability. ▪ Ownership, access or contracts for drilling rigs with appropriate well completion and testing equipment for the targeted plays. ▪ Any proprietary analytical techniques or software relevant to proposed WP studies.

Detailed Evaluation Criteria of Technical Capability – New Zealand (NZ)

Parameter	Particulars
<i>Others</i>	<ul style="list-style-type: none">▪ Level of exploration success in developing the targeted plays.▪ Technical expertise and experience with exploration in basins that feature identified play types.▪ Experience and expertise with de-risking under explored basins.▪ Relevant New Zealand business activities of proposed permit holder(s) (and, in particular, the proposed operator).▪ Experience of proposed permit holder(s) (and, in particular, the proposed operator) in exploration and production operations.▪ Assessment of any anticipated material events, risks, activities or plans which have either a significant impact positively or negatively on the proposed permit holder(s) ability to perform operations in New Zealand.

Source: NIO Ministry of Economic Development

7. Score Card: Industry Recommendations for NELP VII post review of NELP VI

7.1. Purpose

7.1.1. In 2007, PetroFed in knowledge partnership with PwC had released a publication titled “Review of NELP VI & Industry Recommendations for NELP VII” which covered review of India’s then existing licensing policy for award of acreages for exploration and production of hydrocarbons in India. The publication, based on responses of E&P companies and a study of the prevalent international practices, recommended certain changes/modifications to NELP VI leading to formulation of NELP VII. Some of those recommendations, in spirit if not in the same form, were considered by MoPNG while announcing the Seventh Round of Bidding under NELP (NELP VII). Score card of these recommendations is provided below:

PetroFed’s recommendations for NELP VII	Comments (whether suggestion incorporated in NELP VII)
<p>a) Technical Capability: A scientific method to technically pre-qualify prospective bidders should be designed with no marks assigned to the Technical Capability criterion (refer para 4.2).</p>	<p>Suggestion for a formal pre-qualification process to qualify bidders was not accepted. Technical capability was just a qualification criterion and carried no weightage for onshore and shallow water blocks. Technical Capability was not even a qualification criterion for the newly offered S Type blocks.</p>
<p>b) Annual Reserve Accretion Sub-criterion: Government should continue to consider 2P reserves for awarding marks under the sub-criterion of Average Annual Reserve Accretion for last 5 years (refer para 4.3).</p>	<p>Not accepted.</p>
<p>c) Fiscal Package: On bidding pattern for Fiscal Package some companies advocated Contractor’s take on a sliding scale at successively higher investment multiple levels, that being an internationally prevalent practice. Other companies were of the view that there should be no such restriction. In either case, there should be no ambiguity leaving the options to bidders to interpret. (refer para 4.4).</p>	<p>Accepted. Government introduced only two IM levels and the bidder was made to quote a higher % share of PP to Government at the higher IM level. This removed any ambiguity in the interpretation of the fiscal package.</p>
<p>d) Past performance: Such a clause should not be introduced for evaluation (refer para 4.5).</p>	<p>Not accepted.</p>
<p>e) Periodicity of NELP rounds: While companies did not necessarily felt a need to defer the NELP rounds, they qualified their response to mean that the rounds must necessarily be enabled by data, clearances, categorisation of blocks and if the suggestion is accepted the pre-qualification, so as to strategise bids as well as reduce under ground and contract risks for bidders (refer para 4.6).</p>	<p>Government is going ahead with NELP VIII which according to the Petroleum Minister is expected to be launched in the first quarter of 2009.</p>
<p>f) Block categorisation: Blocks should be categorised considering both geology and geography of a block. Fiscal incentives should be provided</p>	<p>Only deepwater blocks qualify for the additional fiscal incentive of reduced royalty rates for the</p>

with such a risk-based block categorisation i.e. blocks which are difficult to operate on or belong to areas/basins where discoveries have not been reported may be given additional incentives for the additional risk undertaken (refer para 4.7).	first 7 years of commercial production.
g) Size of blocks: The Government should carve out smaller blocks and for that purpose it may have to acquire or cause to acquire additional seismic data (refer para 4.8).	S Type blocks introduced.
h) Data adequacy & quality: The Government should or cause to undertake geological and geo-physical surveys so as to enable bidders make informed decisions thereby motivating more (and bigger) players to participate (refer para 4.9).	Not part of the policy.
i) Access to data relating to adjoining blocks: No consensus could be arrived at the industry meeting on this issue. While some advocated promotion of free usage of raw non-proprietary data, the others were of the opinion that in order to protect the interests of operators, data should not be shared with prospective bidders till completion of exploration (refer para 4.10).	Not accepted.
j) Assigning marks to minimum commitment of one exploratory well in Phase II: The industry is of the view that with an exit option available after Phase-I, there is no merit in assigning any weightage to Phase II (refer para 4.11).	Accepted.
k) Mandatory Work Programme: MWP should be customised for each block based upon the data available for that block. Companies proposing to undertake 3D seismic either on the whole or a part of the Contract Area may be excused from undertaking mandatory work programme on the whole or that part of the block, as the case may be (refer para 4.12).	Not accepted.
l) Exploration period: The Government may please look into the possibility of customising the exploration period of individual blocks based on block characteristics. In order to achieve Government's stated objective of accelerated exploration in the country, the Government may allocate extra marks for companies proposing to undertake accelerated exploration on the block (refer para 4.13).	Not accepted.
m) Fiscal stability provision: The government should establish a mechanism to review the implications of introduction of such new fiscal burden on the Contractor with a view to invoking the Fiscal Stability clause provided in the PSC (refer para 4.14).	Not accepted.
n) Income Tax Holiday: E&P companies should be given the freedom to chose the seven year tax holiday period within a period of a total period of 15 years from the start of commercial operations. The best in any case would be to accord the E&P sector, Infrastructure Status under Section 80 IA of the Income Tax Act, 1961 (refer para 4.15).	Not accepted.
o) Well-head Value: Methodology for calculating the value of crude oil and natural gas at well head should be provided in the PSC (refer para 5.1.1).	Not accepted.

<p>p) Statutory clearances: All clearances related to environment, defence, forests etc. should be obtained by DGH before offering blocks for bidding (refer para 4.17.4 and 4.6.5).</p>	<p>Not part of policy.</p>
<p>q) Profit Petroleum in Kind: In case of natural gas, the Government should take its share of profit petroleum in cash and not in kind (refer para 4.17.5).</p>	<p>Not accepted.</p>

8. Compendium of Company Responses

8.1. Purpose

- 8.1.1. PetroFed received comments from companies. These comments covered their experience of NELP VII, comments on NELP VII and suggestions on what changes should be incorporated before rolling out NELP VIII.
- 8.1.2. With the purpose of servicing transparency objective, PetroFed has prepared a compendium of unadulterated comments in the following table. These comments are being provided without linking them to company names.

8.2. The Compendium

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
Objective of NELP	10	<p>The NELP process objective is:</p> <ul style="list-style-type: none"> • To maximize, through award of oil and gas acreage, the exploitation for hydrocarbon. • To obtain an equitable return (not the best) for India on the production of hydrocarbons. 	<p>In valuing the impact of production of a unit of hydrocarbon, from the India perspective, one must include the multiplier effect. This is the effect one unit of hydrocarbon has on expanding the GNP through other industrial and domestic growth. This multiplier effect, in the view of the writer, is many folds greater than the value India receives from its share of hydrocarbon production. Therefore in NELP rounds the emphasis should be on equitable returns not the best return, focused on encouraging / facilitating the full cycle of Exploitation.</p>
	1	<p>The NELP process objective is:</p> <ul style="list-style-type: none"> • To maximize, through award of oil and gas acreage, the exploitation for hydrocarbon. • In order to achieve the above, attract the globally successful E&P Companies to participate in exploration in India . 	<p>The Government through the NELP process is seeking to encourage wider, swifter and more efficient exploration and development of the Indian sedimentary basins. The process has been so far very successful in attracting most Indian and several small and medium sized foreign operators to bid and win acreage in the six bid rounds. However, other than a few operators most have been marginally successful. Given this background, the objective of the Government should be to accelerate exploration in the frontier areas/deep water and achieve faster & timely development of the discovered reserves. As the new acreage in the coming rounds focus on frontier, deepwater and ultra- deepwater areas, technology and experience need to play a very key part in operator selection to effectively explore and develop complex and challenging fields.</p>

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
Income Tax Holiday	1	Tax holiday for commercial production of Oil & gas should continue.	<ul style="list-style-type: none"> • The provision of a tax holiday is a key fiscal incentive for investors to bid for the exploration blocks under NELP. It may be noted that in India large areas remain to be explored. Many of these blocks are technologically complex and logistically challenging. • In spite of some high profile successes, the record of exploration in India's NELP blocks remains low to average when compared to other possible countries. Hence, Indian basins remain comparatively high risk, and require attractive terms through such fiscal incentives to attract world class investors.
	3	A lot of uncertainty has been in regard to the tax holiday for gas production. The contract should mention the taxes/tax holidays (actual rates as specified in the offer or at the date of contract) and have effective stabilization clauses such that the contract terms cannot be changed.	
	4	"Natural Gas" should be treated as part of "Mineral Oil" so that the 7-year income tax holiday available on commercial production of "Crude Oil" should also be available on commercial production of "Natural Gas".	
	6	There should be clarity on the issue of the Tax Holiday and Tax holiday should be allowed for both Oil & Gas production.	
	8	Remove uncertainty of Government intentions. Clearly reiterate the message that Fiscal scheme as conveyed is real, and the Government shall take quick decisions to mitigate if any issues are subsequently found to obstruct Government intentions as conveyed at the time of bidding. There should be no ambiguity regarding tax holidays, application of Section 80 I (B), Section 42 etc.	
Block sizes	1	The block sizes should be decided on the basis of type of block, prospectivity, and exploration status. In an unexplored or partially explored frontier basin, size should be large enough (>10,000 Sq.Km.) to attract the investors.	Frontier high risk deep water blocks requires materiality to develop in case of discovery. Large areas will have higher probability of providing materiality.
	3	In the offshore environment it is important that blocks are large enough to justify the risks and costs inherent in exploration. Much of deepwater offshore India is still a frontier province and	

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
		investing companies require sufficient follow-up potential within larger blocks should they be successful in initial exploration.	
	5	Improve size of blocks to improve exploration efficiency and justify inherent risks and costs	
	2	Size of S Type Block for bidding particularly the ones after expiry of ML should reduce from 200 Km2 to 100 Km2. Block with more than 100 Km2 size, Technical capability should be pre Qualifying Criteria.	
	4	For the first time, 9 Type 'S' Cambay onshore blocks having area up to 200 sq km were offered under the NELP-VII round for which, technical capability of the proposed operator was neither a pre-qualification nor a bid evaluation criterion. The Government should continue with offering blocks under Type 'S', as it has attracted a very good response (some blocks receiving as many as record 17 bids each). However, as a step forward, all onshore and shallow water blocks having area up to 500 sq km may be considered for offering under Type 'S', which could attract further enhanced participation.	
Technical Capability	1	<ul style="list-style-type: none"> ▪ NIO should clearly mention about the methodology for calculation of technical capability. ▪ Gross value for operated block should be taken into account. 	<ul style="list-style-type: none"> ▪ NIO of NELP VII had not clearly mentioned the criteria for calculating these numbers. ▪ Purpose is to volume of work being handled by the operator for which gross operated is a more appropriate criterion.
	3	As it is desirable to bring other "startup" companies into the Indian oil and gas business, so companies with less than the 10,000 bopd threshold be allowed to participate in onshore acreage, but that all offshore blocks, regardless of water depth are restricted to consortia led by a "Proven Operator".	
	7	While technical capability is a pre-qualifying criteria for A and B type blocks, it is not even a pre-qualifying criterion for S type blocks. Technical capability of the operators should be mandatory for all type of blocks with due weightage. It is hence proposed that minor modifications may be incorporated in the BEC to include weightages for Technical and Financial Capabilities of Bidders.	The business of oil exploration requires technical expertise and financial capability in the endeavour of establishing hydrocarbon reserves and ultimately production.
	8	Limit the Technical Qualifications of bidder only in critical areas. The present system of evaluation of technical bids as per NELP	

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
		VII be continued after reducing of "S" block sizes to 100 sq. km. from a maximum of 200 sq. km.	
	1	Annual Production for Deepwater blocks is Capped at 50 mmboe average over last 5 years. Deep water productions limit to be increased to the level of 100 mmboe or should be brought in line with the criteria of accretion of proved reserves, which is a relative ranking.	<ul style="list-style-type: none"> ▪ Not only discovery but experience of handling large volume of production from different basin is also important to evaluate the criteria of technical expertise. ▪ Increase will in no way limit the number of bidders, but give a larger range to differentiate performance.
	2	Deepwater Blocks: Offshore experience of the parties should be counted irrespective of the time period. The present prequalification for Deepwater does not favor Oil India Ltd to be an operator although it is a more than 50 years old E & P company with past offshore experience	
	5	<p>Consortium marks: Create win-win partnership between NOCs and private / global companies by:</p> <ul style="list-style-type: none"> ▪ Awarding 10 points to 50:50 JV between non-affiliated Indian and global oil companies and reducing on a declining scale to ZERO where there are no such partnerships (bell curve). ▪ Each partner should qualify on their own – minimum sales / net worth as an oil & gas player 	Attracts best technical expertise for more than one E&P company and improve quality of exploration efforts
	10	<p>i) Onshore/shallow water blocks type A & B. We are pleased to see, the adjustments made in this area to the onland & shallow block and encourage their continuance i.e. No Technical points only an operator qualification process.</p> <p>ii) Deep water blocks type C & D The proposed system disproportionately favours large companies. We again propose:</p> <p>a) Technical capability is a definite advantage. All must have deep water experience. However, should only qualify into three groups utilizing the same criteria as BID, but not grading the points (ie using the same proposed methodology set threshold points for each of the groups below).</p> <p>Group I – The most experienced. All in this group would receive 10 points.</p> <p>Group II – Sufficient experience to develop the deep water. All in this group would receive 6 points.</p>	

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
		<p>Group III – Minimum experience, but some deep water experience. All in this group would receive 2 points.</p> <p>Note: This eliminates the emphasis on reserves/production etc. as once you reach a bracket you would be fit into one of these groups.</p>	
	5	No weightage for technical capabilities for deepwater blocks	Did not have desired impact in NELP VII
Minimum work programme	2	<ul style="list-style-type: none"> ▪ Multiplying factors linked to water depth ▪ The number of wells proposed should have basis for drilling i.e. their geological objectives should be elaborated, only one well to test a particular play. ▪ DGH may prescribe a basin wise maximum limit of target depth for each play for the purpose of weightage beyond which no marks would be awarded. 	<ul style="list-style-type: none"> ▪ It is not technically feasible to specify drilling location upfront at the time of bidding. Linking water depth through the mechanism of the “Multiplying Factor” is an impractical approach and is likely to lead to Contractors skewing their well depth commitments in greater depths within the Contract Area to gather maximum points. ▪ As per MPSC terms, during implementation of the work programme, a well can also be terminated after encountering basement / point below which further drilling becomes impractical. It has been observed in the past that meterage proposed at times are impracticable and beyond geological reasoning.
	6	<p>Cost Based Work programme:</p> <p>Work programme should be driven towards optimizing exploration activity rather than on points to be gained in a bid round.</p> <ul style="list-style-type: none"> ▪ some blocks with adequate 2D data received bids for additional 2D seismic only because of the points to be gained, making the MWP sub-optimal 	<p>Past NELP rounds have witnessed very high / often unrealistic MWP commitments resulting in award of blocks to less competent operators and wastage of risk capital.</p> <p>Evaluation based on cost based MWP (i.e. in value terms with indicative physical work programme) would discourage companies from over-bidding and re-negotiating subsequently. In any case, the actual work programme would be approved by DGH.</p> <p>Commitments are made for work programme other than seismic and drilling for bagging a block and the data so acquired is seldom utilized for exploration</p>
	7	Limit of maximum marks to 2 wells for deep water in Phase 1	<ul style="list-style-type: none"> ▪ Drilling deep water exploratory well is an expensive proposition. ▪ The practice globally is to make use of advanced seismic and modelling technology to take informed decision on the number of wells to be drilled. ▪ From bidder's perspective, genuine bidder, who sees possibility of 1-2 wells, may not ultimately bid considering this will hardly earn him 1-2 point(s) at the most.

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
	2	<p>Specialised Surveys / Activities should not be part of Biddable elements</p> <p>Type of work programme (WP) in NIO of NELP should have only two activities - 2D/ 3D seismics (API) and wells.</p>	<ul style="list-style-type: none"> ▪ Air Borne Magnetic (API), High Resolution 3 D Seismic surveys, Multi-component 3 D Seismic surveys, Ocean Bottom Cable surveys, Controlled Source Electromagnetic (CSEM) etc. are activities which need to be explained and justified for further exploration of specific Blocks. These activities should not form part of the Biddable elements. Bidding should be restricted to 2 D, 3 D Surveys and Wells to be drilled.
	6	<p>The MWP should consist of only 2D, 3D API and drilling of wells. Other studies/ surveys' should not be allowed.</p>	
	3	<p>Mandatory 2D seismic Programme.</p> <p>If the whole contract area is covered by 3D seismic survey under the MWP, the condition of 2D seismic API under Mandatory Work Programme to be waived off.</p>	
	6	<p>In order to prevent unrealistic bidding, the DGH and Ministry should take a view with regards to companies that have "over bid". If an expert committee feels that drilling of an unusually large number of wells is not justified for a given block and the same is done by a bidder just to win the block, then this bid should be declared invalid. The MWP should be consistent and logical derived for the Geological model / models submitted by a company.</p>	
	6	<p>The MWP should be reviewed by a joint team formed of DGH (Govt representatives) and representatives from private players. This will motivate companies to bid for achievable MWP with focus on meaningful Geological models.</p>	
	3	<p>Strict Enforceability of MWP Commitments:</p> <p>Contractors of Production Sharing Contracts need to be held to account to meet commitments. Agreed penalties need to be imposed for breaches of the contract. Failure to have an effective penalty system for non-performers results in a persistence of nonrealistic bids on blocks, which materially distorts bidding and discourages bidders from participating.</p>	
	8	<p>The MWP should also include the technical justification for such bid. This would preclude some frivolous bids and would encourage people to put some thought on the bids.</p>	

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
	9	The work programme commitment should be biddable in terms of expenditure to be made for execution of the work programme and not in terms of physical quantities.	
Fiscal Package	1	For frontier block, Cost Recoverable should not be biddable criteria. It should be capped preferably at 100%.	Frontier areas are high exploration risk areas. It is important that the explorer takes the comprehensive exploration programme that is appropriate and have better chance of success. It is also important that operator gets a reasonable return on such large investment.
	6	The Cost Recovery limit should be capped between two limits. This will prevent companies from bidding unrealistic bids.	
	8	Limit the Fiscal Bids to a “reasonable” Government Take. Currently, the evaluation is based on biddable Cost Recovery limit as well as share of profit petroleum between Government and Contractor based on Investment Multiple concept. Do away with the concept of bidding for fiscal terms. The suggestion is two-pronged: <ul style="list-style-type: none"> ▪ Fix 90% of annual revenue dedicated to cost recovery (some of the members have even suggested it to be 100%) ▪ define a fixed profit sharing formula for different tranches of investment multiple. 	
	7	Fiscal comparison should be done by scaling the bids as a percentage of the average offer.	<ul style="list-style-type: none"> ▪ This will compress the sensitivity particular in case of one or two skewed bid(s). ▪ This will also ensure selection of the right operator for exploration, particularly in frontier areas which are both risky and technologically challenging. It will also assure that the value division between government and contractor fairly reflects the risk and investment borne by contractor. ▪ Ensure Contractor has the incentive to complete the work programme that has been bid.
	9	There should not be any cost recovery.	
	9	For profit sharing, there should not be any profit share to the government for the initial few years (which is biddable) and for further years, the profit share should be fixed at the time of NIO depending upon the classification of block based on the prospectivity of the blocks and its location (offshore/ onshore/ frontier basin).	
	10	This should not be a biddable component. The suggestion for	1) As Contractor's rate of income goes up through production or

Issue	Co.	Suggestion/Comment	Reasons for this suggestion																					
		<p>NELP VIII is a fixed cost recovery scheme, but for future NELP (or open bidding), GOI should consider a 'royalty' approach.</p> <p>The recommendation for a fixed non-biddable fiscal component is to level the playing field for large / small private companies and PSUs. It will also remove the 'gamesmanship' put into maximizing points.</p> <p>The fixed fiscal package could be unique to each block type (A, B, S, C, D as defined earlier) however, the recommendation is the same for all blocks as outlined below:</p> <p>Fixed Fiscal Package% of value of annual production to be allocated for cost recovery = 90%</p> <table border="1"> <thead> <tr> <th>Investment Multiple</th> <th>%GOI</th> <th>%Contractor</th> </tr> </thead> <tbody> <tr> <td>Less than 1.5</td> <td>20</td> <td>80</td> </tr> <tr> <td>1.5 to less than 2.0</td> <td>30</td> <td>70</td> </tr> <tr> <td>2.0 to less than 2.5</td> <td>40</td> <td>60</td> </tr> <tr> <td>2.5 to less than 3.0</td> <td>50</td> <td>50</td> </tr> <tr> <td>3.0 to less than 3.5</td> <td>60</td> <td>40</td> </tr> <tr> <td>3.5 and above</td> <td>70</td> <td>30</td> </tr> </tbody> </table>	Investment Multiple	%GOI	%Contractor	Less than 1.5	20	80	1.5 to less than 2.0	30	70	2.0 to less than 2.5	40	60	2.5 to less than 3.0	50	50	3.0 to less than 3.5	60	40	3.5 and above	70	30	<p>sale price, the Contractor's allocated reserves also reduce in a particular development scenario.</p> <p>2) If the contractor responsibly puts more capital into the project (i.e. slows the increase of the multiple) India benefits by:</p> <ul style="list-style-type: none"> - more exploring is done in the block - more reserves are developed - higher technology utilized to the benefit of India, eg., the environment. <p>3) The weakness of this fiscal scheme is 'responsibly invests', and the demonstrated active Micro Management of costs by GOI. Therefore it is recommended to investigate a royalty styled approach for future rounds. This puts all the responsibility / risk on the contractor. To assist in this investigation two references:</p> <p>i) http://www.energy.gov.ab.ca/docs/tenure/pdfs/FISREG.pdf</p> <p>ii) http://www.energy.gov.ab.ca/docs/naturalgas/pdfs/natgas/2003GuidelinesChapter2.pdf</p>
Investment Multiple	%GOI	%Contractor																						
Less than 1.5	20	80																						
1.5 to less than 2.0	30	70																						
2.0 to less than 2.5	40	60																						
2.5 to less than 3.0	50	50																						
3.0 to less than 3.5	60	40																						
3.5 and above	70	30																						
Fiscal Stability	3	<p>Various Ministries of the Government of India appear not to feel bound by the terms of the Production Sharing Contract, and impose taxes or other terms upon the Contractors which were not referred to during bidding and finalizing contract terms. The effective stabilization clauses must also be drafted to be effective in these circumstances. Alternatively other effective means need to be found to compensate for such alterations to agreed contractual terms.</p>																						
Exploration Period	3	<p>Frontier Block*: Phase I – 6 years and Phase II – 2 years</p> <p>Normal Block: Phase I – 5 years and Phase II – 2 years</p>	<p>A Block which is logistically and technically difficult and lacks infrastructural facilities is considered as "Frontier Block".</p>																					
Special Consideration for North East Blocks	2	<p>Logistically difficult Blocks offered in NE region should be considered in line with the Frontier Blocks in view of the constraints prevailing in the NE i.e. difficult logistics, poor infrastructure, and environmental conditions like very long rainy season, remote locality and short operational window in comparison with the rest of the country.</p>																						
Reconnaissance Blocks	7	<p>Large portion of sedimentary basins are still open and they are likely to remain so in absence of the National E&P data</p>	<ul style="list-style-type: none"> ▪ There are certain basins wherein breakthroughs have not been made so far and warrant exhaustive G&G studies. 																					

Issue	Co.	Suggestion/Comment	Reasons for this suggestion
		<p>repository. Such area should also be considered for future NELP rounds as a separate type of block as Frontier/Reconnaissance Block with different evaluation criteria and over a longer period. The biddable work programme for such blocks should necessarily be only data acquisition and G&G studies. Exploratory drilling should only be optional and shouldn't carry any weightage.</p>	
Clearances	2	<p>As the committed MWP needs to be performed within time lines the offered. Blocks should have details about EIA aspects specially whether falling in Reserve forest, Wildlife Sanctuary, National park etc. For such Blocks Govt. should have all the clearances from Appropriate authorities before such blocks are offered or otherwise to consider a different timeframe (for Phase-I) for obtaining such clearances by the bidder.</p>	
	7	<ul style="list-style-type: none"> ▪ A single window methodology is being suggested for the purpose. ▪ The concerned stake-holders could be made signatories to the PSC with addition of suitable addendums defining explicitly terms of reference/ requirements and stipulated time lines for grant of clearances. 	<p>To adhere to the timelines of exploration phases it is essential that requisite clearances from all concerned ministries of Govt. of India and concerned State Governments are available prior to offer of blocks.</p>
	10	<p>The PSC document should remain a lead responsibility of DGH/MOPNG as the nodal agency. However, also strongly recommend the addition of other signatories as follows:</p> <p>a) State: From the respective Block's State, included in an addendum, should be the approved PEL or at a minimum a guideline for PEL requirements with a guaranteed schedule (reference recent guideline documents issued by DGH, an excellent step).</p> <p>b) MOEF: i) Included as an addendum, specific approved clearance for seismic (or other surveys) within the respective block. This could be in two parts, (a) Non Restrictive are with Standard Terms of Reference to be submitted (not approved) & (b) Restricted Area where application / approval process must be followed.</p> <p>ii) additionally as an addendum, standard terms of reference (TOR), should be included specific to exploratory drilling in the specific block (this would greatly shorten the E.C. process).</p> <p>c) MOF: Included as a clarification addendum, should be explicit</p>	

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		<p>guidelines pertaining to (but not limited to):</p> <p>i. What would qualify for the tax holiday e.g. oil and gas (in dispute at present due to difference in interpretation of mineral oil) wells, facilities etc. Also a guideline on how to apply for such exemption,</p> <p>ii. what is required from the contractor(s) on the apparent necessity of tabling the PSC contract and the amendments thereof in the Parliaments,</p> <p>iii. other clarifications as deemed necessary.</p>	
BEC	5	<p>Relatively resource starved country like India (importing 75% of its crude oil requirement) should focus on finding more hydrocarbons rather than profit sharing</p> <ul style="list-style-type: none"> ▪ Lower weightage for fiscal terms to discourage non-commercial bids ▪ Over aggressive bidding hurts the Government's exploration policy in the long term as lack of commercial justification would impact actual implementation of MWP <p>Increase weightage for technical capabilities to encourage capable and experienced operators</p> <ul style="list-style-type: none"> ▪ 90% cost recovery and max profit share of 70% ▪ 100% cost recovery and max profit share of 60% for deep waters blocks. 	<p>Greater emphasis on MWP would shift focus from government receipts at present to exploring for & finding resources in line with NELP policy.</p>
Inclusion of Nomination Acreage in NELP VIII	5	<p>Nomination acreage is relatively under explored in the absence of any work commitments.</p>	<p>Inclusion of nomination acreage in NELP VIII will ensure</p> <ul style="list-style-type: none"> ▪ Good mix of blocks in terms of prospectivity (frontier / proven basins) and also type of blocks (small / onshore / offshore and deep water blocks). ▪ Greater interest from global / private companies <p>What is Nomination Acreage?</p> <ol style="list-style-type: none"> 1. Blocks where Petroleum Exploration Licenses ("PELs") were granted to ONGC & OIL based on GOI nomination prior to 1999 referred to as "nomination blocks" <ul style="list-style-type: none"> ▪ NOCs not required to commit extensive work programmes ▪ As of April 2007, there were 126 nomination blocks covering total acreage of 143,550 sq. km as against

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			450,000 sq. km. acreage awarded until NELP-VI incl. relinquished acreage bid out in subsequent rounds (~60% of which again held by NOCs).
Re-bidding relinquished blocks	5	<p>Disallow companies which relinquish blocks (incl. NELP, pre-NELP and nomination blocks) without discovery to re-bid for the same acreage in a bid round immediately following relinquishment</p> <ul style="list-style-type: none"> ▪ Opportunity to other bidders to explore from a fresh perspective with new ideas and technological insights ▪ Bidding as joint venture would also benefit overall exploration effort on a block 	
Relinquishment	7	<p>It is emphasised that the clause 'h', under subhead-V "Evaluation of bids and rejection criteria" of BEC of NELP-VII" needs modification to facilitate companies to revisit the blocks with new ideas/plans through experience gained during the earlier ventures thereby boosting the exploration process.</p>	<ul style="list-style-type: none"> ▪ The definition of the new block may or may not be exactly the same as the one that was surrendered earlier. As is the case with NELP-VII, it is observed that a number of blocks were carved out from the old block. ▪ It is pertinent to mention that prospectivity perception is dynamic and gets refined with new data and fresh interpretations. In the process new plays do emerge. ▪ It also needs to be mentioned that the cost of unfinished programme is paid before a block is surrendered.
	8	<p>Companies who have relinquished the block without completing the MWP in the given time frame should be barred from bidding in future rounds. This would greatly help in attracting foreign companies as well as serious domestic companies into NELP.</p>	<p>The general perception now is that companies would get extension as the time progresses due to non-availability of rigs, seismic vessels etc. In this regard, you may also refer to the Australian bid system where companies bid according to the geologic interpretation as well as availability of services to complete the work program in the allotted time frame.</p>
Gas marketing	8	<p>Remove constraints on Free marketing, and take one time decisions on Gas sales to realize best values</p>	<p>There is a lack of comfort on commitment to free marketing with the proclamation of Gas Utilisation Policy which inhibits the freeplay of market forces. For gas field development, the government should take its share of profits in cash rather than in kind.</p>
	10	<p>The Oil & Gas Marketing must be 'Open Market' oriented. The draft Gas Utilization Policy and the Price formulae approval dictate a GOI controlled process.</p>	
"Stop the Clock"	8	<p>Create mechanisms to "Stop the Clock" and facilitations outside</p>	<p>PSC imposes only one sided restrictions on time performance. It</p>

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mechanisms		MOPNG & DGH to balance inherent slow paced system	recommends that PSCs should include prior sanction of all approvals, and in the few cases where these are necessarily are post “effectiveness of PSC”, procure and enclose commitment documents from top levels in related states and ministries, and create facilitation mechanisms and review mechanisms at senior levels, to achieve time bound results.
Policy Guidelines (i) Policy on Extension of Exploration Phases under NELP and Pre-NELP PSCs. ; (ii) Policy on Merger of Exploration Phases of Offshore Blocks under NELP-III and NELP-IV.; (iii) Policy for substitution of Additional Meterage Drilled against Total Meterage; and (iv) Policy on determination of cost of unfinished Work Programme (MWP).	7	<ul style="list-style-type: none"> ▪ All the Policy Guidelines issued by MOP&NG may be made an integral part of the PSCs. ▪ Specific issues on the Extension Policy are as follows: ▪ Extension policies should be the part of PSC for future NELP rounds. However the present system invokes double penalisation both in terms of LD and setting off of time extensions so provided. ▪ If LD is imposed on extension of phases than additional time needs to be provided or no LD to be imposed on extensions. 	At times certain clauses of the policies are not in tune with provisions of the PSC leading to ambiguities in interpretation and non-uniformity in approach.
Ref. A. Sl. No. 4 & 5 - MWP has been completed with no hydrocarbon discovery -additional work programme is proposed.	7	<p>When MWP is completed than Bank Guarantee and/or LD may not be implemented /imposed on additional work.</p> <p>The only penalty clause could be cost of unfinished programme within stipulated time frame.</p> <p>Operator may get freedom to set off additional work programme from subsequent phase if any as per provisions of the PSC.</p> <p>Freedom to transfer Participating Interest (PI) be permitted during the extended period also as per provisions of the PSC.</p> <p>Contractor could have absolute right on the block during extended period.</p>	Certain clauses under the above categories invoke penalties to contractor in spite of effort on the part of the contractor to put in additional exploratory inputs beyond the committed programme.
Discovery, Development and Production : Time period- Discovery(30days), Discovery of potential interest(90 days) Appraisal programme(120	7	<p>The timeline for notification under Format B (Potential Commercial Interest) may be modified to enable the Operator to assess the discovery with stringent norms for committed additional programme.</p> <p>The Operator shall apprise MC and seek an appropriate time period.</p>	This period is inadequate in the case of discoveries that are economically not viable on a standalone basis, but would become economically viable on a cluster basis.

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Encouraging participation from all types of companies	8	This could be done by limitations on 1. The number of blocks that PSU's can bid and win 2. The minimum size of blocks they can bid for 3. Not allowed to bid for blocks that were relinquished in the past	The Government needs to send out a clear message that it is seeking out new companies both Indian & foreign to play an active role in the Indian E&P space. This not only would broad base the Indian E&P sector increasing competition but would significantly help raise much needed capital for finance upstream business of the infrastructure sector. This purpose is defeated when PSUs bid aggressively in NELP rounds to reclaim blocks which they have surrendered in the past.
PEL Fees	7	Provision may be incorporated in PSC for re- funding of PEL fees after relinquishment of block, if paid in advance.	
Benchmarking of costs	7	Procedures for acquisition of goods and services have been laid down exhaustively in Appendix-F of MPSC. In light of this, Article 15.13 and the attendant Appendix-H need to be scrapped in totality.	
Bank Gaurantees	7	Bank Guarantee should be applicable only for Firm Category Work Programme limited to MWP as per the PSC.	
Bidders to be kept updated	3	Any updates to bid terms and formats for submission of bids should be available on the DGH website and that any changes during the bid process are drawn to interested companies' attention.	
Other suggestions			
	10	(i) An independent (not reporting to the Secretary, MOPNG) Upstream Regulator must be created. (ii) A tribunal system must be established. At present only Arbitration is available. (iii) With the Contractor(s) supplying all the capital @ sole risk the time line (Net Present Value) is very important. Therefore the approval timing must be maintained or improved through an Active Management Process.	
	4	Assumptions in respect of CAPEX, OPEX and production profiles derived from estimated reserves of each block on offer should be made available along with the Notice Inviting Offers (NIO) for evaluation of Fiscal Package offered by the bidders.	

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	2	Article 11.1 to be changed to 30 days (PEL Application time), because in case of multiple partners 15 days time is too short to complete all the formalities.	

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