

# 9

## Views of E&P Companies

### 9.1 Background

9.1.1 A CEO Conclave on “Private Sector in Oil Economy of India” was organized by PetroFed on July 07, 2005, under the Chairmanship of the Minister of Petroleum & Natural Gas and Panchayati Raj, Shri Mani Shankar Aiyar. Therein, the Minister initiated a debate on the 'New Exploration Licensing Policy' which was introduced in 1997. He opined that the policy is in force for some time and deserves a review especially since not many major international oil companies have participated.

9.1.2 The Minister also mentioned that the companies who have invested and are interested in investing may have valid suggestions worth incorporating in the next round of bidding. It was also thrown open for discussions that some models such as “open acreage system” could be evaluated for their incorporation in India. The Minister was also open to evolving a radically different “newer” licensing policy, if there will be merit in doing so. During the debate, it was expressed that international models of awarding licence can be referred to while

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9.1.3 deciding on changes in the licensing policy.  
In order that valuable views of the E&P companies are brought onboard and put to debate, international practices are studied and good practices evaluated for incorporation in India and issues relating to existing policy are addressed, the Minister requested PetroFed to prepare and submit a paper on "Review of E&P acreage licensing policy"

9.1.4 To seek the views and suggestions on 'India's E&P Licensing Policy' from various companies operating in the E&P sector, PetroFed circulated two questionnaires. Thirty One companies responded to this questionnaire which included International as well as Indian E&P majors.

9.1.5 A compendium of responses received from the companies is enclosed at Annexure I. The responses from companies have also been further collated under heads in line with the phases of award and contracts. This collation is placed in the following paragraphs in this section.

### 9.2 Highlights of responses of companies

9.2.1 For the purpose of analysis and ease of understanding of responses received from the 31 companies, they have been classified and collated under the following sections:

1. Pre-bid Licensing Process of NELP
  - a. Identification of acreage

- b. Data provided to Bidders
- c. Bid Evaluation Criteria
2. Evaluation and Contracting of NELP
3. NELP PSC terms Fiscal issues
4. NELP PSC terms Operational issues
5. Other propositions as alternatives to NELP
6. Open Acreage System
7. Other Comments (Not pertaining to Licensing Policy)
8. Responses not being recommended post discussions with companies

9.2.2 A note of caution is, however, made that these comments have been placed without any editing or corrections and that these are comments received from various companies and therefore some of the comments under a common head may be contradictory to each other or stating different positions.

### 9.3 Pre-bid Licensing Policy of NELP : Identification of Acreage

9.3.1 The blocks offered in matured basins are mostly either relinquished parts of blocks / recycled with a mixed potential. There is not much that can be changed in this. The deep water and frontier basin blocks are large in size and are yet to find hydrocarbon potential. More blocks in Frontier sectors need to be offered.

9.3.2 A number of blocks offered during NELP-V bidding were recycled blocks.

Once a block is surrendered by a company, more data may be acquired by DGH, processed and interpreted before the block is put up for bidding. Value addition in terms of additional data would prompt better response. Also, the sizes of blocks offered appear small.

- 9.3.3 Open nomination of blocks to be included in rounds: the authorities could solicit company views of acreage to be included in rounds.
- 9.3.4 It is better to have smaller blocks, a wide variety of blocks, larger number of blocks and not worry whether all have been bid or not which happens in open acreage.
- 9.3.5 The block size is acceptable but more lucrative blocks need to be offered in mature areas of E&P by proper relinquishment policy for earlier blocks / PEL (petroleum exploration licence) areas awarded to NOCs on nomination basis.
- 9.3.6 The quality was variable.
- 9.3.7 The sizes of the blocks offered were adequate for carrying out the exploration activities, excepting few, where total block area was very small. The blocks on offer were of low to medium prospectivity.
- 9.3.8 Some of the blocks are of very small size. The way some of the blocks are carved out, it leaves out wells that are drilled in the region and/ or any prospects that it may have shown. This also gives the block boundary a strange shape. Please note that the relinquishment clause of PSC states that the contractor can retain the area

in not more than 3 area(s) of simple geometric shape.

- 9.3.9 Apart from the deepwater blocks and some very small onshore blocks, the prospectivity was generally not very high in NELP V. The size of most on land blocks is not large enough for exploration especially considering the investment needed to be committed to win any block .On-land blocks are extremely small.
- 9.3.10 Some of the blocks are offered in parts which are logistically apart and for all operational purposes, they are two different blocks. Block boundaries are often very irregular and many of them have excluded zones.

### 9.4 Pre-bid Licensing Policy of NELP : Data Provided to Bidders

- 9.4.1 On-line viewing of data was introduced for the first time for NELP-V and is meeting international standards. Online data viewing facility may be available round the year, (on payment basis) not only at the time of bidding, so that various independent agencies can process and interpret the data round the year for bidding at the appropriate time at a relatively short notice.
- 9.4.2 The government should allow oil companies to acquire data from areas that are not being operated by any company. This data can be shared with DGH with adequate confidentiality clause and become chargeable when DGH decides to share with other interested parties. It would be essential to extend the Essentiality Certificate

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- facility for nil customs duty for such data acquisition.
- 9.4.3 Available technical data of surrounding area / basin should be made available to the interested bidder under a confidentiality agreement.
- 9.4.4 Sufficient geo-scientific data for the block(s) under offer should be available for assessment to the bidders. In case a block does not have sufficient data, the government should first acquire the data, make assessment of it and then offer the same. This could be done by allowing service companies to acquire, interpret and prepare a data package for the block on non exclusive basis. The service companies can recover their cost by selling data to all the participants in the bid process and if necessary DGH can subsidise the data acquisition etc in frontier areas.
- 9.4.5 The DGH is a regulatory body of all E&P activities in the country. It is suggested that DGH must also maintain a repository of all E&P data, acquired by both National Oil Companies and independent operators, so that the data can be accessed by any registered user whenever necessary. Data, other than generated by the current operator on a particular acreage during a period of the previous five years, shall not be considered confidential (as is currently practiced in several countries such as Canada).
- 9.4.6 All data in all un-licensed acreage to be always available in a database managed by DGH for viewing and purchase at nominal price to cover administration and reproduction costs only.
- 9.4.7 National data depository may be created wherein any company can have access to data of blocks on offer/ adjacent blocks (on payment basis). This will be more helpful for the open acreage system.
- 9.4.8 Maps may not be available or cannot be issued to non government parties most of the times. As a result, it should be admissible to use maps available from foreign agencies and not insist on only local maps. In case this is not available, the maps should be supplied in a definite time frame.
- 9.4.9 Navigation data should be linked to 2D seismic lines for use in software like PETREL. Data should be provided on CD rather than the obsolete 8mm / 4mm cartridges. Coordinates of all the drilled wells in the block should be provided.
- 9.4.10 Data packages for specific blocks to be charged at nominal price to cover administration and reproduction costs only.
- 9.4.11 All exploration data for the country should be made available to any company via DGH. The cost should be a nominal charge for copying. The slow process of obtaining data from ONGC is an unnecessary barrier to good exploration. Recently (acquired) required data from all companies should be made available after a period of 3 years.
- 9.4.12 Data availability: To aid companies assess prospectivity the licensing authorities could have a broader and more continuous procedure for the sale of geoscience data: (i) release

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regional geological data (i.e. not just data limited to blocks); (ii) continue to make available geoscience data for all previous licensing rounds.

9.4.13 Moderate well related data including production testing results are not made available as part of Data. Moreover in blocks where there are no drilled wells, data from neighbouring blocks should be made available.

9.4.14 Some of the comments received on data viewing system adopted by GoI in the NELP rounds are captured as follows:

- a) Online System needs improvement
- b) Opportunity to make quick look interpretation on the work station.
- c) Setting up of an Internet Based comprehensive 'Virtual data room', for companies to easily access and view data before coming to data room,
- d) Prospective bidders should be allowed to take relevant copies and screen dumps from the DGH data room prior to deciding which data to buy.
- e) Data viewing for Digital and hard copies must be allowed freely,
- f) Hard copies of data must be kept near to work station so that they can be immediately referred.
- g) System of hard copies may be dispensed with which is money & time consuming and also outdated. Bidders can take hard copies from DGH as per their requirement.
- h) Free data viewing period should be increased from 3 days based on

the no. of blocks on offer ( data viewing @ 5 blocks per day)

- i) More time to view the data.
- j) Longer access to the data in the DGH data room needs to be provided.
- k) Current data viewing methodology is acceptable and excellent.
- l) The data viewing facility provided during NELP-V is excellent and can be rated at par with international standard.
- m) Full access to all data needs to be provided before the bid round.
- n) More data needs to be included in the CD-ROMs provided.
- o) The Indigopool methodology needs to be followed.
- p) In addition to allowing prospective bidders to view the data of all blocks offered, DGH may organize separate presentations for each block where all interested participants could attend

## 9.5 Pre-bid Licensing Policy of NELP : Bid Evaluation Criteria

9.5.1 The work programme that is bid needs to be justifiable from a technical and economic standpoint. The MWP quoted by a bidder need to be weighed against realistic assessment made previously by a team of expert geoscientists and Exploration economists appointed by the GoI (DGH).

9.5.2 Work Programme bid for the block should be judged against a benchmark or the optimum work programme

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- required for the block. Such a benchmark may be predetermined for the block keeping in view existing exploratory input, size of the block, logistics, expenditure required etc.
- 9.5.3 Some Indian companies bid excessive work programmes which are not technically or commercially justifiable. There is no point in wasting time on bidding against these companies.
- 9.5.4 No sense-check in the current system for a match between the work program and the identified prospects / geology and realistic cost estimates of the work program.
- 9.5.5 The work programme for any block should be fixed by the MoPNG and there should not be any weightage in evaluation to be given for work programme. It has been seen in the past NELP that many bidders have given unrealistic work programme just to win the bid, which does not match with geological model of the block on offer.
- 9.5.6 Enhance the evaluation process by issuing bid guidelines stating that work programme bid items are required to be technically and commercially credible, in respect of costs and company capability and also commensurate with international technical and HSE standards.
- 9.5.7 Bidding should be commensurate with blocks prospectivity and size to meet E&P objective.
- 9.5.8 As of now, there is no prescription on expenditure obligations. Further, the capital expenditure committed by the bidders for the MWP is not taken into account for evaluation, leading to the bidders projecting very less capital expenditure for their work programmes. (This would help reduce the outgo to the parties in case they decide to walk out during MWP). This issue can be addressed by raising the bank guarantee submitted by the party to a level which is the higher of i) DGH estimate of work, and ii) MWP commitment for Phase I by the party.
- 9.5.9 Focus should be first on enforcement, compliance and strong penalty for false information.
- 9.5.10 For non-fulfillment of MWP, penalty provision should exist thereby preventing parties from bidding unrealistic / unachievable work commitments.
- 9.5.11 Need of a regime whereby the MWP is enforceable. If it is not adhered to then a penalty system should be enacted, (This is a prime requirement and should be equal for all participants).
- 9.5.12 Making the bid evaluation criteria more explicit/focussed so as to forbid any company from making deviations between commitments and implementation.
- 9.5.13 All types of companies would be treated equally and fairly. Policies should be enforced to blacklist, companies that have intentionally attempted to circumvent laid down safety mechanisms by the government in the bid documents and as a result undermine the government and its policies.
- 9.5.14 Oil and Gas Players must have some form of a licence like a driving licence

in Western Countries where 1st time offenders are given a certain penalty and likewise finally the licence is permanently revoked with repeated offense. It is such as past performance, false information, non fulfillment of workplan and in specified schedule, deliberate circumventing of safeguards by the government that should be used to determine the offence.

9.5.15 Evaluation of the work programme and enforcement by the government .The bid document needs a complete revamp from legal aspect

9.5.16 Overbidding on the Work Programme should result in disqualification. Any bid giving a contingent or conditional programme should be liable for rejection.

9.5.17 Unfulfilled work programme has to be penalized and the bank guarantee should be forfeited forthwith. Also, a mechanism for moderating unrealistic/ infeasible programmes such as well depths of 3000 m of sediments in 2000 m of water depths should be put in place.

9.5.18 BEC needs a complete revamp to bring it back to a exploration block flavour rather than a development block flavour that unfortunately only a few Co's look at it that way but which can have a major impact as seen in NELP V.

9.5.19 In addition to the transparent bid evaluation process, there must be some filters, e.g., screening out the over-ambitious/unrealistic bids submitted merely to win the bid. Right now,

some of the more serious bids where the focus was on true exploration are most likely to be eliminated.

9.5.20 The current NELP has a deficiency since the applicant's geological understanding of the area in question is not used as a means of evaluating the bid. This is essential for the development of acreage in an efficient and effective manner. Countries such as Norway, UK and New Zealand use this measure as means of assessing an application. Under this system there are 3 levels of evaluations. In the First Level, the bidders are required to state their existing share of acreage, recoverable reserves, annual production, annual turnover, net worth, management and type of basins in which they operate, operating experience etc. From this the authorities will shortlist bidders into appropriate categories of blocks, commensurate with the bidders qualifications stated. These blocks could be deep water, shallow water, on shore small and marginal, medium size and large size blocks.

In the Second Level the authorities would outline the work programme for each block .This work programme would act as a ceiling / limit for each block. Companies can bid only for the blocks that they have been short listed for. In the Third Level, Bids would be opened, evaluated and decided on the same day. Final evaluation of the bids will be based on: Cost Oil recovery %; Investment commitment as per the work programme and Investment Multiple. The advantages of such a system would be no aggressive and unrealistic bidding and more transparency as the announcement of the

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- winner will be done on the same day as the final bid is submitted. The disadvantage is the slow progression of small bidders to grow and bid for larger blocks.
- 9.5.21 Increasing the weightage for technical capability in the bid evaluation specifically for deepwater blocks. It has also been suggested that this weightage should be imposed on the operator only.
- 9.5.22 In the event a bid is made by a consortium for assessing and assigning points for "Technical Capability", experience for E & P of the designated operator should only be considered. "Technical Capability" of non operator should not be considered as on likelihood non-operator provides financial support.
- 9.5.23 Put greater weightage on companies that can demonstrate financial and technical capability to explore and develop a prospective block (One must be careful not to structure the bid not to favour major companies.).
- 9.5.24 For awarding a block to a consortium, the technical capabilities and operatorship experience of the operator and the financial capability of the consortium as a whole may be given high weightage. Though the weightage has been improved for these two parameters (15 points from earlier 10 points), there is still scope for further improvement.
- 9.5.25 The technical assessment by the bidder must be given some better weightage; right now, the bidder need not make any serious evaluation of the data offered to him, so by attaching larger marks, for example 10 points, the bidder would carry out a more complete evaluation. This would also enable DGH to judge the strength of their exploration team.
- 9.5.26 The technical & financial criteria should be of acceptance or non-acceptance. No marks should be assigned for these. There is no logic for a party scoring higher point just because it exceeds the stipulations under the BEC. If a party qualifies on BEC stipulations under the BEC, they should be termed as "Qualified" else "Not qualified". Under the "Work Program", significantly more weightage should be assigned to the technical assessment work submitted along with the bid. Rate of success could be one of the criteria to measure the geo-scientific strength of the bidding party.
- 9.5.27 No point need be given for the bidder's financial and technical capability; however the minimum criteria shall be enforced for all bidders as qualifying criteria to move to the next stage of evaluation.
- 9.5.28 Allotment of points as per technical sub-criteria should not be as per the participating interest of the consortium partners but as per the Operator's/ leader's capabilities.
- 9.5.29 Current BEC technical requirements too detailed could be simplified by not requesting cross-sections, maps etc.
- 9.5.30 Tested and proven technology should be defined in terms of 1 year rather than 3 years to enable cutting edge technologies to come into the country.

- Technology in this sector is changing fast and can become outdated in 3 years.
- 9.5.31 Experience of exploration in offshore area should be good enough for a bidder to qualify for bidding deep water blocks and no separate weightage should be given for deepwater exploration experience.
- 9.5.32 Limit the weightage for well numbers in the bid evaluation. Well location to be specified by the bidders in the bid document with objective
- 9.5.33 The allocation of weightage in the bidding points system to a company's track record in exploration and production. The rationale is that parties with higher success rates would be better placed to identify and develop India's oil and gas reserves in an economically efficient manner, potentially, through the introduction of newer technology.
- 9.5.34 The companies' past performance in fulfilling Work Programme in other blocks should be taken into account while evaluating bid.
- 9.5.35 Positive marks to existing companies shall be barrier for new entrants. One may look at negative marks for poor performers, but it is hard to get info on the global performance of new companies. The market however quickly weeds them out.
- 9.5.36 Past performance criteria in bid evaluation is discretionary and is likely to favour the big and influential companies to be dispensed with.
- 9.5.37 Past experiences has shown that majority of the blocks on offer are bagged by few large Indian E&P companies. There should be a cap on maximum no. of blocks that a party can win. This will ensure wider participation as well as faster exploration. If few players continue to bag majority of the blocks, they may be constrained resource wise (mainly manpower) to take up exploration work expeditiously in all the blocks.
- 9.5.38 Additional concession and consideration can be given to well reputed technologically advanced and experienced operator in bid evaluation, so that maximum benefit is reaped by our country in the field of exploration. Moreover, additional weightage may be allocated to bidder giving technological concept which can yield maximum hydrocarbons. Criteria for such concessions should be clearly defined in the tender document.
- 9.5.39 More emphasis shall be for pure exploratory efforts, rather than large volume of work, which might only have some resemblance of exploration.
- 9.5.40 The terms and conditions of the bid demands that the duration of commitment phase needs to be specified. However, there is no weightage assigned to this aspect. Assignment of weightage may be thought of to expedite discovery/exploration programme.
- 9.5.41 It is not logical to assign 10 points out of 100 points for Phase II and Phase III in view of the exit clause available at the end of Phase I. This might lead to the bidders submitting exaggerated

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- work programmes for Phases II and III, without attracting any penalty. Hence, no assignment of any weightage for phases II and III. However, DGH should ensure that Phase II and Phase III programmes are commensurate with Phase I programme and also the outcome of Phase I.
- 9.5.42 Considering that a company can relinquish a block at the end of the first phase, too much weightage has been given to the work programme of the second and third phases.
- 9.5.43 The weightage for the second and third phase shall not be too small (presently it is 5 points each), while the first phase accounts for 50 points (Technical bid) It is suggested that for technical bid points assigned can be say 35, 15 and 10 points, without disturbing the other criteria of points (Financial package, etc.). Focus for Phase- 1 should be more for geo-scientific work and Phase- 2 and 3 for more exploratory drilling work .As an example give higher marks for every 100 mts of drilling in Phase 2 and 3 and lesser in Phase 1. On geo-scientific work in Phase- 1 make it more attractive in terms of points.
- 9.5.44 One or two private companies / consortiums is creating a problem for everyone i.e. Gol, Indian players, NOCs and foreign companies. The policies were prepared on the understanding that bidders/players would be realistic ,honest, technical, respect clauses and documents of the Gol but it looks like these companies have the will and capability to circumvent safeguards and controls of the government . Thus, since there is just few companies which are not respecting the spirit of the policy, the other players would also have no option but to do the same thing. This was clearly seen in NELP- V when compared to previous NELPs.
- 9.5.45 No requirement to provide Bank Guarantee if value of Group to which Company is party exceeds US\$ 1 billion.
- 9.5.46 As per the Bank Guarantee for MWP commitment is not payable for public sector companies and for companies having minimum net worth. For a level playing field, either it should be payable by all companies or waived off for all companies be it small or big.
- 9.5.47 Suggestions have been received for the points system to be adopted for evaluation of future licensing rounds:
- I. Technical Capability of the operator - 15 points
  - II. Financial Capability of the Consortium - 10 points
  - III. Government share of profit petroleum offered by the bidder - 75 points
- 9.5.48 Minimum criteria should be based on work program and fiscal terms. Also setting up of some limit to the work program, beyond which no marks are given. This will avoid commitment of unrealistic work program.
- 9.5.49 The present NELP Policy discourages new Indian E & P companies to emerge and participate in the bidding process as it is heavily vetted in favour

of companies with past E & P experience, no matter how insignificant it is, instead of experience of company as an operator the emphasis should be made on their strength in experienced technical manpower, interpretation and other G & G capabilities and infrastructure.

9.5.50 The companies have also suggested the following:

- a) Bidders who are not meeting the performance metrics should be disqualified.
- b) A bidder with captive consumption requirement should be given more weightage as it brings certainty to sales/realization, a positive factor
- c) Clear definitions of the bidders' assets required.
- d) E&P business is highly dependent on financing of project and participants with better funding capabilities may be given higher weightage.
- e) The well depth has to be restricted to the basement and the well location needs to be justified.

9.5.51 Work programme needs to be evaluated on the basis of desirability of block exploration objectives of prospectivity. The current tendency is to put over emphasis and over commitment by some companies to drive out competition from those over ambitious E&P companies which have no production experience. This would ensure that only genuinely interested companies are in fair competition.

9.5.52 It is not that bad as long as certain companies do not misuse openness of the system. Only because they do not respect what a normal oil and gas company would do, it is important to revamp the method in order to make sure these few selected companies which are hugely minority in number do not misuse the system and force others whether Indian or foreign to follow to be in the race or exit out of the country and look for greener less difficult pastures.

9.5.53 The objective of Gol is to award the blocks to technically competent and financially sound companies for full potential realisation of the acreages. Keeping this objective in view and also the experiences in the past NELP rounds, the following improvements in the BEC are suggested:

- I. Reducing the bias of BEC towards work programme; more so, which is not technically justifiable.
- II. Putting a cap on the work programme based on the technical evaluation carried out by the regulatory authority and putting it in the NIO.
- III. Imparting greater thrust on technical evaluation in terms of weightage in BEC.
- IV. Enhancing the weightage on technical competence and financial capability.
- V. Inclusion of past performance as a parameter in BEC.
- VI. The bidding companies place their prime resources for complete evaluation of the blocks so as to

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- submit the most competitive bids. In return, the companies expect their bids to be evaluated by an independent professional team.
- 9.5.54 The profit petroleum which a bidder offers to the Government should be the sole criteria in the fiscal package. Other aspects of fiscal terms such as royalty and corporate taxes should not be considered.
- 9.5.55 Other comments received on the Fiscal Criteria included:
- a) Not a level playing field for international versus domestic companies and private versus state owned companies.
  - b) The criteria should be simplified and the parameters that are biddable should be less.
  - c) The GoI needs to commit to taking the profit gas in cash to enable producers to plan the marketing of natural gas.
- 9.5.56 In assessing the company's net worth, only 25% of the contingent liabilities excluding taxation items should be deducted (not 100% as is the present condition).
- 9.5.57 India needs to encourage more companies to enter as an Operator. Therefore, if any further NELP rounds are to be held a limit should be placed so that no single company can win more than 4 blocks.
- ### 9.6 Evaluation & Contracting
- 9.6.1 Anomalies between NIO & Bid format. While NIO has no reference to frontier area, the bid format & MPSC have it. This has created confusion in the past and the documents need to be corrected to remove the anomalies.
- 9.6.2 With regard to pre-bid issues, the period for evaluating the acreage is currently too short and needs to be extended. This would enable all parties to fully evaluate the potential of the acreage and accordingly develop their bids.
- 9.6.3 In a consortium, parties should be allowed with participating interest of 5% or more for deep water blocks. (The figure can be 10% for onland/ shallow water blocks). However, membership in Management Committee may be restricted for partners with >10% PI. This would enable larger participation and possibly more number of consortium/bidders.
- 9.6.4 Option to relinquish any part of the original contract area prior to the commencement of each contract year. This may give opportunity for entry to other players, who may achieve success.
- 9.6.5 In the case of discovery (for blocks with high prospectivity), relinquishment may be decided by the Operator subject to a minimum of 10% (not 25%). However, if there is no discovery by end of Phase I, 50% of the area should be relinquished by the Operator.

### 9.6.6 Bidding Licensing Process Suggestions

- a) Bid documents need to be thoroughly scrutinized so that no grey area is left. It should have all possible information in the document especially since it is a global bid. The bid docket containing various documents therein should all be on the same level and no contradictions should be there.
- b) Reserve Holdings Acreage: - It should be clearly mentioned whether the acreage is for the Participating Interest share or the total acreage of the project as well as the Reserves category should be clearly defined.
- c) In "Undiscovered reserve summary" mentioned in the bid document, the sequence should be mentioned as minimum (P90), most likely (P50) and maximum (P10).
- d) DGH should clearly mention if any part of the block falls under the reserved forest / biosphere area which is for upkeep of flora and fauna. This is an environmental issue and requires clearances from relevant ministries DGH should ensure that such clearances are done.
- e) DGH version of Horizon interpretation on the seismic lines should be consistent in all seismic sections provided for the block in the data package.
- f) There should be different bid formats for different categories of blocks like onshore, shallow water, deep water, frontier areas etc to bring in complete clarity.

- g) Sort out Frontier Areas issue in the bid document.
- h) Enhancing the licence fees so as to discourage companies from taking extensions of licence period.

9.6.7 Under the NELP (V) Model PSC, the current assignment procedure limits the investors' control over restructuring the business; and if such restructuring is approved by the government of India, it can lead to delays which could affect the investors overall business performance.

## 9.7 PSC terms Fiscal terms

9.7.1 The Government. should have the option to take its entitlement to Profit Petroleum either in cash or in kind, and such option should be exercised at interval of every 5 years. Though, such provision has been introduced for Natural Gas (both associated and non-associated), but there is still scope for further improvement and crude oil should also be brought under such provision.

9.7.2 Companies/ lessees are required to pay royalty to the Government at the wellhead value of the Crude Oil and Natural Gas. In the absence of any definition for the wellhead value there is a requirement for a methodology to be evolved and to be detailed in the PSC for determining the manner in which the wellhead value shall be calculated.

9.7.3 No ring fencing for frontier basin and less explored basin blocks. The companies should be allowed to offset their losses from their producing properties if any.

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- 9.7.4 Providing fiscal incentives under contracts and further improvements in fiscal system.
- 9.7.5 The sharing of profit petroleum based on various tranches of investment multiple needs close scrutiny. As observed from today's exploration activities by different companies, the investment multiple is so regulated that it does not exceed a particular tranche and the profit is shared accordingly. But in bidding, the numbers are so given which when averaged out gives an illusive figure for the GoI to decide in favour of company which shows maximum profit sharing with GoI. Royalty and income tax, the other components of fiscal package remaining constant for all the bidders, the one parameter which tilts the balance is sharing profit petroleum on different investment multiples. Hence proper mechanism needs to be worked out for this parameter.
- 9.7.6 For extending the tax holiday, any seven years out of first fifteen should be available as an option for the prospective bidder.
- 9.7.7 Enhancement of period of Tax holding from 7 yrs to 10 yrs - In first two to three years from the date of effective date of PSC, the E&P activities take place, which are cost intensive. By the time initial costs are recovered as per the IT Act, nearly 4-5 yrs are over and effectively an undertaking is left with only two years of effective tax holding. Hence it is suggested that the tax holiday should be increased to 10 yrs from the current 7 yrs.
- 9.7.8 Parity of tax regimes with Indian companies.
- 9.7.9 Removal of MAT.
- 9.7.10 Well wise benefit of tax holiday i.e treating each new well as a new undertaking throughout the lease / PSC contract life.
- 9.7.11 In areas where the infrastructure is unavailable like frontier areas, although outside the PSC area, it must be given for cost recovery.
- 9.7.12 Fringe Benefit Tax:- Lower limits to be offered to the E & P sector as in the case of similar limits for certain other sectors like hotel etc.
- 9.7.13 Expenses incurred on meeting social obligations such as building of schools, hospitals in far flung areas should get cost recovery benefit.
- 9.7.14 Presently, MOE&F seeks compensation on the total area whether the same is used or not. Present rate is ranging from Rs 6 lacs to Rs 9 lacs per hectare. In case of mining lease for an area of 100 sq. km. total compensation would be Rs. 77,000 lacs. As such, taking mining lease in a forest area is a non starter. As such section 2 of the Forest Conservation Act needs to be changed. Compensation should not be asked for area of total mining lease but on the area on which the petroleum operations would be carried out.
- 9.7.15 Removal of Service Tax on E&P services
- 9.7.16 Lack of clarity on leviability of Service tax, suggest upstream hydrocarbon services be exempted from service tax as the services are capital intensive.

- 9.7.17 In view of their critical nature, such services should be put in line with infrastructure, IT and Telecom in terms of applicable special incentives.
- 9.7.18 The proposed plan of the GoI to introduce taking profit gas in kind rather than cash will be detrimental to the growth of the natural gas sector in India. Such a move would make it virtually impossible for producers to forecast the actual volumes of gas available to them to market and hence would make it impractical to commit a specific quantum of gas to downstream customers without risking a physical disruption in gas supplies. In addition, in certain PSCs, the producer could be left with a small fraction of the produced gas, owing to the high share of the government entitlement at high investment multiples. The long term trend is that the proportion of profit gas will increase as the field becomes more mature and capital expenditure reduces. In some cases, the amount of profit gas can be as high as 90%. This will mean the marketing rights that have been given to the producer effectively get taken away as the field life progresses. Again, this presents an impossible hurdle in terms of developing a gas marketing business. This move will increase the perceived risk for any new or existing investor in the upstream sector in India; hinder offshore oil and gas field development domestically; and defeat the government's objective of enhancing India's energy security by increasing the exploration and production of natural gas.
- 9.7.19 Suggestions to policy changes for exploration of different areas viz.
- Deepwater, Frontier areas, Category III & IV areas/ basins : Making return on investment more attractive by improving fiscal regime like extending tax holiday period beyond existing 7 years from start of commercial production, allowing company to set off initial exploration losses from other blocks, waiving off licence fee for exploration in such basins, cost recovery limit may be 100% and not subject to bid.
- 9.7.20 Cost Recovery - For cost recovery purposes, the start date is Effective Date. This should be made from the date of signing of the PSC. This will enable parties to do the preparatory work prior to effective date
- ### 9.8 Operational issues
- 9.8.1 "Big Brother" roles played by ONGC/ OIL, who have been nominated agencies to collect / process / transport crude produced by small operators for unreasonable charges.
- 9.8.2 Central Government should assist the operator & provide all infrastructures to transport produced hydrocarbons, as operators' primary focus shall be on production and not on transportation.
- 9.8.3 Central Government should get all clearances from state government when the block is awarded so that the Operator clearly focuses on technical and operational work in the allotted time frame. (Single Window Clearance)
- 9.8.4 All necessary licences and permissions for starting the operations shall be made available within a definite time

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- frame through a single window system and if possible by the government itself so that the focus of the operator is to explore and produce.
- 9.8.5 There is a provision for deemed approval, but it is not being utilised as subsequent formalities require a paper that approval has happened. Therefore, a deemed approved letter be automatically issued, in such situations.
- 9.8.6 The time period required for various government/MC approvals may be further reduced to expedite the whole process.
- 9.8.7 MCM members from DGH must have decisive powers so that vital decisions would not get delayed as it is seen that often decisions are kept in abeyance as the member needs to get approval from higher authorities.
- 9.8.8 Environment & defense clearance to be made time bound.
- 9.8.9 Simultaneous PEL/ environmental/ defence/ clearance before offer of blocks.
- 9.8.10 All the statutory clearances such as related to environmental, defence, forests, wild life, marine park etc. should be taken by DGH prior to announcement of NELP blocks.
- 9.8.11 All the State Governments should be suitably advised by the Central Government for issuance of PEL/ML within the barest minimum time frame instead of the current practices of 2 to 4 years.
- 9.8.12 The PEL award for the NELP block should be given to the winning company along with the PSC at the time of PSC signature. A lot of time is spend by the operators for getting the PEL(s).
- 9.8.13 Definite time frame for obtaining all clearances/ licences.
- 9.8.14 Self Certification and transfer between projects should be permitted with strict penalties / blacklisting for misuse.
- 9.8.15 Disputes to be resolved by international arbitration before panels manned by international Arbitrators.
- 9.8.16 There must be an intermediary before sole conciliation to act as a fast track resolution mode something like a petroleum re-dressal forum etc.
- 9.8.17 Under the NELP (V) PSC terms, the current provisions for arbitration and applicable laws do not encourage international investors, who are accustomed to the industry practice of, such as for dispute resolutions to be held in neutral courts and under recognized international arbitration procedures.
- 9.8.18 If a well cannot be drilled to the targeted depth due to technical and operation reasons re-drilling should not be insisted with a view to enforce well obligations.
- 9.8.19 Return of Bank Guarantee promptly upon complete of Minimum Work Programme.
- 9.8.20 No requirement of Contractor to remit the unspent cost of the then incomplete Minimum Work Programme in event of early termination.

- 9.8.21 No relinquishment of contract rights in the event of Contractor non approval of Government Approved Development Plan.
- 9.8.22 Move from monthly averaging of currency exchange rates to daily rates.
- 9.8.23 GoI should not be allowed to insist that disputed Cost Petroleum payments to be placed in escrow pending resolution of a dispute through arbitration.
- 9.8.24 Requirement of 3 bidders for each capital item to be relaxed, especially for those items which are manufactured by a single company.
- 9.8.25 Central Government through State Government to provide security to the infrastructure and operational set-up in sensitive areas.
- 9.8.26 General permission should be given by DGH and Customs Department for transfer of services of Foreign Companies. For example X Company imported rig package for its operations. Presently X Company is required to furnish bond to customs department for reexport of the equipment. Due to reexport obligations, other party cannot use it unless the equipment etc. is re exported and brought back. This means higher cost to the PSC as well as other party.
- 9.8.27 The process of obtaining essentiality certificates for importing equipment should be totally revised. Equipment should be allowed to be imported duty free by service providers and then utilised on any exploration block. The import approval should not be specific to a single block or PSC,
- 9.8.28 For onshore block, it takes years to obtain detailed maps and ariel photos due to the bureaucracy between MoPNG and Ministry of Defense. This data is no longer of military importance and should be released to the public. Some of the respondents have also suggested that there is a requirement for improved terms or associated benefits for frontier areas. An independent upstream authority, with adequate authority and non-interference is needed. It has been suggested that this independent authority would have its own cadre, financing, and would be at arms length from the various NOCs. A regulatory authority bill for upstream needs to be introduced to put this Independent upstream authority in place.
- 9.8.29 The process of obtaining essentiality certificates for importing equipment should be totally revised. Equipment should be allowed to be imported duty free by service providers and then utilised on any exploration block. The import approval should not be specific to a single block or PSC.
- 9.8.30 Customs laws, rules and procedures should facilitate import of project related equipment and its subsequent use for other projects within the country.
- a) Attitude-change required of ONGC/ OIL/ GAIL
  - b) Safety & Security aspects of Oil & Gas fields to be seriously addressed by the State Government.
- 9.8.31 Equipment-leasing / renting by ONGC & OIL to Small & Medium-sized Operators, whose operations-size does

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not allow them to own / afford these capital-intensive equipment / tools.

9.8.32 Government should organize regional interaction between players or also on the basis of basin wise. Like safety or production output, they can institute prizes for best supportive region etc. Ministry/DGH can designate one of the senior staff as a nodal officer for each region or basin.

9.8.33 Dedicated DGH workforce for each Basin/Area to quickly dispose queries.

### 9.9 Other Propositions : Alternative to NELP

9.9.1 Interested in small discovered and marginal fields. One of the companies that was interested in discovered/ marginal fields, suggested that there is a need to attract small/medium upstream companies for these fields. Upstream companies work on a high reward opportunity. The terms of service contracts as offered, leave very little upside potential and hence do not attract any bids. These blocks ought to be farmed out by assignment or given in bids on a basis similar to NELP. However extra conditions of additional upstream activity may be used to attract more companies and build up a critical mass in upstream.

9.9.2 Interest in those fields where ONGC and OIL have discovered hydrocarbons and the MoPNG invites bids for these fields.

9.9.3 All bidding companies / consortiums should be given assured equity participation. It can be achieved by award of

Blocks to at least two three qualified bidders based on a minimum criteria for each Block in a consortium approach. The best technically qualified company should be asked to be the operator for the field from amongst consortium members. The equity ratio of interested bidders should be decided by the Govt based on the merit of their minimum work programme for the block of interest.

9.9.4 Other system may be allotment of blocks on nomination basis to companies having proven technology and track record especially in deep water.

9.9.5 Re-offering of exploration blocks in which no exploration activity has been initiated by the present awardees during the past three years.

9.9.6 NELP allows players to bid for offshore, shallow water and onland blocks based on stated criteria. To encourage new and young players, onshore and shallow water blocks can be given to them. The deep water blocks can be given to bigger players (As per DGH reports, the big finds are mostly in offshore areas so it makes logical sense for the bigger companies to bid for those).

9.9.7 Re-issue nominated blocks/licences (awarded to ONGC, OIL etc) as PSCs, ensuring that commercially attractive terms and that the nominated parties are operating under equal terms to potential new joint venture parties to enable foreign investors to participate by farm in.

9.9.8 GoI can think of restricting from bidding for the blocks they have

surrendered in the immediate past (say in the last 6 months to 1 year). This will give scope for new players with new thinking and technology to probe the explored and relinquished blocks. However, if the older companies come up with new/technologically innovative solutions, then they should be considered.

9.9.9 GoI should give on nomination basis, the exploration areas to downstream oil companies which are interested or which have already entered into E&P business, either on their own or through the subsidiary companies this may also partially compensate the social burden carried out by down-stream companies through subsidies.

9.9.10 Permission to explore for oil and gas in CBM blocks. Modifications in Petroleum Licensing to cover entire E&P activities is proposed.

### 9.10 Open Acreage System

9.10.1 Small & Medium, discovered, onshore blocks if offered under the Open acreage system would encourage more foreign participation.

9.10.2 Open acreage system can be made more attractive if more basin and well data information is made public like the Alberta model, wherein, all information is in public domain after one year of confidentiality.

9.10.3 Open acreage system would help speed up E&P activities in the left-over acreage/relinquished blocks. It will attract the continued attention of all the interested E&P companies/aspirants. It will also raise the frequency of new

discoveries to meet the ultimate objective.

9.10.4 Open acreage system would encourage companies to enter with moderate WPs.

9.10.5 On the Open acreage system, it would definitely be a good idea but there is a need to ensure that there are suitable safeguards in place so that companies do not there also circumvent the system. Apart from this, the major focus should be on enforcing these safeguards.

9.10.6 A system can be started where every quarter the bids received are published, and other interested parties given three bids to counter bid and blocks awarded to the highest bidder. Thus a continuous infusion of new companies shall keep happening.

9.10.7 The open acreage system offers the bidders a chance to carve out the best perceived prospective areas. Data of adjacent areas can be examined to arrive at a better conclusion based on regional geology rather than being confined to a small block.

9.10.8 Discontinue bid rounds and allow open bids for acreage possibly on a matching bid process to ensure competitive work programmes. Enable reconnaissance permits of 1 year giving exclusive rights of data access and first bid rights.

9.10.9 The company has suggested that India should go ahead with an Open Acreage Policy. Under the open acreage policy, the block data is available for the perusal of the interested companies all year along.

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9.10.10 The frequency of the NELP rounds was generally suggested to be held once a year but some companies considered Open Acreage as a better licensing system that the NELP

9.10.11 Suggestions to policy changes for exploration of different areas viz. Deepwater, Frontier areas, Category III & IV areas/ basins : Instead of going for demarcated block in such frontier areas, open acreage policy should be adopted and the company should have the option to decide the position and size of acreage for exploration. The companies should be given the advantage for undertaking R&D, data gathering in such areas. Some kind of collaboration/venture should be encouraged with the government agencies for R&D and data gathering projects.

### 9.11 Other Comments

9.11.1 Companies chose not to participate in the various licensing rounds held under NELP for the following reasons:

- a) There was a change in business priorities.
- b) Non formation of a consortium
- c) Focus on current assets in hand
- d) India was a difficult country to invest in an economic and rational way.
- e) Non-focus on the E&P sector in India.

9.11.2 Small & new players are not likely to possess the ability to negotiate in an open market dominated by a few large players. We need to offer guaranteed off

take at international prices by Govt. nominees as an additional alternative. We also need to work on developing a spot market.

9.11.3 Government should bring out incentives plans for companies to work together for common benefit and overall benefit of the industry. This could be like in terms of fiscal subsidies or legal flexibilities.

9.11.4 Additional incentives in future NELP policies for awardees of the pre-NELP blocks that are doing more than what the PSC asked.

9.11.5 Improved Petroleum Recovery (IPR) contracts for existing mature / marginal fields (Myanmar as an example uses it).

9.11.6 Farm-in into OIL, ONGC nomination exploration / marginal producing undeveloped blocks.

9.11.7 Special incentives must be given for utilization of new technologies in the industry which would enhance the productivity, as well as accrue benefit to the country.

9.11.8 The price of natural gas, either in case of arms length sales or sales to an affiliate, should be market-determinable.

9.11.9 Gas Market Considerations -Investor interest is influenced by the degree to which market forces are allowed to determine natural gas prices. To the extent that Gol might elect to take royalty and profit petroleum payments of gas in kind for resale by NOC at below-market prices, an artificial

- downward price pressure could result. This situation could deter optimal investment in the upstream sector.
- 9.11.10 Regulatory Reform - Since the natural gas industry differs fundamentally from that of other fuels, a specific Natural Gas Law is needed. A Natural Gas Law would provide a Gas Regulator with a legal basis to enact changes and implement regulations. Consultation with industry can play a key role by ensuring that the Natural Gas Law is designed with efficient, effective regulations.
- 9.11.11 Development of National gas Grid for hassle free evacuation of gas will facilitate for early monetization. This facility will attract International E&P majors to India.
- 9.11.12 In case of marginal fields additional relief from applicability of cess & royalty.
- 9.11.13 The operators of existing blocks for E&P activities (Oil & Gas) should also be preferred for exploitation of Coal Bed Methane resources.
- 9.11.14 Service requirement of E&P companies should be unbundled so as to give specialized companies the opportunity to bid for individual services.
- 9.11.15 Level playing field in gas pricing
- 9.11.16 GoI. may entrust one of its public sector units, who are already handling laying of pipe, transmission and marketing of natural gas, as a sole agency for development of National gas Grid.
- 9.11.17 Providing substantial fiscal benefits for IOR/EOR application
- 9.11.18 Waiver of royalty/income tax/cess for production from low production wells/layers/marginal fields.
- 9.11.19 On the investment climate, the companies were rated various parameters identified to gauge the climate.
- a) Political Climate The rating was between 7 and 8 as most respondents felt that India had a stable political climate. Some of the companies felt that:
- I. Security issues especially in North East if handled properly, may attract more investment in the region.
  - II. Transparent regime is desirable
  - III. Stable policies
- b) Regulatory Climate The rating was generally between 7 and 8. However, there were some companies which ranked the regulatory climate as 4. Some of the comments expressed on the present regulatory climate are:
- I. GoI in MC meeting (terms may of PSC may lead to delays)
  - II. No downstream regulator
  - III. Govt gas-in-kind is impracticable
  - IV. No upstream regulatory
  - V. Time intensive and bureaucratic
  - VI. Downstream petroleum sector in India is highly regulated. However, the E&P sector is relatively open.

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9.11.20 Smaller players with limited resources have following disadvantages

- I. Areas are generally large, with a likelihood of high value of commitments- which maybe beyond their risk taking ability.
- II. Companies are not really exploration companies.
- III. Limitations of disposal products for small discoveries.

9.11.21 Larger companies shall usually have hesitation because

- I. Risk reward profile / Geology not proven as yet for serious bidding in a new environment known to be difficult to work in. Companies shall bid only up to certain reward ratio.
- II. Difficulty of exiting the assets.

9.11.22 One of the companies who responded to the questionnaire suggested the following:

- I. Create larger no. of smaller blocks / shift to open acreage which shall offer a large spectrum of risk reward profiles some suitable for large players some suitable for small players.

9.11.23 This is a key issue. We need to have a critical mass of no. of players in the upstream sector, so that companies can move in and out of blocks easily

9.11.24 Pakistan, Bangladesh, Malaysia, Myanmar and Vietnam have been rated as being more prospective for hydrocarbons than India. The reason for the better prospectivity of Indonesia is due

to the huge proven reserves of oil and gas in the country. Myanmar has been also rated higher on prospectivity because of :

- a) Geographical proximity with India.
- b) Assessed to have potential for gas discoveries.
- c) PSC has a study period prior to entering the exploration phase and exit option prior to exploration phase.
- d) Quick decision making and extremely cooperative Government.

9.11.25 Majority of companies preferred other countries over India to bid for the E&P blocks. Some of the countries which have been mentioned include United Kingdom, Oman, Egypt, Libya, Canada, Vietnam, Bangladesh, Middle East and Kazakhstan etc.

9.11.26 Reasons for preference of countries over India are:

- a) Specific reasons for preference of certain countries whose licensing policy is better than the one in India are:
  - I. UK (North Sea) - Concession type of contracts with a relatively low corporate tax, participation in a matured exploration area at a low cost even in offshore, close proximity of infrastructure etc.
  - II. Oman Exploration acreage contained some discovered fields
  - III. Egypt Highly prospective blocks in close vicinity to infrastructure.
  - IV. Libya Licensing policy is simple.

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- IV. India is prospective for high risk exploration but the excessive work programme bid by Indian companies create a barrier to entry for foreign companies.
- V. Vietnam - Under the Vietnam model, Information on the technical capability, financial capability and other legal and administrative information are sought from each bidder. In addition to this, each submitted Bid is accompanied by a Technical Evaluation report showing the figures of prognosed hydrocarbon recoverable reserves (preferably in three levels Minimum, Most Likely and Maximum cases) of the applicable Block(s). Bid Evaluation criteria will include benefits to the Government (Profit Oil sharing), Minimum Work programme (with emphasis on seismic), financial commitments, training of locals etc. The benefits to Government carry the maximum weightage points. Bids will be evaluated within 20 days of opening of the bid. Further 15 days will be given to Ministry for verification. Final results will then be announced of the winning bids. The advantages are that it is a long term contract for 30 years + 5 years extendable and Royalty is dependant on amount of production ranging from 4% to 20% for oil. The disadvantage is that Cost recovery is restricted to a maximum of 70% for oil and gas. This means longer recovery period.
- VI. Bangladesh - Under the Bangladesh model approach, the bidding companies were to indicate their competitive bids in respect of the various items. This includes cost recovery ratio, profit of oil / gas sharing ratio, WP and Performance guarantee in respect of work programme. In addition to the above, the model PSC includes an annual contract service fee and an annual training fee, companies will be free of all corporate tax and such other taxes as are determined under the terms of the PSC, the contract period for oil field will be 25 years and 30 years for gas field both subject to 5 year extension,
- VII. Indonesia - A two Level approach exists in Indonesia. At the first Level, prospective investor will undertake joint studies with the authorities on prospective blocks before they submit proposals. This will be done on a first come first serve basis and the two would jointly finance the cost of the study. The prospective investor can propose the acreage interested in rather than having to wait for tender announcements. At the second level, the authorities would place NIO in the media inviting bids from other interested parties to ensure transparency. If another party were to offer better terms than the prospective investor, the latter would be given an opportunity to improve its offer. Thus, the company that carries out the study will have the right to preempt (other bids). The advantages of such process is that the prospective bidder comes to know the real value of the project and there will be competitive bidding and the results of the joint study will be a technical asset to the Ministry. The disadvantages are that it may happen that

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some third party may offer some fictitious bid just to hike the investment and work programme. Thus the real investor either has to also hike up his bid or surrender the bid. Also, the prospective bidder who has done the study may not share the full information with the other bidders. This could also result in privileged treatment for certain interested bidders.

- b) Some of the general reasons cited by the companies
  - I. Better prospectivity and equally attractive fiscal regimes.
  - II. Transparent & Quick Decision making processes
  - III. Resultant Low transactional costs
  - IV. Countries that offer a process/ regime where the technical, financial capability and the track-record of delivery within agreed schedules are the basis for qualifying a bid.
  - V. There are many countries where size of the blocks, criteria, data, simplicity in getting an award , investment commitments etc. are far more attractive than India.
  - VI. Possibility of higher rate of success in view of limited exploration activities in prospective blocks in the past.
  - VII. Fiscal Regime attractive
  - VIII. There are several different fiscal regimes followed by different countries i.e., PSC, Royalty/tax system, Service Agreement, system with rate of return features, system with 'R' factors etc.The

fiscal regime in NELP is one of the most lucrative from contractor's point of view

- IX. The fiscal regime given in India is one of the best in the world . From an overall aspect like size of the blocks, criteria, data, simplicity in getting an award , investment commitments etc there are many countries which are far more attractive than India even at times far smaller and less advanced countries.

### 9.12 Responses not being recommended post discussions with companies

- 9.12.1 NOCs have unfair advantage over other contenders (knowledge of basins and hence aggressive bidding).
- 9.12.2 Long delays encountered in solving Small Operators' genuine problems (Handing-over of the Fields & Issue of Mining Leases by the state government) by indifferent attitudes of ONGC / OIL, MoPNG, DGH and State Governments.
- 9.12.3 A specific time frame for the approval of the Work Programme and Budget is desirable. Many needs for extension are generated by slow approval process, late data, delayed permissions and non agreement on minutes etc.
- 9.12.4 Areas having high prospectivity are not included in the international bidding so far, viz., Mumbai offshore basin, Cambay basins, upper Assam basin.