

**RATNA AND R-SERIES
HYDROCARBON FIELDS**

MINISTRY OF PETROLEUM AND NATURAL GAS

**PUBLIC ACCOUNTS COMMITTEE
(2016-17)**

SIXTY-SECOND REPORT

SIXTEENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

PAC NO. 2095

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LOK SABHA SECRETARIAT
NEW DELHI

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2015-16)

Prof. K.V. Thomas

Chairperson

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**COMPOSITION OF SUB-COMMITTEE-VIII(HYDROCARBON
PRODUCTION SHARING CONTRACTS) OF THE PUBLIC
ACCOUNTS COMMITTEE (2015-16)**

Shri Sukhendu Sekhar Roy
Shri Shiv Kumar Udas

- Convenor
- Alternate Convenor

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6. Shri Naresh Agrawal
7. Shri Vijay Goel
8. Shri Bhubaneswar Kalita

INTRODUCTION

1. I, the Chairperson, Public Accounts Committee (2016-17), having been authorised by the Committee, do present this Sixty-Second Report (Sixteenth Lok Sabha) on '**Rafna and R-Series Hydrocarbon Fields**' based on C&AG Report No. 43 of 2015 (Compliance Audit) Union Government relating to the Ministry of Petroleum and Natural Gas.

2. The Report of the Comptroller and Auditor General of India was laid on the Table of the House on 18 December, 2015.

3. C&AG Report No. 43 of 2015 (Compliance Audit) was selected by the Public Accounts Committee for examination in 2015-16. Subsequently, this Report was allocated to Sub-Committee VIII (Hydrocarbon Production Sharing Contract) of PAC (2015-16) for an in-depth examination.

4. The Sub-Committee VIII of PAC (2015-16) had a briefing by Audit on C&AG Report No. 43 of 2015 on 3 February, 2016 and procured advance information to the list of points arised out of the important aspects of the C&AG Report and subsequent developments in award of R&RS Hydrocarbon Fields. However, due to paucity of time, the examination of the said C&AG Report could not be-completed.

5. The subject was subsequently taken up by the successor Public Accounts Committee (2016-17) for examination. The Committee took evidence of the representatives of Ministry of Petroleum and Natural Gas and Oil and Natural Gas Corporation Limited (ONGC) on the subject at their sitting held on 12 July, 2016. The draft Report which was placed before the Main Committee was considered and adopted at their sitting held on 15 December, 2016. The minutes of the Sitzings on the subject are appended to the Report.

6. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in **bold** and form Part II of the Report.

7. The Committee thank the Predecessor Committee and Sub-Committee for taking briefing and obtaining information on the subject.

8. The Committee would also like to express their thanks to the representatives of the Ministry of Petroleum and Natural Gas and ONGC for tendering evidence before them and furnishing the requisite information to the Committee in connection with the examination of the subject.

9. The Committee place on record their appreciation of the assistance rendered to them in the matter by the office of the Comptroller and Auditor General of India.

NEW DELHI;
15 December, 2016
24 Agrahayana 1938 (Saka)

PROF. K.V. THOMAS
Chairperson,
Public Accounts Committee.

REPORT

PART I

I. Introductory

1. The Ratna and R Series (R&RS) medium sized hydrocarbon fields are located in the Western Offshore area (at an average water depth of 45 metres) 130 kilometres southwest of Mumbai city. These fields were discovered and partially developed by the Oil and Natural Gas Corporation Limited (ONGC) in November 1979. The Government of India (GoI) decided in 1991 for inviting private parties in upstream oil sector. In 1993, GoI issued notice inviting offers for development of R&RS fields.

2. Following invitation of bids from private parties by Government of India (GoI) in 1991, the Cabinet Committee on Economic Affairs (CCEA) approved (February 1996) award of contract in respect of R&RS fields to a Consortium of Successful Bidders¹ (CoSB). Accordingly, the Ministry of Petroleum and Natural Gas (MoPNG) issued (March 1996) a Letter of award of R&RS fields to CoSB. Thereafter, CCEA approved (March 1999) negotiation to be held by the Negotiating Team of Secretaries (NTS) for finalising and concluding Production Sharing Contract (PSC) within six months.

3. The process of reaching upto a decision to finalise the PSC was not completed despite more than 16 years having passed (as of August 2015) since the CCEA approval for entering into negotiations with CoSB. Deliberations on some technical clauses were held till 2004 between MoPNG and the Ministry of Law and Justice (MoL&J). Thereafter, issue of royalty and cess had been raised by MoPNG and NTS which had been frequently referred among various Ministries and sent for opinion of MoL&J and the Attorney General of India (AGI) multiple times. Simultaneously, these references to various agencies and consequent delays had led to re-assessments of financial capability of the bidders at various points of time.

¹ M/s. Essar Oil Limited (India) (EOL) [50%] and Premier Oil Pacific (UK) (POL) [10%]. ONGC to hold 40 per cent Participatory Interest (PI).

As per Audit, no final decision on signing of PSC for R&RS fields was taken (August 2015).

4. Audit, while working out on financial implications by keeping discovered R&RS hydrocarbon fields idle without assigning the production rights to any party, had led to deferment of domestic production of Crude Oil and Natural Gas from the fields from October 2005 to March 2015 to the tune of USD 5245 million (equivalent ₹ 26200 crore). GoI's take to the tune of ₹ 1105 crore on account of royalty and cess on Crude Oil and royalty on Natural Gas for the said period also remained deferred (August 2015). In addition to the above, the delay had led to idling and non-maintenance of existing facilities at Ratna R-12 field since September 1994, which would result in an avoidable financial burden of ₹ 1086 crore on re-development of the field.

5. The Audit while bringing out Report No. 43 of 2015 (Compliance Audit) on "Ratna and R-Series Hydrocarbon Fields" laid before the Parliament on 18 December, 2015 examined records pertaining to R&RS fields of MoPNG and ONGC.

6. However, subsequently on 10 March, 2016, CCEA approved the cancellation of the award letter dated 12.3.1996 issued in favour of the consortium of M/s. Essar Oil Limited and M/s. Premier Oil Pacific UK Ltd. and revert the Ratna & R Series fields to ONGC, subject to payment of cess and royalty at the current rates, as applicable under the nomination regime.

II. Award of contract for Ratna and R-Series fields

7. GoI invited (1993) bids² for development of discovered oil and gas fields including R&RS fields. Bids in respect of R&RS fields were received (31 March 1994) from two consortia of bidders. A joint team from the Directorate General of Hydrocarbons (DGH) and ONGC evaluated the technical contents of the bids, sought clarifications from the bidders, and

² 8 medium (including Ratna and R-Series field) and 33 small sized fields.

held direct negotiations with them. Thereafter, the bidders submitted final bids on 08 February 1995. DGH and ONGC conducted a detailed techno-economic analysis and arrived at the conclusion that R&RS fields be awarded to CoSB after resolving certain issues. An Empowered Committee of Secretaries (ECS) at its meeting held on 26 December 1995 recommended the award of R&RS fields to CoSB subject to conditions. CCEA approved (February 1996) the recommendations (26 December 1995) of ECS for award of contract in respect of R&RS fields to CoSB subject to the above conditions alongwith the time schedule that PSC would be negotiated and finalised within six months of the receipt of CCEA approval. Accordingly, MoPNG issued (12 March 1996) letter of award to CoSB intimating the decision of GoI for award of contract for development of R&RS fields.

8. The contract negotiations with the successful bidders of small and medium sized fields were not finalised from March 1996 to February 1999 due to various investigations relating to the award of contracts in the 1st round, public interest litigations before the Delhi High Court and the Supreme Court and ONGC's request to compensate it for the past cost.

9. Thereafter, CCEA approved (March 1999) negotiations to be held by a Negotiating Team of Secretaries (NTS) for finalising and concluding Production Sharing Contract (PSC) within six months.

III. Failure of Negotiating Team of Secretaries (NTS) to execute Production Sharing Contract (PSC) with respect to R&RS Fields:

10. CCEA approved (March 1999) a proposal of MoPNG for:

(a) concluding contracts in respect of the 12 discovered fields awarded under the second round in 1996 after due negotiations were held with the parties by the NTS, consisting of

- Secretary, MoPNG;
- Finance Secretary;
- Secretary Expenditure;
- Secretary, Department of Economic Affairs (DEA);
- Secretary, Department of Legal Affairs (DLA) and;

- The Chairman and Managing Director (CMD) of ONGC.
- (b) to continue the policy of offering discovered fields for private participation, as hitherto, but with bids being invited by National Oil Companies (NOCs);
 - (c) MoPNG evolving modalities for past cost compensation separately with the MoF and the Planning Commission, independent of the issue under consideration herein; and
 - (d) Keeping the cess and royalty levies in respect of awarded discovered fields at the levels prevailing at the time of inviting bids with the flexibility to provide for increased royalty, if required by State Government, by adjustment from cess.

In its approval, CCEA also prescribed that PSC should be finalised within six months of the approval.

11. After CCEA's decision, PSC in respect of nine small sized fields were signed in February 2001. For the remaining two small sized fields, PSC were signed in February 2004.

12. The Committee took note of the fact that NTS kept setting targets for completion of negotiations and signing of PSC. In November 1999, the NTS decided that the entire process of negotiations would be completed by 15 February 2000. In March 2000 meeting, NTS decided that negotiations should be completed by 30 April 2000 and in 7 September 2000 meeting, NTS decided to conclude the negotiation process by 18 September 2000. However, NTS did not adhere to its own targets for completion of the negotiations. NTS held 20 meetings between November 1999 and June 2013. During the period from May 2010 to July 2015, only two meetings of NTS were held and on both occasions, it was decided to hold another meeting to take a final decision in the matter.

13. The Ministry in its reply to the Audit (August 2015) stated that NTS concluded the process of finalisation of PSC in respect of 11 small sized fields and undertook series of meetings examining several complex commercial, technical, financial and legal issues related to the negotiations and bringing convergence on these issues.

14. When asked to the Ministry about what monitoring mechanism was put in place to see the progress made by NTS with regard to finalization and conclusion of PSC and further who should be held accountable for non-signing of PSC, the Ministry submitted as under:-

"CCEA meeting was held on 9th March, 1999 and it was decided to conclude the PSCs in respect of 11 small sized fields and one medium sized field i.e. Ratna and R-Series Fields. CCEA authorized Negotiating Team of Secretaries (NTS) to conclude contracts after due negotiations. NTS comprising Secretary (P & NG), Finance Secretary and Law Secretary undertook negotiations with the consortiums, based on a Model Production Sharing Contract (MPSC) approved in November, 1999 as the basis for negotiation and finalization of the PSC with the consortiums.

NTS undertook a series of meetings undertaking several complex issues related to negotiations and bringing convergence on the technical, commercial, legal and financial issues. Based on these efforts, PSC for 11 small sized fields were signed (9 in February, 2001 and 2 in February, 2004). Thus, NTS concluded the process of finalization of PSC in respect of 11 small sized fields. NTS was working under the mandate and directions of CCEA.

During the NTS meeting held in March, 2000, it was decided to assess the updated financial status of the awardee companies in respect of all the 12 fields, which were approved by CCEA in 1999. While the financial capability of other awardee companies was approved by NTS, certain actions on part of the consortium partners including issues related to financial capability of EOL – POL, creation of charge on the fields against refinery loans contrary to provisions of the draft PSC and differences on other issues with ONGC held back signing of the Ratna and R-Series fields. Although some of these issues like financial capability were accepted by NTS after obtaining opinion from ICICI, it was desired by NTS that EOL – POL may sort out issues of inventory and COSA with ONGC. On the issue of EOL creating charge on Ratna – R Series Fields against their refinery loan, Ministry of Law on 28.02.2003 and 05.03.2003 opined that since no agreement / contract had been signed by EOL with the Government in respect of the fields, therefore, EOL had not acquired

any right in the said field and PSC did not provide power to the contractor to create charge on PI for securing loan on any other project.

As may be seen from these developments that PSC for other discovered fields were signed. However, certain actions on part of the consortium delayed signing of the PSC of the Ratna and R- Series fields."

15. Further, on being asked what factors contributed to the cancellation of award to the consortium, the Ministry in their reply has submitted as under:-

"In pursuance of the CCEA decision dated 09.03.1999, the negotiations were initiated by the Negotiating Team of Secretaries (NTS) for concluding the contract. However, even after holding active negotiations, the terms and conditions to execute the formal PSC between the Government of India and the joint venture of the companies and ONGC, as required under Article 299 of the Constitution of India and other statutes, could not be concluded due to disagreements between the consortium partners and Government of India on multiple issues and certain irregularities on the part of the consortium partner after the issuance of letter of award.

In view of the inordinate delay in concluding the contract resulting into delay in the development of the fields, it was decided with the approval of CCEA to cancel the contract."

16. The Ministry, in their evidence before the Committee on 12 July, 2016 stated as under :-

" ---- XXX ----- XXX ----- XXX

This is one unfortunate case, in which many issues came up, and those could not be resolved and ultimately the contract could not be signed. To say that NTS did not do any work, would not be appropriate. Negotiation for this field could not be done, it is true."

IV. Delay in decision making leading to reassessing financial capability of bidders:

17. Audit noticed that the Notice Inviting Offer (NIO) did not indicate any criteria for evaluating financial capability. However, bids of both the bidders

were evaluated by DGH and ONGC and based on this valuation, award of contract to CoSB was recommended (December 1995) by an Empowered Committee of Secretaries (ECS) for the approval of CCEA. CCEA approved (February 1996) the recommendations and Letter of Award of contract for R&RS fields was issued in favour of CoSB on 12 March 1996.

18. However, after assignment (March 1999) of work to NTS by CCEA for finalisation of PSC, NTS decided (March 2000) to assess the updated financial strength of the CoSB. Accordingly, DGH carried out (May 2000) assessment of financial capability and informed (September 2000) NTS that net worth of CoSB was positive and it had sound financial health. Accordingly, NTS decided (February 2001) to process the PSC. However, final decision was not taken due to techno-legal issues.

19. Later, in August 2004, NTS again asked DGH to carry out assessment of financial capability of CoSB. Based on the inputs provided (October 2004) by DGH and MoF, NTS concluded that CoSB was financially capable to meet its obligations as envisaged in PSC. However, before processing of PSC for finalisation, NTS raised (April 2005) the issue of applicability of rates for cess and royalty and final decision had not been taken.

20. In NTS meeting (October 2011), the issue of negative net worth of the successful bidder partner was again raised and it was decided to freshly ascertain the present net worth of CoSB. The issue was further raised on two occasions by one of the members of the NTS through letters to MoPNG (November 2011 and February 2012). Meanwhile, in January 2012, the CoSB partners submitted the net worth certificates issued by their statutory auditors, indicating a positive and higher net worth than that ascertained in earlier assessments.

21. MoPNG in its reply (August 2015) to the Audit stated that NTS decided (March 2000) to assess the updated financial status of all awardee companies in respect of 12 fields and matter of financial capability was accepted by NTS after obtaining opinion from ICICI Limited. The issue of re-assessing financial capability of CoSB came up again only during the

NTS meeting of October 2011. It further detailed the circumstances leading to re-assessment of financial capability of CoSB.

22. As per Audit, MoPNG's contention of re-assessments of financial capabilities may be viewed in the light of the fact that this exercise was conducted in the years 2000, 2004 and in 2011. Delays in taking final decision on various matters and raising of already settled issues led to repeated assessments of the financial capability of CoSB which contributed to further avoidable delays.

23. On being asked (i) if this exercise could have been avoided had the NTS adhered to its target of 6 months in assessing the financial capacity of CoSB; and (ii) raising of already settled issues (techno-legal and rates of royalty and cess) led to reassessing of financial capability time and again, the Ministry has replied as under:-

"It was not that the financial capacity of CoSB was assessed in respect of only Ratna & R Series Fields. This was done for bids in respect of other fields as well. During the NTS meeting held on 02.03.2000, NTS decided that financial strength of all the awardee companies should be evaluated based on the latest available information. NTS authorized DGH to obtain necessary information from the awardee companies and evaluate their financial strength and submit the position. During the subsequent NTS meeting held on 18.07.2000, NTS noted that according to the assessment carried out by DGH, all the awardee companies, except for Essar Oil, were financially capable.

Certain actions on part of the consortium partners held back signing of the Ratna and R-Series fields. The bidding of field is an important economic decision and should be taken with due caution after ascertaining all the related aspects."

24. Further on being posed with the question why did MoPNG repeatedly carried out reassessment of financial capability of CoSB leading to delay in final decision and raising of already settled issues, the Ministry replied as under:-

" Ministry of Finance who is also a member of NTS observed that in the light of the negative net-worth (as on 31.3.2011) of Essar Oil Ltd., as evaluated in NELP-IX; as well as the fact that the parameters of

the bid undertaken so many years earlier are dramatically different today, and that the PSC has not been entered into for such a long period, it will be appropriate that a fresh opinion of the Attorney General is obtained, on whether GOI is obliged to enter into a Production Sharing Contract with Essar Oil Ltd (notwithstanding the earlier legal opinion that the "contract" with Essar Oil Ltd led consortium for Pre-NELP R-Ratna Series is "concluded"). Thereafter, Finance Ministry vide letter dated 13.2.2012 reiterated "since the NELP-IX Essar Oil Limited is being evaluated as having negative net worth, in that case how can NTS agenda for considering award to Essar Consortium in the Pre-NELP R-Ratna series be justified.

The reassessment of financial capability was necessitated to adjudge the updated financial position and strength of the CoSB to ensure that they are financially capable to meet the obligations as envisaged in PSC in the current date. Evaluation of financial capability and net worth of each of the constituent companies are examined to ensure that each of them has a positive net worth."

25. Further, on being asked to furnish a brief background note detailing the chronological developments on the award of contract and subsequent cancellation of the same to the consortium, the Ministry has tabulated the three dated (19.04.2000, 02.05.2000 and 18.07.2000) sequence as under:-

" (i) DG, DGH vide letter dated 19.4.2000 stated that EOL 's networth arrived as on 31.3.1999 was (-1170.93) crores after adjusting the unamortized portion of Miscellaneous Expenditure and Contingent liabilities of ₹ 43.68 crores and ₹2730 crores respectively. DGH suggested that before the PSC is signed with EOL for Ratna R-Series, EOL may be requested to give a letter of comfort from its bankers for commitment for its share of investment in the field, which is expected to be around US\$ 300 MM (equal to ₹1300 crores).

(ii) DGH vide letter dated 2.5.2000, based on the clarifications given by EOL, stated that EOL is having sound financial health, in order to take up the financing of Ratna R-Series award, which for its share of PI shall require around ₹650 crores (considering 50% share given in the Bid).

(iii) NTS in its meeting dated 18.7.2000 decided that information from EOL has to be obtained by DGH to assess their financial capability

and that EOL-POL to be intimated of the sixty days time limit to finalise the PSCs, failing which the negotiation process would stand concluded."

V. Deliberations on techno-legal issues and issue of royalty and cess:

26. On techno-legal issues, the Audit observed that, during discussion in its meeting held on 20 February 2001, NTS gave go ahead to process the PSC for R&RS fields for approval and signing, after financial capability of the CoSB had been analysed and accordingly the draft PSC was initialled by all the parties in April 2001. Review of MoPNG's files revealed that while forwarding the draft PSC to MoL&J for vetting, MoPNG noted as follows:

- a) CCEA had approved finalisation of PSC after due negotiations by NTS;
- b) NTS approved that the Model PSC would be the basis for negotiation and finalisation of PSCs;
- c) CoSB had also confirmed acceptance of all issues raised by NTS;
- d) NTS had also approved the consequential changes; and
- e) CVC had given no objection if MoPNG desired to proceed further to take a view on proposed signing of PSC of R&RS fields.

27. Audit observed that MoL&J had informed (29 January 2002) MoPNG that the draft PSC appeared to be formally in order from legal angle subject to (i) MoPNG exercising powers under Petroleum and Natural Gas Rules 1959 (PNG Rules) for grant of petroleum Mining Lease (ML) for 25 years instead of 20 years and grant of contract area in excess of 250 square kilometres (sq. kms.); (ii) clarity to be brought out in PSC regarding the party responsible for bearing 'all costs and risks at the delivery point' and (iii) confirmation on certain other changes suggested by MoL&J. MoPNG, after reviewing MoL&J's advice, forwarded (18 February 2002) the issue again to MoL&J for consideration and advice on the issues relating to the delivery point and ML. MoL&J responded (22 April 2002) that they had no legal objection for grant of ML for a period of 25 years and reiterated its stand that necessary amendment in PSC may be carried out specifying the

name of the party responsible for bearing the costs and risks relating to delivery point to avoid dispute in future.

28. Audit noticed that a series of discussions were held thereafter within MoPNG, and also with MoL&J/MoF/CoSB (between May 2002 to September 2004) for finalising of PSC wherein the issue relating to the loan agreement signed by CoSB partner, financial capability of CoSB, applicability of rate of cess and royalty on Crude Oil and reimbursement of maintenance cost to ONGC were raised. The three ministries (MoPNG, MoL&J and MoF) kept on deliberating these issues. It was in its meeting of 15 April 2005 that NTS authorised MoPNG to take necessary action on these issues including asking confirmation from CoSB on applicability of cess and royalty.

29. On the issue of ROYALTY AND CESS, Audit observed that CCEA had approved (9 March 1999) freezing of the rates of levy of royalty and cess prevailing at the time of bidding and not at the time of execution of PSC. This had been applied in 11 other fields (excluding R&RS fields) in respect of which GoI had decided in 1996 to award contract for development of fields. PSCs for these fields had been signed accordingly between February 2001 and February 2004.

30. During deliberations in April 2005, NTS observed that a long time had elapsed and there had been significant change in the oil price market. NTS advised that CoSB may be asked to confirm payments of statutory levies at the current level rather than those prevailing in 1995. It recommended that the consequential changes to the PSC subsequent to the above may be initiated after vetting by MoL&J.

31. However, CoSB did not agree to the change in the rates of royalty and cess and stuck to the old agreed rates. ONGC, on its part relating to 40 per cent PI initially did not agree (2 May 2005) to current rates but subsequently agreed (4 May 2005) to pay royalty and cess at the current rates.

32. Audit further observed that in June 2005, AGI opined, that "Government cannot take a position contrary to what it did in regard to 11

other fields in the years 2001 and 2004. This stand would not be just, fair and reasonable. There is no basis for discriminating against one of the twelve fields in fixation of royalty and cess different from the eleven others where it agreed to lesser rate." AGI further stated, *"there will, in any event clearly be a case of discrimination and violation of Article 14 of the Constitution. Further no good reason appears as to why ONGC supports the increase in the royalty and cess when it would be one of the beneficiaries of lower cess/royaltyxxxx."* Moreover, representative of MoL&J stated (19 April 2006) that "the NTS would be going beyond its mandate in negotiating any material changes such as rates of cess and royalty through the PSC."

33. Thus, the Government was advised (June 2005) by AGI to proceed with signing of PSC in relation to R&RS fields, with the successful bidder on the basis of royalty and cess as fixed in the draft PSC. Representative of MoF agreed in principle, in the NTS meeting (19 April 2006), that cess and royalty on Crude Oil be maintained at the old rate. NTS decided (19 April 2006) that based on the legal opinion by AGI and MoL&J, the contract would stand concluded with the issue of award letter in March 1996 and statutory levies should be maintained at the old level, ONGC be given 45 days to initial the changes to the draft PSC and finalise other subsidiary agreements/contracts with CoSB partners. However, MoPNG decided (24 August 2006) that clear concurrence of Finance Minister be obtained.

34. MoF informed (09 August 2007) that MoPNG may consider issue of necessary notification, in consultation with MoL&J, prescribing the applicable rate of cess and royalty, in accordance with the terms of concluded contract, on Crude Oil produced in R&RS fields awarded under PSC to CoSB.

35. NTS (20 March 2008), which also had as its member the Secretary (Law), reiterated its earlier stand of maintaining old rate of cess and royalty with old cost recovery limit (CRL).

36. MoPNG re-examined the matter and decided (21 July 2009) that matter may be considered by NTS once again to analyse all alternatives available. MoPNG observed that NTS had not analysed in detail the

alternatives available and had only reiterated its earlier recommendation. This observation of MoPNG may be seen in the light of the fact that NTS was chaired by its own Secretary (MoPNG) and was having representation of other Secretary level officers of Gol.

37. Meanwhile, in response to advice sought by MoPNG, MoL&J stated (17 December 2009) that the award of contract for the development of R&RS fields on 12 March 1996 had been duly concluded and had acquired finality. It was also emphasised that the only option available to Gol for consideration was the option, which specifies levying old rates of cess and royalty and old GRL.

38. NTS asked (7 April 2010) DGH to prepare a comparative and consolidated statement regarding revenues, which would accrue to Gol applying old rates of cess and royalty and current rates of cess and royalty with production profile of the discovered field, so as to know the exact stake of Gol. DGH submitted (December 2010) analysis of Gol's take under various scenarios in its report. However, DGH in its report stated that Gol's share of profit could not be reliably estimated as it depended on multiple dynamic variables and any estimates would be indicative only.

39. In November 2011, it was advised by the Finance Secretary, who was also one of the members of the NTS, that the parameters of the bid undertaken so many years earlier are dramatically different today and the PSC had not been entered into for such a long period, and it would be appropriate that fresh opinion of the Attorney General be obtained, on whether Gol was obliged to enter into a Production Sharing Contract with CoSB. In response, MoPNG referred to MoL&J's opinion dated 30.12.2009 that *"we may reiterate our earlier stand confirming the opinion of the earlier Attorney General. There is no need to refer it to present AG again"* and requested NTS to decide upon the course of action in the matter.

40. In February 2012, the Finance Secretary reiterated his earlier queries and suggested that MoPNG should have a fresh look into the matter and sought fresh opinion from the AGI through MoL&J. MoPNG referred the matter again to MoL&J for opinion of the AGI. The AGI, in his opinion in October 2012, stated that the matter had been pending for a very long time

and it was advisable that it should be concluded on a fair and reasonable basis as suggested.

41. Finally, CoSB agreed (August 2012) to accept the payment of cess and royalty at current rates with updated cost recovery limits (CRL) based on current costs to expedite the formal execution of the PSC. CoSB, however, clarified that the rates would remain fixed during currency of the PSC.

42. MoPNG, while agreeing to the facts of the case, in reply, admitted (August 2015) that the issue of royalty and cess definitely delayed finalisation of PSC for R&RS fields and the issue has been a major factor which could not be resolved to satisfaction of all the stakeholders.

43. On being asked, what lead to change in ONGC decision supporting the increase in the Royalty and cess when it would be one of the beneficiaries of lower Royalty and cess (as pointed out by AGI), ONGC made following submission:-

"Initially ONGC agreed for the cess and royalty rates for Rs 900 per MT and Rs 528 per MT respectively as per the provisions of draft PSC of Ratna R-Series Field. Since ONGC intended to get back the field, it was a strategic decision by ONGC to agree for the then current rates of cess and royalty as ONGC would have to pay the statutory levies at the prevailing rates (as applicable under the Nomination regime) in case the field was reverted back to ONGC. Further, ONGC obtained the opinion of Solicitor General (SG) dated 20.05.2005 which advised that applying earlier rates of cess and royalty would cause huge public loss."

44. Further, the Ministry on being asked that (i) despite initial negation to the NTS advise (April 2005) by CoSB on the matter of change of rates of Royalty and cess, what factors eventually contributed to their acceptance (August 2012) for payment of Royalty and cess at current rates with updated cost recovery limits (CRL) based on current costs; and (ii) despite clear opinion on the issue of Royalty and cess by the AGI and MoL&J, why

the issue was repeatedly raised and referred among various ministries, the reply of the Ministry is as under :-

"During the meeting of NTS held on 15.04.2005, it was observed that since the contract was still under finalization, in view of very high ruling prices of crude oil @ 58 dollars per barrel as compared to when the field was awarded (@ US \$ 16 per barrel) as also when it was again considered by CCEA in 1999, there would be significant financial implications for the Government. Consequently, NTS felt that the statutory levies should be fixed at current level rather than those in 1995. NTS decided that the consortium of Premier Oil, Essar Oil and ONGC should be asked to confirm acceptance of royalty on crude oil @ 10 % of well-head value and cess on crude oil @ ₹ 1800 per metric tonne. This rate should be frozen for entire period of the PSC. The consortium should be asked to confirm its agreement on this issue as well as reimbursement of maintenance cost to ONGC as non-recoverable contract cost.

EOL – POL responded that cess and royalty should be retained at earlier level prevailing at time of bid finalization / award of field. ONGC, which initially declined to agree to current rates, subsequently, agreed to pay royalty and cess at current rates. ONGC obtained Solicitor General (SG) opinion. SGI opinion dated 20.05.2005 that applying earlier rates would cause huge public loss. However, EOL and POL did not agree to pay royalty and cess at current rates. As decided by NTS and to consider SGI opinion forwarded by ONGC on applicability of current rates for statutory levies, opinion of MOLJ was sought. MOLJ forwarded legal opinion from Attorney General (AG) that the rates for royalty and cess as mentioned in "finalized draft PSC" (i.e. at old rates) should be maintained. He further added that the Government was advised to proceed with the signing of contract with the consortium on the basis of rates of royalty and cess as fixed in the draft PSC.

In view of this legal advice and considering huge financial implication for the Central Government, MOPNG sought views of the Department of Revenue, MOF under Rule 4(2) of Government of India, Transaction of Business Rules on keeping royalty and cess rates at

the old level, as advised by AG. File was received back on 30.08.2005 with following minutes of Finance Minister:

"A bid is an offer. Has the Government accepted the Bid, leading to a concluded contract? If MOP&NG is of the view that there is a concluded contract, then the AG's opinion appears normal and the rates of royalty / cess must be the original rates."

NTS in the meeting held on 19.04.2006 decided that based on the legal opinion by AG and MOLJ, the contract stands concluded with the issue of award letter in March, 1996 and statutory levies should be maintained at the old level. ONGC should be given 45 days to initial changes to the draft PSC and finalize other subsidiary agreements / contracts with the consortium partners involving ONGC. In case the issues are not resolved and ONGC does not come forward to initial all the agreements / contracts involving it, the matter would be taken to the Cabinet under the terms of the offer to find an alternative partner for 40 % stake of ONGC. NTS recommendations were submitted for approval of Minister (P & NG) who desired that clear concurrence of FM should be obtained. Finance Ministry, in August, 2007 opined that MOP&NG may consider issue of necessary notification, in consultation with Ministry of Law, prescribing the applicable rates of cess and royalty, in accordance with the terms of the concluded contract on crude oil produced in Ratna & R-series fields awarded under PSC to consortium. Minister (P & NG) observed on file in October, 2007 that, "as lot of time has elapsed since the last direction / approval of the CCEA as well as the announcement of the Discovered Field Policy, we may submit the case to CCEA for an appropriate decision on merits." A CCEA Note dated 1st February, 2008 on "Finalization of the Production Sharing Contract for Discovered Field Awarded by CCEA for Ratna & R-Series Fields" was forwarded which was returned by Cabinet Secretariat point out deficiencies in the CCEA Note. Another meeting of NTS was held on 20th March, 2008 whereby NTS decided to recommend old rates of cess and royalty with old CRL bid by the contractor without any provision for the upward revision on account of higher prices.

However, in order to fully comply with the directions of Cabinet Secretariat, it was felt that NTS should consider the matter with a view to analyzing in detail the various alternatives available along with the financial implications. The following alternatives were considered for examination by NTS in the meeting held on 21st July, 2009 –

- (i) Old rates of Cess and Royalty with old CRL
- (ii) Current rates of Cess and Royalty with old CRL
- (iii) Current rates of Cess and Royalty with updated CRL
- (iv) Re-inviting Bids
- (v) Reverting the field to ONGC
- (vi) Secession of negotiation on ground of non-finalization of contract for last 15 years:

NTS desired to seek comments of AG and MOLJ on each of the options to work out legal liability of the Government in each of the options and suggest best option available to the Government.

MOLJ vide opinion dated 16.12.2009 stated that the only option available to the Government for consideration is the one specifying levying old rates of cess and royalty and other options may not be open to the Government to resile from the concluded contract nor to unilaterally vary any of the terms of such concluded contract. It was further stated that there may be no need to bother AG in the matter again.

NTS meeting held on 7.4.2010 and it was decided that DGH will prepare a comparative and consolidated statement regarding revenue to accrue to GOI applying old rates of cess and royalty and current rates of cess and royalty with production profile of the discovered field. It was also decided that DGH will work out possible hike in Cost Recovery Limit (CRL) if current rates are made applicable. Based on NTS decision, DGH suggested that study may be undertaken on estimation of CRL which may involve comprehensive estimation of cost estimates of the Development Plan activities. DGH presented a report based on different scenarios that permitting a higher cost recovery would reduce the total government take. Next NTS meeting was held on 17.10.2011 whereby the issue

of net worth of EOL during award of NELP-IX blocks was raised again. NTS agreed to ascertain the present net worth of EOL and its consortium partners.

Finally, EOL agreed only in August 2012 to accept new amendments to finalize PSC, incorporating cess and royalty at current rates with updated cost recovery limit based on current costs.

From the above Sequence of Events (SOE), it may be seen that number of factors triggered by high ruling prices of crude oil @58 dollars per barrel in 2005, as compared to when the field was awarded (@ US \$ 16 per barrel) and its significant impact on the Government revenues in the form of statutory levies eventually contributed to acceptance by the CoSB for payment of royalty and cess at the current rates with updated Cost Recovery Limits (CRL)."

VI. Reimbursement of past-cost and non-maintenance of idle facilities:

45. ONGC had drilled 35 exploratory wells and 9 development wells and had installed one well cum production platform in one of the fields viz. R-12. Commercial production of Crude Oil and Natural Gas was started by ONGC from R-12 field in February 1983. The Government of India (GoI) decided in 1991 for inviting private parties in upstream oil sector. In 1993, GoI issued notice inviting offers for development of R&RS fields. ONGC stopped production of Petroleum from these fields from September 1994.

46. ONGC had created facilities in Ratna R-12 field at a cost of ₹ 472.55 crore. These facilities were used by the Company for production since February 1983. Following stoppage of production from the field (September 1994), ONGC did not maintain the facilities though specific directions were issued by MoPNG/NTS with an acceptance to reimburse the cost by the Consortium Partners. ONGC's own inspections reported the facts of serious deterioration in the condition of the facilities and 'Plundering and looting' of platform utilities and equipment. The estimated repair cost for the existing facilities at current exchange rates (September 2015) would be ₹1085.70 crore.

47. After adjusting the tax benefits and revenue enjoyed by ONGC from the field, the net past cost that remained to be compensated to ONGC, was ₹ 270.46 crore. Need for settlement of this compensation amount has been highlighted in the earlier audit reports³. Though CCEA had directed (March 1999) MoPNG to evolve modalities for past cost compensation in consultation with MoF and the Planning Commission, the same was yet to be finalised (March 2015). Following stoppage of production from the field (September 1994), ONGC did not maintain the facilities.

48. Audit further noted that one of the main reasons for not undertaking repair and maintenance activities by ONGC was the issue of non-resolution of compensation for such activities. In this connection, Audit further observed that NTS had decided (October 2004) that ONGC would be reimbursed the maintenance cost incurred between the date of award and effective dates of PSCs. CoSB also agreed to reimburse the cost of maintenance of the facilities (January 2006). Besides, even in the event of actual award, ONGC would continue to hold 40 per cent share in the field and proper maintenance of the asset was in its own interest. Thus, while PSC remained to be finalised, the existing idle facilities deteriorated with passage of time. Non-maintenance of facilities would place an additional financial burden on development of the field, which could have been avoided.

49. Further Audit scrutiny of the records revealed that although the facilities were no longer its asset, in the annual accounts, ONGC showed that it was the owner of this field and provided abandonment liability in the accounts. Thus, according to the Audit the reply was contradictory to financial statement of ONGC. Further, MoPNG instructed (August 2002 and October 2004) ONGC to maintain the facilities and NTS also decided (October 2004) that ONGC would be reimbursed the maintenance cost incurred between the date of award and effective date of PSC. Even after these instructions/ decisions, ONGC failed to maintain the facilities that led to deterioration. CoSB also agreed (January 2006) to reimburse the cost of maintenance of facilities. Even after such acceptance, ONGC did not

³ *Audit Report no.5 of 1996 of Union Government-Commercial (Paragraphs 2.15 to 2.20) and the follow up Report no.6 of 2005 of Union Government Commercial (Paragraph 3.3.4 (i))*

maintain these facilities. Further, as ONGC would continue to hold 40 per cent share in the field, as a prudent measure, it should have maintained these assets, which would have reduced the burden of repair cost. Also, linking the maintenance of the facilities with the non-reimbursement of past cost was not justified since the modalities for reimbursement of past cost were to be decided by MoPNG in consultation with MoF and Planning Commission.

50. Thus, according to Audit, non-maintenance of facilities by ONGC at R&RS fields, even after specific directions from MoPNG/NTS was not justified and it led to deterioration of the assets with an avoidable repair cost.

51. MoPNG in its reply (August 2015) to the Audit stated that the issue of reimbursement of past cost to ONGC is another significant issue in making the field operational and monetizing the field reserves. The issue of reimbursement of past cost to ONGC, including the cost incurred by ONGC on maintenance & security of these fields over last 21 years subsequent to publishing the NIO would require consideration based on number of possible alternatives. It further stated that a salient issue has been pointed out by Audit regarding non-maintenance of the idle facilities in the field.

52. On being asked why ONGC did not maintain and kept the facilities created at R&RS fields safe, when NTS (October 2004) had specifically decided to reimburse the maintenance cost incurred between the date of award and effective dates of PSCs, ONGC in its written submission has stated as under:-

" ONGC had been highlighting the issue of repair/maintenance of the facilities through its various communications and during the meeting of Negotiating team of Secretaries (NTS) and requested for confirmation regarding decision on re-imbursement of such cost. Though NTS has deliberated on the need to facility maintenance, but cost re-imbursement issue has always been kept pending and stated that cost re-imbursement shall be discussed separately.

In-spite of the fact that no confirmation regarding re-imbursement of maintenance cost was conveyed to ONGC, an expenditure of

₹6.92Crores plus USD 335,840 was incurred and conveyed to MoP&NG vide letter dated 9th December, 2004 . The note of such expenditure was made by NTS in its meeting dated 15th April ,2005.

It may please be appreciated that since, the facilities were not operated by ONGC subsequent to award to JV in 1996, ONGC was not in a position to incur any expenditure without a decision on confirmation of its reimbursement. Though the issue of maintenance cost reimbursement had been discussed in NTS forum, no firm decision in this regard has ever been conveyed to ONGC.

Since there has been neither any decision on past cost reimbursement nor Ratna contract was being concluded and in light of non-reimbursement of already incurred expenditure, it was not prudent for ONGC to incur any further expenditure on Ratna R-series.

Now, since the Government has communicated the decision to revert the field back to ONGC, ONGC would undertake all repair/refurbishment and bring back the field to production. Further, ONGC would undertake exercise to prepare detailed estimates for actual expenditure involved."

VII. Fixing of responsibility towards delay in non-execution of mandate:

53. While approving the proposal in March 1999, CCEA approved conclusion of contract keeping the cess and royalty at the levels prevailing at the time of inviting bids. Despite the above decision of CCEA and the fact that PSCs for rest of 11 fields from the bundle of 12 fields offered simultaneously under similar terms and conditions had been finalised and signed till the end of 2004, opinion of AGI to go for finalisation of PSC and recommendation of NTS (April 2006) for conclusion of PSC, the case was sent (January 2008) to CCEA for an appropriate decision. CCEA Note was returned by the Cabinet Secretariat to obtain unambiguous recommendations of NTS. NTS forwarded its unambiguous recommendations in March 2008. MoPNG submitted (June 2008) the Note to CCEA, agreeing with NTS recommendations. Cabinet Secretariat again returned (July 2008) the Note to make certain modifications/corrections

relating to some deficiencies. A proposal for modification in the Note to CCEA was approved on 09 July 2008. However, the matter was again re-examined in MoPNG and it was decided that NTS should consider the matter once again, with a view to analysing in detail the various alternatives available along with their financial implications. Thereafter no final decision was taken.

54. The Ministry replied to the Audit that the matter was re-examined by it and it was observed that NTS had earlier not analysed in detail the alternatives available and had just reiterated the earlier recommendations. Thus, in order to fully comply with the directions of Cabinet Secretariat, NTS should consider the matter once again with a view to analyse in detail the various alternatives available along with the financial implications. It then detailed various alternatives considered for examination by NTS in the meeting held on 21 July 2009. Thereafter, MoPNG narrated the sequence of events. It mentioned about the next NTS meeting which was held subsequently in June 2013 in which number of issues were raised similar to the ones discussed in the past. MoPNG further informed that a CCEA Note dated 02 May 2014 was sent to the Cabinet Secretariat regarding issues relating to the finalisation of PSC for R&RS fields. However, due to change of Government in May 2014, the circulated Note was not considered by CCEA at that time.

55. Thus, according to the Audit, MoPNG's reply should be seen in the light of the fact that NTS had categorically submitted (March 2008) clear recommendations, as desired by the Cabinet Secretariat and thereafter the same were approved and forwarded by MoPNG (June 2008) for consideration of CCEA. CCEA returned (July 2008) that Note for correction of some deficiencies in it. MoPNG, also approved the revised Note on 09 July 2008. However, MoPNG's changed stance again led to series of deliberations and clarifications which unnecessarily delayed the matter.

56. On the issue, when the Ministry was posed with the queries (i) When only minor modifications/corrections were to be carried out in the Note, why the Note was not sent back and no final decision taken at that time only; (ii) Why did MoPNG once again raised concerns over the issues (viz.

analyzing in detail the various alternatives available along with their financial implications) and asked the NTS to re-examine the matter; and (iii) to state clearly the reasons and explanations for the delay caused in the both aforesaid cases, the Ministry made their submission as under :-

"A note to CCEA dated 16.6.2008 was sent for approving signing of the PSC with awardee consortium of EOL, POL, and ONGC as per draft PSC. Later, on the advice of Cabinet Secretariat, a revised note, with the approval of Minister (P&NG), was sent to CCEA on 26.6.2008 for approving signing of the PSC with awardee consortium of EOL, POL, and ONGC as per draft PSC negotiated by NTS with old rates of cess and royalty with the condition that the consortium accepts it with old cost recovery limit bid by them without any provision for upward revision on account of higher prices. Cabinet Secretariat vide OM dated 7.7.2008 informed this Ministry on certain technical deficiencies found in the CCEA note. The matter was re-examined in this Ministry. NTS had just re-iterated its earlier recommendations in its meeting held on 20.3.2008 considering the relevance of the points. Under the circumstances, in order to fully comply with the directions of the Cabinet Secretariat, it was considered necessary to hold meeting of NTS with a view to analyzing in detail the various alternatives available along with their financial implications and accordingly, NTS meeting was held on 21.7.2009.

Time taken in the process of approval, being dependent on many relevant factors to be considered while taking a call on the issue, may not necessarily be seen as a delay because the decision makers in the process of final settlement and resolution of matters of disagreement have to be sure in all aspects and get satisfactory reply of their all queries."

57. Further, Audit observed that keeping discovered hydrocarbon fields idle without assigning the production rights to any party had led to deferment of domestic production of Crude Oil and Natural Gas from the fields from October 2005 to March 2015 to the tune of USD 5245 million (equivalent ₹ 26200 crore). Govt's take to the tune of ₹ 1105 crore on account of royalty and cess on Crude Oil and royalty on Natural Gas for the said period also remained deferred (August 2015). In addition to the above, the delay had led to idling and non-maintenance of existing facilities at Ratna R-12 field since September 1994, which has further resulted in an avoidable financial burden of ₹ 1086 crore on re-development of the field.

58. In reply to the query to the Audit's calculation of financial implications amounting to ₹26200 crore on account of deferment of domestic production of Crude Oil and Natural Gas; ₹1105 crore on account of Royalty and cess; and ₹1086 crore for re-development of R&RS field, the Ministry replied as under:-

"Audit's calculation based on number of assumptions indicates that the country could have avoided imports to the tune of ₹ 25655.90 crores on account of crude oil and ₹ 552.95 crores on account of natural gas production. However, computation also indicates that the Government would have got only ₹ 1050.61 crores on account of royalty and cess on crude oil, which is only 4 % of the crude oil valuation.

With the present decision of the Government, cess and royalty would be realized by the Government at the current rates applicable under the nomination regime."

59. Further, whether any financial assessment on the colossal loss to the national exchequer on account of indecision on the part of the Government on R&RS field lying unutilized for the past 22 years (since 1994), the Ministry stated as under:-

"Any exercise to assess financial impact on national exchequer may only provide notional figures since no crude oil / natural gas has been produced from these fields and hydrocarbon reserves from these fields would still be in place.

In fact, if we assume the notional value of ₹ 25650 crores of the crude oil as calculated by CAG, the Government is estimated to get ₹ 5130 crores as cess and ₹ 2565 crores gas royalty at the current rate which is far above what Government could have realized by awarding the Fields to CoSB."

58. During the course of evidence before the Committee on 12 July, 2016, the Secretary, MoPNG on the issue made following remarks as under :-

"So far as the notional loss is concerned, we are saying it is a notional loss because oil or gas, whatever is there, in this field is still there. It could not be extracted at that time. Now a decision has been taken and the field has been given back to ONGC. They have already come out with a plan and they will bring out oil and gas. Whatever royalty was earned is there and the Government will get it. If it was extracted earlier, the Government would have got it at that time. If it is

extracted in the future also, it would be available to the Government. There is limited amount of oil and gas. That is why we are calling it, 'notional losses.

Then regarding past cost, whatever ONGC has incurred that issue is no longer there because the field is going back to ONGC. If it had gone to some other party, the question of paying the past cost would have arisen. Now, since the field remains with ONGC, the question of paying past cost does not arise."

59. Further, on being asked what steps are being contemplated for fixing accountability on the delay for taking final decision on PSC and Whether accountability has been fixed and action taken against any person so far, the Ministry has submitted as under:-

"The contract negotiations with the bidders for the purpose of signing production sharing contracts did not commence due to the following reasons:

- ❖ C&AG observations on the contracts awarded to private parties in the 1st round of bidding for small and medium sized discovered fields,
- ❖ Public interest litigations before the High Court and Supreme Court alleging certain irregularities in the award of contract to private parties,
- ❖ ONGC's request to compensate for past costs
- ❖ The negative net worth of EOL,
- ❖ Mortgaging by EOL even before award of PSC was deliberated.
- ❖ Rates of Royalty and Cess,
- ❖ Cost Recovery Limit
- ❖ Impact on government revenue.

It has since been decided to revert the filled to ONGC.

In view of above, fixing of accountability may not be a fruitful exercise."

SEQUENCE OF EVENTS FOR LAST 25 YEARS (SINCE 1991)

1991	Policy of economic liberalization introduced.
1993	GoI issued Notice Inviting Offers.
1994	Production in R&RS field was stopped.
1996	CCEA approval for award of contract to CoSB. MoPNG issued letter of award to CoSB.
1999	CCEA approved negotiation by NTS for finalising and concluding PSC within six months.
2001	The draft PSC was initiated by all the parties.
2005	Attorney General advised GoI to proceed with the signing of PSC on the basis of royalty and cess as fixed in the draft PSC. MoL&J agreed with the opinion.
2006	NTS decided that the contract stands concluded with the issue of letter of award.
2008	NTS gave unambiguous recommendations to conclude the contract, MoPNG agreed with NTS and sent note for approval of CCEA. CCEA returned note for correction of deficiencies. MoPNG first approved the revised note but matter referred to the new Secretary.
2009	MoPNG changed its stand and decided that NTS should consider the matter once again. MoL&J reiterated its earlier opinion for concluding the contract with CoSB.
2010	DGH submitted its analysis of available alternatives. MoL&J suggested that MoPNG was bound to act fairly to decide the present dispute.
2011	MoPNG sought advice of CVC on whether the matter can be consider further by NTS for making recommendation.

	CVC advised that it is for the empowered authority in Gol to take appropriate decision.
2012	MoPNG referred the matter to MOL&J for opinion of Attorney General. Attorney General advised that it should be concluded on a fair and reasonable basis.
2013	Meeting of NTS held and some clarifications were sought by the NTS from MoPNG.
2014	CCEA note was sent by MoPNG regarding issues relating to the finalisation of PSC. Note not considered by the CCEA due to change of Government
2015	No decision by the government as of August, 2015.
2016	On 10 March, 2016, CCEA approved cancellation of the award of letter dated 12 March, 1996 issued in favour of the consortium and reverted the R&RS fields to ONGC, subject to the payment of cess and royalty at current rates, as applicable under nomination regime.

PART II

RECOMMENDATIONS AND OBSERVATIONS

Introductory : The Ratna and R Series (R&RS) medium sized hydrocarbon fields are located in the Western Offshore area (at an average water depth of 45 metres) 130 kilometres southwest of Mumbai city. These fields were discovered and partially developed by the Oil and Natural Gas Corporation Limited (ONGC) in November 1979. The Government of India (GoI) in 1991 decided to invite private parties in upstream oil sector. Accordingly, in 1993, GoI issued notice inviting offers for development of R&RS fields. Subsequently, ONGC stopped production of Petroleum from these fields from September, 1994.

Following invitation of bids from private parties by Government of India (GoI), the Cabinet Committee on Economic Affairs (CCEA) approved (February 1996) award of contract in respect of R&RS fields to a Consortium of Successful Bidders (CoSB). The consortium comprised of M/s. Essar Oil Limited (India) (EOL) [50%] and Premier Oil Pacific (UK) (POL) [10%]. As per terms and conditions for development of medium sized fields, the National Oil Company (NOC), i.e., ONGC in this case held 40 percent Participating Interest (PI) in R&RS fields. The Ministry of Petroleum and Natural Gas (MoPNG) issued (March 1996) a Letter of award of R&RS fields to CoSB. Thereafter, CCEA approved (March 1999) negotiation to be held by the

Negotiating Team of Secretaries (NTS) for finalising and concluding Production Sharing Contract (PSC) within six months.

The Committee found serious delays in decision making for more than 20 years, after the CCEA approval, depriving the country of the much needed fuel from these oil & gas fields. The Committee on detailed examination of the decision making process found that the non-execution of PSC was due to unfruitful deliberations held by NTS for over 17 years with various stakeholders on the issues that had already been laid down by the CCEA. Frequent deliberations made on the issues of techno-legal, royalty and cess and references to various agencies and consequent delays also necessitated repeated re-assessment of financial capability of the successful bidders. Other issues that held-up the signing of PSC related to reimbursement of past-cost and non-maintenance of idle facilities by the ONGC. The Committee while dealing with the issues highlighted in the Audit Report, observe that the exclusive high-powered body i.e.NTS failed miserably in its mandate and could not conclude PSC for R&RS fields in 17 years which eventually resulted in CCEA (10 March 2016) approving cancellation of the award letter (12 March 1996) issued in favour of the consortium and reverting the R&RS fields to ONGC, subject to payment of cess and royalty at the current rates, as applicable under the nomination regime.

2. *Failure of Negotiating Team of Secretaries (NTS) to execute Production Sharing Contract (PSC) with respect to R&RS Fields:*

The Committee note that Government of India (GoI) in 1993 issued notice inviting offers for development of R&RS fields. The Ministry of Petroleum and Natural Gas (MoPNG) issued (March 1996) a Letter of Intent (LoI) for award of R&RS fields to CoSB and in March 1999, CCEA approved negotiations and concluding PSC in respect of 12 discovered fields (11 small sized blocks and one medium sized R&RS block) to be held by the Negotiating Team of Secretaries (NTS) for negotiating and finalizing Production Sharing Contract (PSC) with the consortium within six months. PSC in respect of the 11 small sized fields were signed in February 2001 and February 2004. The Committee further note that NTS, a high-powered body consisting of Secretary, Ministry of Petroleum and Natural Gas; Finance Secretary; Secretary, Department of Expenditure; Secretary, Department of Economic Affairs; Secretary, Department of Legal Affairs and CMD, ONGC, did not adhere to its own targets of completion of negotiations within six months and kept setting targets for completion of negotiations and signing of PSC and held 20 meetings between November, 1999 to June, 2013. Further, during the period from May, 2010 to July, 2015, only two meetings were held and, on both the occasions, it was decided to hold another meeting to take a final decision in the matter. The Committee observe that the process of reaching a decision to finalize the PSC was not completed even after 25 years of policy decision, 20 years of award and 17 years of approval of CCEA. The Ministry in their reply has stated that NTS

undertook a series of meetings for deliberating on several complex issues and for bringing convergence on the technical, commercial, legal and financial matters and based on these efforts, PSC for 11 small sized fields were signed and the main reasons for non-finalisation of PSC for R&RS field were financial incapability of EOL during negotiation stage; creation of charge by EOL (Essar Oil Limited) with its bankers for refinery project without the approval of Government and non-finalisation of issue regarding transfer of pipeline asset by ONGC to the consortium. Further, even after holding active negotiations by the NTS, the terms and conditions to execute the formal PSC between the GoI and the Joint Venture of companies and ONGC, as required under Article 299 of the Constitution of India and other statutes, could not be concluded due to disagreements between the consortium partners and Government of India. The Committee note that due to disagreements on multiple issues and irregularities on the part of the consortium partner after the issuance of letter of award and the inordinate delay in concluding the contract resulting into delay in the development of the fields, it was decided with the approval of CCEA to cancel the contract. The Committee are of the view that the purpose of formation of such high-powered body like NTS with as many as six Secretary/CMD level officers of the Ministries/NOC was defeated as these highest level officers could not adhere to their own timelines and reach a decision after several rounds of meetings. The Committee find that the Ministry has taken the whole episode casually as is evident from its submission that the R&RS case may be viewed as one unfortunate case where despite several issues the NTS tried the best to resolve them and ultimately

the contract could not be concluded. The Committee are of the view that timely intervention by the Government/ CCEA into the issue could have helped in taking a decision on the issues of royalty and cess. The Committee feel that it is high time that the country has a mechanism to review the efficiency of high-level Government officials associated/nominated in Inter-Ministerial Groups/High-Level Committees independently of the help of regular bureaucracy. The Committee desire the Government to consider this issue as an eye-opener and establish adequate mechanism to review the performance of all such officers nominated on various Committees. The Committee observe that the delay is mainly attributable to the anxiety of the officers to avoid 'dispute in future'. However, it seems that no concern was raised at the fact that no production was happening for about two decades. The CoSB seems to have climbed down in August, 2012 to agree to the current rates, yet the contracts were not signed. The NTS, which itself was a Committee of Secretaries, having been unable to resolve the issue on its own should have sought the help of experts or Cabinet Secretary. The Committee strongly deprecate the rationale of NTS comprising senior Civil Servants keeping such a calculated silence and inaction, if not indifference. The Committee while observing that the delays by these officials that resulted in a huge loss of ₹26200 crore to the exchequer and deprived the country of scarce resources for more than two decades tantamount to criminal negligence, direct that the responsibility for causing inordinate delays in decision making may be fixed and action be taken against the officials concerned under intimation to the Committee.

3. *Delay in decision making leading to repeated assessing financial capability of bidders:*

The Committee note that Notice Inviting Offer (NIO) did not indicate any criteria for evaluating financial capability. Financial capability of Consortium of Successful Bidders (CoSBs) was evaluated in 1995 before award of contract to it. After assignment (March 1999) of work to NTS by CCEA for negotiation on the terms and conditions and signing of PSC with CoSB, NTS carried out re-assessment of financial capability on three different occasions viz. in the years 2000, 2004 and in 2011. On first occasion, DGH carried out (May 2000) assessment of financial capability and informed (September 2000) NTS that net worth of CoSB was positive and it had sound financial health. Accordingly, NTS decided (February 2001) to process the PSC. However, final decision was not taken due to techno-legal issues. On second occasion in August, 2004, NTS again asked DGH to carry out assessment of financial capability of CoSB. Based on the inputs provided (October 2004) by DGH and MoF, NTS concluded that CoSB was financially capable to meet its obligations as envisaged in PSC. However, before processing of PSC for finalisation, NTS raised (April 2005) the issue of applicability of rates for cess and royalty and final decision could not be taken. And finally on third occasion, in NTS meeting (October 2011), the issue of negative net worth of the successful bidder partner was again raised and it was decided to freshly ascertain the present net worth of CoSB. The issue was further raised on two occasions by one of the members of the NTS through letters to MoPNG (November, 2011 and February,

2012). Meanwhile, in January, 2012, the CoSB partners submitted the net worth certificates issued by their statutory auditors, indicating a positive and higher net worth than that ascertained in earlier assessments. The Ministry submitted that it was not that the financial capacity of CoSB was assessed in respect of only Ratna & R Series Fields. This was done for bids in respect of other fields as well. During the NTS meeting held on 02.03.2000, NTS decided that financial strength of all the awardee companies should be evaluated based on the latest available information. NTS authorized DGH to obtain necessary information from the awardee companies and evaluate their financial strength and submit the position. During the subsequent NTS meeting held on 18.07.2000, NTS noted that according to the assessment carried out by DGH, all the awardee companies, except for Essar Oil, were financially capable. According to the Ministry, the bidding of field is an important economic decision and should be taken with due caution after ascertaining all the related aspects and the reassessment of financial capability was necessitated to adjudge the updated financial position and strength of the CoSB to ensure that they are financially capable to meet the obligations as envisaged in PSC in the current date. The Committee are of the view that delays in taking final decision led to the need for fresh assessments of the financial capability of CoSB, which contributed to further avoidable delays. The Committee are of the opinion that PSC for R&RS fields could have been concluded on the basis of the assessment of financial capability of CoSB carried out by the DGH in 2000, as was done in case of 11 other fields. The

Committee while observing that the NTS unnecessarily dragged the issue for 17 years, expect a high powered body to be dynamic in their actions. The Committee feel that the whole process of reassessing financial health could have been avoided, had the NTS adhered to its target of 6 months. The Committee also desire to know the exact details of the extension of mandate given to the NTS beyond their stipulated time period of six months.

4. *Deliberations on the issues - Techno-legal and Royalty and Cess:*

The Committee note that frequent deliberations were held on certain techno-legal issues from February, 2001 to April, 2005 among the Ministry of Petroleum and Natural Gas (MoPNG), the Ministry of Law and Justice (MOL&J) and the Ministry of Finance (MOF). Various rounds of clarifications and confirmations were sought though the Secretaries of all these three ministries were the members of NTS.

Further, CCEA had approved (March 1999) freezing of the rates of levy of royalty and cess prevailing at the time of bidding which had been applied in 11 other fields (excluding R&RS fields) and accordingly PSCs signed between February, 2001 and February, 2004 for the same. The Committee note that during deliberations NTS observed that a long time had elapsed and there had been significant change in the oil price market and advised (April, 2005) that the stakeholders of R&RS fields may be asked to confirm payments of statutory levies at the current level rather than those prevailing in 1995. Despite initial negation, ONGC (May, 2005) and CoSB (August,

2012) also accepted payment of Royalty and cess at current rates with updated Cost Recovery Limits (CRL) based on current costs. The Committee further observe that despite clear opinion on the issue of Royalty and cess by the AGI and MoL&J, the issue was repeatedly raised and referred among various Ministries although the Secretaries were part of NTS.

ONGC in their submission for their acceptance of current rates of royalty and cess has stated that since ONGC intended to get back the R&RS field, it was strategic decision to agree for the then current rates of cess and royalty as ONGC would have to pay the statutory levies at prevailing rates (as applicable under the Nomination regime) in case the field was reverted to ONGC. Further, ONGC obtained the opinion of Solicitor General (SG) (20 May, 2005) which advised that applying earlier rates of cess and royalty would cause huge public loss. On the eventual acceptance of CoSB for payment of cess and royalty at current rates with updated cost recovery limit (CRL), the Ministry in their replies has detailed the sequence of events and submitted that that number of factors triggered by high ruling prices of crude oil @58 dollars per barrel in 2005, as compared to when the field was awarded (@ US \$ 16 per barrel) and its significant impact on the Government revenues in the form of statutory levies eventually contributed to acceptance by the CoSB for payment of royalty and cess at the current rates with updated Cost Recovery Limits (CRL). The Ministry's reply need to be seen in the light that the matter that seemed to have held up the signing of contract was purely technical and the C&AG report reveals that the delay itself was avoidable. If the

technical issues including the frequently deliberated issue of applicability royalty and cess were so insurmountable, nothing prevented the issue being resolved through a panel of technical and legal experts. The disputes between CoSB and the NTS/Government of India could have been resolved through a process, similar to arbitration. The NTS could have concluded the PSC for R&RS fields with the stakeholders alongwith 11 other fields and complete its mandate rather than referring and complicating the matter further thus providing scope for deliberations and disagreement amongst its own members. The Committee desire to be apprised of the reasons as to why this particular issue was not brought to notice of the Cabinet for appropriate and timely decision.

5. *Reimbursement of past-cost and non-maintenance of idle facilities:*

The Committee note that Audit in their report has referred to the issue of reimbursement of past-cost and non-maintenance of idle facilities. The Committee understand that ONGC had created facilities in Ratna R-12 field at a cost of ₹472.55 crores. These facilities were used by the Company for production since 1983. It obtained a mining lease for the field in 1986 with a validity upto February 2001. When the field was offered for private parties, ONGC stopped production with effect from September, 1994. After adjusting the tax benefits and revenue enjoyed by ONGC from the field, the net past cost that remained to be compensated to ONGC was ₹270.46 crores. It is seen that CCEA directed the Ministry in March, 1999 for the past cost

compensation in consultation with Ministry of Finance and Planning Commission. The need for settlement of the above compensation amount was also highlighted in the Report No. 5 of 1996 and follow-up Audit Report No.6 of 2005 of Union Government (Commercial). Despite the direction of CCEA in 1999 and the audit observations twice in 1996 and 2005, the issue remained unresolved. ONGC in its submission stated that it had been highlighting the issue of repair/maintenance of the facilities through its various communications and during the meeting of Negotiating team of Secretaries (NTS) and requested for confirmation regarding decision on re-imbursement of such cost. Though NTS has deliberated on the need to facility maintenance, but cost re-imbursement issue was always kept pending and no firm decision in this regard was ever been conveyed to ONGC. Further, the Ministry (August, 2015) has acknowledged that the issue of reimbursement of past cost to ONGC was another significant issue in making the field operational and monetizing the field reserves. Also the cost incurred by ONGC on maintenance and security of R&RS fields over the years would require consideration based on number of possible alternatives. The Committee are dismayed to find that despite CCEA directions (March, 1999) and clear clause (Article 15.1) mentioned in draft PSC, MoPNG did not evolve modalities for past cost compensation to ONGC and neither the NTS forum proved productive and useful for addressing the significant and important issue of maintenance of the facilities created at the fields. The Committee observe that even though the consortium would have been operating the field, still ONGC had to hold 40% of its PI. The Committee further note from the observation of

the Audit that the ONGC and MoPNG allowed 'plundering and looting' of platform utilities and equipment in the absence of appropriate security system showing lack of their seriousness to preserve and conserve facilities that were created by ONGC (₹ 472.55 crore). Further, the stand taken by ONGC (May, 2005) while agreeing to current rates of royalty and cess on the grounds that since ONGC intended to get back the field, the same 'strategic' benefit and foresightedness could have been applied by ONGC on maintenance of the created facilities and thus avoided the expenditure amounting to ₹ 1085.7 crore involved in estimated repair cost of the facilities. Now, with the decision of the Government to cancel the award to the consortium and reverting the fields to ONGC, the Committee feel that the ONGC could have pursued the matter more vigorously with the Ministry and in-turn NTS to get the matter resolved. The Committee further opine that non-maintenance of oil producing fields by ONGC and subsequent plundering and looting from the sites is a sheer failure of a Public Sector Undertaking in looking after the nation's property. The Committee feel that ONGC should have maintained the fields as being a PSU it would have anyway recovered all its expenses sooner or later. The Committee, therefore, desire that the concerned officials of ONGC be held responsible for this gross negligence and action be initiated against them.

6. *Fixing of responsibility towards delay in non-execution of mandate:*

The Committee note that the CCEA (March, 1999) approved conclusion of contract keeping the cess and royalty at the level prevailing at the time of inviting bids and also asked NTS to finalise the PSC within six months. Despite the above decision of CCEA and the fact that PSCs for rest of 11 fields from the bundle of 12 fields offered simultaneously under similar terms and conditions had been finalised and signed till the end of 2004 and opinion of AGI to go for finalisation of PSC and recommendation of NTS (April, 2006) for conclusion of PSC, the Ministry (January, 2008) sent a fresh note to CCEA for an appropriate decision. CCEA Note was returned by the Cabinet Secretariat to obtain unambiguous recommendations of NTS on certain issues. NTS forwarded its unambiguous recommendations in March 2008. MoPNG submitted (June, 2008) the Note to CCEA, agreeing with NTS recommendations. Unfortunately, Cabinet Secretariat again returned (July, 2008) the Note to make certain modifications/corrections relating to some deficiencies. A proposal for modification in the Note to CCEA was approved on 09 July, 2008. However, when the new Secretary, MoPNG joined on 01 August, 2008, the matter was again re-examined in MoPNG and it was decided that NTS should consider the matter once again, with a view to analysing in detail the various alternatives available along with their financial implications. The Ministry's changed stance led to series of deliberations and clarifications which had ultimately contributed to the delay in decision.

Further, Audit while working on financial implications due the indecision on R&RS fields, have indicated that the country has lost oil and gas production worth more than ₹ 26,200 crores; Government's potential revenue to the tune of ₹ 1105 crore on account of royalty and cess and avoidable expenditure of ₹1085.70 crore towards repair and re-development of the R&RS fields.

The Ministry in their submission has stated that that the matter was re-examined (August, 2015) by it and it was observed that NTS had earlier not analysed in detail the alternatives available and had just reiterated the earlier recommendations. Thus, in order to fully comply with the directions of Cabinet Secretariat, NTS should consider the matter once again with a view to analyse in detail the various alternatives available along with the financial implications. MoPNG further informed that a CCEA Note dated 02 May, 2014 was sent to the Cabinet Secretariat regarding issues relating to the finalisation of PSC for R&RS fields. However, due to change of Government in May, 2014, the circulated Note was not considered by CCEA at that time. Similarly the Ministry in their written submission to the issues posed before them in the matter has stated that time taken in the process of approval, being dependent on many relevant factors to be considered while taking a call on the issue, may not necessarily be seen as a delay because the decision makers in the process of final settlement and resolution of matters of disagreement have to be sure in all aspects and get satisfactory reply of their all queries. Also while reasoning with the question posed to the Ministry for fixing of responsibility and accountability on taking final decision

on PSC, the Ministry has submitted that the R&RS fields have been reverted to ONGC and in view of the reasons explained it may not be a fruitful exercise towards fixing of accountability. Further, during the oral evidence tendered before the Committee, on reference drawn to the alleged role of particular Joint Secretary (Exploration) during the negotiation stage of the contract, the Committee sought explanation from the Ministry. However, the silence of the Ministry and not providing the details of the information sought by the Committee speaks volume about the reasons behind the muddle created over the abnormal and unique delay of over 25 years of the policy decision (1991), 20 years of award (1996) and 17 years of CCEA approval (1999) in awarding the contract to the consortium and finally reverting the R&RS fields to the original allottee i.e., the ONGC again. Further, while coming to the Audit's calculation of financial implication, the Ministry has termed it as 'notional figures' since no crude oil/natural gas has been produced from these fields and hydrocarbon reserves from these fields would still be in place. The Committee are of the opinion that the circumstances under which the Cabinet Secretariat returned the note on piecemeal basis and why the Cabinet Secretariat could not pursue the implementation of CCEA are required to be examined. Further, the coming of new Secretary, MoPNG on 1 August, 2008 should have facilitated and expedited the process of concluding and finalizing the terms of PSC rather than delaying and complicating the matter further. The Cabinet Secretariat, being the nodal agency for all matters relating to Cabinet, including implementation of the decisions by the Cabinet and its committees, as expected should have taken the lead to resolve the issue when it became evident that the MoPNG was

unable to make up its mind. When there were differences of opinion between the NTS and the Ministry and between the Ministry and the Cabinet Secretariat, the inter-departmental consultation should have been upgraded to Empowered Committee of Secretaries or Group of Ministers or Empowered Group of Ministers. The Committee are further dismayed to note as to why Cabinet Secretariat had not taken this initiative. The Committee on unfolding and carefully scrutinizing the sequence of events that took place since the issue of letter of award (March, 1996) and decisions made either by the Ministry or the NTS or CCEA or the Cabinet Secretariat in the R&RS field clearly portrays itself as a classic case of system failure. The Governments and officials may come and go but the responsibility for execution of the policy decisions of the Government lies with the efficiency and zeal of executors to implement and pass on the benefits of sustainable development to future generations of the country. The Committee, therefore, desire that when decision to form high-powered body like NTS are taken in future by the Government for execution of its decision, adequate monitoring mechanism be put in place and ensure timely intervention and execution of decisions taken in the national interest.

Further, coming to the financial implications calculated by the Audit and the Ministry terming it as 'notional loss' needs to be seen in the perspective that country like India, being a net importer of hydrocarbon resources for fulfilling its energy requirements, the Committee are of the firm view that the indecision of the Government till 10 March, 2016 for award of R&RS fields has seriously deprived

the country of its own resources for more than two decades (since ONGC stopped its production in 1994). Further, expenditure on repairs due to non-maintenance of fields for more than two decades will result in actual losses. Further, the Committee are of the strong opinion that Ministry should have atleast asked ONGC to maintain the R&RS fields during the period of negotiations. The Committee seriously deprecate the Ministry's indecision on all the related issues till 10 March, 2016 which has directly compromised the national interest on energy security and desire that stringent action may be taken in this matter. The Committee also desire that responsibility of all the officials of the Ministry for indecision and their role in this regard be fixed and action taken against them under intimation to the Committee.

NEW DELHI;
15 December, 2016
24 Agrahayana, 1938 (Saka)

PROF. K.V. THOMAS
Chairperson,
Public Accounts Committee.

**MINUTES OF THE FIRST SITTING OF THE SUB-COMMITTEE - VIII OF
PUBLIC ACCOUNTS COMMITTEE (2015-16) HELD ON 3RD FEBRUARY,
2016.**

The Sub-Committee - VIII (Hydrocarbon Production Sharing Contracts) of Public Accounts Committee sat on Wednesday, 3rd February, 2016 from 1130 hrs. to 1245 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Sukhendu Sekhar Roy - Convenor

MEMBERS

LOK SABHA

2. Shri S.S. Ahluwalia
3. Dr. P. Venugopal

RAJYA SABHA

4. Shri Bhubaneswar Kalita
5. Shri Vijay Goel

LOK SABHA SECRETARIAT

1. Shri A. K. Singh - Additional Secretary
2. Shri Tirthankar Das - Additional Director
3. Smt Bharti Tuteja - Deputy Secretary

**REPRESENTATIVES FROM THE OFFICE OF THE COMPTROLLER AND
AUDITOR GENERAL OF INDIA**

- | | | | |
|----|--------------------------|---|-----------------------------------|
| 1. | Shri Prasenjit Mukherjee | - | Dy C&AG cum Chairman, Audit Board |
| 2. | Shri A.M. Bajaj | - | Director General (Commercial) |
| 3. | Shri Mala Sinha | - | Director General (ESM) |
| 4. | Shri Manish Kumar | - | Principal Director (PAC) |

2. At the outset, the Convenor welcomed the Members and the Audit Officers to the First Sitting of the Sub-Committee-VIII. The Convenor, then, apprised the Members on the specific mandate given to the Sub-Committee i.e., to examine the subjects "Hydrocarbon Production Sharing Contracts" based on C&AG Report Nos. 19 of 2011-12 and No.24 of 2014 and Report No. 43 of 2015 (Compliance Audit) on "Ratna and R-Series Hydrocarbon Fields" and briefly detailed on the background to the sittings so far held by the Main Committee of PAC on the C&AG Report Nos. 19 of 2011-12 and No.24 of 2014.

3. Thereafter, the Officers of the C&AG of India briefed the Sub-Committee about the significance of the latest report i.e., Report No.43 of 2015 on "Ratna and R-series Hydrocarbon Fields". It was followed by two presentations prepared by the Audit highlighting important aspects contained in their reports.

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The second presentation prepared on C&AG's Report No. 43 of 2015 highlighted the main observations made by the Audit on the various issues covered in the Audit Report. The Members then raised queries particularly on figures of production when ONGC stopped its commercial production from the oil field in September 1994 and also of the methods for arriving at the figures while calculating the royalty and cess. The Officers from the C&AG of India then clarified some of the issues raised by the Members and

assured that the information as desired by the Members would be furnished to the Sub-Committee expeditiously. The Convenor then thanked the representatives of the Office of the C&AG of India for briefing on important aspects of the three Audit reports to the Sub-Committee in connection with examination of the subject.

4. The Convenor also discussed with the Members of the Sub-Committee about the Compliance Audit Report No. 43 of 2015 on "Ratna and R-Series Hydrocarbon Fields" and decided to deal them separately from the previous two Audit Reports on "Hydrocarbon Production Sharing Contracts" i.e., Report No. 24 of 2014 and Report No. 19 of 2011-12 (Performance Audit).

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The Sub-Committee then adjourned.

**MINUTES OF THE SIXTH SITTING OF THE PUBLIC ACCOUNTS
COMMITTEE (2016-17) HELD ON 12TH JULY, 2016.**

The Public Accounts Committee sat on Tuesday, the 12th July, 2016 from 1430 hrs. to 1630 hrs in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Prof. K.V. Thomas

Chairperson

MEMBERS

LOK SABHA

2. Shri Prem Singh Chandumajra
3. Shri Nishikant Dubey
4. Prof. Richard Hay
5. Shri Bhartruhari Mahlab
6. Shri Janardan Singh Sigriwal
7. Shri Abhishek Singh
8. Shri Anurag Singh Thakur
9. Dr. P. Venugopal

RAJYA SABHA

1. Shri Naresh Agarwal
2. Shri Bhubaneswar Kalita
3. Shri Shantaram Naik
4. Shri Sukhendu Sekhar Roy

LOK SABHA SECRETARIAT

1. Shri A. K. Singh - Additional Secretary
2. Shri Sukhichand Chaudhary - Joint Secretary
3. Shri T. Jayakumar - Director
4. Smt Bharti Tuteja - Deputy Secretary

REPRESENTATIVES FROM THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Shri H. Pradeep Rao - Dy. C&AG cum Chairman (Commercial)
2. Shri V. Kurien - Director General (Commercial)
3. Smt Mala Sinha - Director General (ESM)
4. Smt Parma Sen - Principal Director (Commercial)
5. Ms. Roop Rashi - Principal Director (Commercial)

REPRESENTATIVES FROM MINISTRY OF PETROLEUM AND NATURAL GAS (MoPNG) AND ONGC

1. Shri K D Tripathi - Secretary, MoPNG
2. Shri Ajay Prakash Sawhney - AS
3. Shri Amar Nath - JS
4. Shri D K Sarraf - CMD, ONGC
5. Shri T K Sengupta - Director, Offshore

2. At the outset, the Hon'ble Chairperson welcomed the Members, the officers of Comptroller and Auditor General of India, the Secretary, Ministry of Petroleum and

Natural Gas, the CMD, ONGC and other representatives of the Ministry and ONGC to the sitting of the Committee. Thereafter, the Chairperson apprised the Members of the Committee that the sitting has been convened to look into the audit observations on the subject "Ratna and R Series Hydrocarbon Fields" based on C&AG Report No. 43 of 2015.

2. In the introductory remarks, Hon'ble Chairperson made observations specific to the issues raised by the C&AG in the Report and highlighted it as the rarest of rare cases of extraordinary negligence and inefficiency which *inter-alia* included (i) non-finalisation and conclusion of Production Sharing Contract (PSC) within six months despite approval of CCEA in March, 1999 for completion of negotiations and signing of PSC; (ii) depriving the country for over a decade of valuable oil and gas resources due to delays in awarding the R & RS fields; (iii) cancellation of contract (awarded to the consortium in 1996) in the year 2016; (iv) the disputes between COSB and the NTS/Government of India that could have been resolved through a process, similar to arbitration; (v) Ministry's changed stance after assuming of charge of new Secretary, MoPNG in August, 2008 that has led to series of deliberations and clarifications which had ultimately contributed to the delay in decision; (vi) circumstances under which the Cabinet Secretariat returned the CCEA note on piecemeal and why the Cabinet Secretariat could not pursue the implementation of CCEA; (vii) the reasons for avoidable delays that could have been addressed by timely intervention of the NTS and the Cabinet Secretariat; (viii) the calculated silence and inaction on part of officials of NTS in resolving the differences on the terms and conditions involved in the Production Sharing Contract; (ix) perusal of ACRs/APARs of all officers in the NTS/assisting the

NTS for the Committee to examine the co-existence of inefficiency and negligence; (x) financial impropriety brought out by the audit related to non-maintenance of idle facilities and issue of past cost compensation to ONGC. Thereafter, the Chairperson asked the Secretary, MoPNG to give a brief account of the latest status of the follow-up remedial action taken on the Audit findings and improvements effected so far.

3. The Secretary, MoPNG, thereafter replied to various queries raised by the Members during the course of discussion particularly matters related to the delay in carrying out the implementation of decision of CCEA regarding signing of PSC with the Consortium of Successful Bidders (CoSB) in a time bound manner; need for reassessing the financial capabilities of the consortium, reasons behind stopping of production of crude oil and gas from 1994 onwards and non-maintenance of fields by ONGC.

4. However, on reference drawn to the alleged role of one particular Joint Secretary during the negotiation stage of the contract, the Members sought explanation from the Ministry. Afterwards, the Secretary, MoPNG and CMD, ONGC responded to various queries and clarifications sought by the Members on issues specific to the Audit findings on the Report.

5. At the concluding stage of deliberations, the Chairperson asked the Secretary, MoPNG to furnish written replies to the points/issues which remained unanswered within 10 days to decide on whether there is need for one more sitting on the subject or straightway present the report to the Parliament.

6. The Hon'ble Chairperson then thanked the representatives of the Ministry and ONGC for appearing before the Committee and furnishing the available information on several issues on the subject.

The witnesses, then, withdrew.

A verbatim copy of the proceedings has been kept on record.

The Committee, then, adjourned.

MINUTES OF THE TWENTIETH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2016-17) HELD ON 15th DECEMBER, 2016.

The Committee sat from 1015 hrs. to 1055 hrs. on 15th December, 2016 in Room No. "51", Parliament House, New Delhi.

PRESENT

Prof. K. V. Thomas - Chairperson

MEMBERS

LOK SABHA

2. Shri Nishikant Dubey
3. Prof. Richard Hay
4. Smt. Riti Pathak
5. Shri Janardan Singh Sigriwal
6. Shri Abhishek Singh
7. Dr. Kirit Somaiya
8. Shri Shivkumar C. Udasi

RAJYA SABHA

9. Shri Bhupender Yadav
10. Shri Bhubaneswar Kalita
11. Shri Shantaram Naik
12. Shri Ajay Sancheti

LOK SABHA SECRETARIAT

1. Shri S.C. Chaudhary - Joint Secretary
2. Shri Tirthankar Das - Additional Director
3. Smt. Bharti S. Tuteja - Deputy Secretary

REPRESENTATIVES FROM THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Shri Rakesh Jain - Deputy CAG (RC/LB)
2. Shri Manoj Sahay - Principal Director of Audit (AB)
3. Shri Mukesh P. Singh - DGACE

2. At the outset, the Chairperson, PAC welcomed the Members to the Sitting of the Committee. Thereafter, the Committee took up the following draft Reports for consideration: -

(i) ***

(ii) Draft Report on 'Ratna and R-series Hydrocarbon Fields' based on C&AG Report No. 43 of 2015.

(iii) ***

3. The Chairperson invited suggestions of the Members on the above mentioned draft Reports. After discussing the draft Reports, the Committee adopted draft Reports at Sl. No. (ii) and (iii) with minor changes/modifications. ***

4. The Committee authorized the Chairperson to finalize the adopted Reports in the light of verbal discussion and consequential changes arising out of the suggestions given by the Members and factual verification by the Audit and present the same to Parliament.

5. It was further decided that henceforth the Public Accounts Committee will hold its sitting every Friday in the week.

The Committee then adjourned.
