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India's Oil & Gas Sector— at a Glance

From NELP to HELP and Beyond

March 2025

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Glossary

Abbreviation	Particulars
Constitution	Constitution of India, 1950
DGH	Directorate General of Hydrocarbons
E&P	Exploration and Production
FDI	Foreign Direct Investment
HELP	Hydrogen Exploration and Licensing
IBEF	India Brand Equity Foundation
MoPNG	Ministry of Petroleum and Natural Gas
NELP	New Exploration Licensing Policy
ONGC	Oil and Natural Gas Corporation
O&NG	Oil and Natural Gas
OIDB	Oil Industry Development Board
PSC	Production Sharing Contracts
PSU	Public Sector Undertaking
Regulatory Board	Petroleum and Natural Gas Regulatory Board
OPEC	Organization of Petroleum Exporting Countries
LNG	Liquefied Natural Gas
MMT	Million Metric Tonne
DIPP	Department of industrial Policy and Promotion
BCM	Billion Cubic Meters
MT	Million tonne
BPCL	Bharat Petroleum Corporation Limited
Oil Fields Act	The Oilfields (Regulation and Development) Act, 1948
Petroleum Rules	Petroleum and Natural Gas Rules, 1959
PNG Regulatory Board Act	The Petroleum and Natural Gas Regulatory Board Act, 2006
ITA	Income-tax Act, 1961
MAT	Minimum Alternate Tax
DDT	Dividend Distribution Tax
STT	Securities Transfer Tax
HUF(s)	Hindu Undivided Family
MLI	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
BEPS	Base Erosion and Profit Shifting
GAAR	General Anti-Avoidance Rules
CBDT	Central Board of Direct Taxes
VAT	Value Added Tax

Glossary

GST	Goods and Services Tax
CGST	Central GST
SGST	State GST
IGST	Integrated GST
Oil Development Act	Oil Industry (Development) Act, 1974
OISD	Oil Industry Safety Directorate
DSF Bid Round	Discovered Small Fields Policy 1 and Bidding Round
DSF Policy	Discovered Small Fields Policy
CCUS	Carbon Capture Utilization and Storage
OALP	Open Acreage Licensing Policy
NDR	National Data Repository
EOI	Expression of Interest
NIO	Notice Inviting Offers
LRP	Lower revenue Point
HRP	Higher revenue Point
NPV	Net Present Value
RSC	Revenue Sharing Contract
MSRC	Model Sharing Revenue Contract

Introduction

India is one of the fastest growing major economies in the world and the third largest consumer of petroleum products, after US and China.¹ Although there is an increased focus on incentivising energy production through gas and renewables, demand for oil has always been on the rise, and is estimated to grow at least until 2040.² As per the report published by India Brand Equity Foundation (IBEF),³ India's energy demand is expected to nearly double to 1,123 million tonnes of oil equivalent (Mtoe) by 2045 from 723.9 Mtoe in 2016. Moreover, India's share in global primary energy consumption is projected to increase by two-folds by 2045.⁴

India's crude oil imports increased by 3.7 percent during the first nine months of the fiscal year 2024-25, reaching USD 102.5 billion, up from USD 98.8 billion in the same period of the previous fiscal year.⁵ According to the Organisation of Petroleum Exporting Countries (OPEC), India's oil demand in 2024 is projected to be at 5.59 million barrels per day (b/d), up from 5.37 million b/d in 2023, resulting in a growth of 4.1%, thereby making it the third-largest oil consuming nation in the world. Over 2024 and 2025, India accounts for 25% of total oil consumption growth globally. We expect an increase of 0.9 million barrels per day (b/d) in global consumption of liquid fuels in 2024.⁶ India is the fourth-largest Liquefied Natural Gas (LNG) importer after Japan, South Korea and China, and accounts for approximately 7 percent of the total global trade.⁷

India's petroleum product consumption recorded a 3.5% growth during April - January FY 2024-25, reaching 199.2 million metric tonnes (MMT), compared to 192.5 MMT in the same period of the previous year. India has always been an import dependent nation in the Oil and Natural Gas ("O&NG") sector. India's total consumption of crude oil or petroleum products rose 4.6% in fiscal 2023-24 (FY24) to 233.3 million metric tonnes (MMT), while domestic production of crude oil rose marginally at 0.6%. The domestic crude oil production was almost unchanged at 29.4 MMT in 2023-24, compared to 29.2 MMT in the previous year. India's domestic crude oil production barely met 12.3% of its oil needs.⁸ Natural gas production has shown a more promising trend, with an increase in domestic output driven by deepwater projects in the Krishna-Godavari basin and the north-east. India's natural gas production in FY25 was estimated at 35 billion cubic meters (BCM)⁹, which previously stood at 32.249 billion cubic meters in 2017.¹⁰

In India, the O&NG industry has huge potential and contributes over 15% to the GDP. The landscape in the O&NG sector promises to be dynamic with scope for growth of business entities. This industry has always attracted foreign direct investments, and according to data released by the Department of Industrial Policy and Promotion (DIPP), the petroleum and natural gas sector attracted FDI worth USD 8,200.84 million

1 Available at <http://www.thehindubusinessline.com/specials/year-in-review-cautiousoptimism-has-retained-across-the-industry-Indian-oil-chief/article10007043.ece>.

2 Available at <http://www.livemint.com/Opinion/FJMgDDggOkPZ05qounbRJM/India-time-to-capitalize-on-oil-and-gas-sector.html>.

3 IBEF is a trust established by the Department of Commerce, Ministry of Commerce and Industry, Government of India. IBEF's objective is to promote and create international awareness of the Made in India label in markets overseas and to facilitate dissemination of knowledge of Indian products.

4 Available at https://www.ibef.org/download/1736234704_Oil-and-Gas-November-2024.pdf.

5 Available at <https://www.businessworld.in/article/indias-crude-import-bill-rises-by-37-in-april-december-fy25-545240?utm>.

6 Available at <https://www.eia.gov/todayinenergy/detail.php?id=64084&utm>.

7 Available at <https://timesofindia.indiatimes.com/india/indias-lng-imports-jumped-21-in-2024-as-gas-consumption-rose-11/articleshow/117435636.cms?utm>.

8 Available at <https://www.livemint.com/economy/indias-crude-oil-consumption-up-4-6-in-fy24-output-rises-marginally-at-0-6-imports-steady-ppac-11713885600547.html?utm>.

9 Available at <https://energyasia.co.in/featured/economic-survey-2024-25-indias-oil-and-gas-sector-outlook/#utm>.

10 Available at <https://economictimes.indiatimes.com/industry/energy/oil-gas/yearthat-saw-oil-gas-production-switch-to-revenue-sharing-mode/articleshow/62306282.cms>.

Introduction

between April 2000 and September 2024.¹¹ With only 10% of the total 3.36 million sq. km of potential reserves being explored as of 2024, India's potential in the oil and gas sector is immense and there exists vast headroom for new discoveries.¹²

There has also been an increase in the refining of petroleum products in India. IBEF's report suggests that in financial year ended March 2024, India had 256.8 MMTPA of refining capacity, making it the second largest refiner in Asia. The rise in refined petroleum products is primarily driven by the massive domestic market. Separately, the Government of India's push towards a gas-based economy¹³ is estimated to present new investments and opportunities in this area. India's focus on a gas-based economy is in line with the global commitment made at the Paris meeting on climate change, which aims to reduce India's carbon emissions by up to 35% from 2005 levels by 2030 and producing 40% of the power from non-fossil fuel sources by 2030. These developments present an opportunity for India's downstream and midstream oil and gas sectors.

The market size of the Indian chemicals and petrochemicals sector is expected to grow to approximately USD 300 billion by 2025, up from its current market size of USD 220 billion.¹⁴ The industry can potentially enhance India's growth through the development of niche products and promotion of exports, given that India is expected to receive investments worth USD 87 billion in the next decade to meet the nation's rising demand for petrochemicals.¹⁵

The Government of India, under the Constitution of India, 1950 ("**Constitution**") has the power to legislate in respect of O&NG. Legislative powers are conferred on the Government of India under Entry 53, to List I of Schedule VII of the Constitution.¹⁶ From an industry perspective, O&NG industry is divided into three major segments:

- **Upstream:** Comprises of activities pertaining to exploration, recovery and production of O&NG. In industry parlance, it is simply called Exploration and Production. ("**E&P**")
- **Midstream:** Processes, stores, markets and transports commodities such as crude oil, natural gas, natural gas liquids (liquefied natural gas such as ethane, propane and butane) and sulphur.
- **Downstream:** Refers to the refining of crude oil and the selling and distribution of natural gas and products derived from crude oil.

11 Available at https://dpiit.gov.in/sites/default/files/FDI%20Factsheet%20December_2024.pdf.

12 Available at <https://futurefuels.in/4-unexplored-indian-basins-may-hold-more-oil/?utm>.

13 Available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=153957>.

14 Available at <https://pib.gov.in/PressReleasePage.aspx?PRID=2066135&utm>.

15 Available at <https://www.reuters.com/business/energy/india-eyes-87-bln-investment-petrochemicals-sector-over-next-decade-says-2024-10-18/?utm>.

16 Regulation and development of oil fields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.

Industry at a Glance

I. Imports in financial year 2023 – 2024¹

Item	Quantity [TMT]	Value [Rs. (billion)]
Crude Oil	234262	11051.76
LNG	23996	11099.4
Petroleum Products	48693	190069

II. Export²

Item	Quantity [TMT]	Value [Rs. (billion)]
Crude Oil	N.A.	N.A.
LNG	N.A.	N.A.
Petroleum Products	62593	39472.3

The key domestic oil and gas companies are:³

Company	Financial Year 2023 total income from operations (USD billion)
Indian Oil Corporation Limited	106.37
Reliance Industries	119.9
Bharat Petroleum Corporation Limited	61.20
Hindustan Petroleum Corporation Limited	55.76
ONGC	19.75
GAIL India Limited	16.16
Oil India Limited	4.52

¹ Available at https://mopng.gov.in/files/TableManagements/IPNG-Statistics-Report_2023-24_Final.pdf.

² Available https://mopng.gov.in/files/TableManagements/IPNG-Statistics-Report_2023-24_Final.pdf.

³ Available at https://www.ibef.org/download/1736234704_Oil-and-Gas-November-2024.pdf.

The key international oil and gas companies operating in India are Cairn India, Shell, BG group and British Petroleum.⁴

III. Major Industry Players⁵

The major industry players in India's O&NG sector currently are:

- i. Upstream Sector: Oil and Natural Gas Corporation (ONGC), Oil India Limited and Crain Energy. ONGC is the largest upstream company in E&P segment accounting for approximately 70% of India's total oil and gas output. During the Financial year 2016, 1,118,000 meters of wells were explored and developed in India, and during the same period, 506 wells were drilled in India.
- ii. Midstream Sector: Indian Oil Corporation, Gas Authority of India Limited, etc. Indian Oil Corporation operates a 14,701 km network of crude, gas and product pipelines, with a capacity of 9406 MMTPA of oil and 20 million metric standard cubic meters per day (mmscmd) of gas.
- iii. Downstream Sector: Indian Oil Corporation, Bharat Petroleum Corporation Limited, Hindustan petroleum, etc. Indian Oil Corporation is the largest company, controlling 11 out of 22 Indian refineries, with a combined capacity of 80.7 MTPA.

4 Available at <https://www.ibef.org/download/Oil-and-Gas-April-2017.pdf>.

5 Available at https://www.ibef.org/download/1736234704_Oil-and-Gas-November-2024.pdf.

Recent Initiatives by the Government of India

As per the IBEF report,¹ the Government of India has taken some key initiatives to promote the oil and gas sector, which are as follows:

- i. The Government of India has announced its plans to merge state oil companies to create integrated oil major. This oil major would then compete globally and utilize the synergy between various state entities for achieving efficiency and cost competitiveness in order to create more value for all shareholders.
- ii. The Government of India plans to build a nine million tonne (MT) refinery in Rajasthan and a 60 MT refinery in Maharashtra, auction oil and gas fields, increase use of liquefied natural gas (LNG). Further, the Government of India is in discussions with Saudi Arabian Oil Co (Saudi Aramco) regarding investments in India.
- iii. The Government of India plans to unveil a new policy for renewing and extending the lease of 28 oil and gas blocks in the country. This initiative is intended to attract more investments into these fields.
- iv. In order to promote clean energy and generate employment, State-run oil firms are planning investments worth (USD 111.30 million) in Uttar Pradesh to improve the liquefied petroleum gas (LPG) infrastructure.
- v. The Government of India is planning to introduce a new policy to encourage the use of biofuels in transport fuel. For this policy, the Government of India is looking at an investment of Rs 1 lakh crore (USD 15.64 billion) in the entire value chain.²

1 Available at https://www.ibef.org/download/Oil_and_Gas-October-_2017.pdf; also see <https://www.ibef.org/industry/oil-gas-india.aspx>.

2 Available at https://www.ibef.org/download/Oil_and_Gas-October-_2017.pdf; also see <https://www.ibef.org/industry/oil-gas-india.aspx>.

Foreign Investment

In O&NG industry, FDI is allowed through the automatic route. FDI is allowed:¹

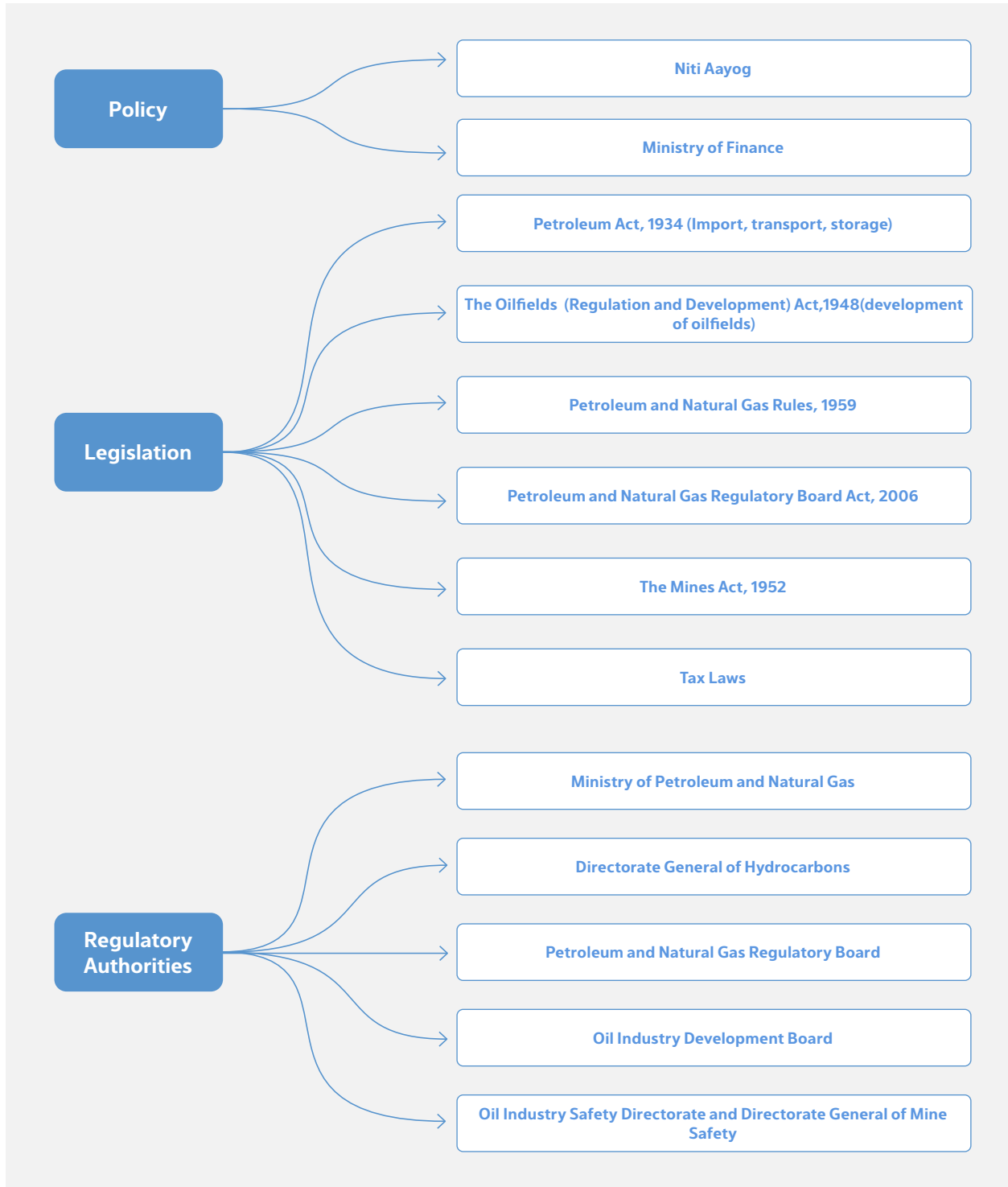
- Up to 100% in areas such as exploration of oil and natural gas fields, infrastructure & marketing related aspects of the industry, refining in the private sector, etc.; and
- Up to 49% in PSUs engaged in petroleum refining. However, in October 2021, the Department of Economic Affairs, Ministry of Finance issued a notification allowing 100% FDI under automatic route for oil and gas PSUs in case an 'in-principle' approval for strategic disinvestment of such PSU has been granted by the Government.² This policy change was aimed at facilitating the privatization of major oil companies, notably Bharat Petroleum Corporation Limited (BPCL), where the government intended to divest its entire 52.98% stake.³

1 Available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=148494>.

2 Available at [https://issuier.ndl.com/docs/\(Third-Amendment\)-NDI-Rules-2021-dated-October5-2021.pdf](https://issuier.ndl.com/docs/(Third-Amendment)-NDI-Rules-2021-dated-October5-2021.pdf).

3 Available at https://www.business-standard.com/article/economy-policy/govt-permits-100-fdi-in-oil-psus-approved-for-strategic-disinvestment-121072901473_1.html?utm.

Regulatory and Legal Framework



I. Legal Framework

A. The main laws affecting the O&NG Industry have been explained below.

- The Petroleum Act, 1934: This act regulates the import into India, transfers within, storage, production, refining and blending of petroleum and deals substantially with midstream activities.
- The Oilfields (Regulation and Development) Act, 1948 (“**Oil Fields Act**”): This act constitutes the basic statute for licensing and leasing of petroleum and gas blocks by Government of India, empowering the government with broad authority to make rules providing for the basic regulation of oilfields and for the development of mineral oil resources. Along with Petroleum Rules, the Oilfields Act governs the grant of Production Exploration Licenses, mining leases and collection of royalties.
- The Petroleum and Natural Gas Rules, 1959 (“**Petroleum Rules**”): These rules provide a framework for grant of exploration licenses and mining leases, and together with the Petroleum Act, 1934, regulate the sale and distribution of petroleum and petroleum products.
- The Petroleum and Natural Gas Regulatory Board Act, 2006 (“**PNG Regulatory Board Act**”): This act provides for the setting up of the Petroleum and Natural Gas Regulatory Board to regulate the refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas (excluding production of crude oil and natural gas).
- New Exploration Licensing Policy (“**NELP**”): NELP was formulated by Government of India and the DGH as the nodal agency in 1997-98 to provide a level playing field to both public and private sector companies in E&P of hydrocarbons, though NELP is not a law by itself and operates as a policy framework. NELP promotes investments in E&P Sector by facilitating allotment of exploration blocks through international competitive bidding. Although the NELP regime was successful in the early days, NELP VIII and IX are often criticized for its failure to attract widespread participation by large international oil and gas operators and since 2009, and it has been the endeavor of Government of India to change the model. NELP has now been replaced by the Hydrogen Exploration and Licensing Policy.
- Hydrogen Exploration and Licensing Policy (“**HELP**”): HELP aims to enhance domestic oil and gas production by encouraging exploration in sedimentary basins and introduces a number of measures including a uniform license regime for conventional as well as non-conventional hydrocarbons, an open acreage licensing policy, a revenue sharing model and freedom in marketing and pricing (subject to certain limits).¹
- The Mines Act, 1952 and the Oil Mines Regulations, 2017: Together these legislations govern labor safety and working conditions in oil and gas extraction activities, setting out the duties of owners, agents and managers as well as penalties for contravention of their obligations.

1 Available at <http://pib.nic.in/newsite/PrintRelease.aspx-?relid=137638>.

B. Taxation Laws

i. Corporate Income Tax

Income tax in India is levied under the Income-tax Act, 1961 (“**ITA**”) read with related rules. For domestic companies, the tax rate ranges between approximately 25% and 30%, plus applicable surcharge and cess.² Generally, a tax rate of 25% plus applicable surcharge and cess is levied on companies with a turnover of less than INR 4 bn,³ while a 30% tax rate plus applicable surcharge and cess is levied on companies with a turnover exceeding INR 4 bn.

Additionally, domestic companies may choose to be taxed at a rate of 22%, plus a 10% surcharge and applicable cess, under Section 115BAA of the ITA, subject to certain conditions. These conditions include: (i) total income being computed without claiming certain specified deductions and exemptions under the ITA (“Deductions”); (ii) the company not being allowed to set off any current or carried forward losses or depreciation if such losses are attributable to the Deductions; and (iii) the company claiming depreciation in the manner prescribed under the ITA barring any claim of additional depreciation under section 32(1) (iia). Once exercised, the option to be taxed under this provision cannot be withdrawn and will continue to apply for subsequent assessment years.

Further, under 115BAB to the ITA, new manufacturing companies set up on or after October 1, 2019, and that start manufacturing on or prior to March 31, 2024, may avail a reduced tax rate of 15% plus a surcharge of 10% and applicable cess subject to meeting certain prescribed conditions, which are largely similar to the conditions applicable for availing section 115BAA.

Non-resident companies are taxed at a rate of 35% plus applicable surcharge and cess⁴, which was reduced from 40% by the Finance Act of 2024. While residents are taxed on their worldwide income, non-residents are only taxed on income arising to them from sources in India. A company is said to be resident in India if it is incorporated in India or has a place of effective management in India.

Minimum alternate tax (“**MAT**”) at the rate of 15% (excluding surcharge and education cess) is also payable on the book profits of a company, when the tax on company’s total income, after considering exemptions, is less than 15% of its book profits. However, this MAT is not applicable to domestic companies opting for taxation under Section 115BAA or Section 115BAB are not liable to Minimum Alternate Tax (“**MAT**”).

Non-residents in the business of supplying plant, machinery, facilities or services in connection with prospecting or extraction of mineral oils are subject to a presumptive tax regime, wherein taxable profits are deemed to be 10% (plus surcharge and education cess) of the gross revenues⁵. A number of special allowances and incentives have been provided which are relevant to the oil and gas industry in India:

- With respect to exploration and production activities, a special allowance may be claimed in relation to infructuous or abortive exploration expenses, drilling or exploration activities, and depletion of mineral oil in the mining area (subject to the terms of the agreement with the Government of India).⁶

² Surcharge on domestic companies is 7%, (if total income is in the range of INR 10 mn – 100 mn) or 12% (if total income exceeds INR 100 mn). Further, health and education cess is levied at the rate of 4% on tax and surcharge, irrespective of amount of total income.

³ For the assessment year (“AY”) 2024-25, the turnover from the previous financial year, 2021-22, will be considered. Similarly, for AY 2025-26, the turnover from 2022-23 will be considered, and so on.

⁴ Surcharge on foreign companies is 2% (if total income is in the range of INR 10 mn – 100 mn), and 5% (if total income exceeds INR 100 mn). Further, health and education cess is levied at the rate of 4% on tax and surcharge, irrespective of amount of total income.

⁵ Section 44BB, Income Tax Act, 1961.

⁶ Section 42, Income Tax Act, 1961.

Regulatory and Legal Framework

- An allowance may be claimed with respect to capital expenditure incurred in laying and operating a cross-country natural gas, crude or petroleum oil pipeline network for distribution, including storage facilities.⁷
- With effect from April 1, 2014, income earned by a foreign company from sale of crude oil to any person in India is exempt from income tax if the income is earned in Indian currency, the agreement is entered into or approved by the Central Government, the agreement and foreign company is specifically notified by the Central Government and the foreign company does not have any other activity in India.⁸ With effect from April 1, 2016, the exemption is also available on income earned by a foreign company from storage of crude oil in any facility in India and sale therefrom to any person resident in India.⁹
- New machinery or plant acquired and installed after March 31, 2005, may be subject to additional depreciation of 20%. Additional depreciation of 35% is allowed on new plant or machinery acquired and installed between April 1, 2015, and April 1, 2020, for the purpose of an undertaking set up after April 1, 2015, in a notified backward area in either of the states of Andhra Pradesh, Telangana or West Bengal.
- Losses of domestic companies can be carried forward and set off against future revenue for a maximum of eight assessment years from the year in which the loss was first computed. However, the Finance Act, 2023 introduced an additional clause in Section 44BB, specifying that the provisions of Section 32(2) and Section 72(1), which allow the set-off of unabsorbed depreciation and carried forward losses, will not apply if a taxpayer elects to declare their business profits under the presumptive taxation scheme for any given year. As a result, taxpayers opting for the presumptive taxation scheme will be ineligible to set off unabsorbed depreciation or carried forward losses. These changes will take effect from April 1, 2024.
- The applicability of section 79 of the ITA is excluded in the case of companies where a change in shareholding takes place pursuant to a resolution plan being approved under the IBC, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner, or Commissioner, of Income Tax. Section 79 of the ITA restricts the ability of a closely held company to carry forward its losses for set off against income earned in future, where there is a substantial change in its shareholding. Essentially, shareholders of the company at the end of the FY in which the loss was incurred must own at least 51% of the shares in that company in the year that the carried forward loss is claimed as a deduction; otherwise, the company loses the ability to carry forward the loss.

ii. Dividends and Share Buy Back

Dividends distributed by Indian companies were previously subject to a dividend distribution tax (“DDT”) at the rate of 20% payable by the company. The Finance Act, 2020 abolished the DDT with effect from April 01, 2020, and reverted to a classical system of taxation of dividend / distributed income in the hands of shareholders respectively, at the applicable income tax rate. Therefore, on payment of dividend there shall be a dividend withholding tax applicable on the company at the time of payment to the shareholders to who can then take credit of the withheld amount while calculating their own taxes. In case of a non-resident recipient of dividends, the withholding tax is levied at the rate of 20% plus applicable surcharge and cess,¹¹ restricted by the rate provided under the relevant tax treaty, if applicable.

As per section 115QA, a domestic company was earlier taxed at the rate of 21.63% (including surcharge and cess) on gains arising to shareholders from distributions made in the course of buy-back or redemption of shares, if the buyback is in accordance with the applicable laws in force. The buy-back of shares was exempt

⁷ Section 35AD, Income Tax Act, 1961.

⁸ Section 10(48), Income Tax Act, 1961.

⁹ Section 10(48A), Income Tax Act, 1961.

¹⁰ Section 194, Income Tax Act, 1961.

¹¹ Section 115A, Income Tax Act, 1961.

from taxation at the hands of the investors (i.e., the shareholders). The Finance Act, 2024 overhauled this provision with effect from 01.10.2024. As per the amended provisions, payments on buy-back by a company, in accordance with section 68 of the Companies Act, 2013, is included within the definition of “dividends”.¹² Therefore, consideration received on buy-back of shares are now taxed as dividends in the hands of the shareholder recipients. Further, the ‘full value of consideration’ for such shares has been deemed to be nil, thereby enabling the shareholder to record a capital loss, which may be carried forward in accordance with the ITA.¹³

iii. Capital gains

Tax on capital gains depends on the period of holding of a capital asset. In general, short-term gains may arise if the asset is held for a period up to 2 years, and long-term gains may arise if the asset is held for a period exceeding 2 years. Gains from alienation of listed shares which are held for a period of more than 12 months are categorized as long term.

Long term capital gains arising on or after 23 July 2024 are taxed at a uniform rate of 12.5%.¹⁴ Long term capital gains on the sale of listed securities on a stock exchange arising (on or after 23 July 2024) from the transfer of listed equity shares, units of an equity-oriented mutual fund, or units of a business trust subject to STT are taxed at the rate of 12.5% where such gains exceed INR 125,000.¹⁵

Short term capital gains arising from sale of listed securities (being listed equity shares or unit of an equity oriented mutual fund on the floor of the recognized stock exchange), (on or after 23rd July 2024), where STT has been paid, are taxed at the rate of 20%¹⁶ (for both, resident and non-resident unit holders), while such gains arising from the sale of other securities and assets are to be taxed as per the ordinary corporate tax rates applicable to the taxpayer (i.e., 35% in the case of non-resident companies).

Further, capital gains on transfer or redemption or maturity of unlisted bond or debenture are characterized as short-term capital gains irrespective of period of holding, and tax rate of such gains is the tax rate applicable to such investor depending on its form and residency.¹⁷

The Finance Act of 2024 has abolished the benefit of Indexation to account for inflation in determining the cost of acquisition of capital assets in computing the capital gains so derived except for individuals and HUFs in certain cases.

iv. Withholding taxes

Tax would have to be withheld at the applicable rate on all payments made to a non-resident, which are taxable in India. The obligation to withhold tax applies to both residents and non-residents. Withholding tax obligations also arise with respect to specific payments made to residents. Failure to withhold tax could result in tax, interest and penal consequences.

¹² Section 2(22)(f), Income Tax Act, 1961.

¹³ Section 46A, Income Tax Act, 1961.

¹⁴ Section 112 of the ITA as amended by the Finance Act of 2024.

¹⁵ Section 112A of the ITA as amended by the Finance Act of 2024.

¹⁶ Increased from 15% by the Finance Act of 2024.

¹⁷ Section 50AA of Income Tax Act, 1961.

v. Double tax avoidance treaties

India has entered into more than 90 bilateral tax treaties for avoidance of double taxation. A taxpayer is taxed under domestic law provisions (i.e., under the ITA) but may avail benefit afforded by the applicable tax treaty. A non-resident claiming treaty relief would be required to file tax returns and furnish a tax residency certificate issued by the tax authority in its home country. The tax treaties also provide avenues for exchange of information between countries and incorporate measures to curb fiscal evasion.

India is also a signatory to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“**MLI**”), in furtherance of the OECD’s Base Erosion and Profit Shifting (“**BEPS**”) project. The MLI is to be applied alongside certain covered tax treaties, modifying their application in order to implement the appropriate BEPS measures which the Contracting States may have opted for. Specifically, the provisions of the MLI require the mandatory amendment of bilateral tax treaties to allow for certain minimum standards to be met. Importantly, the minimum standards include the denial of treaty benefits, if obtaining such benefits was one of the purposes of a transaction resulting in the benefit. From a business point of view, this will create difficulties for businesses, based on the manner of its subjective application. These provisions raise the level of uncertainty when it comes to structuring business operations, and their applicability alongside the recently introduced general anti-avoidance rules (“**GAAR**”) may reduce ease of doing business due to the ambiguity on whether both provisions could potentially be applied at the same time or to the same transaction.

The MLI entered into force on July 1, 2018, following the deposit of the instrument of ratification by a fifth country. For each country ratifying the MLI after the 5th instrument of ratification is deposited, the MLI shall come into force on the first day of the month following the expiry of three months from the date of such deposit. Accordingly, following India’s deposit of instrument of ratification on June 25, 2019, the MLI entered into force for India on October 1, 2019. The MLI will enter into effect for Indian treaties depending on the date of entry into force of the MLI for the corresponding countries and the type of taxation, i.e., withholding or otherwise.

vi. Anti-avoidance

A number of judicial specific anti-avoidance rules are enforced in India. Cross-border transactions between related parties would be viewed for tax purposes on an arm’s length basis. Transfer pricing rules apply to certain specified domestic transactions as well. India also has thin capitalization rules, which provides a cap on the total interest deduction to 30% of a company’s earnings before interest, taxes, depreciation and amortization.

From April 1, 2017, GAAR have been implemented to tax or disregard certain ‘impermissible avoidance arrangements’ that are abusive or lack commercial substance. GAAR targets some of the conventional tax optimization structures for India. Investments made up to March 31, 2017, are grandfathered, and the GAAR applies prospectively, i.e., to investments made after April 1, 2017.

Further, the CBDT has clarified that general and specific anti avoidance rules can co-exist and be applied as and when necessary, as per the facts of the situation. Although the CBDT has noted that anti-abuse rules in tax treaties may not be sufficient to address all tax avoidance strategies and therefore domestic anti-avoidance rules should be applied, it has also clarified that if avoidance is sufficiently addressed by Limitation of Benefits clauses in treaties, i.e., clauses which limit treaty benefits to those persons who meet certain conditions, GAAR would not apply.

vii. Indirect Taxes

Prior to July 1, 2017, indirect taxes were imposed at the federal and state level, which included service tax, customs and excise duty, value added tax (“VAT”) and central sales tax. Most of the indirect taxes have been consolidated into a Goods and Services Tax (“GST”) with effect from July 1, 2017. GST is a harmonized system of tax, which levied on the supply of goods and services in India. It comprises of a three-tier tax structure – Central GST (“CGST”) (levied by the Central Government) and State GST (“SGST”) (levied by respective State Governments) are levied for every intra-state supply, while an Integrated GST (“IGST”) (levied by the Central Government) is levied for every inter-state supply. Further, goods and services are taxed at any of the five prescribed rates – 0%, 5%, 12%, 18% and 28%. Additionally, goods falling under the 28% bracket may also be subject to an additional cess. GST has subsumed several indirect taxes including service tax which was levied on services and central excise, VAT, central sales tax and entry tax which was levied on goods. In respect of import of goods, additional customs duty and special additional duty of customs have been subsumed by IGST while basic customs duty continues to apply, and it varies based on the product. Petroleum products such as crude oil natural gas, high speed diesel, petrol etc. are currently subject to the existing VAT and cesses and shall be integrated into GST from later date as decided by the GST Council.

II. Regulatory Framework

The Indian oil and natural gas industry operates under the supervision of various regulatory bodies that ensure compliance with policies, safety norms, and pricing mechanisms. The major regulatory authorities include:

A. Ministry of Petroleum and Natural Gas (MoPNG)

Under the Government of India (Allocation of Business) Rules 1961, hydrocarbon exploration and exploitation business is transacted through the MoPNG. The MoPNG was established as the nodal agency responsible for overseeing the exploration, production, refining, distribution, and marketing of petroleum products and natural gas in India and administering various legislations, such as the Oil Fields Act. It formulates policies related to licensing, pricing, and foreign investment. MoPNG also supervises state-owned enterprises such as ONGC, Indian Oil Corporation, Bharat Petroleum Corporation Limited, and GAIL (India) Limited.

B. Directorate General of Hydrocarbons (DGH)

The DGH was established under Regulation No. O20013/2/92-ONG, D-III, MoPNG, Government of India on April 8, 1993.¹⁸ The DGH, under the administrative control of the MoPNG, is responsible for the environmental, safety, technological, and economic activities related to the oil and gas industry, through monitoring upstream operations exploration programmes and enforcing production and revenue sharing contracts. The DGH facilitates E&P activities through regulation as well as research. In unexplored or poorly explored areas, the DGH conducts studies, surveys, information drilling, and other related activities.¹⁹ The DGH

¹⁸ Available at <http://www.dghindia.gov.in/assets/downloads/56cc049f79208Resolution.pdf>.

¹⁹ Available at <http://www.dghindia.org/index.php?page?pagelid=24&name=About%20DGH>.

reviews the exploration programs and reservoir production of companies for adequacy and advises the Government of India on such activities.²⁰ Further, the DGH oversees matters concerning production sharing contracts for discovered field and exploration blocks.

C. Petroleum and Natural Gas Regulatory Board (“Regulatory Board”)

The Petroleum and Natural Gas Regulatory Board was established in 2006 in terms of Section 3 (2) of the Petroleum and Natural Gas Regulatory Board Act, 2006.²¹ The Regulatory Board is empowered to regulate the downstream oil and natural gas sector, including refining, processing, storage, transportation, distribution, marketing and sale of petroleum and petroleum products and natural gas, and to foster fair trade and competition amongst oil and gas companies. The Regulatory Board registers entities to market petroleum and natural gas products, establish and operate liquefied natural gas terminals, and establish storage facilities for petroleum, petroleum products, or natural gas that exceed capacity specified by regulations.

D. Oil Industry Development Board (“OIDB”)

The OIDB was established through the Oil Industry (Development) Act of 1974 (“**Oil Development Act**”). This legislation was enacted in response to increasing international prices of crude oil since the 1970s. Accordingly, the Oil Development Act’s purpose was to facilitate increased self-reliance in petroleum and natural gas through various measures such as providing financial assistance to the organizations engaged in development programs of the oil industry. The OIDB renders assistance in the following: (a) prospecting for and exploration of mineral oil within India (including the continental shelf thereof) or outside India; (b) the establishment of facilities for production, handling, storage and transport of crude oil; (c) refining and marketing of petroleum and petroleum products; (d) the manufacture and marketing of petrochemicals and fertilizers; (e) scientific, technological and economic research which could be, directly or indirectly, useful to oil industry; and (f) experimental or pilot studies in any field of oil industry.²²

E. Oil Industry Safety Directorate

Established in 1986, the Oil Industry Safety Directorate (“**OISD**”) functions as a technical body under the MoPNG to implement self-regulatory safety measures in India’s oil and gas sector. It operates under the direction of the Safety Council, which serves as the ministry’s apex body on safety. OISD’s main objective is to establish guidelines for design, operation, and maintenance to uphold high safety standards in a cost-efficient manner. It is structured into various sub-groups focusing on exploration and production, process and engineering, pipelines, and marketing (POL & LPG). Key responsibilities of OISD include overseeing the implementation of the Petroleum and Natural Gas (Safety in Offshore Operations) Rules, 2008, approving offshore operations, carrying out incident investigations and conducting safety audits.²³

20 Available at <http://www.dghindia.org/index.php?page?pageld=24&name=About%20DGH>.

21 For details on power of the Regulatory Board regarding complaints and resolution of disputes, see Section 12 of the Petroleum and Natural Gas Regulatory Board Act, 2006.

22 Available at <http://oidb.gov.in/index1.aspx?sid=187&lev=2&lid=143&langid=1>.

23 Available at https://www.oisd.gov.in/en-in/About_Us.

F. Directorate General of Mine Safety

The Directorate General of Mine Safety is the regulatory agency under the Ministry of Labour and Employment responsible for overseeing occupational safety, health, and welfare of workers employed in coal, metalliferous, and oil mines. This objective is governed under the Mines Act, 1952 and the Rules and Regulations framed thereunder.²⁴

24 Available at <https://www.dgms.gov.in/writereaddata/Content/STATUTORYFRAMEWORK.pdf>.

The Discovered Small Fields Policy and Bidding Round

I. Overview

The Discovered Small Fields Policy and Bidding Round (“**DSF Bid Round**”) was launched in 2016 in order to develop and commercialize production from the already discovered small fields and marks India’s move towards a new era of hydrocarbon production. Forty-six contract areas consisting of sixty-seven fields spread across nine sedimentary basins were offered in this bidding round.² Some of the key fiscal benefits were no oil cess applicable on crude oil production, moderate royalty rates, no upfront signature bonus and pricing and marketing freedom for oil and gas.

Since the launch of the DSF Policy, India has made significant strides in commercializing small oil and gas fields. The initiative was aimed at monetizing previously discovered fields that were considered uneconomical under earlier licensing policies. The DSF Bid Round-I offered 46 contract areas consisting of 67 fields spread across nine sedimentary basins. Key fiscal benefits included exemptions from oil cess on crude oil production, moderate royalty rates, no upfront signature bonus, and pricing and marketing freedom for oil and gas. The round saw considerable interest, with 134 e-bids submitted for 34 contract areas. Ultimately, 22 companies, either singly or in consortium, were shortlisted for 31 contract areas, resulting in the signing of 30 contracts for 43 fields by March 2017.³

Building on the success of the first round, DSF Bid Round-II was launched in 2018. This round offered 59 fields for bidding, with a total of 23 contracts covering 57 fields awarded by March 2019. The round further streamlined regulatory processes and enhanced investment opportunities in the Indian upstream sector. It continued to attract smaller and mid-sized operators, fostering competition and contributing to the efficient utilization of hydrocarbon resources.⁴

In June 2021, DSF Bid Round-III was introduced, offering 32 contract areas with 75 fields across nine sedimentary basins. This round covered approximately 230 million tonnes of oil equivalent, encouraging further participation from both domestic and international operators. The government’s focus on operational flexibility and reduced regulatory burden further incentivized investors.⁵

To maintain momentum, a Special DSF Bid Round was announced in May 2024, offering two offshore fields in the Mumbai basin and one coal bed methane field in West Bengal. Bid submissions for this round are set to close in September 2024. This specialized round reflects India’s commitment to unlocking the potential of smaller fields and achieving energy self-sufficiency.⁶

1 Available at <https://mopng.gov.in/en/pdc/investible-projects/exploration-amp-production/discovered-small-fields-policy>.

2 Available at <https://dghindia.gov.in/assets/downloads/ar/2015-16.pdf>.

3 Available at <https://mopng.gov.in/en/pdc/investible-projects/exploration-amp-production/discovered-small-fields-policy>.

4 Available at <https://pib.gov.in/PressReleasePage.aspx?PRID=1567486>.

5 Available at <https://www.spglobal.com/commodity-insights/en/research-analysis/india-closes-bidding-in-dsf-bid-round-iii.html>.

6 Available at <https://online.dghindia.org/dsf/SpecialDSF>.

As of February 2025, the DSF Policy has attracted investments of approximately USD 2.9 billion, resulting in 56 active contracts. The cumulative production from these fields has reached 0.107 million metric tonnes (MMT) of oil and 0.214 billion cubic meters (BCM) of gas. These developments reflect the significant progress made under the policy in enhancing domestic hydrocarbon production.⁷

Additionally, the enactment of the Oil Field Amendment Bill in 2024 has further strengthened investor confidence. The amendment allows 100% foreign participation, permits continuous exploration throughout the contract period, and aligns fiscal terms with the Hydrocarbon Exploration and Licensing Policy (HELP). These measures are expected to drive further investments and accelerate production from small fields, reinforcing India's energy security objectives.⁸

II. Salient Features of Discovered Small Fields Policy

Some of the key highlights of the DSF Policy were as follows:

- Revenue Sharing contract: A simple and easy way to administer contractual model in line with Government of India's effort to promote ease of doing business.
- Single license for conventional & un-conventional hydrocarbon: Single license in order to explore and extract all types of hydrocarbon resources.
- No restriction on exploration activity during contract period: Contractor was allowed to carry out exploration during the entire contract duration.
- Crude Oil & Gas Pricing and Sale: Freedom to sell crude oil exclusively in domestic market. For gas pricing, contractor had the freedom for pricing of the gas produced.
- Custom duty: Custom duty was exempted on import of goods and services for petroleum operations
- Oil Cess: No oil cess was applicable on crude oil production.⁹
- Allowed up to 100% FDI participation by foreign companies, joint ventures.¹⁰
- No carried interest by National Oil Companies (ONGC, OIL) or state participation.¹¹

As of 2025, the DSF Policy has undergone several updates to further enhance investment and operational efficiency in India's oil and gas sector. The key highlights are as follows:

- Revenue Sharing Contract: The DSF Policy continues to utilize a revenue-sharing model, simplifying administration and aligning with the Government of India's 'ease of doing business' initiative.
- Single License for Conventional and Unconventional Hydrocarbons: A unified license permits the exploration and extraction of all hydrocarbon types, streamlining operations.
- Continuous Exploration Rights: Operators are now allowed to conduct exploration activities throughout the entire contract period, maximizing resource extraction opportunities.¹²

7 Available at <https://economictimes.indiatimes.com/industry/energy/oil-gas>.

8 Available at <https://theprint.in/economy/new-oil-field-amendment-bill-has-made-small-oil-fields-investor-friendly/2555871/>.

9 Available at http://182.19.5.116/dsf/Content/pdf/MFP_Gazzattee_notification.pdf.

10 Available at http://182.19.5.116/dsf/Content/pdf/04_DG_Presentation_Dubai.pdf.

11 Available at http://dghindia.gov.in/assets/downloads/58a463707a613DSF_Press_Release_150217.pdf.

12 Available at <https://www.tice.news/tice-trending/oil-field-amendment-bill-2024-a-boost-for-indias-energy-sector-8878942>.

The Discovered Small Fields Policy and Bidding Round

- Crude Oil and Gas Pricing and Sales: Contractors have the freedom to sell crude oil exclusively in the domestic market and can set their own gas prices, fostering a competitive energy market.¹³
- Custom Duty Exemptions: Imports of goods and services for petroleum operations remain exempt from custom duties, reducing operational costs.
- Oil Cess: No oil cess is applicable on crude oil production, further incentivizing production.
- Foreign Direct Investment (FDI): The Oilfield (Regulatory and Development) Amendment Bill, passed in March 2025, allows up to 100% FDI participation, attracting advanced technology and expertise to the sector.¹⁴
- National Oil Companies (NOCs) Participation: There is no carried interest by NOCs such as ONGC and OIL, encouraging private and foreign investment.
- Regulatory Reforms: The Oilfield Amendment Bill 2024 introduced significant reforms, including a single permit system replacing multiple licenses, facilitating comprehensive energy projects, and adopting new technologies like Carbon Capture Utilization and Storage (CCUS) and green hydrogen initiatives.¹⁵

13 Available at <https://www.tice.news/tice-trending/oil-field-amendment-bill-2024-a-boost-for-indias-energy-sector-8878942>.

14 Available at <https://pib.gov.in/PressReleasePage.aspx?PRID=2111045>.

15 Available at <https://www.tribuneindia.com/news/business/oil-field-amendment-bill-will-be-game-changer-for-oil-and-gas-explorations-production-in-india>.

Hydrocarbon Exploration and Licensing Policy (HELP)

As of 2025, the Hydrocarbon Exploration and Licensing Policy (“**HELP**”) has continued to evolve, incorporating strategic reforms to bolster domestic hydrocarbon production and reduce import dependency. The key components and recent updates are as follows:

I. Overview

The HELP was introduced in 2016, in order to revamp the oil and gas sector and address various industry concerns in the New Exploration and Licensing Policy (“**NELP**”) regime. HELP is a huge improvement from NELP in so far as it provided (a) uniform license for exploration and production of all forms of hydrocarbon; (b) marketing and pricing freedom for the crude oil and natural gas produced; (c) easy to administer revenue sharing model; and (d) an open acreage policy.¹

II. Uniform License

Unlike the multiple license model under NELP, HELP brings in a uniform licensing model, allowing drilling of all forms of hydrocarbons, including shale gas, coal bed methane, oil and gas, to be done under a single contract.² Under the new regime, a common license for all hydrocarbons is awarded to firms offering maximum revenue to the Government of India would be given. It does away with complex investment multiples and provides for a lot more autonomy and flexibility to the operator.³

III. Revenue Sharing Model

NELP mechanism of profit-sharing was such where explorers first recovered their costs and then shared profits with the Government of India. HELP introduces revenue-sharing mechanism which replaced the profit-sharing model under NELP. Where the government would not micro-manage the costs incurred and would instead concentrate on receiving a share of the gross revenue. Revenue sharing will not be subject to cost recovery, monitoring will be simple, and the government share will accrue immediately on production, unlike in cost-recovery, monitoring will be simple, and the government share will accrue immediately on production.⁴

1 Available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137638>.

2 Available at <http://www.financialexpress.com/economy/helpvs-nelp-how-investors-bid-will-be-key-to-hydrocarbons-policys-success/401920/>.

3 Available on <http://indianexpress.com/article/explained/profitshare-to-revenue-share-multiple-windows-to-single-help-for-explorers/>.

4 Available at <http://indianexpress.com/article/explained/profit-share-to-revenue-share-multiple-windows-to-single-helpfor-explorers/>.

IV. Marketing and Pricing Freedom for Crude Oil and Natural Gas

The HELP policy provides for freedom in the marketing and pricing of crude oil and natural gas from these blocks, which are produced under the new contractual and fiscal regime. This is in sharp contrast with the previous NELP policy. In addition, the HELP policy is aimed at incentivizing production.

First, it is intended that the marketing and pricing freedom will be provided for the purposes of gas drilled from difficult geologies, including deep-water, ultra-deep and high pressure and high temperature areas. Second, it is envisaged that for certain categories of blocks extension of up to 10 years would be allowed subject to increases in the profit share of the Government of India by 10%.

Further, the Government of India has incentivized deep-sea drilling, through the mechanism of concessional royalty. Under the mechanism, no royalty is charged for the first seven years. After that, a 5% royalty for deep water areas and 2% royalty in ultra-deep waters is charged. Developers found it commercially unviable to extract gas from such sites. This is because of the risk and high cost of production associated with deep-sea drilling. It has been suggested that approximately 190 bcm or around 35 mmscmd of gas reserves (15-year production profile) can be better tapped from the change in policy.⁵

V. Open Acreage Policy

The Open Acreage Licensing Policy (“OALP”) was introduced as part of the HELP. Blocks would be allocated under the policy wherein companies can submit bids for areas of their choice. Companies can choose blocks from the designated area round the year without waiting for roadshows and auctions like in NELP.⁶ OALP is aimed at increasing the domestic production of petroleum and expediting the appraisal of Indian sedimentary basin by providing the investors with an access to geoscientific data available in National Data Repository (NDR). OALP further provides the flexibility to carve out exploration acreages through an open acreage licensing process and increased operational autonomy through a new revenue sharing model. Under the OALP, an Expression of Interest (EOI) can be made round the year with bidding round every six months. The EOIs would form the basis of blocks being offered in the bidding rounds.⁷

As of February 2025, the government launched the X bidding round under OALP, offering 25 blocks covering a total area of approximately 191,986 square kilometers across 13 sedimentary basins. This round is the largest in terms of acreage offered in a single bid round under the HELP regime.⁸ Under bid rounds I to VIII, a total of 2,42,056 square kilometers of exploration acreage has been awarded across 144 blocks.⁹ This initiative has led to the discovery of 13 hydrocarbon reserves, including seven oil fields and six gas fields, reinforcing India's energy security and boosting domestic production.

5 Available at <http://www.financialexpress.com/economy/helpvs-nelp-how-investors-bid-will-be-key-to-hydrocarbons-policysuccess/401920/>

6 Available at <http://indianexpress.com/article/explained/profit-share-to-revenue-share-multiple-windows-to-single-helpfor-explorers/>

7 Available at http://online.dghindia.org/oalp/Content/pdf/OALP_O3.pdf. A copy of the Model Revenue Sharing Contract is available on http://online.dghindia.org/oalp/Content/pdf/MRSC_booklet_O2.pdf

8 Available at <https://online.dghindia.org/>.

9 Available at <https://energy.economictimes.indiatimes.com/news/renewable/govt-has-undertaken-a-series-of-strategic-reforms-for-self-reliance-in-hydrocarbon-production/119299840>.

VI. Other Changes

In March 2025, the Indian government approved new legislation to further boost oil and gas exploration. The bill, which amends the 1948 law on oil extraction, seeks to attract more investments by stabilizing policies, allowing international arbitration, and extending lease periods. This aims to reduce India's heavy reliance on imported crude oil, which accounted for nearly 90% of consumption from April to December 2024.¹⁰

These ongoing reforms under HELP are designed to enhance domestic hydrocarbon production, reduce import dependence, and align with India's energy security and economic development goals.

¹⁰ Available at <https://www.ft.com/content/98cf762e-6b72-4976-8681-cd2e3d2cdb92>.

Hydrocarbon Exploration & Licensing Policy (HELP) Open Acreage Licensing Policy (OALP) Bid Round – 1

On January 18, 2018, under the Hydrocarbon Exploration and Licensing policy (HELP) and the Open Acreage Licensing Policy (OALP) Bid Round- 1 (“OALP-1”), the MoPNG published a Notice inviting offers (NIO) for Exploration and Development of Oil & Gas blocks in India.¹

Under the OALP programme, an Expression of Interest (EOI) was received between July 1, 2017, and November 15, 2017. Based on the EOI, 55 blocks, which include, 46 on-land blocks, 8 shallow water blocks and 1 deep water block, are on offer through the International competitive bidding process.

I. The Bidding Process

A. Step One

Based on the access to the data available in the National Data Repository (NDR), investors will be able to submit their suo moto Expression of Interest (EOI) for blocks of their choice for the purpose of contracting. The DGH will assist the investors in submitting their proposals. In addition, the DGH will also administer, when deemed necessary, rounds of awards of blocks carved out by it for contracting.

B. Step Two

The “qualification criteria” will be used to assess the Expression of Interest (EOI) received from the investors.

C. Step Three

The DGH issues notes inviting offers for the exploration of O&NG. Further, it seeks bids from eligible interested parties for hydrocarbon blocks in India. The Government of India invites bids from companies for two types of contracts, the petroleum operations contract and the reconnaissance contract.²

D. Step Four

At the time of submission of the bid, the bidders are required to furnish a bid bond, with a validity of one year and of value USD 150,000 (United States Dollar one hundred and fifty thousand) per sector for POC for all types of blocks. This should be in the form of a bank guarantee from a scheduled commercial bank. The bid

¹ Available at http://online.dghindia.org/oalp/Content/pdf/OALP_03.pdf.

² Available at http://online.dghindia.org/oalp/Content/pdf/OALP_03.pdf.

bond is released upon the signing of the contract for the block. The bid bond will be forfeited, if the contract is not signed within 90 days from the date of the award of the block. The following amount is the upper limit to be taken as bid bond:

- On land block USD 1.0 million
- On land Type S block USD 1.0 million
- Deep-water block USD 2.0 million
- Ultra-Deep-Water Block USD 2.0 million

The deadline for bid submission is 12:00 hrs IST on April 3, 2018. E-bidding portal (ebidding.dghindia.gov.in) has to be used to submit the bids. Certain documents which are to be mandatorily submitted in physical form must be submitted in duplicate and sealed envelopes at the DGH address, Non receipt of physical submissions shall lead to rejection of bids. The qualification submissions of the bids will be opened online at 13:30 hrs IST on the same day.

E. Step Five

Bid Qualification Criteria

- a. The bidder must pay the tender fees on or before the bid closing date.
- b. A bidder must furnish a bid bond of the required value and as per the in prescribed format.
- c. The bidder must furnish a proof of purchase of requisite value of data from the NDR.
- d. The bidder must also satisfy the technical qualification criteria.
- e. The bidder must be a company, singly or in association with other companies through an unincorporated or incorporated venture.
- f. Notarized deed or declaration shall be submitted along with the bid stating that it is not in a state of liquidation, bankruptcy, receivership, cease of operations or other similar state. In addition, the declaration should also confirm that no process of being placed in liquidation, receivership bankruptcy, or other similar process has been filed against him or her.
- g. A copy of the Memorandum and Articles of Association of the applicant must be furnished. A registration certificate along with the name of any sovereign state or legal entities or nationals of any sovereign state that directly or indirectly holds 50% (fifty percent) or more of the voting shares of each member of the bidder consortium, or otherwise has an interest that could constitute control shall be submitted. For a group of companies, the group structure and organization shall also be submitted.
- h. The Notice Inviting Offers (NIO) includes the financial capacity criteria for bidder. The net worth of the bidding company (ies) should meet these criteria. It is suggested that the calculation of the net worth of the companies will be done according to the prescribed format. Bids that do not fulfill the net worth criteria in the NIO shall not be considered for further evaluation.

- i. For each member of the consortium, a certificate of net worth from the company's statutory auditor(s) based on the audited annual accounts for the latest completed year and the annual report including the audited annual accounts for the latest completed year, should be submitted. If the bidder company has a parent company which has committed to provide financial and performance guarantee for its subsidiary, then the annual report, annual accounts, and net worth certificate in respect of the parent company should be submitted. Further, the evaluation of the financial capability of the bidding company will be undertaken by taking into consideration the financial capability of the parent company. (this applies for each member of the consortium in case of consortium bidding).
- j. Bidder should submit a board approved financing plan. The plan should in clear terms, specify the sources of funding for the biddable work programme, which is submitted in the bid for the initial exploration phase. The financing plan shall be supported with the necessary documents, which may be required by the DGH.
- k. Any additional information supporting the financial capacity of the bidder should also be submitted.

F. Step Six

Bid Rejection Criteria

The Government of India at its sole discretion reserves the right to accept or reject any or all of the bids received, without assigning any reason. The criterion for rejection is as follows: Any bid which does not conform to any of the requirements of financial and/or technical pre-qualification criteria shall be rejected.

- Bids which are without any documentary proof of payment of tender fees for the block to be bid shall be rejected.
- Any bidder who does not purchase the basic data package from the NDR and does not provide documentary proof of the purchase of the data shall be rejected.
- Any bid not accompanied by a bid bond of adequate value and specified validity period shall be rejected.
- Any bid which is not submitted in the prescribed format, as per the requirements of the e-bidding portal, incorporating all the information or details listed therein including bid bond, in prescribed format with requisite value and validity, is liable to be rejected.
- Any bid which is submitted with any assumptions or deviations which are inconsistent or does not comply with the terms listed in the NIO shall be rejected.
- Any bid which is not accompanied by the annual report incorporating the audited annual accounts for the last completed year along with a certificate of net worth from the company's statutory auditor(s), based on the last audited annual accounts certifying the net worth of the bidding company shall be rejected.
- Any bid that does not meet the net worth requirement at the bid evaluation stage (subject to fulfilling the minimum net worth at the pre-qualification stage without any bank guarantee) unless the deficit is secured through required bank guarantee against deficit net worth vis a vis of work programme/ LD shall not be considered for further evaluation.
- The bids will be rejected if the required submissions are not received in hardcopy format by the bid closing date.

G. Step Seven

Bid Evaluation Criteria

The bid evaluation criteria comprise of two components: biddable government share of revenue at two specified revenue points and the biddable work programme (to be agreed as the committed work programme).

The revenue share offered to the Government of India by the bidder at the Lower Revenue Point (LRP) and at the Higher Revenue Point (HRP) will be considered for evaluation. The bids with the highest Net Present Value (NPV) will be given the maximum score and other bids will get points proportionately computed with reference to the Government NPV computed for the highest bid.

The work programme commitment assigns marks for various activities which are as follows:

- Bidder quoting highest number of wells is assigned 15 marks. While others will be assigned marks proportionately.
- Bidder quoting maximum number of wells with core analysis of target shale plays will be assigned 5 marks. While others will be assigned marks proportionately.
- The Originator will be assigned 5 marks. This will take place only on a first come first served basis.
- Bidder quoting highest 2D seismic survey (LKM) will be assigned 8 marks. While others will be assigned marks proportionately.
- Bidder quoting highest 3D seismic survey (Sq. KM) will be assigned 17 marks. While others will be assigned marks proportionately.

H. Step Eight

The Government of India enters into a Revenue Sharing Contract (RSC) with the successful bidder in respect of each block offered. The RSC is on the lines of published Model Sharing Revenue Contract (MSRC). This is subject to any amendments that the Government of India may, in its sole discretion, carry out to address any specific contractual issue that requires any amendment.³

3 Available at http://online.dghindia.org/oalp/Content/pdf/OALP_03.pdf.

Recent Updates

- **OALP Progress:** Since its inception, the OALP has significantly expanded India's hydrocarbon exploration footprint. Bid rounds I to VIII resulted in the awarding of 2,42,056 square kilometers of exploration acreage across 144 blocks. This initiative led to the discovery of 13 hydrocarbon reserves, comprising seven oil fields and six gas fields, thereby enhancing India's energy security and boosting domestic production.⁴
- **OALP-X Launch:** In February 2025, the government launched the tenth round of the OALP (OALP-X), offering 25 blocks covering 191,986 square kilometers across 13 sedimentary basins. This round is the largest in terms of acreage offered in a single bid round, reflecting the government's commitment to accelerating domestic exploration and production activities.⁵
- **Policy Reforms:** The government has undertaken strategic reforms to achieve self-reliance in hydrocarbon production. These reforms include aligning domestic natural gas pricing with international market prices to attract investment and implementing a concessional royalty regime to encourage exploration in deep-water and ultra-deep-water areas.⁶

4 Available at <https://energy.economictimes.indiatimes.com/news/renewable/govt-has-undertaken-a-series-of-strategic-reforms-for-self-reliance-in-hydrocarbon-production/119299840>.

5 Available at <https://www.spglobal.com/commodity-insights/en/news-research/latest-news/crude-oil/021725-iew-2025-interview-new-licensing-round-policy-overhaul-boon-for-upstream-sector---oil-india-chief>.

6 Available at <https://dghindia.gov.in/index.php/page?P+Regime=&name=E&pageId=61>.

Dispute Resolution

Section 12 of the PNG Regulatory Board Act provides the Regulatory Board with jurisdiction to “adjudicate upon and decide any dispute or matter arising amongst entities or between an entity and any other person on issues relating to refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas according to the provisions of Chapter V of the act, unless the parties have agreed for arbitration”.¹ Therefore, the Regulatory Boards jurisdiction can be overridden if arbitration is stipulated in agreements between parties.

The oil and gas industry has proved to be a fertile ground for disputes and in particular, for practitioners of international arbitration, given the cross-border aspects of exploration and production activities. Litigation in the O&NG sector is generally governed by rules of the relevant PSU which is awarding a contract or in the form of representations before an authority under the MoPNG.

Contractually, companies receive licenses to conduct exploration activities through various granting instruments, including Concessions, Production Sharing Contracts (PSCs), and Revenue Sharing Contracts (RSCs). Initially, the government opted for PSCs, a relatively intricate contractual model, to involve private entities in exploration. However, experience has shown that due to their complexity, PSCs often lead to a broad range of disputes. As a result, there was a transition from a PSC model to the RSC model, however, the nature of disputes under both frameworks has largely remained unchanged.

Such disputes typically arise over issues like cost recovery claims, production entitlements, tax treatment, and regulatory compliance. As mentioned above, while these contracts have an arbitration clause for resolution of issues, before initiation of an arbitration, there are generally provisions for mediation and conciliation before the dispute resolution mechanism is invoked. Some technical disputes, such as cost recovery or production allocation, may be resolved through an independent expert appointed by both parties. In certain cases, particularly where public policy, taxation, or sovereign rights are involved, courts may have jurisdiction over disputes, depending on the governing law of the PSC/RSC.

I. Conciliation and Mediation

Conciliation and Mediation as a form of redressal of disputes in this sector was recognised and incentivised by the MoPNG notification dated December 16, 2019,² wherein the Government of India constituted the Committee of External Eminent Persons/Experts for dispute resolution. This committee was reconstituted vide a notification dated February 02, 2023.³ This is a key mechanism introduced to facilitate faster, cost-effective, and amicable resolution of conflicts, reducing reliance on prolonged litigation or arbitration. The committee is intended to facilitate conciliation and mediation proceedings for resolving disputes between the parties, in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The notification stipulates that it shall help the parties reach a settlement agreement within three months from the date of its first meeting (which can be extended through mutual agreement).

1 Section 12, the Petroleum and Natural Gas Regulatory Board Act, 2006.

2 Ministry of Petroleum and Natural Gas, Notification dated December 16, 2019, Available at: <https://mopng.gov.in/files/ExpAndProd/Other%20Notifications/1.DisputeResolutionCommittee.pdf>.

3 Ministry of Petroleum and Natural Gas, Notification dated February 02, 2023, Available at: <https://mopng.gov.in/files/ExpAndProd/Other%20Notifications/Notification-Regarding-Reconstitution-of-Committee.pdf>.

II. Arbitration

Arbitrations/ Litigation arising out of arbitrations before Indian Courts

PSCs/RSCs have an arbitration clause and majority of the disputes arising out of them are settled by arbitration. Since most of the applicants/ bidder in the exploration and production activity are from a foreign jurisdiction, it is a common practice to designate a foreign seat of arbitration, and a foreign governing law. The arbitration typically takes the nature of an international commercial arbitration. In such instances, recourse to Indian Courts is limited albeit for interim protection under Section 9 of the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”) and the consequent appeal arising thereof under Section 37 of the Arbitration Act, or the Indian Court’s assistance in recording of evidence under Section 27 of the Arbitration Act. In case of a foreign seated arbitration, recourse to Indian Court can also be exercised at the time of enforcement of the arbitral award under Section 48 of the Arbitration Act. Whereas, if the seat of arbitration is in India, then Indian Courts have jurisdiction on appointment of the arbitrator, interim protection, and also challenge to the arbitral award, if any. Part I⁴ of the Arbitration Act becomes applicable in such instances. These provisions are invoked by the parties to litigate before Indian Courts in aid of the arbitration proceedings.

To cite an example: In *Union of India v. Reliance Industries*,⁵ the partial award passed by the Arbitral Tribunal was challenged under Section 34 of the Arbitration Act by the Government of India on the ground that subject-matter of the arbitration comprising of payment of royalty, cess, service tax and audit issues involved questions of public policy and therefore are non-arbitrable.

The Delhi High Court held that questions of arbitrability of claims cannot be tested only as per the applicable law of arbitration or *lex arbitri*⁶ but needs to be analysed in accordance with the public policy and intention of parties governed as per laws of the country to which it has the closest connection. The ruling clarified that clauses of the agreement need to be read in a holistic manner to discern intention of parties and whether exclusion of Indian laws done for the purpose of governing arbitration could be extended if subject matter of the arbitration is non arbitrable. It is in this context that the Delhi High Court rejected the objections on lack of jurisdiction. The matter was appealed in the Supreme Court by way of special leave petition, and on May 28, 2014, the Supreme Court held that Section 34 petition filed in Delhi High Court was not maintainable. It held that the option of the Delhi High Court stating that in the event the award is sought to be enforced outside India, it would leave the Indian party remediless, is without any basis as the parties have consensually provided that the arbitration agreement will be governed by the English law. However, since the substantive law governing the contract is Indian Law, even the Courts in England in case the arbitrability is challenged, will have to decide the issue by applying Indian Law viz. the principle of public policy etc. as it prevails in Indian Law. The Supreme Court also opined that when a final award is made, the enforceability of the same in India can be resisted on the ground of public policy.

4 Part I of the Arbitration Act is applicable when the seat of arbitration is in India. Part I determines the conduct of the arbitration including issues of maintainability, interim relief recording of evidence and setting aside of arbitral award.

5 199 (2013) DLT 469.

6 Law governing the seat of arbitration.

III. Litigation

Apart from initiating arbitration against a PSU, another right exercised by companies in the O&NG sector is the right to approach the state High Court under the Constitution seeking extraordinary remedies in the nature of writs. Historically, a writ is a relief by which a court can restrain the government from taking any action, or it can set aside any action taken by the government or provide directions. In the O&NG sector, at the stage of tender, an aggrieved party can approach the High Court and challenge the process of tender if the process adopted was arbitrary or if the grant of the tender in favor of another party was arbitrary.

In recent times, the Supreme Court and High Court have also examined policies relating to FDI, liberalization and privatization. Although the courts have shown an inclination to examine issues relating to policy, they have generally adopted a “hands off” approach, unless there is serious allegation of fraud or arbitrariness in the decision-making process. In this context, recently, with respect to spectrum wavelength, mines and minerals and other natural resources, the Supreme Court has held these to be resources that belong to India.⁷ Consecutively, a challenge to an executive decision relating to such resources would always be open to examination on the ground that the decision affects ‘public policy’ of India.

Even in the context of gas pricing, in the past, the Supreme Court and the Delhi High Court have refused to intervene in policy matters. However, where petitioners have been able to demonstrate a degree of arbitrariness in the policy matters, courts have shown a willingness to exercise jurisdiction.⁸ The rationale of such intervention is the Supreme Court’s recognition of the fact that⁹ “the people of the entire country have a stake in natural gas and its benefit has to be shared by the whole country”. This observation was in the context of water and other natural resources. However, this principle has since been applied to mines, minerals and pertinently, O&NG.¹⁰

This can be seen through the recent case of Union of India vs. Reliance Industries Ltd & Ors,¹¹ where a Division Bench of the Delhi High Court, while hearing an appeal under Section 37 of the Arbitration Act, set aside an arbitral award in favour of Reliance Industries Limited (“**Reliance**”). The arbitration dispute pertained to the allegations that Reliance breached the agreed PSC obligations by gaining wrongful access to the gas migrated from ONGC’s adjacent block. The award passed in favour of Reliance held that the company had not committed any material breach. While the applicant filed an application under section 34 of Arbitration & Conciliation Act, 1996 before a single judge bench of the Delhi High Court on the grounds of patent illegality, the single judge bench dismissed this application on the grounds that the arbitration inter se UOI and Reliance was an “international commercial arbitration” and as such, the ground of “patent illegality” was not available to interfere with the Arbitral Award. When this was appealed to the Division Bench, however, it held that the arbitration was to be treated as a domestic arbitration, and it invoked the doctrine of ‘public policy in India’, ‘public law’ and ‘Public Trust Doctrine’ and observed that the findings of the Arbitral Tribunal which held that Reliance’s breach of the PSC was not a material breach of the PSC and Petroleum Rules, was in violation of fundamental law of India and the award was patently erroneous.

7 Reliance Natural Resources Limited v. Reliance Industries Limited (2010) 7 SCC 1; Centre for Public Interest Litigation and Ors. v. Union of India (UOI) and Ors, AIR 2013 SC 3725.

8 (1990) Supp. 1 SCC 397.

9 In Re: Special Reference No.1 of 2011 (2004) 4 SCC 489.

10 Reliance Natural Resources Limited v. Reliance Industries Limited (2010) 7 SCC 1.

11 Union of India vs. Reliance Industries Ltd & Ors 2025 SCC OnLine Del 841.

Conclusion

The oil and gas sector remains a critical driver of India's GDP growth, with vast potential for economic and financial returns. As the country's energy demand continues to rise, particularly across industrial and household sectors, significant investments are anticipated. The Government of India's proactive policy shifts, most notably from NELP to HELP, have established a more investor-friendly regulatory environment, enhancing ease of doing business. Recent reforms, including the expanded scope of the Open Acreage Licensing Policy (OALP) and the introduction of a simplified revenue-sharing model, underscore the government's commitment to accelerating domestic production and reducing import dependency. With ongoing advancements and increased foreign participation, the oil and gas landscape in 2025 is poised to be dynamic and resilient, presenting unparalleled opportunities for growth and innovation in the sector.

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