

MINUTES OF THE MEETING OF THE EMPOWERED GROUP OF MINISTERS HELD ON 12TH SEPTEMBER 2007 UNDER THE CHAIRMANSHIP OF SHRI PRANAB MUKHERJEE, HON'BLE MINISTER OF EXTERNAL AFFAIRS TO DISCUSS THE ISSUES RELATED TO COMMERCIAL UTILIZATION AND PRICING OF GAS UNDER NELP

List of participants is annexed.

2. At the outset, Secretary (Petroleum) briefed the Members of compliance of the EGoM's directions given on 28.8.2007 regarding effecting changes to the price formula submitted by the contractor for D-6 block. He informed that the changes were discussed with the contractor who has consented to the same;. A presentation on the impact of these modifications on the final price of gas at the delivery point was also made. It was submitted that the new formula would be as follows if the value of 'C' is considered as 'zero':

$$SP \text{ (USD/mmbtu)} = 2.5 + (CP - 25)^{0.15}$$

3. Finance Minister sought to know the rationale behind the constant of US \$ 2.5 in the formula. It was explained by Secretary (Petroleum) that as per the contractors, should the price of crude fall to US \$ 25 per barrel, they are assured a price of US \$ 2.5 per mmbtu. This number is slightly less than the price of APM gas as it prevails presently in the country. It was also

informed that the APM price is likely to see an upward revision in the light of Tariff Commission's recommendations. The Petroleum Ministry is also proposing to submit a Note for the consideration of the Cabinet for upward revision of the APM prices, keeping in mind the high cost of production of gas making it a sub-optimal economic proposition to the NOCs.

4. Finance Minister also enquired about the justification for keeping the cap of 'CP' (Crude Price) at \$65/barrel;. He suggested that the differential between the cap and the floor of the crude price, proposed now at US \$ 40 in the variable part of the formula be reduced. Secretary (Petroleum) clarified that the contractor has pegged the cap at US \$ 65 /barrel as the ceiling beyond which the consumers would not have to bear any increase in the price of gas regardless of hike in crude prices. However, the comfort of the consumer can be enhanced by lowering the cap in line with the suggestion of the Finance Minister, though the same had not been discussed with the contractors. It was agreed that the cap of CP may be pegged at US \$ 60 instead of the contractor's proposal of US \$ 65 and the corresponding reduction in the prices (about Rs.1.50/mmbtu) should be passed on to the consumers.

5. The Deputy Chairman, Planning Commission, stated that for further NELP rounds, the price formula needs to be approved before the producers

called for bids from prospective customers. Since 'C' was the only biddable component in the formula it was necessary to retain it for price discovery purpose in an open and transparent bidding process.

6. Secretary (Power) raised the issue of the litigation of NTPC with RIL and mentioned that it would be appropriate for the EGOM to approve the price bid by RIL against the NTPC tender for the contracted supply. The Law Minister clarified that the present consideration of the EGOM was without prejudice to the two contracts, one relating to the NTPC and the other relating to a private party, presently being agitated before the Bombay High Court. The Finance Minister also added that since the High Court is considering contractual issues between the parties, the EGOM could not pronounce a decision in respect of these cases.

7. To a suggestion that the Government may adopt net back basis of prices of a basket of fuels, the Finance Minister observed that this would amount to an administered price which would go against the provisions of the Production Sharing Contract (PSC). The External Affairs Minister (EAM) also observed that when the contract provides for approval of a price basis / formula, the Government was bound to consider the same. He added that the same is perhaps consistent with international practice as it was adopted in the contract for approval of a price formula.

8. Minister for Chemicals & Fertilizers and Steel observed that the policy under consideration of Fertilizers Ministry for promoting setting up of fertilizer plants in the country is much dependent on the price of natural gas. He desired that the concerns of his Ministry both relating to allocation and pricing should be adequately addressed by the EGOM. The EAM responded by referring to the assurance given by the Petroleum Ministry at the last meeting of the EGOM to meet the entire existing demand of natural gas of the fertilizer industry. On the issue of pricing of gas to the fertilizer sector, the EAM clarified that the EGOM had only assigned the mandate of discussing amendments to the price formula under Article 21.6 of PSC with the contractor to the MoP&NG. As regards the issue of subsidizing the prices of fertilizers, a view has to be taken by the Government whether to extend / continue the administered pricing mechanism in the pricing of natural gas or provide subsidy to the fertilizer sector through Union Budget.

9. The Law Minister observed that the Government is bound under the contract to approve the formula before the sale of gas can happen and only after the same has been approved, can the issues of commercial utilization be taken up. The Minister for Corporate Affairs also added that the contractual provisions are amply clear and enjoin upon the Government to approve the price formula without any ambiguity.

10. The Petroleum Minister observed that the commitments made to the investors by the Government under NELP, are sacrosanct and must be honored in their entirety.

11. The EGOM took the following decisions:-

- (i) It will not be in the country's interest to renege from PSCs entered into in good faith under the New Exploration & Licensing Policy (NELP). Sanctity of the contracts signed should be maintained.
- (ii) The price basis/formula submitted by M/s RIL – Niko under Article 21.6.3 for valuation of natural gas may be accepted with modifications as per the recommendations of the EAC, including denomination of the entire formula in US Dollars. However, for all NELP-I to NELP-VI contracts, for natural gas price calculation, the constant will be pegged at \$2.50. Since C is the only biddable component, assigning a value of zero to this component in the present case will adequately take care of the transparency aspect of the bidding process as the price will be determined by the Government only on the basis of a formula. This should bring the price down by about 8%. Under Article 21.6 of the PSC, this price basis/formula will be valid for five years from the date of commencement of supply. The decisions taken in this EGOM

meeting will be without prejudice to the NTPC vs RIL and RNRL vs RIL cases which are separately sub judice.

- (iii) The cap for CP in the formula would be frozen at US \$ 60 per barrel.
- (iv) Though in the present instance the value of C is to be retained at zero, for the purpose of retaining the biddable character of the formula and allocation of gas amongst priority sectors, the formula must retain C as a positive non-zero integer.
- (v) The price discovery process on arms length basis will be adopted in the future NELP contracts only after the approval of the price basis / formula by the Government. The price discovered through this process would be applicable to all the sectors, uniformly.

1. Shri Pranab Mukherjee, Minister for External Affairs – Chairman
2. Shri Sushil Kumar Shinde, Minister for Power
3. Shri Ram Vilas Paswan, Minister Chemicals & Fertilizers and Steel
4. Shri P. Chidambaram, Minister for Finance
5. Shri H.R. Bhardwaj, Minister for Law and Justice
6. Shri Murli Deora, Minister for Petroleum & Natural Gas
7. Shri Prem Chand Gupta, Minister for Corporate Affairs
8. Shri Montek Singh Ahluwalia, Deputy Chairman, Planning Commission
9. Shri M.S. Srinivasan, Secretary, Ministry of Petroleum & Natural Gas
10. Shri Anil Razdan, Secretary, Ministry of Power
11. Shri R.S Pandey, Secretary (Incharge), Department of Fertilizers
12. Shri T.K. Vishwanathan, Secretary, Ministry of Law & Justice
13. Ms. Omita Paul Adviser to EAM
14. Shri S.P. Sethi, Principal Adviser (Energy), Planning Commission
15. Dr. A.R. Sihag, Joint Secretary, Cabinet Secretariat
16. Shri. A.K. Jain, Joint Secretary, Ministry of Petroleum & Natural Gas
17. Shri P.K. Malhotra, Joint Secretary, Ministry of Law.