

MOST IMMEDIATE

File No.23011/66/2008-CPD
Government of India
Ministry of Coal
<<>

New Delhi, the October 7,2008

OFFICE MEMORANDUM

Subject: Minutes of the meeting of the Standing Linkage Committee (Long-Term) held on 5.8.2008 at New Delhi.

The undersigned is directed to forward herewith the Minutes of the meeting of the Standing Linkage Committee (Long-Term) held on 5th August,2008 at New Delhi for information and necessary action.

G. Srinivasan
(G.Srinivasan)

Under Secretary to the Government of India
Tele: 23384285

1)	Special Secretary (Coal) Ministry of Coal	Chairman
2)	Principal Adviser(Energy), Planning Commission, Yojana Bhawan New Delhi. (Attn: Dr. Surya Sethi, Advisor Coal, Room No. 346)	Member
3)	Additional Secretary (LA), Ministry of Coal	Member
4)	Advisor (Projects), Ministry of Coal	Member
5)	Shri V.P.Joy, Joint Secretary, Ministry of Power, Shram Shakti Bhawan, New Delhi.	Member
6)	Executive Director(Transport Planning), Ministry of Railways, Rail Bhawan, New Delhi.	
7)	Joint Secretary (Ports), Ministry of Shipping, Transport Bhawan, New Delhi.	Member
8)	Joint Secretary, Ministry of Steel, Udyog Bhawan, New Delhi (Kind. Attn: Shri U.P. Singh)	
9)	Shri Shashi Ranjan Kumar, Director, Ministry of Commerce & Industry, Deptt. of Industrial Policy and Promotion, Udyog Bhawan, New Delhi, (Cement Division)	Member
10)	Chairman,CEA,(Attn:Shri S.H.Khan, Chief Engineer, CEA), R.K.Puram, New Delhi	Member
11)	Chairman, CIL, 10-Netaji Subhas Rd, Kolkata - 700001	Member
12)	CMD's of BCCL, CCL, ECL, MCL,NCL, SECL & WCL and GM, NEC	Members
13)	Chairman-cum-Managing Director, Central Mine Planning & Design Institute Ltd, Gondwana Place, Kanke Rd, Ranchi	Member
14)	Chairman-cum-Managing Director, SCCL, P.O. Kothagudem Collieries, Distt Khammam-507101	Member
15)	Chairman, NTPC, Scope Complex, Lodhi Road, New Delhi-110003	Member

Copy for information and necessary action to:-

1. PS to MOS(Coal)
2. Sr. PPS to Secretary(Coal), Ministry of Coal.
3. Joint Secretary(Coal), Ministry of Coal
4. Director (CPD), Ministry of Coal.
5. CGM(S&M), Coal India Limited, 15- Park Street, Kolkata.
6. Director(Technical), CIL, 10, Netaji Subhas Road, Kolkata.
7. CGM(S&M) CIL, 15- Park Street, Kolkata.
8. Chief General Manager(CP), CIL, 10-Netaji Subhas Rd., Kolkata.
9. Shri. M.L.Gupta, GM, CIL, Scope Complex, Lodi Road, New Delhi

G. Srinivasan
(G.Srinivasan)

Under Secretary to the Government of India

Copy also to: NTC for placing the same on Ministry of Coal's Website.

MINISTRY OF COAL
MINUTES OF THE MEETING OF THE STANDING LINKAGE COMMITTEE
(LONG-TERM) HELD ON 5TH AUGUST, 2008

List of participants who attended the meeting is at **Annexure**.

Initiating the discussions, AS (Coal) and Chairman of the SLC(LT) welcomed all the participants. AS (LA) welcomed all those present and thanked AS, Ministry of Power and also Chairman SLC(LT) for sparing their time to discuss various important issues included in the agenda. He noted that as per the New Coal Distribution Policy, the coal companies are required to meet the coal requirements of genuine consumers. Thereafter, the agenda items were taken up for discussion. The agenda items discussed and the gist of discussions/decisions taken by the Committee are given below under each agenda item.

Item No.1 :Regularisation of Linkage for facilitating signing of FSA

There are number of power utilities who are not having formal "LT linkage" and have been traditionally getting coal through SLC(ST). With a view to enter into FSA under the New Coal Distribution Policy they were advised to apply for regularization of their linkage. However, now a decision has been taken on file by the Ministry authorizing coal companies vide order 47011/4/2002/CPD dated 1st/2nd May, 2008 to enter into FSA with the consumers not having a formal LT but have been otherwise drawing coal as per SLC(ST) allocation during 2007-08 without insisting on formal issuance of LT Linkage order. **SLC (LT) may ratify the aforesaid decision communicated to the coal companies for regularizing linkage in respect of Power Utilities and steel plant CPPs.**

DECISION/RECOMMENDATION

It was explained that certain power utilities as well as Steel Plants CPPs were getting coal on a regular basis through SLC(ST) allocation since long without having any formal Long-term linkage. It was decided earlier that these cases would be regularized for according long-term linkage so as to facilitate signing of FSA and for this such utilities were required to apply in prescribed proforma. However, only some of these utilities/CPPs formally applied for regularization of linkage and Ministry of Power has also recommended some cases. Having regard to the fact that these units were drawing coal through SLC(ST) allocation since long for known capacity and to facilitate expeditious signing of FSA which is mandatory under NCDP, a decision was taken with the approval of Competent Authority authorizing coal companies to enter into FSA with such consumers without insisting on having formal Long-term linkage order. Representative of Ministry of Power desired to have list of such cases who would be covered under this decision. It was agreed that the list of such cases would be sent by CIL to MoP before next meeting of SLC(LT) for the information of MoP and ratification of the decision.

Item No. 2: Review of implementation of decisions/recommendations of SLC(LT) meetings during 2006-07, 2007-08.

A large number of consumers in Power, Cement and Sponge have been recommended for LOAs linkage as per extant policy. In terms of New Coal distribution Policy, LOAs are to be issued subject to furnishing of Commitment Guarantee and FSA is to be signed subject to completion of milestones indicated in LoA. In the case of linkage also, the FSAs are required to be signed within stipulated time. In order to have a realistic assessment of commitment to supply coal, there is need to review the present status of implementation of the decisions/recommendations of SLC

(LT). CIL has recently furnished certain details which indicate that out of 473 consumers recommended for LoAs, only 188 have furnished Commitment Guarantee (CG) till 30.6.2008 and only 41 LoAs have been issued so far. In fact, in the case of recommendations made in March, 2008 they are still in the process of issuing notice for Commitment Guarantee. There are other recommendations where CIL is in the process of taking further course of action as regards their implementation. These are recommendations where SLC(LT) has directed CIL to either enter into FSA or make certain specific commercial arrangements. CIL has informed that coal commitment can only be known after the last date for submission of CG is over and process of execution of entering into FSAs with existing consumers is still continuing and for which CIL has sought extension upto 31st July, 2008 for consumers other than power and 30th September, 2008 for Power utilities.

DECISION/RECOMMENDATION

CIL informed the committee that out of 488 cases where notice inviting for Commitment Guarantee (CG) were issued, CG has been received in 352 cases only covering almost 75% of the total quantity linked in such case and the process of issuance of LoA is going on. They also informed that they had extended the period for submitting the CG by 15 days and desired to know as to how the cases of such units who have not furnished CG should be dealt with. Representative of MoP was of the view that LOA to developers who have furnished CG should be issued expeditiously. They also raised certain issues relating to model draft FSA in respect of Power utilities circulated by CIL. CIL informed that some of the utilities have already signed the FSA or are in the process of signing FSA. As regards cases where no CG has been received, CIL was advised to furnish details of such units to nodal Ministries and the SLC (LT) would take appropriate decision keeping in view the recommendations from the nodal Ministries and provisions of NCDP.

Item No. 3: Review of old cases of linkages where coal drawal has not yet commenced nor FSA has been signed

A large number of applicants in Power sector, who had been granted linkages in the past, have so far not sought commencement of supply of coal. In view of New Coal Distribution Policy (NCDP) all existing as well as future commitment to supply coal is to be regulated by FSA. In the absence of FSA, coal companies would not be able to plan their production to meet the commitments. Therefore, all linkages which are over 30 months old and where the linkage holders have not yet entered into FSA, need to be reviewed and following action can be taken:

- i) A definite deadline of 1-2 months can be given to conclude the FSA.
- ii) Giving 12 months time to each of the above units for achieving the milestones stipulated under the LOAs under NCDP without seeking deposition of Commitment Guarantee charge **OR**
- iii) Converting these old linkage into fresh LOAs based on the terms applicable for new consumers under NCDP which would mean deposition of Commitment Guarantee, milestones as well as the fresh validity as stipulated in new LoAs.

DECISION/RECOMMENDATION

It was informed that the present status in respect of units who have been granted long-term linkage and not drawing coal is not known except for some of the cases like ISN International, Chandil TPS where long-term linkage has already been cancelled by the SLC(LT) in the past. Therefore, in the remaining cases MoP should give a specific recommendation for either cancellation or treating such cases for 11/12th Plan keeping in view the status of placement of

order for the main plant before 31st October, 2008 as recommended by MoP. On receipt of specific details the cases would be placed before SLC(I.T) for taking appropriate decision. MoP was of the view that except such plants who have placed order for main plant the others cases of linkage could be taken up and decided in terms of the NCDP. In respect of projects out of this list where the main plant has already been ordered but other milestones etc had not been achieved proposed in terms of the LoA under the NCDP, they have recommended option (ii) as per agenda. MoP is required to furnish the details for the consideration and decision by SLC(I.T).

Item No.4 : Review of LoAs having validity of 30/24 months with a view to consider them as 11th Plan projects

While the LOAs given to power sector under earlier policy is having validity of 30 months, under New Coal Distribution Policy the validity has been capped at 24 months only. Therefore, having regard to the fact that as per the assessment of the Ministry of Power, if these LOAs holders or applicants recommended for LOA are unable to place the Letter of Award (LOA) for their main plant by 30th September, 2008, then all such cases should be reviewed after 30th September, 2008 and in absence of any valid reason acceptable to the committee, their LOA should be made effective only for 12th Plan period or may be treated as withdrawn/cancelled with a condition that they may apply afresh after reaching milestones.

DECISION/RECOMMENDATION

Representative of MoP desired to have a list of such cases where LOA has been issued, which has a validity of 30 months and milestones have not been completed nor FSA signed. For the purpose of the project being considered as 11th Plan project the criteria of placement of order for main plant by 31st October, 2008 may be applied otherwise they may be considered as 12th Plan project. CII was asked to furnish the list of these cases to MoP.

Item No.5 : Criteria for considering requests for LoAs in respect of 11th Plan projects.

It is observed that during last three years, about 37,000 MW capacity in Power sector (Utilities/TPPS/PPPs) have been provided linkages/LoAs and overall 60,000 MW capacities which have linkage/LoAs have not been commissioned so far. Similarly in the case of cement and sponge iron units also, substantial capacity has been extended linkages/LoAs. Therefore, considering the linkages/LoAs already given to power sector (Utilities, IPPs and CPPs) in the recent past and the coal based capacity addition programme of Ministry of Power during 11th Plan, it is observed that sufficient capacity has already been provided linkage/LoA in the power sector. MoP is of the view that some of the capacities may not come up during 11th Plan or may eventually not come up at all, therefore, the emphasis should be on providing linkage/LoAs to serious developers who have attained certain level of preparedness. In addition, cases of the existing linkage holders/LoA holders/LoA recommendees should be reviewed on the basis of the status regarding placement of Letter of Award (LOA) for their main plant latest by 30th September, 2008. Those applicants/developers who have failed to place the order by 30th September, 2008 shall be liable to be declared as 12th Plan project and FSA will be signed accordingly subject to meeting the milestones. However, in case milestones are not met within the stipulated period, the LoA would lapse as has been stipulated in the NCDP.

DECISION/RECOMMENDATION

After detailed discussions, it was pointed out that there is need for extensive review of existing linkage /LoA which are not likely to materialize during 11th Plan. The representative of MoP agreed that recommendations have been made for capacities much beyond the planned capacity programme of Ministry of Power during 11th Plan. It was explained that capacity addition

programme is a dynamic process with certain gestation period and slippages and hence there is need to weed out non serious developers from time to time after ascertaining their preparedness status. MoP pointed out that considering the gestation period it would be desirable to consider the cases of not only such projects where the preparedness status indicates commissioning within 11th plan but also such cases which are likely come up in the first two years of 12th Plan(early 12th Plan). This approach would also avoid bunching of projects towards the end of the plan period consequently putting serious strain on resources. This would also ensure that while serious developers will get sufficient time to execute their project, the coal supply horizon will also get extended into 12th plan giving more time to coal companies to plan their production against committed supplies.

Further, MoP suggested that LoAs in respect of all the cases recommended by MoP may be taken up for consideration by SLC(LT) and LoA to such applicants may be granted conditionally. According to MoP the conditions should be that if the recommended unit is able to place order for the main plant by 31st October, 2008 than only the LoA would be given as 11th Plan project otherwise it may be treated as 12th Plan project. It was decided that all the recommended cases may be taken up for consideration by the SLC(LT) and decision may be taken regarding grant of LoA subject to certain conditions to be decided by the Committee.

Item No.6: Processing/receiving new requests

Large number of applications have been received in the prescribed format along with requisite fees. Considering the existing capacity addition programme, linkages/LoA already granted/recommended, it is likely that all the applications may not get disposed off in the near future. Thus, it is for consideration whether Ministry should temporarily suspend accepting fresh applications till such time the pending applications are adequately disposed off.

DECISION/RECOMMENDATION

The representative of Coal India was of the view that in view of existing commitment in terms of LoAs, FSAs and the production plan the SLC(LT) may not like to consider fresh applications and defer the existing application. However, it was pointed out that SLC(LT) has to process the request for long-term coal assurance from new consumers in accordance with the provisions contained in the NCDP and therefore, after discussion, the committee decided that fresh applications would continue to be received by Ministry of Coal and would be processed as per the prescribed procedure.

Item No. 7: Tapering linkages

A number of applicants in the categories of Power Utilities/TPPs, IPPs and CPPs have either specifically requested for tapering linkage in view of their having allotted coal blocks or have applied for normal linkage despite having blocks. It is for the consideration of the Committee whether tapering linkages should be given to such applicants or they should be asked to synchronize their mine development plans with their end use plant(s).

DECISION/RECOMMENDATION

After discussions, the Committee decided that request for tapering linkage may be considered on case to case basis and for a maximum period of three years. Further, the committee was informed that a detailed policy on tapering linkage is being finalized by Ministry of coal and all the tapering linkages, both existing as well as future, would be regulated under provisions of extant policy/guidelines regulating tapering linkage.

Item No. 8: Linkages for part capacity

There are cases where applicants who have been allocated blocks have sought part permanent linkage for their project while meeting part requirement through captive blocks. It is for consideration of the Committee whether in such cases part linkage should be considered on permanent basis or otherwise.

DECISION/RECOMMENDATION

MoP was of the view that as the size and reserve of the captive block allocated is not sufficient for the entire capacity planned by the developer, it would be desirable to meet part of the requirement through linkage on permanent basis. Representative of CIL was of the view that the quantity under this dispensation should be decided only after working out the feasible quantity of coal available through the blocks and the remaining quantity could be met through linkage. It was agreed to have this condition while considering and recommending part linkage.

Item No. 9: Tapering linkages in respect of coal block allocattees

A large number of applicants who have been recommended by SLC (LT) and approved for issuance of LOA are also having blocks either in their own name or indirectly through different legal entity i.e SPV. It is for consideration whether in the absence of any tie up projects to such blocks, existing LOA linkage should be converted into tapering linkage or otherwise. Moreover, in the case of tied up projects for the block having not made substantial progress, the possibility of linking the block already allocated to the project for which linkage has been sought may be explored.

DECISION/RECOMMENDATION

MoP informed that as there are specified end use plants linked to captive block it may not be possible to convert the other normal linkage into tapering by replacing the linked end use plant by existing plant of the developer. Advisor (Projects) informed that there is a committee which monitors the development of end use plant linked to block and in case end use plant is not established, the block is deallocated. It was, however, also pointed out that there are certain cases in power sector where the blocks have been allocated without any specified end use plant and MoP may like to identify such block and tie them up to some of the existing plants having normal linkage or proposed plant of the same developer or in the same state where block has been allocated without specifying any end use plant.

Item No. 10 :Linkage/LoA for coastal Plants

There are certain projects which are located in the coastal areas where the applicants have either asked for full linkage for the full capacity or part linkage only. It is for the consideration of the Committee whether such coastal projects should be based on 100% imported coal or part import and part indigenous coal rather than on full indigenous coal.

DECISION/RECOMMENDATION

After detailed discussions it was decided that it may not be possible to define a coastal plant however, the MoP may while recommending a case, may recommend only part linkage through indigenous coal for such plant which has the potential and logistic to import and is otherwise far away from coal mines. It was pointed out by MoP that the percentage of imported and indigenous coal has to be decided at the time of granting LoA itself so that equipments can be designed based on assured proportion of indigenous coal available through linkage. CEA opined that it is possible to blend 20% imported coal with indigenous coal even in the existing plants.

Item No. 11: Cutoff capacity for entertaining requests for LoAs in respect of IPPs/CPPs

CEA/MOP is generally not in favour of encouraging setting up of IPPs below 250 MW and CPPs below 25 MW. However, CEA has recommended certain cases of IPPs whose capacity is less than 250 MW on the ground that it is either a "bio-mass plant" or is "based on rejects" whereas in other cases of less than 250 MW they have not recommended the case of IPP/Utilities and for less than 25 MW in the case of CPPs. It is for the consideration of the Committee whether reject based IPP/CPP and bio mass plant should be treated as a different class as compared to coal based plants and their request for coal linkage considered accordingly or otherwise. It is for consideration whether the cutoff for considering IPPs/CPPs cases should be applied retrospectively or should be made applicable prospectively. Further, it is also for consideration whether any maximum cap (say 500/600/660 MW or 1000/1200/1320 MW) can be fixed for linkages and any capacity beyond that should be considered only through blocks.

DECISION/RECOMMENDATION

The Committee was informed that as a matter of policy CEA is not recommending cases of IPPs below 250 MW now revised to 200 MW and CPPs below 25 MW. MOP pointed out that many CPPs of old vintage are being imported. These are highly inefficient and so there is a need for greater vigilance. However, representative of DIPP strongly opposed any move to restrict CPPs of capacity of below 25 MW as cement plants may need CPPs of lower capacity. It was, however, agreed that CPPs below 5 MW should not be considered for linkage. Similarly it was felt that there can not be any upper limit for IPPs/CPPs. In view of discussions, it was decided that MoP will resubmit a consolidated list of recommendations including such units also which were not considered by CEA/MoP based on capacity.

Further, after discussion it was decided that while working out the norms for IPPs/CPPs having unit size of 200 MW or less, norms applied should ensure for optimum and efficient use of coal. The details in this regard should be worked out by Ministry of Power having regard to inter alia suggestion made by the committee constituted by them for suggesting norms for power sector and submitted to the Committee headed by AS, Ministry of Coal which is presently examining the norms for power, cement and sponge

Item No. 12 : Linkage/LOAs for Merchant Power Plants (MPPs)

A number of applications for linkages have been received from Merchant Power Plants (MPP). Since MPP by its very nature is to operate on commercial basis and is free to have commercial tariff and Load factor based of demand and supply situation, it is for consideration whether such MPPs should be provided long-term assurance through LoA/FSA on the same terms and conditions as applicable to Utilities/IPP. Further, MPPs should preferably source their coal through coal blocks or import.

DECISION/RECOMMENDATION

MoP informed that in view of the fact that the MPPs are allowed to participate in the tariff based bids invited by the DISCOMS and since they promote competitive market development for short term power, they are of the view that MPPs should continue to get long-term coal linkages as in the case of IPPs. However, priority for grant of linkage may be given as per MoP's policy notified on 3.11.06.

MoP representative also informed that as per the Electricity Act and Electricity Rules, there is no demarcation between IPP and Merchant Power Plant (MPP). Further, status of the project as to whether it would be an IPP and MPP can not be assessed at the time of processing of application

and would be known only at the time of COD. Therefore, after discussions, MoP recommended that the application of MPP for LoA may also be considered alongwith other application. This suggestion was agreed to by the Committee. It was, however, also agreed that once the status of plant is ascertained as merchant power plant the coal companies will free to make suitable provision in the FSA to have a specific commercial arrangement with regard to supply of coal to MPPs.

Item No. 13: Old and deferred cases not considered for linkage/LoA despite repeated consideration by SLC (LT)

In the past, various requests for Linkages/LOAs have been deferred from time to time on grounds of either the project/plant not coming up during 11th Plan or on account of non-submission of updated status and other relevant information etc. to Ministry of Power. SLC (LT) may consider dropping such cases which are not specifically recommended by Ministry of Power with the directions that the applicant may apply afresh, if they so desire after reaching certain level of preparedness.

DECISION/RECOMMENDATION

This was agreed to by the Committee, however, it was decided that before dropping the cases which have been deferred from time to time, the nodal ministries would be required to indicate specific comments/recommendations with reference to each case. A list of deferred cases would be furnished to the nodal ministry for the needful and decision would be taken by SLC(LT)

Item No. 14 : Transfer of linkage/LoA/FSA consequent upon change of name, ownership, location etc.

At present there is no well defined policy for transferring linkages/LoAs/FSA from one entity to another entity. Generally requests are being received for change in name or transfer of linkage rights on account of various reasons including :

- i) On change from Pvt. Limited to Public Limited
- ii) On change of controlling share holding patterns
- iii) Acquisition/merger
- iv) BIFR cases i.e. acquisition through auction of BIFR properties
- v) Joint ventures
- vi) SPV
- vii) Sale through scheme of arrangement approved by Courts

At present request for change in names are being considered on merit in each case subject to the following conditions

- a) that the project for which linkage/LoA has been given remain unaltered and its location is not changed. **and**
- b) the conditions under which linkage/LoA has been given remain unchanged.

Thus, a view may be taken whether the linkage is vested in the "project" irrespective of its ownership or change in legal entity owning or controlling the said project or otherwise. In such event request for transfer can be examined in the light of above guidelines. However, if this is not considered as "asset" linked to a particular project, than each change in ownership for whatever reason will require re-consideration of existing linkage. This may cause disruption in working of the project as well as smooth transition of business made on commercial basis.

DECISION/RECOMMENDATION

MoP representative informed that no transfer of LOA should be permitted to prevent possible intentional profiteering on the strength of such assurances by non-serious developers who may not have made substantial investment in the project at the LOA stage. It was also suggested that at the time of granting LOA, the names of promoters and major shareholders/stakeholders should be sought from the project developers and it should be mandatory on the part of the project developers to intimate any significant changes of shareholding pattern due to subsequent public offering of shares/placement of shares.

As regard transfer of FSA, MoP was of the view that it could be allowed after minimum one year of FSA, as the power project would have made sufficient progress at the FSA stage and substantial investment/expenditure on the project would have been made. However, it was pointed out by MoP that there may be some change at the time of financial closure and this fact may also have to be factored.

After detailed discussions on the pros and cons of the issue concerning transferability of linkage/LoA/FSA, legal provision, present practice etc. it was in general agreed that these instruments can not be made freely and unconditionally transferable. However, due to business compulsions and investment decision there will be a need to develop a mechanism to allow such transfers on cases to case basis. In general there should be a minimum lock in period during which there should not be any change in lead promoter or his share holding pattern as existing on the date of application. In addition all cases where BIFR and Court order exist, will have to be decided in accordance with the direction/ decision. It was also agreed that any company, other than BIFR and Court cases which is not drawing coal over a long period of time but having linkage will have to approach CIL/SLC(I.T) for resumption of coal supplies and such resumption will be on LoA basis only as per extant policy.

Thereafter, it was decided that CIL will examine the whole issue keeping in view the observations made above as well as legal position. The proposal of CIL in this regard would be considered by SLC (I.T) for decision. In the meanwhile, the present practice of examining and allowing change of name on various grounds as indicated in the agenda on case to case basis will be continued and even the cases of transfer of linkage on account of ownership change where the Linkage/ FSA is more than one year old will be allowed subject to the conditions that :

- i) that the project for which long-term coal linkage granted remains unaltered and its location is not changed; and
- ii) the conditions under which long-term coal linkage was granted, will remain unaltered.

Item No.15 :Coal consumption norms

As per NCDP, coal companies are mandated to supply "normative quantity" subject to satisfaction level (100% or 75%). Thus, norms assume significance as it would determine normative quantity. Having regard to provisions under NCDP and the fact that coal is a scarce and depleting commodity, which must be used in most economic and efficient way, norms should be such which should encourage use of energy efficient technology, processes, handling etc. Inefficient use of coal should be discouraged by introducing internationally accepted bench marked norms.

DECISION/RECOMMENDATION

SLC(I.T) noted that a committee under the Chairmanship of AS, Ministry of Coal is already finalizing norms for power, cement and sponge iron sectors. After discussions, it was decided that this issue may be examined by that Committee and a decision may be taken expeditiously. While taking decision, the observations made in the agenda items as regards efficient use of coal and the MOP's assertion that norms recommended to Ministry of Coal by them vide their letter dated 4.2.2008 have been prepared keeping in view best international practices and efficiency of power according to unit size may be considered. The Committee headed by Additional Secretary(Coal) would consider the recommendation/ suggestions made by a committee constituted in MoP/CEA to suggest norms before a final decision is taking by the committee to apply norms for determination of normative quantity under New Coal Distribution Policy.

Item No. 16 : Supply under FSA

Generally FSA is signed for normative quantity for the entire installed capacity whereas the plants may either operate below or some times even above installed capacity while in the case of former, their consumption level rises, in the latter case, they are unable to source their entire requirement which hampers operating beyond installed capacity. Certain basis may be incorporated to supply coal as per operating capacity (with a cap of 105 to 110% of installed capacity) so as to create level playing field for both inefficient and efficient capacity utilization.

DECISION/RECOMMENDATION

The representative of MoP informed that they are in favour of supplying as per actual operating capacity. Accordingly, they have suggested supply on the basis of average supply during last years in respect of existing plants and review of normative quantity based on actual operating capacity after stipulated period say three years so as to revise the normative requirement based on operating capacity. The same principle can be followed in respect of other consumers getting coal through FSA. CIL was requested to examine these suggestions and submit their comments/proposal which has a bearing on determining of normative quantity of existing power utilities as well as other consumers and also for making suitable provisions in the FSA to be signed with a new consumer.

Item No.17: Transparent and fair distribution of implementation system

Over a period of time, a large number of consumers have been provided linkages LoAs which need to be implemented and monitored by Coal companies. The entire gamut of coal distribution is required to be made more consumer friendly devoid of human interface with more reliance on information technology. A time bound action plan needs to be put in place by coal companies to introduce IT enabled distribution and grievance redressal system. There should also be complete transparency in all issues concerning distribution of coal by placing all details concerning transactions by coal companies in the public domain.

DECISION/RECOMMENDATION

CIL/coal companies were impressed upon the need to make the entire gamut of coal distribution more consumer friendly devoid of human interface with more reliance on information technology. They were also asked to finalise a time bound action plan. CIL representative informed that they are already in the process of putting in place an IT based information dissemination system. It was advised that CIL should put all details concerning supply of coal including linked source, grade and quantity in public domain through website and update it on regular basis almost in tune with real-time. They should also come out with a time bound action plan for making the whole distribution process IT enabled and consumer friendly.

Item No. 18 : Validity of FSA

Normally, the FSAs are valid for a period of 20 years and further extendable by 5 years. In other words there is a certain specified period for which the FSAs are executed. In the past, linkages have been given and coal is being supplied in terms of SLC(ST) allocations or the allocation orders issued by CIL from time to time. Under the NCDP, the supply to all consumers will be only under FSA. As the life of the plant may not be same as validity period of FSA, a view needs to be taken as to how to regulate distribution of coal to such plants who desire to continue to get coal beyond the normal validity period. One of the options could be that on expiry of normal validity period of say 20 years from the date of commencement of supply of coal under linkage or FSA whichever is earlier, the unit may seek fresh LoA/FSA which will be considered as per the extant policy. Alternatively, any modernization or replacement of plant leading to change in configuration, capacity, technology etc. would require re-negotiation of FSA or grant of fresh LoA/FSA as per extant policy.

DECISION/RECOMMENDATION

Ministry of Power informed that as the validity period of FSA for new projects would be 25 years considering that the useful life of the power plant as well as period of PPA is generally 25 years, the period of FSA may be 25 years. It was also suggested that this could be further extended based on mutual discussion before the expiry of the initial period taking into account plant condition. After discussions, it was agreed that the initial FSA period may be for five years which can be extended upto 20 years under normal circumstances. However, this would depend on mutual discussion between buyer and seller and suitable provisions in the respective FSAs.

Item No. 19 : Substitution of Import

Traditionally, due to locational and cost advantage a large number of consumers in cement and sponge iron units have been using imported coal. However, since last two years due to hardening of international coal price and steep rise in last 6-8 months there is sudden shift towards substituting imported coal by indigenous coal which is substantially cheaper than imported coal. This trend of substitution by exiting units has increased the demand for indigenous coal from these sectors and thereby affecting committed supplies to other consumers in short run.

DECISION/RECOMMENDATION

MOP was of the view that they do not support substitution of imported coal by domestic coal as it could reduce imports affecting fuel security. CIL was of the view that import substitution should be gradual as it would put pressure on supplies. It was also felt that CIL may work out a list of such cases where coal substitution will take place in view of new FSAs and the same may be taken up with DIPP for arriving at an appropriate view.

Item No. 20: Brief on supply of coal by WCL on 'cost plus pricing formula'

The SLC (LT) had granted certain linkages, from WCL, prior to 2002, on 'cost plus pricing' formula. Under this formula, WCL was to develop specific project for supply of coal to the consumer and the cost of supplies was to be worked out by WCL, based on IRR of the project.

However, due to various reasons, supplies to those consumers who were granted long term coal linkage on 'cost plus pricing', were either made on 'notified price', or on commitment charges basis. This is apparently because WCL could not develop specific project as was envisaged and agreed upon mutually and supplied coal out of other existing mines/projects.

A decision was taken in Standing Linkage Committee (LT) meeting held on 30-4-2002, that where the consumer calls for linkage from specific mine or requires specific quality of coal and made available by developing new project by the Coal Company for the purpose, the issue of 'cost plus pricing' would still be an option and the linkages granted would be conditional to it. The relevant extracts of the minutes are reproduced below:-

"the Committee decided that only in those cases where the consumer had called for linkage from specific mine or required coal of specific quality which could be made available only by developing new project by the coal company for the purpose, the issue of cost plus pricing would still be an option and the linkages so granted would be conditional to it."

In the recent past, certain cases have been brought to the notice of Ministry of Coal, where disputes on methodology of pricing in such cases have arisen.

In view of the decision taken in the SLC (LT) in 2002, the following issues are placed before SLC (LT):-

- a. Whether WCL/any other coal company may be allowed to continue supply of coal to those linkage holders where no specific project has been developed, who were granted linkages on 'cost plus pricing' basis on 'notified price' or otherwise.
- b. What should be the mechanism or cost of coal already supplied by WCL/ any other coal company to a consumer, who was originally granted long-term coal linkage on 'cost plus pricing' basis but WCL/coal company could not develop any specific project/mine for meeting their requirements.
- c. What should be the mechanism or cost of coal in respect of future supplies to such consumers.

DECISION/RECOMMENDATION

CMD, WCL explained the facts and circumstances under which certain consumers who were given long term linkage by SLC (LT) on a "cost plus basis" did not get coal on "cost plus" and instead the supplies were made at "notified price" with or without commitment charges. It was explained that some of the units did not take any coal and their linkages were cancelled while in one case, the "cost plus linkage" was converted into "normal linkage" by SLC (LT). In the case of M/s. Birla Cellulosic, WCL explained that no specific mine on cost plus basis could be developed because of non-availability of any new project commensurate with the unit's meager linked requirement of only 0.12 million tonnes per annum. It was also clarified that supplies to M/s. Birla Cellulosic was from the regular sources and as the coal supplies were made from the general source by WCL (from where supplies were also made to other linked consumers) and as the cost plus pricing condition was applicable only in the case of supplies made from the new project to be developed for the purposes in terms of decision of SLC (LT), in its meeting held on 30.4.2003, the despatches attracted notified price.

In the case of Ultratech Cement Limited also, the coal was to be supplied on "cost plus basis" from the source to be developed, however, a commitment charge of Rs.75/- per tonne (subsequently revised from time to time) in addition to notified price was charged. The cost plus mine as agreed upon in the FSA could not be developed by WCL supplies were made subject to charging mutually

agreed commitment charges in addition to notified price.

In general, it was felt that linkage from cost plus mines would attract different price than notified price, however, it would depend on the facts and circumstances of each case under which supplies have been made and commercial agreements have been signed. Therefore, for the past period, the WCL should seek a legal opinion as regards applicability of cost plus pricing in the facts and circumstances of the case as well as legality and enabling provision for recovering, if required, the same from the consumer at this stage. After taking legal opinion, the matter may be decided with the approval of their Board and SLC (LT) may be informed of the decision. This action may be concluded expeditiously so as to clear the uncertainty over the issue.

As regards future supplies, all supplies are to be regulated in accordance with provisions of New Coal Distribution Policy which provides for supply of coal at notified price. However, under certain special circumstances, if coal is to be supplied from cost plus mines, separate commercial arrangements may have to be made. Accordingly, supplies to such units which have been temporarily suspended by WCL on the grounds of non-finalisation of FSA because of "cost plus issue" should be resumed after entering into FSA, having regard to the observations as above.

As far as supplies of coal on tapering basis by coal companies against the LOAs which have been recommended on cost plus basis, CMD, WCL raised the issue that it would create problem in developing cost plus mines for "tapering linkage" as no projects would be viable. It was suggested that the LOA has to be granted in accordance with the provisions of NCDP. The cost plus is an option for supply under specific circumstances and if tapering linkage is acceptable to such consumers on cost plus basis, then it has to be supplied. Representative of MOP pointed out that in the present scenario, there would not be any dearth of consumers seeking tapering linkage on a rolling basis, from time to time and this should take care of concern expressed by CMD, WCL. It was clarified that MOC may issue guidelines for "Cost Plus Projects" if specific issues crop up, after the desired relevant information is placed in public domain. Further, it was also advised that coal companies should identify cost plus sources and put the details including applicable price, quantity available etc. in public domain so that LOA/linkage holder not drawing coal may opt for such source, subject to commercial arrangement. In case of request exceeding the availability, the coal companies may adopt viable and transparent criteria like proximity of the project to the cost plus mine, for deciding inter-se priority.

Additional Agenda Items

i) RATIONALISATION OF LINKAGE.

This Ministry has been receiving requests for rationalization from the existing consumers specially from Sponge Iron Units for change of their linkage on the grounds of distance of the linked coal mines coal companies or quality of coal grade. There are also requests for change of source on account of non suitability of the quality/variety/grade of coal being offered to linked consumers. In the past, keeping in view the directions of Competent Authority, an exercise was carried out to rationalise the source(s) primarily on the ground of location of the plant and its proximity to the linked mine. However, some of the applicants, who did not seek rationalisation unconditionally or did not apply for rationalisation, have now approached for rationalisation. The basic principle behind rationalisation is to keep the transportation cost to minimum subject, however, to availability and logistics constraints. Similarly, for cases where coal of suitable grades or quality is not available, linkage holders are seeking rationalisation.

DECISION/RECOMMENDATION

Coal companies were suggested to put up details of existing linkage including specific source, mines, quantity etc. on their website. Further, the process of rationalization can not be a one time exercise and there is a need for institutional mechanism to consider requests for rationalization in a fair and transparent manner. While in the case of power sector the process of rationalization would require greater consultation with other ministries, agencies and hence would be dealt by SLC(LT) or within the Ministry of Coal, in respect of other consumers it should be dealt with by CIL. While rationalizing the source there shall be inter alia regard to availability of logistics, transportation cost, technical suitability, availability of coal etc. The rationalization may be resorted to with or without condition by the CIL based on relevant facts.

ii) **SUPPLY OF COAL ON INSTALLED CAPACITY OR OPERATING CAPACITY.**

At present the policy provides for entering into FSA as per normative quantity based on installed capacity declared by the linkage/LoA holders. There are cases where units are not operating as per their declared capacity/installed capacity and are in fact operating at a capacity much lower than installed capacity. In such cases the quantity provided under FSA effectively may be meeting their 100% requirements. In order to ensure level playing field and also to prevent under utilisation of capacity, the supply of coal should be as per the operating capacity/actual capacity being used. Modalities for ascertaining the actual capacity/operational capacity could be finalized in consultation with the nodal Ministries.

DECISION/RECOMMENDATION

MoP informed that their views on this issue is already covered in item No. 16 of main minutes. The Committee took note of this.

iii) **SUPPLY OF COAL TO CPPs TO THE EXTENT UTILISED FOR GENERATION OF ELECTRICITY MEANT FOR CAPTIVE CONSUMPTION ONLY.**

At present coal is being supplied to CPPs on installed capacity basis. Reportedly certain percentage of electricity generated by CPPs is being traded /used for non captive consumption purposes. While legally there is no bar on CPPs to sell power on commercial basis, it is for consideration whether coal to that extent should also be provided at notified price or otherwise. Alternatively, coal may be released only to the extent required for generation meant for capacity consumption.

DECISION/RECOMMENDATION

It was pointed out that some time CPPs are not using the entire electricity for their internal consumption and instead sell or trade the same and hence coal may be supplied only to the extent used for captive consumption. MoP clarified that there is no legal bar in selling or trading electricity and any restriction would affect supply of power from CPPS to grid. It was, however, felt that coal companies may workout a separate commercial arrangement in respect of supply of coal to the extent not used for captive consumption. CIL may examine the issue and submit a report for the consideration of SLC(LT).

iv) **SUPPLY OF COAL TO CEMENT PLANTS ON THE BASIS OF CLINKER CAPACITY OR CEMENT CAPACITY.**

Cement Manufactures are applying for linkage/LoA in which they are declaring installed capacity. Some times they declare clinker manufacturing capacity, whereas in some cases cement manufacturing capacity is indicated. Therefore, there is a need to decide the "base" for working out the normative quantity. In such cases where only clinker manufacturing facility is there, the normative quantity may have to be worked out as per the norms applicable for clinkers. However, in

case the norms is to be applied uniformly to both clinker capacity and cement capacity, the capacity should be one and the same to avoid higher normative quantity based on cement capacity rather than on clinker capacity.

DECISION/RECOMMENDATION

As certain details were not readily available, Committee decided to defer the proposal.

v) REJECT BASED POWER PLANTS

A number of applications have been received from time to time for granting part linkage of coal for "reject based power plants". In the past, SLC(LT) had decided that matter be examined in consultation with CIL. CIL is of the view that they do not have sufficient quantity of rejects to provide linkage on a sustained basis. Whatever quantity is being generated or would be generated will be consumed in their proposed CPP. Therefore, in the absence of only viable source of rejects for supply on a sustained basis, the viability of reject based power plants poses serious questions. However, with massive capacity addition programme for washing and need for consuming energy contained in rejects, it would be desirable to find ways and means to consume such rejects in an environmentally sustainably manner. Further, there are cases where multi fuel linkages holders have sought complete shift to coal due to shortage of other fuel. Such eventuality may even arise with rejects also in due course specially when there is no other market for purchase reject on a sustained basis..

DECISION/RECOMMENDATION

It was explained that reject based power plants and biomass power plants should be given due encouragement. CIL pointed out that due to their ambitious plan to set up coal washeries, substantial quantity of rejects would be generated which needs to be gainfully utilized. As regard norms CEA was requested to keep in mind these aspects while suggesting the normative quantities as there are no specified norms for these plants and the quantum of coal required under linkage would depend upon technical parameters like boiler design, burning efficiency, calorific value of rejects. Thus in all these cases coal companies should workout the normative requirement having regard to all this facts in each case before issuing LoA. Moreover, with a view to ensure that fuel mixed approved remains same during the life of the project, requests for substitution of rejects or other biomass fuel with coal will not be entertained.

vi) BIO MASS PLANTS

A number of requests have been received for linkage by Biomass power plants. While this may be treated as a separate class and could be accorded priority, a view may have to be taken to deal with cases where request is at a later date granting full linkage due to non availability of biomass fuel.

DECISION/RECOMMENDATION

The views and decision taken in item no. (iv) would be applicable in respect of this agenda item. There is, however, no need to accord any special priority to biomass plant as such.

Item for information

i) The proposal of M/s. OPG Power Generation Pvt. Ltd. for issuance of "Letter of Assurance"(LoA) in respect of their Group Captive Power Plant capacity of 3x77 MW at OPG Nagar, Periya Obalapuram, Gummidipoondi Taluk, Thiruvallur, Tamil Nadu was considered by the Standing Linkage Committee(Long-Term) for power in its meeting held on 6.11.2007. During the

course of the meeting the representative of SCCL informed the Committee that Captive Requirement of the consumer, based on physical verification of end use plant, is only for 10 MW. Keeping in view the huge discrepancy in the capacity applied and the capacity recommended by SCCL, the Committee decided that this proposal may be examined separately on file, keeping in view the comments of SCCL and the application of the consumer and the same was approved by the Competent Authority. Therefore, the proposal was examined on file and Competent Authority has approved the issuance of "Letter of Assurance"(LoA) for capacity of 3x77 MW Group Captive Power Plant(2x77 MW) by CIL and for 1x77 MW by SCCL).

CIL/SCCL have already been advised for taking further action for issue of "Letter of Assurance"(LoA) in terms of the provisions of the "New Coal Distribution Policy". This is for the information of the SLC(I.T).

DECISION/RECOMMENDATION

Committee noted the information.

ANNEXURE

NAME OF THE PARTICIPANTS WHO ATTENDED THE INTERNAL MEETING OF THE STANDING LINKAGE COMMITTEE (ONG TERM) ON POWER, CEMENT AND SPONGE IRON UNITS HELD ON 5TH AUGUST 2006

Ministry of Coal

1. Dr. S.P. Seth, Addl. Secy(Coal) and Chairman-SLC(LT)
2. Sh. Rajiv Sharma, Addl. Secy(LA)
3. Sh. A.K. Jyotsna, Director(CPD)
4. Sh. G. Srinivasan, Under Secretary(CPD)

Ministry of Power

5. Sh. Anil Kumar, Addl. Secretary
6. Sh. V.P. Jey, Jt. Secretary
7. Sh. Puneet K. Goel, Director

Central Electricity Authority

8. Sh. S.H. Khan, Chief Engineer
9. Sh. S. Seshadri, Chief Engineer
10. Sh. A.K. Mishra, Director

Ministry of Steel

11. Sh. N.R. Dash, Director
12. Sh. Deepak Kumar

Deptt. Of Industrial Policy and Promotion

13. Sh. R. Muridhar, Under Secretary

Coal India Limited and Coal Companies

14. Sh. D.C. Garg, CMD, WCL
15. Sh. S. Chakrabarti, CMD, ECL
16. Sh. S.R. Upadhyay, CMD, MCL
17. Sh. R.K. Baha, CMD, CCL
18. Sh. N.C. Jha, Director(Tech) CIL, Kolkata
19. Sh. Rakesh Sirlha, Director(Tech)(P&P), BCOI
20. Sh. Anranan Das, Director(Tech)(P&P), NC
21. Sh. A.K. Debnath, Director(Tech), CMPDIL
22. Sh. M.A. Ansari, CGM(P&P), BCOI
23. Sh. J. Goel, CGM(S&M-Opn), CIL, Marketing Division, Kolkata
24. Sh. H.K. Vaidya, CGM(S&M-Opn), CIL, Marketing Division, Kolkata
25. Sh. Gautam Dhar, CGM(CP), CIL, Kolkata
26. Sh. K.S. Narayanan, GM, WCL
27. Sh. V.B. Sahay, GM(S&M), CCL
28. Sh. T.K. Bhattacharjee, GM(S&M)WCL
29. Sh. P. Darbar, GM(S&M), NC

30. Sh. V. K. Talwar, CSM, O.L.RSC, New Delhi
31. Sh. T. K. Mukherjee, Dy. CME, DP, O.L, Kolkata
32. Sh. Sanjay Chawla, SE, O.L, New Delhi
33. Sh. B. K. Upadhyay, SC, O.L, New Delhi

SCCL

34. Sh. G. V. Reddy, AGM(M&M)

NTPC

35. Sh. R. L. Matoo, ED(HM)