

**ONGC Videsh Limited**  
**(CIN: U74899DL1965GOI004343)**  
**RELATED PARTY TRANSACTIONS - POLICY & PROCEDURES, 2016**

**1.0 Preamble**

The Company is committed to uphold the highest ethical and legal conduct in fulfilling its responsibilities and recognizes that related party transactions can present a risk of actual or apparent conflict of interest of the Directors, Senior Management etc. with the interest of the Company.

The Board of Directors (the "Board") of **ONGC Videsh Limited** ("**The Company**" "**ONGC Videsh**"), adopts the following policy and procedures with regard to Related Party Transactions (RPT) as defined below, in compliance with the requirements of Section 188 of the Companies Act 2013 and Rules made there under and any subsequent amendments thereto (the "Act") and Listing Agreement with the Stock Exchanges, in order to ensure the transparency and procedural fairness of such transactions.

**2.0 Objective**

This policy is intended to ensure systematic identification, approval and/ or reporting of transactions as applicable, between the Company and any of its related party in the best interest of the Company and its Stakeholders. Provisions of this policy are designed to govern the transparency in identification and approval process as well as disclosure requirements to ensure fairness in the conduct of related party transactions, in terms of the applicable laws. This Policy shall supplement other policies of the Company that may be in force for identification, approval and / or reporting of transactions with related persons.

The Audit Committee ("Audit Committee"), shall review, approve and ratify Related Party Transactions based on this Policy in terms of the requirements under the above provisions. The Board of Directors reserve the power to review and amend this policy from time to time. Any exceptions to the Policy on Related Party Transactions shall be consistent with the Companies Act 2013, including the Rules promulgated there under and Clause 23 of the SEBI (Listing Obligations and Disclosure Requirements) regulations, 2015 and shall be approved in the manner as may be decided by the Board of Directors.

**3.0 Transactions Covered by this Policy**

A transaction covered by this policy includes any contract or arrangement with a related party with respect to transactions defined hereunder as "Related Party Transaction". Provided that any transactions entered into by the Company with a Related Party **in its ordinary course of business** and **on an arm's length basis** shall require the approval of the Audit Committee of the Company.

Provided further that any transaction entered into by ONGC Videsh with Related Party in its ordinary course of business and on an arm's length basis, shall be periodically reported to the Audit Committee.

#### 4.0 Definitions

A) **“Associate Company”**, in relation to another company, means a company in which ONGC Videsh has a significant influence and includes the joint venture companies of ONGC Videsh.

**Explanation.**—“significant influence” means control of at least twenty percent of total share capital, or of business decisions under an agreement. Total Share Capital means the aggregate of the paid-up Equity Share capital and Convertible Preference Share capital.

B) **“Board”** means the Board of Directors of ONGC Videsh.

C) **“Control”** includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner:

**Provided** that a director or officer of the company shall not be considered to be in control over such company, merely by virtue of holding such position;

D) **“Key Managerial Personnel”** means

- (i) Managing Director
- (ii) All Functional Directors
- iii) and Company Secretary of the Company.

E) **“Listing Agreement”**- means the Listing Agreement signed with the Stock Exchanges.

F) **“Material Related Party transactions”** means those transactions entered into with ONGC Videsh by a related party, individually or taken together with previous transactions during a financial year, exceeds 10 percent of the annual consolidated turnover/Net worth etc as per the last audited financial statements of the Company or ₹100 Crore whichever is lower in accordance with the MCA circular dated 21.08.2014 or any amendment thereof.

G) **“Office or place of profit”** means any office or place—

- (i) where such office or place is held by a director, if the director holding it, receives from ONGC Videsh/ Subsidiary/ Joint Venture anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(ii) where such office or place is held by an individual other than a director or by any firm, private Company or other body corporate, if the individual, firm, private Company or body corporate holding it, receives from ONGC Videsh anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise.

**H) “Related Party”** - A Related Party is a person or entity that is related to ONGC Videsh. Parties are considered to be related, if one party has the ability to control the other party or exercise significant influence over the other party, directly or indirectly, in making financial and/or operating decisions and includes the following:

(i) Any Director of ONGC Videsh or his/her Relative;

(ii) Any Key Managerial Personnel (KMP) of ONGC Videsh or his/her Relative;

(iii) A firm, in which any Director or KMP of ONGC Videsh or his/her relative is a partner;

(iv) A private Company in which any Director or KMP of ONGC Videsh is a member or a director;

(v) a public Company in which any Director or KMP of ONGC Videsh is a director and holds along with his relatives, more than two per cent of its paid-up share capital;

(vi) Any body corporate, whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of any Director or KMP of ONGC Videsh;

(vii) Any person on whose advice, directions or instructions any Director or KMP of ONGC Videsh is accustomed to act: provided that nothing in sub-clauses (v) and (vi) shall apply to the advice, directions or instructions given in a professional capacity;

(viii) any Company which is—

(a) a subsidiary/ an associate/joint venture Company of the ONGC Videsh; or

(b) a subsidiary of a subsidiary of ONGC Videsh;

ix) Any other entity/person who is a related party under Section 2(76) of the Companies Act, 2013 or under the applicable accounting standards."

**I) “Relatives”** - with reference to Director or KMP of ONGC Videsh, means anyone who is related to another, if –

(i) They are members of a Hindu Undivided Family;

(ii) They are husband and wife; or

(iii) One person is related to the other in the following manner, namely:-

a) Father including step father

b) Mother including step mother

c) Son including step son

d) Son's Wife

e) Daughter

- f) Daughter's Husband
- g) Brother including step brother
- h) Sister including step sister

**J) "Related Party transactions"** - Transactions/ Contracts/ Arrangement between ONGC Videsh and its related parties which fall under one or more of the following headings:

**As per Section 188 of the Act:**

- a) Provision of technical and administrative support services to subsidiaries
- b) Reimbursement of expenses paid to subsidiary
- c) Reimbursement of expenses paid to holding company
- d) Reimbursement of expenses received/ Recovery of expenses from subsidiary
- e) Remuneration paid to KMP
- f) Sitting fees to Independent Directors
- g) Availing of Services

**As per Indian Accounting Standard (IND AS 24):**

- (a) purchases or sales of goods (finished or unfinished);
- (b) purchases or sales of property and other assets;
- (c) rendering or receiving of services;
- (d) leases;
- (e) transfers of research and development;
- (f) transfers under licence agreements;
- (g) transfers under finance arrangements (including loans and equity contributions in cash or in kind);
- (h) provision of guarantees or collateral;
- (i) commitments to do something if a particular event occurs or does not occur in the future, including executory contracts<sup>1</sup> (recognized and unrecognized);
- (j) settlement of liabilities on behalf of the entity or by the entity on behalf of that related party;
- (k) management contracts including for deputation of employees.

**K) "Transactions on arm's length basis"** means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

**5.0 Pre-requisites for ascertaining related party**

The following details shall be required:

1. Declaration/Disclosure of interest by all the Directors and KMPs' in form MBP-1.
2. Declaration of relatives by all Directors and KMPs'.
3. Declaration about a firm in which a Director and KMP or his relative is a partner.
4. Declaration about a private Company in which a Director and KMP or his relative is a member or director.

5. Declaration regarding a public company in which a Director and KMP is a Director and holds along with the relatives more than 2% of the paid-up share capital.
6. any Company which is—
  - (a) a subsidiary or an associate Company of the ONGC Videsh; or
  - (b) a subsidiary of a subsidiary of ONGC Videsh;

## **6.0 Identification of Potential Related Party Transactions**

The Company Secretary shall at all times maintain a database/ Register of the various Related Parties, arrived at after taking into account the information as contained in **Clause 5.0** and the definition set forth in **Clause 4.0**. The database/ Register shall mention the details required as per the Act and any amendment thereof.

The Related Party List shall be updated whenever necessary and shall be reviewed at least once a year, as on 1st April every year.

Company Secretary shall after collating the information as above circulate the same to:

- (a) All Whole Time Directors,
- (b) Functional/ Departmental Head of each project,
- (c) Business & Development & Joint Venture Department,
- (d) Head - Corporate Accounts Department,
- (e) Any other Departmental Head/ officer whom he believes might be in the position to assess whether the proposed Transactions are covered under RPT.

The concerned Functional / Departmental / Project head etc shall arrange to nominate a nodal Officer at their location, having knowledge of Companies Act, 2013, preferably officers from Legal/ Finance Deptt.,. The designated Nodal Officer shall ascertain whether any transaction in the concerned unit/asset/department will be covered under the definition of RPT. Based on the report of the Nodal Officer, approval of the Competent Authority of the relevant RPT in accordance with the procedures set out in this policy will be obtained.

For the purpose of implementing the provisions under this Policy, the Board and the Audit Committee of Directors of the Company shall receive timely, full and sufficient information about the Transactions covered under this Policy. In determining, whether to approve or not a Related Party Transaction, the Board will take into account, among other factors, recommendations of the Audit Committee, whether the said Transaction is in the interest of the Company and its stakeholders and there is no actual or potential conflict of interests between the related parties.

## **7.0 Road Map to Track RPT**

For prospective/ potential Related Party Transaction, it is essential to identify the transaction at Proposal/PR/Contract stage, at the project level. As such, there is a requirement of amendment in the vendor master and customer master by Material Management group where one mandatory field of related party identifier (trading partner) shall pop-up and compulsorily be released by such designated nodal officer - before creation/ amendment of any vendor master/ Customer. Similarly all the Finance executives at the units need to ensure that any transaction with related party whether on arm's length's basis or otherwise is booked properly through such vendor master/ customer so that SAP can capture all the related party transactions to generate the categorically Report i.e transaction on arm length's basis/other than arm length's basis, by Corporate Accounts with the support of the Nodal Officers at the concerned locations for reporting/seeking approval of Audit committee in time as per this policy.

**A core committee comprising of MM, IT and Corporate Accounts shall be constituted to finalise the road map for implementing the operational part of the policy for identification of the RPT through SAP. This Committee shall meet periodically to review the progress of implementation.**

## **8.0 Ascertainment of Transaction on arm's length basis**

**List of transactions are as per Annexure A enclosed**

**Rules applying to Transactions with Related parties which are in Ordinary Course of Business/ on arm's length basis**

Transactions with Related parties which are in Ordinary Course of Business of ONGC Videsh and on arm's length basis shall be periodically reported to the Audit Committee/Board.

The Nodal Officer shall ensure that details of such transactions which he considers to be in Ordinary Course of Business of ONGC Videsh and on arm's length basis, are brought to the notice of Functional/ Departmental/ Unit Head of each project and thereafter shall be notified to Head Corporate Accounts, who shall designate an officer to collate the data.

The data so collated shall be submitted to the Company Secretary for placing before the next meeting of the Board through the Audit Committee. Transactions being entered into with the related parties even though being in the ordinary course of business of the company shall satisfy the criteria of arm's length pricing. It shall be the responsibility of the Project Manager/ Nodal Officer at level of project to ensure that requisite evidence and documentation are made available to the Auditors/Audit Committee/Board, as may be required by them, to demonstrate that the transactions are in Ordinary Course of Business of ONGC Videsh and have been conducted on arm's length basis.

## **9.0 Review and Approval of Related Party Transactions**

**A. All Related Party Transactions**, except which are entered in Ordinary Course of business and on arm's length must be reported/referred to the Audit Committee of Directors for its approval/ ratification, accompanied with Management's justification for the same. Before approving such

transactions, the Committee will look into the interest of ONGC Videsh and its Stakeholders in carrying out the Transactions and on the benefits of the same. The Committee may, thereupon, approve, reject or approve subject to modifications such transactions, in accordance with this policy and/or recommend the same to the Board for approval.

The Audit Committee / Board shall approve that that the transaction is in the interest of the Company and its shareholders before approving the relevant Related Party Transactions, which are not in Ordinary Course of Business and not on arm's length basis.

In the case of Transactions which are frequent and regular in nature and are in the normal course of business of ONGC Videsh, the Audit Committee may fix up Limits within which the management may carry out such Transactions without any approval of the Audit Committee. Further, it shall periodically review and assess such limits and revise the same as deemed appropriate and ensure that they are in compliance of this Policy and the guidelines herein.

**B. All Material Related Party transactions, other than the exempted transactions in ONGC Videsh being a listed Company shall require prior Shareholders approval by way of Special Resolution in General Meeting in accordance with the requirement of the Companies Act as amended from time to time.**

No Shareholder of ONGC Videsh, if such a shareholder is a related party with reference only to The contract or arrangement for which the said special resolution is being passed shall vote on any such special resolutions.

In the case of ONGC Videsh, a wholly owned subsidiary, the Special Resolution passed by the ONGC Videsh shall be sufficient for the purpose of entering into the transactions between wholly owned Subsidiary and Holding Company within the limits approved by the Shareholders.

**Related Party Transactions not previously approved**

Where any contract or arrangement is entered into by a director or any other employee of ONGC Videsh with a related party, without obtaining the consent of the Board or approval by a special resolution in the general meeting, where required and if it is not ratified by the Board or, as the case may be, by the Shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board and if the contract or arrangement is with a related party to any director, or is authorized by any other director, the directors concerned shall indemnify ONGC Videsh against any loss incurred by it.

ONGC Videsh may proceed against a director or any other employee who had entered into such contract or arrangement in contravention of this Policy for recovery of any loss sustained by it as a result of such contract or arrangement and shall take any such action, it deems appropriate.

**10.0 Disclosure**

Particulars of Contracts and arrangements with Related Party covered under this policy requiring shareholder's approval shall be appropriately referred to in the Board's Report to the shareholders along with the justification for entering into such contract or arrangement.

## **11.0 Exemptions**

### **A. General**

Nothing contained in this policy shall apply to any contract or arrangement—

- (i) in the ordinary course of its business, and
- (ii) at arms' length price basis between ONGC Videsh and
  1. any other firm in which Director or KMP or their Relatives are partner.
  2. service availed in a professional capacity from body corporate/person.
  3. Contract with a private or public company in which relative of a Director or KMP is a director/member.

The following transaction(s) undertaken by any Independent Director with ONGC Videsh or its subsidiary or associate company during the year and during two immediately preceding financial years shall not fall within the ambit of pecuniary relationship with the Company:

- (i) receipt of remuneration by way of sitting fees;
- (ii) re-imburement of expenses for attending board and other meetings;

### **B. Specific**

However, the following transactions with the related parties shall be treated as transaction on arm length's basis provided

**List of transactions are as per Annexure A enclosed**

## **12.0 Registers & Disclosures**

The Company Secretary shall maintain a register, either physically or electronically, as prescribed in the Act, giving details of all contracts or arrangements to which this policy applies.

Every director or key managerial personnel shall, within a period of thirty days of his appointment, or relinquishment of his office in other Companies, as the case may be, disclose to the Company the particulars relating to his/her concern or interest in the other associations which are required to be included in the register maintained.

The Company Secretary shall provide extracts from such register to a member of the Company on his request, within seven days from the date on which such request is made upon the payment of such fee as may be specified in the articles of the Company but not exceeding ten rupees per page.

The register to be kept under this section shall also be produced at the commencement of every Annual General Meeting of the Company and shall remain open and accessible during the continuance of the meeting to any person having the right to attend the meeting.

The register shall be preserved permanently and shall be kept in the custody of the Company Secretary of the Company or any other person authorized by the Board for the purpose.



**13.0 Records / Supporting documents required for establishing the ordinary course of business and arm's length pricing of a transaction with a Related Party**

**(a) Purchase/sale of material, goods etc.**

- (i) Copy of agreements/Purchase Orders/correspondence exchanged/ letters of exchange /bills/ invoices etc.
- (ii) Invoices/ bills of similar transactions on same date or nearby date with un-related parties from the seller.
- (iii) Quotation from un-related service provider.

**(b) Purchase/ sale of property**

- (i) Valuation reports from at least 2 independent valuers to ascertain Fair Market Value.
- (ii) Quotations from 2 independent property dealers/brokers.
- (iii) Draft copy of agreement to sell/Draft of proposed sale deed.
- (iv) Brief terms and conditions and justification of such transaction.

**(c) Availing/ Rendering Services**

- (i) Copy of Agreement/ MOU/ Correspondence etc.
- (ii) Supporting documents justifying the transaction on arm's length basis.

**(d) Loans/ Advances given or Taken**

- (i) Compliance of Section 185, 186 and other applicable provisions of the Companies Act, 2013 and rules there under.
- (ii) Agreements
- (iii) Statutory approvals wherever required.
- (iv) Rate of Interest and justification for the same in view of nearest prevailing G-SEC rate for the term of the Loans/Advances (wherever applicable).

**(e) Guarantee/ Securities**

- (i) Compliance of Section 185, 186 and other applicable provisions of the Companies Act, 2013 and rules there under.
- (ii) Agreements.
- (iii) Other documents justifying the same.

**(f) Subscription to shares/debentures/securities**

Valuation Report or documents justifying that subscription is done/ received at a rate on which placement has been made/shall be made to an un-related party.

**(g) Rent Agreement**

- (i) Copy of draft agreement.
- (ii) Quotation from a property dealer/ advisor in the area in which the property is located or a nearby area.
- (iii) If quoted prices are substantially lower / higher than existing, to seek second quotation.

**(h) Other transactions**

Agreements or other supporting documents along with proper justification of the transaction being on arm's length basis in the ordinary course of business at a prevailing market rate.

**Disclosures -**

- A. Details of all material transactions with related parties are to be disclosed quarterly along with the compliance report on corporate governance.
- B. The Company shall disclose the contract or arrangements entered into with the Related Party in the Board Report to the shareholders along with the justification for entering into such contract or arrangement.
- C. The Company shall disclose this policy relating to Related Party Transactions on its website and also in the Annual Report.

**ANNEXURE**

To,  
**The Company Secretary**  
**ONGC Videsh Limited**

Dear Sir,

I, -----, being a member of the Board of Directors/Senior Management of ONGC Videsh Limited hereby acknowledge, confirm and certify that:

- i. I am aware of the Policy for Related Party Transactions of the Company.
- ii. During the financial year ----- I have entered into the following contracts/arrangements/transactions with the Company and such contracts/arrangements/transactions qualify as "Related Party Transactions" as per the Policy.
- iii. I am not aware of any non-compliance with the said policy.

<b>Brief Particulars of the Transaction</b>	<b>Date of the transaction</b>	<b>Value of the Transaction</b>	<b>Reasons for qualifying it as Related Party Transaction</b>	<b>Remarks – whether in the ordinary course of business and on arm's length basis.</b>

**Signed:**

**Name :**

**Designation :**

**Date :**

**Place :**

## DETAILED ANALYSIS OF RELATED PARTY TRANSACTIONS

### I. Executive Summary of RPT

**Table 3: Summary of Analysis of Related Party Transactions**

S. No.	RPT	Whether in the Ordinary Course of Business (Yes/ No)	Whether transaction is at arm's length	Whether Audit Committee approval required (Yes/ No)	Whether Board of Director approval required (Yes / No)	Whether Shareholders approval required* (Yes / No)
1	Provision of technical and administrative support services to subsidiaries	Yes	Yes	Yes	No	No
2	Reimbursement of expenses paid to subsidiary	Yes	Yes	Yes	No	No
3	Reimbursement of expenses paid to holding company	Yes	Yes	Yes	No	No
4	Reimbursement of expenses received/ Recovery of expenses from subsidiary	Yes	Yes	Yes	No	No
5	Remuneration paid to KMP	Yes	Yes	Yes	No	No
6	Sitting fees paid to Independent Directors	Yes	Yes	Yes	No	No
7	Availing of services from holding company	Yes	Yes	Yes	No	No

The above limits has to be computed based on the audited financial statements of the preceding financial year and it applies to transactions or transactions to be entered into either individually or taken together with the previous transactions during a financial year.

**Note:**

- Given that all the above mentioned transactions seems to be in ordinary course of business and as well as at arm's length, the Board of Director and/ or shareholders approval is not required u/s 188 of the Companies Act, 2013. Therefore the estimated amount of transaction would not impact any conclusion drawn in this report.

### II. Evaluation of Arm's length basis for RPT

**Evaluation of the Arm's Length nature of the RPT**

There is limited guidance in the Companies Act to evaluate arm's length nature of RPTs. As per the Companies Act, "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is not conflict of interest.

The Companies Act does not prescribe a method to compute arm's length price or arm's length basis of the RPTs. It is well accepted rule of interpretation that the statutes must be construed in pari-materia. In other words, where there are different statutes upon the same subject or matter, they shall be taken and construed together. The IT Act along with attendant rules, prescribes a detailed procedure to be followed to determine the arm's length nature of RPTs. Therefore, as the Companies Act does not provide any procedure to determine the arm's length basis, the same can be borrowed from the IT Act. Further reliance can also be placed on international transfer pricing guidelines for ex., OECD TP Guidelines'. Though the basic principles and methodology to determine arm's length basis can be adopted from IT Act or OECD TP Guidelines, it is not obligatory on the Company to strictly follow the methodology prescribed therein for the purposes of compliance under the Companies Act.

As per the Companies Act, the condition of arm's length basis is required to be met at the time of entering into the transaction. Therefore on a policy level the arrangement/ agreements with related parties should be on arm's length basis. The detailed methodology as per the IT Act and attendant Rules provide guidance for testing the arm's length nature of the transaction. There are methodologies based on pricing as well as profitability of/ from the transaction. The board of directors may place reliance on the existing transfer pricing documentation as per the IT Act to determine the arm's length basis under the Act.

The following factors are to be considered while determining the Arm's Length nature of the related party transaction:

- Whether transaction having similar terms and conditions has been entered into by the Company with third party - Comparison of the terms with those of an identical or similar transaction with one or more unrelated parties
- Comparison of the terms to known market terms for identical or similar transactions
- Whether a market quotation available in respect of the related party transactions
- Whether market rates are available in public domain (ex.: interest rates on bank borrowings, etc.) in respect of related party transactions
- Where price level analysis/ back-up documentation not available, is there reasonable arm's length profit margin (either on gross or net as may be applicable) built in the pricing of related party transactions
- Reference to International guidelines/principles e.g. OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration for determining the arm length price

In making the comparison, consideration is given not only to the price but also to other terms and conditions, for example, credit terms, contingencies, specific charge.

The Company has maintained Transfer Pricing Documentation ('TP Report') as required under IT Act for the FY 2013-14. For the RPTs as per the Companies Act and covered in the TP Report, we have examined the methodology to determine the arm's length price as adopted by the Company and provided our comments. For the RPTs not covered in the TP Report, we have provided our views on the arm's length methodology that should be adopted by the Company. In the above backdrop, our review to comment on the arm's length methodology adopted by the Company for its RPTs will follow in the ensuing paragraphs.

**Table 4: Analysis of Arm's Length Nature of Related Party Transactions**

S. No.	RPT	Related Party as per Companies Act	Transaction covered in TP Report FY 2013-14 for Arm's Length Basis (Yes/No)	Method used for Analysis**	Whether the transaction is at arm's length
1	Provision of technical and administrative support services to subsidiaries	ONGC Nile Ganga B.V.	Yes	TNMM***	Yes
		ONGC Nile Ganga (San Cristobal) B.V.	Yes		
		Carabobo ONE AB Limited	No*		
		OAAL	Yes		
2	Reimbursement of expenses paid to subsidiary	ONGC Nile Ganga (San Cristobal) B.V.	No*	Other Method	Yes
3	Reimbursement of expenses paid to holding company	ONGC	Yes	Other Method	Yes
4	Reimbursement of expenses received/ Recovery of expenses from subsidiary	OAAL	No*	Other Method	Yes
5	Remuneration paid to KMP	Mr. N K Verma	No*	Other Method	Yes
		Mr. S P Garg	Yes		
		Mr. Anil Bhandari	Yes		
		Mr. PK Rao	No*		
		Mr. Shyamal Bhattacharya	Yes		
6	Sitting fees to Independent Directors	Independent Directors	Yes	Other Method	Yes
7	Availing of Services	ONGC	Yes	CPLM***	Yes

\* The transaction with the related were not undertaken during FY 2013-14 accordingly, the arm's length basis of the transaction with the related party is not covered under the TP Report for FY 2013-14. However, the arm's analysis of the similar transaction entered with other related parties is covered in the TP Report for FY 2013-14.

\*\* Determination of Arm's length based on the following methods as given in the IT Act/Rules:

- Comparable Uncontrolled Price ('CUP') Method
- Resale Price Method ('RPM')
- Cost Plus Method (CPLM')
- Profit Split Method ('PSM')
- Transactional Net Margin Method ('TNMM')
- Other Method

\*\*\* We have considered 'arithmetic mean' of the comparable companies for arriving at the arm's length basis. The concept of 'range' has been introduced in the Indian TP Regulations. This applies for transactions undertaken on or after 1 April 2014, in case more than one arm's length price is determined by using the most appropriate method, whilst the arithmetic mean concept will continue to apply where the number of comparable are

inadequate. However, the relevant rules describing the manner of computation of such range are yet to be prescribed.

## **1. Provision of technical and administrative support services**

**Transaction Description:** ONGC Videsh sends its employees on secondment to subsidiaries for performing the functions as required by them. These employees are on the payroll of ONGC Videsh. The specific activities to be performed by the employees are decided by the related party organisations and the employees receive instructions by the related party organisations. Further, ONGC Videsh does not provide these services to any third parties.

### **Arm's length Methodology as per TP Report:**

As per the Functional Asset and Risk ('FAR') analysis in the TP Report, ONGC Videsh acts as a low risk facilitator in respect of seconding its own employees to related party organisations. All the risk in relation to performance and outcome of the services being performed by the seconded employee lies with related party organisations since, all the decisions related to provision of technical and administrative support services by the seconded employees are taken by the related party organizations such as functions to be performed by each seconded employee, etc.

For providing the above services, ONGC Videsh has charged its related parties with a charge out rates which includes a cost plus (reimbursable cost of support staff) mark-up of 20 percent (handling charges) based on the study conducted by the external consultant. As per the Transfer Pricing ('TP') principles, least complex entity should be selected as tested party. As per Economic Analysis in the TP Report, TNMM has been selected to justify the arm's length nature of the related party transaction of provision of technical and administrative support services to related parties. To apply TNMM, it is necessary to choose a party to the transaction whose financial indicator is tested vis-à-vis comparable companies. Since ONGC Videsh does not own any significant intangibles and its related parties are far more complex entity to ONGC Videsh which is only a routine service provider company, ONGC Videsh has been selected as the tested party to determine the arm's length basis in relation to the transaction of provision of technical and administrative support services to related parties.

Further, the said transaction have been benchmarked with independent comparable companies based on the availability of reliable information in the databases. The analysis shows that the arithmetic mean of the financial indicator i.e. Net Cost Plus Mark-up ('NCP') i.e. (OP/TC) of comparable companies is 16.22 percent. Hence, prices of related party transaction of ONGC Videsh from its technical and administrative support services that achieve an OP/TC margin of 16.22 percent, or is within the (+/-) 3 percent range available as per proviso to section 92C(2) of the IT Act would meet the arm's length standard required under the Indian TP Regulations. Accordingly the mark up of 20% earned by ONGC Videsh is within the arm's length range required under the Indian TP Regulations.

## **2. Reimbursement of expenses paid**

**Transaction Description:** ONGC Videsh has paid certain charges to its related parties on a cost to cost basis without any mark-up for expenses which were primarily in the nature of travel expenses and other miscellaneous expenses. These expenses were incurred by related parties on behalf of ONGC Videsh purely for the administrative expediency and facilitation which does not involve any value addition by the related parties for providing any direct or proximate benefit to either of the parties. The details of the nature of reimbursement of expenses paid to related parties for the six months period ending September 30, 2014 during FY 2014-15 have been provided below:

**Table 5: Details of Nature of Reimbursement of Expenses**

S. No.	Nature of Reimbursement of Expenses
1	Travel expenses
2	Wage Tax of employee
3	Expenses of Block 5A 5B operation
4	Advance salary
5	Cash Call paid by related party on behalf of ONGC Videsh for Block 5A – 2 and 3
6	Employee related payment (includes Travel Allowance & other payments)
7	Post Retirement Benefit Scheme (‘PRBS’) Trust remittances of employees
8	Leave encashment (actuarial valuation) paid to LIC by related party on behalf of ONGC Videsh
9	White goods depreciation for the good used by the employees
10	ONGC Videsh’s share of Vasant Kunj Building Construction Cost

**Arm’s length Methodology as per TP Report:**

As per the TP Report, the other method has been selected to justify the arm’s length nature of the transaction. Since there was no value addition and the amounts payable to related parties without any mark-up are backed by third party bills/ invoices, this transaction was regarded to be compliant with the arm’s length standard from an Indian TP Regulations perspective.

**3. Reimbursement of expenses received/ Recovery of expenses**

**Transaction Description:** ONGC Videsh has charged to its related party certain expenses relating to travel expenses on a cost to cost basis without any mark-up. These expenses were incurred by ONGC Videsh on behalf of related party purely for the administrative expediency and facilitation which does not involve any value addition by ONGC Videsh for providing any direct or proximate benefit to either of the parties.

**Arm’s length Methodology as per TP Report:**

As per the TP report, the other method has been selected to justify the arm’s length nature of the transaction. Since there was no element of provision of any service and the amounts charged to related party without any mark-up, this transaction was regarded to be compliant with the arm’s length standard from an Indian TP Regulations perspective.

**4. Remuneration paid to KMP**

**Transaction Description:** ONGC Videsh has paid remuneration (including salaries, contribution to provident fund, perquisites, allowances, etc.) to its whole time directors. The managerial remuneration has been paid as a compensation for the services rendered by them to the Company.

**Arm’s length Methodology as per TP Report:**



As per the TP report, the other method has been selected to justify the arm's length nature of the transaction. Since the payment for the remuneration to whole time directors are within the limits so prescribed by the Companies Act, 1956. Thus, the transaction of remuneration to KMP appears to be consistent with the arm's length standard from an Indian TP regulations perspective.

**Table 6: Various Ceilings as per the Companies Act, 2013 for Public Companies**

Nature of the Company	Reference	Applicable for Payments to:	Ceiling	Approvals Required
Public Company	Section 197	Directors including Managing Director ('MD'), Whole Time Director ('WTD') and Manager	11% of net profits	
	Section 197	Directors including MD, WTD and Manager	> 11% of net profits	<ul style="list-style-type: none"> <li>• Central government approval</li> <li>• Authorisation in General Meeting</li> </ul>
	Section 197	One MD/ WTD/ Manager	5%	
	Section 197	More than one MD/ WTD/ Manager	10%	
	Section 197	Other than MD/ WTD/ Manager	<ul style="list-style-type: none"> <li>• 1%, if there is a MD/ WTD</li> <li>• 3% in any other case</li> </ul>	

Additionally, the following factors can be considered while determining the Arm's Length nature of the remuneration to KMP:

- Reference to the guidance given in The Institute of Company Secretaries of India's ('ICSI') recommendations to Strengthen Corporate Governance Framework, December 2009 to exhibit the uncontrolled nature of policies/ procedures adopted for determining the Director's remuneration. Since, the Central Government determines the remuneration of Directors of ONGC Videsh, the arm's length nature of the said transaction is reasonable.
- **Reliance upon Circular 6-P issued under the Finance Act, 1968:** As per the said Circular, remuneration is not considered excessive when it does not tantamount to any tax evasion (as such remuneration is also taxed in the hands of the recipient) and has also been approved by Company Law Administration. This can be used as an argument for the justification of payment. However, this is only a legal argument and does not exhibit any correlation either qualitatively or quantitatively.

## 5. Sitting fees paid to Independent Directors

**Transaction Description:** ONGC Videsh has paid sitting fees to its independent directors. The sitting fees has been paid as a compensation for attending the Board and Committee meetings.

### Arm's length Methodology as per TP Report:

As per the TP report, the other method has been selected to justify the arm's length nature of the transaction. Since the payment of sitting fees are within the limits so prescribed by the Companies Act,

1956. Thus, the transaction of sitting fees to independent director appears to be consistent with the arm's length standard from an Indian TP regulations perspective.

## **6. Availing of Services**

### **Transaction Description:**

ONGC Videsh avails geological and geochemical services from its holding company ONGC in the form of seismic data interpretation and preparation of reports. Since ONGC Videsh is engaged in oil exploration activities, it is required to prepare feasibility study for the projects in which it is acting as an operator. ONGC, being the parent company of the Group, has a separate department and the necessary expertise in preparing such studies. Hence, ONGC Videsh has entered into contract with ONGC on a cost plus basis for performing such services. Further, ONGC does not provide these services to any third parties.

### **Arm's length Methodology as per TP Report:**

For availing the above services, ONGC Videsh has remunerated its related party on the basis of gross profit mark-up of 20 percent on direct cost. There has been no allocation of expenses undertaken. As per the Economic Analysis in the TP Report, CPLM has been to justify the arm's length nature of the related party transaction of availing of geological and geochemical services from related party. To apply CPLM, it is necessary to choose a party to the transaction whose financial indicator is tested vis-à-vis comparable companies. Since ONGC Videsh does not own any significant intangibles and its related party is a far more complex entity to ONGC Videsh, the company has been selected as the tested party to determine the arm's length basis in relation to the transaction of availing of geological and geochemical services from related party.

Further, the said transaction have been benchmarked with independent comparable companies based on the availability of reliable information in the databases. The analysis shows that the arithmetic mean of the financial indicator i.e. Gross Profit Mark-up on Cost ('GCP') i.e. GP/Cost of comparable companies is 79.40 percent. Hence, prices of related party transactions of ONGC Videsh for availing services from related party for which GP/Cost of 20 percent on direct cost paid by ONGC Videsh is lower than the comparables. Accordingly, GP/cost of 20 percent paid by ONGC Videsh complies with the arm's length standard from an Indian TP regulations perspective.

## **7. Other Transactions**

### **7.1. Loans given to related parties, interest income received and loans repaid by related parties**

During FY 2014-15, the Company has advanced certain loans to related parties and earned interest income from related parties on loans advanced. Also, during FY 2014-15, related parties has repaid certain loans to the Company. The transaction of loans and guarantee entered with related parties are covered by independent provisions specified in Section 185 and Section 186 of the Companies Act. Accordingly, the same is not covered under the scope of the assignment.

### **7.2. Redemption of preference shares/Buy-back of equity shares by Subsidiary**

During FY 2014-15, the Company has made a sale of shares held in its subsidiary i.e. OAAL. ONGC BTC, ONGC Videsh's wholly owned subsidiary, bought back a portion of its equity shares issued to

ONGC Videsh. These transactions are out of the purview of section 188 of the Companies Act. Accordingly, the same is not covered under the scope of the assignment.

### III. Determination of a mechanism to identify what constitutes ordinary course of business

The term ordinary course of business is not defined in the Companies Act but based on a review of the broad parameters, on which the phrase has been interpreted by courts and other sources, the following instances can be used to determine whether the transactions will fall under the ambit of ordinary course of business:

- a. Covered in the main object/ objects incidental to main object in MOA
- b. Transactions that are reasonable in the context of business
- c. Transactions that are necessary, normal and incidental to the business
- d. Transactions that are customary and happen with certain frequency
- e. Transactions that are part of the standard industry practice, even though the particular entity in question may not have done it
- f. Transactions that is not part of the pre-dominant business of the party may be considered in the normal course of business if it is related to such pre-dominant business
- g. Activities that are infrequent but important to the central mission can arguably be ‘in the ordinary course of business’
- h. Transactions are entered into on a similar basis with third parties

Reference can also be made to Standard on Auditing (‘SA’) 550, Related Parties which provides some examples of transactions that may be considered to be outside the entity’s normal course of business, include:

- Complex equity transactions, such as corporate restructuring or acquisitions.
- Transactions with offshore entities in jurisdictions with weak corporate laws.
- Sales transactions with unusually large discounts or returns.
- Transactions with circular arrangements, for example sales with a commitment to repurchase.
- Transactions under contracts whose terms are changed before expiry.

**Table 7: Analysis for Evaluating the Ordinary Course of Business of Related Party Transactions**

S. No.	RPT	Whether in the Ordinary Course of Business
1	Provision of technical and administrative support services to subsidiaries	<p>The transactions are in the Ordinary Course of Business. Some of the indicators that are common to all these transactions are:</p> <ul style="list-style-type: none"> <li>- Transactions that are reasonable in the context of business</li> <li>- Transactions that are necessary, normal and incidental to the business</li> <li>- Transactions that are customary and happen with certain frequency</li> </ul>
2	Reimbursement of expenses paid to subsidiary	
3	Reimbursement of expenses paid to holding company	
4	Reimbursement of expenses received/ Recovery of expenses from subsidiary	
5	Remuneration paid to KMP	
6	Sitting fees paid to Independent Directors	
7	Availing of services from holding company	

