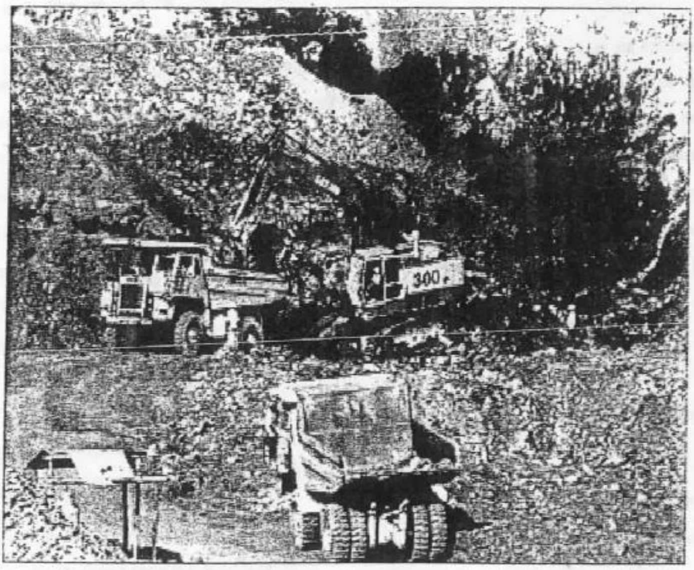
Draft **Performance Audit**

Allocation of Coal Blocks and Augmentation of Coal production by Coal India Limited



Report of the

Comptroller and Auditor General of India

Union Government (Commercial)

No. of 2011-12

(Performance Audit)

Chapter 1: Coal – An Overview

1.1. Background

Coal is the key contributor to the Indian energy scenario. It meets more than 50 *per cent* of the current total commercial energy needs of India. Out of the four major fuel resources in the country, *viz.* oil, natural gas, coal and uranium, coal has the largest domestic reserves. A far large percentage of coal demand in the country is met by domestic production as compared to other major fuels like oil and natural gas. The scenario is expected to remain the same in the foreseeable future unless alternative energy sources occupy centre stage.

The Government envisaged capacity addition of 1,00,000 MW by 2012 to meet its mission of "Power to all by 2012". Accordingly, huge capacity addition was required in the power sector as also in the coal sector (to provide thermal coal to the coal-based thermal power plants) during the Tenth (2002-03 - 2006-07) and the Eleventh (2007-08 – 2011-12) Plans. There was a need to develop large capacity projects at the national level to meet the requirements of a number of States. The Ultra Mega Power Projects (UMPPs) were steps in that direction. The concept of UMPPs was taken up by the Ministry of Power (MoP) in 2005 and Ministry of Coal (MoC) allocated 12 coal blocks for UMPP during the period 2006-2010.

1.2. Coal Reserves

Coal Reserves in India as per Indian Standard Practice (ISP) guidelines[1] are classified under three categories *viz,* 'Proved', 'Indicated', and 'Inferred' Geological Reserves.

- 'Proved' Geological Reserves represent resource base with the highest confidence. The delineated tonnage within an area falling within a radius of 200 metre around boreholes is categorised as 'Proved' Geological Reserves. 'Proved' Geological Reserves can be produced only on the completion of detailed exploration.
- 'Indicated' Geological Reserves comprise that material occurring within a radius of 1,000 metre around boreholes taken up for regional and detailed exploration. While estimating 'Indicated' Geological Reserves, qualitative information obtained from the regional exploratory boreholes are projected in the 'Indicated' Geological Reserve category.
- 'Inferred' Geological Reserves comprise that material occurring within the influence area beyond 1,000 metre and upto 2,000 metre from the point of observation.

[1] *ISP does not distinguish between resources and reserves.*

Addition to the national inventory of coal

With a view to enhance the areas of coal reserves by 50 billion tonne (BT) in next 20 years, GoI laid down programme of regional and promotional exploration. It was proposed to add 5 BT in Xth Plan and 7.5 BT thereafter upto 2026-27.

In fact, over the last five years, the coal reserves have increased by 33 BT as could be seen from the following table.

As on	Geological Resources of Coal(In MT) in the country			
	Proved	**Indicated**	**Inferred**	**Total**
1.1.2006	95,866	119,769	37,666	253,301
1.4.2007	99,060	120,177	38,144	257,381
1.4.2008	101,829	124,216	38,490	264,535
1.4.2009	105,820	123,470	37,920	267,210
1.4.2010	109,798	130,654	36,358	276,810
1.4.2011	114,002	137,471	34,390	285,863

As of 1 April 2011, the total Geological Reserve (GR) of coal in India was 2,85,862.20 million tonne (MT), out of which 1,14,001.60 MT was in the 'Proved' category, 1,37,471.10 MT was in the 'Indicated' category, 33,639.59 MT was in the 'Inferred' category and 749.92 MT was in the 'Inferred mapping' category.

Allocation of coal reserves to Coal India Limited and others

As of 1 April 2010, the total coal reserves of Coal India Limited (CIL) was 66,726.4 MT, out of which 51,691.8 MT was 'Proved' reserves, 12,866.5 MT 'Indicated' reserves and 2,168.1 MT 'Inferred' Reserves.

The Ministry of Coal allocated 194 coal blocks (net)[2] for captive mining upto 31 March 2011. Out of these, 142 were explored blocks (GR: 23,391 MT) and the balance 52 were either regionally explored or unexplored coal blocks (GR: 20,156 MT).

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[2] *Some of the blocks were de-allocated after allocation and some of the de-allocated blocks were re-allocated. The net figure is 194 after taking into consideration de-allocation and re-allocation of coal blocks.*

Chapter 2: Audit Framework

2.1 Why was this topic selected for performance audit?

- The gap between the demand and domestic supply of coal is widening in the country and consequently imports are progressively increasing.
- There have been instances, where capacities in the power sector were lying idle or facing difficulties in augmentation of capacities for want of coal.
- The supply of coal by CIL, the major producer of coal in the country has been short of the targeted supply. CIL was already working on an 'Emergency Production Plan' in the Tenth Plan to meet the surge in the demand of coal by advancing the production schedule in some existing mines/ongoing projects and by taking up some new projects through outsourcing production of coal and removal of overburden.
- Further, CIL had been directed by MoC to relinquish coal blocks, which were envisaged for development and production beyond the Eleventh Plan. These factors were bound to have significant impact on the domestic production of coal in the country as 81 per cent of it is accounted for by CIL.
- The coal blocks allocated for captive mining were expected to contribute significantly to coal production in the country, but had failed to do so.
- The issue of selection process for allocation of coal blocks for captive mining have been raised in the Parliament and in the media. Some of the allocations are also being contested in different Courts in the country.

In the light of the above, it was decided to carry out a performance audit on "Allocation of coal blocks and augmentation of coal production by CIL", when the trends of the Eleventh Plan are more or less evident and the planning for the Twelfth Plan is in progress.

2.2 Audit Objectives

The objectives of the performance audit were to obtain assurance that

- the procedures followed for allocation of coal blocks for captive mining ensured 'objectivity', 'transparency' and reasonable share to the gain to the allocattees;
- the coal blocks allocated for captive mining augmented production of coal as envisaged;
- CIL augmented its production capacities as planned.

2.3 Scope of Audit

The performance audit covered the Eleventh Five Year Plan period, *i.e.* from 2007-08 to 2011-12 (upto November 2011) including allocations of coal blocks by Ministry of Coal from 2004 onwards. For this purpose, records of MoC, CCO, CIL and its subsidiaries were test-checked in audit during September to November 2011. The entry conference with CIL and its subsidiaries was held on 16 September 2011 and with MoC on 13 October 2011 and the exit conference was held on 9 February 2012.

2.4 Sources of Audit Criteria

The main sources of criteria used by audit were as follows:

- Policies, procedures and guidelines of MoC regarding allocation and monitoring of coal blocks.
- Original projections of the Planning Commission regarding demand and supply of coal and related parameters for the Eleventh Plan and those in the mid-term appraisal of the Eleventh Plan.
- Policies, procedures and guidelines of MoC regarding production, supply, distribution and pricing of coal.
- Performance parameters fixed by MoC and CIL for various activities related to production, supply and distribution of coal.
- Results Framework Document (RFD) for MoC and Memorandum of Understanding (MoU) of CIL and its subsidiaries with MoC.

2.5 Acknowledgement

Audit acknowledges the active cooperation and assistance provided by MoC, CIL and its subsidiaries and CCO at all levels of management which facilitated the completion of this performance audit.

Chapter 3: Institutional Framework

3.1 Legislative Framework

Under the Coal Mines (Nationalisation) Act 1973, coal mining was exclusively reserved for the public sector *viz.* Coal India Limited (CIL) and Singareni Collieries Company Limited (SCCL) which were entrusted with the main responsibility of supplying coal to all end users.

However, inability of these companies to meet the entire demand due to resource constraints on one hand and escalating demand for coal for development projects on the other hand necessitated allotment of captive blocks to specified end users.

By an amendment to Coal Mines (Nationalisation) Act in 1976 two exceptions to the policy were introduced *viz.*,

(i) Captive mining by private companies engaged in production of iron and steel and

(ii) sub lease for coal mining to private parties in isolated small pockets not amenable to economic development and not requiring rail transport.

The process was carried further by another amendment to the Coal Mines (Nationalisation) Act in 1993 which allowed coal mining for captive consumption for power generation and other end uses to be notified by the Government from time to time. Cement was notified as an end use for mining of coal with effect from 15 March 1996 under the enabling provisions of the Act. Thus, mining of coal by Indian private companies was allowed in phases for their end uses in iron and Steel production, generation of power, and cement production.

3.2 Process of allocation of coal blocks

In July 1992 Ministry of Coal, issued instructions for constitution of a Screening Committee[3] for screening proposals received for captive mining by private power generation companies. The composition of the Committee was modified in 2000[4] (*inter alia* to include the representative of Ministry of Steel and Cement) and then again, in 2003.

From 1993 to 2005 , there was no clearly spelt out criteria for allocation of coal mines and most of the mines were allocated to the applicants who had produced only a letter of recommendation

[3] ***Under the Chairmanship of the Additional Secretary, MoC, and Advisor(Projects), MoC, Joint Secretary, and Financial Adviser, Representatives of the Ministry of Railways, Power and the concerned State Government as Members.***

[4] *Chairman of the committee was changed from Additional Secretary, MoC to Secretary, MoC and Member Convenor from Advisor(Projeacts), MoC to Joint Secretary (Coal), MoC.*

from the concerned State Government indicating that the party was planning to set up a permitted end use project of specified capacity.

Meanwhile, the Government of India constituted (December 2004) an Expert Committee on Coal sector Reforms (Expert Committee) headed by Shri T. L. Sankar, Chairman Energy Group Administrative Staff College of India to prepare a comprehensive roadmap for modernisation of the coal sector. The major recommendations of the Expert Committee are placed at *Annexure-*

Major recommendations of Expert Committee

- Continue to regulate price of coal to ensure least cost of supply of coal for power generation while allowing a competitive and transparent coal market to supply the needs of to other consumers.
- Emphasis on the role of captive mining to contribute significantly to the production of the coal in the short to medium term.
- **The procedure and processes of allocation of coal blocks needed to be improved to expedite the allotment of captive coal blocks in a transparent and effective manner.**
- Releasing coal blocks with inferred and indicated category of reserves for captive mining may not result in increasing the number of players in coal mining.
- **Production from captive mines during mine development or periodic surpluses during mine operations must be sold to CIL/SCCL at negotiated price.**
- Encashment of bank guarantees of non-serious players.
- Launching a programme for detailed exploration and drilling for increasing Proved Reserves.
- De-reservation of CIL that cannot be put into production before 2026-27.
- Setting up a permanent special task force for monitoring progress of clearances and project implementation to enhance the domestic coal capacity.

The guidelines for allocation of coal blocks were modified by the Ministry in 2005, 2006 and 2008 to improve upon the system and to bring in transparency for deciding the *inter se* priority amongst the competing applicants on the following lines: It was decided that

- The Government in consultation with CIL and SCCL would identify and prepare a list of such coal blocks for allocation.
- From the blocks so identified, Ministry would invite applications for a few blocks at a time through advertisements in important national and regional newspapers.
- For allocation under Government dispensation, the list of identified blocks would be circulated inviting applications from the concerned Government companies.
- These applications would be scrutinised by an the Screening Committee and recommended for allocation on the following criteria:

  (i) Captive blocks can be applied for additional requirements end-users without affecting the linkages, which are in force with Coal India Limited (CIL)/ Singareni Collieries Company Limited (SCCL)

  (ii) Allowing captive mining in Joint ventures with CIL/SCCL as lead partner

(iii) Allowing coal produced during the mine development phase to be sold to CIL and /or SCCL at a transfer price to be determined by the Government.

(iv) Specifying the period for implementation of the mine plan duly backed by a bank guarantee

(v) Specifying provisions for cancellation of the allocation for non-adherence to milestones laid down for achieving various steps leading to coal production

(vi) Providing for monitoring of the progress by the Ministry of Coal and by the Coal controller.

Briefly, to recap, a chronology of the significant events is detailed below:

Date	Event
1972 and 1973	Nationalisation of coal mines was done in two phases. In the first phase (1972), coking coal mines were nationalised. In the second phase (1973) non-coking coal mines were nationalised. Coal mines that could not be nationalised were allowed to be worked by private lease holders.
November 1975	Coal India Limited (CIL), a holding company, under the Ministry of Coal (MoC), was set up.
1976	The Coal Mines (Nationalisation) Amendment Act, 1976 was enacted which *inter alia* terminated all the mining leases with the private lease holders, except those of iron and steel producers who were allowed by the Act to carry on coal mining.
14 July 1992	A Screening Committee was set up by MoC under the chairmanship of Secretary (Coal) through an administrative order to consider applications made by various companies interested in captive mining and to allocate coal blocks for development, subject to the provisions of statutes governing coal mining. A number of coal blocks, which were not in the production plan of CIL and the Singareni Collieries Company Limited (SCCL), were identified in consultation with CIL/SCCL and a list of 143 coal blocks were prepared and placed on the website of the MoC for information of public at large.
June 1993	The Coal Mines (Nationalisation) Amendment Act, 1993 was passed which allowed Indian companies engaged in generation of power, in addition to the iron and steel producers, to carry out coal mining for their captive use. It also allowed washing of coal obtained from a mine at the pit head by private companies.
15 March 1996	Cement sector was notified as an end use by inserting an enabling provision in the Coal Mines (Nationalisation) Act.
February 1997	The Cabinet approved a proposal to amend the Coal Mines (Nationalisation) Act to allow non-captive coal mining by an Indian Company.

24 April 2000	The Coal Mines (Nationalisation) Amendment Bill 2000 was introduced in the Rajya Sabha, seeking allocation of coal blocks to Indian companies for commercial mining. The said bill met with stiff opposition from the trade unions, who expressed concerns over the possibility of unscientific mining and labour exploitation. The bill is pending in the House.
28 December 2005	A seven member Expert Committee on Coal sector Reforms (headed by Shri T. L. Sankar, Chairman Energy Group Administrative Staff College of India) constituted by the GoI to prepare a comprehensive roadmap for the modernisation of the coal sector submitted its report to the Prime Minister.
February 2006	The Government permitted 100 per cent Foreign Direct Investment under the Automatic Route for captive coal mining by companies in the power, iron and steel and cement sectors and other eligible activities permitted under the Coal Mines (Nationalisation) Act.
12 July 2007	Production of synthetic gas obtained through coal gasification (underground and surface) and coal liquefaction were notified as specified end uses for the purpose of captive mining.
17 October 2008	The Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 Amendment Bill was introduced in the Parliament. It envisaged making the system of competitive bidding applicable to all minerals covered under the said Act.
08 September 2010	The MMDR Amendment Act, 2010 was enacted.

3.3 Role of the Ministry of Coal

The Ministry of Coal (MoC) has the overall responsibility of determining policies and strategies in respect of exploration and development of coal reserves, as also laying down general guidelines for production, supply and distribution of coal. Actual implementation of various projects and activities is carried out by the Public Sector Enterprises (PSEs), Coal India Limited and Singareni Collieries Company Limited under the overall supervision of the Ministry. The prices for sale of coal are also decided by the PSEs themselves in accordance with the powers delegated to them under the Collieries Control Order 2000. The Coal Controller's Organisation (CCO) is a subordinate office of MoC having its headquarters at Kolkata. The CCO discharges various statutory functions such as checking of quality of coal; adjudicating claims on grade; and collection and publication of statistical information on coal and lignite. MoC appointed (January 2005) CCO as the nodal agency for monitoring the production of coal blocks allocated for captive mining.

The Geological Survey of India (GSI) and Mineral Exploration Corporation (MEC) undertake prospecting in areas that could potentially have coal resources. Such prospecting is funded by the Government of India. Detailed exploration is entrusted to CMPDIL, a subsidiary of CIL which has a capacity and equipment to carry out drilling. Based on the detailed drilling it prepares geological reports for a blocked area after the result of regional/ promotional drilling has been analysed which in turn forms the basis of planning and design of mines, preparation of mine plans and deciding the feasible mines capacity that can be sustained for the reserves in the block.

As of now, there is no single window fast track clearance system to expedite various statutory clearances except in case of Ultra mega power projects awarded under the tariff based competitive bidding where Power Finance Corporation Limited has been designated as the nodal agency under the Ministry of Power, GoI for facilitating various clearances.

3.4 Coal India Limited

Coal India Limited (CIL), a holding company, under MoC, was incorporated on 01 November 1975 to streamline the working of the coal industry in a manner conducive to more efficient administration and rapid stepping up of coal production after nationalization of major coal mines in 1972 and 1973. The company has eight subsidiaries, i.e. Bharat Coking Coal Limited (BCCL), Central Coalfields Limited (CCL), Eastern Coalfields Limited (ECL), Mahanadi Coalfields Limited (MCL), Northern Coalfields Limited (NCL), South Eastern Coalfields Limited (SECL), Western Coalfields Limited (WCL) and Coal Mine Planning and Design Institute Limited (CMPDIL). In addition, the Company has a wholly owned foreign subsidiary in Mozambique, namely, Coal India Africana Limited.

CIL is the largest coal producing company in the world. It produced 431.32 MT of coal and earned a net profit of ₹ 10,867 crore during 2010-11. As of March 31, 2011, CIL operated 471 mines across eight states in India, including 163 open cast mines, 273 underground mines and 35 mixed mines (includes both open cast and underground mines). The cash reserve of the Company was ₹ 43,776.16 crore as of 31 March 2011. CIL became a listed company with effect from 04 November 2010 and is included in the sensex[5] since August 2011. CIL ranks among the top two PSUs in terms of market capitalization. The Company received Maharatna status on 11 April 2011.

[5] *Sensex is an index of 30 major scrips of the Bombay Stock Exchange.*

3.5 Organisational Setup

The Ministry of Coal (MoC) is headed by the Hon'ble Minister of Coal. At the secretariat level, MoC is headed by the Secretary (Coal), who is assisted by other officials.

In the case of CIL, it is headed by a Chairman cum Managing Director who is assisted by a Board of Directors. Each subsidiary of CIL is headed by a Chairman-cum-Managing Director (CMD), who is assisted by a Board of Directors. Since 01 March 2011, there is no regular Chairman of CIL. Similarly, the posts of CMD and Directors did not have regular incumbents from time to time in some of the subsidiaries such as SECL and CCL.

Chapter 4: Gaps in Demand and Supply of Coal

4.1 Demand for Coal

The Planning Commission projected a demand of 731.10 MT of coal for the terminal year of the Eleventh Plan, i.e. 2011-12, based on a cumulative annual growth rate (CAGR) of 9.7 per cent. In the mid-term appraisal, the Planning Commission revised the demand for coal to 713.24 MT for the terminal year based on a CAGR of 8.98 per cent. The sector-wise demand forecasts for 2011-12, as per the original projections and mid-term appraisal of the Eleventh Plan are given in Charts 1.4.1 and 1.4.2 below.

Chart-4.1

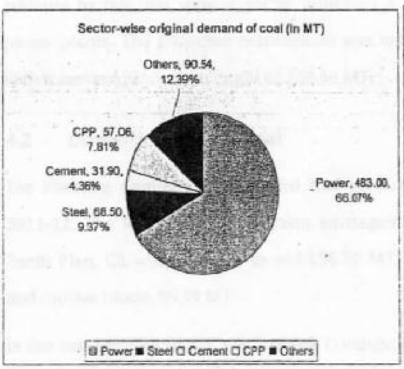
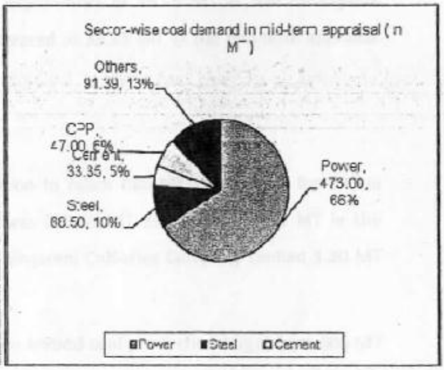


Chart-4.2



(CPP: Captive Power Plant)

4.1.1 Demand for Coal by the Power sector

Coal demand of 483 MT[6] for the power sector for 2011-12 based on an estimated capacity addition of 46,635 MW by the coal-based power plants was envisaged. In the mid-term appraisal of the Eleventh Plan, the coal demand was revised downwards to 473 MT due to delays in commissioning of power projects. The Central Electricity Authority (CEA) had indicated that the projections for coal-based power generation would have to be reduced from 690 to 630 billion units for 2011-12 as a shortfall of about 16.5 per cent was expected in the capacity addition of coal-based power generation in the Eleventh Plan.

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[6] *This excludes projections for imports of coal and those required by captive power plants (CPPs) as these are considered under separate heads.*

4.1.2 Demand of Coal by the Steel Sector

The Planning Commission projected the coking coal demand for the steel sector as 68.50 MT (indigenous 23.78 MT and import 44.72 MT) for 2011-12, based on a hot metal[7] production programme of 70.30 MT. In addition to this, the steel sector projected a requirement of 29.72 MT of non-coking coal for captive power plant. The estimation remained the same at 68.50 MT (indigenous 26.02 MT and import 42.48 MT) for the coking coal in the mid-term appraisal.

4.1.3 Demand of Coal by the Cement Sector

The Planning Commission projected a coal demand of 31.90 MT for 2011-12, based on a total capacity projection of 251.23 MT in the cement sector, including capacity addition of 118 MT. In addition to this, the cement sector projected a requirement of 18.25 MT of coal for captive power plants. The projected requirement was increased to 33.35 MT in the mid-term appraisal with a cement production target of 262.61 MT.

4.2 Domestic Supply of Coal

The Planning Commission envisaged coal production to reach 680 MT (520.50 MT for CIL) in 2011-12. The incremental production envisaged was 247.50 MT as against 104.71 MT in the Tenth Plan. CIL was expected to add 156.70 MT, Singareni Collieries Company Limited 3.30 MT and captive blocks 86.53 MT.

In the mid-term appraisal, the Planning Commission revised coal production target from 680 MT to 629.91 MT (520.50 MT to 486.50 MT for CIL) for 2011-12, mainly because 17 major projects of CIL, which were to contribute 100.65 MT were now expected to contribute only 46.72 MT due to delays in getting necessary forest and environmental clearances.

4.2.1 Supply of Coal by CIL

At present, CIL contributes about 81.10 per cent of the total supply of coal to various consumers in the country. CIL supplies coal to various consumers as per the New Coal Distribution Policy (NCDP) 2007 which came into force from 18 October 2007. The new policy envisaged distribution of coal mainly through two channels – Fuel Supply Agreements (FSAs)[8] at notified prices to be fixed and declared by CIL and e-auction. The balance consumers, i.e. those with requirements

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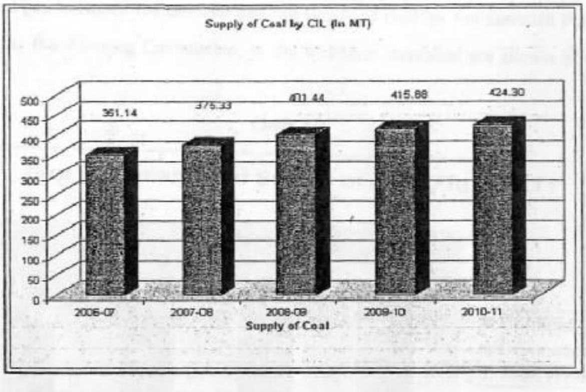
[7] *Liquid pig iron which is used for production of steel*

[8] *All the existing linkage holders of erstwhile core and non-core sectors not having FSAs were required to enter into FSA with the coal companies. The concept of core and non-core sector was discontinued after NCDP 2007.*

upto 4,200 tonnes per annum, were to be supplied coal through the agencies nominated by the State Governments at notified prices of CIL plus actual freight and service charge. The supply of coal by CIL during the period from 2006-07 to 2010-11 is given in Chart-1.5.1.

Chart-4.1



4.2.2 Contribution of Coal Blocks Allocated for Captive Mining

The production of coal from the coal blocks allocated for captive mining was expected to play a significant role in meeting the demand for coal in the country. As of 31 March 2011, MOC allocated a net of 194 coal blocks, after de-allocation of 22 blocks.

Out of 64 coal blocks (Government/PSUs-26 and Private-38) which were scheduled to contribute to production in the Eleventh Plan as per their normative dates of production before 2010-11, only 28 blocks including 15 blocks allocated to private sector started production as of 31 March 2011.

The production performance of the captive coal blocks in the Eleventh Plan (upto 31 March 2011) is given in Table 4.2.

Table-4.1

Targets and achievements of Coal blocks

(Fig. in MT)

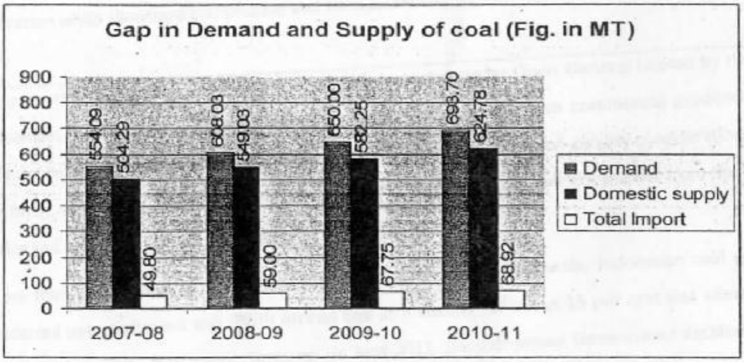
Year	Target		Achievement		Shortfall from Target	Total Domestic Production	Share of coal blocks in total domestic production
	No. of Coal Blocks	Production (In MT)	No. of Coal Blocks	Production (In MT)	(In MT)	(In MT)	(In per cent)
2007-08	28	22.48	15	21.25	1.23	457.08	4.65
2008-09	58	35.72	25	30.01	5.71	492.78	6.09
2009-10	77	47.09	26	35.46	11.63	532.04	6.66
2010-11	86	73.00	28	34.64	38.36	533.08	6.50
2011-12	93	104.08		-	-	-	-

As would be seen from Table 4.2, there was an aggregate shortfall in production of coal by the captive coal blocks to the extent of 56.93 MT during the Eleventh Plan period (upto 31 March 2011) vis-à-vis the expectations of the Planning Commission.

4.3 Gap in Demand and Domestic Supply and Import of coal

The projected gap between the demand and the supply of coal for the Eleventh Plan period, as worked out by the Planning Commission, in the mid-term appraisal are shown in Chart- 1.6.1 below.

Chart-4.2



As would be seen from the above, the gap between the projected demand and the projected domestic availability of coal worked out to 68.92 MT for 2010-11, which was to be met through imports.

The import of coal, both coking and non-coking is progressively increasing as can be seen from Table 1.6.2 below.

Table-4.2
Import of coking and non-coking coal

Year	Coking coal		Non-coking coal		Total	
	(Fig. in MT)	(₹ in crore)	(Fig. in MT)	(₹ in crore)	(Fig. in MT)	(₹ in crore)
	Quantity	value	Quantity	value	Quantity	value
2006-07	17.877	10180.60	25.204	6508.00	43.081	16688.60
2007-08	22.029	12102.50	27.765	8635.80	49.794	20738.40
2008-09	21.080	22614.00	37.923	18726.80	59.003	41340.80
2009-10	24.690	20131.10	48.565	19048.90	73.255	39180.00
2010-11	19.484	20862.10	49.434	20687.50	68.918	41549.60

The different grades of coal preferred by different consumers and variations in the paying capacity of consumers provide an ideal setting for a "market" to develop in the coal sector. Further, in keeping with India's size of deposits and the level of production/consumption India's coal sector should integrate more closely with the world coal market for a competitive coal industry to develop.

The Expert Committee on Road Map for Coal Sector Reforms (December 2005) recommended that to keep the import option functioning as an essential supply option along with the regulation of price in the Indian coal industry which would ensure least cost of supply of coal for power generation while allowing a competitive and transparent coal market to fulfil the requirements of coal.

The present import policy allows coal to be freely imported under Open General License by the consumers themselves considering their need and exercising their own commercial prudence. Coking coal is mostly imported from Australia by the steel companies on quality considerations. Similarly, non-coking coal is mostly imported by the power and cement companies from South Africa and Indonesia on cost and quality considerations.

More than 60 per cent of India's thermal coal imports is from Indonesia. Indonesian coal was preferred over Australian and South African coal as a discount of about 15 per cent was allowed by the Indonesian Government. However, in June 2011, the Indonesian Government decided to link the price of coal with a benchmark price based on international price of coal and applied it retrospectively to all contracts. All mining companies were directed to modify their old contracts by September 2011. This resulted in increase in the price of Indonesian coal (originally $36 per tonne free on board) by 10 per cent. This would have an adverse impact on the cost of production and profitability of the importers in the country, especially the power utility companies. The domestic supply of coal has to increase to safeguard against the vagaries of the international coal prices.

4.4 Transportation of Coal

An efficient coal transport system is critical since coal is consumed in large quantities all over the country while most of the coal production is focused in a few states. Further, imports of coal are dependent on capacities of ports and railway infrastructure. The Planning Commission emphasized on the need for matching the growth of infrastructure with the proposed growth in coal production in the Eleventh Plan.

4.4.1 Transportation of Coal by Railways

The Planning Commission envisaged that 348 MT of raw coal and products would be despatched by CIL using railway network, in the terminal year of the Eleventh Plan (2011-12). This was about

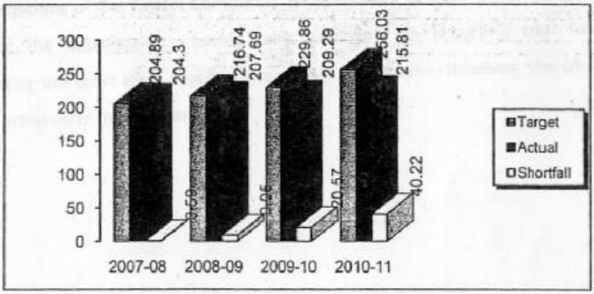
50 per cent more than the rail movement in 2006-07, the terminal year of the Tenth Plan. It was proposed to augment rail movement of coal through independent freight corridors, matching wagon volume and matching unloading facilities.

The Expert Committee on Road Map for Coal Sector Reforms (December 2005) had also recommended that the Railways should in consultation with the Planning Commission and the Ministries of Coal and Power determine the main corridors through which coal would move in very large quantities to power plants and examine the cost and feasibility of setting up of dedicated trunk-routes for coal transport.

Details of targets and achievement in respect of despatch of coal by CIL by the railways for the period from 2007-08 to 2010-11 is given in Chart 1.7.1.

Chart- 4.3

Transportation of coal by Railways

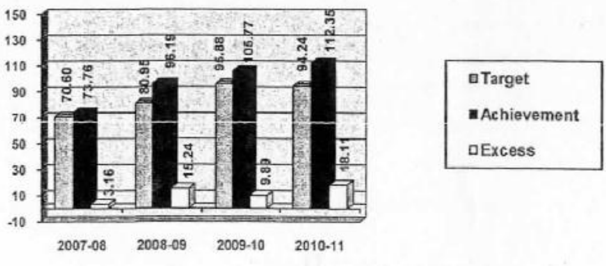


4.4.2 Transportation of Coal by Road

The share of road transport was about 26.53 per cent of the total supply of coal by CIL in 2010-11. The transport of coal by road progressively increased from 73.76 MT in 2007-08 to 112.35 MT in 2010-11 as can be seen from Chart 1.7.2.

Chart- 4.4

Transport of coal by Road



4.5 Port Infrastructure.

The port infrastructure needs to be strengthened in order to accommodate rise in imports as well as coastal shipment. The Planning Commission envisaged that about 110 MT of coal would be required to be handled at the ports at the end of the Eleventh Plan including coastal shipment, implying a port capacity of about 120–130 MT by 2011–12.

As per NCDP 2007, in order to meet the domestic demand of coal CIL/coal companies would have the responsibility to meet full requirement of coal under FSA even by resorting to imports, if necessary.

For this purpose, CIL signed (December 2010) an MoU with the Shipping Corporation of India Limited (SCIL) for promoting a Joint Venture Company in respect of import of coal by CIL and supplying them to end consumers by owning and chartering of vessels, draft surveying, inspection of cargo, unloading of vessels, customs clearance and stacking, indenting of wagons from railways, loading in wagons and transportation to power stations. This was in line with the recommendations of the Expert Committee on Road Map for Coal Sector Reforms (December 2005) that the organisation having long experience in importing coal be co-opted in implementing the short term supply management programme. However, the MoU with SCIL is still to be acted upon (November 2011).

Chapter 5: Coal Blocks – Allocation and Production Performance

The coal sector needs substantial investments to increase production and meet the fuel requirements of a growing economy. With the declared objective for "Power to all by 2012", the Government set on the task of allocating coal blocks for captive mining for power and other sectors in a bigger way.

In order to attract investments and increase production, it was imperative on the part of the Government to put in place a system, that had appropriate 'incentives'(enabling conditions) to attract investments and ensure performance as also strong 'disincentives'(strong deterrent) to discourage non-performance. In case of a scarce national resource like coal, demand for which is ever increasing, principles of 'objectivity' and 'transparency' in selection and distribution assumes even more significant.

This chapter analyses the efforts of the Government in ensuring 'objectivity' and 'transparency' in the procedures adopted for allocation of captive coal blocks and the system of 'incentives' and 'disincentives' adopted to ensure performance by these coal blocks.

5.1 Allocation of Captive Coal Blocks during the Eleventh Plan

The year-wise allocation of captive coal blocks to the Government companies, private companies and Ultra Mega Power Projects (UMPPs) as on 31 March 2011 is given in Table 5.1.

Table 5.1: Year-wise allocation of coal blocks for captive mining

Year of allocation	Govt. Companies		Private Companies		Ultra Mega Power Projects		Total	
	No. of Blocks	GR (in MT)	No. of Blocks	GR (in MT)	No. of Blocks	GR (in MT)	No. of Blocks	GR (in MT)
Upto 2005	29	6294.72	41	3336.88	0	0	70	9631.6
2006	32	12363.15	15	3793.14	6	1635.24	53	17791.53
2007	34	8779.08	17	2111.14	1	972	52	11862.22
2008	3	509.99	20	2939.53	1	100	24	3549.52
2009	1	337	12	5216.53	3	1339.02	16	6892.55
2010					1	800	1	800
Total	99	28283.94	105	17397.22	12	4846.26	216	50527.42

(GR – Geological Resources)

Out of the above 216 blocks, 24 blocks were de-allocated (three blocks in 2003, two blocks in 2006, one block in 2008, one block in 2009, three blocks in 2010 and 14 blocks in 2011) for non-performance of production by the allocattees[9] and two de-allocated blocks were subsequently re-allocated (2003 and 2005) to others. Hence, 194 coal blocks, with aggregate geological reserves of 44.44 billion tonne (BT), stood allocated as of 31 March 2011.

[9] *Term used for a party to whom a coal block has been allocated for captive mining*

5.2 Production from Captive Coal Blocks during the Eleventh Plan

The year-wise targets and achievements in respect of captive coal blocks which were expected to produce in the Eleventh Plan period are given in Charts 5.2.1 and 5.2.2.

Chart 5.2.1

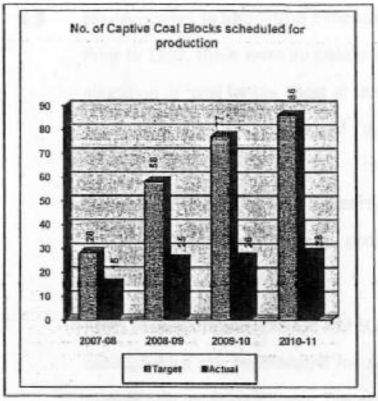
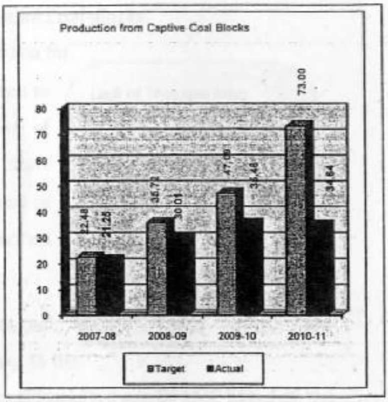


Chart 5.2.2



It would be seen from the above that:

- Out of 86 coal blocks with targeted coal production of 73.00 MT which were scheduled to produce in the Eleventh Plan period (upto 2010-11) as per their normative dates of production, only 28 blocks (including 15 blocks allocated to private sector) started production as of 31 March 2011 and produced only 34.64 MT of coal during 2010-11. This resulted in a shortfall of 38.36 MT (52.55 per cent) of coal production from the captive coal blocks.

> Production from captive coal blocks did not achieve the desired objective as there was a shortfall by more than 52 per cent (Production of 35 MT against the target of 73 MT) in achievement of targets.

Although, the Expert Committee on Road Map for Coal Sector Reforms emphasised (December 2005) the role of captive mining to contribute significantly to production of coal in the short to medium term, the same was not fulfilled on account of the tardy performance of coal blocks.

The Ministry stated (February 2012) that development of coal blocks involves a gestation period of 3 to 7 years for reaching the production stage and allocattees who had not started production so far, were in various stages of obtaining statutory clearances and mining lease. In case of wilful delays appropriate action was taken to deallocate the blocks and so far 25 coal blocks had been deallocated.

We find it difficult to agree with the Ministry because scheduled production plans of 86 blocks were formulated after considering the time required for pre-production clearances and activities. A shortfall of 52.55 per cent in the production targets reflects that the objective of enhancing production through allocation of captive coal blocks largely remained unachieved.

5.3 Inadequacies in allocation Procedure for Captive Coal Blocks

> **Lack of Transparency**
>
> The guidelines for allocation of coal blocks for captive mining were modified in 2006, however, the process of allocation suffered from an element of subjectivity, opaqueness and lack of transparency.

Prior to 1993, there were no clearly spelt out criteria for allocation of coal blocks. Most of these were given to applicants who had produced only a letter of recommendation from the concerned State Government indicating that the party was planning to set up a permitted end use project of specified capacity.

MoC, in consultation with CIL and SCCL, identifies coal blocks, which can be allocated for captive mining to the eligible coal using companies. The allocation of coal blocks is made by MoC based on the recommendations of an Inter-Ministerial Screening Committee under the chairmanship of Secretary (Coal) or directly. Direct allocation is made only to PSEs for captive use or commercial mining and is known as Government Dispensation route while the allocation through Screening Committee is termed as Captive Dispensation. Besides, blocks are allocated for UMPPs as per the competitive bidding guidelines of the Ministry of Power (tariff based bidding).

CMPDIL is entrusted with the exploration work for ascertaining the extractable reserve in the captive coal blocks. Funding of this activity is done by MoC/CIL. On the basis of the results of the regional/promotional exploration done by the Geological Survey of India (GSI), smaller areas/blocks are identified for detailed exploration. Such blocks are taken up for detailed drilling to bring the reserves into 'Proved' category. The Geological Reports of detailed explorations lead to preparation of Mining Plans and formulation of Project Reports, on the basis of which mining of coal is carried out from the captive coal blocks, once approvals are received from various agencies such as the Ministry of Environment and Forests (MoEF), the concerned State Government and MoC.

(i) Lack of transparency in the allocation process

Audit observed that in 2004, the concept of allotment through competitive bidding was first made public on 28 June 2004. Accordingly, as decided in the meeting with the Prime Minister on 14 Oct 2004, all applications received till 28 June 2004, would be considered as per the extant policy, and thereafter allotment of blocks for captive mining would be made on the basis of competitive bidding.

However, the Ministry of Coal continued to follow the Screening Committee route for subsequent allotments till date with the approval of the Prime Minister's Office as is discussed below:

The Note of PMO indicated (9 August 2005), ***"after discussion, it was decided that the Cabinet Note put by the Ministry of Coal for competitive bidding as a selection method for allocation of coal and lignite blocks for captive mining will be amended to take into account the concerns of the State Governments where the coal block is located. Further it was noted that the Coal Mines (nationalisation) Act, 1973 will need to be amended before the proposed competitive bidding procedure becomes operational".***

The Screening Committee in its 35th meeting held on 13 September 2007 noted the followings:

"based on the data furnished by the applicants and the feedback received from the State Governments and the Ministry of Power, the Committee assessed the applications having regard to the matter such as techno-economic feasibility of the end use project, status of preparedness to set up the end use project, past track record in execution of projects, financial and technical capabilities of the applicant companies, recommendations of the State Governments and Administrative Ministry concerned."

Screening Committee while according allocation of 32 blocks out of 748 applicants deliberated at length over the information furnished by the applicant companies in the application form during the presentation and subsequently. The Committee also took into consideration the views/ comments of the Ministry of Power, Ministry of Steel, State Governments, and guidelines laid down for the allocation of coal blocks and other factors.

It may be seen from above that that there were no objective parameters to decide the allocation of coal blocks for selection of allocattees amongst the eligible bidders.

(ii) *Appreciation and application of the legal provisions to introduce competitive bidding*

In June 2004, Ministry of Coal referred the matter to Department of Legal Affairs for seeking an opinion whether under the Coal Mines (Nationalisation) Act,1973 (CMN Act) read with Mines and Minerals (Regulation and Development) Act (MMDR Act), 1957 and Mineral Concession Rules, 1960, coal blocks could be allocated through auction/ competitive bidding route. The latter opined (July 2004) that "from the perusal of CMN Act it appears that no specific provision for auction through competitive bidding (financial) was given in the Act. Hence, for making the Rules for allocation of coal blocks for captive mining through the auction/competitive bidding (financial) an amendment in the CMN Act is required".

> **As per the Department of Legal Affairs** ***"it is open to the government to introduce the auctioning of coal mining blocks for captive use through competitive bidding as the selection process for allocation by amending the existing administrative instructions ... which course is to be adopted in the present case, i.e., to amend the Act or to effect changes in the administrative instructions, is a matter of policy to be decided by the referring Ministry."***

MoC again referred (August 2004) the matter to the Department of Legal Affairs (DLA) who suggested an amendment for inserting section 34 in the CMN Act. In July 2006, when the MOC referred the matter to the DLA for amendment of MMDR Act instead of CMN Act[10], DLA agreed (28 July 2006) to the proposal of the Ministry of Coal stating that the proposed amendment may be introduced in the MMDR Act. DLA added that "it is however, open to the government to introduce the auctioning of coal mining blocks for captive use through competitive bidding as the selection process for allocation by amending the existing administrative instructions and such a process will be governed by the provisions of the Indian Contract Act, 1872 as to which course is to be adopted in the present case, *i.e.,* to amend the Act or to effect changes in the administrative instructions, is a matter of policy to be decided by the referring Ministry."

> The Law Secretary stated (August 2006) that the *Screening Committee had been constituted by means of administrative guidelines. Since under the current dispensation the allocation of coal blocks is purely administrative in nature, it was felt that the process of auction through competitive bidding can also be done through such administrative arrangements.*

In view of the opinions of the DLA of 2004 and 2006, Ministry of Coal again sought (August 2006) a clarification from the DLA who clarified that it had nowhere stated that the allocation of coal blocks through competitive bidding can be done only through an amendment in CMN Act but it cannot be done by making of Rules which are not provided in the Act.

The Law secretary again gave a clear opinion (August 2006) that

"there is no express statutory provision providing for the manner of allocating coal blocks, it is done through a mechanism of Inter-Ministerial Group called the Screening Committee... The Screening Committee had been constituted by means of administrative

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[10] *When a proposal for amendment in CMN Act was undertaken a suggestion was made by Principal Secretary to Prime Minister to effect that it would be more appropriate to make an amendment in MMDR Act which would be applicable to all minerals covered under the said Act.*

guidelines. Since under the current dispensation, the allocation of coal blocks is purely administrative in nature, it was felt that the process of auction through competitive bidding can also be done through such administrative arrangements. In fact, this is the basis of our earlier legal advice. This according to the administrative Ministry has been questioned from time to time for legal sanction. If provision is made for competitive bidding in the Act itself or by virtue of Rules framed under the Act the bidding process would definitely placed on a higher level of legal footing."

In sum, there were a series of correspondences with the Ministry of Law and Justice for drawing conclusion on the legal feasibility of the proposed amendments to the CMN Act/MMDR Act or through Administrative order to introduce auctioning/competitive bidding process for allocation of coal blocks for captive mining. In fact, there was no legal impediment for introduction of transparent and objective process of competitive bidding for allocation of coal blocks for captive mining as per the legal opinion of July 2006 of the Ministry of Law and Justices and this could have been done through an Administrative decision. However, the Ministry of Coal went ahead for allocation of coal blocks through Screening Committee and advertised in September 2006 for allocation of 38 coal blocks and continued with this process till 2009.

5.4.1 Competitive Bidding for Coal Blocks yet to Commence

In the Tenth Plan and thereafter, the number of applicants for coal blocks increased as compared to the availability of blocks due to increased demand of coal in the country. Therefore, there was an urgent need to bring in a process of selection that was not only objective but also demonstrably transparent. Allocation through competitive bidding was considered as one such acceptable selection process.

Although the concept of allotment through competitive bidding was first made public by the Government on 28 June 2004, Audit observed from the sequence of events which followed that the process got delayed at different stages and competitive bidding was yet to commence (February 2012). This sequence of events is discussed below.

Event	Remarks
The concept of allocation of captive coal blocks through competitive bidding was first made public on 28 June 2004 at an interactive meeting held with the stake holders under the chairmanship of the Secretary (Coal).	As of 28 June 2004, 39 captive coal blocks (net) had been allocated to different parties.

Following the meeting, a comprehensive note on 'Competitive Bidding for allocation of coal blocks' was placed by the Secretary (Coal) before the Hon'ble Minister of State, Coal and Mines (MoS) on 16 July 2004. The note highlighted, *inter alia*, that there was a substantial difference between the price of coal supplied by CIL and cost of coal produced through captive mining and as such there was a windfall gain to the party who was allocated a captive block.	---
The Hon'ble MoS vide note dated 28 July 2004 sought clarifications on the proposal for allocation of coal blocks, *viz.*, likely opposition from the power sector, impact of competitive bidding on price hike, liability/obligation of Government, *etc.* The clarifications were furnished by Secretary (Coal) on 30 July 2004 stating that the present system of allocation in the changed scenario, even with modifications would not be able to achieve the objectives of transparency and objectivity in the allocation process. The file was placed through the Hon'ble MoS before the Hon'ble Prime Minister in his capacity as the Minister of Coal and Mines, who directed (20 August 2004) that a draft Cabinet Note be prepared for placing the same before the Cabinet for consideration and decision.	---
A note was forwarded by the Prime Minister's Office (PMO) on 11 September 2004 detailing certain disadvantages of allocation of coal blocks through competitive bidding. In response, Secretary (Coal) submitted (25 September 2004) the draft Cabinet Note to the Hon'ble MoS with the remarks that there was hardly any merit in the objections raised. The Secretary (Coal) also highlighted different kinds of pulls and pressures experienced by the Screening Committee during the decision-making process and stressed that it was desirable that all pending applications were decided on the basis of competitive	As per the note of the Secretary (Coal), steps could have been taken to allocate coal blocks through competitive bidding (as of September 2004).