



**STANDING COMMITTEE ON
PETROLEUM & NATURAL GAS
(2009-10)**

FIFTEENTH LOK SABHA

MINISTRY OF PETROLEUM & NATURAL GAS

**'THE PETROLEUM AND MINERALS PIPELINES (ACQUISITION OF RIGHT
OF USER IN LAND) AMENDMENT BILL, 2010'**

FOURTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2010/ Bhadrapada, 1932 (Saka)

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Presented to Lok Sabha on 26.08.2010

Laid in Rajya Sabha on 26.08.2010



**LOK SABHA SECRETARIAT
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August, 2010/ Bhadrapada, 1932 (Saka)

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**COMPOSITION OF THE STANDING COMMITTEE ON
PETROLEUM & NATURAL GAS (2009-10)**

Shri Aruna Kumar Vundavalli - Chairman

Members

Lok Sabha

- 2 Shri Anandrao Adsul
- 3 Shri Ramesh Bais
- 4 Shri Sameer Bhujbal
- 5 Smt. Santosh Chowdhary
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- @27 Shri Kamal Akhtar
@28 Shri Satish Chandra Misra
*29 Shri Subhash Prasad Yadav
30 Shri Sabir Ali
#31 Shri Vijaykumar Rupani

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- | | | | |
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| 2. | Smt. Anita Jain | - | Director |
| 3. | Shri J.V.G. Reddy | - | Additional Director |
| 4. | Shri Arvind Sharma | - | Deputy Secretary |

Nominated to the Committee w.e.f. 04.06.2010.

\$ Ceased to be Member of the Committee on his retirement from Rajya Sabha w.e.f. 30.06.2010.

@Ceased to be Members of the Committee on their retirement from Rajya Sabha w.e.f. 04.07.2010.

*Ceased to be Member of the Committee on his retirement from Rajya Sabha w.e.f. 07.07.2010.

INTRODUCTION

I, the Chairman, Standing Committee on Petroleum and Natural Gas (2009-10) having been authorised by the Committee to submit the Report on their behalf, present this Fourth Report on 'Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010' relating to the Ministry of Petroleum & Natural Gas.

2. The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010 was introduced in Lok Sabha on 16th March, 2010. The Hon'ble Speaker referred the Bill to the Standing Committee on Petroleum and Natural Gas on 7th May 2010 for examination and Report within three months. Hon'ble Speaker granted extension to finalise and present the report on the Bill to the Parliament by the last day of the Fifth session.

3. The Committee wish to express their thanks to the representatives of the Ministry of Petroleum and Natural Gas, Ministry of Law (Department of Legal Affairs) and the concerned Public Sector Undertakings/Organisations for placing their views before them and furnishing the information desired in connection with examination of the Bill.

4. The Standing Committee on Petroleum & Natural Gas considered and adopted the Report at their sitting held on 20 August, 2010.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

6. The Committee place on record their appreciation for the invaluable assistance rendered to them by the officers of the Lok Sabha Secretariat attached to the Committee.

New Delhi;
25 August, 2010
3 Bhadrapada, 1932 (Saka)

ARUNA KUMAR VUNDAVALLI,
Chairman,
Standing Committee on
Petroleum & Natural Gas.

REPORT

A. Introductory

The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 was enacted to provide for the acquisition of right of user in land for laying pipelines for the transport of petroleum and minerals and for matters connected therewith. The underground onshore cross-country pipelines are laid at a depth of about 1.5 metre in about 18 metre wide corridor and operated normally at high pressure. The 18 meter wide corridor which is called 'Right of way' (ROW) is acquired by various oil companies under the Act.

1.2 Since the enactment of the aforesaid Act, several underground pipelines have been laid across the country carrying crude oil, petroleum products and gas. The network of such pipelines has grown in a big way. Despite regular patrolling and inspection of the pipelines, large number of incidents of pilferage and sabotage of pipelines by anti-social elements are taking place frequently. As the crude petroleum and its products are hazardous material, their pilferage and spillage from such pipelines have serious consequences.

1.3 Section 15 and 16 of the aforesaid Act, lay down the provisions to deal with the cases of pilferage from, or sabotage of, pipelines. Sub-section (2) of section 15 provides that whoever willfully removes, displaces, damages or destroys any pipeline, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine. Section 16 provides that offence under sub-section (2) of section 15 shall be deemed to be cognizable under the Code of Criminal Procedure, 1973.

1.4 The Government have, however, found the existing provisions of the law inadequate to deal with cases of pilferage and sabotage as they do not provide for sufficient deterrence to criminals from committing the offence of pilferage or sabotage. To curb incidents of pilferage from, and sabotage of, pipelines and also to serve as deterrence to the emerging security threats to the pipeline installations, including those

from extremists and terrorists, the Government felt that more stringent punishment is required to be provided for in aforesaid Act and accordingly the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010 was introduced in Lok Sabha on 16th March, 2010. The Hon'ble Speaker, Lok Sabha referred the Amendment Bill to the Standing Committee on Petroleum and Natural Gas on 07th May, 2010 for examination and Report thereon.

1.5 According to the Ministry of Petroleum and Natural Gas, the last few decades have witnessed a huge growth in the network of pipelines in the country because transportation of petroleum products, crude oil and gas through pipelines is the cheapest, safest and environment friendly mode of transportation. The pilferage and spillage from petroleum pipelines has serious consequences like:-

- (a) loss of precious crude oil/petroleum product resulting in financial loss to the oil companies as well as to the nation;
- (b) disruption in supply of crude oil to refineries and of finished products to markets;
- (c) damage to cultivable soil, environment, aboveground and sub-soil water bodies or resources;
- (d) loss of life and property, in case of a fire; etc.

1.6 **Difficulties in the existing legal framework-** Section 15 and 16 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 do not contain provisions for the enforcement authorities to arrest or detain any person unless he is caught red-handed during the act of pilferage or sabotage. Even if a person is arrested for committing pilferage, he is prosecuted under the provisions of Sections 379 and 380 of IPC. Due to non-availability of witnesses in such cases, they do not stand the test of law in courts.

Sec. 379 of IPC deals with theft and section 380 talks of theft in a building, tent or vessel. Offences under both the above sections are bailable. The punishment for offences under Sec. 379 is imprisonment for a term which extends upto three years whereas under Sec. 380 the imprisonment is for 7 years. Thus, it would be seen that the punishments provided for under Sec. 379 and 380 are not stringent enough to serve as a deterrent.

1.7 To contain the pilferage/sabotage of oil pipelines and also to serve as deterrent to the emerging security threats from extremists and terrorists on the pipeline installations, amendment of Section 15 and 16 of the Act has been proposed with the following objectives:

- a) Provide stringent punishment regime- the quantum of punishment (rigorous imprisonment) may extend upto 10 years in the case of first offence and for subsequent offence the minimum period of imprisonment shall not be less than 3 years except where the court may, for any adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than three years -**section 15 (2) & (3) of the Amendment Bill.**
- b) Exemplary punishment of life imprisonment/death punishment for extreme sabotage/terrorist act in **section 15(4) of the Amendment Bill.**
- c) To amend section 16 to make the offences under section 15(2), (3) & (4) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 cognizable and non-bailable.
- d) To insert a new section 16A notwithstanding the Code of Criminal Procedure, 1973 for conferring powers to any officer of Central Government for the purpose of arrest, investigation, prosecution and all other proceedings under this Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.
- e) Putting the onus on the accused to prove that the pilfered product does not belong to him under **section 16 B of the Amendment Bill.**
- f) To insert a new section 16C to provide that when in any proceedings taken under this Act, or in consequence of anything done under this Act, if any question arises as to whether any petroleum product is the property of the Corporation, such property shall be presumed to be the property of the Corporation until the contrary is proved.
- g) Strengthen the enforcement mechanism by making offences under section 15 (2), (3) & (4) cognizable and non-bailable under Section 16 of the Amendment Bill. Bail to be granted only after hearing the Public Prosecutor in **section 16 D of the Amendment Bill.**

- h) To insert a new section 16E to provide that section 438 of the Code of Criminal Procedure, 1973 shall not apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under sections 15(2) and 15(4) of the Act.

(a) Observations and Recommendations

B. Provisions of the Bill

Clause 2 -Substitution of new section for sections 15 and 16

1.8 Clause 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010, seeks to substitute the existing sections 15 and 16 of the principal Act as per details given below:-

section 15 (1)

- (i) As far as sub-section (1) of section 15 of the principal Act, no change has been proposed.

(b) Amendment of section 15 (2)

- (ii) The existing sub-section (2) of section 15 has been amended as under:-

“whoever makes or causes to make any unauthorized connection with or removes, destroys, damages or displaces any pipeline laid under section 7 or inserts any device to extract petroleum product/minerals from such pipeline, or disrupts supplies being made through the pipeline, shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine”.

1.9 Asked about the reasons for keeping offences under sub-section (2) of section 15 under a category of strict liability by omission of the word ‘wilfully’, the Ministry of Law (Department of Legal Affairs) in a written note inter-alia have stated as under:

“It may be clarified that this Department never suggested omitting the word ‘wilfully’ from sub-section (2) of section 15 of the Act as proposed under the Bill. The said omission was proposed in the draft Cabinet note prepared by the administrative ministry”.

1.10 It further states:-

“The offences as existed under sub-section (2) of section 15 of the existing provisions of the Act relate only to remove, destroy, damage or displace any pipeline and fall under the proposed amendment. However, the administrative

Ministry have added some other activities as also punishable namely (a) 'makes or causes to make any unauthorized connection with', (b) 'inserts any device to extract petroleum products or minerals from such pipeline' and (c) 'disrupts supplies being made through the pipeline'. It is also proposed to enhance the punishment. In that process, the word 'wilfully' has been deliberately omitted by the administrative Ministry. It may not be out of place to mention that the draft amendment Bill was vetted by the Legislative Department as per the requirement of the Government of India (Allocation of Business) Rules, 1961. The Bill after finalization by the Legislative Department had not been examined by us.

The existence of the word 'wilfully' as in sub-section (1) of section 15 under the existing provision and also in the existing sub-section (2) of section 15 and its omission from proposed sub-section (2) will lead to different interpretations. Hence, there may be no objection if the word 'wilfully' is retained in sub-section (2)".

1.11 Explaining their views on the above clarification of the Law Ministry, the Ministry of Petroleum and Natural Gas stated in a written reply that the Ministry has no objection to retain the word 'wilfully' in section 15 (2) as the objective of the proposed amendment would not be affected.

1.12 Asked about provisions of strict liability in any other law providing for protection of public goods/services such as railways property and electricity etc. and their sustainability under judicial review, the Dept. of Legal Affairs in a written note submitted as under :-

"Similar provisions of strict liability are available in several statutes such as section 3 of the Prevention of Damage of Public Property Act, 1984 and section 3 of the Railway Property (Unlawful Possession) Act, 1966".

The proposed offences are being created in public and national interest and the same cannot be said to be unreasonable, arbitrary or unjust. The provisions mentioned under this sub-section may not hit the provisions of Article 21 of the Constitution and may withstand the judicial scrutiny".

1.13 The Committee note that the proposed amendments to sub-section 2 of section 15 has added some other activities as punishable offences namely (a) 'make or causes to make any unauthorized connection with' (b) 'insert any device to extract petroleum products or minerals from such pipeline' (c) disrupts supplies being made through the pipeline'. Besides the amendment proposes to enhance the punishment of rigorous imprisonment for these offences for a term which may extend to ten years. The Committee further note that the word

'wilfully' has been omitted while the same has been retained in sub-section (1). The Committee while deliberating over this provision expressed their apprehension that the removal of word 'wilfully' from the sub-section will not only make the provision more stringent but very destructive particularly when it is actually implemented and it will give unfettered powers to officers to abuse the provision for roping in and punishing innocent persons for any of their acts done 'accidentally' or 'unintentionally'. Clarifying their position, Ministry of Law (Department of Legal Affairs) informed the Committee that they have never suggested the omission of word 'wilfully' from sub-section (2) and it was only proposed by the Ministry of Petroleum in their Cabinet note. Both, Ministry of Petroleum and Natural Gas and Ministry of Law (Department of Legal Affairs) finally agreed to the inclusion of the word 'wilfully' in sub-section (2). After giving consideration to all the aspects including the availability of provisions of strict liability in other statutes, the Committee recommend inclusion of word 'wilfully' after the word 'whoever' in sub-section (2) of section 15. The Committee endorse the other amendments proposed in sub-section (2) of section 15.

(c) Insertion of new section 15(3)

1.14 Sub-section (3) is being inserted to deal with a situation if a person convicted for offence under sub-section (2) is again convicted of similar offence. When the same person repeats the crime committed by him under sub-section 15(2), he shall be punishable with rigorous imprisonment for the second and for every subsequent offence for a term which shall not be less than three years but which may extend to ten years. It also provides that the court may, for any adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than three years.

1.15 Keeping in view the objectives of the Bill and the need for stringent provisions to achieve the same, the Committee agree with the amendments proposed in sub-section (3) of section 15.

(d) Insertion of new section 15(4)

1.16 Section 15(4) proposed to be inserted in the principle Act by clause 2 of the Bill stipulates that:-

“Whoever, with the intent to cause or knowing that he is likely to cause damage to or destruction of any pipeline laid under section 7, causes by fire, explosive substance or otherwise damage to the pipeline being used for transportation of petroleum products, crude oil and gas with the intent to commit sabotage or with the knowledge that such act is so imminently dangerous that it may in all probability cause death of a person or such bodily injury likely to cause death of any person, shall be punishable with rigorous imprisonment which shall not be less than ten years but may extend to imprisonment for life or death”

1.17 Regarding the need for making a distinction between organized criminal gangs or terrorists committing such acts of sabotage and ordinary persons committing such acts of sabotage inadvertently, Department of Legal Affairs informed the Committee as under:-

“From perusal of section 15 (4) of the proposed Bill, it is noticed that the intention is not to make any distinction between commission of offence by an organized criminal gangs or terrorists committing such acts of sabotage or by ordinary persons. There may be a case where an ordinary person may commit the offence so grave in nature that the act may cause harm to thousands of people. Therefore, perhaps it is not necessary to make a distinction between commission of offence committed by organized criminal gangs or terrorists committing such acts of sabotage.

The court has ample discretion to award the sentence, keeping in view the facts and circumstances of the case, gravity of the offence, etc. For example, if the alleged act is committed by the organized criminal gangs or terrorists committing such acts of sabotage or by ordinary person”.

1.18 Considering the fact that Indian Courts impose the punishment of death only in the rarest of rare cases, the Committee have desired to know the justification for provision of death sentence as proposed by insertion of a new section 15(4) in the Bill. In this regard, Ministry of Law (Department of Legal Affairs) have informed the Committee in a written note as under:-

“Death Sentence in other Statutes: Apart from the IPC there are many other Statutes in which death sentence is prescribed. For example, the Narcotics Drugs & Psychotropic Substances Act, 1985; Explosive Substances Act, 1908; the Scheduled Caste & Scheduled Tribes (Prevention of Atrocity) Act, 1989 ; The

Commission of Sati (Prevention) Act, 1987; TADA 1987; POTA 1987; POTA 2002 (Since repealed but cases are still pending in the Court); the Army Act, 1950; The Navy Act, 1957; The Air Force Act, 1950 ; the National Security guards Act, 1986; the Indo Tibetan Border Police Force Act, 1992”.

1.19 It further stated:-

‘Death sentence in rarest of rare cases:- Section 354 (3) of the Criminal Procedure Code, 1973 provides that ‘when the conviction is for an offence punishable with death or, in the alternative for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence’. The Hon’ble Supreme Court in the case of Bachan Singh Vs. State of Punjab AIR 1980 SC 898 (para 209) have observed as follows:

“A real and abiding concern for the dignity of human life postulates resistance to taking a life through law’s instrumentality. This ought not be done save in the rarest of rare cases when the alternative option is unquestionably foreclosed.”

The Supreme Court has indicated the guidelines for rarest of rare of cases in the case of sentence of death in Bachan Singh case (supra) and in Lehana Vs. State of Haryana (2002) 3 SCC 76 have reproduced these guidelines.

Thus the concern of the Hon’ble Committee with regard to the punishment of death even to the land owner or villager for committing the act of sabotage of pipeline may be taken care of by the concerned judicial forum, as per established principles that the death penalty be imposed only in rarest of rare cases’.

1.20 The Committee are not basically against the stringent provisions proposed in section 15(4). Although the new provisions proposed in section 15(4) are to provide sufficient deterrence to potential offenders, the Committee apprehend the scope for misuse of these harsh provisions against innocent people. As regards, the punishment of death proposed in section 15(4), the Committee take note of the safeguards provided for in section 354(3) of CrPC, 1973 and particularly the observations of the Hon’ble Supreme Court:-

“A real and abiding concern for the dignity of human life postulates resistance to taking a life through law’s instrumentality. This ought not be done save in the rarest of rare cases when the alternative option is unquestionably foreclosed”. (Supreme Court in the case of Bachan Singh Vs. State of Punjab AIR 1980 SC 898 (para 209).

The Committee therefore trust that the stringent provision proposed in section 15(4) regarding death penalty will not be misused/abused.

(e) **Amendment of section 16**

1.21 The Committee note that amendment to section 16 of the Bill proposes to make the offences under sub-section (2), (3) and (4) of section 15 cognizable and also non-bailable within the meaning of Code of Criminal Procedure 1973, whereas the provisions of the existing Act make the offences under sub-section (2) only cognizable. The Committee endorse the proposed amendment to section 16.

(f) **Conferment of powers of arrest, investigation etc. on Central Govt. Officers**

(Insertion of new section 16A)

1.22 **Section 16 A** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, for the purposes of this Act, the Central Government may, by notification in the Official Gazette, confer on any officer of the Central Government, powers of arrest, investigation and prosecution exercisable by a police officer under that Code.

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government referred to in sub-section (1), in the execution of the provisions of this Act.

1.23 As regards the guidelines to be laid down for regulating exercise of the powers of Central Govt. Officers under sec. 16 A and availability of similar provisions in other Statutes, the Committee were informed that section 21 (2) of 'The Central Excise Act, 1944, specifically provides that 'Central Excise Officer may exercise the same powers and shall be subject to the same provisions as the officer-in-charge of a police station may exercise and is subject to the Code of Criminal Procedure, 1898 (5 of 1898). The Committee find from the Central Excise Act that suitable provisions regarding exercise of powers of arrest, investigation, disposal of persons arrested with adequate safeguards against any vexatious search, seizure, etc. by the Central Excise Officer

have been laid down in the Act itself (reference section 18, 19, 20, 21 and 22 of the Central Excise Act). The Act further provides for penalty against the Central Excise Officer for his failure to perform duty.

1.24 The provisions of section 22 of Central Excise Act providing safeguards against vexatious search is given below:-

“Section 22. Vexatious search, seizure, etc. by Central Excise Officer. – Any Central Excise or other officer exercising powers under this Act or under the rules made thereunder who –

- (a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place;
- (b) vexatiously and unnecessarily detains, searches or arrests any person;
- (c) vexatiously and unnecessarily seizes the movable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;
- (d) commits, as such officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty;

shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

Any person willfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years or with both”.

In this connection, the Dept. of Legal Affairs has informed the Committee that section 17 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 empowers the Central Government to make rules for carrying out the provisions of the Act. The Central Government may confer such powers upon the officer in accordance with the Rules framed/to be framed. The powers so conferred since have to be exercised in accordance with the provisions of Cr. PC and the Rules framed under the Act may not be unfettered. It would be advisable if the level of officer is either specified or such power may be conferred by general or special order of the Central Government, by notification to be published in the official Gazette.

1.25 When asked about any proposal to set up own security forces by oil companies to tackle with the issue of pilferage/sabotage from their pipeline networks, the Ministry of Petroleum and Natural Gas inter-alia have informed the Committee in a written reply as under:-

“Presently, there is no proposal to set up own security force to tackle the issue of pilferage/sabotage from pipelines. Presently, Director General of Resettlement (DGR) sponsored Security Agencies are being engaged who provide a sizable number of ex-servicemen as security guards and line walkers”.

1.26 Asked to explain the manner in which the powers of Central Government officers to be conferred under section 16 A (1), would be executed, the representatives of the Ministry of Petroleum and Natural Gas stated during evidence that:-

“this is a futuristic provision. When the oil companies would like to raise a force separately to maintain the pipeline, these powers can be conferred. But, at the same time, even the existing officers, like on the pattern of Excise Act, can also be conferred with the powers of police depending upon the number of occurrences which they are facing. The existing security officers can also be conferred the power to arrest and other similar powers by notification of the Central Government”.

1.27 Explaining further on this point, the Secretary stated as under:-

“first of all there is no proposal at all to empower any employee of the oil company. It only talks about officers of the Central Government and employees of the oil companies are not officers of the Central Government. These are exceptional cases in which, if the Government so desires, it can empower an officer of the Central Government but it is unlikely to happen because there are no officers of the Central Government on the field who can actually implement it”.

1.28 The Committee were informed that provisions similar to clause 16 A (1) of the Bill are available under section 21 (2) of the Central Excise Act, 1944. However, the Committee find that the procedure to regulate the powers of arrest, investigation, disposal of persons arrested are laid out very clearly in the Central Excise Act itself with adequate safeguards against any vexatious search, seizure, etc. by the Central Excise Officer. It is surprising that although powers of arrest, investigation and prosecution are proposed to be conferred on Central Government officers under clause 16 A (1) of the Bill, it is silent on the provisions regarding regulation of their powers with adequate safeguards. The Government

have also failed to explain the mechanism by which these powers will be executed in the future particularly when there is no proposal by the oil companies to set up their own security force to deal with the cases of pilferage and sabotage. The Committee strongly feel that there is a need to lay down clear provisions for exercise of the powers of arrest, investigation and prosecution by Central Government officers in the Act itself in order to avoid ambiguity and the scope for misuse of such powers against innocent villagers or land owners for any of the acts done by them accidentally or unintentionally. The Committee feel that such substantive powers to be exercised by the Central Govt. Officers should not be dealt with in the Rules to be made under the Act. The Committee, therefore, recommend to incorporate suitable safeguard provisions in the Bill itself on the lines of similar provisions in Central Excise Act to regulate the powers of the Central Government officers and safeguard the interest of the villagers and the land owners.

(g) Burden of proof in certain cases & Presumption regarding property

(Insertion of new sections 16 B and 16 C)

1.29 Section 16 B. Where any petroleum product together with all tools, vehicles and all items used in committing any such offence under sub-section (2) or sub-section (4) of section 15 are seized under this Act in the reasonable belief that such petroleum products have been stolen from the pipeline laid under section 7, the burden of proving that they are not stolen property shall be, in case where such seizure is made from the possession of any person –

- (i) on the person from whose possession the property was seized, and
- (ii) on the person who claims to be the owner thereof, if any person other than the person from whose possession the stolen property was seized.

1.30 Section 16 C. Where any proceeding taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any petroleum product is the property of the corporation, the Court shall presume, unless the contrary is shown, that such petroleum product belongs to the corporation.

1.31 On the justification to shift the burden of proof on the accused as it may be contrary to the protection given to an accused person under Article 20(3) of the Constitution, the Ministry of Law (Department of Legal Affairs) informed the Committee in a written reply as under:

1. According to section 102 of the Evidence Act, the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. However, similar provisions as mentioned under the proposed section 16(B) of the Bill are already in existence under the following Statutes:-
 - (i) Section 54 of the Narcotics Drugs and Psychotropic Substances Act, 1985 deals with presumption from possession of illicit articles
 - (ii) Sub-section 7(B) of section 10 of the Prevention of Food Adulteration Act, 1954 provides that “when any adulterant is seized under sub-section (6), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized.”
 - (iii) Section 3 of the Railway Property (Unlawful Possession) Act, 1966 provides that “whoever is found, or is proved to have been, in possession of any railway property reasonably suspected of having been stolen or unlawful obtained shall, unless he proves that the railway property came into his possession lawfully.....”
 - (iv) Section 9(A) has been inserted by suppression of unlawful acts against Safety of Civil Aviation (Amendment) (Act 40 of 1994) which provides for such presumption “in a prosecution for an offence under sections 3, 3 A and 4 of the Act.
“Therefore, the proposed section under section 16B of the Bill may not be legally objectionable in the present form and the same will not be hit by article 20(3) of the Constitution and the Legislature has the competence to make provision in a law shifting the burden of proof as a matter of public policy. “

1.32 In view of the clarifications given by the Ministry of Law (Department of Legal Affairs), the Committee agree with the provisions as proposed in new sections 16B and 16C.

(h) Provisions as to bail (Insertion of new section 16 D)

1.33 Section 16 D. (1) notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless –

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973.

(i) **Section 438 of the Code of Criminal Procedure, 1973 not to apply**

(Insertion of new section 16E)

1.34 Section 16 E. Nothing is section 438 of the Code of Criminal Procedure, 1973 shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under sub-section(2) or sub-section (4) of section 15

1.35 When asked about the reasons for making the bail procedure so stringent under this section even after making the offences non-bailable and whether any similar provisions exist in any other law providing for protection of public goods and property unit, the Ministry of Law (Department of Legal Affairs) submitted the following :

“As regards the stringent procedure for grant of bail, attention is invited to the following Statutes which contained similar provisions:

(i) Anti-Hijacking Act, 1982 - section 7A. Provision as to bail:

(1) Notwithstanding anything in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless-

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(ii) The Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) section 20 provides the modified application of certain provision of the Code of Criminal Procedure 1973. The sub-section 8 of section 20 of TADA provides that 'Notwithstanding anything contained in the Code no person accused of an offence punishable under this Act or any rule made there under shall, if in custody, be released on bail or on his own bond unless-

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

2. It is submitted that the opportunity to hear Prosecutor at the time of hearing of the bail application is in accordance with the gravity, seriousness and economic importance of the crime and is justifiable on the ground that the similar provisions already exist in several statutes”.

1.36 Further, when the Committee desired to know the implications of section 16E proposed in the Bill for the rights of an accused person in connection with the offences committed under section 15(2) and (4). The Ministry of Law (Department of Legal Affairs), informed the Committee:

“It is stated that the implication of section 16 (E) of the proposed Bill is that the right of the accused to seek the anticipatory bail has been taken away and he is not entitled to seek anticipatory bail under section 438 of the Code of Criminal Procedure, 1973.

It is relevant to mention that the applicability of section 438 of Cr.PC which deals with the provisions of anticipatory bail has been taken away in several Statutes. e.g. sub section (7) of section 20 of Terrorist and Disruptive Activities (Prevention) Act, 1987; sub section (3) of section 21 of the Maharashtra Control of Organized Crime Act, 1999”.

1.37 After giving careful consideration to the objects of the Bill and also the need for stringency of punishments and bail provisions to achieve the objectives of the Bill, the Committee feel that there is a need for the Government to pay attention to the rights of accused persons also. The Committee are of the opinion that stringent provisions of the law on their own may not completely prevent criminal acts of pilferage from and sabotage of oil pipelines by organized criminal gangs. On the other hand, such stringent provisions with unfettered powers to Officers may lead to harassment and punishment of the innocent villagers and

land-owners for any of their acts done accidentally or unintentionally attracting the provisions of section 15. Viewed in this context, Committee feel that there would be no impediment to achieve the objectives of the Bill if stringency of the Bail provisions proposed in section 16 (D) and (E) are made applicable only to the offences defined under section 15 (4).

New Delhi;
25 August, 2010
03 Bhadrapada, 1932 (Saka)

ARUNA KUMAR VUNDAVALLI,
Chairman,
Standing Committee on
Petroleum & Natural Gas.

Bill No. 38 of 2010

**THE PETROLEUM AND MINERALS PIPELINES (ACQUISITION OF
RIGHT OF USER IN LAND) AMENDMENT BILL, 2010**

A

BILL

further to amend the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Act, 2010. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of new section for sections 15 and 16. Penalty.	<p>2. For sections 15 and 16 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. the following sections shall be substituted, namely:—</p> <p>"15. (1) Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 7 or section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 or wilfully does any act prohibited under section 9, shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.</p> <p>(2) Whoever makes or causes to make any unauthorised connection with or removes, destroys, damages or displaces any pipeline laid under section 7, or inserts any device to extract petroleum product or minerals from such pipeline, or disrupts supplies being made through the pipeline, shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.</p> <p>(3) If any person convicted of an offence under sub-section (2) is again convicted of an offence under the same provision, he shall be punishable with rigorous imprisonment for the second and for every subsequent offence for a term which shall not be less than three years but which may extend to ten years:</p> <p style="padding-left: 40px;">Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years.</p> <p>(4) Whoever, with the intent to cause or knowing that he is likely to cause damage to or destruction of any pipeline laid under section 7, causes by fire, explosive substance or otherwise damage to the pipeline being used for transportation of petroleum products, crude oil and gas with the intent to commit sabotage or with the knowledge that such act is so imminently dangerous that it may in all probability cause death of a person or such bodily injury likely to cause death of any person, shall be punishable with rigorous imprisonment which shall not be less than ten years but may extend to imprisonment for life or death.</p>	50 of 1962.
Certain offences to be cognizable.	<p>16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence falling under sub-sections (2), (3) and (4) of section 15 shall be deemed to be cognizable and non-bailable within the meaning of that Code.</p>	2 of 1974.
Conferment of powers of investigation, etc.	<p>16A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, for the purposes of this Act, the Central Government may, by notification in the Official Gazette, confer on any officer of the Central Government, powers of arrest, investigation and prosecution exercisable by a police officer under that Code.</p> <p>(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government referred to in sub-section (1), in the execution of the provisions of this Act.</p>	2 of 1974.
Burden of proof in certain cases.	<p>16B. Where any petroleum product together with all tools, vehicles and all items used in committing any such offence under sub-section (2) or sub-section (4) of section 15 are seized under this Act in the reasonable belief that such petroleum products have been stolen from the pipeline laid under section 7, the burden of proving that they are not stolen property shall be, in case where such seizure is made from the possession of any person,—</p> <p style="padding-left: 40px;">(i) on the person from whose possession the property was seized, and</p> <p style="padding-left: 40px;">(ii) on the person who claims to be the owner thereof, if any person other than the person from whose possession the stolen property was seized.</p>	

	16C. When any proceeding taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any petroleum product is the property of the corporation, the Court shall presume, unless the contrary is shown, that such petroleum product belongs to the corporation.	Presumption regarding property.
2 of 1974.	16D. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless— (a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and (b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.	Provisions as to bail
2 of 1974.	(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.	
2 of 1974.	(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973.	
2 of 1974.	16E. Nothing in section 438 of the Code of Criminal Procedure, 1973 shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under sub-section (2) or sub-section (4) of section 15.”.	Section 438 of the Code of Criminal Procedure, 1973 not to apply.

STATEMENT OF OBJECTS AND REASONS

The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 was enacted to provide for the acquisition of right of user in land for laying pipelines for the transport of petroleum and minerals and for matters connected therewith.

2. Since the enactment of the aforesaid Act, several underground pipelines have been laid across the country carrying crude oil, petroleum products and gas. The network of such pipelines has grown in a big way. Despite regular patrolling and inspection of the pipelines, large number of incidents of pilferage and sabotage of pipelines by anti-social elements are taking place frequently. As the crude petroleum and its products are hazardous material, their pilferage and spillage from such pipelines have serious consequences.

3. To curb the incidents of pilferage from, and sabotage of, pipelines and also to serve as deterrence to the emerging security threats to the pipeline installations, including those from extremists and terrorists, more stringent punishment is required to be provided for in the aforesaid Act.

4. Sections 15 and 16 of the aforesaid Act, which lay down the provisions to deal with the cases of pilferage from, or sabotage of, pipelines, do not provide for sufficient deterrence to criminals from committing the offence of pilferage or sabotage. Sub-section (2) of section 15 provides that whoever wilfully removes, displaces, damages or destroys any pipeline, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine. Section 16 provides that offence under sub-section (2) of section 15 shall be deemed to be cognizable under the Code of Criminal Procedure, 1973.

5. It is proposed to substitute the said sub-section (2) of section 15 of the aforesaid Act and insert sub-sections (3) and (4) in that section, *inter alia*, to provide that—

(a) whoever makes or causes to make any unauthorized connection with, or removes, destroys, damages or displaces any pipeline or inserts any device to extract petroleum or its products or minerals from such pipeline or disrupts supplies being made through the pipeline, shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine;

(b) a person, who is convicted of an offence under sub-section (2), commits the offence again under that sub-section shall be punishable with rigorous imprisonment for a term which shall not be less than three years and may extend to ten years for the second or subsequent offence;

(c) whoever, with the intent to cause or knowing that he is likely to cause damage to or destruction of any pipeline, causes by fire, explosive substance or otherwise damage to, or destruction of, any pipeline being used for transportation of crude oil/petroleum product/gas with the intent to commit sabotage or with the knowledge that such act is so imminently dangerous that it may in all probability cause death of a person or such bodily injury likely to cause death of any person, shall be punishable with rigorous imprisonment which shall not be less than ten years and may extend to imprisonment for life or death.

6. It is further proposed to amend section 16 of the aforesaid Act to make the offences under sub-sections (2), (3) and (4) of section 15 of the said Act to be cognizable and non-bailable.

7. It is also proposed to insert new sections 16A, 16B, 16C and 16D in the aforesaid Act, *inter alia*, to provide that—

(a) the Central Government may, notwithstanding anything contained in the Code of Criminal Procedure, 1973, confer on any of its officers the powers of arrest, investigation and prosecution exercisable by a police officer and all the officers of police and the Government shall assist the officers of the Central Government in execution of the provisions of the said Act;

(b) when any petroleum product together with all tools, vehicles and all items used in committing any offence under sub-section (2) or sub-section (4) of the aforesaid section 15 are seized in the reasonable belief that the petroleum products have been stolen from the pipeline, the burden is on the person from whose possession the petroleum products (crude oil/petroleum product/gas) together with the tools, vehicles, etc., used in committing the crime are seized or who claims to be owner thereof, to prove that he is not guilty;

(c) if any question arises, in any proceedings taken under this Act, or in consequence of anything done under this Act, as to whether any petroleum product is the property of the corporation, such property shall be presumed to be the property of the corporation until the contrary is proved;

(d) no person accused or convicted of an offence punishable under the said Act, shall be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such release;

(e) section 438 of the Code of Criminal Procedure, 1973, relating to the grant of bail to person apprehending arrest, shall not apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under sub-section (2) or sub-section (4) of section 15 of the said Act.

8. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 9th March, 2010.

MURLI DEORA

ANNEXURE
EXTRACTS FROM THE PETROLEUM AND MINERALS PIPELINES (ACQUISITION OF RIGHT OF
USER IN LAND) ACT, 1962
(50 OF 1962)

* * * * *

Penalty. 15. (1) Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 7 or section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 or wilfully does any act prohibited under section 9, shall be punishable with imprisonment which may extend to six months or with fine or with both.
(2) Whoever wilfully removes, displaces, damages or destroy any pipeline laid under section 7, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine.

Certain offence to be cognizable 16. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence falling under sub-section (2) of section 15 shall be deemed to be cognizable within the meaning of that Code.

5 of 1898

* * * * *

LOK SABHA

A
BILL
further to amend the Petroleum and Minerals Pipelines (Acquisition of Right of User
in Land) Act, 1962.

(Shri Murli Deora, Minister of Petroleum and Natural Gas)

GMGIPMRND—1131LS(S5)—11-03-2010.

MINUTES

**STANDING COMMITTEE ON PETROLEUM & NATURAL GAS
(2009-10)**

NINTH SITTING

(21.5.2010)

**The Committee sat on Friday, the 21st May, 2010 from 1130 hrs. to 1415 hrs.
in Committee Room "C", Parliament House Annexe, New Delhi.**

PRESENT

Shri Aruna Kumar Vundavalli - Chairman

MEMBERS

Lok Sabha

- 2 Shri Anandrao Adsul
- 3 Shri Ramesh Bais
- 4 Smt. Santosh Chowdhary
- 5 Shri Mukesh B. Gadhvi
- 6 Shri Dilipkumar Mansukhlal Gandhi
- 7 Shri Maheshwar Hazari
- 8 Shri Virendra Kumar
- 9 Dr. Thokchom Meinya
- 10 Shri K. Narayan Rao
- 11 Shri C.L. Ruala
- 12 Shri Uday Pratap Singh (Hoshangabad)

Rajya Sabha

- 13 Dr. Prabha Thakur
- 14 Shri Kalraj Mishra
- 15 Shri Tapan Kumar Sen
- 16 Shri Satish Chandra Misra
- 17 Shri Subhash Prasad Yadav
- 18 Shri Sabir Ali

Secretariat

1. Shri J.P. Sharma - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri J.V.G. Reddy - Additional Director
4. Shri Arvind Sharma - Deputy Secretary

Representatives of the Ministry of Petroleum & Natural Gas, Petroleum and Natural Gas Regulatory Board and Department of Legal Affairs

1. Shri S.Sundareshan - Secretary
2. Shri Ratan P. Watal - Secretary (PNGRB)
3. Shri S. Bhargava - Additional Secretary
4. Shri P.K.Sinha - Additional Secretary & Financial Advisor
5. Shri D.N.Narsimha Raju - Joint Secretary
6. Shri L.N. Gupta - Joint Secretary
7. Shri Apurva Chandra - Joint Secretary
8. Shri S.S. Chahar - JS&LA, Dept. of Legal Affairs

Representatives of Public Sector Undertakings and other organisations

1. Shri R.S.Sharma - CMD, ONGC
2. Shri B.C.Tripathi - CMD, GAIL
3. Shri N.M.Borah - CMD, OIL
4. Shri Ashok Sinha - CMD, BPCL
5. Shri Arun Balakrishnan - CMD, HPCL
6. Shri B.M. Bansal - Chairman, IOCL
7. Shri S.K. Srivastava - DG, DGH
8. Shri A. Sengupta - Dir. (Finance), PLL
9. Shri S.L. Das - Director (BD&C), Petrofed
10. Shri Rajesh Vedvyas - MD, IGL

2. At the outset, the Hon'ble Chairman welcomed the Secretary of the Ministry of Petroleum & Natural Gas and accompanying officials of PSUs and of Department of Legal Affairs to the sitting of the Committee and explained the purpose of holding the sitting, i.e. Briefing by the representatives of the Ministry of Petroleum & Natural Gas on (i) "Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010", referred to the Committee by Hon'ble Speaker, Lok Sabha for examination and report and (ii) the subject 'Pricing of Gas'.

3. The representative of the Ministry made a power point presentation on various aspects of the two subjects. Thereafter, Committee discussed with the representatives of the Ministry and PSUs the following points:-

- A
- (i) The legal implications of the omission of the word 'willfully' for the offences defined under section 15(2), stringency of the punishment of rigorous imprisonment of ten years which may extend to life imprisonment or death for the offences detailed under section 15(4), conferment of the powers of investigation and prosecution etc. on the officers of Central Government under section 16A and shifting the burden of proof to the accused for offences committed under section 15(2) and (4) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010
 - (ii) The scope for misuse of the stringent provisions of the amendment Bill against the innocent villagers and land owners for any of their inadvertent act of omission and commission hitting the provisions of section 15(1), (2) and (4) of the Bill
 - (iii) The need for evolving adequate preventive measures to prevent damage or destruction of the pipelines by use of technology such as satellite surveillance and close monitoring of the activities of the patrolling staff and their supervisory officers for any act of collaboration or connivance in cases of theft from the damage to pipelines and
 - (iv) the need for the Law ministry to look at the stringency of the provisions of the amendment Bill and their sustainability under judicial Review. The Committee further desired that the opinion of Ministry of Law (Dept. of Legal Affairs) on the above points may be obtained and furnished to this Committee for their consideration.

B (i) to (x) ** ** ** ** ** ** ** ** **

The Members sought clarification on various issues relating to the subjects and the representatives of the Ministry responded to the same. The Committee directed the representatives of the Ministry to furnish written replies to the queries which could not be responded to by them.

4. A verbatim record of the proceedings of the sitting has been kept.

The Committee then adjourned.

** Matter not related to the subject

MINUTES

**STANDING COMMITTEE ON PETROLEUM & NATURAL GAS
(2009-10)**

TENTH SITTING

(06.07.2010)

The Committee sat on Tuesday, the 06th July, 2010 from 1500 hrs. to 1615 hrs. in Committee Room "C", Parliament House Annexe, New Delhi.

PRESENT

Shri Aruna Kumar Vundavalli - Chairman

MEMBERS

Lok Sabha

- 2 Shri Anandrao Adsul
- 3 Shri Ramesh Bais
- 4 Smt. Ratna De
- 5 Shri Mukesh B. Gadhvi
- 6 Shri Maheshwar Hazari
- 7 Shri Virendra Kumar
- 8 Dr. Thokchom Meinya
- 9 Shri Mahabal Mishra
- 10 Shri K. Narayan Rao
- 11 Shri C.L. Ruala
- 12 Shri A.K.S. Vijayan
- 13 Shri Om Prakash Yadav

Rajya Sabha

- 14 Dr. Prabha Thakur
- 15 Shri Tapan Kumar Sen
- 16 Shri Subhash Prasad Yadav
- 17 Shri Sabir Ali

Secretariat

1. Shri J.P. Sharma - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri J.V.G. Reddy - Additional Director
4. Shri Arvind Sharma - Deputy Secretary

Representatives of the Ministry of Petroleum & Natural Gas and Petroleum and Natural Gas Regulatory Board

1. Shri S.Sundareshan - Secretary
2. Shri P.K.Sinha - Additional Secretary & Financial Advisor
3. Shri S. Bhargava - Additional Secretary
4. Shri Apurva Chandra - Joint Secretary

Representative of Ministry of Law (Department of Legal Affairs)

- Shri M.K. Sharma - Joint Secretary and Legal Adviser

Representatives of Public Sector Undertakings and other organisations

1. Shri R.S.Sharma - CMD, ONGC
2. Shri B.C.Tripathi - CMD, GAIL
3. Shri N.M.Borah - CMD, OIL
4. Shri Ashok Sinha - CMD, BPCL
5. Shri Arun Balakrishnan - CMD, HPCL
6. Shri B.M. Bansal - Chairman, IOCL
7. Shri S.L. Das - Director (BD&C), Petrofed

2. At the outset, the Hon'ble Chairman welcomed the Secretary of the Ministry of Petroleum & Natural Gas, other officials of the Ministry and PSUs and representative of Ministry of Law (Department of Legal Affairs) to the sitting of the Committee and explained the purpose of holding the sitting, i.e. to have evidence of the Ministry on "Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010", referred to the Committee for examination and report. The Chairman made a reference to the last briefing meeting held on 21st May, 2010 where Committee had sought certain clarifications on various aspects of the proposed amendments including

opinion of the Ministry of Law on the harsh provisions of the Bill and their sustainability under judicial review.

3. As the Ministry of Law (Department of Legal Affairs) had not submitted the detailed note on the issues raised by the Members of the Committee during the briefing meeting and even the written replies to the List of Points forwarded to them were still awaited; the Committee directed the representative of the Ministry of Law that the desired information be furnished to them immediately. The Committee decided to have another meeting to take evidence of the Ministry on the Bill after the receipt of written replies to the points from the Ministry of Law (Department of Legal Affairs) during the forthcoming session of Parliament.

4. ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** **

5. ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** **

6. A verbatim record of the proceedings of the sitting has been kept.

The Committee then adjourned.

** Matter not related to the subject

MINUTES

**STANDING COMMITTEE ON PETROLEUM & NATURAL GAS
(2009-10)**

**ELEVENTH SITTING
(05.08.2010)**

The Committee sat on Thursday, the 05th August, 2010 from 1600 hrs. to 1700 hrs. in Committee Room "C", Parliament House Annexe, New Delhi.

PRESENT

Shri Aruna Kumar Vundavalli - Chairman

MEMBERS

Lok Sabha

- 2 Shri Anandrao Adsul
- 3 Smt. Santosh Chowdhary
- 4 Smt. Ratna De
- 5 Shri Dilipkumar M. Gandhi
- 6 Shri Mukesh B. Gadhvi
- 7 Shri Maheshwar Hazari
- 8 Shri Gorakh Prasad Jaiswal
- 9 Shri Vikrambhai A. Madam
- 10 Dr. Thokchom Meinya
- 11 Shri Mahabal Mishra
- 12 Shri Kabindra Purkayastha
- 13 Shri K. Narayan Rao
- 14 Shri C.L. Ruala
- 15 Shri Uday Pratap Singh
- 16 Shri A.K.S. Vijayan
- 17 Shri Om Prakash Yadav

Rajya Sabha

- 18 Dr. Prabha Thakur
- 19 Shri Tapan Kumar Sen
- 20 Shri Sabir Ali

Secretariat

1. Shri J.P. Sharma - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri J.V.G. Reddy - Additional Director
4. Shri Arvind Sharma - Deputy Secretary

Representatives of the Ministry of Petroleum & Natural Gas and Petroleum and Natural Gas Regulatory Board

1. Shri S.Sundareshan - Secretary
2. Shri S. Bhargava - Additional Secretary
3. Shri L.N. Gupta - Joint Secretary

Representative of Ministry of Law (Department of Legal Affairs)

- Shri S.S. Chahar - Joint Secretary and Legal Adviser

Representatives of Public Sector Undertakings and other organisations

1. Shri R.S.Sharma - CMD, ONGC
2. Shri B.C.Tripathi - CMD, GAIL
3. Shri N.M.Borah - CMD, OIL
4. Shri Ashok Sinha - CMD, BPCL
5. Shri B.M. Bansal - Chairman, IOCL
6. Shri S. Roy Choudhury - CMD, HPCL
7. Shri S.L. Das - Director (BD&C), Petrofed

2. At the outset, the Chairman welcomed the Secretary of the Ministry of Petroleum & Natural Gas, other officials of the Ministry and PSUs and representative of Ministry of Law (Department of Legal Affairs) to the sitting of the Committee and explained the purpose of holding the sitting, i.e. to have evidence on "Petroleum and Minerals

Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010". The Chairman made a reference to the last sitting held on 6th July, 2010 which was deferred due to non-receipt of legal opinion of the Department of Legal Affairs on certain points raised by the Committee. The Chairman also informed the Committee that Hon'ble Speaker had granted extension of time to finalise and present the report on the Bill to the Parliament by the last day of the current session.

3. Thereafter, representatives from Ministry of Petroleum and Natural Gas presented their views on the legal opinion given by the Ministry of Law (Department of Legal Affairs) on certain points raised by the Committee on the provisions of the Bill. Asked about the manner in which the powers of arrest, investigation and prosecution proposed to be conferred on Central Government officers under Section 16A (1) of the Bill would be executed, the representatives of Ministry of Petroleum and Natural Gas clarified that it would be a futuristic provision only and when oil companies raised a separate force it would be conferred with these powers. Explaining his point of view on this issue, the representatives of Department of Legal Affairs stated that the power of prosecution could not be conferred on the Central Government officers. Considering the divergent views of the Ministries on this point, the Committee could not further consider the provisions of the Bill and authorized the Chairman to call the Secretary, Department of Legal Affairs along with his other colleagues to reconcile and resolve the differences on the provisions of the Bill.

4. The Chairman also requested to the Members of the Committee to give to the Secretariat their suggestions in writing, if any, on the provisions of the Bill before 10th August, 2010.

5. A verbatim record of the proceedings of the sitting has been kept.

The Committee then adjourned.

MINUTES

**STANDING COMMITTEE ON PETROLEUM & NATURAL GAS
(2009-10)**

TWELFTH SITTING

(20.08.2010)

The Committee sat on Friday, the 20th August, 2010 from 1500 hrs. to 1530 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Aruna Kumar Vundavalli - Chairman

MEMBERS

Lok Sabha

- 2 Dr. Ratna De
- 3 Shri Mukesh B. Gadhvi
- 4 Shri Gorakh Prasad Jaiswal
- 5 Shri Virendra Kumar
- 6 Shri Vikrambhai A. Madam
- 7 Dr. Thokchom Meinya
- 8 Shri Mahabal Mishra
- 9 Shri Kabindra Purkayastha
- 10 Shri C.L. Ruala
- 11 Shri Om Prakash Yadav

Secretariat

1. Shri J.P. Sharma - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri J.V.G. Reddy - Additional Director
4. Shri Arvind Sharma - Deputy Secretary

2. At the outset, Hon'ble Chairman welcomed the Members to the sitting of the Committee.

3. The Committee then took up for consideration the following two draft Reports:-

(i) The 'Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Bill, 2010' and

(ii) **

4. After some discussions, the draft Reports were adopted by the Committee without any modification.

5. The Committee authorised the Chairman to finalise the Reports in the light of consequential changes, if any, arising out of the factual verification of the Reports by the Ministry and present the same to both Houses of Parliament.

The Committee then adjourned.

** Matter not related to the subject