

Coal Sector Reforms in India

Analysing from the Lens of **Competition & Regulatory Architecture**

9th India Coal Summit, New Delhi

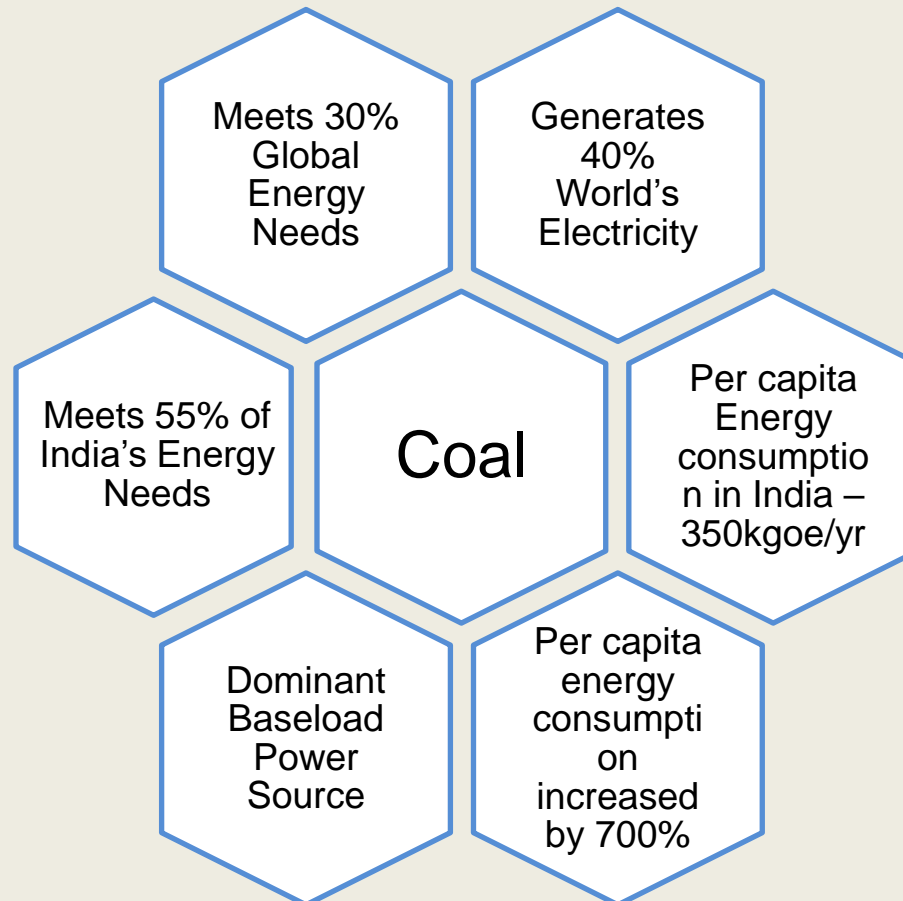
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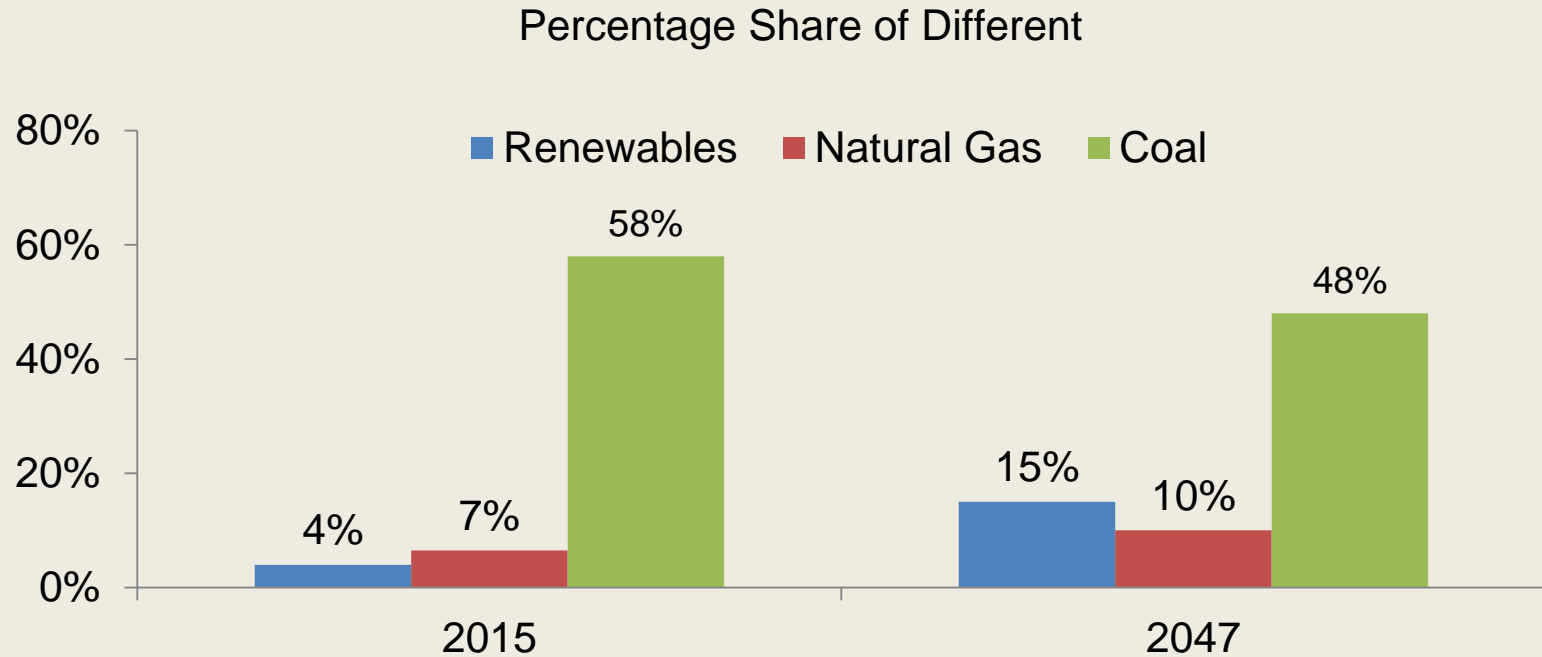
29 June 2017

-  Introduction
-  Coal Scenario – Demand outstripped Supply in India
-  Coal Sector in India – Analysing from the lens of
 -  Competition
 -  Regulatory Architecture
-  Way Forward & Recommendations

Why Coal is so important??



Coal to be India's energy mainstay for next 30 years - NITI Aayog report

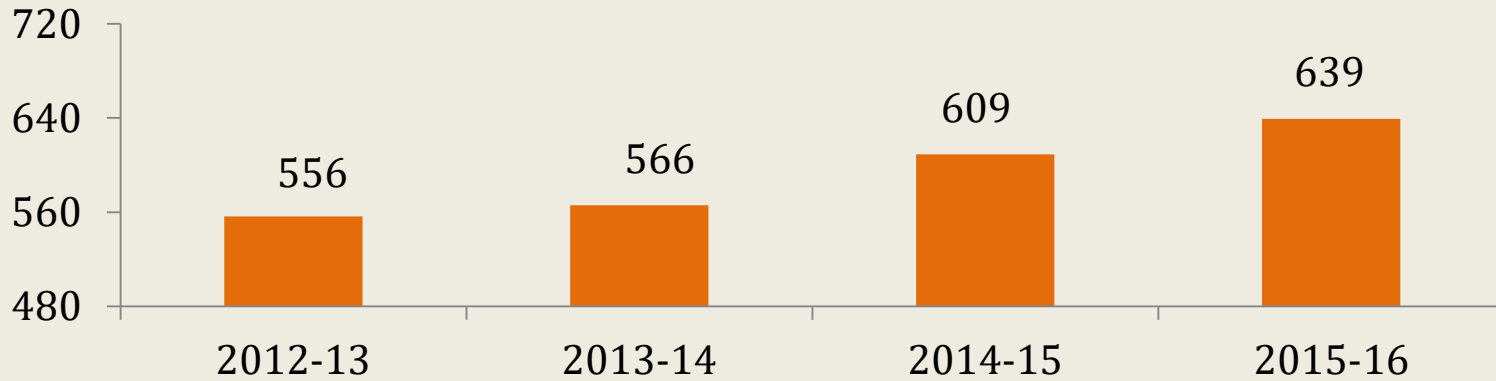


Source: NITI Aayog and IEEJ Japan, 2017 ([Reuters](#))

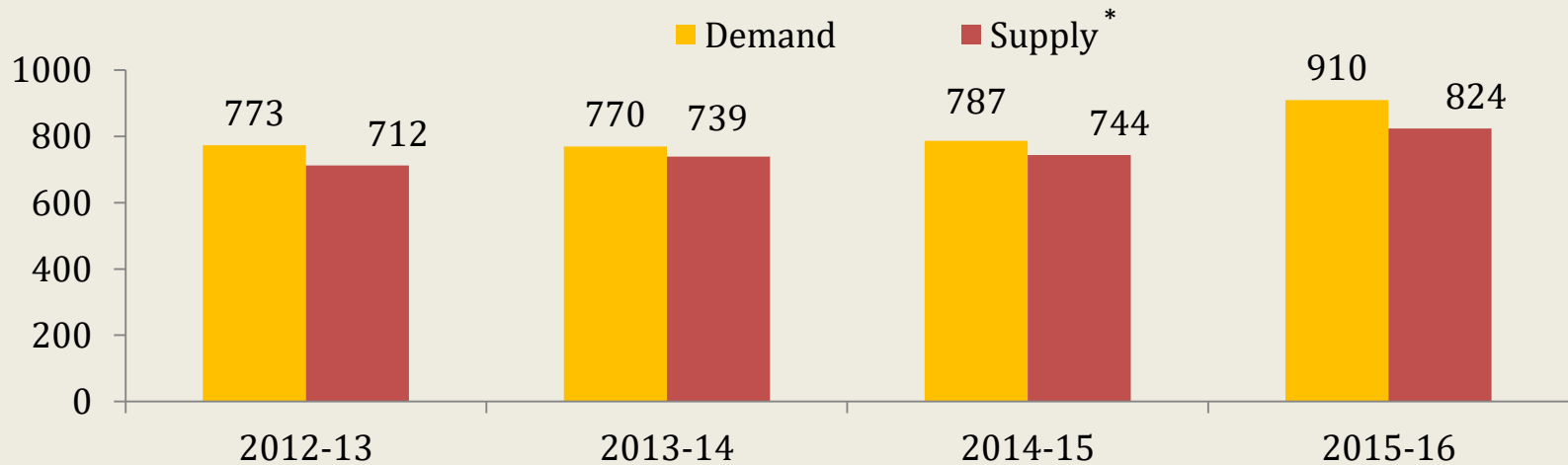
50GW of Coal based power plants are under different stages of construction

Demand Outstripped Coal Supply

Coal Production in India (Million Tonne)



Demand & Supply of Coal in India (Million Tonne)



* Coal Supply includes both domestic coal and imported coal

Source: Provisional Coal Statistics of India 2016, CCO

Why??

- ❑ 80% of coal reserves are under government controlled mining companies
- ❑ Monopoly of government controlled mining companies in the sector
- ❑ Demand for coal >> Production capacity of mining companies
- ❑ Under production of coal from captive coal mines
- ❑ Lack of Infrastructure

Competition and Regulatory Issues WITHIN the Sector

This section focuses on

**Dominant Position' by the Government
Controlled Mining Companies**

Allocation of Coal Blocks

Dominant Position' by the Government Controlled Companies

CCI found CIL and its subsidiaries to be in contravention of the provisions of **Section 4(2)(a)(i)** of the Competition Act, 2002 for **imposing unfair/discriminatory** conditions in FSAs with the power producers for supply of non-coking coal ([Press Release GOI](#))

Refusal to supply the contracted quality of coal. (Case No. – W.P. No.1718 of 2006, Eastern Coalfields Ltd. Vs. Deepak Fuel Pvt. Ltd. and ors.)

SECL (CIL Subsidiary) was neither willing to negotiate the terms of coal supply agreement nor ensuring the supply obligations. (Case No. 05 of 2013, Madhya Pradesh Power Generating Company Limited vs. South Eastern Coalfields Ltd)

Allocation of Coal Blocks

In 1993, private power generating companies allowed to own captive coal blocks

Coal block allocation for captive coal blocks can be seen in three (two) phases:

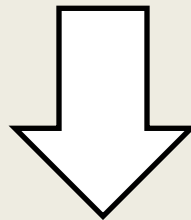
	Allocation Process	Issues/ concerns in allocation
1993 – 2010	Through inter-ministerial Screening Committee	<ul style="list-style-type: none"> Illegalities in allocation of coal blocks Non-uniformity in the process followed to allocate coal blocks
2010 – 2014	Allocation through Auctions (MMDRA, 2010)	No blocks were allotted
2015 – present	Allocation through reverse bidding	<ul style="list-style-type: none"> Legal Concerns Regulatory Complexity Information Asymmetry Lack of Competitive Neutrality Auction design needs improvement Aggressive Bidding

Allocation through reverse bidding under Coal Mines Special Provisions Act, 2015 (CMSPA)

Legal Concerns	Conflict between CMSPA and Coal Bearing Areas Act (CBAA)
Regulatory Complexity	Central Government directives were not followed by SERC
Information Asymmetry	Many critical details remain unpublished
Lack of Competitive Neutrality	Different Criteria of Allocation for Public Sector and Private Sector
Auction design needs improvement	Allows multiple technical bids from different captive power plants of the same company
Aggressive Bidding	Bidding for the first two rounds were extremely aggressive and coal blocks may become unviable in future

In the nutshell.....

- Lack of transparent and participatory process which allows all stakeholders, citizens and businesses to interact
- There are no comprehensive frameworks that govern the licensing and operational setups of coal mining/ trading companies
- Lack of accountability from the government controlled mining companies



Weak regulatory architecture

Existing Regulatory Architecture

Centre Level

State Level

Regulator

- Ministry of Coal
- Central Mine Planning & Design Institute
- Coal Controller
- Other Ministries

- Department of Mining
- Department of Forest
- Department of Environment
- State Pollution Control Boards

Regulatee

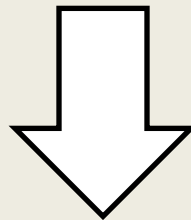
- Coal India Limited (CIL)
- Singareni Collieries Company Limited
- Neyvelli Lignite Corporation Joint Ventures
- Captive Producers in Power, Steel, Cement etc. industries

- Singareni Collieries Company Limited (JV between State & Centre)
- Gujarat Mineral Development Cooperation

Coal Controllers Organisation (CCO), an agency operating under the Ministry of Coal acts a technical regulatory body in the sector, overseeing coal production and mine closure.

Problems Within Existing Regulatory Architecture

- Arbitrary increase in prices levels which affects coal dependent industries
- There are no comprehensive frameworks which regulates the operational setups and production of coal mining/ trading companies
- No check on quality of coal supply to consumers
- CCO is understaffed and ill-equipped



Need to Re-visit Regulatory Architecture

Considering these issues, T L Shankar Committee report, 2007 in the Integrated Energy Policy Report of Experts recommends establishment of a Regulator for the Coal sector which can perform the following functions:

- Approve coal price revisions as an interim measure
- Ensure supply of coal to power sector under commercially driven long-term FSA
- Facilitate the development of formulae/indices for resetting coal prices under long term FSAs
- Monitor the functioning of e-auctions and ensure that the price discovery through e-auctions is free of distortions
- Develop a mechanism for adequate quantities of coal imports under long term contracts to bridge the gap between supply and demand
- Create an environment for competitive coal market to operate
- Regulator to ensure that mines are planned, designed and developed in a scientific manner, giving due importance to conservation of coal

Need for a Coal Regulator

Do we need an Independent Regulator?

Or

Should we empower the existing regulators to regulate multiple sectors?

For example: The mandate of CERC could be expanded to govern the portion of coal sector, which is closely related to power generation

Multiple Sector Regulator??

- Enhance capacity and expertise
- Promote consistent and participatory approach
- More productive and cost effective
- Enhance inter-institutional communication

■ Multi sector regulator approach suggested by Planning Commission (Approach to Regulation: Issues and Options, 2006)

International Experiences:

Country	Regulators	Sectors Covered
Australia	Department of mines and minerals	Mines and Petroleum
China	National Energy Administration	Electricity, natural gas and other energy enterprises
UK, Australia, Belgium, Austria, and Malaysia	Energy Regulators	Electricity and Gas sector
USA	Federal Energy Regulatory Commission	Electricity and interstate oil pipelines

Recommendations

- ❑ Unbundling of CIL and introducing more number of players in coal production
- ❑ Monitoring and evaluation of captive coal mines periodically
- ❑ Establish a coal regulatory body – IRA or Multiple sector regulator should be decided after conducting an impact assessment study
- ❑ Streamline process, procedure and framework to incentivise and expedite coal production
- ❑ Enhance sustainability in the sector and promote investment through coal block banking mechanism

Further Question which needs special considerations:

- Can the existing agencies, such as COO be strengthened and their mandate be expanded to look at pricing and allocation issues?
- Can the mandate of agencies like CERC be expanded to regulate power and coal both?
- Is the reverse bidding mechanism, introduced through CMSP, a sustainable measure for the sector?
- Can unbundling of CIL address concerns related to the sector's competitiveness?

- Established in 1983
- Economic policy research, outreach and capacity building organisation
- Working towards improving quality of regulation, competition and governance with objective of achieving consumer sovereignty
- Presence within and outside India
- Significant work in Regulation & Competition
- Competition and Interoperability: <http://goo.gl/7QPzGG> and <http://goo.gl/AsQHp0>
- Regulatory engagement: <https://goo.gl/Zy21yE>
- Consumer risks: <https://goo.gl/6mZfGp> and <http://goo.gl/LCWFot>

Thank you!!

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