

REPORT OF THE INQUIRY
COMMISSION ON SHORTAGE OF
PETROLEUM PRODUCTS IN
PAKISTAN

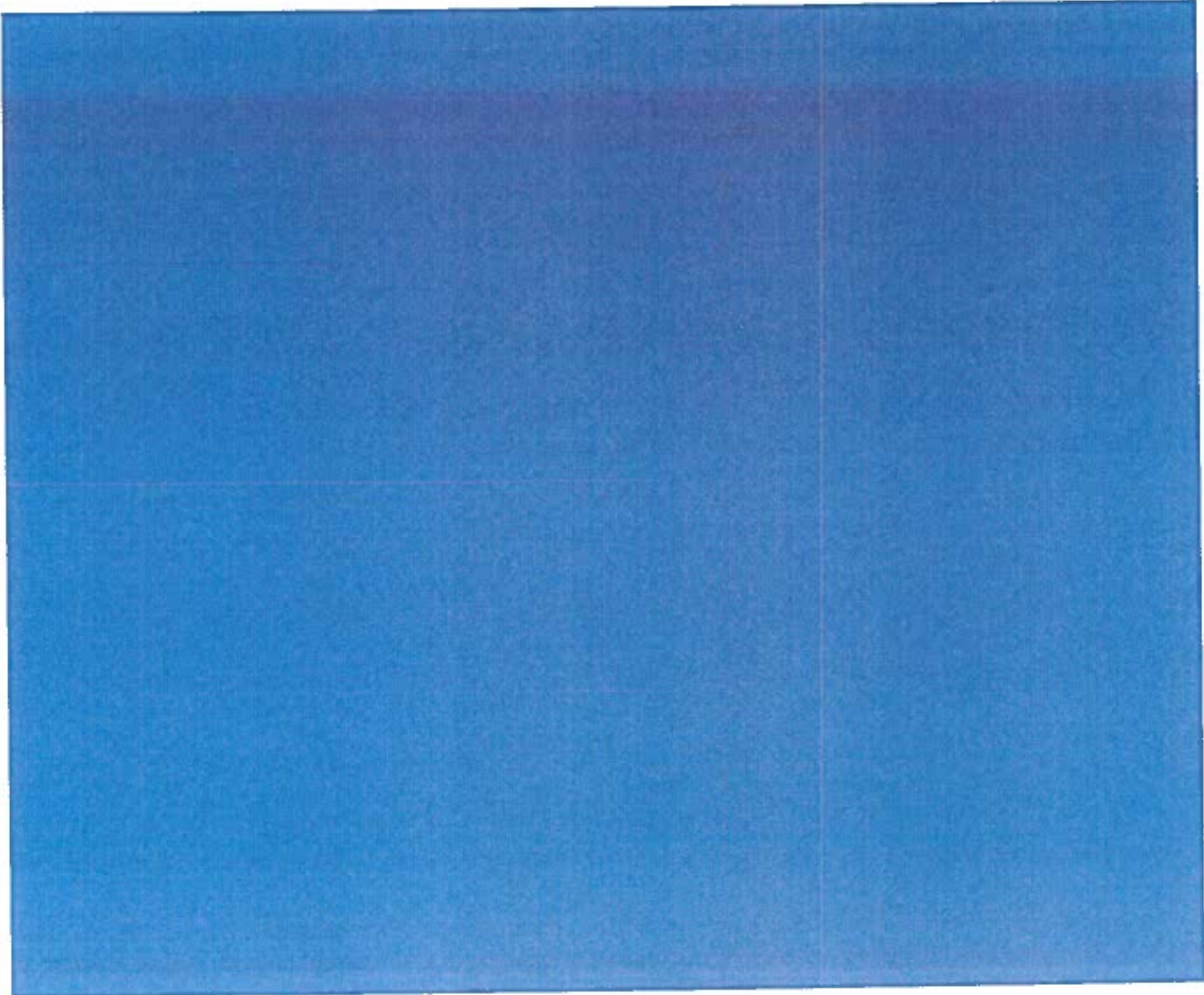


Table of Contents

EXECUTIVE SUMMARY	i-iii
CHAPTER 01	
NOTIFICATIONS AND TORs	1
CHAPTER 02	
OVERVIEW	5
CHAPTER 03	
OIL & GAS LAWS IN PAKISTAN	15
CHAPTER 04	
PRICING MECHANISM	27
CHAPTER 05	
MINISTRY OF ENERGY (PETROLEUM DIVISION)	32
CHAPTER 06	
OGRA	45
CHAPTER 07	
DEPARTMENT OF EXPLOSIVES	55
CHAPTER 08	
OIL MARKETING COMPANIES (OMCs)	61
CHAPTER 09	
INTER-RELATED INTERESTS OF DIFFERENT OMCs AGAINST THE SPIRIT OF OGRA RULES	74
CHAPTER 10	
QUANTUM OF FUEL HOARDING AND ITS ECONOMIC IMPACT	79
CHAPTER 11	

OIL REFINERIES IN PAKISTAN	85
CHAPTER 12	
RETAIL OUTLETS	92
CHAPTER 13	
OIL COMPANY ADVISORY COUNCIL (OCAC)	97
CHAPTER 14	
VENUES OF IMPORT OF PETROLEUM PRODCUTS	102
CHAPTER 15	
TESTING OF PETROLEUM PRODUCTS	115
CHAPTER 16	
SMUGGLING	118
CHAPTER 17	
FUEL ADULTERATION	124
CHAPTER 18	
ANALYSIS OF SPECIFIC PERIOD (JUNE 01 TO JUNE 26)	127
CHAPTER 19	
THE TERMS OF REFERENCE (TORs) OF THE PETROLEUM PRODUCTS INQUIRY COMMISSION (SHORT REPLIES)	133
CHAPTER 20	
CONCLUSION	140
CHAPTER 21	
RECOMMENDATIONS	142

Report of the Inquiry Commission on Shortage of Petroleum Products

EXECUTIVE SUMMARY

Tasked to inquire into the crisis of shortage of petroleum products in the country during the month of June 2020, the Inquiry Commission made an intrusive probe wherein all stakeholders of the oil industry were incorporated. Oil crunch of June was not an abrupt eruption. It was more of an evolutionary event. What factors led to the crisis? Could it have been thwarted? Assessment of the crisis management efforts by the regulators have also been attempted. Although the Commission was assigned a set of TORs, many attendant issues were also examined and hence made part of the report.

To start off, all stakeholders of oil industry were introduced which subsequently were analysed at length spread over the body of the report. A compendium of all Acts, Ordinances, Rules and Regulations has also been given in chronological order along with existing anomalies. An abridged version of the areas of oil industry examined, indicated flaws and the remedial measures suggested are produced below to facilitate the reading of the report:

Areas	Flaws	Recommendations
Laws	<ul style="list-style-type: none">• Legal ambiguity over enforceability of Petroleum Rules 1971.• Unjustified delay of 14 years by OGRA to formulate new Petroleum Rules.	<ul style="list-style-type: none">• Annulment of OGRA Ordinance 2002 read with Pakistan Oil Rules, 2016• New oil rules to be formulated within 6 months.
Price Fixing Mechanism	<ul style="list-style-type: none">• Easy predictability of next month price.• Incentive for hoarding.	<ul style="list-style-type: none">• Price determination based on PLATTS average of 30 days.
MoEPD	<ul style="list-style-type: none">• MoEPD-OGRA duel on powers to inspect minimum stocks of 20 days by OMCs.• Controversial decision of import embargo.• Controversial holding of PRMs.• Non-observance of import quotas by OMCs.• Inaction on deficient stocks of OMCs.• Intrusive involvement of OCAC.• Non-lifting of local refined products by OMCs from refineries.	<ul style="list-style-type: none">• Punitive/departmental action against the delinquent officers/officials.• Formulation of draft of new oil rules.• Reliable data collection and analysis mechanism.• Appointment of professional and qualified individuals.• Transitory takeover of duties of OGRA.

	<ul style="list-style-type: none"> • Appointments of non-professional officers. 	
OGRA	<ul style="list-style-type: none"> • Unlawful operations of private storage companies. • Unlawful joint ventures and hospitalities among OMCs. • Non adherence to import and local quota allocated to OMCs in Product Review Meetings (PRMs). • Silence of OGRA on specifying minimum stocks. • Non development of strategic storage. • Illegal provisional marketing licenses to OMCs. • Illegal growth of retail outlets 	<ul style="list-style-type: none"> • Punitive/ departmental action against the delinquent officers/officials. • Termination of OGRA.
Department of Explosives	<ul style="list-style-type: none"> • Debatable authority of Department of Explosives to issue Form K, L, M & Q licenses. • No check and balance over private storage/terminal companies • Non-uniformity in issuance of form L licenses. • Violation of form Q licenses. • No coordination between OGRA and Department of Explosives. • Non observance of safety protocols. 	<ul style="list-style-type: none"> • Correction of flaws indicated in the report.
Oil Marketing Companies (OMCs)	<ul style="list-style-type: none"> • Hoarding of inventories at depots, high seas and oil lorries. • Violation of licensing conditions • Manoeuvring of vessels berthing at ports. • Non maintenance of 20 days stocks • Under utilizing the import quota • Importing Petrol in excess of Storage Capacity • Importing petrol despite no retail outlets. • Disregard for safety protocols. • Unlawful interrelated interest of Vital with different OMCs. 	<ul style="list-style-type: none"> • Recovery of monetary liabilities. • Equitable distribution of loss borne by PSO among delinquent OMCs. • Revitalization of the role of DCs to inspect the stock of OMCs. • Cancellation of provisional marketing licenses. • Development of strategic storages.
Refineries	<ul style="list-style-type: none"> • Outdated plant. • Non enhancement of storage of crude oil. • Dubious activities of BYCO refinery. • Case studies of M.T. RHEA and M.T. ELSA 	<ul style="list-style-type: none"> • Modernization of refinery plants. • Enhancement of crude oil and petroleum products storage. • Punitive action against BYCO refinery and further probe into suspicious illegal activities
Retail Outlets	<ul style="list-style-type: none"> • Illegal retail outlets. 	<ul style="list-style-type: none"> • Closing of illegal retail outlets.

	<ul style="list-style-type: none"> • Regularization of illegal retail outlets. • Unlawful purchase, adulteration and sale of smuggled petroleum products. 	<ul style="list-style-type: none"> • Punitive action against retail outlets selling smuggled or adulterated products.
Venues of Ports	<ul style="list-style-type: none"> • Poor maintenance of oil piers. • Illegal usage of storage/depots. • Illegal hoarding at private storage companies at ports. 	<ul style="list-style-type: none"> • Maintenance of oil piers • Halting unlawful usage of storage through MoEPD • Construction of white oil pipeline from Keamari to FOTCO, Port Qasim.
Oil Companies Advisory Council (OCAC)	<ul style="list-style-type: none"> • Monopoly on data. • Unlawful determination of berthing priorities. • Illegal role in allocation of import quotas for OMCs. • Manipulation of IFEM Claims of OMCs. 	<ul style="list-style-type: none"> • Elimination of the role of OCAC in berthing, PRMs, IFEMs, data collection and determination of import quotas of OMCs.
Hydrocarbon Development institute of Pakistan (HDIP)	<ul style="list-style-type: none"> • Ceremonial testing of refined oil products. • Randomized testing instead of compulsory testing. • Non diversification of testing labs. • No testing of local refined products 	<ul style="list-style-type: none"> • Compulsory testing of both refined and crude oil. • Advanced testing methods.
Smuggling/ adulteration	<ul style="list-style-type: none"> • Quantification of smuggled refined products. • Mixing of Manganese & Naphtha in Petrol (MS) • Mixing of Kerosene, Light Diesel Oil, White Spirit etc. in HSD • Use of VAM, Mixed Xylene and N-Hexane in Adulteration. 	<ul style="list-style-type: none"> • Fuel marking methods. • Shell model to be implemented in transportation. • Digitization of OMCs, retail outlets and linkage with MoEPD. • Automated gauging system.

The report contains 21 chapters including the one on recommendations.

CHAPTER 01
NOTIFICATIONS AND TORs

1.1 Cabinet Division, Government of Pakistan constituted an Inquiry Commission, under Pakistan Commission of Inquiry Act, 2017 to probe into the **shortage of petroleum products** in the country and matters related or incidental thereto vide **Notification No.01/05/2020 Lit-III dated 28th July, 2020**. The Commission comprised of the following members:

- | | | |
|------|---|----------|
| i. | Mr. Abubakar Khudabakhsh, Addl. Director General, Federal Investigation Agency (FIA) | Chairman |
| ii. | Representative of Attorney-General of Pakistan (Mr. Amir Rehman, Additional Attorney General of Pakistan) | Member |
| iii. | Representative of Intelligence Bureau (I.B.) (Capt. R. Rommel Akram, Deputy Director General I.B.) | Member |
| iv. | Representative of FIA (Mr. Sajid Akram, Director FIA) | Member |
| v. | Director General, Anti-Corruption Establishment, Punjab (Mr. Gohar Nafees) | Member |
| vi. | Mr. Rashid Farooq, Former DG Oil, Petroleum Division | Member |
| vii. | Mr. Asim Murtaza, C.E.O, Petroleum Institute of Pakistan | Member |

Noteworthy to mention that members at serial no. vi & vii did not join the proceedings of the Commission and conveyed their inability to join the Commission due to personal/ health reasons.

1.2 The following Terms of Reference (hereinafter referred to as TORs) were assigned to the Commission of Inquiry (**Annexure 1.1**):

- i. Whether in view of the fall in price of petroleum products in the international market in/about the month of March and April 2020, those responsible for procurement of petroleum products for the country, did

actually avail the benefit to the maximum possible extent? If not, the causes and person/authority responsible for the failure to avail the benefit of lower prices in the international market?

- ii. Whether the quantity of petroleum products procured at lower international price and imported and stored in the country were actually supplied to the public/consumers at the lower price or was it kept in storage or hoarded till the increase of price of petroleum products after 26.06.2020 and supplied thereafter at higher rate resulting in huge profits? If so, what was the quantum of windfall and who were its real beneficiaries?
- iii. Whether any order, notification, decision, action, inaction including ban and subsequent relaxation on imports of petroleum products by any person, Authority or Division was meant to and/or did confer any undue benefit or advantage to any person including OMCs, refinery, dealer etc. in this crisis?
- iv. What were the real causes for the shortage of petroleum products in the country in or about the month of June, 2020, and identification of those responsible for this crisis including the private sector as well as the public functionaries or a Regulatory Authority?
- v. Whether the shortage of petroleum products in general and during the shortage period in particular, was less than the required/ prescribed limits? If so, what steps were taken against the companies responsible for the failure to maintain the stored quantity? If no appropriate actions were taken against the companies responsible, which government authority/ official failed in its duty in this respect?
- vi. To examine the role of refineries and determine their responsibilities in the shortage/ crisis vis-à-vis the procurement from local sources, imports, storage and supply in the country.
- vii. To collect and compare data of imports, supply, prices and consumption of petroleum, during different periods, so as to determine the responsible of the Petroleum Division, OGRA, OMCs, Refineries, Petroleum Dealers or any other authority or person relating to shortage of petroleum products in the country and any other illegal practices including violation of the provisions of applicable laws including the Petroleum Act, 1937, OGRA

Ordinance 2002, Rules, Regulation, terms of licenses committed in general and during this period in particular.

- viii. To identify any deficiencies in the prevailing laws, regulations, licenses, procedure, mechanism/ methodology regarding import, price determination/ fixation and its timelines, storage and related issues including strategic storage and planning for ensuring smooth supply of petroleum products in the normal course as well as during shortage, crisis or emergency.
- ix. To examine whether there was any market manipulation of petroleum products by any party including the O.M.C.s, petroleum dealers, refineries etc. and identification of those responsible for such practices and measures required to prevent such practices in future.
- x. To suggest short term as well as long term measures, guidelines, SOPs required to be taken at the Federal as well as Provincial level to ensure that such shortage, hoarding or market manipulation, if any, does not recur in future.
- xi. Any other issue deemed appropriate or relevant to the above TORs.
- xii. The commission shall conclude its inquiry within thirty (30) days.

1.3 The following members were co-opted:

- i. Mr. Muhammad Yaseen (Retired Director OGRA, co-opted as technical expert)
- ii. Mr. Imran Kishwar (Senior Superintendent of Police)
- iii. Mr. Qasim Malik (Deputy Director, ACE, Punjab)
- iv. Mr. Sidney Parera (Deputy Director, Securities & Exchange Commission of Pakistan)
- v. Mr. Shahid Siddique (DSP Legal Punjab Police)
- vi. Mr. Tariq Mehmood (Deputy Director, FIA)
- vii. Mr. Bilal Tariq (Assistant Director, FIA)
- viii. Mr. Muhammad Javed Sultan (Assistant Director, FIA)

1.4 Sizing up, the sub-text correlation between the shortage of petroleum products in the price-slump period of June 2020 and the surplus of the same products in the price-surge days, was the fundamental point of scrutiny for the Inquiry Commission constituted by the Cabinet Division on 28th July, 2020. Operating

within the set of stipulated TORs, many concomitant issues were also explored by the Commission ever since it held its inaugural session on 10th of August, 2020.

- 1.5 For keeping the petrol pumps wet whatever betides, the key stakeholders include the Ministry of Energy Petroleum Division, OGRA, Oil Marketing Companies (OMCs), oil refineries, petrol stations and consumers. The role of each player, pre-crisis and during-crisis, when subjected to thorough scrutiny, revealed certain telling results mentioned sporadically in the body of this report. The report assays the characteristics of the supply chain process of petroleum products, causes of shortfall in June and cure applied by the regulators.
- 1.6 Ranging from the analysis of the existing laws, rules and regulations, market mechanism of petroleum products, storage capacity of OMCs and refineries, role of regulatory bodies to measuring out the manipulative marketing gimmickry and corrective measures, this Inquiry Report traverses many areas. Brevity, being the wit of wisdom, shall be adhered to in order to concentrate on the real issues.

CHAPTER 02

OVERVIEW

STRUCTURE AND FUNCTIONING OF OIL INDUSTRY:

A SYNOPSIS

2.1 Before embarking on what went wrong and how in the days of crisis of shortage of petroleum, it is imperative to understand the structure, mandate and functioning of key stakeholders of the whole oil industry. Since the commission was primarily tasked to probe into the shortfall of petrol (mostly referred to as Motor Spirit or MS) and High-Speed Diesel (mostly referred to as HSD), therefore, the supply chain of both products needs to be explained first.

MOTOR SPIRIT (MS)

2.2 Being common man's fuel, the end users of MS are cars, motor cycles, commuter vehicles and some light traffic vehicles. Taking the Financial Year (FY) 2019-20 as the base year, total annual consumption of MS in Pakistan is 7.5¹ million metric tons (MMTs). Local production of MS through the existing 5 refineries fulfils almost 30% of the total demand whereas for the rest of 70%², Pakistan relies on imports. Due to absence of any dedicated pipeline for the supply of MS, the same is transported through oil tankers/lorries either from refineries or from ports to the depots as well as retail outlets.

HIGH SPEED DIESEL (HSD)

2.3 It is generally used in transport sector, industrial, agricultural, heavy electricity generators and construction industry. In the FY 2019-20, total consumption of HSD was clocked at 6.7 MMTs. Local refineries contribute about 65%³ of the total demand of HSD whereas the rest of 35% comes through imports. HSD is transported from ports or refineries to the depots of OMCs through the pipelines. From depots to retail outlets, it is transported through oil tankers/lorries.

Table 01: Consumption of MS and HSD for last 03 Years

Financial Year	MS (MT)	HSD (MT)
2017-18	7,409,047	9,029,892

¹ MoEPD

² Ibid

³ Ibid

2018-19	7,647,485	7,391,744
2019-20	7,515,281	6,662,416

Source: MoEPD

SOURCES OF PETROLEUM PRODUCTS IN PAKISTAN

- 2.4** There are two main sources of supply of Petroleum products in Pakistan:
- i. Crude oil (local & imported)
 - ii. Refined oil (imported)
- 2.5** Oil fields of Pakistan feed refineries with local crude oil constituting **29.53%** of total crude oil refined and the remaining **70.47%**⁴ crude oil is imported. Imported refined petroleum products make up **60%**⁵ of total demand of HSD and MS combined.

FUEL SUPPLY CHAIN

- 2.6** Pakistan's fuel supply chain comprises of 24 approved depots spread across various locations throughout the country. The components of depots include pipeline exit points, mandatory physical depots/terminals and Physical Reporting Locations (PRLs, to assess the freight cost from delivery station). These 24 depots are spread across Pakistan to facilitate retail supply to nearest retail outlets. HSD is primarily transported through pipelines up to central Punjab, while all MS is carried through tank lorries/trucks. Basically, there are two pipelines for the transportation. One for the crude oil and one for the refined oil (HSD). Crude oil pipeline as depicted in the flow chart below is 864 km long starting from Keamari, Karachi and terminating at PARCO Mehmood Kot, Muzaffargarh. Second dedicated pipeline, for the transportation of refined oil (HSD), starts from FOTCO (Port Qasim) Karachi to Machike Sheikhpura is 1070 Km long having enroute storage terminals at Daulatpur, Shikarpur, Mehmood Kot, Gatti Faisalabad and Machike. Cartographic depiction of both above mentioned crude oil and HSD supply through pipelines is added below:

⁴ MoEPD

⁵ Ibid

(Chart A shows separately the supply lines of crude oil and HSD whereas chart B shows the supply of HSD only with depots, exit points and reporting locations)

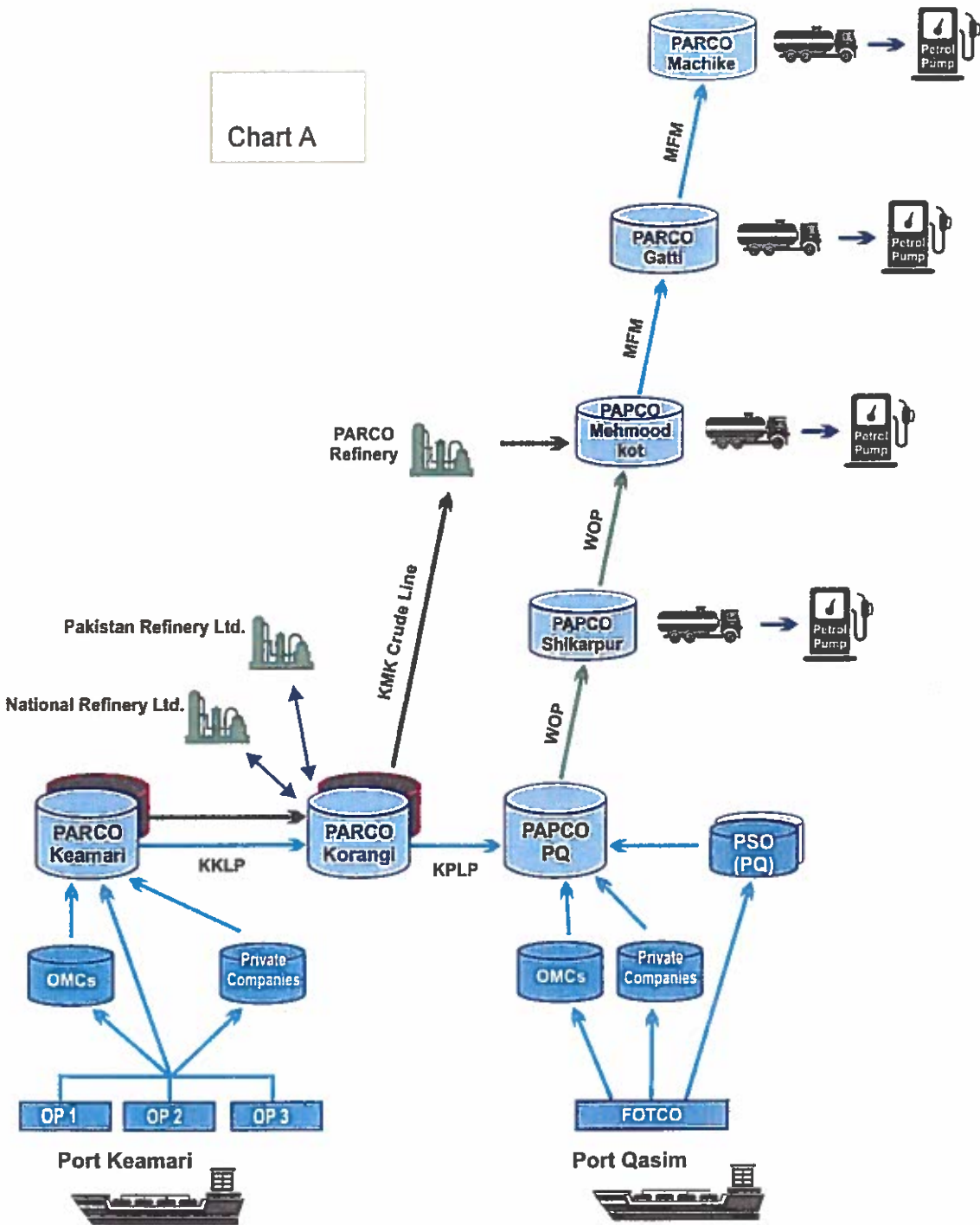
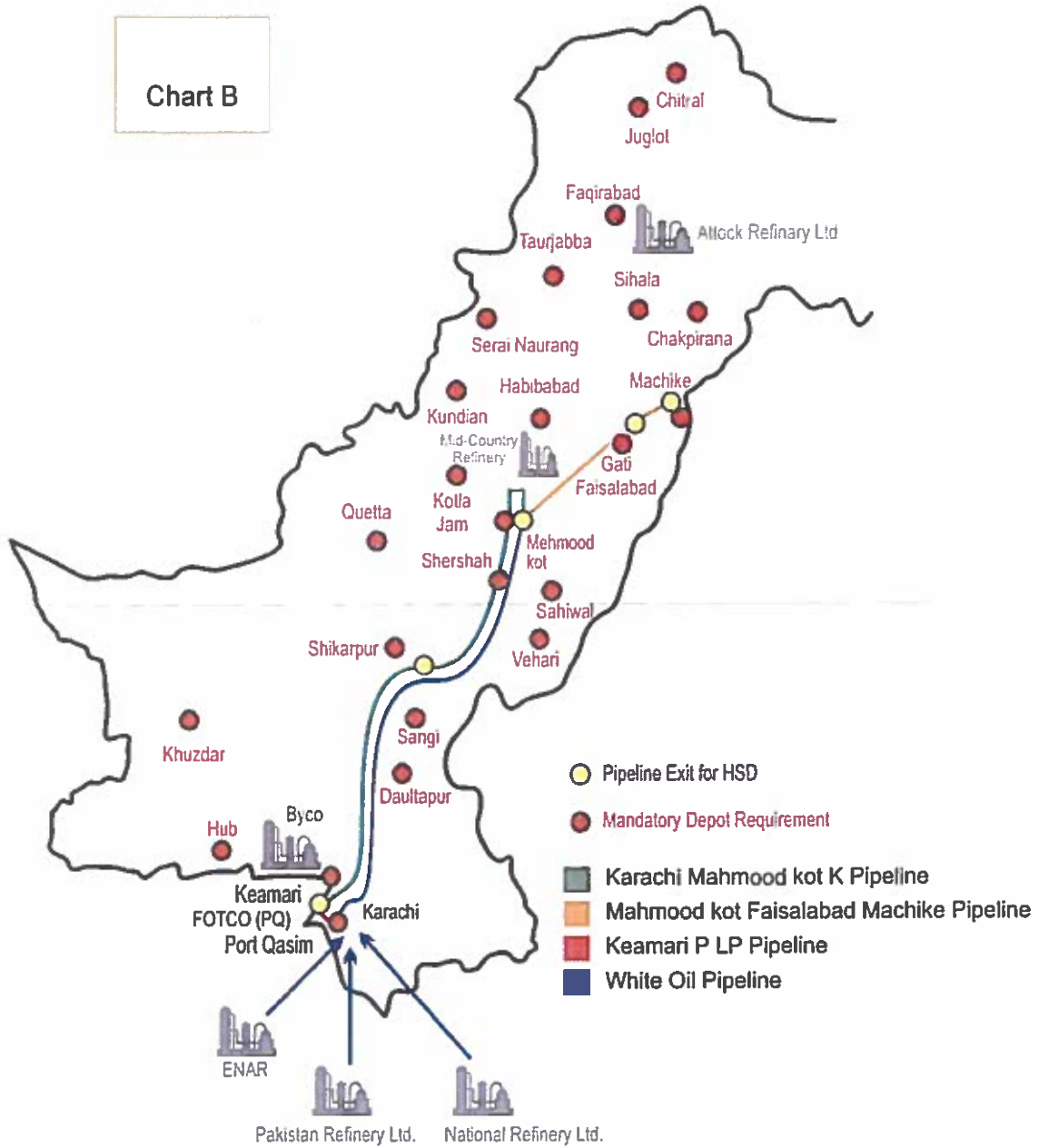


Chart B



★ 10 of these depots are also designated as Physical Reporting Locations for the purpose of inland freight management

LOCATION OF OIL DEPOTS

Table 02: Location of 24 Depots

Sr. No.	Province	Name of Depot
1.	Baluchistan	Khuzdar
2.		Quetta
3.		Hub (Refinery BYCO)
4.	Sindh	Keamari
5.		Port Qasim
6.		Daulatpur
7.		Sanghi
8.		Shikarpur
9.	Punjab	Mehmood Kot
10.		Kotla Jam
11.		Vehari
12.		Sahiwal
13.		Sher Shah
14.		Kundian
15.		Habibabad
16.		Gatti/Faisalabad
17.		Machike
18.		Chak Pirana
19.		Sihala/Rawalpindi
20.	Faqirabad	
21.	KPK	Tarujabba
22.		Serai Naurang
23.		Chitral
24.	GB	Juglot

Source: OGRA

KEY STAKEHOLDERS OF OIL INDUSTRY

2.7 During the course of inquiry, the commission examined the functions and role of the following stakeholders. The detailed analysis of each stakeholder, however, shall ensue in the main body of the report.

- i. Ministry of Energy Petroleum Division (hereinafter referred to as MoEPD)
- ii. Ministry of Energy (Department of Explosives)
- iii. Oil & Gas Regulatory Authority (hereinafter referred to as OGRA)
- iv. Refineries
- v. Oil Marketing Companies (hereinafter referred to as OMCs)
- vi. Retail Outlets/Filling Stations
- vii. Oil Companies Advisory Council (hereinafter referred to as OCAC)
- viii. Port Authorities

- ix. Hydrocarbon Development Institute of Pakistan (hereinafter referred to as HDIP)
- x. Private storage terminals/companies

MINISTRY OF ENERGY (PETROLEUM DIVISION)

2.8 Core function of Ministry of Energy (Petroleum Division) (MoEPD) is to ensure availability and security of sustainable supply of oil and gas for economic development and strategic requirement of the country. Exploration of additional sources of oil and scientific upgradation of existing oil fields and refineries also feature as duties of the Petroleum Division. Precisely the same strategic oversight envisaged for MoEPD lends credibility to the act of chairing Product Review Meetings (PRMs) by MoEPD where the crucial decisions of import quotas of petroleum products are taken. In-depth analysis of how well MoEPD had been playing its part shall follow in the relevant chapter.

DEPARTMENT OF EXPLOSIVES

2.9 The main objective of Department of Explosives is to ensure public safety, security of human lives and their properties within the licensed premises, with respect to manufacturing, transportation, storage, import, export, selling and use of all explosive setups including petroleum products. The Department of Explosives issues 'Good to go' certificate to depots, storage facilities, retail outlets and tankers/lorries after ensuring that the due safety and technical protocols are followed. Licenses issued by them are as below:

Table 03: Form of Licenses Issued by Department of Explosives

Form Category	Licenses Issued to	Rules
K	Retail Outlets	Petroleum Rules 1937 as per 114, 115(3) and Schedule-I of Petroleum Rules 1937.
L	Storage Tanks	do
M	Storage of Petroleum Products in Drums	do
Q	Transportation Vehicles (Oil Tankers/Lorries)	Petroleum Rules 1937 as per Rule 77 and Schedule-I of Petroleum Rules 1937.
Special	Floating Barge for Fueling Motor Vessels	Petroleum Rules 1937 as per Rule 30 and Schedule-I of Petroleum Rules 1937.

Source: Department of Explosives

2.10 The detailed treatment of the subject is attempted in Chapter 07

OIL & GAS REGULATORY AUTHORITY (OGRA)

2.11 Mandated to foster competition to enhance private investment in oil industry and its subsequent regulatory supervision, OGRA started functioning in the year 2002, after the promulgation of OGRA Ordinance 2002. It inherited many functions of Petroleum Division including the issuance of licenses to Oil Marketing Companies (OMCs), Refineries, private storage companies and retail outlets. The pivotal moot functions of adherence to licensing conditions including the maintenance of minimum stock by OMCs is also inextricably linked to OGRA which shall be appraised afterwards.

REFINERIES

2.12 Aimed at minimising the foreign reliance to meet oil demands, refineries process the crude oil gathered from either indigenous oil fields or imports to produce petroleum products for the country. Established from time to time, there are 5 main oil refineries operating in Pakistan as mentioned below:

Table 04: List of Refineries with Locations

Name of Refineries	Location
Attock Refinery Limited	Rawalpindi
BYCO Petroleum Pakistan Limited	Hub
National Refinery Limited	Karachi
Pak-Arab Refinery Limited	Mehmood Kot
Pakistan Refinery Limited	Karachi

Source: OGRA

2.13 Although ENAR (Karachi) makes the number of refineries to 06, the same is restricted to supply of petroleum products for the defence purposes alone and hence, beyond the scope of the Commission. Bare statistics of ENAR, however are also reflected in the Refineries' chapter.

OIL MARKETING COMPANIES (OMCS)

2.14 Companies allowed to market oil, either through import or local purchase from refineries in the country, at their retail outlets are known as Oil Marketing Companies (OMCs). Currently, there are **66 OMCs** licensed in the country, **09 companies** having permanent marketing licence for 30 years, while **25**

companies are operating under the provisional marketing license. The remaining **32 companies** have provisional license without marketing permission (**Annexure 2.1**). All OMCs combined own about **9,267** (as per conflicting data furnished by OMCs to OGRA) operational retail outlets (**Annexure 2.2**). Come rain or sunshine, it was the responsibility of OMCs to keep their retail outlets wet. To what extent these OMCs fulfilled their responsibility was a matter of probe aptly treated in Chapter 08 of this report.

RETAIL OUTLETS/FILLING STATIONS

2.15 Commonly known as petrol pumps or filling stations, retail outlets are the actual points of sale of petroleum products run by OMCs or private owners. For every 40 metric tons (MTs) of MS storage, an OMC is allowed to open one retail outlet. Interestingly, the number of retail outlets currently operating in the country vary from each other as per the figures provided by the Department of Explosives, OMCs and OGRA. The Commission has found out at least **603 unlawful retail outlets** during the course of its proceedings (**Annexure 2.3**). Even OMCs do not recognize these retail outlets as legal entities. In addition to these unlawful retail outlets, there are certain other outlets opened and operationalized by OMCs in violation of quota of retail outlets allocated to OMCs based on minimum storage. OGRA has itself regularized **753 unlawful retail outlets** since 2016 by imposing nominal fiscal penalties (**Annexure 2.2**). This area of unlawful retail outlets and regularization by OGRA against the law/rules has been examined in detail in chapter 12.

OIL COMPANIES ADVISORY COUNCIL (OCAC)

2.16 A non-statutory consortium of representatives of Oil Marketing Companies, refineries and pipeline companies headquartered in Karachi, OCAC plays crucial role in many areas of Petroleum Industry. Some of these areas are as follows: -

- i. Provision of data on existing storages, monthly sale and demand projections of respective OMCs.
- ii. Participation and issuance of Minutes of Product Review Meetings (PRMs) where import/local purchase quotas of OMCs are fixed.
- iii. Audit of stock positions of OMCs.
- iv. Laycan (time window for arrival of vessel) management plan.

- v. Determination of berthing priority of import vessels/cargo ships.
 - vi. Approval of claims of OMCs regarding Inland Freight Equalization Margin (IFEM) – Transportation cost from supply source (refinery/port) to the approved depots of OMCs.
- 2.17** How a non-statutory private body assumed such a significance and monopoly to decide the central issues of the petroleum industry is an intriguing question explored in chapter 13.

PRIVATE STORAGE TERMINALS/COMPANIES

- 2.18** There are certain private storage companies and terminals at ports which rent out their private oil storage facilities to OMCs through hospitality agreements. No set of Laws/Rules justify the marketing operations of these private storage companies/terminals. OGRA Rules 2016 read with OGRA Ordinance 2002 makes it mandatory for these private companies to be registered with OGRA before starting their operations. So far, only **02** of such private storage companies (FOTCO & HASCOL Terminal) are registered with OGRA in this manner. All other private storage companies are continuing their operations without obtaining license from OGRA.

PORT AUTHORITIES

- 2.19** Anchorage, berthing and initial mode of transportation through pipelines are the chief tasks performed by Port Authorities in Karachi. At the moment, there are **03 ports** associated with import of petroleum products in the country namely Karachi Port Trust (KPT), Port Qasim FOTCO Terminal (PQ-FOTCO) & BYCO Port Single Point Mooring (SPM) in Hub, Baluchistan. KPT receives crude oil and MS. FOTCO Terminal receives and transports Hi-Speed Diesel (HSD), crude oil and MS. BYCO Port deals with only crude oil. OMCs using the services of these ports are obliged to pay requisite rentals to the Port Authorities. Detailed analysis of ports has been attempted in Chapter 14.

HYDROCARBON DEVELOPMENT INSTITUTE OF PAKISTAN (HDIP)

- 2.20** The lone public oil testing laboratory established in 1975 and authorized as Testing Agency by OGRA, HDIP works under the Ministry of Energy (Petroleum Division). It also offers consultancy service to Oil & Gas Sector. Most importantly, Economic Coordination Council (ECC) has authorized HDIP to conduct tests of all vessels/cargoes arriving at the ports. It also conducts third party inspections

of storage depots on behalf of OGRA. It is pertinent to mention here that OGRA has notified **03** other private testing laboratories for second opinion in case of any dispute. HDIP is also elaborated upon in chapter 15.

CHAPTER 03

OIL & GAS LAWS IN PAKISTAN

- 3.1** Broadly, the following set of Acts, Ordinances, Rules & Regulations govern oil and gas regime in Pakistan:
- i. The Petroleum Act, 1934
 - ii. The Petroleum Rules, 1937
 - iii. Regulation of Mines and Oil-Fields and Mineral Development (Government Control) Act, 1948
 - iv. The Petroleum Products (Development Surcharge) Ordinance, 1961 and Rules, 1967
 - v. The Pakistan Petroleum (Refining, Blending & Marketing) Rules, 1971
 - vi. Oil & Gas Regulatory Authority Ordinance, 2002
 - vii. The Pakistan Oil (Refining, Blending, Transportation, Storage & Marketing) Rules, 2016.
- 3.2** Any discourse on the current applicability or otherwise of the above stated laws calls for a chronological appraisal of all laws, rules and regulations set into motion from time to time. Instead of embroiling into the debate on which set of laws applies currently, the Commission concludes all moot points on certain baseline touchstones recognized by jurists in the analysis part of this chapter.

THE PETROLEUM ACT, 1934

- 3.3** Like many other Laws, Pakistan inherited the Petroleum Act, 1934 which was enforced on 30 March, 1937. The Act was meant to regulate the import, transportation, storage, production, refining, blending, inspection and sampling of petroleum products. Concerned Ministry of the time, being the chief harbinger, was vested with not only the role of policy formulation and implementation but also was given punitive powers in case of any infractions or contraventions. The operation of this Act spans from 1947 to 2002 when OGRA Ordinance, 2002 succeeded many parts of this Act. Powers and responsibilities of OGRA, frequently discussed in the proceeding of the Commission, have now been clearly demarcated and identified in OGRA Ordinance, 2002. Barring the exclusive powers and duties of OGRA, certain parts of the Petroleum Act, 1934 are still in operation. Department of Explosives,

Ministry of Energy (Petroleum Division) still derives its authority and responsibilities from the Petroleum Act, 1934 read with Petroleum Rules, 1937 which, in the view of the Commission, is illegal as it is inconsistent with section 43 of OGRA Ordinance 2002 (*Annexure 3.1*).

THE PETROLEUM RULES, 1937

- 3.4** A subordinate legislation to the Petroleum Act, 1934, the Petroleum Rules, 1937, were promulgated on 23 March, 1937. These Rules were spun into operation to cover the areas of licenses of import, storage, transportation, testing, refining and blending of dangerous and non-dangerous petroleum products. From 1937 to 1971. These Rules remained into operation when new Petroleum Rules, 1971 were enforced (*Annexure 3.2*).

THE REGULATION OF MINES, AND OILFIELDS AND MINERAL DEVELOPMENT (GOVERNMENT CONTROL) ACT, 1948

- 3.5** Promulgated on 08 January 1949, this act encompassed the matters connected with regulations of mines, oilfields and mineral developments under Government (Federal) Control. Broadly speaking, the matters touched upon by this act include research, exploration and production of minerals and mineral oils. Scarce references, if any, shall be made to this act in this report (*Annexure 3.3*).

THE PETROLEUM PRODUCTS (DEVELOPMENT SURCHARGE) ORDINANCE, 1961 AND RULES, 1967

- 3.6** The Ordinance was promulgated in 1961. This Act was meant for collection of Petroleum Levy as "**Development Surcharge**" on petroleum products by the Federal Government. In consequence of the Ordinance 1961, The Petroleum Products (development Surcharges) Rules, 1967 were promulgated and enforced on 01.04.1967 (*Annexure 3.4*).
- 3.7** According to the Section 3 of the Ordinance, Petroleum Division notifies the rate of petroleum levy from time to time within the maximum limit approved in the Finance Bill (lastly approved through the Finance Bill 2018) in respect of petroleum products refined by all the refineries in Pakistan and imports after concurrence of the Finance Division.

- 3.8 The Ordinance has undergone various amendments and the Levy was renamed as Carbon Surcharge through Finance Act 2009 and finally it was re-titled as 'Petroleum Levy' in Petroleum Products Ordinance, 1961 through Finance Act, 2010. Fifth Schedule of the Act, in which rate of Petroleum Levy is defined for MS and HSD, was amended last time in Finance Bill, 2018 and was capped at Rs. 30 per liter. It is actually a Federal Government Tax, the receipts of which become part of the Federal Consolidated Fund.

THE PAKISTAN PETROLEUM (REFINING, BLENDING & MARKETING) RULES, 1971

- 3.9 Antecedent to Regulations of Mines & Oil Fields & Minerals Development (Government Control) Act, 1948, the Pakistan Petroleum (Refining, Blending & Marketing) Rules, 1971, were framed and promulgated by the Federal Government in 1971. Span of operation of these rules is from 1971 to 2016 when OGRA Rules, 2016, due to its overriding effect, annulled them. Due, however, continues on the operational status of these rules between OGRA and MoEPD (*Annexure 3.5*).
- 3.10 The rules ranged over refining, blending, storage, marketing, testing of petroleum products and enforcement modes and powers.
- 3.11 The Director General Oil (hereinafter referred to as DG Oil), pronounced as the Authority, was responsible to specify minimum stock of the petroleum products according to the storage capacity and investment plan of individual marketing company.
- 3.12 Rule 34 of said Rules empowers DG Oil to authorize any person in writing to inspect and examine any refinery, blending plant, marketing company, installation, and storage, or depot.

OIL & GAS REGULATORY AUTHORITY ORDINANCE, 2002

- 3.13 Oil and Gas Regulatory Authority (OGRA) was established by the Federal Government on March 28, 2002, in pursuance of the Oil and Gas Regulatory Authority Ordinance, 2002. The objective of OGRA is to "foster competition, increase private investment and ownership in the midstream and downstream petroleum industry, protect the public interest while respecting individual rights and provide effective and efficient regulations" (*Annexure 3.6*).
- 3.14 Leading tasks of OGRA enshrined in OGRA Ordinance, 2002, include granting of licenses to carry out regulated activities and subsequent regulation whether

those regulated activities are in accordance with conditions of license. Worthy of note is the fact that safeguarding the interest of all stakeholders including the consumers also features as one of the most important duties of OGRA as mentioned in Section 6 of OGRA Ordinance 2002.

- 3.15** Without prejudice to the exclusive powers of OGRA, certain powers have been vested in the Federal Government regarding policy formulation, planning for infrastructure development and pricing of petroleum products including petroleum levy.

PAKISTAN OIL (REFINING, BLENDING, TRANSPORTATION, STORAGE AND MARKETING) RULES, 2016

- 3.16** Under Section 41 of the Ordinance 2002, the Authority (OGRA) was to frame Rules without undue delay for carrying out the purposes of the Ordinance, but the requisite Rules could not be made till the year 2016 (**Annexure 3.7**). The period from 2002 to 2016 is a story of passivity and inefficiency of both OGRA and MoEPD. The intervening period between the promulgation of OGRA Ordinance, 2002 and framing of Oil Rules 2016 can broadly be divided into the following phases:

- i. **Phase 1 - (2002 to 2006)**: Ministry of Energy (Petroleum Division) continued exercising authority on matters related to oil.
 - ii. **Phase 2 - (2006 to 2016)**: OGRA gained control over the matters related to licensing of petroleum products through issuance of S.R.O 268(1)/2006 dated 15.03.2006 (**Annexure 3.8**). Power other than licensing were bifurcated between OGRA and MoEPD through S.R.O 236(1)/ 2006 dated 12.03.2006 (**Annexure 3.9**).
 - iii. **Phase 3 - (2016 onwards)**: Contrary to newly framed Pakistan Oil Rules, 2016, powers related to maintaining equilibrium between demand and supply and functioning of refineries were kept with MoEPD instead of OGRA. However, powers related to licensing remains the exclusive authority of OGRA.
- 3.17** Without resorting to the detailed scope and analysis of the above-mentioned laws, the Commission deems the following areas most pertinent to the TORs assigned.
- i. Licensing

- ii. Storage
- iii. Marketing
- iv. Inspection
- v. Enforcement

LICENSING

3.18 Any Oil Marketing Company (OMC) aspiring to initiate its business must fulfill certain conditions mentioned in different set of laws/rules. Gleaned from those laws/rules, abridged hereunder are the main mandatory requirements:

- i. Section 23 (3) of OGRA Ordinance 2002, stipulates that no person shall construct or operate any pipeline for oil, construct or operate any oil testing facility; oil storage facility (other than storage associated with a refinery); or oil blending facility, or operate any installation relating to oil, construct or operate any refinery, undertake storage oil, and undertake marketing or refined oil products without a valid license.
- ii. An application for the license shall be submitted to the authority (OGRA) on the prescribed form and in accordance with rules.
- iii. On receiving an application for all licenses, the authority (OGRA) may grant the requested license subject to such condition, restrictions or stipulations as may be set out in or attached to, the license.
- iv. Rule 35 of the Pakistan Oil Rules 2016, states that on receipt of an application for grant of a license to setup a new Oil Marketing Company, the Authority may grant a provisional license for 03 years during which the marketing infrastructure shall be completed in accordance with the laid down technical standards which includes investment plan, storages, and retail outlets.
- v. Rule 35(1)(b) of OGRA Rule, 2016, **places a bar on OMCs to affiliate in any form with any existing OMCs operating in Pakistan.**
- vi. The same Rule 35 (3) elaborates that upon satisfactory completion of work program subject to the certification by third party inspector on conformance to the technical standards the Authority (OGRA) shall grant license to an OMC for a maximum period of 30 years subject to renewal, from time to time, on making of fresh application at least 2 years prior to the expiry of existing license.

- vii. Prior to the promulgation of OGRA Ordinance, 2002, the Ministry of Energy (Petroleum Division) used to issue permission (license) to the OMC for marketing. However, after Pakistan Oil Rules, 2016, every company operating prior to 2016 has to apply afresh to OGRA to get their previous licenses validated.
- viii. According to Rule 35(1)(g) of OGRA Rules, 2016, every OMC shall submit an undertaking to the effect that it shall uplift petroleum products by the local refineries before opting for import of the same.

STORAGE

- i. Rule 35 (1)(e) deals with the investment plan of the company envisaging major investment on infrastructure development of depots, installations etc. and a specific work program, covering a period of 3 years, to create minimum storage of 20 days of the proposed sales.
- ii. Moreover, according to Rule 37 of Pakistan Oil Rules, 2016, every Oil Marketing Company shall maintain such minimum stocks of petroleum products as the Federal Government may, from time to time, by order in writing specify.
- iii. OGRA decision No. OGRA-12(02)/2017-SBR, dated 24.08.2017, lays down the criteria of establishment of retail outlets by OMCs which fixes 2 MT per day MS as average sale benchmark for construction of maximum number of retail outlets corresponding to the available backup storage infrastructure of the OMCs. Prior to this, ECC decision No. ECC-107/9/2003 dated 25-10-2003 specified the stock maintenance by all OMCs for 20 days but in relation to their projected marketing.
- iv. As per Rule 53 (xiv) of Pakistan Oil Rules, 2016, maintain minimum stocks of crude oil or petroleum products as directed by the Authority (OGRA) having due regard to the storage capacity of the licensee.
- v. According to Rule 28 of OGRA Rules, 2016, no person shall construct or operate any oil storage facility or undertake storage of oil for the purpose of commercial storage of crude oil or petroleum products without obtaining license from the Authority (OGRA).
- vi. In addition to the obligatory storage facilities by OMCs, the building and maintenance of strategic storage are categorically the responsibility of

Ministry of Energy (Petroleum Division) as delineated in Section 21 (2)(e) of OGRA Ordinance, 2002.

MARKETING

- i. Unless the completion of storage facility covering the minimum stocks of 20 days of proposed sale (presently 40 Tons of MS for each outlet), no OMC can be granted marketing license under Rule 35 of OGRA Rules, 2016 as mentioned above.
- ii. Rule 35(1)(d)(iii)(iv) of Pakistan Oil Rules, 2016, states that the OMCs shall submit an affidavit from each and all of the directors to the effect that they are not directly or indirectly involved in any criminal case or default of bank advance or loan. Moreover, no case is pending against the company or its directors in national or international courts or tribunals or such other forms, howsoever called or designated, for recovery of bank loan or advance.
- iii. According to Rule 53 (x) of Pakistan Oil Rules, 2016, no OMC shall abandon any regulated activity, as a part or whole, resulting into discontinuation of supply of petroleum products or its sale in any area without the prior written consent of the authority (OGRA).
- iv. As per Rule 38 of Pakistan Oil Rules, 2016, every OMC shall supply the petroleum products to its retail outlets and its authorized agent, dealer or bulk consumer having licensed premises for storage of the petroleum products subject to the condition that the petroleum products supplied shall in no case, exceed the storage capacity of the agent, dealer or bulk consumer as the case may be.
- v. Rule 53 (vii) of Pakistan Oil Rules, 2016, states that all OMCs shall enter into all contracts at an arm's length basis and not to enter into any contract or other arrangement with any of its associated companies except with the prior written approval of the Authority (OGRA). Precursor to this Rule were guidelines issued by ECC. However, the same has been amended through S.R.O. 734(I)/2018, whereby the advance approval of the Authority is no more required.
- vi. The above-mentioned provision relating to the affiliation of prospective company with any of its associated companies operating in Pakistan was challenged in the Lahore High Court, Lahore in **Writ Petition No. 22981 of**

2011 titled as "Petro oil (Pvt) Ltd. vs The Federation of Pakistan and others" as the same was against the spirit of Article 18 of Constitution of Pakistan. The Honorable Court in its order dated 15.01.2015 denied the said prayer. This guideline was further included in Rule 53(vii) of Pakistan Oil Rules, 2016 (**Annexure 3.10**).

INSPECTION

- i. Keeping in view the provision of the Rule 35(1) (e), Rule 37 and Rule 53 (xiv) of Pakistan Oil Rules 2016, and OGRA's decision No. OGRA-12(02)/2017-SBR dated 24.08.2017 (**Annexure 3.11**), decision of ECC vide No. ECC-107/9/2003 dated 25.10.2003, the creation, inspection and maintenance of minimum stock of petroleum products for 20 days is the responsibility of OGRA (**Annexure 3.12**).
- ii. Rule 54 of Pakistan Oil Rules 2016, states that any person including any District Coordination Officer authorized in writing by the Authority (hereinafter called "Inspection Officer"), may at any reasonable time-
 - a. Enter, inspect and examine any premises, facility or installations, owned or operated by an OMC, refinery, blending, reclamation plant or grease plant.
 - b. Take sample free of any charge or check specification of oil, produced locally or imported and for the time being in the possession, custody or control of a person engaged in any regulated activity.
 - c. Make such examination or inquiry, as he considers necessary, for ensuring that the provisions of these rules or any other made thereunder, are being fully observed.

ENFORCEMENT

3.19 According to the Section 66 of Pakistan Oil Rules, 2016, a license may be revoked or cancelled by the Authority for contraventions of the rules and terms and conditions of the license. The Rule 66 is reproduced as under:

- i. As per Rule 66 (1), where the Authority contemplates revocation of any license, it may proceed with the matter, after giving an opportunity of show-cause to the licensee, to revoke the license in accordance with law.
- ii. Where the circumstances of the case warrant urgent action, the Authority may, without giving prior opportunity of show-cause to the licensee,

suspend the license forthwith and thereafter proceed with the matter in accordance with the provision of sub rule (1)

3.20 Section 69 of Pakistan Oil Rules 2016, states that the Authority may also inflict penalty in shape of fine as punishment in contravention of these rules and terms and conditions of the license. The Rule 69 is reproduced as under:

- i. As per Rule 69 of Pakistan Oil Rules 2016, subject to sub-rule (2), a person, who contravenes any provisions of the Ordinance, these rules, terms and conditions of the license, or the decisions of the Authority shall be punishable with fine which may be extend to ten million rupees and in case of continuing contravention with a further fine which may extend to one million rupees for every day during which such contravention continues.
- ii. In imposing any fine under these rules, the Authority shall keep in view the principle of proportionality of the fine to the gravity of the contravention. Prior to imposing the fine, the Authority shall, in writing, require the person liable to be affected to show-cause in writing as to why the fine may not be imposed.

ANALYSIS

UNJUSTIFIED DELAY OF 14 YEARS BY OGRA TO FORMULATE OGRA RULES AND AMBIGUITY PRIOR TO 2016

3.21 It is provided in Section 41 of the OGRA Ordinance 2002, that Authority shall make rules under this Ordinance, without undue delay, with the approval of the Federal Government. However, the said mandatory provision of Law was ignored and the rules were framed in 2016, after a lapse of 14 years, which is totally unjustified and opened the spill-ways of legal ambiguity in the intervening period. During this period, OGRA remained silent spectator and petroleum matters were being dealt under the Pakistan Rules, 1971, vide S.R.O. No.236(1)/2006, dated 13.03.2006, which had no legal value in the eyes of law.

3.22 Making matters worse and even more confused, Cabinet Division on the advice of OGRA issued two S.R.O.s viz No.236(1)/2006, dated 13.03.2006 & 268(1)/2006, dated 15.03.2006, through which an 'amendment' was made in Section 44(3)(a)(b), to redesignate Authority for the purposes of OGRA Ordinance, 2002 whereas the word 'Authority' was clearly defined in Section 2 (1)(i) of the said Ordinance. In one of the rarest moves in legal annals, S.R.O.s

'amended' the law itself. This unlawful 'amendment', sliced the Authority into 03 components i.e.

- i. The DG Oil was designated as "Authority" pertaining to the functions of refineries including production, processing, specification of local and imported petroleum products, maintenance of minimum stocks of petroleum products, prohibition of sale or disposal of any petroleum products, revocation or amendment in permission for marketing, notice of closure of refinery and supply of petroleum products under the Rules 7, 8, 9, 10, 11, 11A, 13, 20, 22, 30A, 30B, 31, 33A, 39 and 43C of Petroleum Rules, 1971.
- ii. Similarly, OGRA was designated as "Authority" relating to the registration, permission and approval of blending, import lubricants, permission, refusal, revocation or amendment for marketing, inspection and testing of storage facilities of petroleum products, permission for construction, reconstruction and use of oil storage facilities for other purpose and prohibition of adulteration in petroleum products under the Rules 16, 16B, 17, 18, 26, 27, 28, 33, 35, 36, 38, 40, 41, 41 A and 43 of Petroleum Rules, 1971.
- iii. Both DG Oil and OGRA were designated as joint "Authority" for submission of monthly production information by the refinery, blending and Oil Marketing Company under the Rules 14, 24, 32, 34 and 42 of Petroleum Rules, 1971.

LEGAL AMBIGUITY OVER OPERATIVENESS OF PETROLEUM RULES 1971 POST 2016

3.23 Legal obscurity prevails over the annulment of Pakistan Petroleum (Refining, Blending and Marketing) Rules 1971, after the promulgation of Pakistan Oil (Refining, Blending, Transportation, Storage and Marketing) Rules, 2016, formulated as subordinate legislation to the OGRA Ordinance, 2002. Ministry of Energy (Petroleum Division) continues exercising many powers drawn from the archaic Petroleum Rules, 1971 while proclaiming some of its parts as non-operative and defunct. Inferring powers from Rule 30-b of the 'repealed' Petroleum Rules 1971, DG Oil chairs the Product Review Meetings (PRMs) housing all stakeholders of petroleum industry to examine and fix the crucial equilibrium in supply and demand of petroleum products. Apportionment of import quota of Oil Marketing Companies (OMCs) is also calculated in the

same PRM. Comical enough, the Petroleum Division adjudges that the powers to inspect OMCs to ensure the minimum storage and stock of 20 days, as enshrined in Rule 34 of Pakistan Petroleum (Refining, Blending and Marketing) Rules, 1971, is now the exclusive duty of OGRA as the said Rule 34 has become inoperative.

- 3.24** Once the Pakistan Oil Rules 2016, were decreed, the erstwhile Petroleum Rules 1971, stand revoked as a whole. Ministry of Law & Justice categorically opined vide U.O-NO.359/2016-Law-I, dated 11.08.2016 that the old Petroleum Rules, 1971 (**Annexure 3.13**), stand repealed after the promulgation of new Rules, 2016. Despite lapse of 4 years, neither the MoEPD nor OGRA acted upon the legal pronouncement of Law Division. Far from the legal course correction, both OGRA and MoEPD continue to be enmeshed, into mutual correspondence, on which part of Petroleum Rules 1971, is operative and which part is inoperative. Pestered too much on frequent seeking of legal advice by OGRA and MoEPD, a Law Division vide U.O-No.359/2016-Law-I, dated 21.04.2017 (**Annexure 3.13**), categorically stated the settled law that rules being subordinate legislation could not override statutes. Crisis of shortage of petroleum products worsened due to MoEPD-OGRA duel on the heretofore illegal overlapping of powers to inspect the stocks of OMCs and refineries.

DEBATABLE AUTHORITY OF DEPARTMENT OF EXPLOSIVES TO ISSUE FORM K, L, M AND Q LICENSES

- 3.25** Section 43 of OGRA Ordinance 2002 clearly stipulates that all laws, rules and regulations shall cease to have any effect to the extent of inconsistency with OGRA Ordinance 2002. In flagrant disregard for this section, Department of Explosives continues exercising its authority to issue various licenses including Form K, L, M and Q under Petroleum Rules 1937. Department of Explosives claims that compliance of safety protocols for storages of petroleum products in tanks, depots/terminals, in drums, and transportation of petroleum products through tankers/lories are its prime duties. Adjudged purely on legal grounds, Petroleum Rules 1937, cease to exist to the extent of incongruity with OGRA Ordinance 2002. It is pertinent to mention here that OGRA had already issued regulations to ensure technical standards for the transportation and storage depots in 2009 (**Annexure 3.14**).

DELETION OF THE WORD 'DEVELOPMENT' FROM 'PETROLEUM DEVELOPMENT LEVY'

3.26 Pricing of petroleum products per liter includes petroleum levy which is currently fixed at a hefty rate of Rs. 30 per liter. All collections through petroleum levy goes to federal consolidated fund at the moment. Initially, the purpose of this petroleum levy was to develop and upgrade petroleum resources in the country, however, never done to date. Resultantly, refineries of country are operating on outdated technologies of semi-conversion or hydro skimming. Quality of fuel could not cross Euro-II which contains high sulphur contents. In Finance Act 2009, petroleum development levy was renamed as 'Carbon Surcharge'. Finally, it was retitled as 'Petroleum Levy' in the Petroleum Products Ordinance 1961 through the Finance Act 2010 (*Annexure 3.15*).

CHAPTER 04

PRICING MECHANISM

- 4.1 The pricing of Motor Fuels, Petrol (MS) and Diesel (HSD) in Pakistan being both semi-regulated, is based on computation of multiple price components embedded in a pricing formula. It is regulated by Government of Pakistan (GoP) and the maximum selling price is also fixed by GoP. As an example, pricing that was applicable for the month of August 2020, is illustrated below:

Table 05: Component of Pricing

Component	MS (Rs.)	HSD (Rs.)	Basis of determination
Ex-Refinery	52.43	58.46	Reviewed & approved by OGRA every month based on international oil prices
IFEM	3.22	0.87	Fixed by OGRA to equalize transportation cost across Pakistan
OMC Margin	2.81	2.81	Fixed by GoP for OMCs
Dealer Margin	3.70	3.12	Fixed by GoP for Retail Outlets
Petroleum Levy	26.70	25.73	Surcharges on POL products notified by Ministry of Energy (Max Limit Rs 30/Ltr)
Sales Tax	15.11	15.47	Sales Tax @ 17 % on MS & HSD
Ex-Depot Selling Price	103.97	106.46	

Source: MoEPD

EX-REFINERY PRICE

- 4.2 It is the amount at which the refinery sells its refined petroleum products to the OMCs. It is determined by OGRA and is based on PSO's weighted average cost of import cargoes that berthed in the preceding month. The cost of import is further determined on buying cost of PSO's cargoes spread over 05 days average of S&P Global Platts (a source of benchmark price assessment in the physical commodity market). For example, if PSO buys a shipment at \$35/ barrel on 5th of a month, the buying price would be average of PLATTS rates on 3,4,5,6,7 of that month. After computing the average, US Dollar conversion rate, the refinery overheads, taxes and surcharges final figure is reached. This is called ex-refinery price as local refineries are bound to sell at this rate.

INLAND FREIGHT EQUALIZATION MARGIN (IFEM)

4.3 IFEM is embedded in the pricing structure which allows petroleum prices to remain at the same level throughout the country. As all imports are from ports located in the south including 03 out of 05 major refineries producing petroleum products, a vast infrastructure is in place including pipelines and transportation fleets to move the product upcountry accruing a significant cost of operation. As the freight costs or transportation charges from port to anywhere up country varies, there would have been different per liter rates. OGRA governs a freight pool and takes into account all the transportation costs incurred by the OMCs so as to balance the impact of freight on supplies upcountry from the supplies made in the down country with relatively lesser freight costs. For instance, if Shell is supplying petroleum products across Pakistan and another small OMC is only restricted to marketing in Sindh, the smaller OMC would have to pay Shell the difference that Shell incurred for the cargo supplied to faraway places like KPK or AJK. The transportation cost for each of 24 major depots is fixed and all OMCs work it out internally under the umbrella of Oil Companies Advisory Council (OCAC). On average, roughly Rs. 3 per liter is added to the pricing mechanism. These adjustments are required to be audited every year.

OMCs MARGIN

4.4 OMCs margin is the commission per liter allowed to the OMC upon sales of MS and HSD both to industrial and retail outlets. Few extra components are also added such as franchise fee and fixed percentage of Sales Tax, collected by OMCs on behalf of taxation authorities and cleared on filing of returns.

DEALER COMMISSION

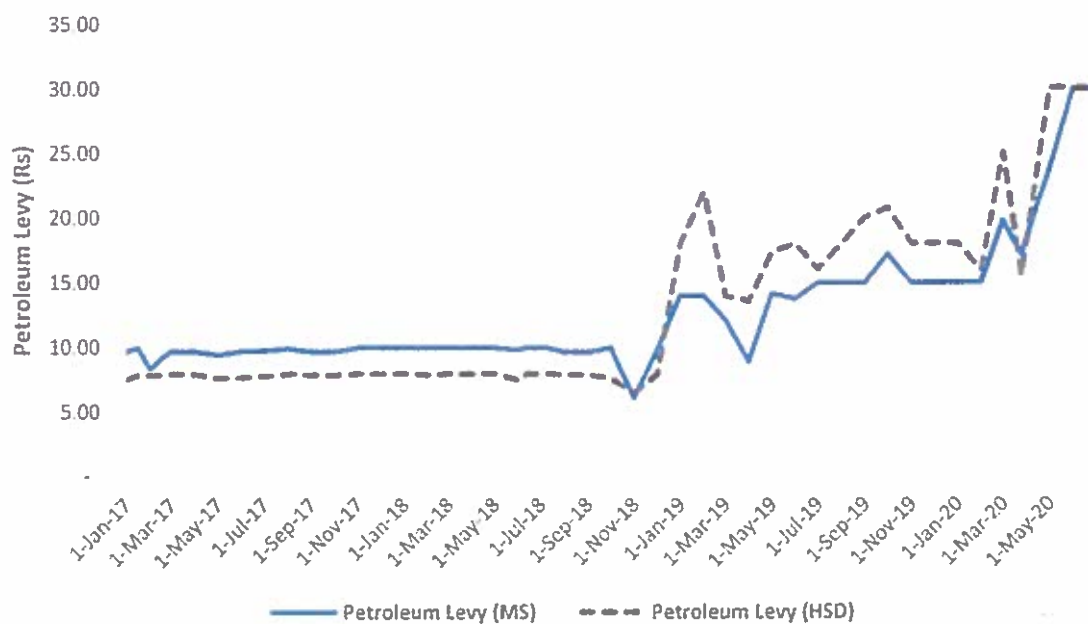
4.5 It is the amount earned on sale of every liter of MS and HSD on retail outlet by the dealer or owner of the petrol pump. Sales Tax is also applied on the dealer commission and finally the net price charged per liter to the public is reached. OMC and dealer margin are both fixed commissions and revenue streams for the businesses. Presently, the OMC margin and the dealer commission is Rs. 2.81 and Rs. 3.70 per liter respectively.

GENERAL SALES TAX

4.6 General Sales Tax (GST) is levied on the petroleum products under the notified rates of Federal Board of Revenue (FBR) and is one the main source of revenue for FBR. Unlike the Petroleum Levy (PL) which is a fixed amount, the sales tax is a fixed percentage that is levied on the net price obtained after addition of all the above-mentioned components i.e. Ex-Refinery, PL, IFEM, OMC Margin and Dealer Margin. Currently, the sales tax is fixed at 17% for both MS and HSD.

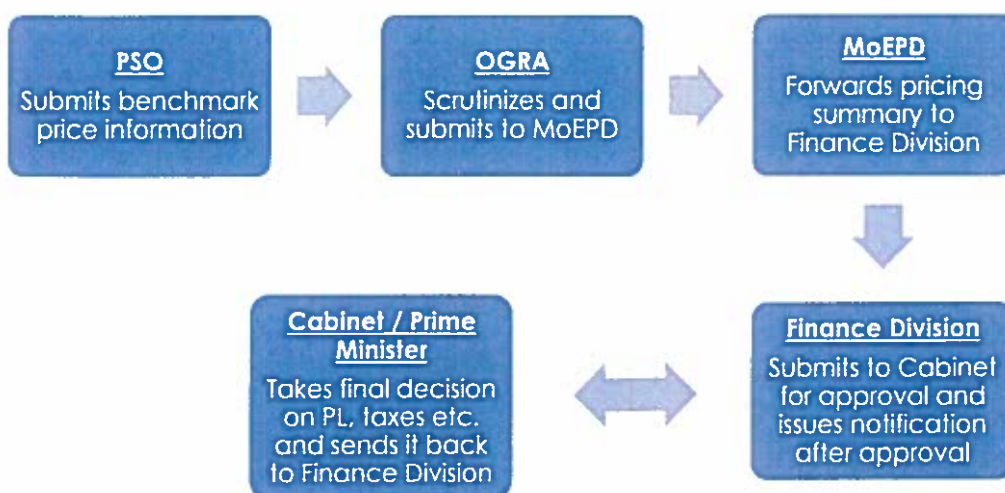
PETROLEUM LEVY (PL)

4.7 PL is a form of tax, variable in nature and susceptible to revision on every price change consideration, imposed by the Government of Pakistan and is a part of the pricing structure. The change in Petroleum Levy is observed every month, but the logic behind this change cannot be traced fully as it is at the disposal of the Federal Government, becoming part of the national exchequer. The Petroleum Levy is capped at Rs. 30/liter, based on an amendment made in the Fifth Schedule to the Petroleum Products (Petroleum Levy) Ordinance 1961, through the Finance Act, 2018, authorizing the same, but it keeps on varying below this cap. It remained under Rs. 10/liter till the start of calendar year 2019 followed by erratic variations finally reaching maximum peak of Rs. 30/liter by May 2020, showing an increase of 300%, as illustrated below;



FINAL PICTURE OF THE PRICE

4.8 Once the ex-refinery price is determined with sales tax, custom duties, OMC and dealer margin and IFEM, petroleum levy is added as directed by the GoP, final price for the month is notified by the Ministry of Finance. The process is further elaborated below:



PRICE BUILDUP OF PETROL (MS) FOR JUNE 2020

4.9 Once again, to elaborate the mechanism as discussed above, the computation for the month of June 2020 based on the import vessels of PSO for the month of May 2020 is worked out as below:

Table 06: PSO Vessels Imported in May 2020 (MS)

Sr #.	Vessel Name	Berthing Date	Landed Qty (Ltr)	Total Cost of Vessel (Rs.)
1	MT Ocean Pluto	May 1, 2020	60,338,642	941,735,688
2	MT Alpine Persefone	May 5, 2020	65,389,616	1,056,975,810
3	MT Kong Que Zo	May 12, 2020	66,420,369	1,777,285,395
Exchange Rate Adjustment				833,785,751
NET TOTAL			192,148,627	4,609,782,643

Source: PSO (Detail attached in Annexure 4.1)

4.10 Pakistan State Oil (PSO) imported 03 vessels of MS in May 2020 incurring a cost of Rs. 4,609,782,643 (including US Dollar exchange rate) against the import of 192,148,627 liters. Hence, the cost of supply per liter came out to be Rs. 23.99.

This value was taken as ex-refinery price for the month of June 2020. The ex-refinery price was then added with other price components to reach the final ex-depot price of Rs. 74.52, as shown below:

Rs 23.99 (Ex-Refinery)	Rs 3.19 (IFEM)	Rs 2.81 (OMC Margin)	Rs 3.70 (Dealer Margin)	Rs 30 (Petroleum Levy)	Rs 10.83 (Sales Tax)	Rs 74.52 (Retail Price)
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OBSERVATION

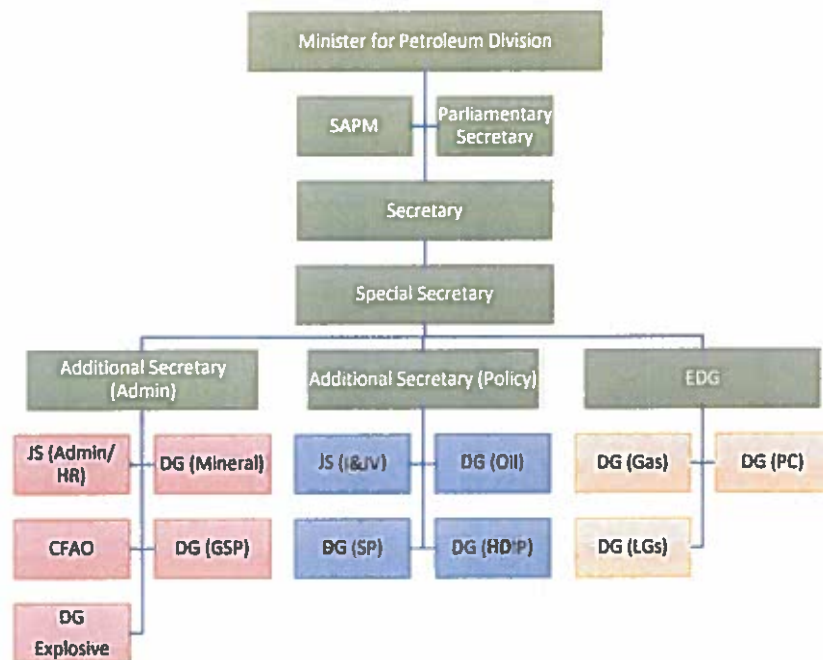
- 4.11** From the preceding points, it is clear that almost all stake-holders can predict the price of semi-regulated petroleum products for the coming month with reasonable accuracy. This lacuna would also be discussed in next chapters as it has a direct link with shortage in June 2020. All stakeholders have access to PSO buying (as it is done through tenders) on precise dates. Thus, for instance, if 3 PSO ship purchases occurred by 15 of every month, all OMCs and related persons would know the base price of MS and HSD. This point is important to understand that the purchases are made at least 5-8 days prior to delivery and purchase made after 15 of every month usually would not matter in price assessment for the next month.
- 4.12** Again, coming back to June 2020, the price for this month was easy to predict within the first 10 days of May 2020. Only 3 purchases of PSO were made in the month of May 2020 and the last purchase was on 7 May 2020. It means that by 10 May 2020, all OMCs and other stakeholders were aware of significant price cut in MS in June 2020. Side by side, the price of petroleum products was on sharp and steady rise internationally after 10th of May. This indicated that import in the middle or later part of May 2020 would definitely incur a loss to the OMCs. However, this being name of the game, **does not provide any justification to OMCs to either hold back or not import necessary petroleum products as provided by the law.**

Noteworthy that during the process of this inquiry, MoEPD has changed the price fixing formula in September 2020. Presently, the price fixing is broadly based on fortnightly average of Platts rates instead of weighted average of PSO imports of the previous month. Accordingly, the prices are notified every 15 days with remaining factors of the previous formula. (Annexure 4.2)

CHAPTER 05

MINISTRY OF ENERGY (PETROLEUM DIVISION)

- 5.1 Federal Ministry of Energy was created/established after the reorganization of the Federal Secretariat by Cabinet Division on 4th August 2017 by merging the two Federal Ministries/Divisions, i.e. Ministry of Petroleum & Natural Resources and Power Division of Ministry of Water & Power (now renamed as Ministry of Water Resources).
- 5.2 The main working of the Ministry of Energy, Petroleum Division is shown in following organogram:



FUNCTIONS OF THE PETROLEUM DIVISION:

- 5.3 The Petroleum Division is responsible for dealing with all matters relating to oil, gas and minerals. Some of their main functions as per the Rules of Business are as under:

NATIONAL & INTERNATIONAL MATTERS OF PETROLEUM INDUSTRY:

- 5.4 All matters relating to oil, gas and minerals at the national and international levels including Policy, legislation, planning regarding exploration, development and production. Furthermore, it deals with import, export,

refining, distribution, international transportation and pricing of all kinds of petroleum and petroleum products.

FEDERAL INVESTMENTS AND MARKETING OF PETROLEUM PRODUCTS:

5.5 The Marketing of Petroleum Products (Federal Control Act 1974) comes under its ambit and it oversees the matters relating to Federal investments wholly or partly owned by the Government in the field of oil, gas and minerals, except those assigned to the Industries and Production Division.

ADMINISTRATION OF PETROLEUM PRODUCTS & NATURAL GAS:

5.6 Following Acts, Rules and Ordinances are also managed by the Ministry;

- i. The Petroleum Products (Development Surcharges) Ordinance, 1961
- ii. The Natural Gas (Development Surcharges) Ordinance, 1967
- iii. The Esso Undertakings (Vesting) Ordinance, 1976
- iv. Hydrocarbon Development Institute of Pakistan Act, 2006.

ENERGY POLICY:

5.7 It coordinates the energy policy, including measures for conservation of energy and energy statistics and operations of Secretariat of National Energy Policy Committee.

ORGANIZATION OF THE PETROLEUM DIVISION:

5.8 The Ministry of Energy (Petroleum Division) has been organized into four wings, i.e., Administration, Development, Mineral and Policy. The Division has 08 Directorates, one attached department, one subordinate office, one autonomous body and 14 Public Sector Enterprises (PSEs)/Companies (Private as well as Limited/Listed & Non-Listed) that are working under its administrative control. The Secretary is assisted by two Additional Secretaries, two Joint Secretaries and 08 Director Generals. List of Directorates is as follows:

- i. Directorate of Oil (DG/Oil)
- ii. Directorate of Explosives (DG/Explosives)
- iii. Directorate of Petroleum Concessions (DG/PC)
- iv. Directorate of Special Projects (DG/SP)
- v. Directorate of Minerals (DG/Minerals)

- vi. Directorate of GSP (DG/GSP)
- vii. Directorate of Gas (DG/Gas)
- viii. Directorate of Liquid Gases (DG/LGs)

5.9 The annual budget/revenue generation & expenditure/Annual Financial Statements/Balance Sheets of these Department, Sub-ordinate offices, Organization and Companies under the administrative control of Petroleum Division (excluding Directorate Generals in the Petroleum Division) for the financial year 2019-2020, in brief, is given as under:

Table 07: Detail of Budget Allocation, Income and Expenditure of MoEPD

Sr. No.	Department / Organization / Company	Budget Allocation / Income (Rs. Million)	Expenditure / Utilization (Rs. Million)
i.	Geological Survey of Pakistan (Attached department)	593	582
ii.	Central Inspectorate of Mines (Sub-ordinate office)	9.5	9.5
iii.	Hydrocarbon Development Institute of Pakistan (Autonomous Body)	575	575
iv.	Oil and Gas Development Company Limited (Company)	272,669	210,517
v.*	Sui Northern Gas Pipelines Limited (Company)	630,472	714,566
vi.*	Sui Southern Gas Company Limited (Company)	266,194	322,049
vii.*	Pakistan State Oil Company Limited (Company)	22,437	28,903
viii.	Pakistan Petroleum Limited (Company)	164,058	113,802
ix.*	Pak Arab Refinery Company Limited (Company)	238,758	256,891
x.	Saindak Metals Limited (Company)	2,399	1,064
xi.	Lakhra Coal Development. (Company)	Nil	Nil
xii.	Government Holdings (Pvt.) Limited (Company)	76,190	43,047
xiii.	Pakistan Minerals development Corporation (Company)	2,847	2,473
xiv.	Infer State Gas Systems (Pvt.) Limited (Company)	290	290
xv.	Pakistan LNG Limited (Company)	4,324	2,790
xvi.	Pakistan LNG Terminal Limited (Company)	14,456	14,212

Source: MoEPD

***these companies are subsidized by huge amounts on annual basis**

5.10 In addition, the Federal Government has allocated estimated Budget of Rs. 12,650 million to the MoEPD for the year 2020-2021. The current expenditures for Power Division and Petroleum Division are Rs. 282 million and Rs. 10,582 million, respectively.

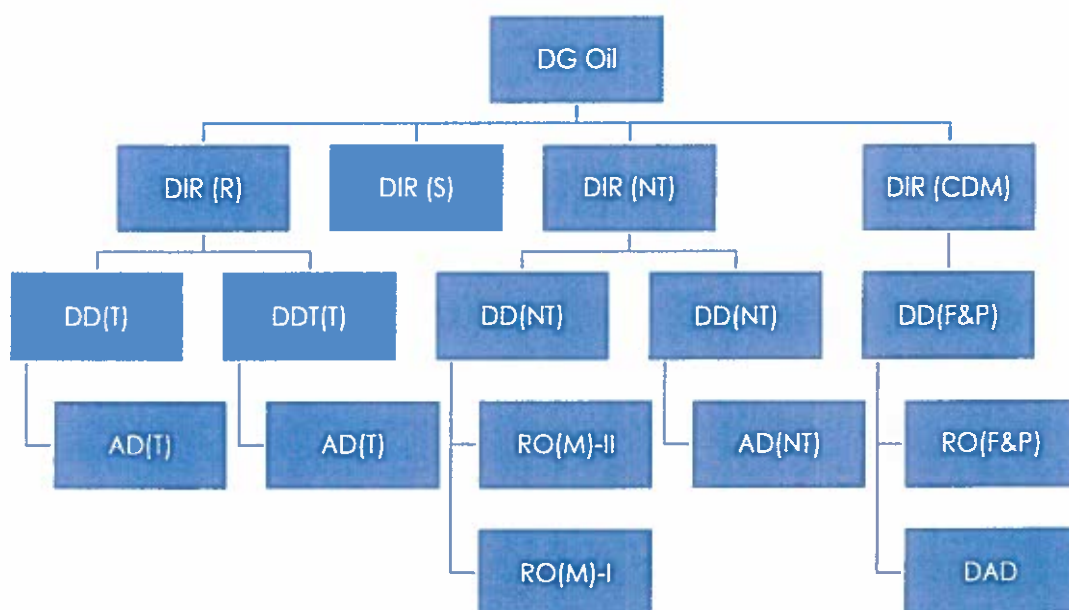
DIRECTORATE GENERAL OF OIL/DG OIL:

5.11 The role of Directorate General Oil in Petroleum Division is limited mainly to policy formulation in accordance with Section 21 of OGRA Ordinance 2002. However, its current role/functioning in the light of the Pakistan Petroleum (Refining, Blending and Marketing) Rules, 1971 makes the working of this Directorate very controversial, when analyzed with existing laws/rules especially Pakistan Oil (Refining, Blending, Transportation, Storage and Marketing) Rules, 2016 and observations of the Ministry of Law & Justice. This controversy/confusion has arisen from SRO 236(1)/2006 dated 13th March, 2006, as "Authority" was bifurcated between DG Oil and OGRA. This has already been discussed in detail in chapter of Laws and Rules.

RECRUITMENT/APPOINTMENT RULES FOR THE POST OF DG OIL

5.12 As per notification dated 29.08.1996 published in Gazette of Pakistan and S.R.O. No. 738 (I)/96, in pursuance of sub-rule (2) of rule 3 of the Civil Servants (Appointment, Promotion and Transfer) Rules 1973, qualifications and other conditions for the appointment to the posts of DGs are to be followed. For the post of DG Oil in BPS-20 Method of appointment is 100% by promotion. Broadly, DG Oil has to be a BS-20 officer from Government cadre with an engineering degree in Petroleum, Mechanical, Chemical, Mining, Electrical or Refining technology or a Master's degree in Petroleum Geology/Gas Technology (*Annexure 5.1*). The age limit is capped at 45.

5.13 The Organogram of DG Oil is given as below:



ROLE OF DG OIL IN MONTHLY PRODUCT REVIEW MEETING (PRM):

5.14 Currently, the DG Oil in the (MoEPD) is the 'Authority' for ensuring the petroleum products availability in the country. DG Oil regularly chairs Product Review Meetings (PRMs) duly convened by Petroleum Division on monthly or bi-monthly basis. PRMs are attended by representatives of oil industry (OMCs, Pipelines & Refineries) and other stakeholders, such as PIA, Air Force, Railways etc. OGRA also attends these PRMs to address/respond to any query related to OGRA. In this regard, OCAC prepares a detailed working paper for DG Oil. The following issues/items are reviewed in PRM:

- i. Refined petroleum products stock position with OMCs.
- ii. Refined petroleum products availabilities with refineries.
- iii. Assessment of demand (available stocks + local production – demand = import).
- iv. Assigning of refined petroleum product volumes to OMCs and crude oil by the refineries for import to meet the national demand and maintenance of the stock.

5.15 During the meeting, the OMCs place their demand keeping in view their obligations to maintain POL stocks equivalent to 20 days formula of the retail outlets (40 tons per retail outlet), as per the policy guideline already incorporated in the Rule 35 of the Pakistan Oil (Refining, Blending, Transportation, Storage and Marketing) Rules 2016. Oil Companies Advisory Council (OCAC) is the coordinating body on behalf of the oil industry representing OMCs, refineries and pipeline transportation companies. OCAC compiles and presents the relevant data/information. The DG Oil chairs the monthly PRM wherein decisions are made in consultation with all stakeholders keeping in view the historical trends, growth analysis and current conditions/future projections.

PROCEDURE FOR IMPORT OF PETROLEUM PRODUCTS:

5.16 DG Oil confirms product wise import plan on the basis of the following consideration:

- i. Product demand as placed in the PRM
- ii. Available stock in the country
- iii. Production planned by the Refineries

5.17 DG Oil is responsible for laycan (time window of arrival) management, allot berthing/discharge dates to OMCs based on their request. At the time of vessel arriving at discharge port, shipping agents inform OCAC about arrival of their cargo against laycan. Testing and sampling are done at the port in the presence of Custom officials by the oil testing agency, i.e. HDIP. Duties and taxes are ascertained by Pakistan Customs that need to be paid before discharging of the cargo/vessel.

ANALYSIS

LEGAL OBSCURITY/CONFUSION ON POWERS OF DIRECTOR GENERAL (OIL)

5.18 The legal confusion over exercise of power by DG Oil under supposedly defunct Petroleum Rules 1971, stays unresolved. It has been explained at length in chapter 3 (Laws and Rules). For instance, DG Oil holds the PRMs under Rule 30-B of the repealed Petroleum Rules of 1971. By the same token, when it comes to rule 34 regarding checking and maintenance of stocks, the Petroleum Division very conveniently shuns its responsibility citing rule 37 of

newly promulgated Pakistan Oil Rules 2016. This passing of buck has been going on for many years and is reflective of disregard of responsibility shown by MoEPD.

RELIANCE ON DATA OF OIL COMPANIES ADVISORY COUNCIL (OCAC)

5.19 Monopoly on data by OCAC, a non-statutory body, disparages the authority of regulatory bodies like OGRA and MoEPD. The role of OCAC is both intrusive and conclusive in vital and strategic decision-making. Some of the leading areas where OCAC plays the pivotal role are as follows:

- i. Statistics relied upon during PRM meetings are supplied by OCAC be it the inventory stocks of OMCs, demand projections or sale of petroleum products by OMCs. OMCs, ipso facto, arrogate to themselves the power to allocate the import quota in the absence of counter-verification through regulatory bodies.
- ii. OCAC plays its role in the audit of stocks of OMCs. Drying of petrol stations during the days of crisis affirms that the OMCs, through the forum of OCAC, provided spurious data on the stocks of petroleum products.
- iii. Data on IFEM, an instrument to quantify the claims of OMCs on transport freights, is also provided by OCAC. Malpractices concerning IFEM have been reviewed in chapters 8 and 13.
- iv. Given the fact that data on sales of OMCs emanates from OCAC, it implies that tax-determination of OMCs is also done by the OCAC indirectly. Concomitantly, unlawful sale of petroleum products through unlawful petrol pumps is yet uncovered as regards the tax-collection.

INACTION ON DEFICIENT STOCK

5.20 Ministry of Energy Petroleum Division (MoEPD) is the 'Authority' for ensuring the petroleum product availability in the country (SRO 268(I)/2006 dated 15-03-06 & SRO 236(I)/2006 dated 13-03-06). The Authority was to specify the minimum stock requirements by OMCs which it failed to carry out as per Rule 34 of Petroleum Rules 1971/Rule 37 of Oil Rules 2016. Following is a table reflecting day cover of 25 OMCs from January to June 2020.

Table 08: OMCs Day Cover

Monthly Average Day Cover of OMCs							
Sr. No.	OMC	Monthly Average Day Cover					
		Jan	Feb	Mar	Apr	May	Jun
1	PSO	20	15	25	29	10	11
2	Shell	6	12	15	12	9	16
3	Attock	23	12	32	9	12	14
4	Total Parco	8	10	7	15	4	9
5	Puma	31	35	37	22	4	8
6	Hascal	12	12	32	17	26	30
7	Byco	17	14	7	24	2	8
8	Be-Energy	54	7	28	12	2	25
9	GO	21	22	29	10	24	8
10	Askar	8	10	8	12	6	4
11	Zoom Petroleum	30	17	41	4	3	31
12	Zoom Marketing	77	34	31	14	13	52
13	Al-Noor	0	0	0	0	3	6
14	Oil Co	181	41	0	0	1	3
15	Quality 1	0	0	0	0	0	1
16	Fuelers	0	0	0	0	0	153
17	OTO	13	35	0	91	385	1
18	Taj	0	0	0	13	7	3
19	Lagaurdia	8	12	6	10	4	7
20	Horizon	0	0	0	0	1467	5
21	Kepler	0	0	0	0	9	4
22	Oil Industries	0	0	0	0	6	1
23	Hi-Tech	0	0	0	7	1	5
24	Euro Oil	0	0	0	4	8	13

Source: OGRA

5.21 From the above table, it is vividly clear that requisite stock of 20 days was not being maintained by 90% of the OMCs. Some brazen anomalies can also be detected at a cursory glance. For instance, OMC Fuelers is showing zero stock from January to May 2020. All of a sudden, its stock jumps to 153 days in June 2020. Same is the case with OMC Horizon whose stock remains at zero through January to April 2020, then spikes to 1457 days cover, again dwindling to a stock of 05 days in June 2020. OMC Quality-1 maintained zero stock from January to May 2020 and reflects only 01 day cover in June 2020. All these discrepancies need careful examination but inaction by DG Oil only shows extreme passivity.

INABILITY TO ENSURE UPLIFTING OF STOCKS FROM REFINERIES:

5.22 MoEPD, DG Oil failed to ensure uplifting of stock by OMCs from February to April 2020. The OMCs simply refused to uplift quotas from local refineries as show in the table below:

Table 09: Refinery Allocation in PRM Vs Upliftment by OMCs

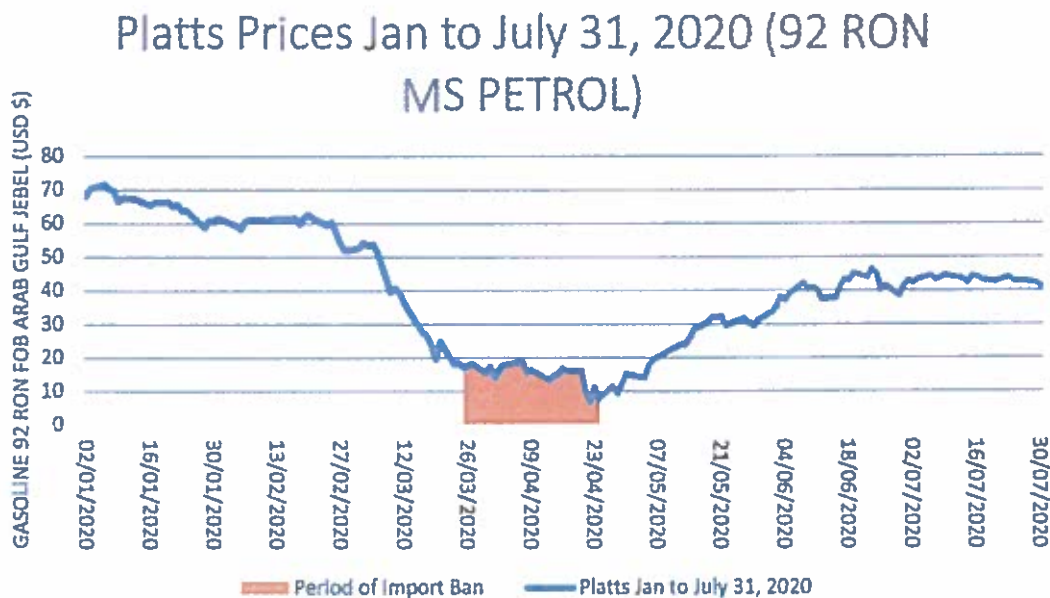
Month	Refinery Availability (MS) (MT)	Lifted by OMCs (MT)	Difference between availability and lifted (MT)
January	176,500	180,397	3,897
February	143,000	121,428	-21,572
March	168,500	104,717	-63,783
April	195,000	89,463	-105,537
May	239,200	275,324	36,124
June	154,500	164,593	10,093

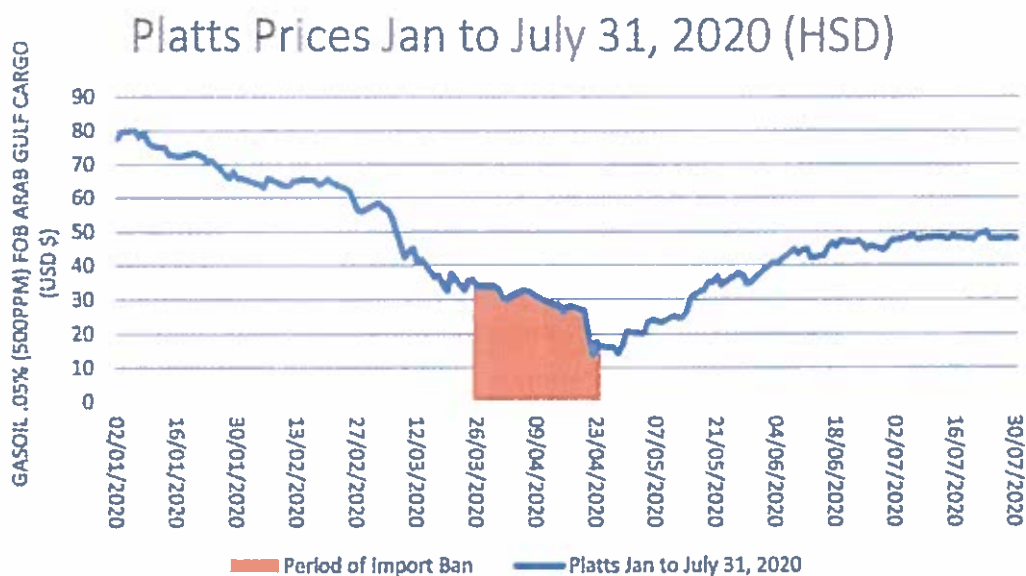
Source: Minutes of PRMs provided by MoEPD

5.23 This violation of OMCs was neither addressed by MoEPD nor OGRA.

QUESTIONABLE JUDGEMENT OF BAN/CANCELLATION OF IMPORTS BY MoEPD

5.24 A very controversial order of MoEPD was issued on 25 March 2020, addressed to OCAC directing all OMCs to cancel their import orders thenceforth. The order was issued on basis of a summary moved by MoEPD (Secretary) that indicated that downward international price trend had caused glutting of local refineries. The summary argued that imports should accordingly be "rationalized" (word ban or embargo was not mentioned) to ensure local refineries working and to keep local oil wells wet. Interestingly, the said summary was approved by Cabinet on 27 March 2020, **two days after the issuance of aforementioned letter (Annexure 5.2)**. Meanwhile the international prices of petroleum products were still on steep downward trend as shown in following graphs:





5.25 Any layman can figure that this so-called ban period overlapped some of the lowest prices in the recent history. Thus, it was against prudence to impose embargo at this juncture. Had the MoEPD acted with vigilance and ensured uplifting of stocks from local refineries through February/March 2020, the need for such a ban would not have arisen. Further, it would have benefitted the country tremendously in terms of foreign exchange had the OMCs been given extended quotas to import during this period. No argument can mitigate the ill effects of this decision that partially included the shortage of MS in June, 2020.

ILLEGAL/PRE-DECIDED ALLOTMENT OF QUOTAS IN PRMs

5.26 DG Oil, who is in chair in all PRMs seems to have acted whimsically and illegally in allotment of import quotas in PRMs. Perusal of Minutes of PRM of the last few months has revealed certain glaring discrepancies. For instance, in the PRM held on 29.04.2020, DG Oil, did not allocate import quotas to OMCs My Petroleum Ltd. and Exceed Petroleum Ltd. on the pretext that both companies did not possess valid marketing licenses from OGRA. Oddly enough, the very same companies were not only allowed quotas but they did import refined petroleum products in January, February and March 2020. How this was done, remains unexplained. Similarly, in month of March 2020 (PRM held on 11 March), another OMC, Fossil Energy Ltd. was allowed to import MS despite the fact that

it did not have a single retail outlet ! More perplexing is the fact that the import was actualized on 11.03.2020, the very day DG Oil had allowed Fossil the import quota. It clearly means that Fossil Energy Ltd. had ordered the import at least 5-7 days prior to the PRM. These examples, though just a sample spec, show how due diligence was ignored in these PRMs (*Annexure 5.3*).

LACK OF CO-ORDINATION BETWEEN MoEPD AND CONCERNED DEPARTMENT OF OIL INDUSTRY

5.27 Serious disconnect/lack of coordination & sharing of data/information has been observed between different departments/organizations/companies under MoEPD and OGRA. For example, OGRA, DG Oil, Department of Explosives (DG/Explosives) and Hydrocarbon Development Institute of Pakistan (HDIP) have no mechanism to consolidate data related to OMCs and their imports, testing, supplies, storages, transportation & retail outlets etc. The consequential chaos is a direct result of this non-coordination.

FAILURE TO GIVE POLICY GUIDELINES

5.28 One of the enshrined duties of Petroleum Division is to give policy guidelines to the Government on development of infrastructure, strategic storage, exploration and production of petroleum products and modern standards and specifications of refined products. The failure of Petroleum Division in this area is accentuated by the refineries operating with obsolete technology of hydro-skimming or semi-conversion. Likewise, MoEPD has failed to develop strategic storage for the country. Pakistan would have benefitted greatly during the low-price period, had there been availability of strategic storage. The following exemplifies it:

5.29 Example of India: The lower oil price was certainly beneficial to oil importing countries and countries like India, being one of the biggest oil importing country in the world, filled all its available crude storage capacity, including commercial and strategic petroleum reserve facilities (SPR), and held around 50 million barrels in floating storage. Their stocks rose to 37 MMTs⁶ out of which 7 MMTs were in floating storages. India's Strategic Petroleum Reserves (SPR) facilities were also filled ahead of schedule, before the end of May 2020.

⁶ www.economictimes.indiatimes.com

Interestingly, India's 39 million barrels of SPR capacity comprises of underground rock caverns located in mountainous regions.

POSTING OF NON-PROFESSIONAL/UNQUALIFIED OFFICERS ON KEY POSTS

5.30 The posting of incumbent as well as previous DGs Oil has also been found against the approved criteria/rules (**Annexure 5.1**). The current DG-Oil (Dr. Shafi-ur-Rehman Afridi) is a veterinary doctor by qualification and it does not match with the given criteria. He is a Grade-20 officer of Office Management Group (OMG) and with no previous experience related to the post of DG Oil. This fact reflects gross violation on the part of MoEPD and its non-seriousness to attend to the issues and functioning of the office of the DG Oil, that plays a pivotal role in oil/petroleum industry of Pakistan. Likewise, Mr. Imran Ali Abro, who is a Research Officer/contract employee from Inter State Gas Systems (Pvt.) Ltd. under the MoEPD, has been working in Petroleum Division for the last 6 years against the rules. Interestingly, scrutiny of personal file of Mr. Imran Ali Abro during subject inquiry proceedings has revealed that the DGs Oil have been writing to the concerned private company under MoEPD for his regularization of service and extension in his contract period against the rules (**Annexure 5.4**).

OBSERVATIONS

5.31 From the above, it reflects clearly that DG Oil, Petroleum Division, has digressed in exercise of his authority in many ways. Starting from his illegal appointment to so many of the aforementioned flagrant violations, question arises as to how he retained his present posting. Referring back to bifurcation of 'Authority' (SROs of 2006), DG Oil would exercise his power to chair Product Review Meeting (PRM) under Rule 30 of Petroleum Rules 1971, whereby matters of import/lifting from refineries are discussed and quotas allocated. However, by the same token, rule 34 of Petroleum Rules 1971 empowers DG Oil to ensure minimum stock that each OMC is liable to keep. As can be seen from 06 months stock (day cover wise) that 90% of the OMCs were not upto the mark. During inquiry, DG Oil insisted that the same power had been shifted to OGRA after promulgation of Petroleum Rules 2016 and further stated that DG Oil had no penal powers. Asked as to why he did not stop allocating quotas to the delinquent companies (both local and import), there was no explanation. The

least DG Oil could do was to inform OGRA for taking necessary legal action on requisite stock violation but even that was not done.

5.32 Every illegality seems to have been taken in 'business as usual' manner. The higher ups, Secretary MoEPD in this case, also remained impervious to this controversial environment. Steps to be taken on this aspect would be made part of the recommendations.

CHAPTER 06

OGRA

- 6.1** Oil and Gas Regulatory Authority (OGRA) was established in March 2002 in consequence of OGRA Ordinance 2002. Prior to this, National Gas Regulatory Authority (NGRA) was established in 2002. OGRA was an extension of NGRA and section 44 of OGRA Ordinance 2002 stipulated that all employees/resources of NGRA would be merged in OGRA. It was in line with economic reform agenda by the Government of Pakistan. The formation of OGRA, on one hand, was aimed at ensuring quality, quantity, price, safety and other related consumer services. On the other hand, it also envisaged creating an ideal environment of perfect competition by providing level playing field for the private sector investment in the oil and gas sector. Initially, OGRA was dealing with gas sector including Liquefied Petroleum Gas (LPG), Natural Gas and Compressed Natural Gas (CNG). So far as oil sector was concerned, OGRA remained in embryonic form as the transfer of oil functions from the then Ministry of Petroleum and Natural Resources (MPNR) to OGRA were being worked out.
- 6.2** In 2006, OGRA was given the oil sector and some semblance of clarity emerged as to what functions would be dealt by the Ministry and OGRA in their respective domains. Two aforementioned Statutory Regulatory Orders (SROs) issued in March 2006, defined the functions that were to be retained by the Ministry. Broadly, the functions to be exercised by OGRA and the Ministry were as follows:
- i. Blending of petroleum products
 - ii. Licence/marketing by Oil Marketing Companies (OMCs)
 - iii. Inspection and Enforcement
- 6.3** However, the following functions remained with the MoEPD:
- i. Demand and supply of petroleum products.
 - ii. Import and export of petroleum products.
 - iii. Approving production programs of the refineries.
 - iv. Specifying minimum stocks of crude oil by the refineries and petroleum products by the OMCs (the function was to be shared by both the MoEPD and OGRA).

- 6.4 From 2006 onwards, OGRA initiated its role in licensing of Oil Marketing Companies and it has been going on since. In the last 14 years, licenses have been granted to different OMCs as follows:

Table 10: Licenses issued to OMCs during 2006 to 2020

Period	Number of Private Oil Marketing Companies Issued License
From 2006 to 2012	01
From 2013 to 2016	28
From 2017 to 2020	27

Source: OGRA

Note: Prior to 2006, 10 OMCs already had licenses.

PAKISTAN OIL RULES, 2016

- 6.5 Despite direction laid down in the OGRA Ordinance (2002) Section 41, it took OGRA 14 years to formulate rules in 2016. The ambiguity, however, remained between OGRA and MoEPD as to what section of the industry was to be handled by the Ministry (DG/Oil) and what functions pertained to OGRA. Although after the promulgation of 2016 Rules, all related function should have rested with OGRA (including demand, supply, import, stocks etc). The MoEPD (DG/Oil), however, kept on exercising the role for import, refinery quotas, matter of demand/supply but ignored stock maintenance. This has been going on since last 04 years and there has been no effort whatsoever to move in a clear direction. OGRA ordinance of 2002 and Pakistan Oil Rules 2016, clearly stipulate all functions relating to oil industry would eventually be handled by OGRA.
- 6.6 This anomaly has already been discussed in detail in chapters 3 and 5. Hence, needs no further elaboration. In short it is only reflective of state of tardiness in perhaps the biggest Ministry/Division of Pakistan.

SANCTIONED STRENGTH OF OGRA

Table 11: OGRA's Sanctioned Strength

Positions	Pay Scale	Equalancy to BPS	No. of Employees
Senior Executive Director	E-6	21	
Corporate & Media Affair			1
Engineers			4
Legal			1
Admin			1
Finance			1
Total			8
Executive Director	E-5	20	
Engineers			3
Economist			1
Admin/Secretary			1
Finance			2
Total			7
Joint Executive Director	E-4	19	
Engineers			20
Economist			2
IT			1
Admin			8
Legal			2
Finance			6
Total			39
Dy. Executive Director	E-3	19	
Engineers			9
IT			1
Admn			6
Total			16
Assistant Executive Director	E-2	18	
Engineer			17
Finance			3
Legal			5
IT			1
Admn			20
Total			46
Dy. Assst. Executive Director/ES	E-1	17	
Finance			1
IT			1
Admin			19
Total			21
Total Executives			137

Source: OGRA

6.7 In addition to the executive strength of 137, OGRA has lower level support staff of 106 including assistants, drivers, dispatch riders, office attendants, chowkidars etc. With this skeletal staff, how an organization looking after a multi-billion industry can fulfill its obligations/mandate that, among other things,

includes 5 refineries, dozens of depot sites, and 9000 plus filling stations, remains a pertinent question?

THIRD PARTY INSPECTORS (TPI)

6.8 Additionally, OGRA has also approved 06 Third Party Inspectors (TPI) to inspect oil related structures across Pakistan. These six TPIs are listed below (**Annexure 6.1**):

- i. M/s Imtech (Pvt) Ltd., Karachi.
- ii. M/s Velosi Integrity & Safety Pakistan (Pvt) Ltd., Islamabad.
- iii. M/s SGS Pakistan Pvt. Ltd, Karachi.
- iv. M/s Enar Petroetch, Karachi.
- v. M/s Bureau Veritas Pakistan Pvt. Ltd., Islamabad
- vi. M/s TUV Rheinland Arabia LLC., Lahore.

INCUMBENCY OF CHAIRMAN AND MEMBERS OIL, GAS AND FINANCE

6.9 The first Chairman OGRA, before its inception as a real effective body was Mr. Muneer Ahmed and he continued till 2008. After 2008, Mr. Tauqeer Sadiq was appointed as Chairman in 2009 but the Supreme Court of Pakistan disqualified him in 2011, holding him ineligible for the post of Chairman. The next Chairman Mr. Saeed Ahmed Khan was appointed in May 2012 and he completed his tenure in May 2016. Next Chairperson, MS. Uzma Adil Khan was appointed in July 2016 and she completed her tenure in July 2020. It is noteworthy that presently the Chairman seat is lying vacant and Member Finance OGRA, Mr. Noor Ul Haque, is presently holding the post till the appointment of a regular incumbent. Complete chart of incumbency of OGRA Chairperson is as below:

Table 12: incumbency list Chairman OGRA

Name	Duration	
	From	To
Mr. Munir Ahmad Chairman	07.09.2000	06.09.2008
Mr. Rashid Farooq Actin Chairman	07.09.2008	21.07.2009
Mr. Tauqir Sadiq Chairman	22.07.2009	25.05.2011
Mr. Mir Kamal Marri Acting Chairman	27.05.2011	19.06.2011
Mr. Mansoor Muzaffar Ali Acting Chairman	26.06.2011	22.07.2011
Mr. Mir Kamal Marri Acting Chairman	23.07.2011	24.08.2011
Mr. Sabir Hussain, Acting Chairman	25.08.2011	15.04.2012

Mr. Saeed Ahmed Khan, Chairman	16.04.2012	11.02.2015
Mr. Aamir Naseem, Acting Chairman	12.05.2015	16.02.2015
Mr. Babar Yaqoob Fateh Muhammad, Cabinet Secretary/Acting Chairman	17.02.2015	13.04.2015
Mr. Saeed Ahmed Khan, Chairman	23.04.2015	15.04.2016
Ms. Uzma Adil Khan, Chairperson	18.07.2016	17.07.2020
Mr. Noor Ul Haque, Acting Chairman	18.07.2020	till date

Source: OGRA

- 6.10** Section 3(3) of OGRA Ordinance 2002, defines the 'Authority' constituting 04 members including the Chairman. The other 03 members are defined as Member Oil, Member Gas and Member Finance. Any decision by the Authority has to hold majority and in case of a tie, the Chairman would sway the decision. The incumbency of all the aforementioned members since establishment of OGRA is as follows:

MEMBER OIL

Table 13: Incumbency list Member Oil OGRA

Name	Duration	
	From	To
Mr. Rashid Farooq	09.10.2002	07.10.2009
Dr. M. Ilyas Fazil	05.11.2009	05.08.2010
Mr. Sabir Hussain	04.07.2011	03.07.2014
Mr. Arif Ahmed Khan (Additional Secretary- Cabinet Division) – Additional Charge of Member (Oil) OGRA	24.09.2014	05.11.2014
Mr. Khusro Pervaiz Khan (Additional Secretary- Cabinet) – Acting Charge of Member (Oil) OGRA	17.02.2015	13.04.2015
Dr. Abdullah Ahmad Malik	17.05.2017	16.05.2019

Source: OGRA

MEMBER (GAS)

Table 14: Incumbency list Member Gas OGRA

Name	Duration	
	From	To
Mr. Jawaid Inam	07.09.2000	19.12.2006
Mr. Syed Hadi Hasnain	03.08.2007	02.08.2010
Mr. Mansoor Muzaffar Ali	30.08.2010	29.08.2013
Mr. Aamir Naseem	23.12.2013	22.12.2016
Mr. Muhammad Arif	21.11.2019	Till date

Source: OGRA

MEMBER (FINANCE)

Table 15: incumbency list Member Finance OGRA

Name	Duration	
	From	To
Mr. Muhammad Shoaib Ansari	01.11.2000	19.10.2001
Mr. Mahboob Elahi	23.09.2002	07.07.2003
Mr. M.H. Asif	29.03.2004	11.02.2009
Mr. Mir Kamal Marri	15.05.2009	14.05.2015
Mr. Noorul Haque	23.07.2015	Till date

Source: OGRA

ANALYSIS

NON-DEVELOPMENT OF STRATEGIC STORAGES

- 6.11 Section 2(1)(xxviii) of OGRA Ordinance 2020, defines strategic petroleum storage as petroleum stored as fuel reserve in the event of a public emergency. Public emergency itself has been defined in Section 2(1)(xxviii) in the said Ordinance as the occurrence of any natural calamity, or an event which threatens the public safety, or the sovereignty, security, or integrity of Pakistan and has been so declared by the Federal Government. Section 21 of OGRA Ordinance 2002 places an important duty on Ministry of Energy (Petroleum Division) to issue policy guidelines in relation to establishment and maintenance of strategic petroleum storage. All travails of the Commission failed to find any such policy guidelines or substantive contributions in terms of development of strategic storage facilities. Concomitantly, OGRA which was tasked to ensure minimum strategic storage also failed spectacularly to fulfil this legal duty.
- 6.12 Had OGRA focused on this aspect, the country could have benefited by purchase of petroleum products during the time of dipping prices. These cheaply procured quantities would not only benefit the Government in terms of foreign exchange but would help state-owned entity like PSO to overcome the inventory loss, during the crises period of June.

ISSUANCE OF ILLEGAL PROVISIONAL MARKETING LICENSES

- 6.13 As per the licensing condition for establishing a new OMC under the Rule 35 of Pakistan Oil Rules, 2016, a provisional license for setting up a new Oil Marketing Company is granted for the period of three years. The company is obliged to build requisite storage during this time and on completion, would start

marketing. However, provisional license does not mean permission to start marketing without the requisite storage. There is no provision for issuing provisional marketing permission/license provided in any part of the Rules. In glaring violation, 25 OMCs were allowed to start their marketing by OGRA. List of these 25 companies is as follows:

Table 16: OMCs Holding Provisional Marketing License

(OMCs having provisional license but allowed marketing)								
S. No.	COMPANY NAME/TITLE	Initial license (PL)		Extensions			Expiry of PL after last extension in PL	Date to Initiate Marketing
		Date of License	Date of expiry of Initial (PL) license	1st Ext.	2nd Ext.	3rd Ext.		
1	M/s. Askar Oil Services Pvt. Ltd.	Jul 4, 00		8 Extensions in PL granted. Last Extension granted on 5-1-18.			Dec. 2018	July 4, 2005
2	M/s. Zoom Petroleum Pvt. Ltd.	Jun 14, 11		5 Extensions in PL granted. Last extension granted on 6-1-20.			Dec 31, 20	Jun 14, 2011
3	M/s. Horizon Oil Company Pvt. Ltd.	Mar 28, 13	Mar 27, 16	Aug 1, 19			Mar 28, 20	July 29, 2016
4	M/s. LaGuardia Petroleum Pvt. Ltd.	Mar 28, 13	Mar 27, 16	Apr 14, 16	Aug 2, 19		Mar 27, 20	Sep 11, 2018
5	M/s. Kepler Petroleum Pvt. Ltd.	Feb 26, 14	Feb 25, 17	Jul 11, 19			Feb 26, 20	Dec 20, 2016
6	M/s. Exceed Petroleum Pvt. Ltd.	May 27, 14	May 26, 17	Jul 20, 17	Apr 1, 20		May 27, 20	Aug 21, 2015
7	M/s. Oilco Petroleum Pvt. Ltd.	Jul 4, 14	Jul 3, 17	Jul 29, 19			Jul 3, 20	Jun 15, 2017
8	M/s. OTO Pakistan Pvt. Ltd.	Oct 22, 14	Oct 21, 17	Aug 9, 19			Oct 21, 20	Nov 11, 2016
9	M/s. Quality-1 Petroleum Pvt. Ltd.	Oct 22, 14	Oct 21, 17	Nov 3, 17	Jul 12, 19		Oct 22, 19	Jun 27, 2016
10	M/s. The Fuelers Pvt. Ltd.	Aug 17, 15	Aug 16, 18	Dec 2, 19			Aug 16, 20	Dec 18, 2017
11	M/s. Zoom Marketing Pvt. Ltd. (Z&M)	Aug 17, 15	Aug 16, 18	Aug 17, 19			Aug 16, 20	Dec 22, 2016
12	M/s. Al-Noor Petroleum Pvt. Ltd.	Jul 22, 16	Jul 21, 19	Aug 8, 19			Jul 21, 20	Feb 9, 2018
13	M/s. Best Petroleum Pvt. Ltd.	Jul 22, 16	Jul 21, 19	Feb 4, 20			Jul 21, 20	Apr 9, 2020
14	M/s. Euro Oil Pvt. Ltd.	Jul 22, 16	Jul 21, 19	Jul 29, 19	Jul 15, 20		Jul 21, 21	Jan 15, 2019
15	M/s. Oil Industries Pakistan Pvt. Ltd.	Jul 22, 16	Jul 21, 19	Aug 9, 19			Jul 22, 20	Oct 17, 2018
16	M/s. Fast Oil Company Pvt. Ltd.	Oct 21, 16	Oct 20, 19	Mar 25, 20			Oct 20, 20	May 19, 2017 (Sindh) Nov 20, 2018 (Punjab)
17	M/s. Hi-Tech Lubricants Ltd.	Oct 21, 16	Oct 20, 19	Sep 3, 19			Oct 20, 20	May 31, 2019
18	M/s. Jinn Petroleum Pvt. Ltd.	Oct 21, 16	Oct 20, 19	Dec 4, 19			Oct 20, 20	Jun 6, 2018 (Punjab) Aug 22, 2019 (Baluchistan)

19	M/s. Max Fuels Pvt. Ltd.	Oct 21, 16	Oct 20, 19	Dec 18, 19			Oct 20, 20	Feb 26, 2020
20	M/s. Allied Petroleum Pvt. Ltd.	Dec 21, 16	Dec 20, 19	Feb 6, 20			Dec 20, 20	Feb 21, 2020
21	M/s. Vital Petroleum Pvt. Ltd.	Dec 21, 16	Dec 20, 19	Feb 28, 20			Dec 20, 20	Feb 28, 2020
22	M/s. Taj Gasoline Pvt. Ltd.	Dec 21, 16	Dec 20, 19	Nov 27, 19			Dec 20, 20	Feb 21, 2019
23	M/s. My Petroleum Pvt. Ltd.	Dec 26, 16	Dec 25, 19	May 14, 20			Dec 25, 20	Feb 15, 2018
24	M/s. Fossil Energy Pvt. Ltd.	Sep 18, 17	Sep 17, 20					Sep 4, 2019
25	M/s. Flow Petroleum Pvt. Ltd.	Apr 5, 18	Apr 4, 21					Jun 15, 2019

Source: OGRA

6.14 It is noteworthy that 22 out of 25 of these marketing permissions have been accorded during the tenure of last Chairperson OGRA and the allied executive committee of 3 Members, that constituted the 'Authority'.

6.15 One of the most brazen example of illegality has been observed in case of BYCO OMC and BYCO Refinery. The Chief Executive Officer (CEO), one Mr. Amir Abbassi, a major shareholder of both concerns, remained a fugitive from law (wanted by NAB) in a fraud case of more than Rs. 23 billion. OGRA, however, instead of moving for revocation of license under rule 35(1)(d), did not budge.

NON-ADHERENCE TO IMPORT AND LOCAL QUOTA ALLOCATED TO OMCS IN PRODUCT REVIEW MEETING

6.16 As per Rule 35(1)(g), it is mandatory for every OMC to first uplift petroleum products produced by the local refineries before opting for import of the same. In contravention of this Rule, OMCs continuously eschewed their responsibility to uplift their apportioned quota from refineries during the months of Jan to April, 2020. In total, the OMCs refused to lift a total of 190,892 MT⁷ of MS from the refineries. OGRA being a regulatory Authority failed to apply Rules 66 & 69 against OMCs on this continuous violation.

6.17 As a consequence of this refusal of OMCs to lift, glutting the local refineries, the so-called ban on imports was brought about on March 25, 2020 that adversely effected the market in coming months.

⁷ MoEPD

SILENCE OF OGRA ON SPECIFYING OF MINIMUM STOCK OF CRUDE OIL BY REFINERIES

6.18 According to one of the licensing conditions mentioned in Rule 53 (xiv), OGRA was mandated to specify minimum stock requirements of crude oil by refineries. OGRA remained oblivious to this very important duty through the years.

ILLEGAL GROWTH OF RETAIL OUTLETS

6.19 During the last decade, a large number of illegal/irregular retail outlets have been setup across the country. This is directly proportional to unprecedented growth of OMCs. Though clear-cut guidelines exist about setting up of retail outlets (2 tons/day for 20 days or 40 tons storage capacity of MS per retail outlet), OMCs have simply flouted this requirement. Presently more than 2,100 retail outlets exist without required capacity. To top it, OGRA has regularized 753 such retail outlets by fining and collecting a meager amount of **Rs. 138.4 million⁸** over last 05 years (average regularization is Rs. 184,000 per retail outlet). Under Rule 69 of Pakistan Oil Rules 2016, provision exists that OGRA could fine each such retail outlet upto 01 million per day. However, OGRA decided not to invoke this penalty and went with much lighter fines of Rs. 100,000 to Rs. 500,000/- This shows complicity of OGRA in this illegal charade. The subject will be discussed in more detail in retail outlet chapter.

UNLAWFUL OPERATIONS OF PRIVATE STORAGE COMPANIES

6.20 Rules 31 & 32 of Pakistan Oil Rules 2016, make it mandatory for the existing private oil storage company with non-oil storage facility being used for oil storages to obtain license from OGRA under Rule 28. No such existing private storage companies or non-oil storage facility has lawfully obtained license so far according to the information furnished by OGRA to the Commission. OGRA issued notices to the non-registered companies/facilities to obtain license to operate (Al-Rahim Tank Terminal, Al-Abbas Sugar Mills Pvt Ltd, Terminal-1 (I Puri), Al Noor Pvt Ltd., Pakistan Molasses Co.). The said companies in response to these notices have obtained status-quo from Sindh High Court, Karachi, since March 2017. Hence, the matter is sub-judice in Sindh High Court which was never vehemently pursued by OGRA (**Annexure 6.2**).

⁸ OGRA

UNLAWFUL JOINT VENTURES AND HOSPITALITIES AMONGST OMCS & UNREGISTERED PRIVATE STORAGE COMPANIES

6.21 The joint venture and common usage of storage between OMCs, on the pretext of 'ease of doing business', is neither permissible nor legal according to the **Rule 53 (License Conditions) of Pakistan Oil Rules, 2016**. Due to weak check and balance and poor supervision of OGRA, this practice is still going on between OMCs without any legal justification. Presently BYCO, Hascol, My Petroleum, Zoom Marketing, Total and even state owned PSO have developed joint venture storages. OGRA is reluctant to take any legal action against the wrongdoers for the reasons best known to it.

NON-ADHERENCE OF OMCS TO MAINTAIN SPECIFIED STOCKS OF 20 DAYS

6.22 As shown in previous chapter, 90% of the OMCs remained short of specified 20/days stock cover from January to June 2020. As MoEPD refused to invoke Rule 34 of supposedly defunct Petroleum Rules 1971, OGRA was equally unwilling to act under umbrella of Rule 35 of newly promulgated Oil Rules of 2016. Only when crisis hit the nation in June 2020, OGRA fined 09 OMCs a mere Rs. 25 million to justify its performance and existence.

CONCLUSION

6.23 The story of OGRA since its establishment (2002) and initiation in oil industry (2006), is rife with irregularities and illegalities. Starting with in-ordinate delay in drafting and promulgation of rules, issuing plethora of licenses without checking the antecedents of the owners/directors, unduly extending provisional licenses, issuing illegal provisional marketing permissions, ignoring its essential duty of developing strategic storage and inability to control mushroom growth of illegal retail outlets, no plausible explanation has been rendered by OGRA. Since promulgation of Pakistan Oil Rules 2016, it was clear-cut mandate of OGRA to check the stock and ensure adequate availability of 20 days stock by each OMC. Not only this responsibility was constantly ignored but OGRA assumed and insisted that this function did not fall within their ambit. Same goes for the requisite stock of crude oil by the refineries. From the perspective of performance, the appointment of Chairpersons and Members (Oil, Gas and Finance) over the years becomes seriously questionable. This issue would be taken up in recommendations part of the report.

CHAPTER 07

DEPARTMENT OF EXPLOSIVES

- 7.1** Department of Explosives is an attached Department working under the administrative control of Ministry of Energy (Petroleum Division) and its main objective is to ensure the public safety, security of human lives and their properties within the licensed premises, with respect to manufacturing, transportation, storage, import, export, selling and use of all explosive setups including petroleum products.
- 7.2** Petroleum Act, 1934 read with Petroleum Rules 1937 (amended in 2010) is the basic legal instrument defining the role, mode of operation and functions of Department of Explosives related to Petroleum Products.
- 7.3** Headed by DG Explosives and assisted by 05 Regional Directors, other human resources at the disposal of Department of Explosives are tabulated below: -

Table 17: Sanctioned strength of Department of Explosives

Regions	Sanctioned Strength
Head Office, Islamabad	43
Lahore	16
Karachi	19
Multan	19
Quetta	10
Peshawar	12
TOTAL:	119

Source: Department of Explosives

FUNCTIONS OF DEPARTMENT OF EXPLOSIVES

- 7.4** Issuance of licenses for transportation, storage, production, refining & blending of petroleum, Mineral Compressed/Liquefied Gases, Industrial Compressed Gases and other inflammable substances, manufacture, possession, use, sale, transport, export, import of explosives and Petrochemicals under the law.
- 7.5** To conduct safety inspections of licensed premises, installations and equipment to ensure compliance with safety regulations.

LICENSES GRANTED FOR PETROLEUM PRODUCTS BY DEPARTMENT OF EXPLOSIVES

7.6 Department of Explosives grants the following licenses regarding the storage and transportation of petroleum products:

Table 18: Type of Forms Licenses Issued by Department of Explosives

Forms Licenses Category	Licenses Issued to	Relevant Rules
K	Retail Outlets	Petroleum Rules 1937 as per 114, 115(3) and Schedule-I of Petroleum Rules 1937.
L	Storage Tanks	-do-
M	Storage of Petroleum Products in Drums	-do-
Q	Transportation Vehicles (Oil Tankers Lorries)	Petroleum Rules 1937 as per Rule 77 and Schedule-I of Petroleum Rules 1937.

Source: Department of Explosives

FLAWS AND LAPSES

DEBATABLE AUTHORITY OF DEPARTMENT OF EXPLOSIVES TO ISSUE FORM K, L, M AND Q LICENSES

- 7.7 Notwithstanding the nullifying effect of Section 43 of OGRA Ordinance, 2002 read with rule Pakistan Oil Rules 2016 upon Petroleum Act 1934 read with Petroleum Rules 1937, Department of Explosives continues treading on the exclusive territory of OGRA by issuing various licenses regarding technical standards of storage and transportation of petroleum products as discussed in detail in Chapter 3.
- 7.8 Irrespective of the opinion of Commission that OGRA Ordinance 2002 has lawfully succeeded many provisions of Petroleum Act 1934 due to the overriding effect, some other irregularities, digressions and violations of OGRA Ordinance 2002, read with Pakistan Oil Rules 2016, being done by the Department of Explosives are mentioned below.

EXAMPLE OF IRREGULAR GRANT OF FORM 'L' LICENSES BY DEPARTMENT OF EXPLOSIVES

- 7.9 The following are the examples regarding irregular grant of Form 'L' licenses by Department of Explosives:

i. Rules 28, 31 & 32 of Pakistan Oil Rules 2016, all the private oil storages or non-oil storage facilities, being used for oil storages, are liable to register with OGRA. Violating this clear legal injunction, Department of Explosives keeps issuing and renewing Form 'L' licenses to the private storage companies even though unregistered with OGRA. These private terminal storages include:

- a. Al-Rahim Trading Terminal Pvt. Limited
- b. Al-Rahim Tank Terminal Pvt. Limited site 1 & 2
- c. Al-Noor Terminal Pvt. Limited, Al-Hamad Terminal Pvt. Limited
- d. Al-Abbas Sugar Mills Limited
- e. Pakistan Molasses Company (PMC)
- f. Terminal 1 Pvt. Limited
- g. Some other private storage companies

(All of the above are situated at Karachi Port Trust (KPT) at Keamari and FOTCO Terminal at Port Qasim)

ii. Department of Explosives has granted Form 'L' licenses to the storage tanks of the OMCs and the private storage companies even before the completion of their work plan. They are as under:

- a. Terminal 1 Pvt. Limited (Private Storage Company) has been granted Form 'L' license for the 19 storage tanks by the Department of Explosives at Port Qasim, but actually only 10 storage tanks were constructed and are operational whereas, the remaining 09 storage tanks exist nowhere.
- b. Attock Petroleum Limited (APL) has managed to get Form 'L' license from the department even when the construction of storage tanks of **35,000 MTs** capacity was under process. Form 'L' of the APL was cancelled by the Department of Explosives vide letter No. KAR-4535/P/2378 dated 15.10.2020 (**Annexure 7.1**) after the visit of the Commission on 14.10.2020.

LACK OF CHECK AND BALANCE OF DEPARTMENT OF EXPLOSIVES OVER PRIVATE STORGAE/ TERMINALS COMPANIES

7.10 Department of Explosives has no check and balance over the storage tanks of the companies for petroleum products. Form 'L' was granted by the Department of Explosives for the storage of Petro Chemicals (ethanol and

methanol) and Molasses, but petroleum products of the OMCs were being stored by the private companies located in Karachi Port Trust (KPT) on long lease. For example, Al Abbas Sugar Mills Limited Tank Terminal was granted form 'L' for the storage of the Petro Chemicals, but HASCOL used that storage facility to store petroleum products and chemicals (N-Hexane and Vinyl Acetate Monomers) from 2013-2019. Pakistan Refinery Limited (PRL) also used Al-Abbas storage capacity for storage of MS and HSD which was subsequently dispatched to the Fast Oil Pvt. Limited (OMC).

7.11 Similar violations have been observed in other private storage companies like Al-Rahim Trading Terminal Pvt. Limited, Al-Rahim Tank Terminal Pvt. Limited site 1 & 2, Al-Noor Terminal Pvt. Limited, Al-Hamad Terminal Pvt. Limited, Pakistan Molasses Company (PMC), Terminal 1 Pvt. Limited where Form 'L' have been granted for the storage of petrochemicals. However, petroleum products of different OMCs are being stored in their storage tanks meant exclusively for petrochemicals.

7.12 The Form 'L' licenses of above-mentioned and others private storage companies can be cancelled under Rule 121(1) of Petroleum Rules, 1937 (amended in 2010) which states that:

"Every license granted under these rules shall be liable to be cancelled by orders of the licensing authority for any contravention of the Act or of any rule thereunder, or of any condition contained in such license."

7.13 Let alone cancellation of any license of storage companies violating the provision of the Act, the role of Department of Explosives remained ceremonial and perfunctory instead of being a watchdog of observance of safety standards. Awakened by Commission, Department of Explosives recently sprung into action and cancelled the license of Al-Shamash Private Storage Limited and storage of Attock Petroleum Limited at FOTCO Terminal.

NON-UNIFORMITY IN ISSUANCE OF FORM 'L' LICENSES BY DEPARTMENT OF EXPLOSIVES

7.14 There is no standard process followed by the Department of Explosives on issuing of Form 'L' licenses to the storage depots in all Provinces of Pakistan. In Punjab, Department of Explosives mentions clearly the category of Dangerous Product (DP) and Non-Dangerous Petroleum Product (NDP) in the Form 'L'

Licenses, but in Province of Sindh the department issues generalized Form 'L' licenses as DP and NDP without mentioning the specific category of petroleum products/chemical etc. to the storage depots/terminal of the private companies as well as OMCs (*Annexure 7.2*).

LACK OF COORDINATION BETWEEN OGRA AND DEPARTMENT OF EXPLOSIVES IN ISSUANCE OF FORM 'K' & 'L'

7.15 Both OGRA and Department of Explosives do not share the information covering the OMCs, private storage depots/terminal and retail outlets for effective monitoring and regulation of rules and standards in the petroleum industry especially the issuance of Forms 'K' and 'L'.

SEALING OF ILLEGAL RETAIL OUTLETS

7.16 As discussed in chapter 2, **the most alarming thing about Department of Explosives is that they have issued Form 'K' licenses to illegal retail outlets.** In this regard, there is stark difference between figures of OGRA, Department of Explosives and the OMCs. As a small initiative taken by the Commission (as two of its members are from Anti-corruption Establishment, Punjab) an initial list of 603 illegal retail outlets provided by the OMCs, out of which, the Anti-Corruption Establishment, Punjab in collaboration with Inspection Officers of OGRA (an authorized representative of concerned Deputy Commissioner) was able to seal 345 illegal retail outlets across Punjab in a short period of two weeks.

VIOLATION OF FORM 'Q' LICENSES

7.17 Form 'Q' licenses are issued by Department of Explosives as per Petroleum Rules, 1937 (amended in 2010) to Oil tankers/lorries which are used for transporting petroleum products from the terminals/storage tanks to the retail outlets. Practically none of the oil tankers/lorries have form 'Q' licenses. This, despite the fact that thousands of such oil tankers are plowing on road on daily basis across Pakistan.

PASSIVITY/ FAILURE OF OGRA TO ASSUME CONTROL OF DEPARTMENT OF EXPLOSIVES

7.18 Despite establishment of OGRA in 2002 and promulgation of Pakistan Oil Rules 2016, neither OGRA nor MoEPD has bothered to bring Department of Explosive under the fold of OGRA. Since formation of Pakistan Rules, 2016 it became all the more important for OGRA to take control of Department of Explosives for

implantation of all provisions of safety standards etc. as envisaged in the rules. Theoretically speaking, Pakistan Petroleum Rules, 1937 are now defunct as per contention of OGRA authorities, yet there is not a single step taken in the direction that Department of Explosives should come under complete domain of OGRA. Among other things, this is another example of inertia that has prevailed over the years among say-soes of OGRA.

CHAPTER 08

OIL MARKETING COMPANIES (OMCs)

- 8.1** Oil Marketing Companies, or OMCs as they are commonly referred to, are companies, licensed by OGRA, that purchase or obtain petroleum products from local refineries or import it from abroad for selling, distributing, and marketing with approval of the Authority, either through its agents or dealers that operate filling stations.
- 8.2** The past 20 years has seen a significant rise in the number of OMCs, as currently there are 66 OMCs licensed in Pakistan with 34 of them actively involved in marketing, a number which stood at only 5 up till the year 2000. In comparison, if we look at some countries in the subcontinent, the numbers are tabulated below:

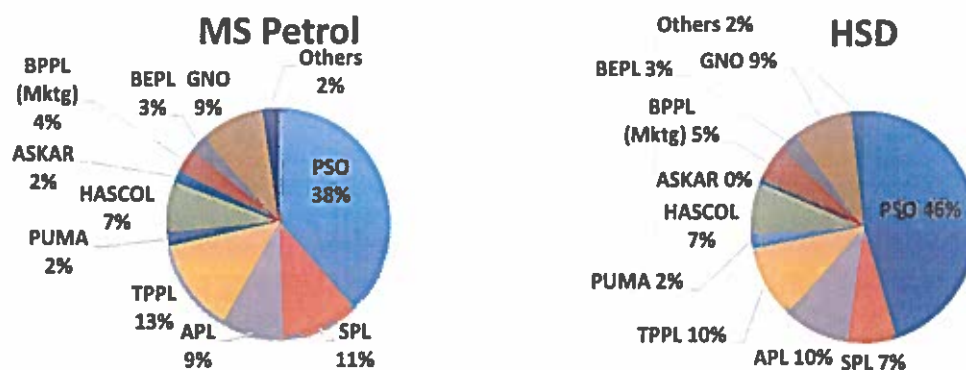
Table 19: No. of OMCs in Different Countries

Sr No.	Name of Country	No. of Public OMCs	No. of Private OMCs	Total No. of OMCs
1	Bangladesh	04	01	05
2	India	06	03	09
3	Sri Lanka	01	01	02
4	Nepal	01	-	01
5	Bhutan	01	02	03

- 8.3** Hence, these five countries from the South Asia have a total of 20 OMCs, while in Pakistan, provisional licenses were issued to 21 OMCs during a six months' period (i.e. between July and December 2016), and OGRA's rationale for doing so was to "foster competition, enhance storage capacity of petroleum products, increase private investment and ownership in the midstream and downstream petroleum industry by reduction in upfront investment requirement". The approach adopted by OGRA in Pakistan, which stands in stark contrast with that of other South Asian countries begs the question of the need for issuing licenses to such a large number of OMCs? And whether the increased competition has made the sector more efficient? These questions are extremely relevant in the wake of the recent petrol shortage, which seems to have become a recurring incident in this country.

8.4 Out of the 66 OMCs, 9 have the regular license, 25 have the provisional license with marketing permission, while 32 have provisional license without marketing permission. It is pertinent to point out while during the proceedings of the Commission, it was routinely complained by the representative of the OMCs about the low margins in this industry. Yet there are 34 companies that have licenses to market their products, while 32 others are vying to get the same (*Annexure 2.1*).

8.5 Out of the 34 OMCs that have the license to market their products, 10 OMCs combined make about **98.57%** of total MS sale in the country, with Pakistan State Oil (PSO) having the largest market share (**at 38.43%**). In terms of HSD, the same 10 OMCs combine for **98.72%** of total HSD sales, with PSO capturing **45.46%** of the total market share for the FY 2019-20⁹.



8.6 The total storage capacity of all OMCs (including joint ventures) for MS and HSD are **582,863 MT** and **993,605 MT** respectively. Unsurprisingly, PSO has the highest storage capacity – **244,717 MT** for MS and **315,816 MT** for HSD.

⁹ Figures provided by MoEPD

Table 21: Detail of Storage Capacity of OMCs

Sr#	Name of OMC	Storage Capacity (MTs) as per OMC (Port + Countryside)		Joint Venture Storage		Total Capacity	
		MS	HSD	MS	HSD	MS	HSD
1.	Al Noor Petroleum	660	1,250	0	0	660	1,250
2.	Allied Petroleum	22,038	10,219	0	0	22,038	10,219
3.	Askar	1,719	10,497	0	0	1,719	10,497
4.	Attock	42,921	89,143	0	0	42,921	89,143
5.	BE Energy	46,825	102,300	0	0	46,825	102,300
6.	Best Petroleum	850	1,570	0	0	850	1,570
7.	Byco	17,100	9,100	1,000	1,500	18,100	10,600
8.	Euro Oil	2,000	5,000	0	0	2,000	5,000
9.	Exceed Petroleum	140	260	0	0	140	260
10.	Fast Oil	1,350	750	0	0	1,350	750
11.	Flow Petroleum	750	800	0	0	750	800
12.	Fossil Energy	23,100	37,300	0	0	23,100	37,300
13.	GO	43,209	80,660	0	0	43,209	80,660
14.	Hascol	32,950	184,300	1,680	4,000	34,630	188,300
15.	HiTech Lubricants	1,021	1,858	0	0	1,021	1,858
16.	Horizon Petroleum	868	2,283	0	0	868	2,283
17.	Jinn Petroleum	2,087	3,100	0	0	2,087	3,100
18.	Kepler Petroleum	450	1,205	0	0	450	1,205
19.	La Guardia	1,000	1,500	0	0	1,000	1,500
20.	Max Fuels	600	1,000	0	0	600	1,000
21.	MY Petroleum	0	0	5,300	2,850	5,300	2,850
22.	OIL Co Petroleum	2,941	12,000	0	0	2,941	12,000
23.	Oil Industries	1,082	1,258	0	0	1,082	1,258
24.	OTTO Pakistan	1,000	600	0	0	1,000	600
25.	PSO	229,123	301,337	15,594	14,479	244,717	315,816
26.	Puma	2,789	7,531	0	0	2,789	7,531
27.	Quality-1	1,594	1,490	5,400	2,700	6,994	4,190
28.	Shell	57,943	59,670	1,148	3,859	59,091	63,529
29.	Taj Gasoline	3,300	10,000	0	0	3,300	10,000
30.	The Fuelers	1,000	4,500	0	0	1,000	4,500
31.	Total Parco	27,601	27,406	2,852	4,856	30,453	32,262
32.	Vital Petroleum	6,500	4,500	0	0	6,500	4,500
33.	Zoom Marketing	1,700	1,500	1,300	500	3,000	2,000
34.	Zoom Petroleum	1,003	792	0	0	1,003	792
Total		579,214	976,679	34,274	34,744	613,488	1,011,423

Source: OMCs

CONDITIONS OF OMC LICENSES

8.7 As mentioned earlier, only 9 OMCs out of the 66 have regular licenses. Their names are as follows:

Table 22: Regular Marketing Licenses Holding OMCs

Sr No.	Company Name	Category of license	Date of approval of initial license	Date of expiry of license
1	M/s. Attock Petroleum Ltd.	Confirm	11 February 1997	14 June 2029
2	M/s. Total Parco Pakistan Ltd.	Confirm	17 January 2001	10 March 2029
3	M/s. Byco Petroleum Pakistan Ltd. (Marketing)	Confirm	04 March 2002	Company has yet to obtain license under Oil Rules 2016
4	M/s. Pakistan State Oil Company Ltd.	Confirm	23 August 2002	14 May 2029
5	M/s. Puma Energy Pvt. Ltd. (Formerly Admore)	Confirm	16 December 2003	10 September 2037
6	M/s. Hascol Petroleum Ltd.	Confirm	25 February 2005	Expiry yet to be decided by Authority
7	M/s. Shell Pakistan Ltd.	Confirm	11 January 2011	14 May 2029
8	M/s. BE Energy Ltd.	Confirm	18 August 2005	Company has yet to obtain license under Oil Rules 2016
9	M/s. Gas and Oil Pakistan Ltd.	Confirm	12 June 2012	18 March 2039

Source: OGRA

8.8 Regular licenses are usually valid for 30 years and some of its key terms and conditions as provided in Rule 53 of Pakistan Oil Rules 2016 are as follows:

- i. The company will ensure to maintain requisite storage capacity for 20 days stocks of its sales to meet any emergency need;
- ii. The retail outlets will be constructed/set up in accordance with OGRA's notified/specified technical standards for that category;
- iii. The company shall not abandon any regulated activity, as part or whole, resulting into discontinuation of supply of petroleum products or its sale in any area without the prior written consent of the Authority (OGRA);
- iv. The operations of the company shall be governed at all times by the applicable Rules and the OGRA Ordinance, 2002;

v. The company shall ensure prudence, cost effective and economic efficiency in operation of the regulated activity and cost-effective supplies to the consumer.

8.9 Provisional licenses without marketing permission are valid for 3 years, within which the OMC is expected to develop the infrastructure that they proposed in their initial marketing plan, and in case they are unable to do so (which has been the case with 23 out of the 25 OMCs), they can apply for an extension, however, even with provisional licenses, these OMCs are expected to maintain a 20 days stock and also ensure consistent supply of petroleum products.

MALPRACTICE AND VIOLATIONS OF LICENSE CONDITIONS DURING SHORTAGE

8.10 The Commission was tasked with inquiring the causes of June 2020 petrol crisis, where a shortage of petroleum products was experienced across the country. Inquiring the practices of OMCs during this period brought to fore several utter disregard and gross violations of the license conditions by the OMCs, in addition to various malpractices which compromised the quality, consistency, and cost-effectiveness of the supply of petroleum products to the consumers.

8.11 These violations of license conditions as well as malpractices are described below, along with specific examples of each that were identified through the thorough exercise undertaken by the Commission, including fact finding visits to retail outlets across Punjab:

SETTING UP EXCESS RETAIL OUTLETS

8.12 The Commission found that OMCs routinely set up excess retail outlets, i.e. beyond their storage capacity, and got away with it by paying nominal fines. For example, based on its storage capacity of 27,601 MT, Total Parco can only have 690 retail outlets (40 tons of MS/outlet), however it reported 836 locations to the Commission. Hence it has set up 146 retail outlets over and above its allowed limited. Similarly, Puma Energy Pvt. Ltd is allowed to set up 70 retail outlets based on its current storage capacity; however, 600 K-Forms have been issued to the OMC, which means that they have 530 excess retail outlets (i.e. an excess of more than 750% of the actual allowed limit). Furthermore, Zoom Petroleum, which is only allowed to operate 25 retail outlets is currently reporting 43 outlets to OGRA. Moreover, Askar is only allowed to set up 43 retail outlets based on its storage capacity, however the Department of Explosives

has already issued 893 Form 'K' for operational outlets, while another 175 Form 'K' are being processed for under construction outlets. The absence of proper checks and balances to ensure that the OMCs are abiding by their license terms provides the OMCs with the leeway to set up excess outlets, despite not having adequate storage capacity to cater to them. Moreover, the penalties, if applied are not sufficient to act as a deterrent. For example, in the year 2015-18, OGRA only penalized Askar of **Rs. 11.3 million** for 113 excess retail outlets (**Annexure 8.1**). With the regulatory body effectively turning a blind eye to the gross violations by the OMCs of the license's terms and conditions, the OMCs continue to make large profits with minimal investments in improving the infrastructure of the petroleum industry or making it more efficient, which was the premise behind granting them license to such a large number of OMCs.

MISREPORTING SUPPLY TO RETAIL OUTLETS

8.13 The Commission required the OMCs to submit their location-wise supply numbers from January to July 2020, for both MS and HSD, and subsequently visits were conducted to a number of retail outlets across Punjab to cross-check the reported data, in order to assess its accuracy. The owners of the retail outlets were required to provide affidavits on which they reported the supply they received from the OMC during the period of shortage. The exercise proved that at a number of locations the reported data was fudged by the OMCs whereby they over-reported their supply in a number of different ways. Some ways in which they over-reported or misreported are provided below:

OVER-REPORTING OF SUPPLY TO RETAIL OUTLETS:

8.14 Total 842 filling stations were visited and detailed scrutiny of almost 196 was carried out. Since only a sample of retail outlets were visited, the prevalence of such practices casts a doubt over the integrity of the overall data provided by the OMCs. Some examples are mentioned below:

- i. Discrepancies were found in the supply provided to 14 randomly selected retail outlets by Gas & Oil Pakistan Ltd. During the month of June 2020, as per the retail outlet owners, the volume of MS supplied by the OMC was 1,272,596 liters short of what was claimed by the OMC.

- ii. Discrepancies in reporting was found at 06 retail outlets of Puma Energy Pvt. Ltd. whereby the OMC over-reported the supply of MS by 249,439 liters based on the finding on the ground.
- iii. In the case of BYCO Petroleum, there was a discrepancy of 872,581 liters of MS in the numbers reported by the OMC and those confirmed by the retail outlet owners of 11 locations for the month of June 2020.
- iv. Askar was found to over-report their supply of MS by 734,381 liters based on the visit of 14 retail outlets.
- v. Furthermore, HASCOL over-reported sale of 6,192,306 liters of MS in June 2020 across 27 retail outlets. It is pertinent to point out here, that not only do the numbers that were reported by the OMCs to the Commission not align with the site visit findings, but also they are not consistent with the numbers reported by the same OMC to the OCAC & MoEPD, with there being a difference of 11,199,048 liters of MS when compared with their daily supply to retail outlets from Depots in the month of June 2020.
- vi. **Huge supplies to far flung areas** Hascol reported supply of 1,058,000 liters MS in the month of June to a filling station located in Timergara, Lower Dir, Khyber Pakhtunkhwa (***Annexure 8.2***). Their supply even in the month of April and May, when the lockdown due to COVID-19 was fully in place and tourism was at a standstill, combined stood at 2,169,000 liters MS, which is almost beyond the realm of possibility. Furthermore, such anomaly also points towards manipulation and misuse of IFEM model, as reporting such quantities to far flung areas for claiming primary freight under IFEM would result in undue loss to other OMCs. In the above-mentioned specific example, on the basis of running IFEM freight rates, Hascol gained at least Rs 15.5 million in the month of April and May considering the primary freight of Rs 7.17 per liter at Tarujabba depot, which is nearest to Lower Dir.
- vii. **Reporting Supply to Non-Operational Retail Outlets** Askar reported supply of more than 1.1 million liters of MS between January 2020 and June 2020 to a retail outlet in Nankana Sahib namely Suleria Filling Station that has not been operational since long.
- viii. **Reporting Supply to Retail Outlets with cancelled contract** Askar reported supply of 122,000 liters of MS in the month of June 2020 to a petrol pump, namely Mian Younas sons filling station in Lahore, who provided affidavit

that they are not getting any product from OMC since long and even have filed a civil suit for cancelation of contract with Askar which was decreed in their favor.

- ix. **Blank Entries in Supply Records** Askar reported sale of up to 2 million liters of MS to blank entries in a month, which makes one question where was the fuel actually supplied and eventually sold, especially during the petrol crisis.

PREFERENCE FOR BULK PURCHASERS AND CREATION OF 3RD PARTY BULK DISTRIBUTORS

- 8.15** During the ground check some retail outlets of Puma Energy, the retail outlet owners reported that they are not getting any supplies from Puma Energy directly, but rather from a third party called 'Fuel Experts'. The invoices they provided were also issued by 'Fuel Experts' and not Puma (**Annexure 8.3**). When cross-checked with the data provided by Puma Energy to the Commission, the retail outlet owners' name entered as 'Fuel Experts' whereas in reality Fuel Experts was merely an intermediary which was purchasing petrol from Puma Energy and then supplying it to different retail outlets. **Since OMC are required to directly supply products to retail outlets for nozzle sale, the involvement of a third party or a bulk supplier is illegal.** Doing this, the control that OMC has on the quality of end product is compromised. This opens the gates for the so-called bulk purchasers (otherwise illegal) to compromise the quality through mixing and then providing it to the retail outlets of the OMC. Moreover, these bulk suppliers are not bound by the terms and conditions applied to the OMCs hence they can get involved in inter-OMC sale of products, which disrupts the overall structure and places the OMCs that are abiding by the license terms agreement at a disadvantage, thus effectively insinuating them to get involved in such malpractices.
- 8.16** During the petrol crisis period in general, various OMCs reported unnatural supply of products to certain bulk purchasers, which is extremely questionable and needs to be probed further as they can be deemed as instances of hoarding and creating artificial shortages. **For example, HASCOL provided a petrol pump in Gujrat called Shahrah e Azam filling station which has a capacity of 31,822 liters with more than 2.9 million liters MS in April and 3.3 million liters MS in May, when the demand for such products were low across the country due to the lockdown imposed.**

HOLDING BACK PETROLEUM STOCK

8.17 Artificial petrol shortage is also created through holding back MS stocks in the storages, and not supplying it to the retail outlets, even when they dry up. OMCs tend to do so when they expect the petrol prices to increase, hence enabling them to sell their product at higher rates later on, albeit at the cost of creating a shortage initially. Such actions are a gross violation of the terms and conditions of the licenses provided to the OMCs but still such practices were rampant during June 2020 petrol crisis. For example, during the proceedings, the Commission found through the reported figures that Gas & Oil Pakistan Ltd. had ample stocks of MS, averaging more than 65 million liters during the month of June, however they held back on supplying it to their retail outlets, and allowed the retail outlets to dry up until the petrol prices increased. Similarly, other OMCs, such as Askar (10 million liters) and BYCO Petroleum (6 million liters) had substantial average stocks of MS during the month of June 2020, which they chose not supply to their retail outlets, instead those were held back until the petrol price hike. A prime example of such holding back of supply is that of a retail outlet of Attock Petroleum in Eminabad, Gujranwala (**Annexure 8.4**) in which only 68,000 liters of MS was supplied during the first 26 days of June (i.e. before the price hike) and a staggering 366,000 liters was supplied in a span of 02 days after the price hike (i.e. 27 and 28 June).

MANEUVERING VESSEL BERTHING AT PORT:

8.18 In addition to hoarding or holding back stock in the storages during the petrol crisis, the Commission also found the OMCs guilty of keeping the product in the high seas. A prime example would be of the vessel Ploutos, which was carrying 57,932 MT (78,729,588 liters) of MS, a combined consignment of 7 different OMCs. The vessel arrived on 15 June but stayed at outer anchorage for more than 14 days only to discharge on 29 June, 03 days after the price hike was announced. This product remained at sea and was not discharged during crisis which is questionable as it translated in additional profit of more than Rupees two billion to 07 OMCs (refer to chapter 10).

NON-MAINTENANCE OF 20 DAYS STOCK

8.19 One of the aforementioned OMC license conditions for marketing petroleum products is to ensure that there is a 20 days stock which can be used in case of

emergencies and/or shortages. The country experienced a petrol crisis during June 2020, and while some OMCs held back its stock, other did not have adequate stock in their reserves, which they could use in such a situation. However, OMCs were found to show little regard for this condition, as Quality-1 Petroleum Pvt. Ltd., which has a storage capacity of 1,954 MT, does not use its storage at all rather it supplies petrol to its retail outlets directly from the refineries. Hence, they do not have even a single days' stock in reserves – a gross violation of the license terms. While Quality-1 Petroleum is an extreme example, other OMCs such as Askar also do not meet this condition, and generally have reserves of less than the prescribed 20 days stock. This matter has been elaborated upon in chapters 5 and 6.

UNDER UTILIZING THE FULL IMPORT QUOTA

8.20 During the petrol crisis, when the pumps were dry, i.e. petrol was not available at them, some of the OMCs did not utilize their full import quota despite their being a clear need for it, hence further contributing towards creating a petrol shortage in the country. A prime example of this is Askar, which was required to import 12,000 MT of MS, however it chose not to import any petrol at all. Similarly, HASCOL was given an import quota of 50,000 MT during the month of June 2020, however it only imported 25,494 MT, i.e. almost half of its quota. Another OMC, namely BE Energy, deferred its import of June, even though PR Meeting for the month of June clearly stated that no OMC can cancel or defer their import. According to the regulation of OGRA, import is obligatory on each OMC and if it does not comply with the committed import volume, a penalty shall be imposed on the said company. However, the OMCs showed complete disregard of this stipulation and got away with it. As a result, PSO had to shoulder the burden of importing a greater volume and percentage of products, albeit at a loss. During the period of crises, PSO imported 55.5%¹⁰ of the total MS, whereas its market share historically has been around 36%.

IMPORTING PETROL IN EXCESS OF STORAGE CAPACITY

8.21 Every month the volume of petroleum products to be imported is determined by the ability of the available stock and the local refineries production

¹⁰ MoEPD

capacity to meet the projected demand for those products. And once the overall demand is determined, the OMCs get to import a particular volume based on their storage capacities and sales. This helps ensure that their retail outlets continue to provide consistent supply of petroleum products to the end consumers. However, while some struggle to get a fair share of import quota despite having large storage capacities, others are able to get import quotas beyond their storage capacity. MY Petroleum is a prime example of it, as it was able to import 9,000 MT of MS in the second half of FY 2019-20 (i.e. Jan – June 2020) despite only having a storage capacity of 500 MT, and that too a Joint Venture. Given that each month, it imported at least 1,000 MT of MS, clearly the excess MS was sold to other OMCs illegally or stored at an illegal storage facility. Nevertheless, MoEPD never questioned the large import volumes, rather the OMC was allowed to import in excess of its storage capacity each month.

IMPORTING PETROL DESPITE NO RETAIL OUTLETS

8.22 While on one hand OMCs are allowed to import petrol at a volume beyond their storage capacity, on the other hand OMCs are allowed to import it despite not having any retail outlets at all, which begs the question what are these OMCs going to do with the petrol. Surely, they were selling it to other OMCs, if they could not sell it themselves. Fossil Energy is a prime example of such a company, as it has a combined storage facility across two location of 17,600 MT however it did not have any operational outlets and only 6 outlets that were shown as under construction. However, despite that it imported 5,478 MT of MS between March and July 2020. The fact that such an OMC was able to get an import quota clearly shows that the regulators/MoEPD are 'allowing' such malpractices as inter-OMC sale. Another instance where the collusion between the regulators and the OMC is evident is the fact that the OMC imported 1,000 MT of MS on 11 March 2020 (already mentioned briefly in chapter 05) without having an import quota assigned previously. **In fact, the representative from Fossil Energy did not even attend the PRM that took place in February.** However, as soon as the vessel arrived, a PRM was called on the same day and Fossil Energy was allocated an import quota of 1,000 MT. This, again, shows that the regulators and the OMCs are working hand in glove in this entire scenario and disrupting the overall structure, where even OMCs without any operational outlets are not only importing large volumes of MS but

also have the audacity to do so without even being assigned the import quota by the regulators prior to the placement of order.

DISREGARD OF SAFETY PROTOCOLS

8.23 OMCs also tend to illegally store petrol at storages which are not suitable/fit for storage of petroleum products. Not only does such practice constitute hoarding and contribute towards creating an artificial shortage of petrol in the country, but also it risks the life of those in/around such storages, as it poses a safety hazard. It was proven by the explosion in Beirut in August 2020 where a large amount of ammonium nitrate which was stored without proper safety measures, exploded causing 204 deaths, 6,500 injuries, and property damage exceeding \$15 billion. While such practices are hard to detect, as they are hardly reported, but recently OGRA suspended the license of HASCOL in Khyber Pakhtunkhwa and imposed a fine of Rs. 10 million on the company for illegally storing MS at Al-Shams Storage at Nowshera – a facility which was not suitable for that purpose, and which met with an accident and caught fire.

8.24 Another way the OMCs were found to flout the safety protocols and thus jeopardize the safety of those located near their storage facilities was by receiving the clearance from the Department of Explosives (i.e. getting Form 'L') without meeting its due requirements. A prime example of this was Attock Petroleum getting the Form 'L' for a storage facility of 35,000 MTs, located at Port Qasim, even before the construction of the storage facility was completed. **While the Form 'L' was cancelled after a visit to the site by the Commission's team in October 2020, the issuance of the Form 'L' in the first place shows that the OMCs often do not pay full attention to the safety protocols and are able to get the required clearances to operate by leveraging their clout.**

CONCLUSION

8.25 An analysis of the practices of the OMCs suggests that due to the lack of checks and balances on them, the number of OMCs has mushroomed in recent years, and while the rationale for granting such licenses to a high number of OMCs was to encourage private investment in the infrastructure to improve supply of petroleum products in the country, due to the lack of

regulation and strict penalties on violators, the OMCs have been able to operate and generate profits without investing in the infrastructure or insulating the end consumer. The June 2020 petrol crisis is a prime example, where the OMCs opted to create an artificial shortage, through a range of malpractices included but not limited to hoarding supplies in storages and high seas and misreporting supply figures, at the expense of the end consumers, who were deprived off continuous access to petroleum products at nominal prices.

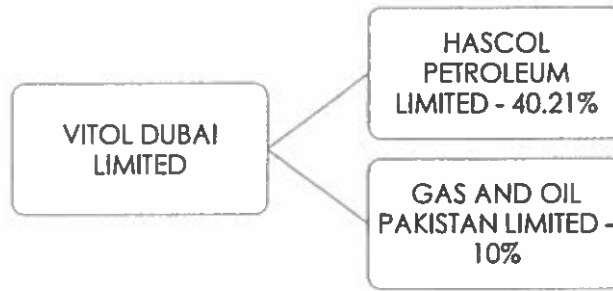
CHAPTER 09

INTER-RELATED INTERESTS OF DIFFERENT OMCs AGAINST THE SPIRIT OF OGRA RULES

- 9.1 As mentioned earlier, the objective of OGRA, as stated in the preamble of the Ordinance, is to '**foster competition**', increase private investment and ownership in the midstream and downstream petroleum industry, **protect the public interest** while respecting individual rights and provide effective and efficient regulations. Towards this end, OGRA has framed the Pakistan Oil (Refining, Blending, Transportation, Storage and Marketing) Rules 2016, in order to foster healthy competition among market players. One of the conditions for granting license to set up an Oil Marketing Company is that **the company is not affiliated in any form with any existing Oil Marketing Company operating in Pakistan** (Rule 35(1)(b)).
- 9.2 However, instances have surfaced wherein entities are either stakeholders in more than one Oil Marketing Company (including its subsidiaries), or are holding a substantial interest (directly or/and indirectly) in different companies through their associate companies or associate persons, or have cross ownerships in OMCs and their associate/subsidiary companies etc. Furthermore, these associated/related entities are also undertaking a huge number of transactions with each other, raising doubts about whether these contracts/arrangements **are on arm's length basis Rule 53(vii)**. Such a situation leads to deceptive market practices and creation of a monopoly among market players. Hence, healthy competition between companies cannot be ensured for the benefit of the economy, in total disregard of ORGA objectives/rules as well as competition laws. Some of the pertinent examples are mentioned below:

VITOL DUBAI LIMITED HAVING SHARES IN TWO MAJOR OMCS

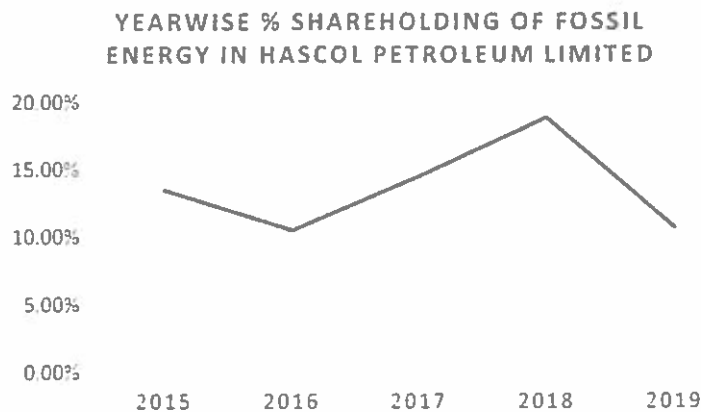
- 9.3 Shareholding of Vitol Dubai Limited, an international oil trading company, in two OMCs is depicted below:



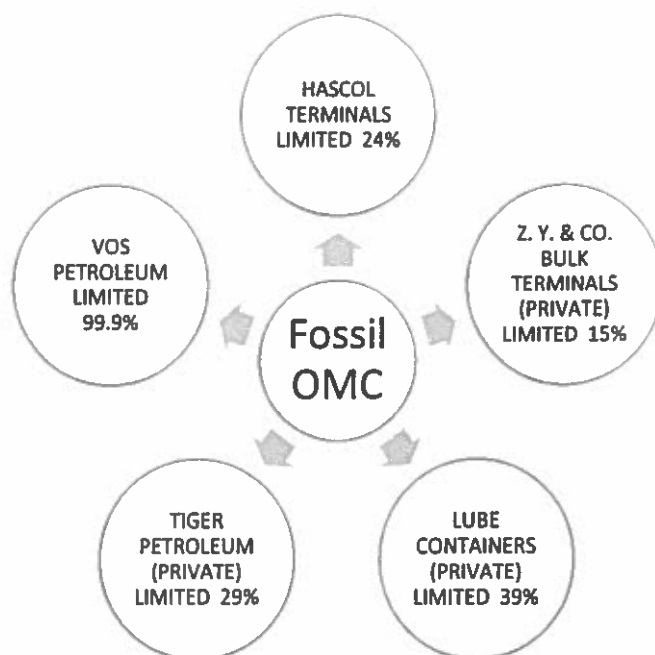
9.4 Vitol Dubai Limited has recently acquired shares both in Hascol and GO (2019-20). Both OGRA and Competition Commission of Pakistan (CCP) have not taken any cognizance of this issue. It is pertinent to mention here that Vitol is the main supplier of imported petroleum products to many private OMCs in addition to Hascol and GO. This huge acquisition is a clear-cut step towards monopolization and cartelization as the OMCs are primarily dependent on imports.

FOSSIL ENERGY (PRIVATE) LIMITED HAVING SHARES IN HASCOL

9.5 Fossil Energy (Private) Limited held shares in Hascol Petroleum Limited as per the details below:



9.6 Investment of Fossil Energy (Private) Limited in other petroleum related companies is as follows:

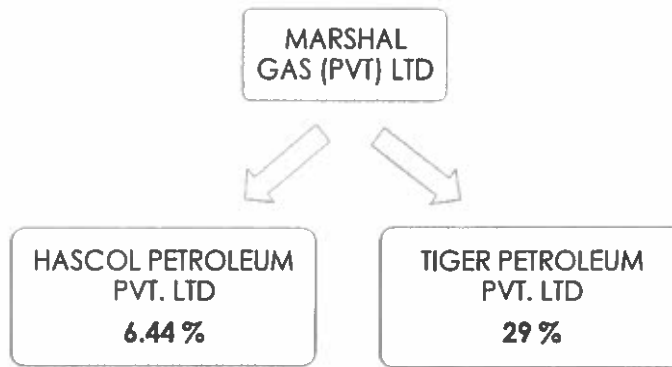


9.7 In 2015, 90 % shares of Fossil Energy (Private) Limited were held by Mr. Saleem Butt and remaining 10% by Ms. Nazia Malik. Shares in Fossil Energy (Private) Limited were then transferred in 2016 to Mr. Nadeem Ahmed Butt (90%), elder brother of Mr. Saleem Butt and Ms. Areeba Butt (10%). Mr. Saleem Butt was Chief Executive Officer (CEO) of Hascol Petroleum Limited from 2017 to 2018. He was also a Director in Hascol Petroleum Limited from 2011 to March 2020.

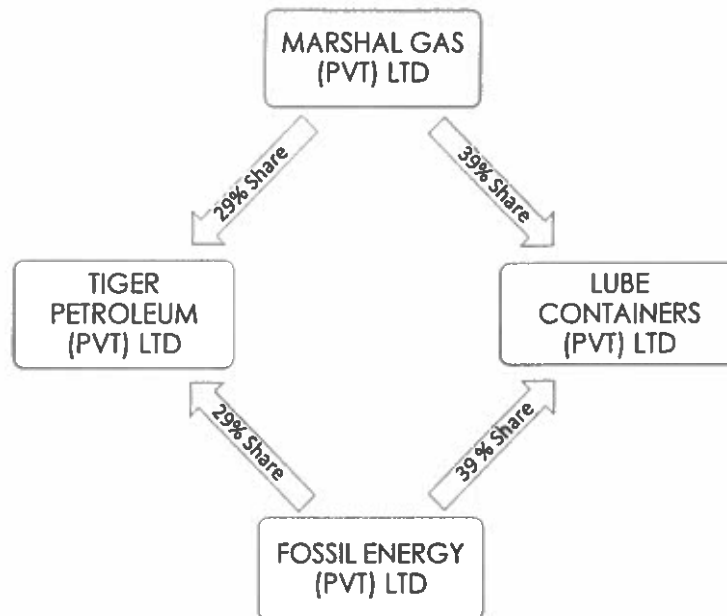
9.8 Further common link between Hascol and Fossil is that the both are connected through shareholdings in Hascol Terminals.

MARSHAL GAS (PRIVATE) LIMITED HAVING SHARES IN HASCOL AND ANOTHER OMC

9.9 Marshal Gas (Private) Limited holds 6.44% shares in Hascol Petroleum Limited. At the same time, Marshal Gas (Pvt) Ltd. has shares in another OMC, Tiger Petroleum Limited. One of the main shareholders in Marshal Gas (Private) Limited is one Mr. Liaquat Ali who was also a Director in Hascol from 2012 to October 2019.



9.10 The interrelation is further elaborated by the following:



9.11 Some other stark examples of such irregularities are summarized below:

- i. Two OMCs by the name of Zoom Petroleum Ltd. and Zoom Oil Marketing Company Ltd. are owned by one Mr. Arshad Mahmood and his son Mr. Umer Arshad respectively.
- ii. Mr. Saeed Mehdi, a renowned former bureaucrat, who remained Chairman of Board of Directors in Sui Northern Gas Pipeline Limited (SNGPL) from 2014-17, owns major shares in an OMC, namely Quality 1 Petroleum Limited. Prior to being Chairman SNGPL, he also remained Chief Executive of other OMCs namely ADMORE and Quality 1. Meanwhile Mr. Saeed

Mehdi's son, Mr. Ali Faisal is the current CEO and holds major shares of the OMC Exceed.

- iii. Another character, Mr. Hamid Khan, is reported to have had extensive business dealings with Hascol. However, after reportedly defaulting on huge credit in Hascol, he has now established a company by the name of Fuel Experts (Pvt) Limited. Although Fuel Experts is not an OMC, it is dealing with supply of petroleum products by procuring it from different OMCs and openly supplying it to several retail outlets countrywide on his self-generated invoices and delivery notes which is violation of OGRA rules.
- iv. Similarly, another such private company, Sitara Petroleum Services Limited, again not an OMC, is reportedly in the business of supplying petroleum products. Up to 2017, Sitara Petroleum Services Ltd's major shareholder and owner was Mr. Khalid Riaz, also the owner of OMC GO. Presently, the majority shares of Sitara Petroleum Services Ltd. (90%) have been transferred to one Mr. Tahir Iqbal, younger brother of Mr. Khalid Riaz.

OBSERVATIONS

9.12 From the above examples, it is evident that OGRA and Competition Commission of Pakistan (CCP) have been oblivious to their duties as a watchdog. Rather OGRA has encouraged and helped build up a monopolistic situation, in stark contrast with its mandate. When enquired from CCP officials, they replied that CCP only takes cognizance when share of a player exceeds 40% in any given business/industry. It is also evident that most of the OMCs are being run by a small group or cartel. Some people hop from one company to another through a revolving door. The Inquiry Commission, despite its huge landscape of TORs, has detected these anomalies in a short period of time. To safeguard such malpractices is an embedded part of OGRA rules. The inaction on part of OGRA again raises a serious question towards establishment and working of such an entity.

CHAPTER 10

QUANTUM OF FUEL HOARDING AND ITS ECONOMIC IMPACT

- 10.1 The month of June 2020, in which a fuel shortage was experienced, not only saw a reduction in the overall volume of fuel supplied by the OMCs, but also a sudden change in the market share of the OMCs, whereby the market share of Pakistan State Oil (PSO) increased while that of other OMCs dipped.
- 10.2 The Commission used the data provided by MoEPD of company-wise/month-wise sales of MS for FY2019-20 to determine the market share of each OMC before and during the fuel shortage. The pre-fuel shortage market share of each OMC was calculated using the MS supply figures from July 2019 to Dec 2019, where the average monthly market consumption was 657,571MTs. These market shares are presented in the table below¹¹:

Table 24: Detail of Average Monthly Supply and Market share of OMCs From July 19 to Dec 2019

OMC	Jul – Dec 2019 Average Monthly Supply (MTs)	Market Share %
PSO	255,029.50	38.78%
Shell	76,695.31	11.66%
Attock	57,765.30	8.78%
Total Parco	91,032.67	13.84%
Puma	13,515.46	2.06%
Hascol	41,969.50	6.38%
ASKAR	9,965.54	1.52%
BPPL (Mktg)	23,362.23	3.55%
Be ENERGY	15,992.43	2.43%
ZOOM	3,340.67	0.51%
GO	57,810.33	8.79%
OTO	209.71	0.03%
HORIZON	1,090.17	0.17%
ZMOPL	3,614	0.55%
FUELERS	716	0.11%
ANPL	1,008	0.15%
EXCEED	1,644	0.25%
FLOW	854	0.13%

Source: MoEPD

¹¹ 99.7% of the MS supply was provided by 18 OMCs, hence the remaining 14 OMCs have been excluded from the analysis

10.3 These market share percentages were multiplied by the total MS market consumption during June 2020 (734,900 MTs) to project the volume of fuel that each OMC was expected to supply during the fuel shortage, assuming market share remained the same, or that there was no withholding/hoarding of fuel. These figures were subsequently compared with the actual supply figures to determine the difference. The table below shows this difference:

Table 25: Analysis of Projected and Actual Sale in the Month of June 2020

OMC	Jun 2020 Projected Supply (MTs)	Jun 2020 Actual Supply (MTs)	Difference	Difference %	Market Share %
PSO	285,021	356,856	71,835	25%	48.56%
Shell	85,715	69,733	(15,981)	-19%	9.49%
Attock	64,558	54,326	(10,232)	-16%	7.39%
Total Parco	101,738	89,611	(12,127)	-12%	12.19%
Puma	15,105	9,946	(5,158)	-34%	1.35%
Hascol	46,905	38,447	(8,458)	-18%	5.23%
ASKAR	11,137	6,416	(4,722)	-42%	0.87%
BPPL (Mktg)	26,110	23,909	(2,200)	-8%	3.25%
Be ENERGY	17,873	6,006	(11,867)	-66%	0.82%
ZOOM	3,734	1,858	(1,876)	-50%	0.25%
GO	64,609	67,070	2,461	4%	9.13%
OTO	234	110	(125)	-53%	0.01%
HORIZON	1,218	480	(738)	-61%	0.07%
ZMOPL	4,039	2,048	(1,991)	-49%	0.28%
FUELERS	800	174	(626)	-78%	0.02%
ANPL	1,126	612	(514)	-46%	0.08%
EXCEED	1,837	0	(1,837)	-100%	0.00%
FLOW	955	735	(220)	-23%	0.10%

10.4 As seen from the table above, besides PSO and GO (later found to be over reported), the actual fuel supply of all OMCs was below the projected figures, which shows that they withheld or hoarded the supply during June 2020, or even chose not to import at all. The supply of 10 out of the 18 OMCs was at least one-third (33%) less than the projected figure. As a result of other OMCs holding back supply of MS, PSO – a state institution – had to address the shortfall to meet the market demand, and in the process incurred additional losses, since they were already providing fuel at a loss (which was purchased at a rate that was above the government stipulated selling price). During June 2020, the market share of PSO rose from the historic average of about 36% to 49%,

indicating that they were effectively catering to almost half of the market demand for MS during June 2020.

INACCURACY OF REPORTED DATA

- 10.5** While the sales figures reported by OMCs to MoEPD were below the monthly average, even these reported figures seem to be an overstatement as per the findings of the ground checks conducted by the Commission.
- 10.6** During the exercise of verifying the figures of MS supplied to the retail outlets by the OMCs, the Commission found many discrepancies in the data. It showed that the figures supplied by OMCs were often fudged and inaccurate.
- 10.7** Since verifying fuel supplies from all petrol pumps was not possible, the Commission opted to take a random sample of 94 retail outlets of 09 OMCs to gauge the quantum of less supply as compared to reported figures. The findings are provided below:

Table 26: Discrepancy Between Data provided by OMCs and Ground Checks by Commission

OMCs	Supply in June 2020 by OMC to selected retail outlets as per Proforma-3	Supply in June 2020 by OMC to selected retail outlets as per Ground Checks	Discrepancy in Supply %
	MS Petrol (Ltr)	MS Petrol (Ltr)	MS Petrol
GO	2,658,000	1,385,404	-47.88%
Attock	800,000	456,000	-43.00%
Shell	3,344,000	3,112,000	-06.94%
Quality 1	135,000	51,800	-61.63%
Askar	781,368	46,987	-93.99%
BYCO	2,228,517	1,355,936	-39.16%
Puma	451,222	201,783	-55.28%
Total Parco	968,969	854,344	-11.83%
Hascol	11,489,088	5,296,782	-57.01%
Total	22,856,164	12,761,036	-44.17

Source: Data Provided by OMCs and Ground Checking by the Commission (Detail Attached in Annexure 10.1)

- 10.8** As evident from the table above, there was a discrepancy for more than 44% in the MS supply numbers reported by the 9 OMCs to the locations where ground checks were conducted by the Commission. **This misreporting or number fudging is indicative of fuel hoarding, whereby the OMCs withheld the supply of fuel to the retail outlets, thus creating a shortage, however at the same**

time reporting higher supply numbers. Most notable is the variance in the supply by Askar to its retail outlets, whereby the MS supply numbers reported by the OMC were overstated by 94%. Similarly, Hascol over-reported its supply numbers by around 57%.

- 10.9 If the misreporting of these OMCs is extrapolated for the overall supply numbers to all its retail outlets, the numbers are staggering, as shown in the table below:

Table 27: Discrepancy in MS Supply During the Month of June 2020

OMCs	Discrepancy in MS Petrol Supply Reporting %	Reported Supply in June 2020		Estimated Over-Reported MS Petrol Supply
		MS Petrol (MT)	MS Petrol (Ltr)	MS Petrol (Ltr)
GO	-47.88%	67,070	91,148,130	43,641,725
Attock	-43.00%	54,326	73,829,034	31,746,485
Shell	-06.94%	69,733	94,767,147	6,576,840
Quality 1	-61.63%	165	224,235	138,196
Askar	-93.99%	6,416	8,719,344	8,195,311
Byco	-39.16%	23,909	32,492,331	12,723,997
Puma	-55.28%	9,946	13,516,614	7,471,984
Total Parco	-11.83%	89,611	121,781,349	14,406,734
Hascol	-57.01%	38,447	52,249,473	29,787,425
Total	-44.17	359,623	488,727,657	215,871,006

Source: MoEPD

- 10.10 As evident from the table above, more than 215 million liters of MS is estimated to have been over-reported by these 9 OMCs alone, with **GO over-reporting about 43 million liters of MS and Attock over-reporting 31 million liters of MS.** Proportional to its market share, Shell was found to be lowest in over reporting.
- 10.11 By over-reporting sales, the OMCs effectively hoarded the differential quantum of fuel, which they were able to sell of later at higher rates (Rs.100.11 instead of Rs.74.52). The additional profits that they were able to make by doing so are presented in the table below:

Table 28: Financial Implication of Short Supply

OMCs	Estimated Over-Reported MS Petrol Supply (Liters)	Financial Implications (Rs.)
GO	43,641,725	1,116,791,734
Attock	31,746,485	812,392,541
Shell	6,576,840	168,301,336
Quality 1	138,196	3,536,436
Askar	8,195,311	209,718,019
BYCO	12,723,997	325,607,079
Puma	7,471,984	191,208,076
Total Parco	14,406,734	368,668,312
Hascol	29,787,425	762,260,194
Total	215,871,006	5,524,139,046

10.12 As seen in the table, the 9 OMCs are estimated to have made in excess to PKR 5.5 billion, with **GO having made estimated profits in excess of Rs.1.12 billion and Attock having made in excess of Rs. 812 million.** It is pertinent to mention here that while GO's market share increased slightly during the fuel shortage period, i.e. that they were supplying more than their projected figure, however as evident from the analysis in this section, they were over-reporting sales and the actual supply numbers were much lower. Same goes for all other private OMCs with some degree of variance.

HOARDING AT HIGH SEAS

10.13 The Commission also found practices of hoarding at high seas, whereby the vessel 'Ploutos' which was carrying 57,932 MTs of MS of a combination of 7 OMCs (Hascol, GO, TAJ, Zoom Marketing, Zoom Petroleum, PUMA, MY Petroleum), arrived on 15.06.2020 and the quantum it was carrying was supposed to be sold in the same month to overcome the severe shortage. It remained on high seas and was only discharged after the increase of selling price of MS was notified. Hence, the additional profit that the OMCs earned just by holding this vessel on high seas is tabulated below:

Table 29: Financial Implication of Ploutus Vessel

OMCs	Quantities of MS (Liters)	Financial Implications (Rs.)
GO	40,685,742	1,041,148,138
Hascol	20,376,846	521,443,489

Taj Gasoline	5,436,000	139,107,240
Zoom Marketing	1,359,000	34,776,810
Zoom Petroleum	2,718,000	69,553,620
My Petroleum	1,359,000	34,776,810
Puma	6,795,000	173,884,050
Total	78,729,588	2,014,690,157

10.14 The additional profits incurred by the OMCs through the delayed discharge and sale are estimated to be Rs. 2.01 billion with the major beneficiary being GO that profited by over Rs.1.04 billion followed by Hascol, which profited by Rs. 521 million. It is not a mere coincidence that the international supplier of the said vessel was 'Vitol' that also possess significant shareholdings in both GO and Hascol.

10.15 Added to the previous figure of Rs. 5,524,139,046, the amount totals to a staggering Rs. 7 billion plus figure.

HOARDING AT DEPOTS

10.16 During the Commission's visit to Karachi, records of some private depots were analyzed, which indicated that some OMCs were involved in storing their products in depots in the month of June 2020, instead of supplying them to the retail outlets. For example, Hascol had a share in a vessel namely 'MT Nordic Anne' that was discharged on 28-05-2020, even before the start of June. Hascol stored 11,699 MTs of MS from their share in a storage depot operated by Pakistan Molasses Co. Pvt Ltd (PMC) in Keamari, Karachi. Record obtained from PMC (**Annexure 10.2**) and its subsequent analysis shows that the same product, even though arriving before the start of the month of June 2020, remained untouched throughout the period of shortage, only to be discharged in the succeeding month of July. Hence, only from this hoarded and withheld quantum, Hascol illegally profited by PKR 406,853,900. Exercise of analyzing hoarded quantum in depots across the country, especially in Karachi, for calculating the potential profits reaped by doing so requires detailed information about its procurement, which is a matter of further investigation. Clearly, the regulatory authority (OGRA) and MoEPD acted as mere by-standers during this period of crisis.

CHAPTER 11

OIL REFINERIES IN PAKISTAN

- 11.1** Refinery means a facility where refining of crude oil is carried out for extraction of petroleum products for onward distribution to Oil Marketing Companies (OMCs). In Pakistan, refineries use both local crude oil and imported crude oil for refinement. Local crude oil comes from local oil fields which is roughly 30%¹² of the total crude oil refined by all refineries combined. In order to reduce outside dependence for petroleum products and to build strategic reserves, refineries are held crucial for any country.
- 11.2** Prior to the promulgation of Pakistan Oil (Refining, Blending, Transportation, Storage & Marketing) Rules, 2016, the refineries were governed under the Petroleum Rules, 1971. According to the Section 7 to 14 of Pakistan Petroleum Rules, 1971, submission, approval, change in production program, processing of crude oil, approval of specification of products and imported petroleum products, specify minimum crude oil stocks and submission of information by refineries were under the domain of DG Oil as an 'Authority'. Notwithstanding the fact that after the promulgation of Petroleum Rules 2016 OGRA has assumed the exclusive control on the licensing of the existing refineries, MoEPD continues monopolizing the operation of refineries under the erstwhile Petroleum Rules, 1971.
- 11.3** Currently, there are 06 oil refineries operating in the country and contributing significantly in the petroleum needs through indigenous production. The detail of refineries is as under:
- i. Attock Refinery Limited
 - ii. BYCO Petroleum Pakistan Limited
 - iii. National Refinery Limited
 - iv. Pakistan Refinery Limited
 - v. Pak- Arab Refinery Limited
 - vi. ENAR Petrotech Services Private Limited

¹² MoEPD

- 11.4** ENAR Petrotech Services (Refinery), situated in Karachi, is operating under the administrative control of Ministry of Industries and Production which is not a member of OCAC and only provides production data as part of its historical practice. It does not share any export/sales data with OCAC. It does not participate in Product Review Meeting (PRM) of Ministry of Energy (Petroleum Division). ENAR specializes in production of fuels for defence purposes only. It has two special plants for producing fuels for strategic purposes at Korangi Industrial Area and Manghopir, Karachi. Since the general public is not the consumer of petroleum products of ENAR, the Commission has not probed its operations.
- 11.5** The remaining 05 oil refineries are operating under the policy guidelines of Ministry of Energy (Petroleum Division) with overall installed capacity of **19.37 MMTs** per year. The largest oil refinery company is BYCO Petroleum Pakistan Limited with installed capacity of **7.17 MMTs** per year.
- 11.6** Oil refineries as against the installed capacity are as follows:

Table 30: Installed Capacity of Oil Refineries in Pakistan

Name of Refineries	Installed Capacity MMT/Year	Location
BYCO Petroleum Pakistan Limited	7.17	Hub
Pak-Arab Refinery Limited	4.50	Mehmood Kot
National Refinery Limited	2.83	Karachi
Attock Refinery Limited	2.44	Rawalpindi
Pakistan Refinery Limited	2.1	Karachi
TOTAL	19.37	

Source: OGRA

- 11.7** Every oil refinery processes crude oil into following petroleum products:
- i. Motor Spirit (MS)
 - ii. High Speed Diesel (HSD)
 - iii. Liquefied Petroleum Gas (LPG)
 - iv. Kerosene
 - v. Furnace Oil (FO)
 - vi. Jet A-1
 - vii. JP – 8
 - viii. Naphtha
 - ix. Sulphur
 - x. Lube base oil
 - xi. Bitumen

PRODUCTION OF REFINERIES

11.8 Total production for FY 2019-20 of Motor Gasoline (MS) and High-Speed Diesel (HSD) by the refineries were **1,973,444 MT** and **3,741,783 MT** respectively. As discussed already, OMCs consume both local petroleum products produced by refineries and the imported petroleum products. Local input of refineries to OMCs in MS and HSD supply were **26.26%** and **56.16%** respectively in FY 2019-20.

11.9 The detail of production of all refineries for the FY 2019-20 is given below:

Table 31: Product wise detail of Oil Refineries production during FY 2019-20

Name of Refinery	MS (MT)	Name of Refinery	HSD (MT)
PARCO	661,707	PARCO	1,222,757
ARL	493,063	BPPL	899,207
BPPL	396,018	NRL	629,140
PRL	219,658	PRL	511,536
NRL	202,998	ARL	479,143
Total	1,973,444	Total	3,741,783

Source: OCAC

SALES OF REFINERIES

11.10 Total sales of refineries of MS and High-Speed Diesel (HSD) during FY year 2019-20 were **1,995,532 MT** and **3,825,126 MT** respectively. Local input of refineries to OMCs in MS and HSD sales were **26.55%** & **57.23%** respectively of the total industry sale in FY 2019-20.

11.11 The oil industry meets its deficit requirements of MS and HSD i.e. **73.45%** & **42.59%** respectively by importing refined petroleum products from other countries.

11.12 Pak Arab Refinery is the largest oil refinery producing **33.29%** of MS and **32.56%** of HSD of the total production of refineries and its share in the industrial sale of MS and HSD are **8.84%** and **18.70%** respectively.

Table 32: Refinery sale during FY 2019-20

Sales of Refineries of FY 2019-20			%age of Total Refinery sale		%age of Total Industry sale	
Refinery Name	MS (MT)	High Speed Diesel (MT)	MS (MT)	High Speed Diesel (MT)	MS (MT)	High Speed Diesel (MT)
PARCO	664,298	1,245,599	33.29%	32.56%	8.84%	18.70%
ARL	486,034	478,072	24.36%	12.50%	6.47%	7.18%
BPPL	430,385	984,340	21.57%	25.73%	5.73%	14.77%
PRL	229,032	501,793	11.48%	13.12%	3.05%	7.53%
NRL	185,784	615,323	9.31%	16.09%	2.47%	9.24%
Total	1,995,532	3,825,126				
Industry Sale	7,515,281	6,662,416				
%age of Oil Industry Sale from Refineries	26.55%	57.41%				

Source: Data from Oil Refineries

PURCHASE OF CRUDE OIL BY REFINERIES

- 11.13 Total crude imported by the refineries during the FY 2019-20 was **6,759,857 MT**, whereas intake of crude oil from local oilfields was **2,832,203 MT**. Hence, refineries processed a total of **9,592,060 MT** crude oil during the said period.
- 11.14 PARCO is the largest contributor in refinement of petroleum products which captures share to the tune of **29.92%** of the total industry.

Table 33: Details of Refineries Purchase of Crude oil for FY 2019-20

Name of Refinery	Crude Imported	Local Crude	Total	Share of Refineries
	MT	MT	MT	
PARCO	2,469,725	400,183	2,869,908	29.92%
BYCO	2,017,730	116,341	2,134,071	22.25%
ARL	0	1,684,720	1,684,720	17.56%
NRL	1,185,881	407,275	1,593,156	16.61%
PRL	1,086,522	223,684	1,310,206	13.66%
Total	6,759,857	2,832,203	9,592,060	100.00%

Source: Refineries Data

STORAGE CAPACITY OF REFINERIES

- 11.15 The chart below shows the storage capacities of refineries. Whereas PARCO leads the list with storage capacity of crude oil clocking at **208,000 MT** and HSD at **55,000 MT**, the storage capacity of MS is highest in BYCO with **23,986 MT**.

Table 34: Storage Capacity of Refineries

Name of OMC	Crude	MS	HSD
	MT	MT	MT
PARCO	208,000	15,000	55,000
NRL	187,566	15,894	35,719
PRL	187,000	20,000	8,000
BYCO	128,000	23,986*	62,372*
ARL	94,779	17,395	19,214
Total	805,345	101,639	180,305

Source: Refineries Data

**the storage figures provided by BYCO kept on varying and very likely incorrect.*

ANALYSIS OF REFINERIES

NON-LIFTING OF LOCAL QUOTA OF PETROLEUM PRODUCTS FROM REFINERIES

11.16 Foreign reliance of petroleum products is gradually reduced once the local oilfields are drilled for extracting crude oil and its subsequent processing by refineries. Flow of crude oil from local oilfields to refineries has to be uninterrupted in order to keep the oilfields from being dry. Contextualizing the unstoppable predicament of refineries to keep operating, one can best understand the panic calls made by refineries to MoEPD about unkept pledges of OMCs to lift the mandatory quota of petroleum products from refineries in the period dating from February to April 2020.

11.17 Table below shows clearly the rising gap between the allocated liabilities of OMCs and the actual fulfilment of those liabilities from the month of February to April 2020.

Table 35: Difference between Allocation in PRMs and Upliftment by OMCs from Refineries

Month	MS Refinery Availability (MT)	Lifted by OMCs (MT)	Difference between availability and lifted (MT)
January	176,500	180,397	3,897
February	143,000	121,428	-21,572
March	168,500	104,717	-63,783
April	195,000	89,463	-105,537
May	239,200	275,324	36,124
June	154,500	164,593	10,093

Source: Ministry of Energy (Petroleum Division)

- 11.18** Least empowered with the enforcement of legal obligations, refineries were left with no other choice but to approach MoEPD to persuade the latter to go for coercive/ punitive action against OMCs (***correspondence record between refineries and MoEPD has been attached as Annexure 11.1***). To the surprise of everyone, MoEPD went for the blanket ban on the import of crude and petroleum products instead of focusing and revitalizing its enforcement measures. The MoEPD was obliged to go for revocation of licenses of OMCs through OGRA but no such step was taken. This is also an example of state of confusion and mis-coordination between MoEPD and OGRA.
- 11.19** Divorced from ground realities and scientific calculation of demand and supply of petroleum products, the import embargo was based on conjectures and was a knee-jerk response by MoEPD to say the least. Irrespective of lockdown restrictions, had it taken a Socrates to project the rising demand of petroleum products due to upcoming harvesting season in the month of April 2020? Ban on import partially interrupted the supply chain of petroleum products.

CLOSURE OF REFINERIES DESPITE IMPORT BAN

- 11.20** The very philosophy of import ban was proven fallacious instantly afterwards when 03 out of 05 refineries shut down their operations on the dates mentioned hereunder:

Table 36: Detail of Refineries Closures

Name of Refinery	Date of Closure	Duration of Closure
National Refinery Limited	25.03.2020	31 days
BYCO Petroleum Limited	13.03.2020 & 27.03.2020	23 days
PARCO Refinery Limited	11.04.2020	12 days

Source: Ministry of Energy (Petroleum Division)

- 11.21** Missing any palpable guidance from MoEPD in the context of shrinking consumption of oil products due to COVID 19 restrictions, other options of slowing down the operations instead of closing down could have been exercised by the refineries. Closure of refineries was another blow to the supply chain of petroleum products which could have been avoided with immaculate planning and accurate demand projections.

11.22 Pertinent to mention that the international downward trend of price of petroleum products, countries like USA, China and India purchased huge quantities to benefit their economies.

OUTDATED PLANTS

11.23 Technological upgradation of plants is poorly neglected by the refineries and the MoEPD which is accentuated by the fact that all 05 refineries are operating with the out-modeled hydro-skimming or semi conversion technology of refinement. Even BYCO which was installed in 2004 is operating with age-old hydro skimming technology. Consequently, the refined petroleum products in Pakistan are of EURO II character and that too RON 87 and RON 91, both long obsolete world over.

11.24 Since August 2020, both the import and refined petroleum products have been upgraded to EURO V (**Annexure 11.2**) although ARL, PRL and NRL are consistently failing to comply with the requirements and are being fined by OGRA. Fine so collected from the non-compliant refineries are adjusted in Inland Freight Equalization Margin (IFEM) Pool which finally contributes towards reduction in IFEM part of price determination for the benefit of end consumer.

NON-ENHANCEMENT OF STORAGE OF CRUDE OIL

11.25 Stemming from the failure of OGRA to monitor the minimum storage requirement of crude oil as per Rule 53(xiv) of Pakistan Oil Rules 2016, refineries did not make any efforts either to ensure the fifteen days cover of crude oil or to enhance the existing storage facilities. Had the said storage facilities been enhanced timely, the benefits of rock bottom international prices of crude oil or petroleum products could have been accrued to the public during or even after the crisis of shortage.

CHAPTER 12

RETAIL OUTLETS

12.1 It is a facility that acts as a conduit for dispensing petroleum products, MS and HSD, to the vehicles as end users on behalf of Oil Marketing Companies (OMCs). It is a commercial site owned either by OMCs or private persons where sale of petroleum products takes place between consumers and sellers. Its operations and day to day activities are monitored by the concerned OMCs. Interaction between public and commercial entities owning these retail outlets takes place here.

LAWS, RULES AND PROCEDURES GOVERNING RETAIL OUTLETS

- 12.2** Prior to OGRA Ordinance 2002, it was mandatory for the OMCs to obtain permission in writing from the 'Authority' (Ministry of Energy Petroleum Division) to setup a retail outlet for selling of MS and HSD to end users (Rules 26 (2) of Pakistan Petroleum Rules, 1971).
- 12.3** Sub-Rule (2) of Rule 26 of Pakistan Petroleum Rules, 1971 was deleted in 1992 vide S.R.O No. 194(1)/92, dated 15-03-1992 (**Annexure 12.1**). After the deletion of Sub-Rule (2), no permission was required for setting up new retail outlets from the 'Authority'. In the absence of any legal ceiling for setting up new retail outlets, the OMCs established a large number of retail outlets beyond their storage capacity.
- 12.4** Refusing to learn from the gaps left in Petroleum Rules 1971, no provision was made part of Pakistan Oil Rules 2016, concerning the establishment and licensing of new retail outlets.
- 12.5** OGRA Circular No. OGRA-12(02)/2017-SBR, dated 24.08.2017 (**Annexure 3.11**) lays down the criteria of establishment of retail outlets by OMCs. On each 40 MT storage capacity, one retail outlet can be built. Based on this formula, OGRA allocates the maximum ceiling to an OMC to construct retail outlets.
- 12.6** Remaining within the allocated ceiling of retail outlets, an OMC has two options to construct the retail outlets. It can either go for the private investors or construct the retail outlets by itself. In case of private investors, the OMC collects applications and relevant documents from the applicants for further processing.

12.7 The following are the pre-requisites for setting up new retail outlet: -

- i. Site visit and feasibility preparation by OMC and feedback to dealer (in case of private investor).
- ii. Site approval by the OMC.
- iii. Dealer application for setting up new retail outlets along with site ownership documents and joining fee to OMC.
- iv. Signing of MOU, share agreement and construction agreement between OMC and dealer.
- v. Site visit by the engineers of OMCs and preparation of layout plan in consultation with dealer.
- vi. Signing of lease deed of the site land.
- vii. Issuance of NOC and layout plan by the OMCs to dealer for Deputy Commissioner's NOC.
- viii. Application to Deputy Commissioner concerned for NOC.
- ix. NOCs of different departments required by the Deputy Commissioner Office like Traffic, Environment Protection Agency, Civil Defence etc.
- x. Issuance of final NOC by D.C in District Petrol Committee Meeting held every month.
- xi. Submission of layout plan for the approval of construction of new retail outlet to the Department of Explosives.
- xii. Tentative approval by Department of Explosives.
- xiii. Construction of sites by dealers under supervision of OMCs.
- xiv. Inspection and issuance of completion certificate by the Department of Explosives.
- xv. Issuance of Form 'K' license by the Department of Explosives.
- xvi. Retail outlet starts commercial sales.

INSPECTIONS

12.8 Rule 54 of Pakistan Oil Rules 2016, empowers the 'Authority' (OGRA) to authorize any person (Inspection Officer) including District Coordination Officer (now DCs) to enter, inspect and examine any premises, facility or installations, owned or operated by an Oil Marketing Company. All members of the Authority have authorization and powers of Inspection Officer.

12.9 According to the Sections 13, 14 & 26 of the Petroleum Act, 1934, the Federal Government (Department of Explosives) is empowered to authorize any officer by name or by virtue of office to enter and inspect any place where petroleum is being imported, stored, produced, refined, or blended, inspection and sampling of petroleum and to seize, detain or remove any petroleum product in respect of which an offence under the said Act has been committed. The Department of Explosives under Rules 114 & 115 (Schedule-1) of the Petroleum Rules, 1937 issues Form 'K' to store petroleum in a tank or tanks in connection with a pump outfit for fueling motor conveyances for one year. The license so issued is renewable after inspection by the Department of Explosives for one year.

MALPRACTICES

ILLEGAL RETAIL OUTLETS

12.10 Any retail outlet shall be deemed to be illegal in case of any of the following scenarios: -

- i. Retail outlets built over and above the maximum ceiling allocated to an OMC (refer to para 12.5 above).
- ii. Expiry or absence of Form 'K' issued by Department of Explosives.
- iii. Failure to obtain NOC from the Deputy Commissioner concerned.

12.11 Based on the above criteria, the Commission has identified 603 illegal retail outlets operating in the country as per the data supplied by OMCs (**Annexure 2.3**). **Being constituent member of the Commission, Anti-Corruption Establishment, Punjab in collaboration with Inspection Officers of OGRA took the initiative to itself and sealed 345 illegal retail outlets across Punjab.** The table below shows the lacunas on the basis of which these retail outlets were declared illegal and consequently sealed:

Table 37: Illegal Retail Outlets Checked and Sealed by ACE, Punjab

REGION-WISE DETAIL OF ILLEGAL PETROL PUMPS											
Sr. No.	ACE Region	Total No. of Petrol Pumps	Total No. of Petrol Pumps Checked	DC NOC Available		Explosive License K-Form Available		Action Taken			Remaining Petrol Pumps to be Checked
				Yes	No	Yes	No	Sealed	Non-Sealed	Others	
1	Lahore-A	14	14	0	12	0	12	12	0	2	0
2	Lahore-B	46	46	21	20	7	34	35	6	5	0
3	Gujranwala	86	86	56	20	19	57	55	21	10	0
4	Rawalpindi	42	41	24	12	14	22	18	18	5	1
5	Faisalabad	50	50	36	7	15	28	26	17	7	0
6	Sargodha	46	43	36	2	27	11	9	29	5	3
7	Sahiwal	71	71	38	31	20	49	49	20	2	0
8	Multan	85	82	27	50	16	61	57	20	5	3
9	Bahawalpur	146	146	126	8	77	57	56	78	12	0
10	DG Khan	56	56	31	25	28	28	28	28	0	0
Total		642	635	395	187	223	359	345	237	53	7

REGULARIZATION OF ILLEGAL PETROL PUMPS

12.12 All efforts of the Commission to arrive at a verified figure of the number of retail outlets built within the ceiling apportioned to OMCs were unsuccessful. Figures submitted by Department of Explosives, OMCs and OGRA are at variance with each other. The chart below demonstrates the point very clearly:

Table 38: of Retail Outlets as Per OMCs, OGRA and Department of Explosives

RETAIL OUTLETS IN THE COUNTRY		
Department of Explosives	OGRA ¹³	OMCs
9,122	9,267	9,267

Source: OGRA and Department of Explosives

12.13 To the surprise of the Commission, a plethora of illegal retail outlets were 'regularized' by OGRA by imposing meager fines of **Rs. 244.9 million** in total out of which only **Rs. 138.4 million** was collected. The retail outlets regularized after depositing fines were 753 till 2019. This illegal regularization done by a regulatory Authority like OGRA, ipso facto, stimulated and encouraged the mushroom

¹³ Figures reported by OMCs to OGRA. OGRA does not have its own data regarding operational retail outlets in the country.

growth of illegal retail outlets, a practice still continuing. Many retail outlets were built without any regard to the actual storage built by an OMC. Not stopping here, OGRA not only regularized the existing illegal retail outlets but also enhanced the ceiling of many OMCs based on mere pledge to construct further storage facilities.

UNLAWFUL PURCHASE, ADULTERATION AND SALE OF SMUGGLED PETROLEUM PRODUCTS

12.14 As discussed already in Para 11.11 above, there are 603 illegal retail outlets operating in the country which have neither been regularized by OGRA nor owned by OMCs. These unbridled retail outlets have not been fed with petroleum products from OMCs. Consequently, their only reliance for getting petroleum products is through smuggling or unlawful purchase from black marketers, other OMCs or hoarders. Unchecked by any regulatory authority, OMC or District Administration, these retail outlets are left with no other choice but to adulterate other hydrocarbon chemicals with MS and HSD or Kerosene with HSD. Given the limited scope and time available to the Commission, intrusive probe was not possible. Hence, OGRA, MoEPD, OMCs, Department of Explosives and District Administration concerned must carry out an exhaustive exercise into the operations and subsequent elimination of these illegal retail outlets.

JEOPARDY TO PUBLIC SECURITY

12.15 All retail outlets not having Form 'K' pose us a serious threat to the public at large. Many of the above-mentioned illegal retail outlets have been established amidst densely populated areas which can cause major disaster any time in future.

CHAPTER 13

OIL COMPANY ADVISORY COUNCIL (OCAC)

- 13.1** The Oil Company Advisory Council (OCAC) is an independent organization formed by refineries, Oil Marketing Companies (OMCs) and pipeline companies. It represents the downstream oil industry at various government and non-government forums in matters of common interests to the industry. It collects data from its member companies and prepares downstream oil statistics and reports for the use of its members for planning and operational purposes.
- 13.2** The staff of OCAC comprises of only 12 officials and their office is located in Karachi. It charges any new member an exorbitant joining fee of Rs.1 million. Additionally, all its 39 members (as of November 2020) have to pay an annual membership fee which is levied equally on all members, and which can be as high as 2.5 million per year. Furthermore, the OCAC imposes heavy penalties for non- or late payments of the annual membership fees.

FUNCTIONS OF OCAC

DATA MANAGEMENT

- 13.3** As per OCAC, the data it collates and prepares for its members is for information and planning purposes only, and is not intended to provide professional, investment, or any other type of advice or recommendation. The data is provided to OCAC by its members to which such data relates, and OCAC merely reproduces this data and collates the same for internal consumption of its members. It does not undertake any independent verification as to the veracity of the data. Moreover, neither OCAC nor any of its employees make any warranty (express or implied) or take or assume any responsibility for the use of any information contained therein. Furthermore, OCAC gives no assurance for the validity, accuracy, correctness or completeness of the information quoted, and urges any person seeking to rely upon the information contained in its data to undertake his/her own research and due diligence with respect to the information and to independently verify the facts at their end.

BERTHING OF VESSELS AT PORTS

- 13.4** The OCAC maintains that vessel berthing is an operational activity between the importer/consignees (OMCs and refineries) and the respective Port Authorities (KPT/PQA-FOTCO) and they have been mandated by its member companies to act on their behalf. They have been carrying out the coordination of petroleum product vessels and their berthing for past few decades based on the industry's protocol. The decisions for berthing of petroleum product vessels are taken by the respective importers/consignees based on their supply chain considerations, which is intimated to OCAC to coordinate berthing instructions to respective port authorities. As part of the vessel coordination process, OCAC books the laycan (laydays canceling), which is the time window during which the arriving vessel must tender Notice of Readiness (NOR)/Arrival, for berthing of vessels based on import plans of refineries and OMCs.
- 13.5** It is pertinent to note that OCAC oversees all matters related to berthing. Berthing of vessels is a critical function as it directly relates to management of the petroleum stock position in the country and should ideally be managed by the government itself. However, in case of Pakistan, OCAC – an independent organization which was formed to serve as a consultative body and spokesperson of downstream oil industry only – is managing it. In simple words, OCAC can delay or expedite berthing of any vessel by exercising its power. In times of crisis and fluctuating prices this act on part of OCAC can cause profit/loss of millions of rupees to any OMC.

INLAND FREIGHT EQUALIZATION MARGIN (IFEM)

- 13.6** IFEM is a common pool of all freight costs (road/rail/pipeline) to keep prices of petroleum products equalized across the country, which is an integral part of price structure of petroleum products that is regulated and managed by OGRA. The OCAC coordinates all the data collation translating into the country's freight and logistics plan, which is approved by OGRA on monthly basis.
- 13.7** Schedule of oil tankers on a daily basis is also issued by OCAC, in which the movement of petroleum product is to be made up country. Without its membership, OMCs cannot move their products, and neither can they be entitled to freight adjustments under IFEM.

PRODUCT REVIEW MEETING (PRM)

13.8 Product Review Meetings chaired by Director General Oil, MoEPD are held every month in which petroleum imports and allocation from local refineries are approved. OCAC collates the data of demand/sale forecast of OMCs and estimated production plan of refineries, as made available by the respective member companies. Based on this, deficit/surplus is discussed in PRM. After analysis of the same, imports are approved by DG Oil on monthly basis.

ANALYSIS

UNRELIABLE AND INACCURATE DATA

13.9 It is ironic that even though the petroleum industry is one of the biggest industries in the country in terms of finances and revenue generation, and even has a dedicated Federal Ministry and a Regulatory Authority, yet they are unable to publish any annual report for the official consumption with authentic and verifiable statistics. The annual report issued by OCAC, called 'Pakistan Oil Report', is mainly relied upon by all. However as mentioned above, OCAC abstains from confirming the correctness of the data. Hence the information contained in it can be misleading. Even during the course of the Commission, several errors and omissions were observed in the figures reported by OCAC. Despite that, the new entrants rely on the OCAC data for making key decisions, and even OCAC admits that their daily reports are the basis for planning of all supplies to the country's market.

MANEUVERING BERTHING OF VESSELS AND LAYCANS

13.10 In the berthing of vessels, OCAC has complete say in the matter due to collusion with MoEPD, which has turned a blind eye on OCAC's activities and has acted as a mere rubber stamp. Although an official notification was issued by MoEPD on 30-03-2020 marginally mentioning that berthing instructions may only be issued (by OCAC) to port authorities after consultation with DG Oil (**Annexure 13.1**). This notification meant nothing as the OCAC was already calling the shots in this respect and continued to do so unabated. OCAC even changed planned berthing dates on its own without any written instructions from the Ministry. Moreover, in the operations of berthing of vessels, OCAC has been observed to issue instructions unilaterally and in some cases against the requests of the Government organizations, like Pakistan National Shipping

Corporation (PNSC), to give priority to Pakistani flag vessels. It was also noticed that the instructions of OCAC contained the words 'berthing of petroleum products is entirely the prerogative of OCAC'. **It is a huge claim for such an entity having no legal status.**

- 13.11** OCAC has routinely changed berthing plans for unexplained reasons. For example, a vessel namely MT Ploutos carrying MS for GO, Hascol, Zoom and other OMCs was due to berth between 16-18/06/2020 after arriving on 15/06/2020. However, with intervention of OCAC, the ship berthed on 29/06/2020. This action avoided loss to the aforementioned private OMCs by a volume of 57,932MTs (78,729,588 liters) of MS. By the same token, the State-owned OMC PSO bore the burden of loss incurred during June 2020.

MANIPULATION OF IFEM AND ADJUSTMENTS

- 13.12** A yearly audit is necessary for adjustments under IFEM but it has not been done since the FY 2011-2012. Moreover, IFEM manipulation is also being done by some OMCs with the connivance of OCAC for claiming IFEM amount for nonexistent supplies upcountry. Same has been discussed in the chapter on OMCs, with a pertinent example that a petrol pump of Hascol in Upper Dir was shown in record to receive an extraordinary supply of 1,058,000 liters MS during June 2020 that may have led to a significant false claim under IFEM. Such anomalies were never pointed out by OCAC that shows that they have no check and balance on the whole exercise. Most OMCs complained to the Commission regarding state of affairs under IFEM which requires further investigation.

OVERWHELMING ROLE IN PRODUCT REVIEW MEETING (PRM)

- 13.13** Although the DG Oil chairs the meetings, OCAC has a very dominant role in the PRM where import and local refinery allocations are decided. In their own provided brief on OCAC and its activities, it states 'The DG Oil, Ministry of Petroleum, chairs the monthly Product Review Meetings held at the OCAC Forum, attended by all Refineries, Oil Marketing Companies', and 'The data for these meetings, the coordination and issuance of minutes, as well as follow-up on the decisions taken, is provided by OCAC'. Moreover, the data input required by PRM and the working paper to be discussed in the PRM is provided by OCAC, even though it claims that they are not responsible for the use of

their data at any level. Hence, OCAC acts as the brain behind decisions to be made in the PRM, as it establishes short term/long term supply balances, which contain recommendations for DG Oil as well. Furthermore, although OCAC claims to be just a participant in the PRM that is headed by DG Oil, and does not claim to have any direct stake, yet the Minutes of the Meeting are issued by it and signed by their representative, instead of DG Oil

CONCLUSION

- 13.14** The OCAC was established as an 'Association of Persons' in the 1960s to serve as a consultative body and spokesperson of downstream oil industry. It has, however, assumed a far more dominant position compared to even the government departments, despite the fact that it was not established by the Government of Pakistan (GoP) through any administrative order, act or ordinance.
- 13.15** Membership of OCAC is mandatory for participation in Product Review Meetings (PRMs), hence without its OMCs, who may have the license of government's regulatory body (OGRA), would not be able to get any local or import allocations. Similarly, OCAC membership is required for claiming Inland Freight Equalization Margin (IFEM) adjustments. For claiming IFEM adjustments, Inter Company Freight Settlement (ICFS) agreement is signed under OGRA, and OCAC membership has been surprisingly set as a pre-requisite for signing this agreement.
- 13.16** Hence, the OMCs are effectively bound to pay up huge amounts in OCAC membership fees in order for them to operate within the industry. Why it never occurred to the relevant government departments that the working being done by this 12-member body can easily be done by them, with better transparency and efficiency, is all the more surprising and baffling. **While many OMCs have complained about it, the fact that OCAC continues to operate shows that it is doing so in collusion with OGRA and Ministry of Energy Petroleum Division (MoEPD).**

CHAPTER 14

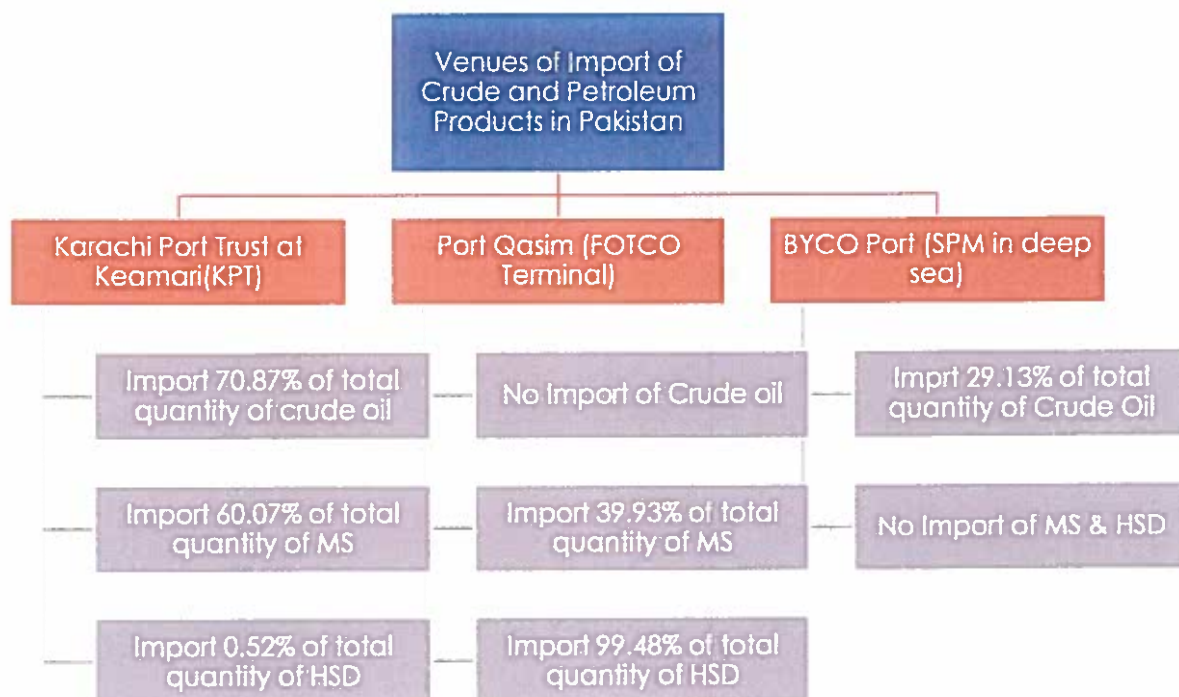
VENUES OF IMPORT OF PETROLEUM PRODCUTS

14.1 Crude oil and refined oil both are imported in Pakistan at the designated ports in Karachi. Refineries import crude oil whereas Oil Marketing Companies import refined oil. The following ports are associated with the import of both crude oil and refined oil:

- i. Karachi Port Trust at Keamari (KPT), Karachi
- ii. Port Mahammad Bin Qasim (FOTCO Terminal), Karachi
- iii. BYCO Port (in deep sea)

IMPORT OF CRUDE OIL, MS AND HIGH-SPEED DIESEL ON PORTS DURING FY 2019-20

14.2 Before jumping to the statistics of total import of crude and petroleum products and its bifurcation as to the nature of product and the relevant port involved in the process of import, the skeletal chart below shall facilitate in understanding of import-nodes vis-a-vis proportion of imports of crude and petroleum products:



14.3 Total quantity of crude oil of imported during FY 2019-20 in Pakistan was 6,710,665 MT. Out of this, 70.8 % was imported at Keamari Port and 29.13% was

imported at BYCO refinery. No import of crude oil was carried out at FOTCO Terminal during FY 2019-20.

14.4 Total quantity of MS imported during FY 2019-20 in Pakistan was 5,370,370 MT. 60.07% of this quantity was imported at Keamari Port and 39.93% was decanted at FOTCO. No import of MS was carried out at BYCO, Hub during the period.

14.5 Similarly, total quantity of HSD imported during FY 2019-20 in Pakistan was 2,484,706 MT out of which 0.52% and 99.48% of total quantity of imported HSD were imported at Karachi Port Trust, Keamari (KPT) and FOTCO Port respectively. No import of HSD was carried out at BYCO Port HUB during the period.

14.6 Port wise detail of import of crude oil, MS and HSD for FY 2019-20 is given below:

Table 39: Port wise detail of imported petroleum products

Petroleum Products Handled at Ports (2019-20)							
Product	KPT	FOTCO	BYCO Port	Total	KPT	FOTCO	BYCO Port
	Quantity (MT)	Quantity (MT)	Quantity (MT)	Quantity (MT)	%age of Share	%age of Share	%age of Share
Crude Oil	4,755,954	-	1,954,711	6,710,665	70.87%	0.00%	29.13%
MS (92 RON)	3,225,748	2,144,622	-	5,370,370	60.07%	39.93%	0.00%
HSD	12,949	2,471,757	-	2,484,706	0.52%	99.48%	0.52%

Source: OCAC

KARACHI PORT TRUST AT KEAMARI (KPT), KARACHI

14.7 Karachi Port Trust at Keamari (KPT) is the largest and busiest port in Pakistan. KPT is all-weather port and is capable of handling import vessels/cargoes in all kinds of weather condition. KPT is handling about 26 MMTs of vessel/cargo per annum which includes 14 MMTs of liquid and 12 MMTs of dry cargo for which there are 30 dry cargo and 3 liquid cargo handling berths. Petroleum products vessels/cargoes handling berths are Oil Pier (OP) 1, 2 & 3. OP 2 is fully functional whereas, OP 1 is not 100% operational and OP 3 is non- functional since 2018.

14.8 Karachi Port Trust (KPT) has a capacity to handle 25 MMTs petroleum products per annum, but only 13 to 14 MMTs/per annum is being handled. It has capacity of flow rate/discharge speed 1,000 Ton per hour from the cargo to the storage tanks. MS is the only oil product being imported and transported at present to the oil tanks and storages of the OMCs and other private companies through Oil Piers at KPT.

DECANTING PROCESS OF IMPORTED PETROLEUM PRODUCT VESSELS AT KPT

- 14.9** The agent of the OMC has to submit intimation in writing to the Deputy Conservative office in KPT 72 hours prior to the arrival of the vessel at KPT. The agent again intimates to the Deputy Conservative office 24 hours before the arrival of the vessel. Finally, the agent has to confirm to the Deputy Conservative office 4 hours before the arrival of the vessel at the outer anchorage which is considered as final request from the agent. Consequently, the berthing of the vessel is conducted as per the existing SOPs of KPT.
- 14.10** The remaining procedure of decanting of petroleum product vessels is the same as discussed under heading 'Decanting Process of Imported Petroleum Product Vessels' below in FOTCO section.

PETROLEUM PRODUCT DEPOTS/TERMINALS AT KPT

- 14.11** There are 22 companies, including oil refineries, OMCs and private companies, having pipelines connected with Oil Piers through which the MS and Crude Oil are transported into their storage tanks. These companies have total 403 (Both Petroleum and Non-Petroleum Products) storage tanks at KPT having capacity of **24,467,714 MTs**. The detail of terminals tank at KPT is as under:

Table 40: of Storage Tanks and Storage Capacity at KPT

No. of Oil Storage Companies	No. of Storage Tanks	Total capacity of Tanks (MT)	Petroleum Product Tanks	Non-Petroleum Product Tanks
22	403	24,467,714	189	214

Source: Karachi Port Trust

PORT QASIM

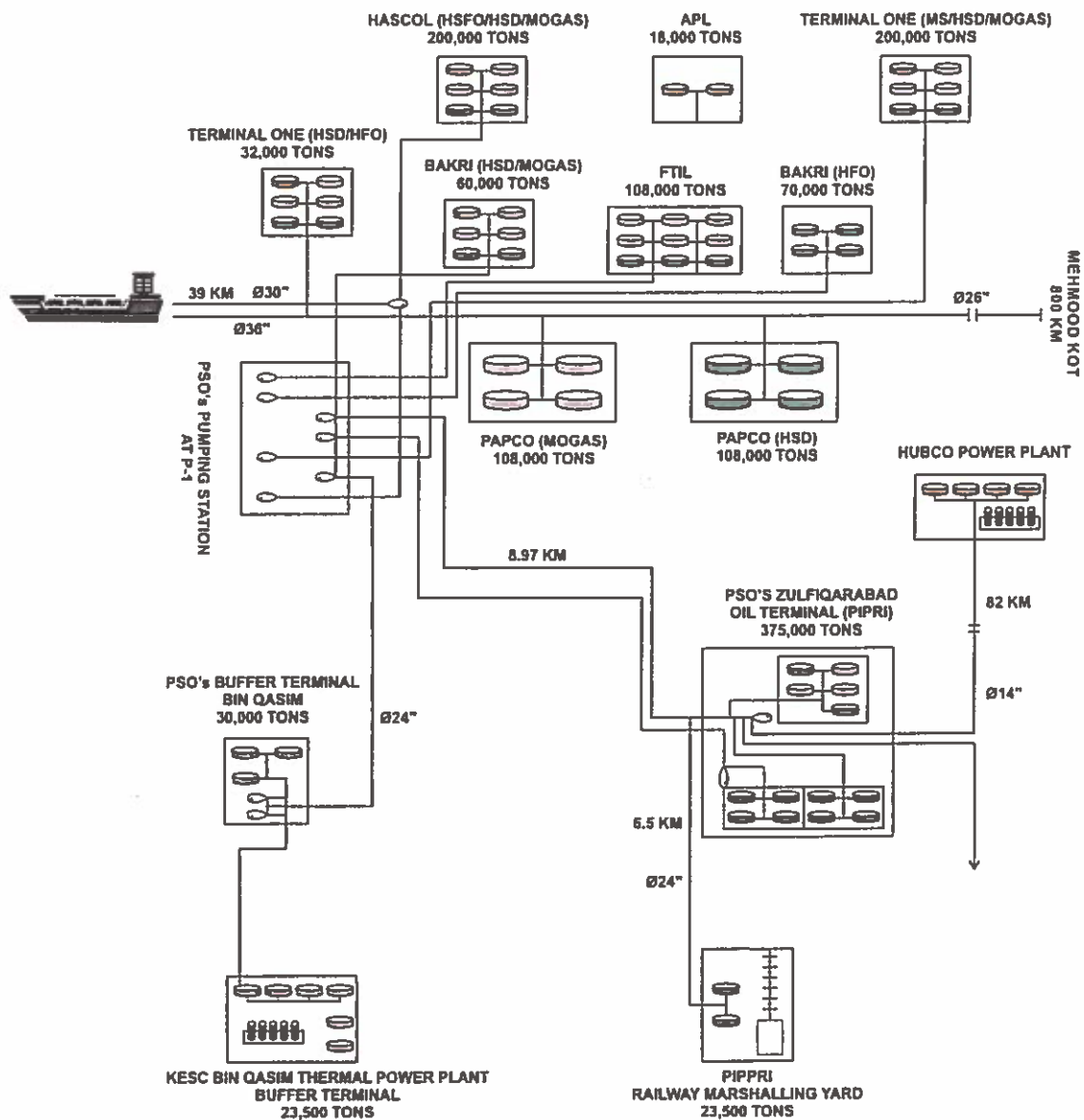
- 14.12** Port Qasim is the second largest and only deep sea water port in Karachi. It is Pakistan's second busiest port, handling about 35% of nations cargo (17 million tons per annum). Being a busy port, it has the capacity to handle more than 90% of all external trade of Pakistan. Port Qasim is equipped with only one berthing terminal called Fauji Oil Terminal which is linked to the storage tanks and to the pipelines for onward transmission of petroleum products to the depots.

FAUJI OIL TERMINAL & DISTRIBUTION COMPANY LIMITED (FOTCO)

- 14.13** Fauji Oil Terminal & Distribution Company Limited (FOTCO), located at Port Qasim, was established in 1995. It was designed and equipped to handle

import and export of all kinds of petroleum products. The terminal, presently, handles import of MS, Diesel and Furnace Oil in the country and export of condensate and Naphtha. It has one jetty which is connected to the shore by a 4-km long trestle and currently three pipelines have been laid, one for handling of Furnace oil, one for handling of Diesel &MS and the other for handling of Re-Gasified Liquefied Natural Gas (RLNG). All the storage tanks of the Oil Companies are connected with these pipelines at point 1 "P1" of the FOTCO Terminal from where the oil products divert towards the concerned imported oil company storage tanks. This has been shown in the flow chart given below:

FOTCO SYSTEM OVERVIEW



14.14 Before 2018, 100% of MS was being imported at Keamari in Karachi Port Trust (KPT). However, MS import was operationalized at FOTCO Terminal after storages/terminals built up at the FOTCO Terminal by the OMC's, private oil storage tanks/terminals and Fauji Trans Terminal Limited (FTTL) in 2018. In Financial year 2019-20, the volume of import of MS at the FOTCO Terminal was raised from 30% to 45%¹⁴ of the total volume of import of the MS in the country.

¹⁴ FOTCO

- 14.15** FOTCO terminal is the only terminal through which Diesel is imported in the country. No crude oil is imported through FOTCO Terminal in Pakistan. All the crude oil is imported at Keamari in KPT and BYCO Port.
- 14.16** Imported HSD of the OMCs is transported from FOTCO Terminal to Mehmood Kot (White Oil Pipeline) up to Machike, through PEPCO Pipeline, in their storage depots. Presently, MS is transported across the country through tank lorries. Whereas, both HSD and MS are transported through tanks lorries from FOTCO Terminal for consumption in Karachi only.
- 14.17** PSO pumping station is built up at 'P1' on FOTCO Terminal which is used for pumping furnace oil in the pipeline of 8.97 km long from FOTCO Terminal to PSO Zulfiqarabad Oil Terminal (PIPRI) where PSO has storage capacity of 3,75,000 Tons of furnace oil. Then, Furnace oil is transported from PIPRI to HUB Power Plant through pipeline which is 82 KM long.

STORAGE TANKS AT FOTCO TERMINAL

- 14.18** Fauji Trans Terminal Limited (FTTL) has 6 storage tanks at the FOTCO Terminal. FTTL uses 03 tanks for the storage of condensate for United Energy of Pakistan, which is subsequently exported to the other countries. Gas and Oil Petroleum Limited Company (GO) has hospitality agreement with FTTL on 02 storage tanks having combined capacity of 36,000 Metric Tons and 1 storage tank of FTTL is available for open rental for storing petroleum products. Any company can use this tank for 24 hours, if available, by paying the standard dues to FTTL.
- 14.19** Attock Petroleum Limited (APL) is constructing storage capacity of MS, Diesel and HOBK at FOTCO terminal. The storage capacity of APL for MS, Diesel and HOBK tanks are 35,000 MT, 300 MT and 2500 MT, respectively at FOTCO Terminal.
- 14.20** The detail of storage capacity of other companies/terminals is as follows:

Table 41: Storage Capacity of Storage Tanks at FOTCO

Sr. No.	Name of Companies	Storage Capacity (MT)
1	Pakistan State Oil (PSO)	452,396
2	Hascol Terminal	178,000
3	Bakri Energy	156,525
4	Terminal 1 (2 terminals)	134,350
5	PEPCO	208,000
6	Fauji Trans Terminal Limited	108,000
Total		1,237,271

Source: FOTCO Terminal

STORAGE DEPOTS AT PORT QASIM

- 14.21** There are 04 OMCs and 16 private storage companies have constructed their storage/ terminal tanks at the FOTCO Terminal at Port Qasim. All the private storage companies rented out their storage depots to the OMCs for the storage of imported petroleum products at FOTCO Terminal.
- 14.22** Only two private storage depots/terminals at Port Qasim are registered with OGRA namely, Fauji Trans Terminal Limited (FTTL) and HASCOL Pakistan Limited Terminal.

DECANTING PROCESS OF IMPORTED PETROLEUM PRODUCT VESSELS

- 14.23** The following steps are followed on arrival of the vessels/cargoes of petroleum product at the FOTCO Terminal:
- i. FOTCO Terminal follows the laycan plan (estimated time for oil vessel to arrive at the port) issued by OCAC and decides the berthing of the vessels/cargoes/tankers on the basis of the plan. Import of the cargo is intimated to the FOTCO Terminal 24 hours before the vessel arrives at the port by the agent.
 - ii. Acceptance of the oil vessels/tankers/cargoes at the FOTCO Terminal is dependent upon the instructions issued from time to time by the Port Qasim Authority (PQA).
 - iii. Companies of the vessel/cargo request for berthing through OCAC to the PQA, once vessels arrive at outer anchorage. After confirmation from the PQA, pre-cargo checks/tests are ensured and then the vessels are allowed to arrive at jetty.
 - iv. As soon as the vessel/cargo/tanker is safely moored ashore, a gangway is placed on the main deck, FIA officials, Surveyors, Agents, Customs Authority, HDIP and Terminal representatives then board the vessel/cargo for clearance, safety inspection, testing, cargo measurements and discharge planning etc.
 - v. Custom duties assessment, payment and sample testing of the petroleum products are carried out at spot.
 - vi. Hydrocarbon Development Institute of Pakistan (HDIP) takes sample from the vessels for testing which takes about 6 to 8 hours to complete. Discharging of the vessels takes place after the result of the sampling/testing.

- vii. Then the jetty is connected to the relevant pipeline of the petroleum products and discharging of the vessel starts.

BYCO PORT

14.24 BYCO refinery is the only refinery in Pakistan which has its own port terminal in deep sea where cargo of crude oil is discharged through floating flexible hoses through the Single Point Mooring (SPM) and from there it is transported through 10.6 km long subsea pipeline on sea bed to shore and then further transported to the BYCO Refinery through 3.6 km long underground pipeline.

SINGLE POINT MOORING (SPM) SYSTEM

14.25 Single point mooring (SPM) is a floating buoy/jetty anchored offshore to allow handling of liquid cargo such as petroleum products for tanker vessels/cargoes/ships. SPM is mainly used in areas where a dedicated facility for loading or unloading liquid cargo is not available. It is located at a distance of 18 kilometers from the shore-facility and connected using sub-sea oil pipelines. These single points mooring (SPM) facilities can even handle vessels of massive capacity. Single point mooring (SPM) serves as a link between the shore-facilities and the oil vessels/cargoes/tankers for loading or off-loading liquid and gas cargoes.

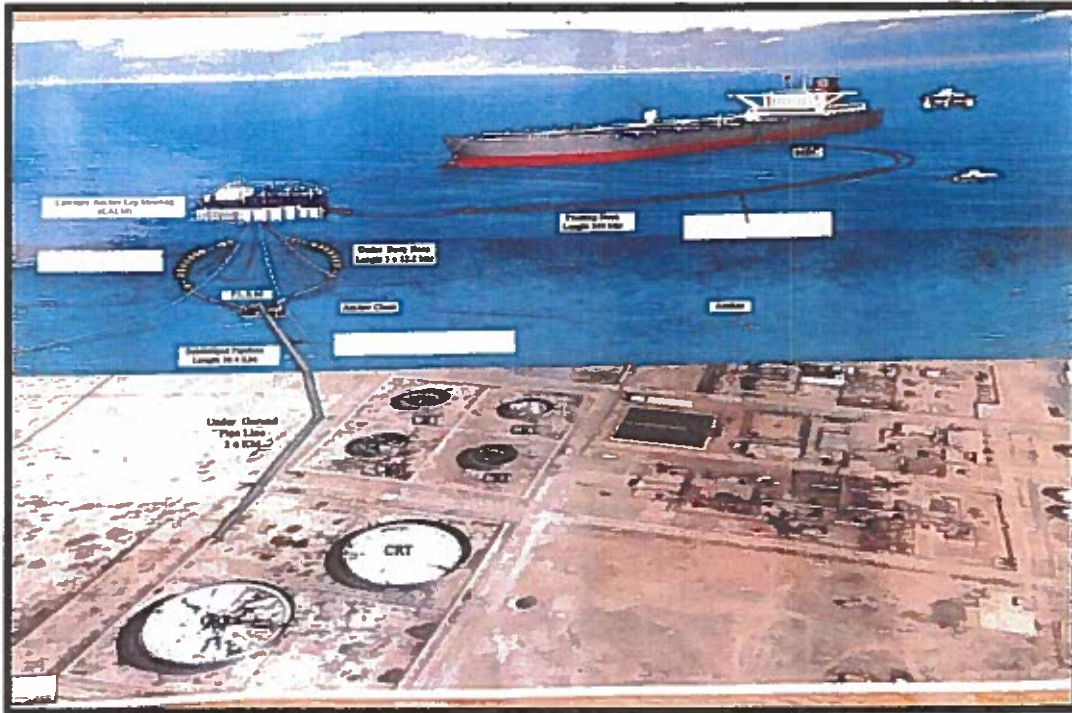
14.26 Single Point Mooring System comprises of the following components:

Component	Function
Buoy	Holding crude oil vessels on the equilibrium point
Floating Flexible Hoses	Connected with vessel tanks and the SPM in which crude oil is transported from vessels to the SPM
Subsea manifold system	Its function is to hold the SPM system in the sea
Sub-sea pipelines	Transports crude oil from sea to the refinery

14.27 Custom duties, taxes, and sample testing of the vessel/cargo are assessed and conducted at the outer anchorage.

14.28 Vessel/cargo of crude oil is monitored by the Ministry of Maritime once the vessel/cargo reaches within 4.5 nautical miles from the SPM.

14.29 The pictorial view of the Single Point Mooring (SPM) is shown below:



VIOLATIONS AND MALPRACTICES ON PORTS

POOR MAINTENANCE OF OIL PIERS AT KPT

14.30 Oil Pier-1(OP-1) at KPT is dilapidated which warrants immediate repair/maintenance for smooth berthing of vessels of petroleum products. Oil Pier-3 (OP-3) is completely shut down due to the damage of fenders since 2018. In this regard, there is correspondence on the record by OCAC to KPT Authorities in the years 2019 and 2020 regarding its repair and maintenance to avoid any potential shortage of petroleum products in the country.

ILLEGAL USAGE OF STORAGE/DEPOTS

14.31 Private storage terminals/depots were granted Form 'L' for storage of petrochemicals, but these are being used for storage of MS and HSD at both FOTCO Terminal and Karachi Port Trust which is a violation of the terms and conditions of Form 'L' license. Department of Explosives has failed to fulfill its responsibility to ensure safety protocols.

14.32 In addition, the private storage companies situated at KPT and FOTCO are violating the terms of licenses (Forms L) issued by the Department of Explosives

while storing dangerous petroleum (DP) products in non-dangerous petroleum (NDP) products storages tanks and vice versa.

ILLEGAL HOARDING AT PRIVATE STORAGE TERMINALS

14.33 OMCs have reportedly used private storages terminals/depots situated at KPT as illegal dumping points to store their petroleum products during the oil shortage period, i.e. June 2020. From the record Al Rahim Tank Terminal Pvt. Limited, it transpired that Bakri Trading Company Pakistan Limited and Fossil Energy Limited kept their stocks intact and didn't lift even a single liter from these stocks during the period of crisis. Similarly, HASCOL and Attock Petroleum Limited (APL) were also found indulged in similar practice at FOTCO Terminal. These OMCs didn't lift their stock from the private storage company terminals, i.e. Pakistan Molasses Company (PMC) during the period of crisis.

ILLEGAL GRANT OF FORM 'L' LICENSES

14.34 Terminal 1 Private Limited (I Pori) planned to set up 19 storage tanks with total capacity of 186,000 MT for storage of dangerous petroleum, out of which 10 storage tanks have been constructed and are in operation, and remaining 9 storage tanks are to be constructed in near future. **Interestingly, the company has managed to get Form 'L' licenses for all the 19 storage tanks from the Department of Explosives in 2017.** Nothing in the laws permits the issuance of Form 'L' licenses before the actual construction of storage tanks and third-party inspections.

14.35 Similarly, Attock Petroleum Limited (APL) has also managed to get form 'L' from the Department of Explosives well before the completion of the construction of its planned storage capacity on FOTCO Terminal for MS and HSD.

NON-OBSERVANCE OF SAFETY/TECHNICAL STANDARDS FOR CONSTRUCTING STORAGE DEPOTS

14.36 International safety standards and OGRA Technical Standards for the petroleum industry (Depots for the storage petroleum products) are violated by the oil storage companies while constructing storage depots at KPT and FOTCO Terminal. Dyke walls are not erected between the storage tanks by the storage companies which is security hazard. Similarly, space between the storage tanks is not as per the standard, provided in OGRA Technical Standards for the Petroleum Industry. OGRA and the Department of Explosives didn't not

raise any concern or objection while issuing the Forms 'L' licenses to the storage tanks of the oil companies despite these lacunas/deficiencies.

14.37 Planned shifting of MS from KPT to FOTCO, by the end of year 2020, may result in another crisis/shortage in the country of the petroleum products because of the following reasons:

- i. KPT is an all-weather port as against FOTCO.
- ii. Vital installations are best advised to be sporadically located as it is unwise to put all eggs in one basket.
- iii. FOTCO is currently unable to handle 100% supply of MS downstream unless it is connected with KPT through an underground white oil pipeline.

(Taking stock of the situation, Ministry of Defense has already imposed ban on further lease of plots by Port Qasim Authority (PQA) to OMCs and private storage companies due to security reasons).

VIOLATION OF PAKISTAN OIL RULES 2016

14.38 No private petroleum products storage depots/terminals in KPT is registered with OGRA, which is violation of Pakistan Oil Rules, 2016 except FTTL and HASCOL Terminal.

14.39 According to the Rule 31 & 32 of Pakistan Oil Rules, 2016, all the private oil storages or non-oil storages facilities, being used for oil storages, are liable to be registered with OGRA. In this regard, notices were issued by OGRA to Pakistan Molasses Company Pvt. Limited (PMC), Al-Abbas Terminal and Al Rahim Trading Company Pvt. Limited to get License from OGRA, within 30 days to carry on their operations vide letter No. OGRA (Oil)-19-15(2)/2013 dated 08.08.2017. Pakistan Molasses Company Pvt. Limited and Al-Abbas Terminal has challenged in the Honorable Sindh High Court, Karachi. The Honorable Court has granted a status quo on 28-03-2017 and the matter is pending adjudication *(Annexure 6.2)*.

MALPRACTICE OF BYCO REFINERY

14.40 BYCO Limited has two refineries at HUB. Both refineries were found non-operational during on ground visit by the Commission. No activity was found on the gantry of the BYCO Refinery Limited. This raises eyebrows as to why in the first place those refineries were built and subsequently closed down. It is a

manifest matter of further probe taken up again in chapter of recommendations.

- 14.41** Commission has observed the rueful absence of other attendant institutions mandated otherwise to play their due roles regarding safe anchorage of vessels, calculation of custom duties and testing of petroleum products. This glaring omission of duties by Ministry of Maritime, Custom Authorities, and HDIP makes matters worse. Such free for all and prima facie unregulated decanting of vessels at BYCO port terminal (SPM) must be taken with a pinch of salt.

CASE STUDY OF M.T. RHEA

- 14.42** BYCO Refinery Limited imported a crude oil vessel namely M.T. Rhea from UAE having Import General Manifest (IGM) No. 19/2020 dated 03.07.2020 containing 555,414 barrels of crude oil. It was discharged at the BYCO Petroleum Pakistan's oil refinery through the Single Point Mooring (SPM) after payment of duties and taxes. Based on some clandestine information regarding false declaration and import origin of the vessel named M.T. Rhea, 12 samples of the imported crude oil were taken from the 12 different tanks of the ship by the Custom authorities and sent to the HDIP for testing the origin of the crude oil vide letter No. SI/MISC/01/2020/OIL/118 dated 09.07.2020

- 14.43** On 13.07.2020 HDIP reported that:

"To the extent of tests carried out, the sample results fall under the typical characteristics of Iranian Crude Oil" (Annexure 14.1).

- 14.44** BYCO challenged the testing result of HDIP in the High Court of Sindh at Karachi vide Suit No. 1237/2020 which is still pending adjudication in the Hon'ble High Court, Sindh (***Annexure 14.2***).

- 14.45** Despite categorical testing result from HDIP about the Iranian origin of the crude oil in M.T. Rhea, Custom authorities to let the vessel discharge and took no punitive/legal action against the importer of the said vessel. Such an inaction by Custom authorities alludes to malicious collusion between Custom authorities and BYCO Refinery Limited which must be probed in detail.

CASE STUDY OF M.T. ELSA

- 14.46** Another case study is M.T. ELSA imported again by BYCO Petroleum Pakistan Limited. A sample was collected by HDIP from the ship on 24.07.2020 as per

directions of Ministry of Energy (Petroleum Division) and subsequently report was issued on 25.07.2020 with the following remarks vide No. HDIP/CRUDE/BYCO/2020/1 dated 25.07.2020:

"To the extent of tests carried out, the sample results fall under the typical characteristics of Oman Crude Oil" (Annexure 14.3).

14.47 Second opinion was sought from Pakistan Refinery Limited (PRL) by the Ministry of Energy (Petroleum Division) regarding the origin of the said crude oil. The origin of the said crude oil was declared as Iranian crude oil by the PRL report. In response, the said ship was not allowed to discharge and sent back. An enquiry committee has been constituted by MoEPD to probe into the case of M.T ELSA the report of which is awaited. Again, no punitive/legal action was initiated against BYCO Petroleum Pakistan Limited.

CHAPTER 15

TESTING OF PETROLEUM PRODUCTS

- 15.1** Section 21(2)(c) of OGRA Ordinance 2002 empowers the Federal Government to issue guidelines on standards and specifications for refined oil products whether imported or local. Purpose behind testing of oil products is not only to ensure compliance with minimum standards but also to frustrate smuggling of crude oil. Every crude oil has its own distinctive specifications which can easily be deciphered through testing of products. Traceability of the origin of crude oil is also done through laboratory testing.
- 15.2** In consequence of the approval of the summary by Economic Coordination Committee (ECC) vide case No. ECC-31/9/2017, dated 28-03-2017, MoEPD issued a policy guideline to OGRA on sampling and testing of the imported petroleum products vide letter No. PL-9(562)/2016, dated 04-04-2017, for necessary action and implementation of these policy guidelines (**Annexure 15.1**). The following is the procedure for sampling and testing of imported petroleum products notified by the MoEPD:
- i. The product shall conform to approved specification notified by the MoEPD.
 - ii. The quality of the product for all importers shall be tested by Hydrocarbon Development Institute of Pakistan (HDIP) laboratory prior to unloading. Sampling of the product for quality analysis shall also be done by HDIP in the presence of importer's surveyors.
 - iii. In case quality dispute of the sample testing by HDIP fails, re-sampling shall be made by a third-party surveyor in the presence of authorized representative of concerned stakeholders including HDIP. The fresh sample, so taken, shall be tested in the presence of nominated laboratory, pre-approved by the authority i.e. OGRA. Test results of fresh sample shall be final and binding.
 - iv. OGRA shall also independently carry out random sampling from vessels carrying imported petroleum products for testing through any of the laboratories approved by the Authority for effective monitoring, quality assurance and greater transparency in the process.

- 15.3** HDIP is the only government-owned testing agency in Pakistan although there are three other private testing agencies listed with OGRA after adopting competitive bidding process for conducting testing and inspections as third party on behalf of OGRA:
- i. Textile Testing International (TTI)
 - ii. Target Scientific Lab (TSL)
 - iii. SGS Pakistan Pvt. Limited
- 15.4** In case of quality dispute of the sample testing by HDIP, sample testing is made by one of the above mentioned three testing agencies which is considered final and binding.
- 15.5** Crude oil testing is done by 03 testing agencies namely HDIP, Pakistan Refinery Limited (PRL) and PERAC Research and Development Foundation (PRD). According to SOPs notified by MoEPD vide letter No.DOM-6(13)/2019, dated 19.08.2020, it is mandatory for HDIP and either one of the other private testing agencies mentioned to pick samples in the presence of Custom authorities and test the same as per SOPs notified (**Annexure 15.2**). Report of the said testing is submitted to the Custom authorities for further necessary legal action. Samples passing the test of the requisite specifications are approved for onward transmission whereas Custom authorities are bound to take legal action in case of samples confirming Iranian/contraband contents of crude oil.

HYDROCARBON DEVELOPMENT INSTITUTE OF PAKISTAN (HDIP)

- 15.6** Hydrocarbon Development Institute of Pakistan (HDIP) is an autonomous body under the Ministry of Energy (Petroleum Division). HDIP was established in 1975 as a Petroleum Research and Development Organization. HDIP was re-established under an Act of the parliament in 2006. HDIP has been providing testing of petroleum & allied products, consultancy services to oil & gas sector and also technical support to OGRA to monitor the quality of imported and local petroleum products.
- 15.7** HDIP was authorized as testing agency for the import of petroleum products, by the OGRA vide letter No. OGRA (OIL) 19-7-(5)/2006, dated 20.04.2007 (**Annexure 15.3**).

15.8 HDIP charges Rs. 125,000 and Rs. 100,000 as testing fee of each sample of the petroleum products at the port (Oil Pier/Terminal) and outer anchorage respectively.

HDIP FUNCTIONS

15.9 The main functions of HDIP concerning petroleum products are as follows:

- i. Testing of petroleum and allied products.
- ii. Sampling and testing of imported POL products from ship/tankers.
- iii. Inspection of lubricants and reclamation plants.
- iv. Enforcement of standard specification of lubricants.
- v. Crude oil evaluation.
- vi. Calibration services to industries and OMCs.

ANALYSIS

CEREMONIAL TESTING OF REFINED OIL PRODUCTS

15.10 Performance of HDIP since 2007 is not spectacular as it has yet to detect a single sizable non-conformity to notified standards or specifications in imported refined products. Despite all-too-often complaints from customers about the low-quality fuel containing higher Sulphur contents, HDIP cries all good. The role of HDIP, thus, has been reduced to a testing agency that only goes through the motion.

15.11 It is only since August 2020 that SOPs were notified for mandatory testing of every vessel importing crude oil. Only random testing of vessel carrying crude oil used to be done by HDIP on the request of Custom authorities. Plausible presumption of the Commission is that such illegal imports of crude oil must have happened in the past but went un-noticed.

CHAPTER 16

SMUGGLING

- 16.1** Smuggling in general is a phenomenon that has afflicted Pakistan's economy since long. Petroleum sector is no exception. Rather the situation of loss of revenue due to petroleum smuggling in Pakistan is staggering. It is almost an open secret that petroleum products (especially MS and HSD) are being smuggled into Pakistan from western border of Taftan/Iran. However, the Commission could not proceed on hearsay. To reasonably quantify the extent of smuggling, tangible evidence was required.
- 16.2** On top of secret probe, figures of seized quantity of MS and HSD were requested from Federal Board of Revenue (FBR). The FBR has furnished the following figures for financial year 2019-20 (**Annexure 16.1**).

Table 42: Seized Quantity of MS and HSD by FBR

Petrol (MS)	Diesel (HSD)
Quantity (Liters)	Quantity (Liters)
27,911,746	995,037,484

Source: FBR

- 16.3** To quantify this in revenue, one must take into the account the total Petroleum Levy (PL) plus General Sales Tax (GST) in addition to the varying custom duty over the year. The following table shows the exact picture of PL and GST spread over the financial year 2019-20.

PL	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Avg
MS	15.00	15.00	15.00	17.18	15.00	15.00	15.00	15.05	19.75	17.16	23.76	30.00	17.74
HSD	16.03	18.00	20.00	20.76	18.00	18.00	18.00	15.89	25.05	15.49	30.00	30.00	20.44

GST	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Avg
MS	16.37	17.12	16.45	16.45	16.60	16.56	16.94	16.94	16.21	14.03	11.85	10.83	15.53
HSD	18.43	19.25	18.47	18.47	18.51	18.16	18.49	18.49	17.76	15.58	11.64	11.65	17.08

- 16.4** Average customs duty for financial year 2019-20, as furnished by MoEPD, and average of PL & GST from the table above, is as follows:

Custom duty on MS	Rs. 3.50/Liter
Custom duty on HSD	Rs. 9.70/Liter
Avg PL & GST (MS)	Rs. 33.27/Liter
Avg PL & GST (HSD)	Rs. 37.52/Liter

16.5 Therefore, the total revenue to be generated on this seized quantity should work out as follows:

	Average Petroleum Levy and GST	+	Average Customs Duty (FY 2019-20)	=	
MS	33.27	+	3.50	=	Rs. 36.77/Liter
HSD	37.52	+	9.70	=	Rs. 47.22/Liter

The net loss of revenue on the seized product would be:

MS	27,911,746 (Liters) x Rs. 36.77 =	Rs. 1,026,314,900/-
HSD	995,037,484 (Liters) x Rs. 47.22 =	Rs. 46,985,669,995/-
Total:		Rs. 48,011,984,895/-

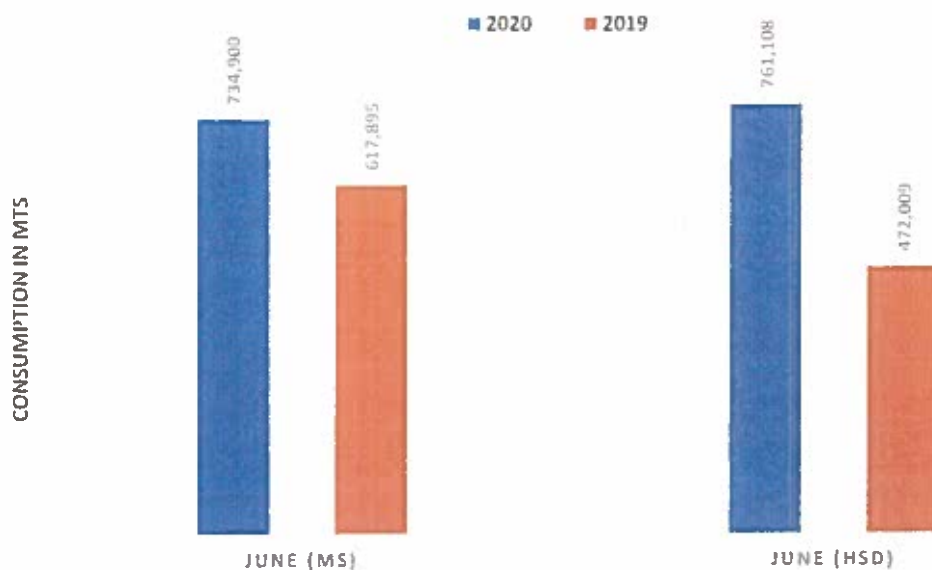
16.6 After having interviewed many people in the business including the Customs authorities, the Commission is of the considered opinion that the seized quantity is only 20% of the actual smuggled amount. In this process, the Commission made use of many sources and they supplied information on condition of non-attribution. If one takes this figure of 20% to be true, then actual loss to the exchequer should be:

$$\text{Rs. 48,011,984,895} \times (100 / 20) = \text{Rs. 240,059,924,475/-}$$

Thus, the amount is approximated at **Rs. 240 billion in loss** to the Government in one financial year.

ALTERNATE QUANTIFICATION OF SMUGGLING

16.7 Another way to assess the quantum of smuggling is to look at the unusual consumption rise in the month of June 2020. The following is graphic representation of the same:



16.8 From the above, one can see that there is unusual rise in consumption in the month of June 2020. Taking other variables as constant and given the fact that Iran border was tightly shut due to COVID 19 pandemic, the increased amount in consumption can be attributed to the quantity of smuggled HSD and MS. This being so in view of the fact that nothing extraordinary happened this year that was not happening during the year 2019. Rather, due to COVID 19 pandemic, the economic activity was slow compared to the last year. Thus, the unusual increase can be attributed to stoppage of smuggling as the same quantity was now being consumed legitimately and hence reflected in official figures. The increase in both MS and HSD is tabulated below:

Table 43: Comparison of June 2019 and 2020 sale of MS and HSD

	MS (MTs)	HSD (MTs)
June 2020	734,900	761,108
June 2019	617,895	472,009
Total net increase	117,005	289,099

Source: MoEPD

MONTHLY INCREASE OF JUNE-2020

MS	117,005 MTs x 1359	=	159,009,795 Liters
HSD	289,099 MTs x 1194.9	=	345,444,395 Liters

16.9 The quantification of the above figures with factors of all taxes (PL, GST, Custom Duty etc.) leads to an amount of **Rs. 265 billion**. (Complete calculation is attached at **Annexure 16.2**).

AUTHENTICITY OF THE ABOVE FIGURES

16.10 As can be seen that the quantum of smuggled petroleum products is worked in two different ways. However, the second method may entail some flaws in terms of total sale as reported by the OMCs in the month of June 2020. This has already been explained in OMCs chapter that the OMCs data is very likely fudged and exaggerated in the month of June. The Federal Board of Revenue (FBR) figures, however, are authentic and accurate as the exact quantity of confiscated goods (MS and HSD) is given. Hence, the figure of smuggled goods and consequent losses to the Government Exchequer of **Rs. 240 billion is more authentic**.

SMUGGLING BY SEA

16.11 Another avenue that has come forth is smuggling of petroleum products by sea. In this regard, BYCO is reportedly involved in this nefarious business. Since BYCO has its own refinery in Hub, a far off and secluded place, there is hardly any check on its imports and what it gets smuggled in. The report is substantiated by the fact that BYCO does not have a pier and berth at the refinery. Rather, it uses another method of decanting ships called Single Point Mooring (SPM). In this method, a platform has been established nearly 18 km in the open sea and the floating platform gets connected to the anchored ship in open sea. The decanting is done through a submerged pipeline extended on the sea bed from the refinery to the floating platform.

MATTER OF TWO SHIPS CARRYING SMUGGLED IRANIAN OIL TO BYCO REFINERY

16.12 Two specific cases of smuggling through ships have been discussed in Chapter 15. Both of them belonged to BYCO Petroleum Pakistan Ltd. (BPPL). M.T. Rhea, spotted on the tip-off from international intelligence agency, carried Iranian oil to SPM of BYCO. Second ship, again of BYCO, M.T. ELSA was sent back without being subjected to any laboratory confirmation. M.T. Rhea, however, was allowed to decant and by the time reports came in of it being contraband, it was already pumped into the supply line. The question of test report submitted by HDIP was challenged by BYCO in the Sindh High Court and the matter is still

pending adjudication. Clearly, BYCO Refinery imported cheap Iranian crude oil with malafide intentions through fake and forged documents. This was also in contravention of sanctions imposed on Iran. The possibility that the importer company had transferred foreign exchange of Pakistan to Iran through some illegal means, thereby indulging in money laundering, is a matter of further enquiry.

ADDITIONAL EVIDENCE OF SMUGGLED PETROLEUM SALES ACROSS PAKISTAN

- 16.13** The business of smuggled product is thriving as it offers a far handsome profit as compared to the margins allowed under the official pricing mechanism. It has been observed that the purchase of smuggled petroleum products and its consequent sale on filling stations is completely a decision of respective filling station to go for cheaper smuggled product instead of following the legal channel by placing demand to the OMC under which they are operating.
- 16.14** Based on the figures provided by the FBR authorities and interviews, it can safely be deduced that HSD is being smuggled inside Pakistan in larger quantity than MS. Hence, the owners of filling stations are more likely to purchase smuggled HSD as compared to MS. Under the context of this analogy, the sale figures of both MS & HSD provided by OMCs to the Commission were analyzed. The aim was to identify filling stations that had considerably high purchase of MS but almost no purchase of HSD.
- 16.15** A total of 486 filling stations were identified across Pakistan by this simple check based on the criteria mentioned above. The highest count was observed in Karachi, Sindh, having 41 such filling stations followed by Quetta, Baluchistan, having 32 filling stations. Some of these filling stations had monthly MS purchases as high as 600,000 liters but no purchase of HSD. They are highly likely to be involved in the malpractice of sale and purchase of smuggled HSD. Province-wise distribution of these 486 identified filling stations are tabulated below *(list attached as Annexure 16.3)*:

Province	Count
Khyber Pakhtunkhwa	22
Punjab	241
Sindh	129
Balochistan	91
AJK	2
Gilgit Baltistan	1
Total	486

16.16 From the above table, it can be gauged that the penetration of smuggled HSD is wide spread across Punjab, Sindh and Baluchistan. Smuggling can also be curtailed significantly if such filling stations are reprimanded for their illegal sale and purchase of smuggled petroleum products through penalties and cancellation of licenses.

CONCLUSION

16.17 **Rs. 240 billion** is not an amount to be overlooked. The question arises as to how such a huge amount gets across the Taftan Border and further across the country with multiple agencies working to curb this menace. Interestingly, the inquiry by the Commission has revealed that this huge quantity is brought in 50,000 liters tankers on road from Iran. The border check-posts are primarily manned by Frontier Corps (South), assisted by Pakistan Customs. It is not possible that these huge tankers can cross Iran border on any other route or on the bare-backs of mules or humans. On condition of non-attribution, sources revealed that the smuggling is carried out in connivance with the Government agencies. Once the smuggled goods are inside Pakistani territory, they are further transported to Sindh, Punjab and KPK. The rate of delivery, however, varies with destination.

16.18 Likewise, the smuggling by sea route must also be of huge volumes. The two aforementioned examples of suspect ships are of recent past (July 2020). The assessment of loss to government exchequer and the economic impact through this mode of smuggling is difficult to assess. However, the Commission would strongly recommend a deeper probe with respect to dubious functioning of BYCO Refinery.

CHAPTER 17

FUEL ADULTERATION

17.1 Adulteration in petroleum products (especially MS and HSD) is a common practice in the country, with Oil Marketing Companies (OMCs) and petrol pump owners often mixing chemicals into the fuel and subsequently selling substandard fuel to its customers. While this practice increases the profit margins of those selling it, the buyers of such fuel pay the price as it has adverse effects on the performance of their vehicles. In some cases, contaminated fuel has also been identified as the cause of car engines catching fire, hence the sale of such fuel can be considered criminal negligence. Moreover, usage of such substandard fuel is also an environmental hazard due to its emissions.

MIXING OF MANGANESE & NAPHTHA IN PETROL (MS)

- 17.2** In 2017, Atlas Honda lodged a complaint with OGRA in which it reported that high concentration of manganese was being added to the fuel that was being sold at different petrol pumps. Samples were taken from petrol pumps of PSO, Shell and Total Parco, which showed that 54mg of manganese was being added to each kilogram of cheap fuel to enhance its quality. It is pertinent to point out that 24 mg of manganese per one kilogram of fuel is considered dangerous, and the quantity found in the samples was more than double of that.
- 17.3** Moreover, according to our sources, the use of Naphtha (by-product of refinery) is rampant in MS. Normal imported MS in Pakistan has an Octane Rating of 92 – (RON 92). Naphtha is an inferior byproduct with Octane Rating of 72. Mixing Naphtha with imported RON 92 MS yields a product having an Octane Rating of roughly 82, more like regular MS sold in the preceding years. Legally Naphtha cannot be sold in Pakistan and it has to be exported. However, the production figures of the refineries provided by MoEPD and OCAC for FY-2019-20 reflect an unexplained difference of around 150,000 MTs of Naphtha. While later on, the MoEPD tried to explain this gap but it does remain a very important matter for follow up inquiry, wherein the production figures and export documents will require detailed scrutiny.

MIXING OF KEROSENE, LIGHT DIESEL OIL, WHITE SPIRIT ETC. IN HSD

17.4 Furthermore, during the ground checks, some storage depots of Kerosene were inspected where HSD was also being stored illegally in addition to Kerosene. As per the information collected from various sources, the mixing of cheap kerosene is sometimes as high as 10-20%, and with the price gap between kerosene and diesel widening over the years, petrol pump owners often leverage that to gain unlawful profits. Other chemicals used for mixing in HSD, besides kerosene oil, include Light Diesel Oil (LDO), White Spirit, and used engine lubricants. As HSD is consumed mostly in commercial vehicles and agriculture sector of Pakistan, quality control in HSD is also reportedly very poor.

USE OF VAM, MIXED XYLENE AND N-HEXANE IN ADULTERATION

17.5 During the Commission's visit at Keamari Port, Karachi it was found that HASCOL had imported and stored other chemicals in bulk such as VAM, Mixed Xylene, and N-Hexane (**Annexure 17.1**). Bulk quantities of said chemicals were also found in import data submitted by Al-Rahim group. These chemicals are generally used as additives that can be mixed in petroleum products. These products are mainly solvents and the addition of solvents is one of the most common practices of adulteration of fuel due to the enormous difference in taxation between petroleum products and solvents. The addition of illegal compounds to fuels can cause damaging and unpleasant issues to society such as environmental risk due to the emission of vapors and toxic gases, i.e. Carbon Monoxide and Nitrous Oxide, less durability to the vehicles' engine, as well as unfair market competition of fuel prices causing a great loss to the Government. The presence of these chemicals at the port does not rule out the possibility that adulteration of fuel is not only being done by the petrol pump owners and OMCs but by importers of petrochemicals as well. Noteworthy in this regard is Al-Rahim Terminals, Karachi, which deals in petrochemicals on large scale and, though not being an OMC itself, provides bulk storage facilities to other OMCs for petroleum products. Pertinent to mention that a subsidiary of Al-Rahim, AL-Noor Petroleum is now also an OMC. Dealing in both petroleum products and petrochemicals that can be used for fuel adulteration, is surely a cause for concern and a matter of further inquiry.

ROLE OF REGULATOR AND OMCS IN ADULTERATION

17.6 As mentioned in the earlier chapters, the performance of OGRA in ensuring quality of the petroleum products sold in the country has not been particularly impressive. Not only are they unable to ensure that the quality of both MS and HSD that is produced by refineries is up to the international standards, but they also are unable to halt the practice of fuel adulteration, which only exacerbates the situation. OGRA mostly uses third party inspectors in addition to HDIP for such inspections and on detection of low-quality fuel products, there have been minimal penalties. This can be gauged from the fact that in last 5 years almost all major private OMCs have been found holding sub-standard and adulterated products in their depots (**Annexure 17.2**). Instead of taking strict cognizance of the issue, the role of OGRA has been absolutely dismal as the cumulative penalty received in the last 5 years is Rs. 64.8 million only. Noteworthy that such depots contain thousands of tons of MS that translates into millions of liters. Instead of confiscating the adulterated products, OGRA goes for fines which are proportionally insignificant to the amount of unlawful profits.

OBSERVATION

17.7 The issue of sale of adulterated fuel was raised with OGRA by several stakeholders and OGRA decided to launch a drive against sale of loose and adulterated petroleum products. However, no action followed that resolve. The MoEPD was unable to roll out its fuel-marking program, which was supposed to stop this practice of fuel adulteration. The members of the Commission have worked really hard in all aspects of inquiry and have uncovered some very blatant violations by the industry players. The smuggled product in Pakistan is in huge quantum and is already of nefarious quality. Furthermore, the practices of adulteration and mixing of fuel are rampant, and are not only causing harm to the customers, but also to the environment at large. Hence, there is a dire need to tackle the issue vigorously and put a halt to such malpractices.

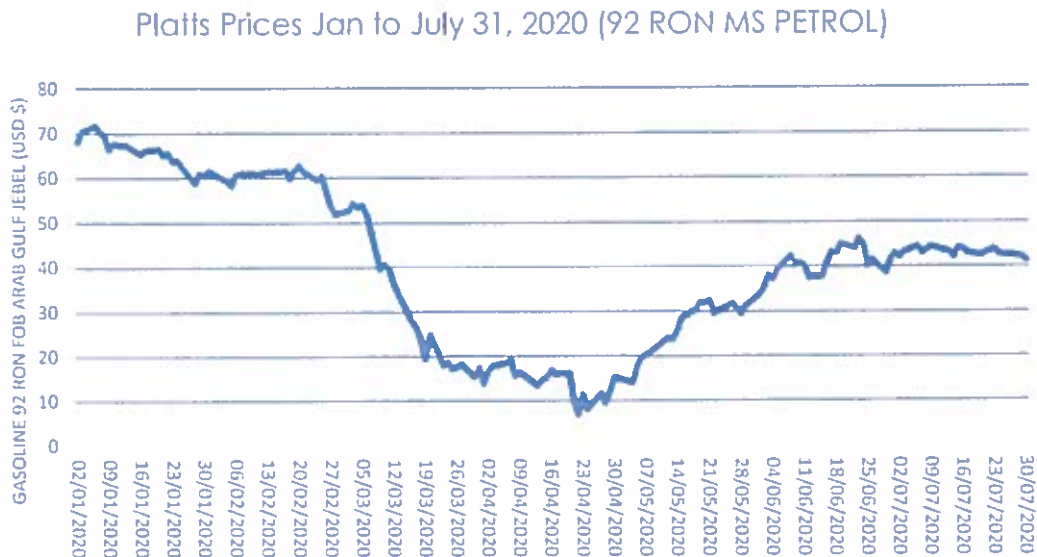
CHAPTER 18

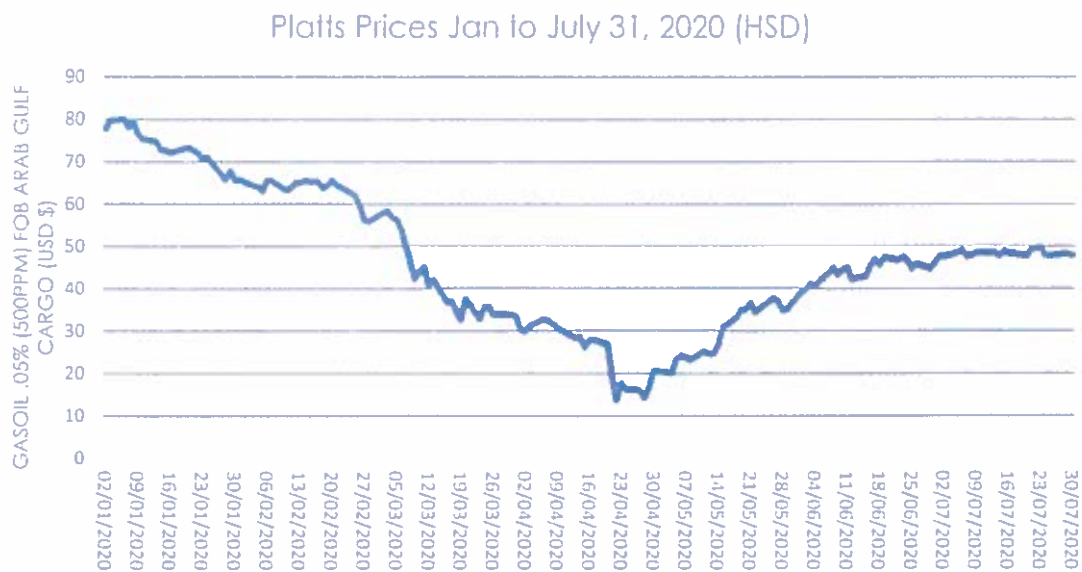
ANALYSIS OF SPECIFIC PERIOD (JUNE 01 TO JUNE 26)

- 18.1** The controversial period of June 01 to June 26 needs to be discussed specifically to see how the OMCs fared during this time. To re-iterate, the prices of MS was substantially cut on 31 May and the new price was set at Rs. 74.52/liter. Consequently, the shortage of MS began to surface across Pakistan and the filling stations gradually became dry, denying the public at large to reap benefit of this substantial price cut.
- 18.2** The OMCs, in contravention of license conditions, slowed down the supply of petroleum products to their filling stations. On a lesser scale, the filling stations also held back on whatever stock they had in their tanks.

KNOWLEDGE OF PRICE INCREASE IN THE COMING MONTH

- 18.3** As has been explained in the Price Fixing Mechanism chapter, the increase or decrease in oil prices emerges on the horizon by looking at international PLATTS rates and import of PSO during the preceding month, for the oncoming month. The graph below depicts increasing PLATTS rates from January 2020 to July 2020.





18.4 The oil prices had dipped to their lowest in the end of April and had since been increasing steadily. The import of PSO during the month of May 2020 was thus far below the average of international prices (PLATTS rates) in June. The difference between April 2020 and May 2020 oil prices was indicative that, according to Price Fixing Mechanism, the prices in June 2020 would dip further as 03 ships of PSO, to be considered for price fixing of June, had already docked by May 07. This simply meant loss to all OMCs as the import prices would be more than the selling price in Pakistan. Meanwhile, upward trend in international market continued. PSO had further imported 04 vessels by 15 June and the purchase price was almost double the price of May purchases. To keep their outlets wet, PSO was constrained to sell incurring losses in June. This purchase price would be considered as base for fixing the prices of July. Taking all other variables as same, it would not take an Einstein to predict that a significant price rise was around the corner in July.

ROLE OF OMCs IN THE CRISIS PERIOD

18.5 Aware of the above, coupled with the fact that OMCs would incur a substantial inventory loss by free sale in June, OMCs took easy way out to simply slow down or dry out supplies, against all legal and moral norms. PSO being a state-owned entity, could not follow this illegal suit due to the prevailing situation. Consequently, its market share in the period of shortage increased by nearly

20% and consequently, it sustained a loss of Rs. 7-8 billion¹⁵ in the process. Likewise, Shell Pakistan, to some extent also tried to keep pace with the situation and fared much better than other OMCs. Shell also posted a loss of more than Rs. 8 billion in the first two quarter of 2020 (**Annexure 18.1**).

- 18.6** However, all other OMCs proportionally held on to their stocks with knowledge of anticipated rise in prices. This has been proven during ground check of filling stations and record submitted by OMCs with affidavits. During this period of crisis, OMCs have shown sales on paper but the ground check of filling stations across Punjab has clearly revealed that the OMCs were well short on supply, upto 50% or more as per approximation during the inquiry. It is clear that all OMCs had a fairly good idea of price increase of at least Rs. 20/liter and thus illegally hoarded their stocks during the crisis, stripping the public at large of billions of rupees.

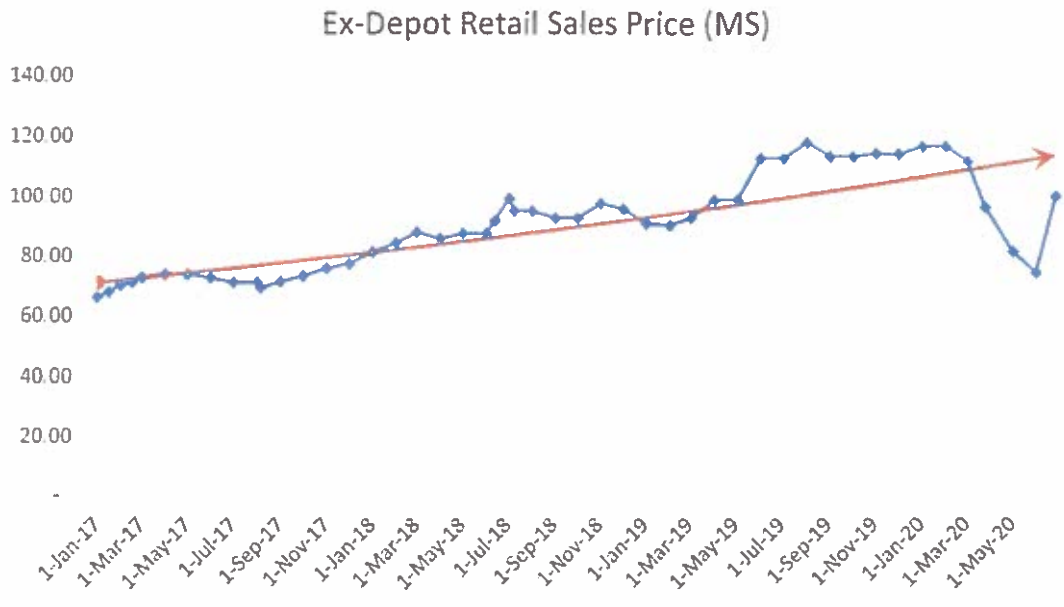
OGRA'S ACTION ON HOARDING/SHORT SUPPLY DURING THE CRISIS PERIOD

- 18.7** During the period of crisis, OGRA being the regulatory body remained as apathetic to the situation as a non-functional entity could be. OGRA did issue show cause notices to 09 OMCs and fined them a total of Rs. 50 million (**Annexure 18.2**). However, the show-cause notices were devoid of any authentic/quantified detail and seemed more of a ritual used as a defensive ploy on part of OGRA. Further, 09 companies very conveniently paid a paltry sum of Rs. 25 million (45 % of the total fine imposed) and went into review against the penalty. **This amount of Rs. 25 million is far eclipsed by estimated Rs. 6-8 billion that the OMCs made on the hoarded stock after 26 of June.**

¹⁵ PSO

RATIONALE OF OMCS THAT THEY WERE INCURRING LOSSES DURING THE MONTH OF JUNE

18.8 The following graphs show the general trend of increase and decrease in price of MS and HSD over a period of more than 3 years.



18.9 The table below sums up net effect of price increase/decrease starting from Jan 2017 to June 2020.

Product	Total of -ve Price Change	Total of +ve Price Change	Net Change over Jan 2017- June 2020
MS	-67.5955	101.4354+	33.8399
HSD	-81.4903	107.7381+	26.2478

18.10 It is clear from the above table that the overall price had increased by Rs. 33.84 and Rs. 26.25 in MS and HSD respectively over a period of 42 months. It also reflects that there has been an overall positive net increase over a substantial period. These figures and trends clearly contradict the argument of OMCs that they were losing huge amounts. By and large, the OMCs have made tremendous profits over a prolonged period by these monthly price increases. The time for benefit to public, however, has been denied due to so called loss that OMCs would incur by free sale of petroleum products in the month of June. It is pure and simple illegal activity by nearly all OMCs during the crisis period. **Such blatant apathy and disregard towards legal binding of license conditions should surely call for most stringent steps including revocation of license and allied penal action against the OMCs.** In the recommendations, the Commission has rendered suggestions to the same effect.

COMMON MAN'S GAUGE

18.11 The simplest and most common gauge to check this malafide on part of OMCs is that the so-called shortage of both MS and HSD stood resolved on June 27, the day the prices were increased by a huge margin. This represents a common man's gauge that there was no real shortage of the oil products. The only consideration of OMCs was to make huge profits by hoarding the stock in times of price decrease and releasing it when the prices were enhanced.

ROLE OF MoEPD AND OGRA DURING CRISIS

18.12 At the cost of repetition, the roles of both MoEPD and OGRA during this crisis period reflect sheer incompetence. OGRA very conveniently fined 09 OMCs by a minimal sum of Rs. 25 million against billions that the OMCs earned in the aftermath. Likewise, MoEPD remained completely oblivious to an impending doom by not urging OMCs to import and stockpile petroleum products during the time of low prices. Further MoEPD was also impervious to continual stock

shortage of OMCs during the preceding 6 months. The ban on import from 25 March to 24 April 2020 is an additional unexplained step on part of MoEPD. Driven by the shortage, the Federal and Provincial Governments, spearheaded by district administrations, did spring into action in the crisis. It was, however, a knee jerk response and too little too late. Eventually the Government of Pakistan was almost forced to increase prices on an unusual date of 26 June rather than 1st of July to avert the shortage. Both OGRA and MoEPD stand responsible for this lapse that attracts both departmental and penal actions.

CHAPTER 19

THE TERMS OF REFERENCE (TORs) OF THE PETROLEUM PRODUCTS

INQUIRY COMMISSION (SHORT REPLIES)

19.1 Chronology of crisis and working of oil industry has been discussed in complete detail in the previous chapters. As such all the queries raised in the TORs have already been touched upon in detail. However, as a refresher, short replies to all TORs are penned down for quick understanding.

a. **Whether in view of the fall in price of petroleum products in the international market in/or about the month of March and April 2020, those responsible for procurement of petroleum products for the country, did actually avail the benefit to the maximum possible extent? If not, the causes and person/authority responsible for the failure to avail the benefit of lower prices in the international market?**

19.2 International Petroleum prices showed a gradual downward trend starting February/March 2020. The prices were at the lowest at the end of April 2020 and beginning of May 2020. The benefit, however, was not reaped due to faulty policy of MoEPD and OGRA. The so-called ban on imports from 25th March 2020 to 24th April 2020 did affect this benefit partially. The Cabinet never approved the 'ban' as such. Summary moved by Secretary MoEPD on 27th March 2020 only asked for 'rationalization' so that the local refineries could continue to run and local oil wells remained wet. However, a letter was issued on 25th March from DG Oil directing all OMCs for cancellation of their already booked cargoes. MoEPD is solely responsible for this. However, the OMCs cannot be exonerated completely as 06 ships did dock during this ban period as the purchases were made prior to the ban (**Annexure 19.1**). Further, after lifting of the embargo on 24-04-2020, all OMCs had ample time to procure and bring in requisite quantities of MS and HSD well before onset of the crisis. Noteworthy that the time taken from purchase to final delivery at the retail outlets does not exceed 15 days at the most.

b. **Whether the quantity of petroleum products procured at lower international price and imported and stored in the country were actually supplied to the public/consumers at the lower price or was it kept in storage or hoarded till the**

increase of price of petroleum products after 26.06.2020 and supplied thereafter at higher rate resulting in huge profits? If so, what was the quantum of windfall and who were its real beneficiaries?

19.3 The petroleum products purchased during the low-price period were indeed hoarded by the OMCs. This aspect has been fully explained in chapters 8 and 10. In short, both MoEPD and OGRA remained completely ineffective to ensure proper supply in the month of June 2020 when the public was to reap benefit of a big price cut. OMCs flouted the laws and rules and only released their stock once the prices were increased on June 26th, 2020. OGRA did penalize 09 OMCs and received a paltry fine of **Rs. 25 million**, a dwarf amount compared to the billions that were made by OMCs by not keeping the supply chain open till the prices were upped by a big margin. The ineffectiveness of both MoEPD and OGRA has been discussed in chapters 5 and 6.

c. Whether any order, notification, decision, action or inaction including ban and subsequent relaxation on imports of petroleum products by any person, Authority or Division was meant to and/or did confer any undue benefit or advantage to any person including OMCs, refinery, dealer etc. in this crisis?

19.4 The notification of ban and subsequent withdrawal did affect the supply chain in general. However, had things been handled with more prudence all would have benefitted including the GoP, OMCs and consumers. As such, the notification of ban had an adverse effect on the situation to the extent of disturbing the equilibrium between supply and demand for few days. The lonely defence, however, relied upon by OMCs is superfluous due to the fact that it only takes 10 to 15 days for an oil vessel to reach the end users. PSO, being state owned, was squeezed by MoEPD to bear the burden of culprit OMCs. Forced to import at higher price and sell at a much cheaper rate in the month of June 2020, PSO, thus, suffered a colossal loss to the tune of Rs. 7 to 8 billion.

19.5 Inaction of both MoEPD and OGRA during crisis was displayed in a number of ways like changing the berthing priorities to give extra advantages to certain OMCs, non-enforcement of PRM decisions wherein OMCs were obligated to import their allocated quotas, connivance at non-adherence by OMCs to maintain 20 days stock and imposition of ceremonial fines on infractions of OMCs etc. Coming hard on PSO and soft on private OMCs is an obvious case

of criminal omission or collusion between the regulators (MoEPD & OGRA) of oil industry and OMCs. This inaction can be proclaimed as collusion

- d. **What were the real causes for the shortage of petroleum products in the country in or about the month of June, 2020, and identification of those responsible for this crisis including the private sector as well as the public functionaries, regulatory authority?**

19.6 The situation of the shortage has been discussed in detail in chapter 18. To reiterate, the pricing of petroleum products is determined on the basis of average imports of PSO in the previous month (discussed in chapter 04). The PSO imports of May 2020 were completed on 7th May, 2020. Meanwhile, the international prices, after touching bottom on 5th May 2020, started to increase steadily. All stake holders knew the pricing formula and could predict a sharp fall in price fixing of June 2020 by the Government of Pakistan. By the end of May 2020 and throughout June 2020, the higher international prices meant a loss in OMCs profit on MS and HSD in the month of June 2020. Keeping this in sight, OMCs held their stocks instead of supplying them to retail outlets by resorting to multiple malpractices examined in chapter 08 of this report. OGRA ineffectively issued show cause notices to 09 companies but the OMCs did not budge. These 09 OMCs conveniently paid a fine of Rs.25 million (half of actual fine of 50 million) and went into review (again before OGRA) to get even this fine remitted. OGRA remained completely ineffective to say the least. This inertia or ineffectiveness was not due to the instant situation but spread over long years of hibernation and willful silence by OGRA. The role of OGRA and its dereliction has been discussed in detail in chapter 5. In short, OGRA only acted as a non-entity and did almost nothing during the crisis, thus, in a way, being complicit to the wrong-doings of the OMCs. Likewise, MoEPD also remained insensitive to the situation.

- e. **Whether the storage of petroleum products in general and during the shortage period in particular, was less than the required/prescribed limit? If so, what steps were taken against the companies responsible for failure to maintain the stored quantity? If no appropriate actions were taken against the companies responsible, which government authority/official failed in its duty in this respect?**

19.7 Maintenance of minimum stock of 20 days is the legal responsibility of each OMC. Ensuring compliance of this requirement is the prime responsibility of OGRA. All set of laws, rules and regulations in this regard have been mentioned already in chapter 03. Practically the storage of 90% of the OMCs never touched the mark of 20 days stock per each retail outlet. Although the crisis of shortage made it even more pronounced, this phenomenon had been going on for quite some time as the stocks were never maintained by OMCs. Acquisition and supply of petroleum products continued without brimming of storages of respective OMCs. At the cost of tautology, OGRA, the legal watch dog over stocks maintenance, had remained oblivious to this vital function. It, instead, remained embroiled into legal fight with MoEPD by bringing in murky explanations to the word 'Authority'. It had not taken any action in this regard even after promulgation of Pakistan Oil Rules 2016 when it became clear that the Authority (OGRA) was to ensure requisite reserves by each OMC. When, however, too much water had passed under the bridge, OGRA sprang into action by issuing show cause notices to 09 OMCs, fining them 50 million in total. As per procedure, the OMCs paid half of the fine (25 million) and have gone into review/appeal before OGRA for reversal of this fine. Even the amount of Rs.50 million is peanuts compared to the billions made by OMCs by hoarding and holding on to their inventory.

f. To examine the role of refineries and determine their responsibility in the shortage/crisis vis-à-vis the procurement from local sources, imports, storage and supply in the country.

19.8 For complete appraisal of the part of refineries, chapter 11 may be referred. To summarily re-iterate, the role of refineries during this volatile period was of little significance. The table of the stock/allotted quotas to the OMCs since January 2020 is reproduced below:

Month	Refinery Availability (MS) (MT)	Lifted by OMCs (MT)	Difference between availability and lifted (MT)
January	176,500	180,397	3,897
February	143,000	121,428	-21,572
March	168,500	104,717	-63,783

April	195,000	89,463	-105,537
May	239,200	275,324	36,124
June	154,500	164,593	10,093

19.9 As can be seen from the above, both MoEPD and OGRA did not bother about non-lifting of allotted quotas by OMCs from February 2020 to April 2020. During the said period, the international prices were on a downward trend and OMCs were benefitting from import. It is, however, mind-boggling that both MoEPD and OGRA took no action against the delinquent OMCs. Had the allotted stock been lifted as prescribed in MoEPD Product Review Meeting (PRM), the need for so-called ban or rationalization (March 25 to April 24, 2020) would not have arisen. Both MoEPD and OGRA have no rational reply to this delinquency. Farcically, even the data which led to the decision of import embargo, was supplied by OCAC. MoEPD had no means or system of its own to fetch the vital statistics of the oil industry.

g. To collect and compare data of imports, supply, price and consumption of petroleum products, during different periods so as to determine the responsibility of the Petroleum Division, OGRA, OMCs, Refineries, petroleum dealers or any other authority or person relating to shortage of petroleum products in the country and any other illegal practices including violation of the provisions of applicable laws including the Petroleum Act, 1937, OGRA Ordinance, 2002, Rules, Regulations, terms of licenses committed in general and during this period in particular.

19.10 Oil industry in Pakistan is the complex interplay of the following stakeholders each of which has been examined in detail in various chapters of this report:

Stakeholder	Chapter
Ministry of Energy, Petroleum Division (MoEPD)	05
Ministry of Energy (Department of Explosives)	07
Oil & Gas Regulatory Authority (OGRA)	06
Refineries	11
Oil Marketing Companies (OMCs)	08
Retail Outlets/Filling Stations	12
Oil Companies Advisory Council (OCAC)	13

Port Authorities	14
Hydrocarbon Development Institute of Pakistan (HDIP)	15
Private storage terminals/companies	14

19.11 As regards the violation of relevant laws, the same has been discussed in the chapter where each specific stakeholder of oil industry has been assessed. For the purposes of clarity, the Commission has attempted to amalgamate all relevant laws, rules and regulations in chapter 03 of this report. Nomenclature of a specific set of laws/rules has been modified to suit the given TORs.

h. To identify any deficiencies in the prevailing laws, regulations, licenses, procedure, mechanism/methodology regarding import, price determination/fixation and its timelines, storage and related issues including strategic storage and planning for ensuring smooth supply of petroleum products in the normal course as well as during shortage, crisis or emergency.

19.12 The confusion relating to all laws pertaining to petroleum products and their refining/ marketing mechanism has been discussed in chapter 03 titled 'Laws and Rules'. Briefly, MoEPD and OGRA have not worked over the years to streamline their working giving rise to multiple malpractices both in the Government and private sectors. MoEPD has been exercising some powers under the apparently defunct 1971 Petroleum Rules. At the same time, OGRA has been unwilling to exercise its authority under newly promulgated Pakistan Oil Rules 2016. Aspects of price fixing has been addressed in chapter 04 whereas issues of storages/ strategic storage have been explored in chapter 06. Analysis of flow of import, its attendant gaps and recommendations for smooth flow of imports in future has been attempted in chapters 05 and 21.

i. To examine whether there was any market manipulation of petroleum products by any party including the O.M.C.s, petroleum dealers, refineries etc. and identification of those responsible for such practices and measures required to prevent such practices in future.

19.13 The shortcomings and market manipulation have been discussed in TORs (e) (f) and (g). Measures suggested for future course correction are detailed out in chapter 21.

j. **To suggest short term as well as long term measures, guidelines, SOPs required to be taken at the Federal as well as Provincial level to ensure that such shortage, hoarding or market manipulation, if any, does not recur in future.**

19.14 Short and long-term measures have been taken up in section of recommendations (chapter-21).

k. **Any other issue deemed appropriate or relevant to the above TORs.**

19.15 Many issues and prevalent malpractices were observed by the Commission in the oil industry in addition to the TORs. For instance, the Commission has included the dedicated chapters on OCAC, smuggling, adulteration, venues of imports, HDIP and illegal retail outlets.

CHAPTER 20

CONCLUSION

- 20.1** In sharp contrast to the world at large which seized the days of lowest international prices of petroleum products from the months of March to May 2020, the crisis of shortage erupted in Pakistan in the month of June 2020. Sad story of how an opportunity was transformed into a crisis starts in March 2020 with the irrational decision of 'import cancellation' by MoEPD spanning over a month whereby the OMCs were asked to cancel their cheap international purchases. Instead of enforcing the OMCs to lift their local quota of purchases from refineries, the MoEPD went for the blanket import ban. Regardless of this so called 'ban', it is an admitted fact that 06 oil carrying vessels belonging to private OMCs did dock and decant during the days of import embargo. Thus, the OMCs hue and cry about embargo is not all that true a reason for the shortage. Consumers had to pay plenty for the failure of MoEPD to implement PRM decisions. Lifting of import ban in the end of April coincided with the gradual rise of international prices of petroleum products albeit a little. May and June witnessed the apathy of certain culprit OMCs which imported oil but hoarded or slowed down the supply to their retail outlets till the government increased the prices on June 26, 2020. General consumers, thus, were expropriated from their rightful gains.
- 20.2** Coming events cast their shadows before them. Seeds of the crisis were sown already by MoEPD, OGRA, Department of Explosives, and a handful of malicious wrong-doers identified in the whole saga. OGRA inherited the regulatory functions of oil industry from MoEPD in the year 2006. For the next 14 years, Oil Industry kept waiting for the new petroleum rules to replace the old Petroleum Rules of 1971. This was an era of legal ambiguity on the division of powers between MoEPD and OGRA which continues till date. From the year 2006 to 2020, OGRA became the breeding ground of OMCs the number of which has now touched 66. OMCs got unlawful provisional marketing licences without developing their mandatory storage and stock facilities. Cheap oil days could not be cashed due to criminal and deliberate omission of duty by OMCs to maintain minimum stock of 20 days. Failures of OGRA refuse to end. Mushrooming of illegal retail outlets, regularisation of illegal retail outlets, illegal

joint ventures or hospitalities, unlawful private storage companies, frequent unpunished violations of licensing conditions by OMCs and many more means OGRA specialises in earning discredits. MoEPD is an equal competitor of OGRA in this regard. No strategic storages, outdated refineries, ceremonial role in PRMs, heavily beholden to OCAC, a private body, for commanding the oil industry on its behalf are some of the leading discredits of MoEPD. The rest of the damage was done by the Department of Explosives, Port Authorities, smugglers and adulterers. After me, the deluge. Now it makes it easier to understand how the opportunity was converted into the crisis. Taking these failures as constants, more crises of this proportion or even worse may occur in future. Complete correction of oil industry is required as suggested ahead.

CHAPTER 21

RECOMMENDATIONS

21.1 Though not being fully aware of the restrictions and financial constraints that the Government of Pakistan (GoP) faces at the moment, the Commission has ventured into tabling recommendations, based purely on the knowledge acquired during the last 03 months (about the industry), coupled with common sense. Most of these recommendations are not strictly short or long term as some part of each recommendation might entail a short time while rest might take a longer period. The recommendations are derived primarily from preceding chapters where each component of the industry was discussed separately. They are as under:

OIL & GAS REGULATORY AUTHORITY (OGRA)

21.2 The OGRA has been taken up on top of the list as much of the mess that abounds in the oil industry pertains to OGRA and the related laws/rules. Having been created in 2002 and given some powers to regulate oil industry in 2006, it took OGRA a long 14 years to even formulate its rules (Pakistan Oil Rules 2016). OGRA, nevertheless, was never in a position to execute and enforce these rules and constantly shunned away from the very responsibility that had been bestowed upon OGRA through OGRA Ordinance 2002 and Oil Rules 2016. Role of this white elephant was not more than a silent spectator before or during the crisis of shortage of petroleum products. Catalogue of failures of OGRA since 2002 includes dishing out licenses (25 in last 14 years while 32 wait in line) to OMCs without ensuring actual enhancement of storage facilities, zero inspections of relative adherence to minimum stock requirements by OMCs, imposition of ritual fines on OMCs for drying out their retail outlets during the month of June 2020, issuance of unlawful provisional marketing licenses to OMCs, no punitive action on illegal joint ventures or hospitalities between OMCs, no revocation or suspension of license of even a single delinquent OMC, no mechanism to ensure lifting of local quota of petroleum products by OMCs, no checks on operations of unlawful private storage companies and so on. Oil industry would have been better-off had there been no OGRA. Such proliferation of licenses has upped the scale of malpractices including smuggling and adulteration. With virtually no effective check by OGRA, it

would take a Herculean task to bring the situation to any semblance of normalcy.

- 21.3 The Commission is of the **considered** opinion that formation of a regulatory body like OGRA, perhaps in line with modern markets of developed countries, was not aligned with the ground realities of Pakistan. As such, the Inquiry Commission strongly recommends dissolution of OGRA through an act of parliament within next 06 months.
- 21.4 The modalities of how the present staff and function of OGRA would be utilized can be made a part of the proposed act. This is a strong recommendation but given the landscape of problems that OGRA has put the oil industry in, no other alternative would be viable.
- 21.5 The Commission recommends strict penal/departmental action against those involved in illegalities, especially in issuance of unlawful provisional marketing licenses/marketing permissions. This includes the Chairpersons (incumbent and the previous ones) and their associated members (Oil, Gas, Finance) that constitutes the 'Authority' under section 3(3) of OGRA Ordinance 2002. To accurately assess the illegality on part of each person is a matter of further investigation/probe.

MINISTRY OF ENERGY, PETROLEUM DIVISION (MoEPD)

- 21.6 Ministry of Energy, Petroleum Division, has not fared much better during the last decade and in the June crises in particular. The story of MoEPD is also rife with apathy, incompetence flavored with malpractices, and disregard to laws/rules. However, the Commission recommends that, to get out of the present predicament of utter confusion, MoEPD must be empowered to take the matters into its own hands with a consolidated approach. The dire straits of oil industry can only be straightened out with a unified authority.
- 21.7 Should the GoP agree to this proposal, the Ministry can start working in collaboration with the Law Ministry to draft new rules within next 06 months and have it passed by the Cabinet/PM subsequent to the promulgation of the proposed act. If the viability of this option is accepted, MoEPD should be given 6-12 months for working out all the mechanics of Petroleum Division in terms of strength, checking mechanism, enforcement etc. for a useful and effective operational unit.

- 21.8** Meanwhile, the Commission strongly recommends departmental/penal action against the incumbent DG Oil for passing flagrantly illegal orders regarding allocation of import/local quotas. Strong departmental/penal action is also recommended against Mr. Imran Ali Abro and the other associates who had been maneuvering the unlawful affairs in the Petroleum Division. Mr. Imran Abro is reportedly the king pin in the Petroleum Division and calls the shots on behalf of his superiors. Pertinent to mention that the gentleman is also the signee of the so-called ban letter (25 March, 20). He has been serving in MoEPD for the last 06 years without any legal ground. Under the Rules of Business, a contract employee of private company (Inter State Gas Systems (Pvt. Ltd) under MoEPD) cannot serve on deputation/attachment. All such 'Stand-out-bad-characters' must not go unpunished.
- 21.9** The role of Secretary MoEPD cannot be ignored. Apparently, he remained encapsulated in a vacuum, both prior to and during the crisis period. No satisfactory explanation has been offered as to why the word rationalization, approved by Cabinet, was transformed into ban/cancellation of imports. Likewise, how would the flagrant violations of OMCs spread over a prolonged period, could be ignored by him? The Commission also recommends departmental reprimand/action against the Secretary Ministry of Energy, Petroleum Division.
- 21.10** The Commission also recommends a strict action against officials of Department of Explosives (working under MoEPD) found involved in issuance of unlawful Forms 'K' & 'L' to retail outlets and storage depots respectively.

PENALTY TO OMCs FOR JUNE CRISIS

- 21.11** Monetary losses forced upon PSO, a state-entity, during the days of shortage must be equitably recovered from the OMCs which creamed off the unlawful profits through hoarding, slowing down or drying out their retail outlets. How can the cruel story of oil ship 'Ploutus' go unpunished where the PSO ship was forced to discharge earlier by MoEPD by violating the priority-queue to delay the berthing of 'Ploutus' (discussed in chapter 13). The quantification of these easy-but-illegal gains by OMCs has been attempted in Chapter 9. The Commission recommends that all such unlawful gains be recovered from

OMCs by the Federal Government as these profits rightfully belonged to the general consumers at large.

ESTABLISHMENT OF A MONITORING CELL IN THE PETROLEUM DIVISION TO OSTRACIZE THE ROLE OF OCAC

21.12 The Commission recommends that a monitoring cell must be established in the MoEPD. The cell should collect all relevant data from OMCs (import, local uplifting, daily/monthly sales of OMCs, refinery import/production program etc.). This cell would record data of every aspect of OMCs just like OCAC. Only this data would have legal sanctity and the OMCs could also be held accountable in case of spurious figures. Presently OCAC has a total staff of 12 persons. This cell may operate with twice that number but all data would be directly available to the MoEPD and the GoP whenever required. This way, OCAC, a non-statutory private body, would eventually be curtailed from its heretofore decisive role in data collection, berthing priorities, IFEM claims and PRMs. These areas must be the exclusive domain of MoEPD.

INVOKING THE ROLE OF THE DEPUTY COMMISSIONER/DISTRICT ADMINISTRATION

21.13 To inspect and examine any premises, facility or installation owned or operated by an OMC or refinery and to conduct enquiry so as to find any infractions or violations, is the responsibility of the Deputy Commissioner (DC) (Provision of Rule 54 of Pakistan Oil Rules 2016). The Commission finds them conspicuously absent from the panorama until forced by the acute shortage of petroleum products in the month of June 2020. This late awakening could not even paper over the cracks during the crisis as the ordeal was too big to handle by then. Putting aside the overlapping of powers and Ministry-OGRA feud, who stops the Deputy Commissioners from exercising these powers to the benefit of the general consumers? To cite J.F.Kennedy, "Americans are at their best during very bad times or very good times. It is the in-between period that causes them trouble." Sustained action in the 'in-between period' is required to be undertaken by the DCs due to their on-ground presence and better manpower. The DCs have long since abandoned their inherent powers to inspect/correct almost any avenue of public interest. This is about time that the role is re-invigorated.

CLOSING OF ILLEGAL RETAIL OUTLETS

21.14 All illegal retail outlets must immediately be closed down while simultaneously initiating action not only against their owners but also against those who allowed them to prosper. In the same vein, the practice of unlawful regularisation of retail outlets built in violation of rules must be put to an end. May the readers know that no one knows the exact number of retail outlets operating in the country be it MoEPD, Department of Explosives or OGRA. By help of District Administration, MoEPD, Department of Explosives and a rep of the OMCs, the exact number would be reconciled. SOPs should be developed that this data is updated every month. Exact number and OMC wise location of each retail outlet would thus be known to all concerned.

ESTABLISHING STRATEGIC STORAGE

21.15 Focus of the policy formulators on the enhancement of strategic storage (both crude oil and refined products) of the country remained amiss be it the MoEPD or OGRA. India has achieved the day cover of 130 days¹⁶ as against Pakistan which is at around 30 days so far. What benefits have accrued to Pakistan with the well-trumpeted policy of OGRA to foster competition and swelling the number of OMCs to staggering 66? Single job well-done is better than multiple jobs half-done. Philippines Model¹⁷ is a case in point where the country returned back to fewer well-run OMCs instead from a motley of badly-run OMCs.

TRANSPORTATION

21.16 Transportation of petroleum products, like other important aspect has also been ignored by both OGRA and MoEPD. Had there been proper Standing Operating Procedures (SOPs) and their efficient implementation, the industry and public at large would have benefitted from it. During its proceedings, the Commission has assessed that Shell Pakistan has developed the best controls in most aspects. For example, each MS/HSD lorry carrying Shell products are fitted with two cameras and automated positioning system coupled with proper logs to ascertain that the cargo reaches the intended destination. PSO is following suit but is lagging behind despite being the biggest OMC.

¹⁶ www.economictimes.indiatimes.com

¹⁷ fifteen years since oil deregulation: assessment of the department of energy's role in the implementation of republic act 8479 - Emir-deogene mendoza, ron ponce dangcalan and albertine june din

21.17 The Commission strongly recommends that all other private OMCs develop this automated transportation system. In modern age of digitization, this step would not incorporate much expense. Further, the OMCs may be directed to submit this automated data to the proposed monitoring cell in MoEPD. This would help in process of data verification on monthly/annual basis. More importantly, this initiative would be first important step in curbing smuggling.

AUTOMATED GAUGING SYSTEM

21.18 Automated gauging system is the most important automation step that needs to be taken up. Starting from decanting storages at ports, to 24 geographical location depots of different OMCs, to more than 9,000 retail outlets across the country, all storages must be fitted with digital sensors. This way, no non-company product could be dumped in any of the designated retail outlets of that particular OMC. PSO and Shell are in early stages of incorporating this system. This is more expensive than the routine gauging systems but definitely the need of the hour. Once the OMCs are obligated to adopt this system, Petroleum Division may opt to have a digital link with this system. In the long run, this would ensure a reasonably fool proof system of monitoring both by OMCs and the MoEPD. This system would also help in proper audit at the end of financial year and this would help cut **huge tax leaks** that reportedly exist in the oil industry. Both smuggling and adulteration practices could almost be brought to a grinding halt once this system is fully and effectively enforced.

REVAMPING OF PSO

21.19 Compressing PSO to lift the load of the delinquent OMCs during the crisis was a last refuge of MoEPD to salvage the bungled oil industry. This way PSO endured a loss of more than Rs. 8 billion. Due to the festering wounds of PSO, it was not subjected to intrusive probe by the Commission. It is not to say that all is well on the front of PSO. Beset with huge state liabilities like circular debt, PSO cannot enter the fray of a modern OMC unless these pending issues are settled. Though an independent body on the face, PSO is also wrought with bureaucratic red tape like any other government department.

21.20 The Commission strongly recommends that the GoP may settle the impending debt issues of PSO in due time to enable it to adopt modern working ways of a vibrant company. The Commission also recommends that PSO may be

directed to take the lead in the aforementioned automation process and complete it within a reasonable time. Once this is done, MoEPD would be in a better position to dictate other OMCs to follow suit.

SHELL MODEL

21.21 During the course of the inquiry, the Commission has assessed Shell to be the best oil marketing company. During the days of shortage, Shell also fared much better than the other OMCs. Being the only international public limited company, it is part of Shell International. The market is rife with rumors that, given to the recent heavy loss borne by Shell Pakistan and the cut-throat practices that have become part of Pakistan oil industry, Shell might fold its business in Pakistan. The market share of Pakistan in Shell International is less than half percent and leaving Pakistani market would not matter much. However, this would not augur well for Pakistan. Not only Shell has highest quality control standards, it has been a vanguard of modern trends in Pakistani oil industry including new vision pumps. During the inquiry, Shell personnel complained that they face multiple problems when competing with the local OMCs as the unlawful practices of local OMCs go unchecked. It is recommended that fair complaints of Shell may be properly addressed and redressed to attract other international players in the industry.

PRICE FIXING FORMULA

21.22 As explained in chapter 03, both OGRA and MoEPD had been using an archaic formula of price fixing, dependent on retrospective purchase prices of PSO. Though acceptable in normal times, it could not withstand the price volatility of the international market. During the course of this inquiry, the price fixing formula has been changed and is made dependent on fortnightly PLATTS rates. The average of 15-days PLATTS rates serve as the base of ex-refinery price. This was a long-awaited correction. The Commission, however, is of the view that this mechanism may be appraised after 06 months and the GoP may consider the same formula with average of 30 days instead of 15. Such a step would decrease the number of frequent price changes, bringing it to 12 instead of 24.

ABOLITION OF IMPORT QUOTAS

21.23 During the course of this inquiry, the Commission was taken aback at the decision of so-called ban on petroleum products in March-April, 2020. This was

irrational decision driven by the inertia that prevailed both in MoEPD and OGRA. As discussed in Chapter 05, India filled its tanks/storages with **37 million metric tons** of petroleum products due to reduction in prices. Starting from failure to develop strategic storage coupled with not getting the refinery stock lifted by OMCs (February, March, April), Pakistan lost out on this opportunity. Further, as long as the refinery stocks are lifted as per quota allocation (mandated by law), why should the private OMCs be not allowed to import as much as they can afford? Even if OMCs make money on import of cheap oil cargo, it is a fair proposition in any free business environment.

21.24 The Commission recommends that in the future Product Review Meetings (PRMs), only quotas of local refineries be fixed as per the market shares of the OMCs (or as decided by mutual deliberation of OMCs). The OMCs should only give their import plans and MoEPD should be content with minimum stock of 20 days by each OMC. Had this practice been in vogue, all OMCs and GoP would have saved millions in foreign exchange through cheap procurement in April and May 2020.

IMPROVEMENT OF PORTS AND RELATED FACILITIES

21.25 The following lapses need to be corrected at the import venues/ports (KPT & PQT):

- i. Underground white oil pipeline from KPT to FOTCO be completed in quick time.
- ii. Planned shifting of MS from KPT to FOTCO is not recommended as KPT is an all-weather port and it would be unwise to put all eggs in one basket.
- iii. Oil piers at KPT be repaired, maintained and made fully operational. Presently only one berth of oil pier is functional while two are out of service.
- iv. **Put a stop to illegal usage of storages/depots at ports by private storage companies in violation of Form 'L' licenses. In this regard, the Commission recommends further probe against petrochemical importing/storing companies including Hascol, Al-Rahim, Al-Abbas, Pakistan Molasses Co etc.**
- v. International Safety/technical protocols be observed at port storages/depots like construction of dyke-walls etc.
- vi. Illegal hoarding at private storage terminals be checked regularly and the delinquent OMCs be penalised accordingly.

- vii. Cancellation of illegally granted Form 'L' licenses to private storage companies and departmental action against those who issued those licenses.
- viii. Unfailing and effective testing of both refined and crude oil at port by HDIP

SMUGGLING AND ADULTERATION

- 21.26** Smuggling of Iranian oil is a reality. A brief hiatus in smuggling input due to Pak-Iran border-closure for few days during the advent of Covid-19 badly jolted the whole supply chain of petroleum products. Case-studies of M.T. RHEA and M.T. ELSA (discussed in Chapter 14) shamed Pakistan internationally. The quantum of smuggling through land route has been approximated at **Rs. 250 billion** (chapter 18). The Government must sensitize the Frontier Corps (south) to take strict measures at the Pak-Iran border to curb this colossal evasion of tax revenue. Likewise, the smuggling through sea route goes on as only in the month of July 2020, two huge consignments of Iranian contraband oil were apprehended on information of international agencies. In this regard, Pakistan Coast Guards assisted by Pakistan Customs have to play their effective role and they may be directed as such.
- 21.27** Likewise, the Government must set up additional quality control laboratories across the country. There is also a dire need of mobile testing units. In co-ordination with the district administration, such units should routinely check quality of petroleum products in retail outlets and depots in their area of jurisdiction to curb this menace.

BYCO CASE

- 21.28** BYCO limited has two refineries at HUB. During visit of the Commission's team of BYCO, both were non-operational. Why these refineries were allowed to be built and what purpose are they serving? **Given the fact that BYCO refinery is mostly closed, where the supply comes from? This is a clear matter of further probe.** The Commission observed that many other things go wrong in BYCO including the free for all and unregulated decanting of vessels at BYCO port terminal (Single Point Mooring located 18 miles inside the Arabian Sea) because of the absence of Customs, Maritime Department and HDIP. May the Commission remind here the inglorious cases of M. T. RHEA and M.T. ELSA which again were docked at the SPM of BYCO. Needless to mention that its owner,

Mr. Amer Abbasi remained a fugitive of law (wanted by NAB) for a prolonged period in a fraud of more than **Rs. 23 billion**. The gist of the case was that BYCO imported refined petroleum products in garb of crude oil and cheated the GoP of the staggering sum. Apparently, the racket is still on. Reportedly, Mr. Abbasi has now entered into a Plea Bargain with NAB for a payment of a little more than Rs. 01 billion. **More and more needs to be probed about BYCO with complete scrutiny of its record of imports of the last 5 years.** Rule 35 (Oil Rules 2016) clearly stipulates that any person with criminal record cannot even apply for a marketing licence. Thanks to OGRA's enforcement, Mr. Amer Abbasi still remains owner/CEO of both BYCO Refinery and BYCO OMC.

21.29 It is recommended that operation of both BYCO Refinery and Oil Marketing Company be halted henceforth and a full-scale inquiry be opened immediately.

SCRUTINY OF OTHER REGULATORY BODIES

21.30 Though it is not in the ambit of the Commission to give any recommendation outside its scope, but after having seen the state of affairs of OGRA, the Commission is compelled to recommend that the Government may consider getting the performance audit done of all such regulatory bodies (NEPRA, PEMRA, DRAP etc.). The people of Pakistan have a right to know whether their hard-earned tax money is being utilised properly.


WORD OF THANKS

Subjecting the most technical dynamics of oil industry to examination meant that the Commission had to speed through the concepts and market mechanisms while simultaneously finding out what went wrong and how. The whole gamut of activities and stakeholders were to be scrutinised and questioned to reach the conclusions. All members of the Commission worked as hard as possible. To diversify the capability matrix, the Commission co-opted 7 members mentioned in chapter 1. Gratitude for the help, the undersigned has received from the regular and co-opted members must be expressed here during all stages of the proceedings of the Commission be it the data collection, verification, analysis, discussion of relevant laws, rules and regulations, mandate and performance analysis of the stakeholders and drawing of the conclusions. Then comes the writing stage. Let alone less frequent practitioners, writing is always difficult even for those who do it all the time. Again, all members contributed and chipped in for this final product. Heading this Commission was of course a trust reposed on the undersigned by the Federal Government which could not have been possible to deliver without the team I had.

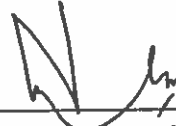
The undersigned is compelled to mention the names of the co-opted members, **Mr. Muhammad Yaseen, Mr. Imran Kishwar, Mr. Qasim Malik, Mr. Sidney Parera, Mr. Shahid Siddique, Mr. Tariq Mehmood, Mr. Bilal Tariq and Mr. Muhammad Javed Sultan** without whose help, completion of this report would not have been possible. **Mr. Imran Kishwar (SSP, Punjab Police)** merits a special mention as he took out time from his hectic schedule of his present assignment as District Police Officer, Kasur.

Report is submitted to the Cabinet for further necessary action.

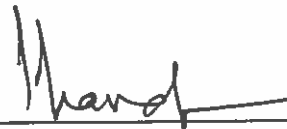
Member, Inquiry Commission

Signature: 
Name: Mr. Amir Rehman
Designation: Additional Attorney
General
Department: Attorney-General of
Pakistan

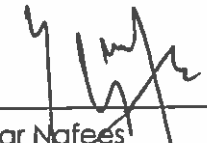
Member, Inquiry Commission

Signature: 
Name: Capt (R) Rommel Akram
Designation: Deputy Director General
Department: Intelligence Bureau


Member, Inquiry Commission

Signature: 
Name: Mr. Sajid Akram
Designation: Director
Department: Federal Investigation
Agency (FIA)

Member, Inquiry Commission

Signature: 
Name: Mr. Gohar Nafees
Designation: Director General
Department: Anti-Corruption
Establishment, Punjab

Chairman, Inquiry Commission

Signature: 
Name: Mr. Abubakar Khudabakhsh
Designation: Addl. Director General
Department: Federal Investigation Agency (FIA)

1-12-2020

GLOSSARY OF TERMS

AOSL	Askar Oil Services (Pvt) Limited
APL	Attock Petroleum Ltd
BP	Best Petroleum
BPPL	BYCO Petroleum Pakistan Ltd
CCP	Competition Commission of Pakistan
DC	Deputy Conservative
DG PC	Director General of Petroleum Concession
DG OIL	Director General Oil
ECC	Economic Coordination Committee
FBR	Federal Board of Revenue
FO	Furnace Oil
FOTCO	Fauji Oil Terminal & Distribution company Ltd
FY	Financial Year
GO	Gas & Oil Pakistan Ltd
GoP	Government of Pakistan
GST	General Sales Tax
HDIP	Hydrocarbon Development Institute of Pakistan
HOBC	High Octane Blending Component
HPL	Hascol Petroleum Limited
HSD	High Speed Diesel
HSFO	High Sulfur Furnace Oil
IFEM	Inland Freight Equalization Margin
IGM	Import General Manifest
JP-1	Jet Propellant 1
JP-8	Jet Propellant 8
JPL	Jinn Petroleum Pvt Ltd
KERO	Kerosene
KMK	Karachi-MehmoodKot

KPLP	Korangi-Port Qasim Link Pipeline
KPPL	Kepler Petroleum (Private) Limited
KPT	Karachi Port Trust
Laycan	Laydays Cancelling
LDO	Light Diesel Oil
MFM	Mehmoodkot Faisalabad Machiky
MMA	Ministry of Maritime Affairs
MMT	Million Metric Ton
MoEPD	Ministry of Energy Petroleum Division
MOGAS	Motor Gasoline
MS	Motor Spirit
MT	Metric Tons
NOR	Notice of Readiness
NRL	National Refinery Limited
OCAC	Oil Companies Advisory Council
OGRA	Oil & Gas Regulatory Authority
OMCs	Oil Marketing Companies
OP	Oil Pier
PAPCO	Pak-Arab Pipeline Company Limited
PARCO	Pak-Arab Refinery Limited
PEP	Puma Energy Pakistan (Pvt) Ltd
PEPCO	Pakistan Electric Power Company
PL	Petroleum Levy
PMC	Pakistan Molasses Company
POL	Petroleum, Oil and Lubricants
PQA	Port Qasim Authority
PRL	Pakistan Refinery Limited
PRM	Product Review Meeting
PSO	Pakistan State Oil
PSOCL	Pakistan State Oil Company Limited

Q1	Quality-1 Petroleum (Pvt) Limited
RON	Random Octane Number
SNGPL	Sui Northern Gas Pipe Line
SOP	Standard Operating Procedure
SPL	Shell Pakistan Limited
SRO	Statutory Regulatory Orders
SSGPL	Sui Sothern Gas Pipe Line
TGPL	Taj Gasoline Private Ltd
TORs	Terms of Reference
TPPL	Total-Parco Pakistan Ltd
TSL	Target Scientific Lab
TTI	Textile Testing International
VAM	Vinyl Acetate Monomer
WOP	White Oil Pipeline
ZMPL	Zoom Marketing Oil (Pvt) Limited
ZPL	Zoom Petroleum Limited

