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TAX REGIME: HOW GOOD FOR WOOING FOREIGN INVESTORS?

INDIA DRILLING & EXPLORATION CONFERENCE 2010
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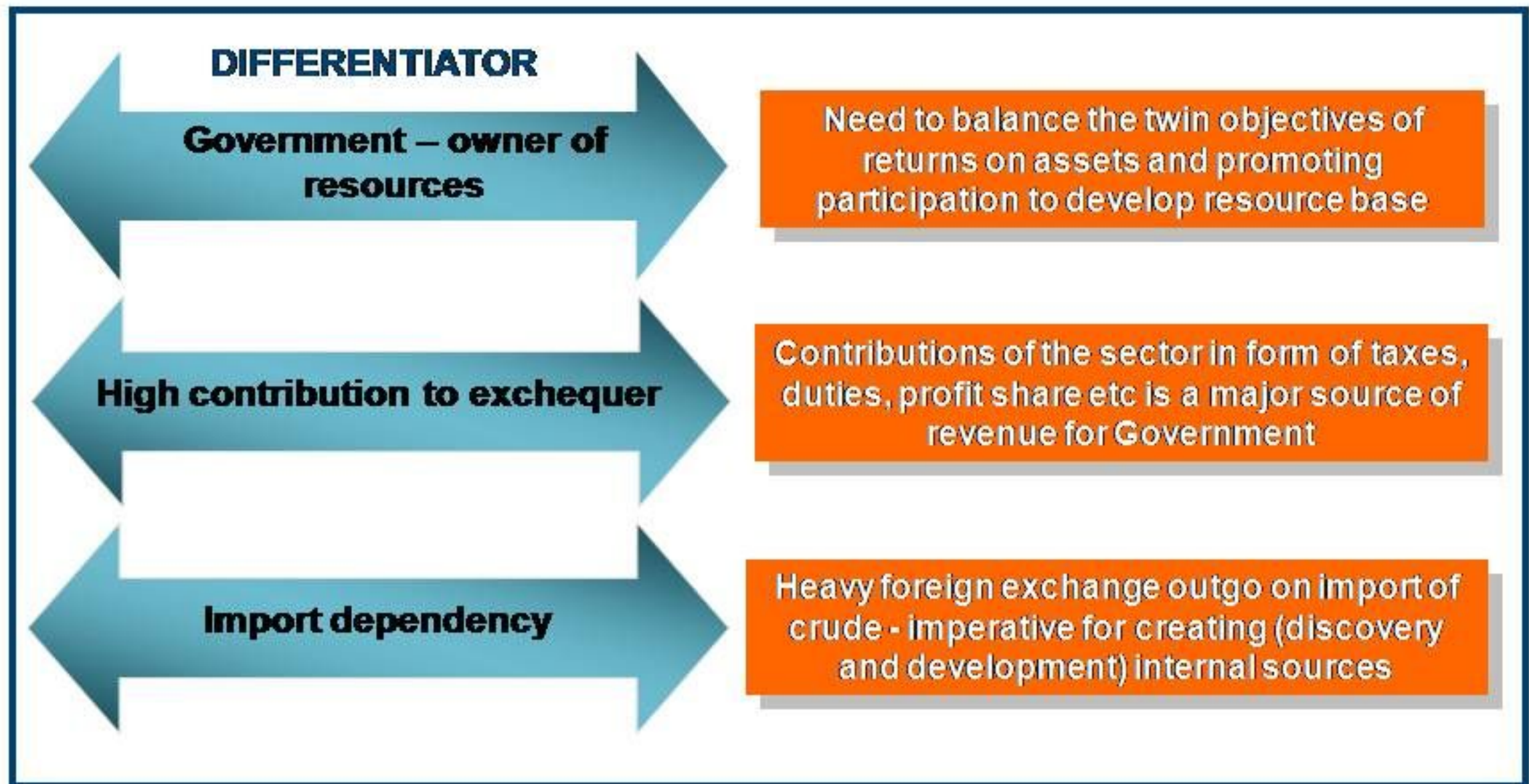
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UPSTREAM SECTOR

Certain features of the oil and gas sector, makes it unique and distinct from all other sectors:



THE POLICY FRAMEWORK

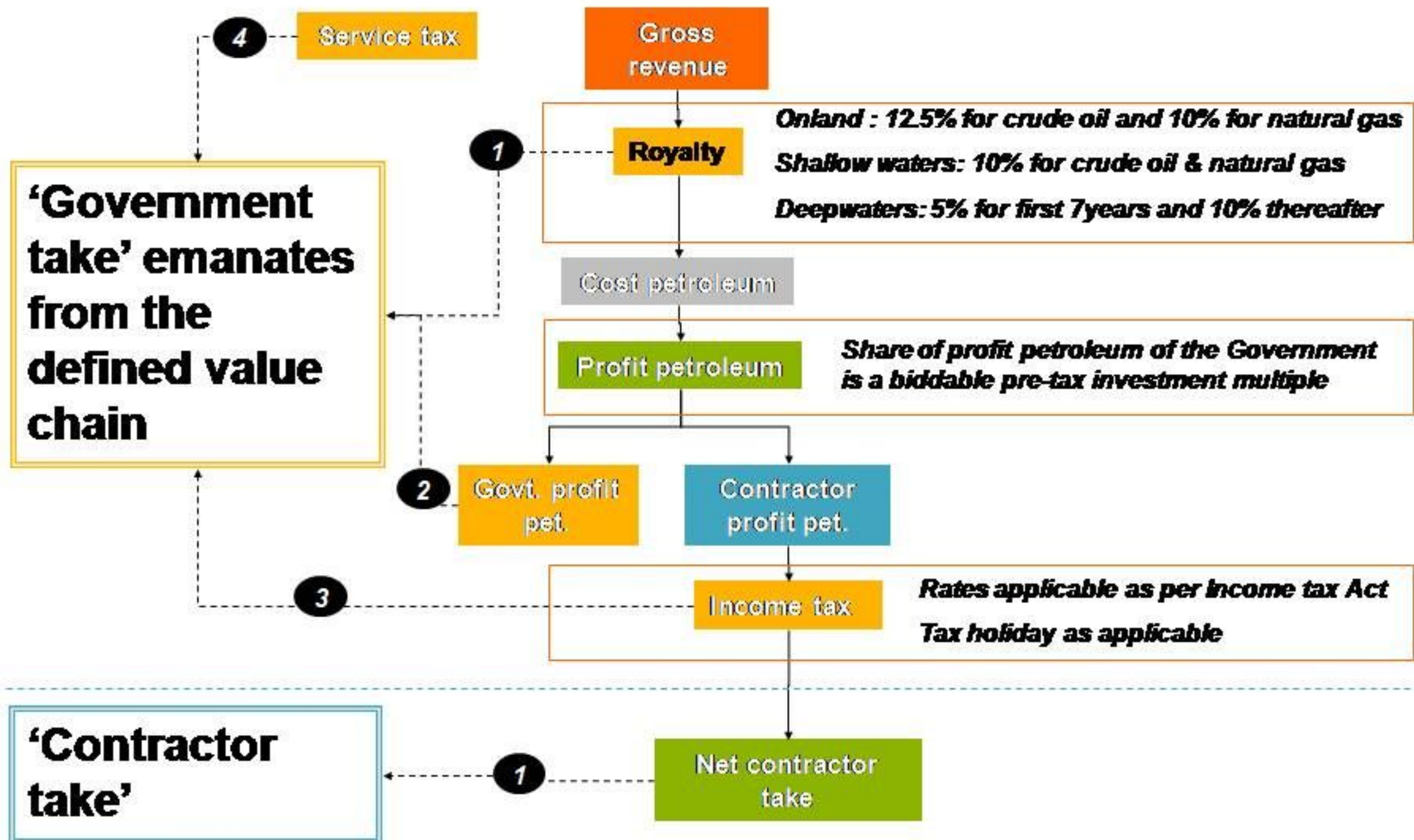
Group comprising Finance, Petroleum and External affairs Ministers presented Hydrocarbon Vision 2025 to the Prime Minister in March 2000 - The Vision document lays down the framework which would guide the policies relating to the hydrocarbon sector for the next 25 years

Fiscal recommendations

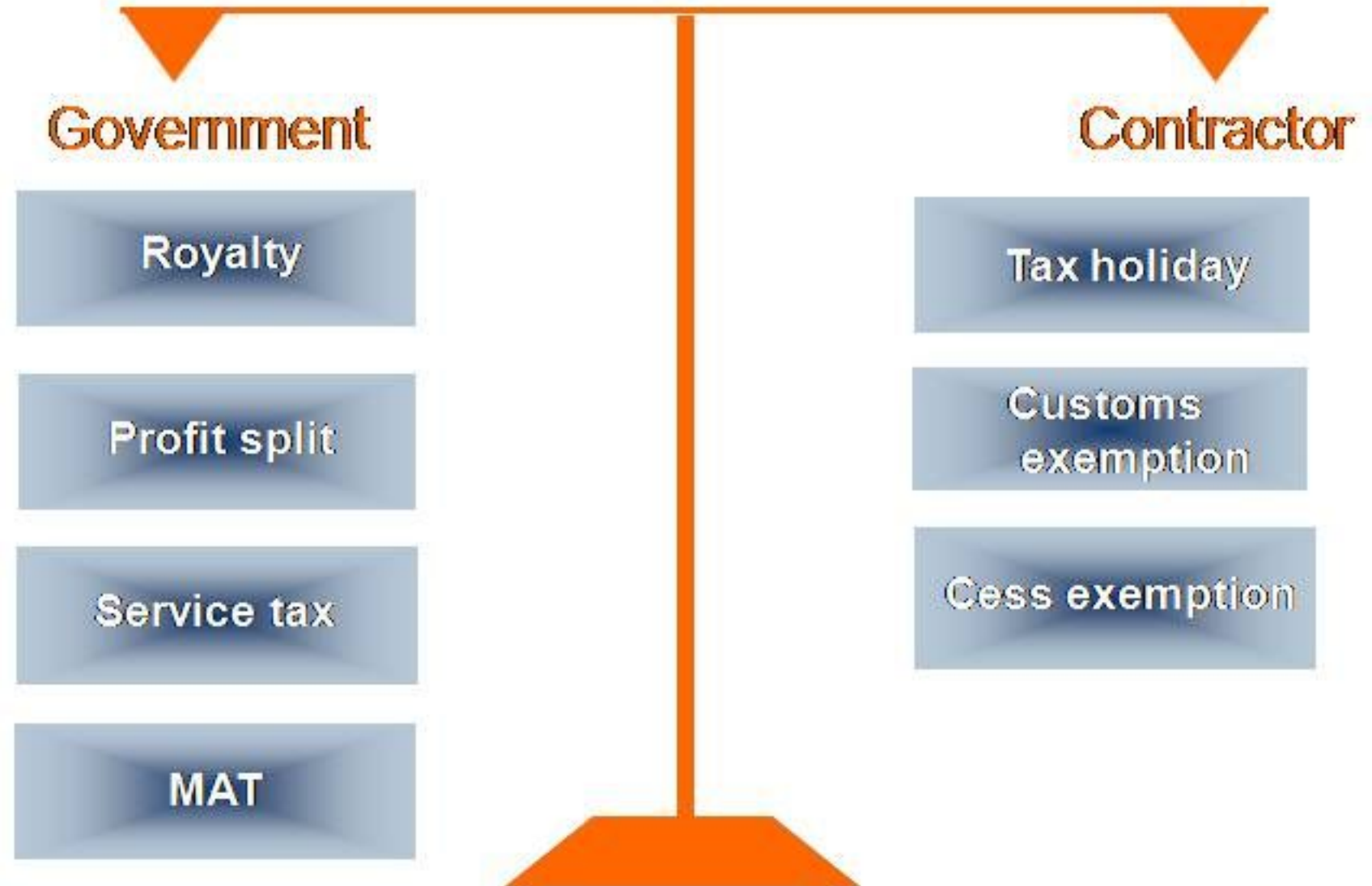
- Put in place a comprehensive policy to include total deregulation of overseas E&P business and empowering them to compete with international oil companies with provision of fiscal and tax benefits
- To take up with the States for a uniform State level taxation on petroleum products
- Provide for level tax rates for domestic products vis-à-vis imported products

The fiscal incentives in New Exploration Licensing Policy of the Government are manifestation of recommendations of Hydrocarbon Vision 2025

GOVERNMENT V/S CONTRACTOR TAKE



FISCAL SCENARIO UNDER NELP



Government seeks to maintain a balance between return to exchequer and incentives for investment

INCOME TAX

Section 44BB

Special provision for taxation of oil field services providers

Section 293A

Exemption / reduction in relation to participation in business of prospecting for, or extraction of mineral oil

Section 80IB

Tax holiday for 'mineral oil'

Section 33ABA

Special provision for deduction in relation to Site Restoration Fund

Section 42

Special provisions for taxation of E&P companies read with Article 17 of PSC

POLICY VERSUS IMPLEMENTATION

Fiscal stability and certainty is critical to attracting foreign investment in this sector

While at the policy level there is reasonable clarity, it has not percolated down at the implementation level

Some instances...

POLICY VERSUS IMPLEMENTATION – RECENT EXPERIENCE

- Tax holiday for natural gas [*Niko Resources Ltd (123 TTJ 310) (Ahd ITAT)*]
- Retrospective amendment to “undertaking”
- Service tax
- Deemed profit regime for foreign oil-field services providers
 - Position of Revenue authorities
 - Recent rulings [*Geofizyka Torun (2009 TIOL 31), Seabird Exploration (2009 TIOL 33), Wavefield Inseis (2009 TIOL 32)*]
 - Amendments in Budget 2010
- Proposed Direct Taxes Code
- Deductibility of farm-in costs [*ONGC Videsh Limited, 2009-TIOL-758-ITAT-DEL, Delhi ITAT*]
- Tax issues on Farm-outs

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