Soon after the acquisition of Burmah Shell Undertakings, the process of acquisition of Caltex commenced. K.D. Malaviya stated, "Government are considering re-structuring of the oil industry with a view to making optimum utilisation of the existng asssets and facilities and improving the standard of service to the public. In order to achieve this goal, we have been actively engaged in completing negotiations for the acquisition of foreign oil companies. Negotiations are in progress with Caltex and Assam Oil Company for taking over their assets in India. 1

Caltex (India) Limited (CIL), the Marketing Company, was incorporated in Bahama Islands in the year 1937 and commenced operations in India in the same year. The entire share capital of Rs. 4.73 crores of the Company was held by Caltex Petroleum Corporation (CPC) of New York, owned by Standard Oil Company of California (SOICAL) and Texaco of U.S.A. The Company had its principal place of business in Bombay and functioned through a chain of regional offices, 5 main installatiions, 55 bulk depots and about 1200 retail outlets spread all over the country. The Company was engaged in marketing of petroleum products manufactured/produced from its own associate refining company, Caltex Oil Refining (India) Limited (CORIL) with its refinery located in Visakhapatnam

CORIL was registered in India as an Indian company. The entire share capital of Rs. 4.50 crores was held by CPC. 2

According to the Refinery Agreement 3 dated March 28, 1953 between the Government of India and Caltex (India) Ltd., the Government had agreed not to take over the operation of, take possession of or acquire for public purposes, the refinery or the Indian Company before full scale refinery operations commence or within 25 years thereafter. If operation of the refinery is taken over, if the refinery or the Indian company is taken possession of or acquired for public purposes after the expiry of the said period, reasonable compensation shall be paid to the Indian Company (or its shareholders) and remittance facilities in suitable instalments shall be provided for the repatriation in U.S. dollars to the United States of America of any amounts invested by Caltex, as share capital and loans, in the Indian Company. 4

The Refinery established on the east coast of India at Vizag went on stream in April 1957 with an initial licenced capacity of 0.675 million tonnes per annum (MTPA). The operating level in 1975 was 1.1 MTPA but the Caltex Management claimed that the Refinery was able to process different types of imported

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2. The researcher is an officer from the Central Government. For the preparation of this project the Ministry/Government files have been referred, the details of which are not possible in public interest. Ther permission of the Government of India has been obtained for drawing references.

3. Text in Appendix E.

4. Establishment of Oil Refineries in India, Ministry of Production, New Delhi, 1956, p.31.
crude. This Refinery gave a maximum percentage yield of middle distillates like kerosene, high speed diesel oil, as compared to the other refineries. The entire crude oil requirements of the refinery were met by supplies from the principals of CORIL till the middle of 1975. Later, the crude supplies were arranged by Indian Oil Corporation from Iran, Saudi Arabia and Iraq. With the least modifications and minimum investment, this Refinery could process 1.25 MTPA of waxy Bombay High crude. A sum of Rs. 60 lakhs had been allocated from the Oil Industry Development Fund to make necessary modifications in the plant for processing the Bombay High crude and this work was in progress. 5

Simultaneously when the negotiations with Burmah-Shell were being conducted, the process of acquisition of Caltex and Assam Oil Company had also been initiated. Caltex were not readily forthcoming to discuss the issue of takeover although they were aware that sooner or later the Government would approach them on this vital subject. The Government had declared its policy that the oil industry must be brought within its effective control.6

Caltex were pondering over the subject of 100% takeover vis a vis 26% participation like in the case of Esso. But they knew that in the absence of a commitment for crude supply, the Government could acquire 100% ownership by other means or by merely taking over the management for a fairly extended period.

6. The Ministry of Petroleum Files referred to for this chapter are as follows: (i) JS(P)/8/76-Main file (ii) JS(P)/8/76-Part file (iii) P-26011/1/76-10C

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under the Industries (Development and Regulation) Act, 1951. 7

In view of this, by September 1974, Caltex expressed their willingness to commence negotiations. As in the case of Burmah-Shell, an identical questionnaire was sent to Caltex for eliciting factual information and their terms. Necessary guidelines were issued to Caltex (India) Limited for observance and compliance during the pendency of the negotiations. These related to the sale or disposal of assets, retrenchment, lay-off, transfer of staff, closure of depots/installations. The objective was to restrict Caltex from disinvesting while the takeover issue was under consideration.

During the negotiations for the take-over, certain code of business conduct was observed. Caltex were advised that for smooth negotiations and settlement, it would be essential that Caltex fall in line with the other oil companies in observing these guidelines. Caltex were incurring some financial losses and therefore wanted some assurances from the Government. They were informed that these would be looked into separately and the loss factor would be taken into account while fixing the compensation amount.

In October 1975, Caltex suggested that the Government may consider alternative options such as buying out the entire Caltex (marketing) operations but still permit Caltex to operate CORIL (the refinery) on a 100 percent equity or lesser percentage basis in accordance with Foreign Exchange Regulation Act, utilising Caltex or Government crude on an agreed processing fee.

However, in November 1975, they indicated that Caltex is not a willing seller and the initiative of opening negotiations for the disposal of their assets to the Government of India must come from the Government based on accepted commercial principles. They even planned to completely close some of the regional areas to dispose off their facilities and terminate staff. This was totally unacceptable because the Government had issued guidelines to Burmah-Shell, Assam Oil Company and Caltex not to sell or dispose of their assets without the prior permission of the Government, pending negotiations on the take over issue.

For any financial constraints that Caltex may face, the Government had granted foreign exchange to Caltex for maintenance and repairs of the refinery. However, no expenditure from this amount had been incurred by them. The refinery was being systematically depleted. It had been observed in 1976 that Caltex had not carried out repairs and the maintenance of the refinery had been neglected for the last five years or so. Most of the equipment was about 20 years old already. Urgent attention was required for the upkeep of the refinery and only after it was nationalised could the Government carry out major improvements. In view of this attitude of Caltex, the Government even considered take over of the Management of Caltex in public interest.

Formal negotiations commenced from December 1975 onwards, though not in the same congenial atmosphere as in the case of Esso. In order to expedite the acquisition of Caltex assets and operations, the same procedure as in the case of Esso
and Burmah Shell take-overs was followed. Gradually, Caltex agreed to follow the guidelines issued by the Government and sought necessary approvals before effecting any sales.

The norms and parameters of the negotiations were strictly in conformity with those adopted for the take over of Burmah-Shell and were cleared by the Negotiating Committee. The preliminary discussions took place during April 30 to May 3, 1976. Caltex were asked to submit details of the Balance Sheets for the refinery and marketing companies along with supplementary information on assets and liabilities. The Balance Sheets, Profit and Loss Accounts and supplementary information was accordingly furnished by Caltex and examined by the Government.

The Caltex team headed by Mr. F.W. Zingaro, Vice-President of Caltex, New York desired that the norms and parameters applied to Burmah Shell and Esso may not be adopted in the case of Caltex, for Caltex India was comparatively a small entity and their profits had been seriously eroded in the past. Setting up of the Refinery at Visakhapatnam instead of Calcutta had resulted in substantial under recoveries on offshore movements particularly. Taking refuse in clause 9(n) of the Refinery Agreement, the team desired that the Government of India should make good this amount. Caltex, on their part, would waive the duty protection. In response to this point, it was clearly indicated to the Caltex team by the Working Group that

8. Text in Appendix-E.
9. Group of Officers who were assigned the task of preparing a report in connection with the acquisition of Caltex assets and operations in India.
the negotiations for the Caltex takeover were in no way connected with the Refinery Agreement. The negotiations were being conducted with a view to reach a mutually satisfactory settlement. The Government had formulated certain principles, norms and parameters, and these had been applied for acquiring not only Esso and Burmah Shell, but also a number of Indian and other foreign companies. Therefore, there was no rationale for making a deviation from this basic frame of these norms. However, within this framework of general principles, there could be a certain amount of flexibility in the Government approach such as the relative weight for the profit-earning capacity and the net worth based on income-tax, depreciated assets and certain items of deductions from the net worth. The Government were willing to discuss and strive for a negotiated settlement.

So far as the waiving of the duty protection was concerned, both Esso and Burmah Shell had waived this and Caltex had only followed suit. The economies of scale of operations were well known to Caltex even at the time of the Refinery Agreement. Caltex were also well aware of the competition from Burmah Shell and Esso. This was explained to the Caltex team when Mr. Zingaro requested that special consideration should be shown to Caltex in view of the Government's obligations under the Refinery Agreement and sought Government's concurrence for granting Caltex appropriately different treatment than afforded to Burmah Shell and Esso.

The Caltex team stated that the profit earning capacity was not a valid criterion for assessing the value of the assets

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and operations of Caltex in India because the refining and marketing operations of Caltex were controlled rigidly by the Government of India. This included the level of throughput, the pattern of production and the pricing of petroleum products, which were determined by the Government of India keeping the demand of these products in view.

The Caltex team reiterated that the settlement should be based on sound commercial principles and not on arbitrary norms and parameters. The replacement costs should form the basis. Further, the special circumstances and features such as setting up of the refinery at Vizag should be taken into account.

The main point made by the Caltex team related to the Government's obligation under Clause 9(n) of the Refinery Agreement dated March 28, 1953 which reads as under:

"The Government of India understand that because of the location of the refinery at Visakhapatnam (Vizag) rather than in Calcutta, which is the principal market for Eastern India, and the consequent need for inward and outward handling at Vizag, and coastwise shipment of refinery products from Vizag, Caltex may, in certain circumstances, be placed in a position of disadvantage vis-a-vis the Bombay refineries. Government agree that this factor will be taken into account in establishing the price structure of the refinery products in the economic supply area served by inland transportation from Eastern Indian ports and/or in establishing inward and outward wharfage rates, so that Caltex will not be placed at an economic disadvantage with respect to either the Bombay refineries or to direct importers of petroleum products at Eastern Indian ports, as a result of the location of the refinery at Vizag. Caltex, on their part, understand that in certain other circumstances, including the sources of supply of crude oil, they may be placed in a position of relative advantage vis-a-vis the Bombay refineries. Caltex agree, that this relative advantage, if any will be taken into consideration

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Towards the end of December 1954, Caltex had come up with a proposal to increase the size of the refinery from 0.5 MTPA to 0.675 MTPA. Clause 9 (n) of the Refinery Agreement was accordingly modified, as follows:

1) Caltex are agreeable to not claiming additional economic assistance vis-a-vis the Bombay refineries as long as their source of crude remains Sumatra. So long as this position obtains, Government will not require Caltex to forego any relative advantage vis-a-vis the Bombay refineries.

2) This waiver on the part of Caltex will not preclude Caltex from claiming that they shall not be placed at an economic disadvantage with respect to direct importers of petroleum products at Eastern Indian ports.

3) Caltex also agree that should at any time it becomes necessary for them to import crude from sources other than Sumatra, they would explain the circumstances to Government before requesting additional economic assistance vis-a-vis the Bombay refineries and Government will be free to take into consideration the inescapability of the change in crude source when deciding on the quantum of assistance to be given.

Caltex (India) Limited had furnished the figures of under-recoveries in respect of off-shore movements for the period 1957 to 1975. These were only estimates and not actuals and were not susceptible to check or verification. Further, it was difficult to establish whether all off-shore movements of

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12. The researcher is an officer of the Central Government and references have been drawn from the Government records, details of which can not be given in public interest.
products undertaken by Caltex were inescapable. It was not clarified that the amounts of under-recoveries were gross amounts before payment of taxes. However, all the claims of Caltex were examined by the Government of India.

During the period April 1957 to December 1965, Caltex imported Minas crude from Indonesia, in addition to Agha Jari crude from the Persian Gulf. From 1966 import of Minas crude was totally stopped as Indian Oil Corporation were able to supply the crude from the Barauni refinery. Therefore, in terms of the modified Clause 9(n) of the Refinery Agreement, Caltex were not entitled to any Governmental assistance towards off-shore debits. Even as per the records available, there was no indication of any request from Caltex for specific amount of economic assistance that they had sought from the Government. All along the main thrust of Caltex during the discussions with the Government had been to increase the throughput of the refinery. Therefore, the Government were disappointed over the unreasonable stand that Caltex had taken on this issue during the take-over negotiations. Notwithstanding, Caltex were asked if they had any problems on availability of products for maintaining their depots and outlets. If so, the Government would try to ensure that their facilities are reasonably utilised.

During the period January 1966 to May 1970, Caltex had processed crude in excess of the licenced capacity. Had they processed only 0.675 MTPA, they could have marketed and distributed all the products. Thus, there was no justification in the request of Caltex for Government assistance in respect of

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off-shore debits. The Government assistance had already been given in the form of higher crude allocation. Therefore, Caltex request to be treated differently from Esso and Burmah Shell could not be agreed to. It was explained that a higher throughput of Caltex than what had been provided for in the Refinery Agreement had given Caltex enormous benefits which more than offset the locational disadvantages as claimed by Caltex.

During the period June 1970 to July 1975 the Shantilal Shah Committee's pricing scheme was in operation. Under this scheme, the oil companies were allowed to debit the net under-recoveries in respect of coastal movements to the Freight Surcharge Pool (FSP) Account. Out-of-zone movement, including coastal movements, were authorised by the Government for reimbursement, subject to certain norms of performance stipulated for the industry as a whole. Therefore, the Government found that based on all this, there is no substance in the claim of Caltex.

As per clause 9 (j) of the Refinery Agreement, it was declared that for a period of 10 years from the date when full scale refinery operations commence or until December 31, 1965 whichever is earlier, the Government will provide a duty protection by maintaining an import duty on motor spirit at a rate of 2 annas per Imperial gallon higher than any excise on locally manufactured motor-spirit.

14. Text in Appendix E.
On the issue concerning waiver of the right for duty protection in respect of products like kerosene, motor spirit and diesel, it was explained to the Caltex team that both Burmah Shell and Esso had also surrendered their right, and that Caltex had enjoyed the duty protection for a longer time when compared to the other two companies or even otherwise as mentioned above. In fact, Caltex had only surrendered 47% of its total entitlements, whereas Burmah Shell and Esso had surrendered 69% and 56% respectively. The total duty protection enjoyed by Caltex amounted to Rs. 6 crores. If Burmah Shell and Esso's example had been applied, the duty protection for Caltex would only have been Rs. 3.5 to Rs. 5 crores.

The average profit (after tax) during the five years 1970-75 as per the published accounts worked out to Rs. 58.28 lakhs for CORIL and Rs. 51.08 lakhs for Caltex India. The average annual remittance on account of dividends and technical service charges for the period of 1962-74 worked out to Rs. 56.12 lakhs, including Rs. 52.92 lakhs on account of dividends and Rs. 3.20 lakhs on account of technical service charges.  

After detailed analysis of the accounts, tax provisions, depreciation, average profitability, dividends and service charges for the years 1965-75, the Government estimated the compensation for 100% take-over of the refinery and marketing operations of Caltex in India under various alternatives. This ranged between Rs.4.03 crores to Rs. 40.93 crores for both the refinery and the marketing establishments.

Due to the price hikes, the profitability of the oil industry had been seriously eroded. The levels of throughput of the refineries, product pattern and the pricing the products were rigidly controlled by the Government. Yet, the Government felt that they would make Rs. 4.03 crores as their first offer to Caltex.

Caltex reiterated that the norms applied to Burmah Shell and Esso should not be adopted in their case as they are a small entity and their profit had come down in the past. Caltex mentioned about the under-recoveries and waiver of the duty protection, which meant a shortfall in their revenues and requested that all these issues should be taken into account while coming to a final figure of compensation.

When the Government confirmed that no deviation from the set norms and parameters is possible, Caltex made the first demand of Rs. 50 crores as compensation. After prolonged discussions, the figure was reduced to Rs. 41 crores and Rs. 30 crores subsequently. Finally, they agreed to a figure of Rs. 25 crores, net of taxes whereas the Indian team raised the offer to Rs. 7.75 crores. However, at the end of the first round of discussions, there was practically no meeting ground.

The next round of discussions commenced in August 1976. Caltex continued to harp on the Government's obligation under Clause 9(b) of the Refinery Agreement. The Government were, however, not convinced on the figure quoted by Caltex for the so-called under-recoveries. Moreover, even while the negotiations

16. Text in Appendix-E.
were in progress, the Government of India were considering various options available in case Caltex refused to accept a reasonable offer. It was considered that in such an event, the Government could restrict the throughput of the Caltex Refinery to the level of 0.675 MTPA for the next three or four months. With the commissioning of the Haldia Refinery of Indian Oil Corporation, the Government would not face any serious problems in the supply of petroleum products except for domestic cooking gas. Nevertheless, there was the fear of occasional dry outs or shortage of products in some parts of the country. Caltex was expected to react and the Government kept in mind the likely form of reactions by Caltex. Caltex may continue their operations resulting in recurring losses and erosion of their net worth. They could consider seeking permission from the Government for closure of some of their marketing installations and depots. They could even consider closing down the Refinery, provoking the Government to take retaliatory action.

Keeping all these considerations in mind, it was thought to be in the Government interest to take-over the Caltex refinery at the earliest so that necessary modifications in the plant could be made well in time to process Bombay High crude. The Government would wait for Caltex to react, and in case the compensation issue proved to be the bone of contention, the Government was considering the option to take-over of the management of Caltex refinery and marketing company leaving the quantum of compensation to be decided by a Tribunal to be set up by the Government.

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Out of the various alternatives, only compensation based on networth after making adjustments and compensation based on profit earning capacity were considered to be relevant. It was agreed that in the next round of discussion, the Negotiating Committee would make an initial offer of Rs. 9 crores: the mean of adjusted networth and profit earning capacity based on the available data.

It was also considered that the payment terms would be as agreed to in the case of Burmah Shell: 25% on the 90th day of the signing of the Agreement and the balance in four equal annual instalments; the interest rate of 8% (free of tax) per annum on the outstanding balances and amount payable in U.S. dollars at the fixed exchange rate obtaining on the date of signing of the Agreement. Other clauses for consideration included the following:

a) Caltex would be responsible for all tax liabilities for 1975 and earlier years.

b) Caltex would assume responsibility for the pending excise cases.

c) The outstanding dividends and technical services fees as at the end of 1975 would be remitted to Caltex under normal Reserve Bank of India rules. The profits, if any, for the year 1976 would accrue to the continuing Government Company.

d) Caltex agreed to supply on commercial terms 1.25 million tonnes of Arabian Light or Light Iranian crude oil per annum for the next five years. A third-party agreement with adequate safeguards was to be finalised as in the case of Burmah Shell.

In pursuance of discussions regarding the acquisition by
the Government of India of the Undertakings in India of Caltex
India Ltd. and Caltex Oil Refinery (India) Ltd., held between the
President of India and Caltex India Limited (CIL), Caltex Oil
Refinery (India) Limited (CORIL) and Caltex Petroleum Corporation
(CPC), an Agreement was finally reached. As per the draft
prepared, the Government of India were to acquire, in their
present operating condition, the Undertakings of CIL and CORIL
both as of December 31, 1975.

CPC would deliver to the Government of India (GOI) and
GOI would accept all of the issued and outstanding shares of CIL
and CORIL together with an appropriate deed of transfer and the
Government by appropriate legislation or other action vest the
Undertakings in a Government Company. For purposes of this
Agreement, the date of acquisition was to be the date on which
the shares of CIL and CORIL are delivered to and accepted by the
Government which shall be not later than the day fixed for
vesting the Undertakings in a Government Company pursuant to any
such legislation.

Government of India will pay CPC in U.S. Dollars in New
York city, at the rate of exchange prevailing on the date of this
Agreement, an amount equivalent to Rupees 13 crores for the
Undertakings of CIL and CORIL plus an amount in Rupees equal to
the Indian taxes arising in connection with the acquisition.

Save as otherwise provided, the Undertakings include all
assets, rights, claims, powers, authorities, privileges, property
of any nature whatsoever, cash balances, reserve funds, book
debts, investments and all books of accounts, registers, records and other documents of CIL and CORIL; all rights, title and interest therein to be vested in the Government of India. CPC warranted that CIL will have no obligations outside India and that the shares of CIL and CORIL will be free of encumbrances and that CPC will have full legal power to transfer such shares. It was clarified that the Undertakings will not include any right to any trade marks, or other distinctive marks by CIL, CORIL, CPC or any of their affiliates, or any right to use the word "Caltex". This clause was within the purview of a court of law and could be enforced.

Every employee of CIL and CORIL on the date of the acquisition was to be retained as an employee by the Government or the Government Company on the same terms and conditions and with the same rights to pension, gratuity, provident fund participation and contributions, and other matters as would have been applicable with respect to him if the undertakings had not been acquired by the Government. This covered a total of 1,584 workers and officers employed in the Caltex Refinery and Marketing Companies.

In conclusion, it was provided that all disputes arising in connection with the Agreement were to be finally settled by arbitration, to be held at Geneva, Switzerland, and conducted in accordance with the rules of the International Chamber of Commerce, Paris. This Agreement was to survive any legislation in connection with the vesting of the Undertakings in the Government or in a Government Company selected by the Government.
The Ministry of Law was consulted on various issues. In the opinion of the legal adviser, the Government should make the payment in India and extend Caltex the facility of remission abroad. The liabilities and obligations would bind Caltex upto the end of the year. As regards the copyright, if Caltex have paid for them and there is still some unexpired portion of the contract in respect thereof, then the same shall be made available to the Government. The venue of arbitration should be in India because whatever the Government of India is acquiring is in India and the material facts and evidence would be available in India. A nominee of the Chief Justice of India could act as the sole arbitrator if and when the need arises.

While negotiations were going on, details of transfer of shares were also chalked out. The proposal of Caltex included their desire to sell or dispose of shares of Caltex India Ltd. in the Bahama Islands. The shares were expressed in dollars. The share register was maintained in India and the dividend was declared in India. Income-tax was calculated as if it was an Indian Company. Thus the position was distinctly different from Esso and Burmah Shell. In the case of Esso, the marketing company was operating in India as a branch of the main company registered in U.S.A. In the case of Burmah Shell, the marketing company was registered in U.K. In both the cases of Esso and Burmah Shell marketing companies, the Government of India acquired only the assets and liabilities of the companies and not the shares.
The Caltex team had sent a note on the issue of shares indicating that Caltex India Ltd. was incorporated in the Bahamas on June 1, 1937 as a Company limited by shares and was in a good standing. Its authorised capital was $10,500,000, 105,000 shares per value $100 each of which 103,872 shares had been issued, outstanding and fully paid. These shares were beneficially owned by Caltex Petroleum Corporation (CPC). CPC will warrant the amount and ownership of the outstanding shares and that they are fully paid and that CIL has no assets or liabilities outside India. It was of paramount importance to CPC that the acquisition of the Undertakings of CIL by the Government be effected in the form of a sale by CPC to the Government of all the shares of CIL. To accomplish this, CPC delivered to the Government all of the certificates for all the outstanding shares of CIL, properly endorsed and accompanied by an appropriate deed of transfer for the Government to acknowledge and accept. This having been done, the Government would be the sole shareholder of CIL and thus the owner of its entire undertaking.

CPC had assumed that the Government wished to vest the Undertakings in a successor company and liquidate CIL. Therefore, CPC proposed that the shares of CIL be delivered to the Government for the vesting of the Undertakings in the successor Company. Then CIL would become an empty corporate shell and the Government as a sole shareholder could adopt a resolution that CIL has ceased to carry on business and has no assets or liabilities and request the Registrar of Companies in

18. As provided in the Draft Agreement before finalisation. Ministry of Petroleum Files.

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the Bahamas to strike CIL off from the Register of Companies. However, in September 1976, some problems and difficulties were encountered and it was felt inappropriate to liquidate the Company since Caltex in Bahamas had unlimited and unknown obligations as shareholders of the foreign company. The consensus was that the Government should not take over the shares of CIL. It was suggested that the Caltex team may explore the possibility of selling the shares of CIL to an Indian company, say CORIL and then liquidate CIL in the Bahamas. In that case, the Government could buy the shares of CORIL. Even in the revised proposal of Caltex, the Government was requested to liquidate the foreign company. But this was not acceptable to the Government.

The advice of the Ministry of Law was sought. It was indicated that there is no law in India which would prohibit the Government of India from purchasing shares in a Company incorporated outside India. Secondly, it would be competent for the Indian Parliament to pass legislation, vesting all assets and liabilities of the foreign company in India in the Central Government/Government Company. Thirdly, since the Government of India would hold 100% shares in the foreign company, there would be no difficulty in putting the foreign company into liquidation.

The Report of Accounts relating to the years 1974 and 1975 were also discussed in details by the Negotiating Committee of Secretaries on March 31, 1976. The points of discussions centred around the following issues:
1) 100% takeover of both the refinery and marketing establishments;

2) For working out the amount payable, the Government was to take into account both the profit earning capacity and net worth based on historical rupee cost and income-tax depreciation with adjustments for specific factors.

3) The specific factors for adjustments are that the Government of India do not recognise at all the revaluation of assets and the effects of fluctuations in exchange rate (State Bank of India B.C. Selling Rate) as obtaining on the date of signing.

4) Crude supply arrangement upto 1.25 million tonne of Arabian Light Crude Oil per annum was to be negotiated with the Government exercising option every six months in regard to prices, quantity of crude oil and credit period, subject to review and in line with international crude market.

5) Outstanding dividends, technical services fees upto the end of 1975 could be remitted to Caltex under normal Reserve Bank of India rules.

In the discussions held in April/May 1976, Caltex had suggested a figure of Rs. 25 crores, net of taxes. Presumably this was based on net worth after revaluation of the assets and after deducting capital gains tax. Further, it was based on 1974...
accounts. After 1975 accounts were made available, there was marginal variation of assets for purposes of computing the price. Government of India had made an initial offer of Rs. 7.75 crores in the earlier discussions.

It was thought that the negotiations would be completed by the end of 1974-75 but the Memorandum of Understanding for the acquisition of 100% shares of Caltex Oil Refinery India Limited (CORIL) and the transfer and vesting of right, title, interest, assets and liabilities could be signed only on October 15, 1976. In pursuance of this, an Agreement between Caltex Petroleum Corporation (CPC), Caltex India Limited (CIL), CORIL and Government of India was finalised on November 22, 1976 and signed on December 30, 1976. As per this, the price to be paid by the Government of India was fixed at Rs. 13 crores in U.S. Dollars.

It was agreed that CPC or their associates would negotiate and enter into an Agreement with the Government for supply of approximately 1.25 million tonnes of crude oil per annum for a period of five years effective from 1977 on mutually acceptable commercial terms.

The shares of CORIL were acquired on December 30, 1976. It was also agreed to transfer and vest the Indian assets and liabilities of the Marketing company of Caltex in the CORIL, which became a 100 percent Government Company from that date. The reorganisation arrangement of merging Caltex with Hindustan Petroleum Corporation Limited (HPCL) was under consideration and since this was likely to take some time, the name of the refinery CORIL was not disturbed initially.
Since the Parliament was not in session, the acquisition of Caltex was completed through promulgation of an Ordinance by the President of India. The Caltex (Acquisition of Shares of Caltex Oil Refinery (India) Ltd. and of the Undertakings in India of Caltex (India) Ltd. Ordinance), 1976 was issued on December 30, 1976. 19

The acquisition of Caltex gave the Government nearly 100% ownership of the refining and marketing operations in India, bringing almost the entire oil industry and marketing operations in India under public control. With Caltex coming into the national public sector fold, only a small 500,000 tonnes capacity refinery of the foreign owned Assam Oil Company at Digboi remained outside Government control. Negotiations for the take over of the Assam Oil Company were in progress. Thus, the nationalisation of the oil industry was complete with the exception of Assam Oil Company, a subsidiary of Burmah Oil Company. This too was taken over on October 14, 1981 bringing the entire oil sector under the exclusive control of the Government.

In the new set up, the six undertakings included Indian Oil Corporation, Hindustan Petroleum Corporation, Bharat Petroleum Corporation, Caltex, Indo-Burmah Petroleum(IBP) and Assam Oil company(AOC). It was considered that the operations of some of these undertakings could be amalgamated because it would be a wasteful effort to have six independent companies in the petroleum sector. Some like Caltex, IBP and AOC were too small

to qualify for an independent status. The idea for the amalgamation of Caltex with HPCL was first mooted by HPCL. The Caltex operations were amalgamated with HPCL in May 1978.

Esso undertakings were acquired and set up as a separate corporation from Indian Oil Corporation on grounds of avoiding a single, large, monolithic organisation and also to provide for a meaningful competition and for ensuring continued efficiency. In acquiring the Burmah Shell undertakings in India, the intention was to bring into the public sector a third entity. Whether Bharat Refineries would be ultimately a refinery company and whether the marketing operations of Hindustan Petroleum Corporation (HPC) and Bharat Refineries Ltd. (BRL) would be merged to form a single company were questions left open for further consideration at a later time.

A balance had to be struck between efficiency flowing from the management of relatively small organisations and the problems of co-ordination arising from a large number of independent entities in the same sector and reporting to the Ministry of Petroleum. The three companies- Caltex, Indo-Burmah Petroleum and Assam Oil Company were too small to make for viable commercial operations. Hence, balance was in favour of a combination of HPC and BRL that would give the country enormous benefits flowing from the integration of two efficiently run refineries both in Bombay divided by a few feet of a road. Preliminary indications were that such an integration may become necessary to solve the problems of processing a large volume of Bombay High Crude.

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However, in the overall interest of the oil industry, it was considered essential in the public interest to amalgamate CORIL with HPCL, so that the production, marketing and other activities of both the companies could be carried on more efficiently and economically by a single company. The Order making this amalgamation effective was called the Caltex Oil Refining (India) Limited and Hindustan Petroleum Corporation Limited Amalgamation Order, 1978.

As per this, the Undertakings of CORIL would be transferred to, and vested in HPCL. This would include all assets, rights, leases, tenancies, powers, authorities and privileges, trade marks, trade names, patent rights and licences and all property, movable or immovable along with all the liabilities including borrowings, debts and pensions to be paid to its retired officials.

All profits and losses, development rebate reserve, revenue and capital reserves of Caltex would be transferred to HPCL. HPCL would hence forward be responsible for all contracts, deeds, bonds, agreements and other instruments to which CORIL was a party. Similarly, any pending suit, arbitration, appeal or other processing would be continued, prosecuted and enforced by or against HPCL. Henceforth, after the amalgamation, the taxes too would be paid by HPCL.

Consequent to this amalgamation, the capital structure of HPCL was increased to Rupees twenty crores and seventy-five lakhs divided as follows:

a) Cumulative redeemable preference shares of Rs. 100 each. Rs. 75,00,000
b) Equity shares of Rs. 100 each Rs. 20,00,000,000

Total Rs. 20,75,00,000

HPCL was required to issue 52,000 fully paid up equity shares of the aggregate value of Rs. 5,20,00,000 (Rupees five crores and twenty lakhs) to be allotted to the President of India. 21

All the employees of Caltex became employees of HPCL on the same terms and conditions, rights and privileges as to pension, provident fund or gratuity. Thus, CORIL was dissolved on May 9, 1978. Caltex operations in India were taken over by the Government and amalgamated with HPCL. The combined resources, facilities and expertise of the enlarged corporation have proved to be a source of great strength for providing better service to the consumers all over the country.

HPCL thus became the owner of two fuel refineries - one at Bombay and the other at Visakhapatnam. HPCL formed on July 15, 1974 on the merger of Lube India Ltd. with Esso Standard Refinery Company, became a fully owned Government company with effect from September 30, 1976. Caltex Oil Refinery (India) Ltd. was merged with HPCL on May 9, 1978. The Company was set up with an authorised capital of Rs. 100 crores, paid up capital of

21. Gazette of India: Extraordinary, Part II, Sec. 3(ii), New Delhi, p. 622.
Rs. 63.84 crores with the object of maintaining continuity of supplies of petroleum products through their refining and marketing network at optimum costs and to run an efficient organisation on sound commercial lines so as to earn a fair return on investment. The capacity of the Bombay refinery was subsequently increased to 5.5 MTPA and that of Visakh refinery to 4.5 MTPA. To meet the growth in its activities, in December 1985, a 158 km 14\textquoteleft\textquoteleft dia meter Bombay-Pune pipeline for transporting petroleum products was commissioned by HPCL. 22

At the time of the Government takeover, Esso were marketing about 2.5 million tonnes of petroleum products and Caltex were marketing about 1 million tonnes, both aggregating to 3.5 million tonnes. As against this, the Corporation achieved sales of 7.95 million metric tonnes of petroleum products during the financial year 1986-87, which constituted more than 100\% increase in volume since the Government takeover. In the same period, the share of HPCL in all-India marketing of petroleum products was 18.3\% with the effort to reach 20\% in the next few years. 23

Before the Government takeover, liquid petroleum gas (LPG) was not being directly marketed by Esso and a very small quantity was handled by Caltex. In the past, LPG in bulk was being supplied to their concessionaires who used to bottle and distribute the product to the customers. On May 26, 1979 the Government took over the Kosangas Company, the major concessionaires of the erstwhile Esso and also took over from the

23. Ibid., p.84.
same date the management of Parel Investments and Trading Company Private Ltd. (PITCPL) and Domestic Gas Private Ltd. the major concessionaires of Caltex. During the year 1986-87, 95 retail outlets were added, bringing the total number to 3,682. HPCL in 1986-87 was servicing LPG to nearly 33.1 lakh customers. The net profit after taxes was Rs. 48.05 crores.

With the complete takeover of the oil industry in the country, it became possible to develop a centralised planning system for the procurement of crude oil, refinery throughputs and distribution of products. Thus, a new era of planned development in consonance with national priorities under the overall direction of the Government began in the oil sector. It was a novel experience for the now nationalised oil companies as well. From the state of cut throat competition in marketing and distribution, they had to quickly adapt to the changed scenario. The competition still existed, but in terms of higher productivity, better customer service, and greater internal resource generation. The assets of all the oil companies in terms of infrastructure or facilities were now the nation's assets. At last, the Government succeeded in achieving the objective of our great leaders Pandit Jawaharlal Nehru and Keshav Dev Malaviya, who, while recognising the value of private foreign investment, emphasized that majority ownership and effective control of critical industries should always rest in Indian hands.