

**Caltex (Acquisition Of Shares Of Caltex Oil Refining (India)
Ltd. And The Undertakings In India Of Caltex (India) Ltd.)
Act, 1977**

17 of 1977

[23 April 1977]

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SCHEDULE 1 :- THE SCHEDULE

Caltex (Acquisition Of Shares Of Caltex Oil Refining (India) Ltd. And The Undertakings In India Of Caltex (India) Ltd.) Act, 1977

17 of 1977

[23 April 1977]

STATEMENT OF OBJECTS AND REASONS The Caltex Petroleum Corporation (a foreign company) had the ownership of, and control over, a significant portion of the petroleum products marketed and distributed in India. One of its subsidiaries, namely, the Caltex Oil Refining (India) Limited (an Indian company) was carrying on the business of refining crude oil and producing petroleum products in India and another of its subsidiaries, namely, the Caltex (India) Limited (a foreign company) was carrying on through its undertakings in India the business of marketing and distributing petroleum products. 2. In implementation of the policy for progressively securing that the ownership and control of the products of the nation's petroleum resources are vested in the State and thereby so distributed as to subserve the common good, Government entered into negotiations with Caltex for acquiring hundred per cent of the shares of Caltex Oil Refining (India) Limited free of encumbrances and the undertakings in India of Caltex (India) Limited. These negotiations were completed in November, 1976 and it was agreed that the acquisition of the aforementioned shares and undertakings should be completed before the end of that year. As Parliament was not in session and was likely to meet only in Feb., 1977, the Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the Undertakings in India of Caltex (India) Limited] Ordinance, 1976, Was promulgated by the President on the 30th December, 1976.

The Ordinance, inter alia, provided for the following matters namely:- (i) acquisition of all the shares of Caltex Oil Refining (India) Limited and of the undertakings in India of Caltex (India) Limited; (ii) empowering the Central Government to direct the vesting of the undertakings in India of Caltex (India) Limited so acquired in a Government company by notification; (iii) transfer of the services of the existing employees of Caltex (India) Limited to the Central Government or the said Government company; (iv) continuance of the contracts entered into by Caltex (India) for any service, sale or supply in India. 3. In pursuance of the power given to the Central Government to direct the vesting of the undertakings of Caltex (India) in a Government company, a notification had already been issued vesting the said undertakings in the Caltex Oil Refining (India) Limited which has become a Government company by virtue of the acquisition of its shares. 4. The Bill seeks to replace the said Ordinance.-

CHAPTER 1
PRELIMINARY

1. Short title and commencement :-

(1) This Act may be called The Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the undertakings in India of Caltex (India) Limited] Act, 1977.

(2) It shall be deemed to have come into force on the 30th day of Dec., 1976.

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "appointed day"-means the 30th day of December, 1976;

(b) "Caltex (India)" means the Caltex (India) Limited, a foreign company within the meaning of Section 591 of the Companies Act, 1956 , incorporated in Bahamas Islands and having its registered office in the City of Nassau in the Island of New Providence;

(c) "Caltex Oil Refining" means the Caltex Oil Refining (India) Limited, being a company as defined in the Companies Act, 1956 , and having its registered office at Shoorji Vallabhdass Marg, Bombay;

(d) "Caltex Petroleum" ,eans the Caltex Petroleum Corporation, a company incorporated in the State of Delaware in the United States of America and having its principal business office at 380, Madison

Avenue, New York, United States of America;

(e) "Government company" means a company as defined in Section 617 of the Companies Act, 1956 ;

(f) "notification" means a notification published in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Act.

CHAPTER 2

ACQUISITION OF THE SHARES OF CALTEX OIL REFINING

3. Transfer and vesting in the Central Government of shares of Caltex Oil Refining :-

(1) On the appointed day. all the shares in the capital of Caltex Oil Refining shall, by virtue of this Act, stand transferred to. and vested in, the Central Government.

(2) All the shares which have vested in the Central Government under sub-section (1) shall, by force of such vesting, be freed and discharged of all trusts, liabilities, obligations, mortgages, charges, liens and other encumbrances affecting them.

(3) Any dividend payable by Caltex Oil Refining in respect of any period beginning from the 1st day of January, 1976, shall be payable to the Central Government.

4. Management of Caltex Oil Refining :-

(1) For the purpose of enabling Caltex Oil Refining to function as a Government company, the Central Government may, by notification, make such amendments in the memorandum and articles of association of that company and such other provisions as it may consider necessary.

(2) Any amendments in the memorandum and articles of association of Caltex Oil Refining and any other provisions made under sub-section (1), shall have effect notwithstanding anything contained in the Companies Act, 1956 .

CHAPTER 3

ACQUISITION OF THE UNDERTAKINGS OF CALTEX (INDIA) IN INDIA

5. Transfer and vesting in the Central Government of the undertakings of Caltex (India) in India :-

On the appointed day, the right, title and interests of Caltex (India) in relation to its undertakings in India shall, by virtue of this Act,

stand transferred to, and vested in, the Central Government.

6. General effect of vesting :-

(1) The undertakings of Caltex (India) referred to in section 5 shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, book debts, investments and all other rights and interest in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of Caltex (India), in relation to its undertakings in India, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities (including the liability for the payment of any pension and other pensionary benefits to the persons employed in relation to its undertakings in India and obligations of whatever kind then subsisting of Caltex (India) in relation to its undertakings in India: Provided that remittances outside India of any money for the payment of pension or other pensionary benefits shall be subject to the rules and regulations for the time being in force in relation to such remittances.

(2) The profits earned by Caltex (India) in relation to its undertakings in India from the 1st day of January, 1976 shall be payable to the Central Government.

(3) Unless otherwise expressly provided by this Act, all deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the undertakings of Caltex (India) in India subsisting or having effect immediately before the appointed day, and to which Caltex (India) is a party or which are in favour of Caltex (India) shall be of as full force and effect against or in favour of the Central Government and may be enforced or acted as fully and effectually as if in the place of Caltex (India), the Central Government had been a party thereto or as if they had been issued in favour of the Central Government.

(4) If on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the undertakings of Caltex (India) in India, which have been transferred to, and vested in, the Central Government under section 5, is pending by or against Caltex (India), the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the

undertakings of Caltex (India) in India or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government.

7. Special provisions as to certain rights and interests held by Caltex (India) before the appointed day :-

(1) Every right or interest in respect of any property in India (including a right under any lease or under any right of tenancy or any right under any arrangement to secure any premises for any purpose), which Caltex (India) held immediately before the appointed day, shall, notwithstanding anything contained in any other law or in any agreement or instrument relating to such right or interest, vest in, and be held by, the Central Government on and after the appointed day on the same terms and conditions on which Caltex (India) would have held it, if no negotiations had taken place for the acquisition by the Central Government of the undertakings of Caltex (India) in India or, as the case may be, if this Act had not been passed.

(2) If at any time after the 2nd day of February, 1974 (being the date on which the Central Government's policy for acquiring undertakings engaged in the production, marketing or distribution of petroleum products was made known) and before the commencement of this Act, Caltex (India) surrendered or otherwise relinquished any right or interest in respect of any property in India (including a right under any lease or under any right of tenancy or a right under any arrangement to secure any premises for any purpose), then, for the purposes of this Act, notwithstanding anything contained in any other law or in any agreement or instrument relating to such right or interest, the Central Government shall, on and after the appointed day, be entitled to such right or interest on the same terms and conditions on which Caltex (India) would have been entitled to such right or interest if it had not surrendered or otherwise relinquished such right or interest and this Act had not been passed: Provided that nothing in this sub-section shall apply to any right or interest surrendered or otherwise relinquished by Caltex (India) before the commencement of this Act for sufficient monetary consideration,

(3) On the expiry of the term of any lease, tenancy or arrangement referred to in sub-section (1) or sub-section (2), such lease or tenancy or arrangement shall, if so desired by the Central

Government, be renewed or continued, so far as may be, on the same terms and conditions on which the lease or tenancy or arrangement was originally granted or entered into,

8. Removal of doubts :-

(1) For the removal of doubts, it is hereby declared that the provisions of section 5 section 6 and section 7 shall apply to the extent to which any property appertains to the business carried on by Caltex (India) in India; and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made, by Caltex (India) in India, and to legal proceedings relating to those matters pending in any court or tribunal in India.

(2) If any question arises as to whether any property appertained, immediately before the appointed day, to any business of Caltex (India) in India, or whether, any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by Caltex (India) for the purposes of its business in India, or whether any documents relate to those purposes, or whether the provisions of section 7 apply in relation to any property, the question shall be referred to the Central Government which shall, after giving a reasonable opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

9. Power of Central Government to direct vesting of the undertakings of Caltex (India) in a Government company :-

(1) Notwithstanding anything contained in section 5 section 6 and section 7 , the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct by notification, that the right, title and interest and the liabilities of Caltex (India) in relation to any of its undertakings in India shall, instead of continuing to vest in the Central Government, vest in th Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) When the right, title and interest and the liabilities of Caltex

(India) in relation to its undertakings in India vest in a Government company under sub-section (1), all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) The provisions of section 5 section 6 and section 7 shall, so far as may be, apply in relation to such Government company as they apply in relation to the Central Government and for this purpose references therein to the "Central Government" shall be construed as references to such Government company.

CHAPTER 4

PAYMENT OF AMOUNT

10. Payment of amount to Caltex Petroleum and Caltex (India) :-

(1) For the transfer to, and vesting in, the Central Government under section 3 of the shares of Caltex Oil Refining and for the transfer to, and vesting in, the Central Government under section 5 of the right, title and interest of Caltex (India) in relation to its undertakings in India, there shall be paid by the Central Government an aggregate amount of rupees thirteen crores to Caltex Petroleum and Caltex (India) in the proportions agreed to by them.

(2) The amount specified in sub-section (1) shall carry interest free of income-tax at the rate of eight per cent per annum from the 1st day of January, 1977, till the date of payment in the manner specified in the Schedule.

(3) The amounts payable under sub-sections (1) and (2) shall be payable in instalments in accordance with the provisions of the Schedule.

(4) In addition to the amounts mentioned in sub-sections (1) and (2), the Central Government shall pay to Caltex Petroleum or Caltex (India) as the case may be, such amount in Indian currency as may be required by the said companies to pay towards all taxes in India on the amounts payable under the said sub-sections and all other taxes in India the liability for the payment of which arises directly on the transfer to, and vesting in. the Central Government of the shares of Caltex Oil Refining and of the undertakings of Callex (India) in India.

CHAPTER 5

11. Transfer of service of existing employees of Caltex (India), etc :-

(1) Every whole-time officer or other employee of Caltex (India) who was, immediately before the appointed day, employed by Caltex (India) in connection with its undertakings in India, and every whole-time officer or other employee of Caltex (India) who was, immediately before the appointed day, temporarily holding any assignment outside India shall, on the appointed day, become an officer or other employee, as the case may be, of the Central Government or the Government company (hereinafter referred to as the successor Government company) in which the right, title and interest of Caltex (India) in relation to its undertakings in India have vested under this Act and shall hold office or service under the Central Government or the successor Government company, as the case may be, on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the successor Government company is duly terminated or until his remuneration and conditions of service are duly altered by the Central Government or the successor Government company.

(2) Subject to rules made in this behalf under section 23 , every whole-time officer or other employee of Caltex Oil Refining who was, immediately before the appointed day, employed by Caltex Oil Refining in India, and every whole-time officer or other employee of Caltex Oil Refining who was, immediately before the appointed day, temporarily holding any assignment outside India shall, on and from that day, continue to be an officer or other employee of Caltex Oil Refining on the same terms and conditions and with the same rights to pension, gratuity and other matters as are admissible to him immediately before that day and shall continue to hold such office unless and until his employment under the Caltex Oil Refining is duly terminated or until his remuneration and conditions of service are duly altered by that company.

(3) If any question arises as to whether any person was a whole-time officer or other employee of Caltex (India), or as to whether any officer or other employee was employed wholly or mainly in

connection with the undertakings of Caltex (India) in India immediately before the appointed day. or whether any whole-time officer or other employee of Caltex (India) was temporarily holding any assignment outside India, the question shall be referred, within a period of two years from the appointed day, to the Central Government which shall, after giving a reasonable opportunity of being heard to the person concerned in the matter, decide it in such manner as it thinks fit and such decision shall be final.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 , the Payment of Gratuity Act, 1972 , or in any other law for the time being in force, the transfer of the services of any officer or other employee under sub-section (1) shall not entitle any such officer or other employee to any compensation or gratuity under those Acts or such other law, and no such claim shall be entertained by any Court, tribunal or other authority.

12. Provident, superannuation, welfare fund etc :-

(1) Where a provident, superannuation, welfare or other fund has been established by Caltex (India) for the benefit of the persons employed by it in connection with its undertakings in India, the moneys relatable to the employees-

(i) whose services are transferred by or under this Act to the Central Government or the successor Government company, or
(ii) who are in receipt of pension or other pensionary benefits immediately before the appointed day,

(2) The moneys which stand transferred, under sub-section (1), to the Central Government or the successor Government company shall be dealt with by the Central Government or that company, as the case may be, in such manner as may be prescribed.

(3) The successor Government company shall, as soon as may be after the undertakings of Caltex (India) in India become vested in it, constitute, in respect of the moneys and other assets which are transferred to, and vested in, it under this section, one or more trusts having objects as similar to the objects of the existing trusts, as in the circumstances may be practicable, so however, that the rights and interests of the beneficiaries of the trust referred to in sub-section (1) are not, in any way, prejudiced or diminished.

(4) Where all the moneys and other assets belonging to an existing trust are transferred to, and vested in, the Central Government or the successor Government company under this section, the trustees

of such trust shall, as from the date of such vesting, stand discharged from the trust except as respects thing done or omitted to be done before the date of such vesting.

CHAPTER 6

MISCELLANEOUS

13. Effect of Act on other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or other authority.

14. Duty to deliver possession of properties, etc :-

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(1) Where any property, appertaining to any undertaking of Caltex (India) in India has been transferred to, and vested in, the Central Government or the successor Government company under this Act,-

(a) every person in whose possession, custody or control any such property may be, shall, on a demand by the Central Government or the successor Government company, as the case may be, deliver the property to the Central Government or the successor Government company, as the case may be. forthwith;

(b) any person who, immediately before such vesting, has, in his possession, custody or control, any books, documents or other papers relating to the undertakings of Caltex (India) in India, shall be liable to account for the said books, documents and papers to the Central Government or the successor Government company, as the case may be, and shall deliver them up to the Central Government or that company or to such person as the Central Government or that company may authorise in this behalf.

(2) Without prejudice to the other provisions contained in this section, it shall be lawful for the Central Government or the successor Government company to take all necessary steps for taking possession of all properties, which have been transferred to, and vested in, it under this Act.

15. Contracts to continue unless terminated by Central Government :-

(1) Every contract entered into by Caltex (India) for any service, sale or supply in India, and in force immediately before the appointed day shall, unless terminated under sub-section (2) within a period of two years from the appointed day, continue to be of full force and effect against or in favour of the Central Government or, as the case may be, the successor Government company.

(2) The Central Government may, if it is satisfied that any contract referred to in sub-section (1) is unduly onerous or has been entered into in bad faith or is detrimental to the interests of that Government or the successor Government company, as the case may be, by order in writing, either terminate such contract or make such alterations or modifications therein as it may think fit: Provided that the Central Government shall not terminate any contract or make any alteration or modification therein except after giving to the parties to the contract, a reasonable opportunity of being heard and except after recording in writing its reasons for such termination, alteration or modification, as the case may be.

16. Use of designs, trade marks, etc., belonging to Caltex Petroleum or Caltex (India) :-

Nothing in this Act shall be construed to entitle Caltex Oil Refining or the Central Government or the successor Government company to use-

(a) any designs, trade marks, trade names (including the name Caltex or any part thereof), styles of labelling, belonging to Callex Petroleum or Caltex (India), after the expiry of a period of twelve months from the appointed day; and

(b) any station decor (including distinctive colour schemes) belonging to Caltex Petroleum or Caltex (India), after the expiry of a period of twenty-four months from the appointed day.

17. Penalties :-

Any person who,-

(a) having in his possession, custody or control any property forming part of any undertaking of Caltex (India) in India wrongfully withholds such property from the Central Government or the successor Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of any undertakings of Caltex (India) in India; or

(c) wilfully withholds or fails to furnish to the Central Government or the successor Government company or any person specified by

the Central Government or that company, any books, documents or other papers relating to any undertaking of Caltex (India) in India which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the successor Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to any undertaking of Caltex (India) in India; or

(e) wrongfully removes or destroys any property forming part of any undertaking of Caltex (India) in India; or

(f) wrongfully uses any property forming part of any undertaking of Caltex (India) in India, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

18. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

19. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the Central Government or the successor Government company or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

20. Cognizance of offences :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no court shall take cognizance of any offence against this Act except on a complaint, in writing, made by the Central Government or any officer authorised in this behalf by that Government.

21. Indemnity :-

Every officer of the Central Government and every officer or other employee of the successor Government company shall be indemnified by the Central Government or the successor Government company, as the case may be, against all losses and expenses incurred by him in, or in relation to, the discharge of his duties under this Act except such as have been caused by his own wilful act or default..

22. Power to remove difficulties :-

If any difficulty arises in given effort to the provisions of this Act; the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty. Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

23. Power to make rules :-

(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. Repeal and saving :-

(1) The Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the Undertakings in India of Caltex (India) Limited] Ordinance, 1976, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provision of this Act.

SCHEDULE 1

THE SCHEDULE

Table				
Instalments in dollars				
	Date of Payment	Principal Interest	amount	Total
(i)	31-3-1977	10,080,000	----	10,080,000
(ii)	31-3-1978	1,120,000	642,419	1,762,419
(iii)	31-3-1979	1,120,000	269,800	1,388,800
(iv)	31-3-1980	1,120,000	179,200	1,299,200
(v)	31-3-1981	1,120,000	89,600	1,209,600