CRONY CAPITALISM AND THE AMBANIS

PARANJOY GUHA THAKURTA
with Subir Ghosh and Jyotirmoy Chaudhuri

GAS WARS

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DEDICATION

This book is dedicated to my late father
Pranab Guha Thakurta and my late mother-in-law
Shakuntala Bhatnagar.

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PREFACE

Natural gas that lies below the ocean bed in the Bay of Bengal along the southeast shores of India off the basin of two great rivers, the Krishna and the Godavari, has become the subject of considerable controversy. Sections within the government of India, including the office of the Comptroller and Auditor General (CAG) of India, a constitutional authority mandated to oversee public finances, have been sharply critical of the manner in which another wing of the government, the ministry of petroleum and natural gas (MoPNG), designed contracts and tailored rules to favour the country's largest privately owned corporate conglomerate, Reliance Industries Limited (RIL), headed by India's richest man Mukesh Ambani.

Prime minister Manmohan Singh has been accused of changing ministerial portfolios at the behest of the same corporate group, an allegation that RIL predictably denies. There have been claims that the group deliberately 'squatted' on reserves of natural gas and curtailed production in anticipation of higher prices that are administered by the government, to the detriment of the interests of the country's people. Spokespersons of the Reliance group, however, contend that gas output from the Krishna-Godavari (KG) basin (in areas where it is contracted to operate) came down on account of unforeseen adverse geological surprises. The CAG has alleged, among other things, that the contract between the MoPNG and RIL was flawed, thereby encouraging excessive capital expenditure and lowering potential benefits to the exchequer.

Over and above these claims and counter-claims, there is another unique dimension to the controversy relating to extraction of natural gas from the KG basin by the Reliance group. The business empire controlled by the Ambani family got divided on account of sibling rivalry between Mukesh Ambani and his younger brother, Anil. While many reasons have been attributed to the split in the family, this book argues that the battle between the Ambani brothers was largely about wresting control over reserves of natural gas that are below the ocean bed along the basin of the two greatest rivers of southern India.

In July 2002, Dhirubhai Ambani, founder of the Reliance group of companies and India's biggest and one of its best-known industrialists, died. For two years thereafter, his remained the archetypal business family. The patriarch, a first-generation entrepreneur, had died intestate (or without leaving a will). All seemed well until the older of Dhirubhai's two sons, Mukesh, admitted in November 2004 that he was having differences with his younger brother, Anil, over 'ownership issues'. The sibling rivalry, earlier fought inside boardrooms, spilled out into the open. It became a pyrrhic family battle, which sucked in many influential Indians, from politicians and corporate leaders to bureaucrats and journalists. The tussles took place in the highest courts of the land, through public advertisements and in hundreds of published articles, features on television and on websites. Almost everyone who was someone in the country took sides in the Great Ambani War, so wide was the spread and influence of the once undivided Reliance business empire.

The two brothers had fought over many issues, but what sometimes got lost in the din of the battle cries was a simple fact: much of the tussle was over India's natural resources, about how the resources were intended to be mined, marketed and monetised.

In May 2010, the elder brother would go on to win a protracted legal dispute that lasted almost six

years. A crucial verdict by the Supreme Court of India went in favour of Mukesh Ambani allowing companies under his stewardship to control access to natural gas. Subsequently, even as the siblings claimed they had sorted out their differences, the waters of the KG basin got progressively murkier. News would periodically trickle out, from sources close to Anil, from corporate rivals, from a few conscientious bureaucrats and from a lone ranger Left-aligned Member of Parliament Tapan Sen who was a member of the Parliamentary Standing Committee on Petroleum and Natural Gas. The information pointed to rather questionable deals relating to KG gas and how RIL was fleecing the country in connivance with particular government functionaries.

By 2010, the CAG had begun conducting an audit of hydrocarbon production-sharing contracts. Few people take an interest in such audits while they are on. The reports are often written in dull bureaucratic language and replete with technical information. In this instance, however, the draft report of the CAG was leaked to the media. The report was, to say the least, damning. The deals were dirtier than alleged. The CAG's office headed by former bureaucrat Vinod Rai took a firm stand disapproving the production-sharing contract and laid the blame squarely on the government, that is, the MoPNG, then headed by Murli Deora, a Congress politician from Mumbai. The CAG report, tabled in Parliament in September 2011, did not quantify the losses to the state exchequer caused by RIL, but its insinuations were clear: the company had reaped huge profits thanks to the acts of commission and omission of a number of influential ministers and bureaucrats. The exchequer had been cheated because the government had failed to act as an impartial custodian of resources that belong to the people of India.

In October 2012, when Sudini Jaipal Reddy was removed from the post of Union minister of petroleum and natural gas and made minister for science and technology, opposition politicians alleged that he had been 'kicked upstairs' because he had refused to kowtow to the Ambanis. His ministry had claimed that RIL was 'deliberately' reducing gas output and exerting pressure on the government to increase the administered price of gas, charges the company denied. The ministry alleged that the fall in gas production had resulted in an estimated loss of $6.3 billion (or over Rs 32,000 crore at that time) to the country and sought to levy a penalty on the company. In June 2013, another Left MP Gurudas Dasgupta went hammer and tongs at Jaipal Reddy's successor M. Veerappa Moily for over-ruling his own ministry's bureaucrats as well as those of other ministries to prepare the ground for a hike in the government administered price of gas, describing the episode as a gigantic scam. Unfazed, later that month, a deeply divided Cabinet Committee on Economic Affairs decided to double the price of gas with effect from April 2014. This raised a hue and cry amid allegations that the government had gone out of its way to favour RIL.

This book is an attempt to unscramble and explain the entire series of controversies relating to KG gas and the battle between the Ambani brothers. It highlights cases of crony capitalism that allowed the RIL group to blatantly exploit loopholes that were consciously retained in the system. In doing so, it underlines instances of policies and procedures that were structured to help increase the fortunes of a few. It points out how, even when laws and policies appeared fair, rational, and reasonable, the way in which these rules and procedures were framed and implemented by bureaucrats acting at the behest of their political masters resulted in crony capitalism.

This book *inter alia* seeks to lay bare the manner in which official contracts are made in order to allow enough room for the government to be cheated of revenue and the country's natural resources to be siphoned off with impunity. Indeed, the government's role in the still-continuing KG gas epic is one among many instances of ruthless exploitation of natural resources in different parts of the country and the world. The pages that follow tell the story of how a corporate conglomerate, in this case India's largest, was able to benefit from the way government policies are designed. In doing so, a pattern begins to appear, which epitomises the rise of the Ambanis over the years.

PROLOGUE

The landscape below changes dramatically within a few minutes of the helicopter leaving Rajamundhry airport. The verdant palm groves and paddy fields of coastal Andhra Pradesh make way for brown salt pans and shallow water bodies where prawns are cultivated. This is where the Godavari, India's second-longest river after the Ganga, ends its nearly 1,500-kilometre-long journey to the ocean, a journey which begins from Maharashtra in western India and cuts through central and southern India. As it nears the ocean, the swirling muddy waters of the biggest estuary in the delta of the Godavari are seemingly held back for a brief while by a long stretch of land that appears to be blocking the river's journey into a great expanse of water. This is Hope Island, whose sandy beaches with waves lapping on them, neatly divide the brown river from the greenish-blue Bay of Bengal. The continental shelf is relatively narrow off the southeastern coast of India. The depth of the ocean suddenly plummets and this becomes evident when viewed from above: within a couple of kilometres, the colour of the waters changes from blue-green to deep, dark aquamarine. What hope does the vast bay beyond Hope Island hold for the energy security of India?

The rigs then come into view: metallic structures in the middle of the blue-nowhere. First, the ones which have been constructed on stilts that can be embedded into the ocean bed because these are situated relatively close to the shore. This is where the gas extracted from under the ocean bed is processed before it is transported through pipelines. As one travels more than 20 kilometres into the Bay of Bengal, the larger rigs are seen. Each is a huge structure that floats on the surface of the ocean but because of its weight and size, the rig hardly seems to move. We are told that work on these rigs has to be almost completely stopped for more than four months in a year as the ocean becomes excessively turbulent during the monsoon when violent cyclones lash the country's eastern coast along the states of Odisha, Andhra Pradesh and Tamil Nadu.

The helicopter lands gently on the rig and we are suddenly transported into a different world. The fishing boats surrounding the rig on the ocean below seem like children's toys, the sailors in them smaller than midgets. We climb up and down and through a maze of metal ladders surrounded by a veritable jungle of pipes, ducts, cables and machinery. A small proportion of the gas that is extracted from the ocean bed is used to generate electricity to meet the requirements of the equipment installed on the rig and for the people who work on it. And the people, well they come from across the globe, from faraway countries in distant continents. The facilities, I am told, are world-class and I have no reason to disbelieve our guides. The conference hall could have been inside a luxury cruise liner or, for that matter, a fancy hotel. Special cameras are used to click photographs—the cameras don't use a flash to ensure that there is no possibility of sparking a fire. The snacks are mouth-wateringly good. Who could have imagined that one would be partaking of such tasty tomato sandwiches, chicken cutlets and fried fish in the middle of the Bay of Bengal? A video film is played on a large television screen; a power point presentation activated to explain the engineering behind the installation of the rig and how it operates.

* * *

A brief primer on natural gas may be useful at this juncture. What is natural gas? Where is it found?

And what is natural about such gas?
Natural gas is a mixture of naturally-occurring hydrocarbons that comprise methane, carbon dioxide, nitrogen and hydrogen sulphide in varying proportions. Natural gas, an increasingly important source of energy in the world and in India, has a variety of uses including generation of electricity and the manufacture of fertilisers. It is used as a fuel for vehicles, for cooking and heating and as a chemical feedstock in the production of plastics and commercially-important organic chemicals.

Natural gas is found in deep underground rock formations or associated with other hydrocarbon reservoirs in coal beds. Crude petroleum oil is another resource that is often found in proximity to, and with, natural gas. Most deposits of natural gas were created over many centuries by two mechanisms: biogenic and thermogenic. The second mechanism entails creation of thermogenic gas from buried organic material and such gas is typically found deep in the earth and under the beds of seas and oceans, as in the Krishna-Godavari basin in the Bay of Bengal. Before natural gas can be used as a fuel, it must be processed to remove water and other 'impurities'. The byproducts of processing include ethane, propane, butanes, pentanes, higher molecular weight hydrocarbons, hydrogen sulphide, carbon dioxide, water vapour and sometimes, helium and nitrogen. Natural gas is often simply referred to as gas, especially when compared with other sources of energy such as other petroleum products or coal.

In the nineteenth century, natural gas was usually obtained as a byproduct of extracting crude oil since the light gas carbon chains would come out of the extracted fluids as these underwent pressure reduction while moving from inside the reservoir to the surface—a process akin to the release of carbon dioxide as the cap of a soda water bottle is removed. During the nineteenth century and even for much of the twentieth century, there was no market for natural gas. Gas was an unwanted byproduct that was burnt or flared at the wellhead. Since then, technology has evolved considerably and the once-unwanted gas is nowadays transported through pipelines to different sets of consumers. In certain instances, the 'unwanted' gas associated with crude oil extraction is returned or 'injected' back to the reservoir to await a future market. Where it is not economically feasible to transport the gas through pipelines, the gas is processed and converted into liquids known as liquefied natural gas that can be stored and transported in tankers.

Some of the world's biggest gas reserves are located in Russia, Iran, Qatar, Saudi Arabia and the United Arab Emirates. According to the government of India's ministry of petroleum and natural gas, India has an estimated 1.5 trillion cubic metres of gas reserves in various locations in western India (including off the coast of Mumbai or Bombay High and Gujarat), Assam (in eastern India), besides the Krishna-Godavari basin in Andhra Pradesh. India also imports liquefied natural gas from countries like Qatar. Natural gas accounted for roughly one-tenth of the country's total energy requirements in 2012–13. Gas comprises over three-fourths of the total feedstock of raw materials used by fertiliser companies to manufacture nitrogenous fertilisers, urea and ammonia.

India's oil and gas exploration and production sector used to be dominated by two government-owned companies, the Oil and Natural Gas Corporation (ONGC) and Oil India Limited (OIL). The public sector Gas Authority of India Limited (now GAIL) effectively controls much of the transportation of natural gas in the country. From the early-1990s onwards, private companies have become increasingly important in this sector. Reliance Industries Limited (RIL) is one of the biggest players in the natural gas sector since the discovery in 2002 of substantial reserves of natural gas in the KG basin.

* * *

By the time the helicopter has returned to Rajamundhry airport, I realise that I have just had an

extraordinary experience. Like the muddy waters of the Godavari's estuary, my head was swirling with information and opinions. My hosts at RIL had laid out the red carpet for me. An American technical expert had accompanied me for the better part of two days to patiently explain details to a lay person like myself. Located in what was once a typically Indian rural environment, the onshore facility in Gadimoga (near the port of Kakinada in Andhra Pradesh) could have been situated in any large city in India or, for that matter, anywhere in the world. We were shown models depicting the entire coastal area—from the shore to the depths of the ocean, from the zones where drills from the floating rig platform penetrate the bed of the ocean to the platform where the gas is processed and then transported through pipelines. Inside a large hall, engineers, scientists and technicians were poring over computer screens that were supposed to be monitoring each and every aspect of the complex operations: from gas extraction, to processing and transporting.

We sat back on comfortable couches to watch a short film titled *Samudra Manthan* or the 'Churning of the Ocean'. In ancient Indian mythological texts, the gods churn an ocean of milk to extract nectar that gives life. How appropriate was this analogy, I wondered?

My brain was cluttered with questions and counter-questions, claims and counter-claims. Why did gas output from the block in the KG basin where RIL is operating come plummeting down to barely a quarter of what had been projected a few years earlier? How did the grandiose dream of energy security promised by India's 'biggest gas discovery' come to be described later by some as a nightmare for the country? Was the fall in gas production purely on account of adverse geological surprises? Or was it because the operator did not dig enough wells? Was there a deliberate attempt by RIL to 'squat' on gas reserves till the government increased the administered prices of gas from April 2014 when the ministry's earlier agreement with RIL got over? Or was it technically impossible? Did the government structure its production sharing contract with RIL in such a manner that the private company was encouraged to splurge on expensive capital equipment, a phenomenon derogatorily described as 'gold-plating', because it had nothing to lose and everything to gain by spending more? Were national interests adequately protected? Or was the need to ensure that a private company's operations are profitable made subservient to larger considerations of public interest?

The allegations and counter-allegations continued to swirl inside me. Did RIL deliberately fail to give up large unexplored areas where it was supposed to dig wells in a unique form of a 'land grab' at the bottom of the ocean? Was the office of the CAG populated by a bunch of ignorant accountants who had no idea either about the challenges that deep sea gas exploration posed or the huge risks entailed in such activities? Or was the CAG performing its duties diligently as a Constitutional authority which investigates and ascertains if money— and resources—that belong to the people of India is not appropriated to benefit a privileged few? Was the CAG correct in asking RIL to provide more information about its operations and finances than what it was contractually obliged to? Was the body of government auditors asking a private company to disclose proprietary commercial secrets?

Even more uncomfortable questions lurked in my mind that day. How powerful and influential is India's richest man? Can he really decide who gets appointed to the post of minister of petroleum and natural gas in the Union Cabinet? Are such decisions not the prerogative of the prime minister of India? How insidious and how deep is the nexus between big business and politics?

To seek answers to these and more questions, read on.

—PGT

Ambani vs. Ambani

1
SIBLING STRIFE

'People plaster mud over their faces because it makes their skin glow. InIndia's corporate sector, when muck is flung by business tycoons at each otherand against their political mentors, one can only hope the mud-slingingwill bring about some good; some cleansing of the country's crony capitalist system and some transparency in the working of the murky nexus betweenbig business and politics.'

These ironical words were spoken during a private conversation by a senior executive who used to work for Reliance Industries Limited (RIL) now headed by Mukesh Ambani, the older of the two sons of the late Dhirubhai Ambani. It was October 2008 and I was were sitting in the office of this executive in the central part of New Delhi discussing what had prompted Dhirubhai's younger son Anil to publicly lash out against not only his elder brother, Mukesh, but also against the government of India's ministry of petroleum and natural gas (MoPNG) then headed by Murli Deora.

It is rare, in India at least, for a corporate captain to publicly attack the government and a minister, especially one of cabinet rank, a position that makes him part of a select group of politically influential members of the council of ministers. Businessmen tend to be deferential to politicians in power, at least in public, even if they may privately express reservations about their actions or proclivities. In this instance, Deora was said to be particularly close to the late Dhirubhai Ambani, son of a schoolteacher from a nondescript village, Chorwad, in Gujarat in western India, who founded the Reliance industrial empire. Unlike most industrialists of his generation, Dhirubhai would openly flaunt his proximity to the then prime minister of India, Indira Gandhi. After she returned to power in the 1980 general elections, he shared a platform with her at a function held in a fancy hotel in the capital.

Few could have imagined that Dhirubhai's two sons would become arch rivals soon after his death in July 2002 and carve up the widely- diversified industrial group he had assiduously built from scratch. Mukesh had worked closely with his father to enable the group's flagship company, RIL, to diversify from a textiles and synthetic fibres company to a manufacturer of petrochemicals of all kinds, and to become an important petroleum refiner, besides carving an important place in oil and gas exploration and production. The October 2012 issue of *Forbes* magazine lists Mukesh Ambani as the richest man in India and the nineteenth richest person in the world with a net worth of $21 billion, despite a $1.6 billion fall in the value of his assets over a year. Anil Ambani is listed a few notches down, eleventh position in India and 118 in the world with a net worth of $6 billion. Earlier in 2009, the same magazine had estimated Mukesh's wealth to be $29 billion, making him Asia's and India's richest man and the world's fourth most wealthy individual that year. A chemical engineer by training, Mukesh had dropped out of a Masters in Business Administration (MBA) course at Stanford University in the US (where he was, incidentally, a classmate of former Microsoft chief executive Steve Ballmer).

Reliance group flagship RIL is one of the largest publicly traded companies in India in terms of market capitalisation (price of a share multiplied by the number of shares) and is the country's second

largest company by way of gross revenue after the public sector Indian Oil Corporation. It is India's largest private sector company in terms of revenue and profit. In the financial year that ended on 31 March 2012, the company's revenues stood at $76.2 billion and its total assets were valued at $64.2 billion. The company was ranked 99th in the 'Global 500' list compiled by *Fortune* magazine of the world's biggest corporations for the year 2012. It employed more than 23,000 people.

In many respects, the Ambani siblings had markedly different personalities: Mukesh, something of an introvert and his flamboyant younger brother Anil, evidently revelling in the limelight. Mukesh has, by and large, maintained a low profile in comparison to Anil, who is known to socialise regularly in the company of film personalities and politicians. This is not surprising as Anil's wife, known earlier as Tina Munim, was once an actress in the Hindi film industry in Mumbai. Anil was the more visible face of the undivided Reliance group in public interactions with analysts and journalists, some of whom he would address by their first names to strike a note of familiarity.

In 2009, Mukesh said he would take a hefty pay cut after prime minister Manmohan Singh commented adversely on conspicuous consumption and the 'vulgar' levels of salaries doled out to the Indian élite, including industrialists. Critics of the tycoon found his action hypocritical as Mukesh had in November 2007 gifted his wife Nita a fancy private jet on her forty-fourth birthday. It was alleged by the Indian government's customs authorities that the Rs 231-crore (around $46 million at the prevalent exchange rate) Airbus A-319, with a plush master bedroom, fancy bathrooms, a bar and a business centre, had been imported by Reliance Commercial Dealers by evading taxes. Another Falcon aircraft was imported by the same company, and after show-cause notices were issued and both aircraft were seized by customs' officials, an amount close to Rs 500 crore was shelled out as bond value together with bank guarantees worth Rs 100 crore which were paid by the company under protest.

Mukesh also reportedly splurged huge amounts of money on a twenty-seven-storey home, a 570-feet-high structure called 'Antilla' on Altamount Road, a posh locality in south Mumbai, a city with the highest real estate values in India and, perhaps in the world as well in terms of purchasing power parity.

In terms of ostentatious display of wealth, Anil was not far behind his older brother. Almost taking a cue from him, Anil bought a Rs 144 crore Bombardier aircraft, and was also served a notice by the customs' authorities in 2007. His Global 5000 aircraft too was seized and provisionally released after payment of Rs 144 crore as bond value, which matched the value of the aircraft, and over Rs 36 crore as bank guarantee. The companies controlled by the Ambani brothers received these notices because these aircraft had been imported for commercial charter services (which attract zero duty) but were being allegedly operated for personal use (on which customs duty of around 25 per cent is levied). The Ambanis were not alone in this respect: similar notices were also issued to companies in the Tata group, the GMR group, and the Oberoi group, among others.

Anil, apparently to gift his wife Tina something even more bountiful than the birthday gift presented by his brother to his wife, presented her with a luxury yacht named 'Tian' after the first two letters of both their names as a New Year's gift in December 2008. The yacht was reportedly worth Rs 400 crore ($84 million), including the cost of refurbishing its interiors. Yet again, Anil's company was slapped with a notice by the customs authorities for evasion of duty. Reliance Transport & Travels, whose associate had purchased the yacht, denied that any taxes had been evaded. The company claimed that no duty was due because the transaction had taken place overseas and the vessel could move in Indian and international waters.

Anil, who boasts a degree in business management from another American business school, Wharton, currently heads the breakaway Anil Dhirubhai Ambani Group (ADAG) that has business interests in electricity generation and distribution, telecommunications, financial services, infrastructure

development, and entertainment. His Reliance Entertainment struck a deal with Steven Spielberg's DreamWorks and signed on 'A' list Hollywood stars such as George Clooney and Julia Roberts for film projects. Reportedly a teetotaller, he is a fitness fanatic who jogs regularly and often participates in marathon runs.

As far as public postures went, Mukesh and Anil were apparently united for more than two years after their father's death in July 2002. The tensions between the brothers were known only to insiders until in November 2004 when Mukesh publicly acknowledged that there were 'ownership issues' between the siblings. Thereafter, for the next seven months, there was a no-holds-barred airing of allegations and counter-allegations by senior employees owing allegiance to one or the other brother. During this period, stories detailing claims of corruption and misrepresentation, including Mukesh's non-existent MBA degree from Stanford, were bandied about in the media. In June 2005, the warring brothers decided to temporarily bury the hatchet and signed a private settlement that was brokered by their mother, Kokilaben, and assisted by one of India's leading bankers, notably K.V. Kamath, former head of ICICI (formerly Industrial Credit & Investment Corporation of India) Bank.

The settlement was uneasy, and the truce, short-lived. The sniping between the siblings resumed in June 2008. Discussions between the Anil-led Reliance Communications and the South African telecommunications group MTN fell through after Mukesh raised the issue of 'right of first refusal' specified in the family compact on the sale of shares of the Indian company. Anil claimed that Mukesh was trying to bypass the 'non-compete' clause in the family agreement to get into such areas as power generation and airports, which had been reserved for 10 years for the younger sibling when the family assets were partitioned, through the stratagem of setting up special economic zones.

This happened in full public glare, and key questions were raised in the context of the rivalry that became India's most widely- publicised battle between two corporate captains who happened to be brothers. Why did Anil take on petroleum minister Murli Deora whose friendship with Mukesh and their deceased father Dhirubhai was well known? Was it a desperate attempt to salvage a major gas-fired power project that was to be set up by a company headed by Anil that would use gas from the KG basin and which seemed to be in danger of slipping out of his control? Why did Anil use his politician friends in the Samajwadi Party to raise a ruckus in Parliament about the government allegedly favouring Mukesh's RIL through its policies by discriminating against a firm that he led?

Before searching for answers to these questions amidst a maze of legalese and technical jargon, a clarification is necessary: the spat between the Ambani brothers could have been dismissed lightly as yet another instance of a private squabble between two rich businessmen had it not been for the fact that the dispute between them was intimately related to the utilisation and pricing of resources, in this case, natural gas that is the property of the people of India. It is not as if there has not been inter-corporate rivalry related to control over natural resources. For instance, the government was accused of favouring certain corporate entities in the allocation and pricing of electromagnetic spectrum used for mobile telecommunications in 2008. Four years later, the Comptroller and Auditor General (CAG) of India accused the government of allocating coal bearing acreages to specific companies in a non-transparent and arbitrary manner. However, the tussle to control gas from the KG basin was unique in the sense that the rivals were corporate conglomerates led by two brothers.

On 7 May 2010, a judgement of the Supreme Court of India was delivered that went beyond the contractual dispute between the two companies headed by the Ambani brothers. While the verdict was widely interpreted as victory for Mukesh and defeat for Anil, the decision of the country's apex court gave complete authority to the government to price, utilise, and distribute natural resources. As the broadest and most important issue in the legal case was the manner in which the nation's gas reserves could and should be utilised, the court also delivered a stinging indictment of the policies of the Indian government. The dispute between the two oligarchs over the manner of utilisation and pricing

of natural gas provides a big picture of the manner in which India's post-1991 economic liberalisation programme degenerated into forms of crony capitalism.

In 1999, the MoPNG announced a New Exploration Licensing Policy (NELP), under which a consortium (referred to as the 'contractor' in government documents), comprising RIL and its partner Niko Resources Limited of Canada, became the successful bidder for exploring deepwater block KG-DWN-98/3 (later christened the KG-D6 block; D6, for Dhirubhai 6). In April 2000, a production-sharing contract (PSC) was signed between the ministry and the contractor. In July 2002, Dhirubhai died without leaving a will. In October that year, substantial reserves of natural gas were discovered in the KG-D6 block. Two years later, in June 2004, RIL entered into an agreement with the Uttar Pradesh government to set up the 'world's largest gas-based power plant' at Dadri, near Delhi, which would use KG gas that would be transported through pipelines across a distance of over 1,800 kilometres from Andhra Pradesh to Uttar Pradesh.

For seven months between November 2004 and June 2005, the Ambani brothers fought a bitter battle in public, the genesis of which can be traced to Dhirubhai's lifetime (detailed in the next chapter of this book.) After a 'settlement' between the warring brothers in June 2005, the Reliance business empire was partitioned: the Mukesh group acquired control over the gas exploration and extraction business while the Anil group acquired the power generation business. Mukesh also promised to supply gas for Anil's Dadri power plant at a price of $2.34 (or around Rs 114) per million British thermal units (mBtu). The envisaged quantum of gas supply was to be 28 million standard cubic metres a day (mscmd) for a period of 17 years.

In little or no time, the heads of RIL (Mukesh) and Reliance Natural Resources Limited (Anil) began bickering over whether Mukesh's company would supply the gas at the agreed price. When RIL applied to the MoPNG for approval of a gas price of $2.34 per mBtu, the ministry refused to approve the price on the ground that it had the right to determine the price of a natural resource. Soon a legal battle ensued between the two brothers with the government later becoming a participant.

In September 2007, an empowered group of ministers (EGoM) headed by Pranab Mukherjee (then minister for external affairs and now President of India, who had also been a close acquaintance of Dhirubhai) approved the price of RIL's gas at $4.20 per mBtu, or nearly 80 per cent above the price of $2.34 per mBtu that had been agreed upon by the Ambani brothers. What transpired at the empowered group of ministers (EGoM) meeting and the controversy it generated will be subsequently elaborated, as well as lacunae in the government's energy policy, particularly on the utilisation and pricing of natural gas.

Over the next year and a half, the brothers quarrelled publicly, as well as in the Bombay High Court, over who should have access to KG gas and at what price. In March 2009, the petroleum ministry finalised gas allocation from the KG-D6 block for fertiliser and power companies, and for other users. Under this gas utilisation policy, Anil's Dadri plant did not receive any allocation, the government stating that it would first take into account the judgement of the Bombay High Court where the two brothers were at that juncture embroiled in a legal face-off on the issue.

On 15 June 2009, the Bombay High Court ruled in favour of RNRL (Anil), stating that RIL (Mukesh) should honour the June 2005 family agreement to supply gas at $2.34 per mBtu in accordance with the original terms of the contract and urged the two companies to arrive at a 'suitable arrangement' or to turn to their mother Kokilaben for arbitration. The judgement was evidently beneficial for RNRL but not RIL. The legal battle was far from over.

On 3 July 2009, RNRL appealed to the Supreme Court to restrain RIL from supplying up to 40 mscmd of gas, as apportioned by the EGoM in accordance with its utilisation policy, to anyone other than itself. The following day, RIL filed a petition in the Supreme Court against the Bombay High Court judgement, which then posted the case for hearing on 20 July that year. On 18 July, the government

chose to intervene by filing a special leave petition contending that natural gas is national property, that the government had sovereign rights over its use, and argued that the court ought to declare the July 2005 family agreement null and void. Later, on 1 September, the government was to amend its petition in the Supreme Court clarifying that it no longer wanted the family agreement to be declared null and void on the ground that it was a private agreement that was of no direct concern to the government while re-asserting its sovereign rights on the pricing and use of gas.

The younger brother decided to aggressively hit out against his older sibling. For over six months from July 2009 onwards, Anil Ambani publicly accused the MoPNG of pandering to RIL's 'excessive greed', accusing his older brother's company of (among other things) 'gold- plating' the KG gas project to reap undue financial benefits, and the government of obliging RIL at the expense of RNRL, and the public sector National Thermal Power Corporation (NTPC), one of India's biggest power-generating utilities, and others.[1]

Reliance Natural Resources Limited issued a series of front-page advertisements in most leading Indian newspapers claiming that the government, especially the petroleum ministry, was favouring RIL and that its policies were causing huge losses to the exchequer. The advertising campaign is believed to have cost RNRL Rs 15 crore, or the equivalent of $3 million.

The Bombay High Court judgement provoked strong reactions. The then Andhra Pradesh chief minister, late Y.S. Rajasekhara Reddy, said that the dispute over the supply of KG gas was not an issue that should be settled by the Ambani matriarch, that the Union government should instead prioritise who should get the gas (whether power plants, fertiliser manufacturers, or other industrial units) and at what price. The then secretary in the ministry of fertilisers, Atul Chaturvedi, wrote to R.S. Pandey, his counterpart in the petroleum ministry, that a family settlement should not 'override the sovereign right of the government to formulate policies aimed at the larger public interest'.

Petroleum minister Murli Deora then contended that the gas did not belong to either of the two Ambani brothers, but to the government. The minister would have been more accurate had he stated that the gas belonged to the people of India. The crucial question, therefore, was whether the government was indeed acting on behalf of the people of India as a custodian of national resources, or as a partisan participant. If indeed the gas belonged to the government and the contract between RIL and RNRL was less than favourable to the larger public interest, why had the government not cancelled the contract?

While Mukesh maintained a stoic silence during most of these public debates, his senior executives kept pointing out that the gas deal between the brothers required 'government approval' and that this was mentioned in the family agreement. In fact, the family agreement had added that Mukesh would help Anil in whatever way he could to obtain these approvals. They maintained that it was Anil who was afflicted with 'greed' and wanted to earn huge profits by buying the gas at $2.34 per mBtu from Mukesh and then selling it in the open market for $4.20 per mBtu (the government-approved price). The underlying implication was that Anil was less than keen on setting up the Dadri power project and that little progress had been made in this regard. Sources close to Mukesh alleged that Anil was covertly interested in trading in gas and not in establishing a project to generate electricity. Those sympathetic to Anil responded that funds could not be raised from banks to set up the power project unless gas supplies were tied up. In September 2009, RIL's head of exploration and gas business, P.M.S. Prasad, sought to refute all charges against his company, including allegations of 'gold-plating', which are discussed later in the book.

The Supreme Court had to decide, among other things, whether the contract between RIL and RNRL was valid in terms of Indian contract laws, whether the family settlement that led to the reorganisation and division of RIL and the Reliance group's assets was legally binding on the government and, most importantly, whether the price of gas should be $2.34 per mBtu or $4.20 per mBtu. The decision of the

highest court of the land would go far beyond the contractual dispute between the two companies, and determine the fate and financial fortunes of several fertiliser and power companies, including the state-owned NTPC which was hopeful of using substantial quantities of gas from the KG basin at relatively inexpensive rates to generate electricity. India's highest court also had to interpret the validity of a PSC between the government, which is the custodian of all natural resources in the country, and a private operator (RIL) that had been granted permission to extract that resource.

On 20 July 2009, the Supreme Court stated that it would begin hearing the case from 1 September, but began only on 20 October that year. In between, on 11 October, after a visit to the holy shrine of Badrinath in the Himalayas, Anil made an offer to his brother to amicably resolve their differences. Mukesh responded by getting RIL to issue a formal statement which, while welcoming the move, pointed out that the dispute under litigation was not just a family dispute, and hoped that 'overtures for rapprochement are in no way related to the ongoing hearing of the case'. The legal battle was about to begin in right earnest.

There was high drama during the initial hearings. The three-judge bench of the Supreme Court was headed by the then Chief Justice of India, K.G. Balakrishnan, and included Justice R.V. Raveendran, who asked several probing questions of lawyers representing the Union government as well as RIL's counsel Harish Salve. Suddenly, on 4 November, Justice Raveendran sprang a surprise by withdrawing from the case after disclosing that he was lately made aware of the fact that his daughter was employed with a Bengaluru-based firm called AZB Associates, which had acted as a consultant to RIL for global acquisitions. Even before the court hearings could commence, he had offered to opt out, saying that he held shares in both RIL and RNRL. But lawyers on both sides had urged him to continue, and Justice Raveendran had agreed. However, this time round, even though the lawyers made the same plea, the judge seemed to have made up his mind to recuse himself from the hearings. Justice Raveendran remarked: 'I know my conscience is clear. But justice should not only be done, but also be seen to be done for upholding the respect and dignity of the institution.… I wish somebody would have brought it to my notice earlier. That is the tradition of this court.'

On the same day, another judge of the Supreme Court, Justice Markandey Katju (who went on to become chairman of the Press Council of India), who was hearing another case that involved RIL and the government-owned Bharat Petroleum, too withdrew from that case citing his wife's ownership of shares in RIL. Later, it was revealed that his wife had invested in two mutual fund schemes managed by the Anil Ambani-controlled Reliance Capital, and had no shares in RIL. The hearings on the RIL-RNRL case continued with the appointment of a new judge to the bench, Justice B. Sudershan Reddy. Less than a month earlier, on 9 September, while replying to RIL's petition, RNRL had alleged that the Mukesh group was changing its position on the memorandum of understanding (MoU) drawn up as part of the settlement that had laid down specific rules for the de-merger of assets and businesses of the undivided Reliance group. A few days later, on 16 September, RNRL asked the court to implead the public sector NTPC as a party in the dispute because it believed its own interests coincided with those of NTPC. Two days later, the court was urged to dismiss the government's petition. On 1 October, NTPC received a setback when the Supreme Court dismissed its appeal challenging the Bombay High Court order allowing RIL to amend its petition in a separate legal dispute with NTPC on the price of KG gas.

On 6 October, challenging the Bombay High Court judgement, RIL sought to undermine RNRL's claims to the gas on the ground that the latter had not been able to set up a power plant ready to receive gas. On 20 October, as the Supreme Court commenced hearings in the dispute, RIL's lawyer Salve argued that the family agreement was not binding as it had not been shown to the board of directors of RIL. He added that RIL could not supply gas at $2.34 per mBtu as that would be tantamount to violating government policy. Even as the Supreme Court suggested arbitration

proceedings as an option to resolve the dispute, RIL argued that the higher price of gas would help the government earn higher revenue.

On 25 November, when it was the turn of RNRL to argue its position in the case, Anil Ambani made a sudden appearance in the Supreme Court even as his team of lawyers, led by Ram Jethmalani, MP, argued that the dispute could be resolved within the parameters of the family settlement. RNRL claimed that RIL was not correct in contending that gas supply was dependent on the Dadri project being set up. On 2 December, the government filed an affidavit in the Supreme Court seeking to protect the interests of NTPC, which was engaged, like RNRL, in a legal dispute with RIL on gas pricing. The government, represented by the solicitor-general of India, Gopal Subramaniam, claimed that different wings of the government, notably the petroleum and power ministries, were not in conflict with each other, and that the government did not favour one brother over the other. On 8 December, RNRL filed a fresh affidavit arguing that there would be no loss to the government if KG gas was sold at $2.34 per mBtu instead of a price of $4.20 per mBtu and that the higher price decided by the EGoM would merely serve to increase RIL's own profits.

On 18 December 2009, the last day of the hearings in the Supreme Court, sparks flew as lawyers representing both RIL and RNRL made impassioned pleas before the bench of three judges. It was, however, solicitor-general Subramaniam who seemed to be the most agitated because, as he said, 'the government had been perforce compelled to be present in the dispute and that we do not again want to be subject to such lateral attacks'. Reacting to RNRL's lawyer Jethmalani describing Subramaniam's submissions as a 'mock fight', the solicitor- general retorted that a 'mockery' had been sought to be made of the government's position. He added: 'I want to borrow an expression used by Mr [Harish] Salve [RIL's lawyer] to say that this was [a] trial by ambush for the government. If [there is] any person who actually has reason to complain, it is the government of India.'

Subramaniam said the government had 'beaten down' the price offered by RIL from $4.33 per mBtu to $4.20 per mBtu, to which RNRL's counsel Mukul Rohatgi sarcastically remarked that the government had 'beaten down' the contractor's price by only 13 cents. The solicitor-general remained unfazed and justified the price fixed by the EGoM:

> The EGoM looked into the formula of the contractor [RIL] and took a decision independent of the contractor…There is a lot of worry. So many facts, figures, prices, costs have been quoted here in interpretation of what was intended by the Empowered Group of Ministers. Price distribution of the EGoM cannot laterally be made the subject of this fight. Only we, the authors, have the right to interpret…

The solicitor-general described the production sharing contract as a 'novel instrument' and urged the court to preserve its sanctity, adding that over 300 similar PSCs had been signed by the government. 'Title to the natural gas under the PSC vests with the government and does not automatically pass to the contractor … the government is the sole owner of the gas. The contractor is only an agent.…A person asked to paint the Supreme Court building cannot claim to have 50 per cent share in the building,' he argued, claiming that both sides had shown 'disregard to the sovereignty of the government'. He concluded: 'It is my property. I pay 100 per cent costs on my property. There may be allocations, understandings on my property. This is not just a case between persons A and B alone.'

The Supreme Court then reserved its judgement on the dispute and said it would be delivered on the morning of 7 May 2010. It was truly Judgement Day for both the Ambani brothers as well as the government. On that day, when Anil Ambani, with a red *tilak* on his forehead, entered the court he seemed confident and sure of himself. When he left, he looked shattered. Many sympathised with him. His elder brother Mukesh was absent from the court; perhaps he did not wish to overreact in the way

he did when he pumped his fist in the air each time Sachin Tendulkar smashed a boundary during an Indian Premier League cricket match for Mumbai Indians, a team he and his family own.

Anil's body language said it all that muggy morning as he walked past the row of television cameras and jostling journalists waiting impatiently outside the premises of the Supreme Court. He did not respond to any of the questions thrown at him. The fifty-one-year-old long-distance runner was always the underdog in the bitter battle for control of India's natural gas resources. He had valiantly chosen to take on his elder sibling and, with him, the might of the government establishment. He would have to wait to fight another day.

Although Mukesh, barely two years older than his estranged sibling, was conspicuous by his absence, his lawyers—led by Harish Salve and including Abhishek Manu Singhvi (who doubles up as an official spokesperson of the Indian National Congress party when he is not in his black robes)—and his top executives were predictably exultant. The three-judge bench of the Supreme Court led by the outgoing Chief Justice of India, K.G. Balakrishnan, had ruled in favour of the company Mukesh heads.

Barely a few kilometres away, in Shastri Bhavan, a nondescript building housing various ministries and departments of the government of India, minister Murli Deora, not exactly in the pink of health, issued a terse statement while the top bureaucrat in the MoPNG, petroleum secretary S. Sundareshan, provided more detailed answers. The minister, who had been publicly accused by Anil of acting in a partisan manner and against national interests, merely said: 'The gas belongs to the nation … not to any company or individual. The Supreme Court has upheld our stand.'

It was hardly surprising that RIL's shares zoomed while the value of the RNRL scrip, as also other companies in Anil's group like Reliance Power, crashed on the stock exchanges that Friday afternoon.

However, what minister Deora or his senior bureaucrats did not tell the media that day or thereafter was that the judgement of the apex court was more than just a victory for RIL, or the government. The text of the judgement, which ran into 268 pages, also contained a sharp indictment of the government's policy of privatising control over the country's natural resources. The battle, dubbed a modern- day *Mahabharata,* was not yet over. One episode had ended. Another was about to begin.

The judgement highlighted crucial lacunae in the Indian government's policies on utilisation of natural resources and ensuring energy security. Paragraph 87 of the majority judgement delivered by Chief Justice K.G. Balakrishnan and Justice P. Sathasivam (excluding Justice B. Sudershan Reddy) stated:

> It is relevant to note that the Constitution envisages exploration, extraction and supply of gas to be within the domain of government functions. It is the duty of the Union to make sure that these resources are used for the benefit of the citizens of the country. Due to shortage of funds and technical know-how, the government has privatized such activities through the mechanism provided under the PSC (production sharing contract). It would have been ideal for the PSUs (public sector undertakings) to handle such projects exclusively. It is commendable that private entrepreneurial efforts are available, but the nature of the profits gained from such activities can ideally belong to the State which is in a better position to distribute them for the best interests of the people. Nevertheless, even if private parties are employed for such purposes, they must be accountable to the Constitutional set-up.

One could quibble with a sentence in the paragraph quoted. It can be contended that the government allowed private companies to enter the oil and gas exploration and extraction business not on account of paucity of funds or inadequate knowhow. The money could have been raised and the technology bought by the profitable public sector companies, such as the ONGC and OIL, had the government really wanted this. More significant than the majority judgement was the observation by Justice B.

Sudershan Reddy, who disagreed with the two other judges on the bench on a few points in the judgement. One of these was the issue of the 'resource curse' that afflicts India and other developing countries. This is what he said:

A small portion of our population, over the past two decades, has been chanting incessantly for increased privatization of the material resources of the community, and some of them even doubt whether the goals of equality and social justice are capable of being addressed directly. They argue that economic growth will eventually trickle down and lift everyone up. For those at the bottom of the economic and social pyramid, it appears that the nation has forsaken those goals as unattainable at best and unworthy at worst. The neo-liberal agenda has increasingly eviscerated the state of stature and power, bringing vast benefits to the few, modest benefits for some, while leaving everybody else, the majority, behind… .
We have heard a lot about free markets and freedom to market. We must confess that we were perplexed by the extent to which it was pressed that contractual arrangements between private parties with the State and amongst themselves could displace the obligations of the State to the people….History has repeatedly shown that a culture of uncontained greed along with uncontrolled markets leads to disasters.…Historically, and all across the globe, predatory forms of capitalism seem to organize themselves, first and foremost, around the extractive industries that seek to exploit the vast, but exhaustible, natural resources. Water, forests, minerals and oil—they are all being privatized; and not being satisfied, the voices that speak for predatory capitalism seek more….

As regards government policy, the penultimate paragraph of Justice
B. Sudershan Reddy's judgement observed:

Before we part with the case, we consider it appropriate to observe and remind the GoI (government of India) that it is high time it frames a comprehensive policy/suitable legislation with regard to [the] energy security of India and supply of natural gas under production-sharing contracts.

It was evident from the judgement that glaring gaps exist in India's energy policy framework. To point out that the government has a legal right over India's natural resources (including its natural gas) and that no private agreement, including the one signed between the two Ambani brothers and their mother in June 2005, can override such a sovereign right, is a no-brainer. There were more important questions that remained unanswered. Is the government, as custodian of the resources that belong to the people of India, acting in a way that benefits the majority? Or are its policies primarily aimed at promoting powerful business interests? How have the policies of economic liberalisation and privatisation degenerated into different forms of crony capitalism?
The answers to some of these questions were embedded within the fine print of the order itself. The politics of the judgement were clear. The government had won. Mukesh was richer by a few thousand crore rupees and Anil apparently vanquished. However, as everyone grew obsessed with these 'clear' signals that emanated from the Supreme Court, the subtle signs went unnoticed. In fact, the 2:1 majority order was a win-win only for Indian politicians. The Supreme Court had upheld the government's case on the grounds that policymakers have the right to decide the price, quantity, and tenure of supply of gas and also the industry sectors to which it is allotted. Any private agreement has to be interpreted within the ambit of government policy. In effect, only the politicians could decide how the gas would be sold and at what price. In one stroke, the apex court had given overriding powers to India's policymakers to decide on every aspect relating to India's natural resources. Thus, it turned back to an extent the trend of government policy of giving greater importance to the private sector.

For both the Ambani brothers as well as the government, this was an all-important case which would lay down the future parameters of official policy and delineate the way in which the natural resources of the nation would be utilised and valued. As our story progresses, among other things, new light will be shown on these developments through insights provided by the late Subir Raha, chairman of ONGC, in his last-ever interview (before cancer consumed him).

The court's order opened doors wide for corporate lobbyists to influence government policies. Many saw this as contributing to corruption and crony capitalism in the extraction of minerals (including hydrocarbons) even as ministers swore by the virtues of 'economic liberalisation'. One interpretation of the Supreme Court judgement was that it set the clock back to the days of the licence- quota raj. Henceforth, only those who were close to politicians and decision-makers would benefit. A more charitable view, from the government's perspective, was that the judgement reaffirmed the sovereignty of the state over India's natural resources. It was a separate matter altogether whether the government was capable of acting as a genuine custodian of the natural resources that belonged to the people of the country.

It was apparent that the government and the Supreme Court didn't really delve into this issue in particular detail. Some contend that this could have derailed India's frenetic economic growth by dissuading investors, both foreign and domestic, from participating in auctions under the NELP in the future. In the past few auction rounds between 2010 and 2012, some of the largest global oil companies absented themselves. A few experts went further and said that this was exactly what would happen as the Supreme Court snatched away, in one stroke, the contractor's (RIL's, in this case) freedom and right to market its share of the gas reserves. The effects of the NELP on India's policies in the natural gas sector, and implicitly on the Ambani controversy, are discussed in a later chapter, which is based on the text of a previously unpublished lecture delivered behind closed doors to a select group by Mani Shankar Aiyar, a former Union minister for petroleum and natural gas. In his speech, Aiyar mentioned how the EGoM had increased the price of gas from $2.34 per mBtu to $4.20 per mBtu and then sardonically remarked how the number '420' had a special connotation in India—Section 420 of the Indian Penal Code relates to conviction and punishment for cheating and fraud.

Retired bureaucrat and former chairman of the Disinvestment Commission G.V. Ramakrishna, who was petroleum secretary in 1985 when the first successful round of bidding for exploration and production of oil and natural gas took place, raised this point in an article in *Business Standard* on 13 May 2010. He pointed out that under the PSC, there is a cost-sharing and profit-sharing arrangement between the successful exploration company and the government. Of all the gas reserves discovered in a field, the cost share allows the exploring party to sell a specific quantity of gas to recover its investments, which are huge and encumbered by risks. The causes and effects of the PSC between the government, RIL, and RNRL are vital to comprehending the personal and corporate dynamics of the conflict and, as such, they are explored in a later chapter in this book.

Under the cost- and profit-sharing arrangement, the government determines the royalty and other charges to be paid to it. However, the government has the right to buy the company's cost and profit shares of the natural resource (gas, in this case) at an agreed price determined by prevailing international prices or as agreed to in the PSC. If the government chooses not to buy it from the company, the company is free to sell the gas to anyone at a price determined by it.

Ramakrishna wrote: 'The remaining part of the share of gas belonging to RIL can be sold by the company to a party at a price of its choice. If it chooses to sell gas at $2 per mBtu, it is a contractual arrangement between the seller and the buyer. In exercising its sovereign right over the gas, the government has already taken its share of the gas and paid to RIL a predetermined price under the PSC. Having paid the government its dues, RIL will be free to sell the gas to any party of its choice and at a price agreed by it to the third party.'

He asserted that the government ‘cannot exercise the sovereign right twice over, once in determining the price, in which it will get its share, and again in fixing the price at which the company can sell its share….’

E.A.S. Sarma, another retired bureaucrat who, like Ramakrishna, has a reputation for probity and honesty, pointed out that in the wake of the May 2010 ruling of the Supreme Court, the Union government could not abandon its own obligations to exercise due diligence and prudence in fixing the price of natural gas. In a letter written the same day to prime minister Manmohan Singh, Sarma, who had been secretary, economic affairs in the ministry of finance, said the government must ‘take all such measures necessary to prevent the supplier from exercising monopolistic leverage to the detriment of public interest’.

The reason why Sarma adopted this position was because he felt, as he had expounded in an earlier letter to the prime minister on 22 August 2009, that the ‘price fixed by the EGoM was based on a contrived bidding format that was more beneficial to RIL than the public’. He added: ‘The present arrangement of the EGoM administratively fixing the price goes against all canons of competitive price fixation.’ Sarma further stated:

> When I requested both the Ministry of Petroleum and the Cabinet Secretariat to provide me copies of the EGoM proceedings under the RTI [Right to Information] Act, the government chose to cite “confidentiality” as an excuse and deny me the same.… The mechanism of pricing should not be politicized. Instead, it should be entrusted to a statutory authority like the petroleum regulator, as already envisaged in the PSC itself.

Sarma and others, like Dr Surya P. Sethi, who used to serve as principal advisor, energy, in the Planning Commission (and whose views are covered in detail in a later chapter) feel that as there are no homogeneous gas markets the world over, it becomes difficult to ‘discover’ the market price. Accusing the government of acting non- transparently in exercising its discretionary powers, Sarma raised three valid questions: ‘Should the government not, on its own, disclose all such information to the people of this country? Should private gas developers be allowed to wield monopolistic power over strategic resources? Should gas developers dictate to the government as to which agency should evaluate their operations?’

The counter-argument of the government is that as gas is a scarce commodity and crucial to India’s energy security it cannot ‘arbitrarily’ give away to private companies complete freedom to market the resource. Unless an independent regulator is in place, it is the government’s responsibility to ensure that private companies neither charge too high a price for gas, nor sell cheap to interested persons (as was the case between the two Ambani brothers). Similarly, price is not a constant figure, but a fluctuating one, and the government needs to look into this issue at regular intervals.

In his letter, Sarma raised another issue as a citizen that had hitherto not been touched upon. He wrote:

> Gas development is known to cause land subsidence. In the case of [the] KG basin gas, the Ministry of Environment (and Forests) had conveniently bypassed evaluating this aspect while according environmental clearance to RIL. Some concerned citizens had to approach the Andhra Pradesh High Court to intervene and order a fresh environment appraisal of the project. The KG basin comprises the heartland of agriculture of Andhra Pradesh and if there is land subsidence in that basin, it will break the backbone of the state’s economy. The state and the central governments are oblivious, indifferent and perhaps insensitive to this impending calamity that is waiting to happen.

Even as the issue of the environmental consequences of offshore extraction of gas is dealt with in a

chapter in this book, it was argued that Sarma's views are unduly alarmist.

However, within weeks of the 7 May 2010 Supreme Court judgement, an important development took place. On 19 May, the cabinet more than doubled the government administered prices of natural gas to the level of $4.20 per mBtu from $2.34 per mBtu, ostensibly on the ground that government-owned companies were incurring losses on their sale of gas. This suited the interests of not just public sector undertakings like ONGC and OIL (which had been given gas-fields to mine by 'nomination' and not by competitive bidding) but notably RIL as well, even if it translated into higher power tariffs and fertiliser prices.

India's best-known sibling rivalry-cum-corporate soap-opera in real life also raised important issues about the 'resource curse' that plagues not just India but many other developing countries. What is, after all, common among developing countries scattered across different parts of the planet, nation-states (in no particular order) such as Azerbaijan, Kazakhstan, Turkmenistan, Russia, Angola, Nigeria, Sierra Leone, Congo, Botswana, Sudan, Chad, Papua New Guinea, Saudi Arabia, Venezuela, Mexico, Peru, Bolivia, Ecuador, and Indonesia? At some point or other in the past, ordinary people belonging to each and every one of these diverse nation-states have failed to benefit from the presence of valuable natural resources in their soil.

It is also important to appreciate why the resource curse is not prevalent in developed countries like the United States. A gas industry insider pointed out why shale gas exploration in the US took off from 2010 onwards. First, high rates of royalty were paid to private landowners who, in turn, were encouraged to develop technical skills and expertise. Second, the shale gas fields were developed by small firms, not large corporations. Third, the government facilitated the building of a countrywide gas pipeline infrastructure and fourth, prices were market driven. Consequently, US gas prices came down from $9–10 per mBtu in 2008–9 to an average of around $3 per mBtu in 2012. Thanks to new findings of both shale gas and natural gas in deep offshore wells, the US is expected to become a net exporter of energy by around 2020, a December 2012 report of the National Intelligence Council has claimed.

Returning to the issue of the 'resource curse' in India, a question can be raised as to what is common among parts of neighbouring Nepal, the states of Bihar, Jharkhand, West Bengal, Chhattisgarh, Odisha, Maharashtra, and Andhra Pradesh, where the so-called 'red corridor' runs at a stretch from the Pashupati temple in Kathmandu to the Tirupathi temple in Andhra Pradesh, from the Himalayas to the Bay of Bengal. Is it coincidental that these large tracts of the subcontinent also happen to be those areas that are richest in mineral wealth and forest resources, but where inequalities of income and wealth are at their starkest? Should one be surprised then that it is in this belt that the so-called 'menace' of Maoists is at its height, even as the various state governments woo mining magnates and corporate conglomerates of all varieties, public and private, domestic and multinational, to exploit their natural resources, as well as the local population, in particular, indigenous people?

Each and every question raised above is rhetorical. In other words, the answers to the questions are obvious. Some of the 'richest' parts of India and the world also paradoxically happen to be the poorest because their scarce (and hence, very valuable) natural resources have attracted the most corrupt and venal entrepreneurs to these areas.

The phrase 'resource curse' was first coined by Richard M. Auty in *Sustaining Development in Mineral Economies: The Resource Curse Thesis* (Routledge, 1993) and thereafter deployed widely in academic texts and popular journalism to signify a widespread phenomenon: how the presence of natural resources in developing countries, whose economies depend on such minerals or forests, have contributed to corruption, conflict, and the absence of democratic governance. Joseph Stiglitz, in his book *Making Globalization Work* (Allen Lane/ Penguin, 2006) has devoted an entire chapter to the topic entitled 'Lifting the Resource Curse'. He says the problem is simple, and uses an analogy of a

pile of diamonds sitting in the middle of a room. Everyone grabs at them . 'The biggest and strongest are most likely to succeed, and will be reluctant to share them unless they absolutely have to ….'
As Stiglitz and others have documented, resources are both the object of conflict and the source of the financial wherewithal that enables the conflict to continue. This is what he wrote:

Sadly, in the struggle to get as big a share of the pile as possible, the size of the pile itself shrinks as wealth is destroyed in the fighting. Nowhere is this aspect of the resource curse more evident than in parts of Africa, exemplified by the heinous fighting between government and rebels in Sierra Leone during the 1990s that killed 75,000 people and left 20,000 amputees, two million displaced people, and large numbers of children psychologically damaged by having been forced into combat, or worse….

Will India go the way of some of these African nations? Can India learn from the mistakes of others and ensure that resources that belong to the people—from natural gas in the Krishna-Godavari basin to bauxite in Niyamgiri, Odisha, where the Vedanta Resources/Sterlite group wants to set up the world's largest aluminium manufacturing complex—do not benefit only a select few?
As for the Ambani versus Ambani saga, the drama was far from over although there were frequent claims that the brothers had patched up.

2
GAS AND FIRE

A photograph published soon after Indira Gandhi returned to power in January 1980 created quite a stir, especially in the country's business community. It showed Dhirubhai Ambani sitting beside the then prime minister of India in the capital's grand public sector Ashoka Hotel. The occasion was a victory celebration hosted by newly-elected MPs from the state of Gujarat.

If anyone nurtured any doubts, the photograph left little room for speculation about Dhirubhai's proximity to the most powerful Indian. A strong signal was sent that the 'Only Vimal' advertising slogan used by his Reliance group to sell textiles would now reverberate within government circles. It did. From January 1980 till October 1984, when Indira Gandhi was assassinated by her bodyguards, several government policies were ostensibly framed or 'designed' to help the Reliance group. Licences and permits were generously doled out

The mid-1980s were a period during which the Reliance group got locked in a bitter turf battle with Bombay Dyeing headed by Nusli Wadia. The two corporate groups were producing competing products—Reliance was manufacturing purified terephthalic acid (PTA) and Bombay Dyeing, di-methyl terephthalate (DMT), both used to manufacture synthetic fibres. Wadia lost the battle and reportedly became the source of information for many articles against the Ambanis that subsequently appeared in the *Indian Express*. In 1985, the Mumbai police accused a manager in a Reliance group company of conspiring to kill Wadia, a charge that was never established in a court of law. Many years later, a newspaper owned by the Ambanis (*Business and Political Observer*) would accuse Wadia of illegally holding two passports and played up the fact that he was Mohammed Ali Jinnah's grandson.

The year 1986 was a crucial year for Dhirubhai. He suffered a stroke in February that year. A few months later, the *Indian Express* began publishing a series of articles attacking the Reliance group as well as the Indira Gandhi regime for favouring the Ambanis. These articles were co-authored by Arun Shourie who, ironically, as Union minister for disinvestment in the Atal Bihari Vajpayee government, presided over the sale of 26 per cent of the equity capital of the former public sector company, Indian Petrochemicals Corporation Limited (IPCL), to the Reliance group in May 2002. By gaining managerial control over IPCL, the Reliance group was able to dominate the Indian market for a wide variety of petrochemical products (for more on this and subsequent episodes, see *Chapter 3* and *Appendix 1*).

Shourie's co-author for the famous series of anti-Reliance articles was Chennai-based chartered accountant S. Gurumurthy who happens to be a leading light of the Swadeshi Jagaran Manch, an outfit that espouses the cause of economic nationalism and is closely affiliated to the Rashtriya Swayamsevak Sangh (RSS), the ideological parent of the Bharatiya Janata Party (BJP). The *Express* articles written by Shourie and Gurumurthy meticulously detailed a host of ways in which the government of the day had gone out of its way to assist the Ambanis. One article was on the subject of how the Reliance group imported 'spare parts', 'components' and 'balancing equipment' of textile-manufacturing machinery to nearly double its production capacities. The article provocatively claimed

the Ambanis had 'smuggled' in a plant. Another story detailed how companies registered in the tax haven, Isle of Man, with ridiculous names like Crocodile Investments, Iota Investments and Fiasco Investments had purchased Reliance shares at one-fifth their market prices. Curiously, most of these firms were controlled by a clutch of non-resident Indians who had the same surname, Shah. Though the then finance minister Pranab Mukherjee had to change a reply he gave in Parliament on the investments made by these firms, an inquiry conducted by the Reserve Bank of India could not find any evidence of wrongdoing. Yet another article detailed how the group had been the beneficiary of a 'loan mela'—a number of banks had loaned funds to more than 50 firms that had all purchased debentures issued by RIL.

The relationship between the Indian government and the Ambanis reflected new vistas of the intertwining of business and politics. The closed nature of the Indian economy at that time permitted the government to exercise control over economic activities. From the early 1990s onwards, the government's policies of liberalisation weakened its ability to control privately-owned corporations. What continued from the days of the centrally controlled Indian economy, however, was that loopholes in the law and in the fine-print of rules were deliberately created by senior bureaucrats at the behest of their political masters to assist industrialists who would then, in turn, covertly fund the election campaigns of politicians. While an influential few among India's corporate captains successfully exploited this business- politics nexus, the less well-connected barely survived. The state—the government of India led by representatives of the people—became relatively weak and often turned a blind eye as bureaucrats played favourites in disbursing business opportunities.

In the days of the licence raj, Dhirubhai Ambani, more than most of his fellow industrialists, understood the importance of 'managing the environment', a euphemism for keeping politicians and bureaucrats happy. He made no secret of the fact that he did not have an ego when it came to paying obeisance to government officials, whether secretaries to the government of India or lowly office attendants or peons. Dhirubhai did not subvert the process; he just made the best use of it. Even before he began his industrial career, Indian politicians had been known to curry favour with businessmen. Licences and permits would be farmed out in return for handsome donations during election campaigns. By the time the Reliance group's fortunes were on the rise in the 1980s, the Indian economy had become more competitive. It was now insufficient for those in power to merely promote the interests of a particular business group; competitors too had to be shown their place. That is precisely what happened to rivals of the Ambanis, and this was an important new dimension to the nexus between business and politics.

Few today remember a company called Swan Mills or, for that matter, Kapal Mehra, who headed a corporate group named Orkay, and who was raided by tax personnel and jailed. Another business rival of the Ambanis, Nusli Wadia of Bombay Dyeing, became a pale shadow of what he might have been had his entrepreneurial ambitions been fulfilled. Even the undivided family headed by the late Ram Nath Goenka, with its then control of the *Indian Express* chain of newspapers, which conducted a relentless campaign against the Reliance group in 1986–87, split into three factions after his death. It is difficult to establish the hand of the Ambanis behind the trifurcation of the *Express* group but they were certainly not unhappy at this development. Individuals who were part of the Reliance group did not merely track the break-up of the newspaper group but were proactive in feeding journalists (including one of the authors of this book) important information about the *Express* group which also included a letter written by Saroj Goenka (Ram Nath Goenka's daughter-in-law and cousin of Ashok Jain, who headed the rival *Times of India* group) to the then prime minister of India P.V. Narasimha Rao, urging intervention in the Goenka family dispute.

A popular joke of the 1980s started with a question: Which is the most powerful political party in India? Answer: the Reliance Party of India. Dhirubhai's supporters were not confined to those

affiliated to the Congress (notwithstanding his proximity to Indira Gandhi), but cut across party lines. Few had the gumption to oppose the Ambanis, just as the overwhelming majority of journalists preferred not to be critical of Reliance. The Indian media, as a rule, lapped up whatever was doled out by the group's public relations executives. The bureaucracy too, by and large, favoured the Ambanis, and not merely because many *babu*s had got accustomed to receiving lavish hampers on Diwali.
Around 1986, the policy tide turned against Dhirubhai for a brief period. Several events and personalities were responsible for this swing in his fortunes. Rajiv Gandhi, who became the country's prime minister after his mother's death, was reportedly not exactly enamoured of the Ambanis. His then lieutenant, finance minister Vishwanath Pratap Singh (who went on to succeed Rajiv Gandhi as prime minister in December 1989) almost obsessively took on Indian businessmen for their corrupt and illegal practices. To further their own interests, as already mentioned, corporate rival Wadia and media baron Goenka joined hands to put a spoke in Dhirubhai's relentless race for growth.
The result was one of the most vengeful, no-holds-barred corporate clashes India has ever witnessed, a battle that engulfed the entire polity and possibly contributed to the fall of at least one Union government in New Delhi over the next few years. No one, be it in politics, business, the media, academia, and civil society could ignore this debilitating conflict. It directly or indirectly impacted virtually everyone of significance in India's corporate world. In those years, one was either with the Ambanis or against them (that is, on the side of the Wadia-Goenka combine). Few could have imagined then that a similar corporate battle would be fought over a decade and a half later, from late-2004 onwards, and that this time the antagonists would be Dhirubhai's own two sons, Mukesh and Anil.
In his column in *Hindustan Times* (16 August 2009), journalist Vir Sanghvi compared the two rivalries. He wrote how Mukesh Ambani 'with his Congress links' was playing the role of his father Dhirubhai while his younger brother Anil was playing Wadia's role. Sanghvi wrote: 'Like Wadia, he (Anil) has friends in the BJP (he thinks [Gujarat chief minister] Narendra Modi should be prime minister) in UP (Uttar Pradesh) politics (just as V.P. Singh backed Wadia so Mulayam Singh [Yadav] is backing Anil)….'
The columnist added that just as Wadia was 'consumed by his mission to destroy Dhirubhai, Anil seems consumed by a desire to destroy (his older brother) Mukesh… Wadia would attack Congress ministers for their closeness to Reliance; Anil is doing the same. Wadia would hire lawyers such as Ram Jethmalani; Anil has done the same thing.'
Anil, of course, sent a legal notice to Sanghvi for drawing this comparison between him and Wadia but nothing much transpired thereafter. And, for the record, Mukesh too is close to Narendra Modi.
History repeats itself, but in the case of the Ambanis, so did the histrionics. The Ambani brothers waged a war against each other with the same tools their father had honed and perfected over decades, and had used successfully against adversaries like Wadia. Hardly anyone in India's influential circles was insulated from this Ambani versus Ambani feud, and almost no one remained neutral. Most politicians, bureaucrats, businessmen, journalists, and academicians took either a pro-Mukesh or a pro-Anil stance, even if they disliked both brothers, when the public squabble between the brothers was at its peak during 2008 and 2009.
During those years, ministers, especially the then petroleum minister Murli Deora, were publicly criticised by Anil and opposition leaders, especially from the Samajwadi Party, for allegedly siding with Mukesh. In a characteristic whisper campaign reminiscent of the Ambani-Wadia battle of the late-1980s, Mukesh's camp said that the ministry of power was favouring Anil. Similar allegations were levelled against officials in the Prime Minister's Office (PMO); in ministries such as petroleum, power, telecommunications; and in the Planning Commission. Retired bureaucrats voiced arguments for and against the two siblings. Former heads of public sector undertakings, like the power behemoth

NTPC and the oil exploration major ONGC did the same through letters, interviews, private parleys, and discussions, on- or off-the-record.

The media too was divided; a few publications played the double game of supporting both brothers at different points in time. Mud was thrown at the judiciary, although there was no apparent evidence of bias. In effect, all the four pillars of Indian democracy, the four estates, were embroiled in this unprecedented war of words on account of a tussle between two corporate czars, each wanting to finish off the other in a race to gain control over the country's resources, namely, the natural gas found beneath the ocean bed of the Bay of Bengal.

There were indeed many issues including personality conflicts and the fight to control the undivided family's assets that led to the sibling rivalry becoming public. An uneasy truce was declared in May 2010. But the most important reason why Mukesh and Anil had fought bitterly was to control access to the country's gas resources from the KG basin. When Anil accused Deora of favouring Mukesh, the minister promptly dragged the government into the issue and contended that gas was national property and therefore only the government had the right to determine its price. The implicit assertion was that the government was the unbiased and impartial custodian of the resources that belonged to the people. Anil argued that Deora's claim was incorrect, and that his actions were aimed only at helping Mukesh by undermining the private agreement between the two brothers.

The dispute was about who owned the gas, the Ambanis or the government, and therefore, who would have the right to fix the price of gas. Ownership would also influence to whom Mukesh's company could sell the gas, and in what quantities. For Anil, it was a do-or-die battle. To scuttle Deora's (and by insinuation, Mukesh's) plans, the prime minister was brought into the picture. News reports based on briefings by sources close to Anil stated that prime minister Manmohan Singh was concerned about the fallout of the sibling rivalry on the country's investment climate. As a result of a diktat from the prime minister, Deora was reportedly forced to stay away from the conflict. Moreover, to bolster support for Anil, the issue kept cropping up in Parliament through politicians and parties friendly to him. Frenzy was generated in the mass media, and the dispute hogged headlines to keep up the pressure on legislators and policymakers.

The dispute had its fallout in mid-2008, when prime minister Manmohan Singh was frantically defending in the Lok Sabha (lower house of India's Parliament) a no-confidence motion against his government over the India-US nuclear agreement. He was battling fierce opposition from Left MPs (on whom the government depended for a majority in the Lok Sabha), a section within his own party, the Congress, and from some of its partners in the ruling United Progressive Alliance coalition. Manmohan Singh realised that support for the nuclear deal with the US would be decided on the floor of the House but, given the combined strength of the Opposition, the numbers in Parliament didn't stack up comfortably in favour of the UPA.

That was when Amar Singh, then general secretary of the Samajwadi Party (SP), assured the prime minister of his help. First, Amar Singh got his party chief Mulayam Singh Yadav and the party's MPs to vote in favour of the United Progressive Alliance (UPA) government at the Centre. Thereafter, he initiated moves to woo independent MPs and even others belonging to parties that were against the nuclear deal, urging them to break ranks. Rumours flew fast; money apparently played an important part in this game, which was eventually won by the UPA on 22 July 2008 in a nail-biting finish. The point to note here is that Amar Singh and Mulayam Singh were close friends of Anil. In a television interview, Amar Singh disclosed how Anil had postponed the shareholders' meeting of his company at the last minute, thereby incurring a huge loss, so as to visit him when he was unwell.[1]

During the debate on the motion, BJP members walked into the Lok Sabha with wads of currency notes claiming they had been sought to be bribed to switch sides or abstain from voting. A parliamentary committee headed by Congress MP V. Kishore Chandra Singh Deo decided that there

was inadequate evidence against Amar Singh and Ahmed Patel— political secretary to Congress President and UPA chairperson Sonia Gandhi—against whom attempts to bribe were levelled by BJP MPs, and a criminal case was eventually instituted. However, even before the MPs voted on the motion on 22 July 2008, Amar Singh thought the political iron was hot enough to strike, to help his friend, Anil, and target the latter's enemy, Mukesh. He presumed, without any explicit or implicit guarantee, that the role played by the Samajwadi Party in 'saving' the government would ensure a favourable policy regime for Anil. He dashed off a series of letters to the prime minister which, not surprisingly, promptly found their way to journalists.

In one such letter, the then general secretary of the Samajwadi Party urged the government to impose a 'windfall tax' on private refiners, including Mukesh's RIL. A windfall tax was a policy tool to prevent refiners from earning 'super-normal' profits in the event of a rise in global crude oil prices, and therefore those of petroleum products like petrol, diesel, and liquefied petroleum gas (LPG). Such a move would have seriously dented RIL's profits and reduced its stock market valuation. The idea of imposing a windfall tax had been mooted by Anil Ambani in mid-2007 at a meeting with the Union government's committee of secretaries. In its presentation, Anil's Reliance Energy had stated that 'internationally, governments have renegotiated production contracts/concession agreements (of oil and gas) and/ or levied windfall tax whenever the financial equilibrium under the contract has [been] disrupted due to an unforeseen fundamental change of the major circumstances such as high oil and gas prices….' The company's presentation quoted a 2007 Wood Mackenzie report, which stated that renegotiation of production contracts had helped the governments of nine countries, three of which, Algeria, Ecuador, and China, had levied a windfall tax thereby mopping up a sum of Rs 16,50,000 crore or the equivalent of $400 billion at the then prevailing exchange rates.

Amar Singh was, in fact, in war mode. He alleged that 'one particular corporate group [was] trying to poach his party MPs for the benefit of the BJP-Left-BSP (Bahujan Samaj Party) combine'. He alleged that this business group had provided bagfuls of cash in a bid to buy the Samajwadi Party MPs and induce them to join hands with those opposed to the government. He didn't stop there: he virtually pointed a finger at Mukesh and RIL, by alleging that although this group was close to the Congress, 'one must not ignore its presence in Narendra Modi's Gujarat or the influence the [Gujarat] Chief Minister has on its psyche'. The fact that RIL's plants are located in Gujarat and that Mukesh Ambani has publicly lavished fulsome praise on Modi is widely known. Mukesh was, incidentally, not alone in praising Modi. In January 2009, at a public meeting of businesspersons in Ahmedabad, capital of Gujarat, Anil too had gone to the extent of publicly stating that Modi had the potential of becoming a future leader of India.

Sensing that his younger brother was gaining an upper hand in the ongoing political shadow-boxing, on 14 July 2008, Mukesh separately met prime minister Singh, finance minister Chidambaram and petroleum minister Deora. He explained that the idea of imposing a windfall tax was based on an erroneous assumption that refiners made windfall profits every time the prices of crude oil and petroleum products rose. He added that refining, like many other businesses, was cyclical in nature and that profit margins were likely to get squeezed in the near future even if crude prices remained high.

After news of the meeting between Mukesh and the prime minister became public, Amar Singh added a twist to the tale. 'Anil and Mukesh don't just represent their respective corporate groups but also represent the economic hub of the country,' said Singh. He added that 'in the circumstances, a senior person like the PM should intervene' to resolve the issues between the two brothers.

The Left parties trained their guns on the prime minister. The politburo of the Communist Party of India-Marxist (CPI-M) said that 'corporate houses are openly in the fray to lobby their interests in the run-up to the confidence vote'. The Communist Party of India (CPI) stated that 'for the PM and the

PMO to get embroiled in a corporate fight marks the beginning of a dangerous trend. This grossly demeans the PM and his office.'

Manmohan Singh denied the allegations. The PMO clarified that the prime minister was not working for a patch-up between the Ambani brothers, and issued a statement that asserted: '[The] people of India know Manmohan Singh better than to believe that he would get involved in corporate affairs…. the PM meets corporate leaders all the time to discuss the national economic issues as any leader of a modern economy would.'

When the UPA sailed through the confidence motion with help from the Samajwadi Party, the match seemed to be fixed in Anil's favour. This prompted Canada-based market research firm Oxford Analytics to observe that 'while Anil's political links may strengthen his position against his brother at present, his business interests will be vulnerable if the opposition BJP returns to power'. For astute observers, these events had larger implications. 'The struggle between the Ambani brothers threatens to exert a serious impact on the economy.... The rivalry between the two brothers has… begun to affect national politics…,' the Oxford Analytics report added. Later events, however, indicated that neither Anil Ambani nor Amar Singh gained from the murky episode. As already stated, Amar Singh had to leave the Samajwadi Party in 2010 and was jailed the following year.

The situation became quiet for a while as political parties prepared for the 2009 general elections. Towards the middle of 2009, the Supreme Court prepared to hear the tripartite gas dispute between Mukesh, Anil, and the government. Anil had to make a few mid-course corrections. He realised that the government which was not allowed to become a party to the legal dispute by the Bombay High Court, could play a greater role in the Supreme Court. The politicking on his behalf by Amar Singh had not yielded results. Worse, he apprehended that the government could derail his legal game-plan by supporting Mukesh's contentions, which, as subsequent events proved, did indeed happen. By maintaining that the government had the right to fix the price of gas and also select its own buyers, the petroleum ministry could snip through the private agreement signed between the two Ambani brothers in June 2005. It could say that Mukesh was bound to sell the gas at $4.20 per million British thermal units (mBtu), and not at $2.34 per mBtu, and only to those firms decided by the government rather than to Anil. Anil had decided he would fight it out and made Deora his prime target. He continued to be adequately aided in this endeavour by Amar Singh and Mulayam Singh Yadav.

It began with a quiet request, followed by an appeal. On 15 July, Anil wrote to the prime minister stating 'you may direct the petroleum ministry and the other relevant departments to cease from overtly and covertly attempting to intervene in our commercial dispute with RIL'. The letter was written after Deora made a public statement that the gas from the KG-D6 basin of RIL belonged to the government, and not to either Mukesh or Anil Ambani.

Anil upped the ante at the shareholders' meeting of Reliance Natural Resources Limited (RNRL), held at the Birla Matoshree Auditorium in south Mumbai on 28 July 2009. He alleged that the petroleum ministry was abetting the 'plain and simple greed' of RIL. 'It is evident that the biased stance commenced in 2006, coinciding with the changes in the ministry,' he said. The change that Anil was referring to was Deora replacing Mani Shankar Aiyar as the petroleum minister in January that year.[2]

Anil went on to allege that that the petroleum ministry had acted without consulting the rest of the cabinet and claimed that the ministry's stand on the production sharing contract relating to extraction of KG gas was contrary to the decisions taken at the EGoM meetings and, according to him, the EGoM 'represented the broader, collective wisdom of several other ministers, including, inter alia, the ministers of finance, law, power and fertilizers'. One view expressed in the EGoM was that the terms of the contract were skewed in favour of RIL and against the interests of the government; this view was subsequently endorsed by the Comptroller and Auditor General of India.

RNRL's shareholders cheered their chairman and the atmosphere was emotionally charged. When

Anil criticised the petroleum ministry, investors shouted: ‘Anil Ambani *aage badho, hum tumhare saath hain*(Anil Ambani forge ahead, we’re with you).’
The following day, 29 July, the Samajwadi Party MPs raised the gas issue in the Lok Sabha. Mulayam Singh said that the government was denying gas to power projects in his home state of Uttar Pradesh. The project Mulayam mentioned was the proposed gas-based power plant at Dadri, which was being set up by Anil (and for which Mukesh had promised gas) besides other power projects promoted by the state-owned NTPC. ‘Even [the] government’s own NTPC would also get affected due to this partisan role in supply of gas to UP for power generation. The government should tell us the reason behind not allocating gas to UP,’ he demanded.
Although by this time, gas was being extracted from the KG basin, a proposal to build the pipeline to transport the gas from the coast of Andhra Pradesh to Uttar Pradesh had not made any progress. Parliament was adjourned three times on that day. Finally, the party’s MPs trooped into the well of the Lok Sabha and demanded Deora’s removal ostensibly because he was thwarting attempts to bring KG gas to Uttar Pradesh where the SP’s political base is located.
During the debate, Mulayam Singh said that the petroleum ministry was trying to benefit ‘one individual’ (meaning Mukesh Ambani) and that the SP was only worried about the fate of power projects proposed to be set up in UP, and not about the differences between the Ambani brothers. He also alleged that Deora was acting as ‘Mr Moneybags’ for the Congress party. At the forefront of the action in Parliament was Amar Singh, who had earlier wondered whether Deora was a corporate honcho or a minister, and how he could have been given the petroleum portfolio as he was close to both Mukesh and L.N. Mittal, head of the global steel conglomerate, Arcelor-Mittal, both of whom had major business interests in oil and gas.
Over the next couple of days, Anil gave several interviews to newspapers. As reported in *Times of India* (30 July 2009), he said:

I am also concerned that the petroleum ministry’s stance is, in effect, that it will solely decide who should sell gas, to whom, at what price, in what quantity, and when…. In a complete reversal of the entire direction of economic reforms being implemented
… the petroleum ministry is regrettably pursuing a different path, seeking perhaps a return to the command-control elements of the dismantled licence-permit raj.

Journalist-commentator M.J. Akbar, took up cudgels on his behalf. In his column in the *Times of India* (9 August 2009), he recalled what had been written by Australian journalist, Hamish McDonald, in an unauthorised biography ‘of a great, but occasionally errant, genius’ entitled *The Polyester Prince: The Rise of Dhirubhai Ambani* (Allen & Unwin, Australia, 1998). In the book, there are several references to Dhirubhai’s proximity to Deora, described by Akbar as the late tycoon’s ‘first ally in politics’. McDonald had written:

After getting on his feet back in Bombay, Dhirubhai used to make frequent trips to New Delhi. He frequently went in the company of Murli Deora, a fellow yarn trader who was then working his way up the Congress party machine in Bombay .... Dhirubhai and Deora used to catch an early flight up to Delhi, and park their bags with a sympathetic clerk at the Ashoka Hotel while they did their rounds of politicians and bureaucrats to speed up decisions on import licences.

The suggestion was evident: Akbar hinted that Deora was a biased party in the gas dispute.
The final nail in Deora’s coffin was sought to be driven by Anil through a high-profile, nationwide advertising campaign spread over a week. The advertisements, summarising Anil’s views in

rhetorical bullet-points, were splashed across the front pages of major newspapers. The campaign lasted nearly a week and reportedly cost RNRL Rs 15 crore. Issued in the 'public and national interest on behalf of 8 million shareholders of Reliance Anil Dhirubhai Ambani Group (or ADAG, formed after Anil's separation with his elder brother), the largest shareholder family in the world,' one of the advertisements stated that the government was helping Mukesh earn 'super-normal profits of Rs 50,000 crore,' (or around $10 billion) and that the petroleum ministry was acting against the country's interests and those of the consumers. All the advertisements ended with an accusatory question: 'Is this in public or national interest?'

The fifth advertisement in the series alleged, 'the Petroleum Ministry has intervened in a commercial dispute over gas supply between two corporates, and its stand supports the KG-D6 monopoly gas producer, Reliance Industries'. The fourth one had claimed:

… in contrast to a nearly 80% collapse globally, the gas price the Petroleum Ministry wants the Indian fertilizer and power sectors to pay Reliance Industries has shot up by a shocking 20% in a year. Typically, the government intervenes to either bring down consumer prices or increase its own revenues. The Petroleum Ministry's actions unfortunately do neither. Its intervention has only hiked gas prices; government revenues are unchanged, and surprisingly, the only beneficiary is the KG-D6 monopoly gas producer, Reliance Industries, which will make super-normal profits.…

Political parties claiming no allegiance to either brother denounced the government for getting sucked into the 'games' being played by the Ambani brothers. Thirty MPs from the Left parties even implored the prime minister to take over Mukesh's gas-fields and urged that a government entity like the public sector GAIL (formerly Gas Authority of India Ltd) should market and distribute the gas produced. It had by then become impossible for the prime minister to publicly distance himself from the controversy. On 21 August 2009, the *Times of India* carried the following report:

[The] PM is learnt to have suggested to the warring brothers that they should make serious effort to reach a 'middle ground' over the KG gas dispute—in other words, search for an amicable settlement. Singh is said to have explained to the brothers that their businesses are very big now and that if one were to keel over, it would end up hurting the business environment of the entire country. It was therefore important to look for a middle path. [The] PM is of the view that there was a need to take a neutral and detached view of a very heated and emotional battle. Singh has put the point across on more than one occasion that apart from the specific merits of the KG gas case, there is a need to get the Ambanis to bury their hatchet.

However, the following day, this report was denied through the *PressTrust of India* news agency. The *PTI* report said that the 'PM is not intervening or mediating in the Ambani brothers' gas dispute, though he believes that the top two industrialists should patch up in national interest. Reports in a section of press were not true that Singh has suggested the two brothers to follow a middle path to resolve their ongoing dispute.'

Deora quickly tried to distance himself from charges of favouritism. He clarified that he was a friend of the late Dhirubhai and therefore treated both his sons the same way, having known them from their childhood. To buttress this point, he told *Outlook*(8 July 2002) that he had met both Mukesh and Anil, and 'these days I meet Anil more often'. In August 2009, a profile of Deora in *Business Standard* stated that although he may be closer to Mukesh, 'it has not stopped Anil from walking into his house for dinner and then asking his domestic help for a special cup of tea—as if it were his own house'. It added that the petroleum minister would not allow anything to come between

the two different, and even contradictory, friendships. For example, at the height of the war between Dhirubhai Ambani and the Nusli Wadia-Ram Nath Goenka combine, Deora continued to play bridge with Goenka at his Mumbai penthouse and Wadia was present at the wedding of Dhirubhai's daughter. The message seemed to be that Deora wouldn't dilute his relationship with Anil to help Mukesh.

At different times during the months of July and August 2009, the minister said, 'I feel anguished and deeply hurt. There are problems in every family but this has left things in a very bad taste. All I can say is that this is very unfortunate. I will be happy if the two brothers sort out the dispute.' He said that despite his relationships with both the Ambanis, things had gone beyond his 'interventions'. He felt that events had taken a turn that was beyond the government's imagination, especially after the Bombay High Court judgement of June 2009 which ruled in favour of Anil. As was expected, the point that Deora repeatedly made was that 'gas does not belong to either Mukesh or Anil Ambani. The gas belongs to the government.'

The fact is that the oilfields and gas-fields had been leased out by the government to private operators like RIL under the NELP. There was a mechanism in place for sharing the profits and the gas/oil. Therefore, when Mukesh decided to sell gas to Anil at a fixed price, and the Bombay High Court stated that the contract between the two Ambani brothers was binding, the government woke up. What now dawned upon it was that if the Ambani agreement was permitted, then other private operators who had been granted exploration licences could sell the oil and/or gas to their affiliates, friends, relatives, or anyone else at whatever prices they wanted, which might or might not be related to prevailing market prices. More important, the gas could be sold without any reference to allocations to priority sectors specified by the government.[3]

The then petroleum secretary R.S. Pandey wondered aloud whether the agreement between RIL and the petroleum ministry implied that the former was free to price any future gas that was found, and if so, then what would stop Mukesh from transferring the gas to his own refineries and petrochemical plants at, say, $1 per mBtu, thereby making a killing?

On 19 June 2009, Deora told journalists in his office:

> We have to keep the interests of the people of India in mind and the sovereign rights over natural resources. The gas belongs to the people and I would make every effort to protect the nation's interest. The government will take steps which are in the best interest of the nation.

He added that this was why the government had decided on the selling price, as well as the priority allocation to various sectors. Deora reiterated in Parliament on 3 August 2009 that the government had nothing to do with the private dispute between the Ambani brothers and had everything to do to protect the interests of the government and the public. 'The government will make all endeavours to protect the legal rights to regulate utilization and allocation of gas.'

He reminded the MPs that in accordance with the current government's gas utilization policy, the priority sectors were urea plants, existing power units, existing LPG plants, city gas-distribution projects, gas-based steel plants, and captive power units, in that order, and these had precedence over any new consumers such as Anil's proposed power plant at Dadri in UP. More than three weeks later, Finance Minister Pranab Mukherjee agreed with Deora(*Indian Express*, 27 August 2009).

> In the gas issue after the Bombay High Court judgment, I asked the law officers: "Will it, one, affect the government's interest in determining the allocation of gas as per its priorities and, two, in determining the price?" They said it may. Then I suggested that we must take the clarificatory remedy from the highest court. That is the sole objective. I have no intention in settling the disputes between the two warring factions.

He added that Anil's advertising campaign, which attacked the petroleum ministry, should not have named Deora. 'He has done his job, what he felt would best serve the interests of the country. He has done nothing to invite this criticism.'
That very day (26 August), Mukherjee, like Deora, acknowledged his friendship with Dhirubhai but distanced himself from the dispute between the two brothers. This is how he was quoted in the *IndianExpress* (27 August 2009):

I knew the late Dhirubhai Ambani very well from the 1970s on (wards). I saw the boys growing up. Because they are sons of Dhirubhai, it is very difficult for me to make a distinction between the two. And I am not the competent person. There should be somebody else (to mediate). They are much bigger than what they were in the '70s … and that is why the PM himself has said that both of them should try to sort out their issues.

The political circus remained engrossing. Senior cabinet ministers were at pains to admit their close relationship with a businessman (Dhirubhai) and, at the same time, reiterate that they had little personal interest in the skirmish between his two sons. Observers thought that the issue was about the ownership of a country's natural resources. Private firms of analysts made their own observations. Eurasia Group of London stated: 'If a private MoU can involve something that belongs in the public domain, it gives the sense that large corporations can bend rules and influence policy – that's surely got to be the biggest political risk.' A report prepared by investment consultancy firm KRIS added that the government's position on the dispute 'could make investors wary' besides sending 'a message that the law is different for different people'. A report by another firm, Macquarie, concluded that this 'may dissuade further exploration and exploitation of India's mammoth upstream [gas exploration] potential'.
On 6 August 2009, Deora clarified that the gas price the government had fixed was not high. He said that the price of $4.20 per mBtu was not just cheaper than the price of gas supplied by other private firms in India, but also lower than the prices of alternative fuels such as naphtha, furnace oil, and liquefied natural gas. He dismissed the CPI-M's call for nationalisation of the RIL gas-fields and said 'the old days of nationalization are over' and 'even your Chief Minister (chief minister of West Bengal, ruled then by the Left Front and led by the CPI-M) does not talk about nationalization.'
Deora tried to assuage the feelings of Mulayam Singh, Amar Singh, and their party MPs. He told Parliament that Anil Ambani's proposed power plant in Dadri will not be starved for gas. 'The intention of the government is very clear. We will allocate gas to the Dadri project subject to availability, and the plant will be treated on the same footing as other plants placed under similar circumstances.'
RIL completed the government's defence when it claimed that it would not earn 'super-normal profits' of Rs 50,000 crore at a gas price of $4.20 per mBtu. At the same time, the company claimed that Anil's power project would stand to gain an additional profit of Rs 3,50,000 crore if the price of gas was fixed at $2.34 per mBtu. The reason advanced was that as the Dadri plant had not been completed, Anil would trade in gas: buy from RIL and sell it at higher prices to third parties, and earn an extra Rs 21,000 crore a year for 17 years (the supply period mentioned in the Ambani agreement). For many observers, what seemed downright venal was that Mukesh and Anil were fighting only to earn huge profits at everyone else's expense.
That the battle between the Ambani brothers had become extremely acrimonious had been evident even earlier. On the morning of 23 April 2009, a team of seven people, including technicians and maintenance employees of Air Works, an aircraft maintenance firm that has contracts for several

private planes owned by Indian businessmen, began an inspection of a seven-seater Bell 412 chopper which was used for non-scheduled operations and belonged to the Anil Ambani group. Till that afternoon, when the group broke off for lunch at the Santa Cruz airport in Mumbai, it was business as usual. There was no whiff of any criminal controversy in the air. They came back later for some final touches. One employee, Palraj Thevar, placed a ladder on the side of the chopper while another, Uday Warekar, climbed up.
A police officer was quoted (in *Mumbai Mirror*, 5 May 2009) as telling journalists later.

No one suspected anything as it was thought that he [Warekar] was cleaning (the chopper). Ten minutes later, the maintenance work was completed. But luckily, (Bharat) Borge, one of the technicians, decided to conduct a final check and found that the cap of the filter neck was not fitted properly. He opened it to set it right and found peanut-size pebbles inside.

Subsequent investigations revealed that there were small pebbles and mud too inside the fuel tank of the helicopter. Experts claimed that if the chopper had flown with them, it would have crashed. Within hours of Borge's discovery, representatives of the Anil group blamed the incident on corporate rivalry, pointing a finger at elder brother Mukesh.
The mystery deepened a few days later when Borge's body was found on the railway tracks between Mumbai's Vile Parle and Santa Cruz railway stations. There was a 'suicide' note in his pocket addressed to the investigating officer of the Crime Branch Unit IX of the Mumbai Police, which was in charge of the incident relating to pebbles and mud in the fuel tank of the Bell 412 helicopter. The note reportedly read:

My parents have brought me up with the right values and I would never get involved in any wrong activity. After you questioned me and left, Reliance officials visited me. They asked me some questions but I didn't tell them anything. One of them took my number and said they would talk to me again the next day. I got scared that I would be 'used'. I wanted to inform you about the meeting, but when I visited the crime branch office last night, I saw a person being beaten up and that scared me and I came back.… Your investigation is proceeding in the right direction and the truth will come out soon.

The police claimed that Borge had thrown himself in front of a local train heading towards Churchgate station. The gateman saw him crossing the tracks and being hit by the train. Borge died of shock and haemorrhage and was declared dead at Cooper's Hospital. Two weeks after the incident, the police arrested Thevar and Warekar after interrogating sixty people. The investigators relied on the accounts of Borge and his colleague, who said that Warekar had been the last person on the chopper, and had been assisted by Thevar. The motive for the sabotage: an ongoing tussle between Air Works' union and its management. Moreover, Warekar was named as a suspect in two of the four earlier cases of alleged sabotage at the company's premises: two explosions using fireworks and petrol bombs between August 2008 and March 2009 for which no action was taken against him. It appeared to be an open-and-shut case.
Sources close to Anil Ambani were, however, somewhat suspicious when speaking to journalists. First, they pointed to the contents of Borge's 'suicide' note. Who were the Reliance officials who met him the day before he died? What did they ask him? What did he mean when he wrote that the police were on the right track? Did he know something that others didn't? At the same time, they questioned the veracity of the note. One source claimed the note was 'too clean' and not crumpled. How many people carry a suicide note in their pockets, wondered another source close to Anil. The circumstances

around Borge's death were indeed puzzling.
Sources close to Mukesh Ambani predictably denied any involvement in the mysterious episode. A Mukesh loyalist laughed when asked about the incident by a journalist. 'Can you imagine any corporate captain stooping so low?' The police too ruled out corporate rivalry, but more controversy lay in store for Mukesh, this time on account of a sensational blog entry dated 3 September 2009 on a website, www.exiledonline.com, run by an occasional Moscow-based journalist, Mark Ames.[4]
Ames found links, albeit speculative, as he himself acknowledged, between the helicopter crash which, on the previous day, had resulted in the sudden death of former chief minister of Andhra Pradesh, Y.S. Rajasekhara Reddy, or YSR as he was popularly known, and the Ambani gas feud. This is what the blog claimed:

Just over a month ago, as the Ambani brothers' insane internecine war over offshore gas deposits dragged on with no end in sight, Reddy publicly demanded that his state, Andhra Pradesh, take a share of the gas deposits for itself. Even as the two Ambani brothers are locked in a legal battle over supply and price of gas from the Krishna-Godavari basin, the Andhra Pradesh government has sought its 'due share' of the hydrocarbon asset. He even attacked the brothers' mother, who brokered the deal dividing up India's gas between her feuding sons.

Andhra Pradesh Chief Minister YSR had on 30 August 2009 said that the settlement of the gas dispute between the Ambani brothers could not be left to their mother Kokilaben and that the Centre must play a decisive role, for which he had written to the prime minister. 'The dispute over sharing of gas is not an issue to be settled by (the) mother (Kokilaben). It is for the government to decide who should get the gas and at what price,' Reddy said on the sidelines of a function. Ames claimed in his blog:

Ah, Y.S.(R), you shouldn'ta attacked their mother. Next thing, you know … Reddy's dead.
Oh, and by the way don't forget this one little funny fact: Larry Summers, the guy appointed by (Barack) Obama to run America's economy, worked for Mukesh Ambani right up until he took his White House job. We're in good hands, folks.

Over four months after this incident and the posting of Ames' blog, there was a furore after a television channel in Andhra Pradesh ran a story on it. Hear what happened thereafter in Ames' own words, written in his blog-post on 8 January 2010:

This has to be the single weirdest episode in my journalism career—and that's saying a lot, considering all the strange and scary shit I've been through over the past decade plus. I caused a mass riot in India, leaving 185 people arrested so far, and about
100 business(es) owned by Larry Summers' oligarch friends smouldering in ruins…. A blog entry I posted a few months back on Larry Summers' evil Indian billionaire sponsor, Mukesh Ambani, became a major television sensation in the southern Indian state of Andhra Pradesh yesterday, sparking mass riots against the oligarchs' business interests. Mobs 'went on a rampage in Guntur, Anantapur and Kurnool districts and Hyderabad city, where they attacked retail outlets and malls, cell phone towers and petrol stations operated by the two Reliance groups,' according to one report. 'They burnt effigies of Mukesh and Anil Ambani….

Spokespersons of the Mukesh Ambani group expectedly denied all the allegations. They pointed out that a report by the Directorate- General of Civil Aviation had blamed pilot error for the chopper crash that killed YSR and that everything else was nothing other than pure speculation. And interestingly,

some of the retail outlets targeted by mobs were those marketing products and services of Reliance Communications, which is part of Anil's ADAG group.

The conflict between the Ambani siblings had many other sensational dimensions. V.K. Sibal, a technocrat who formerly headed the directorate general of hydrocarbons (DGH), had charges of corruption levelled against him by the Central Bureau of Investigation (CBI). Sibal, who used to head the human resources division in the public sector Oil India Limited, was appointed to the coveted post of director general of the DGH in 2004, where he remained for five years. The DGH is a technical wing of the petroleum ministry; it decides which domestic or foreign companies are awarded contracts for exploration of oil and gas, and is also supposed to regulate their activities.

Though Sibal faced allegations of favouritism soon after he took charge as DGH, it was only in October 2009 that his acts of omission and commission came under the spotlight. The Anil Ambani group moved the Supreme Court accusing Sibal of unduly favouring the older Ambani sibling's company. On 6 October 2009, Sibal shocked many by writing to the home ministry a letter (that was leaked) claiming:

ADAG [or the Anil Dhirubhai Ambani Group] is a corporate giant with unlimited resources. It is clear from the recent actions of this group that they are bent upon damaging my professional and personal life . . . in view of this I will not be surprised if ADAG resorts to violent means to achieve their objective. Therefore, I perceive a threat to my family members and myself.

What Sibal essentially insinuated was that his life was in danger because of the then ongoing battle between the Ambani brothers over gas. ADAG retaliated by claiming before the Supreme Court that Sibal had not acted as an impartial regulator but had helped RIL 'gold plate' its capital investments for the KG-D6 basin. At the annual general meeting of RNRL's shareholders, Anil said that RIL's capital expenditure of Rs 45,000 crore was way above what it should have been. The reasoning was that RIL's budget for peak production in the initial stages was Rs 12,000 crore, which could have increased to a maximum of Rs 20,000 crore after RIL doubled its production estimates. The DGH cleared the new investment figure, allegedly in a rush. The new capital budget was approved by a management committee comprising one junior official each from the petroleum ministry and the DGH and two RIL representatives.

Why would RIL gold-plate its investments? This is what Sibal claimed on 4 August 2009:

The idea of gold plating betrays a lack of knowledge of business economics. Inflating the expenditure does not benefit any stakeholder—neither the contractor nor the government. No company would like to increase its investment unproductively. Every additional dollar of wasteful expenditure dents the profits of the contractor. The CAG (Comptroller and Auditor General) team has carried out the audit work … .A CAG audit has recently been completed.

Sibal stated that a Goldman Sachs report on *Global Finding and Development Costs 2008* stated that out of the 32 deepwater hydrocarbon projects developed in the world, KG-D6 ranked among the lowest in terms of costs and among the fastest in terms of time from discovery to production. He added:

This project happens to be the first deepwater development project in India. It is pertinent to mention that the Dhirubhai gas discovery is the largest in the world in 2002. In any other country, it would have been hailed and cherished. However, we are content with squabbling over this outstanding success.

Anil maintained that there was a purpose behind hiking capital expenses. The intention was to benefit RIL and lower the profits that accrued to the government. The calculation was intricate. The contract between RIL and the government allowed the former to recover the entire capital expenditure before the government received any meaningful revenues from its share of gas.[5] Therefore, if RIL could overstate its expenditure, it could make consumers pay a higher price for the gas, reduce the government's share of profits, and earn super- normal profits for the company.

The CAG denied that it had cleared RIL's increase in capital expenditure. It maintained that its work to audit the expenses had been stalled by several companies, including RIL, which had refused to give the CAG detailed information that it had sought. It was only after this disclosure that RIL, apparently with reluctance, agreed to another audit, but only as a one-time exercise.

Simultaneously, Anil's camp successfully established a nexus between Sibal and RIL. This was revealed in several articles, including those published in the *Pioneer* daily and *Tehelka* weekly. This investigation had been carried out by sources close to Anil and offered to various media organisations, many of which decided not to carry the information. Shantanu Guha Ray writing in *Tehelka* (3 October 2009) reported that RIL had 'helped organize a stay in Mumbai' for Sibal's daughters, Priya and Sonia and 'furnished a flat acquired by his (Sibal's) daughter in Mumbai with white goods'.

In 2005, both sisters had been residents at Dalal House, the VIP guest house of RIL, and the next year, Priya had stayed at another RIL facility, the Trivoli Guest House. The weekly magazine claimed to possess documents 'that clearly explain how RIL acquired a small firm, Whitesnow Trading Private Limited, and used it as a front company to buy this flat for Priya's use'. The article alleged that P.M.S. Prasad, who then headed RIL's oil and gas division and L.V. Merchant, RIL's chief financial controller 'spent a good Rs 6.5 lakh towards furnishing and the installation of white goods in the flat'.

V.K. Sibal gave a detailed response to these allegations to the *Pioneer*. In his defence he claimed that his daughter Priya had been living in Mumbai from 2001 and that in 2005, when the city got flooded after torrential rains, she could not be located for two days and 'had to shift to an apartment located on higher grounds for a few days as a stop- gap emergency measure'. Sibal said his other daughter Sonia who was 'studying in the Institute of Hotel Management, Aurangabad, during the period 2004–7 and was staying in a hostel'. He said that his daughter had paid an advance of 'an amount of Rs 3 lakh and utility charges of Rs 3,000 per month' for a flat in a different apartment complex.'She stayed off and on with her friend in the same accommodation,' Sibal claimed.

The then DGH also sought to deny that he favoured RIL. He said a penalty of Rs 89 crore had been imposed on RIL for the October–November 2006 period for 'unfinished work'. In a hurt tone, Sibal stated: 'I do not understand as to why you should link purely official responsibilities with *bona fide* personal dealings. I am sure you can understand the hidden agenda of the people behind these allegations...'

There may have been a ring of truth in V.K. Sibal's assessment about being targeted by the Anil Ambani group, but this was hardly the first time that he had been accused of being partial towards RIL and Mukesh Ambani. In 2007, it had been alleged in media reports that he had a close personal relationship with RIL's P.M.S. Prasad. At that time, Sibal had publicly clarified that he met Prasad in only his professional capacity as a regulator. What, however, seemed more serious was when Sibal argued that although the state-owned ONGC had emerged as the top contender for 20 blocks under NELP-VI, it should not be awarded the contracts for 12 of them on account of its 'unsatisfactory' track record. Instead, these 12 blocks should be handed over to the second-best bidder, in the event of foreign firms not showing any interest in them. If the DGH's recommendations had been accepted, the greatest beneficiary would have been the Mukesh Ambani-controlled RIL.

This did not happen. On 23 November 2006, at a meeting of the Empowered Committee of Secretaries (ECoS), headed by the then petroleum secretary, M.S. Srinivasan, and comprising representatives

from the finance and law ministries, Sibal's suggestions were rejected. This is how *Outlook* (11 December 2006) reported the controversy in an article written by the lead author of this book (Paranjoy Guha Thakurta) and Alam Srinivas:

… ONGC screamed blue murder as soon as it learnt about Sibal's suggestions. ONGC's CMD [Chairman and Managing Director] R.S. Sharma met Srinivasan the day before the ECS meeting and complained about the discriminatory attitude of the DGH. Sharma pointed out that if ONGC's past record on exploration was as pathetic as Sibal had made it out to be, why was the company allowed to participate in the bidding process in the first place?

A senior bureaucrat says that if the DGH's recommendations had been accepted by the ECoS, it 'would have been tantamount to changing the rules of the game after the game had begun, which would have attracted the attention of not just the Comptroller and Auditor General of India but Parliament as well—it would have blown up in our face.' Srinivasan obliquely hinted that Sibal's contentions were untrue, and that ONGC was on the 'verge' of major discoveries in the near future.
Sibal continued as DGH in 2007, but by 2009 the tide had turned. What had changed in these two years was that Sibal was slated to complete his tenure on 31 October 2009. As the petroleum ministry had recommended a two-year extension for him, it had to be cleared by the Central Vigilance Commission (CVC). Unfortunately for Sibal, the CVC's initial investigations indicated that his alleged nexus with RIL needed to be explored further, and it asked the CBI to examine the case. Sibal cried foul. He described this as unfair as similar charges had been levelled against him in 2007 and the CVC had not concluded that probe. At that time, it was reported that the CVC had 'failed' to complete the investigation against Sibal within the stipulated time period. According to CVC guidelines, no complaint against a government officer is accepted in the six months prior to an extension of service or appointment ostensibly to ensure that allegations by disgruntled people are not given credence. Sibal, therefore, argued that the CVC should not have revisited the issue at a time when his extension was up for consideration, and that this was in violation of norms. However, the CVC told the government that there was a 'trust deficit' and there were sufficient reasons to doubt Sibal's integrity and objectivity.
On 28 October 2009, Sibal finally relented and requested voluntary retirement from service. On 2 July 2011, the CBI registered a criminal case against him and six of his former colleagues in the DGH for allegedly receiving kickbacks in the form of cash and 'luxurious' hospitality for favouring an American company, GX International, that had been awarded a contract for conducting speculative seismic surveys in areas with potential reserves of oil and gas for exploration. Sibal was reportedly questioned for several hours after CBI officials conducted raids on his premises as well as those of the other accused in Delhi, Mumbai, Noida, and Dehradun.
A CBI spokesperson said 'incriminating' documents had been seized relating to immovable and movable properties belonging to the accused. Besides Sibal, other accused included former chief geologist D.K. Rawat; the then adviser, geophysics, S. K. Jain; former accounts department head K.A. Murli; the then advisor, contracts, Anurit Sahi; former finance manager T.S.L.N. Reddy; the then chief chemist, Savendra Gupta; and the manager, exploration, GX International, Sujata Subramaniam.
The CBI alleged that the DGH had awarded a contract to GX International in 2005 at an inflated price, thereby causing a loss of approximately Rs 400 crore to the exchequer. The US company had carried out seismic exploration and developed oil and gas fields. The contract was awarded on a 'nomination basis', a procedure resorted to when work has to be started on an urgent basis and which allowed the DGH to tweak its norms. The CBI was also reportedly investigating whether Sibal had attempted to scuttle a CVC inquiry into discrepancies in oil exploration and contracts executed by domestic and

foreign firms by concealing documents.

At least one important government official had become a victim in the battle between the Ambani brothers. Others too would get injured in the days ahead.

3
A 21ST-CENTURY MAHABHARATA

It was a clique. For more than three decades after India became politically independent in 1947, barely a dozen families controlled most of the large privately-owned companies in India. Their members had enough friends among politicians and bureaucrats to ensure that policies were tailored to favour them. They manipulated the issuance of licences and quotas by the government in a centrally controlled economy.

In the 1970s, an upstart crashed into this élite club. The newcomer was initially greeted with derision but as years passed, his corporate empire grew and grew. He made no secret of his ambition to become the biggest of them all. The old guard decided to strike back. To their amazement and then shock, he retaliated, using similar below-the-belt methods that the country's established capitalists had perfected over the years. He was, however, cannier, and manipulated the system to greater effect than anyone had done before him. By the beginning of the 1990s, as the working of the Indian economy was liberalised, Dhirubhai Ambani had become the most feared (and envied) businessman in the country. Almost no industrialist had the guts to take him on. Most scampered away if they thought they might cross his path. The few who chose to fight it out (like Nusli Wadia and Kapal Mehra) were humbled and lost heavily.

Dhirubhai's sons learnt their lessons in management and entrepreneurship under his tutelage. The brothers seemed to complement each other; as a team, they could perhaps have performed better than their father. But their personalities clashed. By delving into some of the causes and effects of their differing characters, it was possible to perceive the palimpsest on which the final fight over natural gas off the Krishna-Godavari basin was to take place.

Dhirubhai had tried to create a corporate conglomerate (with complex and intricate financial structures and cross-holdings of shares) which could not be easily broken up; he hoped this would oblige the brothers to cooperate with each other. The siblings divided the work among them, especially after Dhirubhai suffered a stroke in February 1986 which left him incapacitated for several months. While he continued to remain the main strategist, over the next few years, the introverted, almost shy, Mukesh emerged as the operations guy; the man who set up mega-industrial projects on time and within budget and ensured that these ran efficiently. Anil, the extrovert, became the 'face' of Reliance; he looked after public relations, corporate affairs, government liaison and marketing. In addition, the younger brother was projected as a financial whiz-kid of sorts.

The tensions between the two brothers mounted through the 1990s. By the beginning of the 21st century, it was clear to insiders that the brothers would part ways and that the sprawling Reliance business empire would get partitioned after their father's death. One of the first signs that something was amiss came in 1991, when Dhirubhai promoted Mukesh as vice-chairman of RIL, while Anil remained the company's joint managing director. This was the father's way of clearly indicating his heir apparent. The move sent out strong signals to the outside world. It also marked the public beginning of the feud between the two brothers.

After Dhirubhai's stroke, Mukesh sought to take full charge of the group's activities. He inducted his

‘friends’ and loyalists into the group, principal among whom were Anand Jain (AJ), a schoolmate of his, and Manoj Modi (MM), who had studied in college with him. The two became his ‘arms’. Anil too inducted his own men; for instance, he hired Anthony (Tony) Jesudasan in Delhi, who had earlier been working for the undivided group, to handle media relations and government liaison.

Even before Dhirubhai had let the world know that Mukesh was his ‘heir apparent’ by anointing him RIL’s vice-chairman, there was another personal (and perhaps more important) reason behind Dhirubhai’s move. This was Anil’s decision to marry a controversial ‘Westernised’ film actress, Tina Munim, which drove a wedge between the father and his younger son. Tina was a glamorous celebrity. As a teenager, in 1975, she became Miss India and, later, she was adjudged a ‘Princess’ in an international pageant. By the age of sixteen, her first Hindi film, *Des Pardes* (directed, produced and starred in by Dev Anand) was a huge hit. She was a rising Bollywood star. More importantly, Tina was the archetypal ‘modern’ Indian woman, free in thought and action, carefree with a Bohemian lifestyle. Her clothes were considered ‘revealing’ by conservative standards and she had raised quite a few eyebrows because she made no bones about her live-in relationship with ‘superstar’ Rajesh Khanna. It is important to remember that all this was taking place in the 1980s.

Anil is said to have met Tina at a party and couldn’t take his eyes off her. Later, he couldn’t take his mind off her either. He decided he wanted to marry her. There was, however, a social hurdle. For a conservative Gujarati family like the Ambanis, the relationship between Anil and Tina was just not on. It seemed there was no way the family would accept her as a *bahu* (daughter-in-law). Dhirubhai opposed the marriage. In fact, he tried his best to break it up. As in a typical movie plot, the father tried to scare Tina away. He used his clout within government investigative agencies, such as the Enforcement Directorate (ED), to carry out raids on her under the Foreign Exchange Regulation Act (FERA). In those days (and even now) film stars were/are regularly investigated for possible violations of foreign exchange regulations and income tax rules.[1]

Despite his father’s emphatic objections, Anil put his foot down; he refused to budge from his decision to marry Tina. The younger son was also furious because he had been told that the ED team had ‘misbehaved’ with Tina. Insiders say that Anil threatened to leave the family if Dhirubhai didn’t accept her as his daughter-in-law. Close family friends stepped in to sort out the issue. After Dhirubhai realised that Anil was unlikely to buckle under pressure, he reluctantly consented to the marriage.

Within the family, Tina was the ‘outsider’ while Mukesh’s wife, Nita, was considered the real *bahu*. For Dhirubhai and his wife, Kokilaben, Nita was the family’s first lady. Kokilaben had seen Nita at a Bharat Natyam dance recital, gone back home and told her husband that she had found the perfect match for Mukesh. After their marriage, over the years, Dhirubhai and Kokilaben came to depend on Nita for important decisions they had to take as a family: from designing their homes to the planning of residential blocks in industrial townships that were set up by RIL. In comparison, Tina played a role that was far less important. Even as tensions between the siblings and their spouses simmered beneath the surface, through the 1980s, Dhirubhai had more pressing preoccupations to deal with.

As the Ambani patriarch fought his corporate battles with industrialist Nusli Wadia and newspaper publisher Ram Nath Goenka, he also had to ensure that government policies favoured his group and not the competition. As is common knowledge, even as corporate battles involving RIL raged, Rajiv Gandhi’s government lost the general elections in December 1989 and Vishwanath Pratap Singh became India’s prime minister. The V.P. Singh government had effectively thwarted Dhirubhai’s attempts to take over one of India’s leading engineering companies, Larsen & Toubro. The government, which was perceived as being particularly antagonistic to the Ambanis, collapsed in November 1990 in less than a year.

By then, the image of the group had taken a beating in the media at home and abroad. The Reliance

group was seen as one that had survived and prospered not through entrepreneurial acumen but as a result of political patronage. In May 1991, the *Economist* weekly of the UK published a survey on India entitled 'Caged' with a photograph of a caged tiger on the cover. This was just a month before the new P.V. Narasimha Rao government, with Manmohan Singh as finance minister, initiated policies of economic liberalisation. The author of the *Economist* survey, Clive Crook, singled out the Reliance group for criticism. He wrote that the group symbolised all that was wrong with India, how the country's corporate captains took advantage of favourable regulations to build monopolistic empires. The system smacked of nepotism and corruption. The reference to his empire upset Dhirubhai. He reportedly vowed that henceforth the world would look up to Reliance. A few years later, he got his opportunity to set up the 'world's largest' greenfield oil refinery at Jamnagar, Gujarat, on the west coast.

The project became Mukesh's baby. He was entrusted with the task of commissioning the refinery in record time as a world-class project. Jamnagar became the turning point in the history of the Reliance group. It was set up in record time, was technologically superior to other refineries, and was acknowledged by all global experts as a showpiece, a veritable jewel in the crown of the Ambanis. The refinery was formally commissioned on Christmas Day 2008.

By the time Reliance Petroleum was merged with Reliance Industries through a process that started in March 2009, RIL had become not only India's largest private sector company in terms of sales and value of assets but had also found a place in the *Fortune* list of 500 top global firms. By luck or deliberate strategy, or a combination of both, the execution of the refinery project in Jamnagar transformed Mukesh from an introvert into a confident entrepreneur, who no longer shied away from public appearances. He still had few friends, but interacted comfortably with the Who's Who of India and the world and entertained them lavishly. By the end of the 1990s, Mukesh was truly convinced that he was the legitimate heir to Dhirubhai's legacy, that he was the one chosen by his father to lead Reliance into the 21st century and make it one of the largest corporate groups in Asia and the world. His way of thinking became apparent when the group launched its telecom venture, Reliance Infocomm. Although it was said to be Dhirubhai's dream to make voice calls on mobile phones cheaper than a 50-paise postcard, Infocomm was essentially Mukesh's baby, with neither Anil nor any of his representatives on the company's board of directors.

The holding structure is worth looking at. Reliance Infocomm's parent company was Reliance Communications Infrastructure Limited (RCIL) which held a majority stake. Mukesh and Nita indirectly owned 50.5 per cent of the company through nine holding firms, with 45 per cent being held by RIL. While Mukesh was Infocomm's chairman and managing director, there were three other directors: Anand Jain, Manoj Modi, and Bharat Goenka (promoter of Tally Solutions, a computer software firm), all of them Mukesh loyalists. For Anil, the shareholding structure and composition of the board of Reliance Infocomm was a clear indication that his elder brother had sidelined him in favour of his wife Nita and those loyal to him. What infuriated Anil was that he was being treated as an unequal partner by his own brother in favour of his colleagues, AJ and MM. The rift between the brothers was widening.

Anil felt his capabilities as a manager of the 'external environment'—as a networker among politicians, bureaucrats and journalists when the Reliance group lurched from one controversy to another in the 1980s and 1990s—was not being recognised by Mukesh. Cultivating the media had become critical for the Ambanis in the 1990s for two reasons. First, Dhirubhai realised how his carefully built empire could be decimated by an aggressive media attack of the kind that took place during his battle with the *Indian Express* in the mid-1980s. Second, to gain global stature, Reliance had to get the right kind of exposure in the international media, quite unlike that given by the *Economist* in 1991. By the mid-1990s, there was no media organisation, and very few individual

journalists, that were openly anti- Reliance. Anil and his key managers, including Jesudasan, carefully built relationships with journalists and editors. One notable example of media management was the manner in which the *Indian Express*, which was the most vocal and notable opponent of the Reliance group in the mid-1980s, gave up its campaign against the group and began supporting it. Sources close to Anil Ambani provided journalists, including the lead author of this book, important information when Ram Nath Goenka's newspaper group was trifurcated after his death on 5 October 1991.

Long before companies in the Anil Ambani Dhirubhai Group (ADAG) invested in media companies like TV Today, and before the telephone conversations of lobbyist Nira Radia (one of her major clients was Mukesh Ambani) entered the public domain, RIL had worked out a complex financial deal involving the Network 18 group headed by Raghav Bahl and Ramoji Rao's Eenadu group and supported television channels like NewsX through generous inter- corporate loans to its promoters and associates. Several leading journalists who had been vociferously anti-Reliance began singing a different tune. The case of Arun Shourie (former senior editor of the *Indian Express*, who joined the Bharatiya Janata Party and became a Union minister) is particularly revealing. From being a trenchant critic of the Ambanis who co-authored a series of articles documenting how Indira Gandhi's government had favoured the Reliance group, as disinvestment minister in the Atal Bihari Vajpayee government, Shourie sang paeans of praise for Dhirubhai. Importantly, he presided over a controversial 'strategic sale' of the public sector Indian Petrochemicals Corporation Limited (IPCL) to the Reliance group, thereby giving the group a near-complete monopoly over the markets for a wide range of petrochemical (plastic) products and creating a 'private monopoly' where there was none (see *Appendix 1*: 'Shourie's selective memory'.)

Shourie found himself in the midst of a major controversy when he sought to privatise or divest shares of some of the country's largest public sector companies engaged in refining and marketing petroleum products: Indian Oil Corporation (IOC), Hindustan Petroleum Corporation Limited and Bharat Petroleum Corporation Limited. Particularly contentious was his move to split one of the country's largest corporate entities, IOC, and hand over control of a part of it to the Reliance group (see *Appendix 2*: 'Disinvestment in Danger'.) The reason why Shourie and RIL were keen on dividing IOC and obtaining control over retail outlets became apparent four years later when, in March 2008, RIL decided to shut down all its retail outlets for petroleum products (owned directly by it or through franchisees and/or associates) as international prices of crude oil surged. (RIL has essentially been a refiner of crude oil at its Jamnagar refinery, exporting finished products petrol, diesel and cooking gas.) While the government of India subsidises the products sold by public sector oil refining and marketing companies like IOC, notably diesel and cooking gas, the absence of subsidies to private companies made their operations 'unviable'. In 2008, RIL was operating roughly 1,432 retail outlets all over the country: 246 in Gujarat, followed by 160 in Maharashtra, 132 in Uttar Pradesh, 129 in Andhra Pradesh, and 107 in Rajasthan. Most of these outlets were owned by RIL and some of these were bought over by RIL from its dealers.

The decision to shut down the retail outlets came after RIL had, at one stage, reportedly been able to obtain a market share as high as 14 per cent. RIL had less than 3 per cent of the total number of 36,936 petrol pumps in the country. Of the total retail outlets, the three public sector undertakings, IOC, Bharat Petroleum, and Hindustan Petroleum together own and/or operate 34,304 pumps, while the remaining belong to private sector companies, including Essar Oil and Shell India. Before it closed its retail operations, RIL's retail outlets had been patronised by as many as five million customers.

The difference in the prices of petroleum products sold by private retailers and public sector companies kept widening. Whereas companies like IOC were buying oil bonds issued by the government as a cushion against 'under-recoveries' on account of selling subsidised products, RIL had no such facilities. Before it shut down its retail outlets, RIL was selling motor spirit or petrol at prices

that were Rs 6 per litre higher than the prices charged to the consumer by state- owned oil marketing firms after receiving the benefits of discounts from upstream oil companies such as ONGC. The price of diesel (the single most widely used among the various petroleum products sold in the country) sold at RIL outlets at that juncture was a hefty Rs 14 per litre higher than the prices charged at outlets of the PSUs. Public sector companies like IOC were selling petrol at a notional loss of Rs 13.97 a litre and diesel at a discount of Rs 20.97 per litre. Not surprisingly, the relatively higher prices at RIL's retail outlets dissuaded customers eventually forcing the pumps to go dry.
RIL, along with other private sector firms like Essar Oil and Shell, lobbied hard for 'equal treatment' or a 'level playing field' with the public sector companies, urging the government to allow private companies access to oil bonds issued by the Union government to underwrite the subsidy cost of selling certain petroleum products at highly-subsidised prices. On 6 May 2008, the then petroleum minister Murli Deora told the Rajya Sabha:

Reliance has informed [the government] that sales at their retail outlets was negligible due to selling price differential between private and public sector ROs [refining organisations], leading to the closure of all their 432 pumps in the country with effect from 15 March.…The prices of sensitive petroleum products are fixed by the public sector oil marketing companies in consultation with the government. Private oil companies are not subject to pricing restrictions by the government and are free to take their pricing decisions on commercial considerations.

However, Essar Oil and Shell India had not closed their petrol pumps, the minister pointed out.
Nearly two years later, in August 2010, there were reports that RIL was planning to reopen all its fuel stations in the country and that the company was selling petrol and diesel at the same rates as public sector companies. By then, as crude prices surged towards $150 a barrel in the middle of 2008, the company that claimed to operate the 'world's biggest' petroleum refining complex at Jamnagar on the Gujarat coast decided not to go ahead and reopen its retail outlets. 'If the government announces diesel deregulation then diesel, like petrol, will also be available at market rates. Further to this Reliance will resume operations across all pumps, pan India,' an official company statement said, adding: 'Now, with the deregulation of petrol, there is a level playing field and Reliance petrol will now be sold at the same price as that of the other oil companies.' That was, however, not to be. RIL never re-entered the business of retailing petroleum products. Across the country, one can still see derelict and run-down establishments that were once operated by RIL.
Dhirubhai Ambani had started his career in Aden, Yemen's seaport city, as an attendant in a station dispensing petroleum products. Having failed to establish a significant presence across all segments of the industry—from refining crude oil to manufacturing petrochemical products and retailing diesel and petrol—it was now the turn of the group to leave its mark in extracting natural gas from beneath the bed of the ocean. And this proved to be most contentious aspect of the various business interests of the Reliance group. It was also control over natural gas that eventually led to Dhirubhai's empire getting divided and his two sons parting ways, not very long after his death.
Even when Dhirubhai was alive, Mukesh was seen as the 'builder' while Anil was the 'financier'. Anil realised that Reliance could no longer grow in the way it had during the 1970s, 1980s, and part of the 1990s, when investors had been successfully wooed by Dhirubhai with fantastic returns on their shares, while government-controlled financial institutions and banks (with more than a little prodding from political bosses) fully backed the exponential growth of the Reliance group with generous access to long-term loans for capital investments as well as short-term working capital. By the new millennium, Anil decided that the group would have to access funds from across the world to sustain its growth momentum.

He could seduce global finance managers with his suave spiel. At this point, however, Anil was also clearly deeply hurt because he felt his older brother had undermined his contribution to the growth of the undivided group. He thought his contribution was far greater than those of Mukesh's cronies who, he believed, were being given greater importance than they deserved. The wedge between the siblings was deepening and this was apparent to insiders even between 1999 and 2001 when Dhirubhai was still around. Senior employees of the group had got divided into factions; those belonging to the Mukesh camp were more than a bit wary of those in the pro-Anil camp. The big question that remains unanswered till today is why Dhirubhai chose not to write his will. He passed away intestate. Dhirubhai knew only too well that his sons were not getting along with each other. What could he then have done to keep them from breaking up his industrial empire? In March 2002, months before his death, a mega-merger was announced between RIL, which manufactured petrochemicals, synthetic fibres, and textiles, and Reliance Petroleum, which owned the Jamnagar oil refinery. It was the biggest merger of its kind in India's corporate history. Dhirubhai presumably believed that it would be next to impossible to divide the Reliance group that had now become consolidated into one monolithic entity. He thought institutional and individual investors would strongly resist a split. If the new merged entity remained intact, there would be nothing to divide, for the combined revenues of other group firms (such as Reliance Energy, IPCL and Reliance Capital) would be relatively small. Moreover, he reckoned that the future of new ventures like telecommunications would be largely dependent on funds from RIL. He hoped his sons would not be able to partition the group he had built, even if they wanted to do so.

Instead of a will, what Dhirubhai left behind was a deed of partition (dated 31 July 1999) which led to the division of the Dhirubhai Hirachand Ambani Hindu Undivided Family (HUF)[2]. As the assets of the HUF comprised the personal assets of the family, Dhirubhai believed the deed of partition would not be used to partition the larger business assets of the group among members of his family. The business entities were, in fact, controlled and owned through a complex chain of hundreds of privately-owned firms, as is the case with many business families in India. The absence of a will, Dhirubhai thought, would avert a division of assets, given the holding structure of the conglomerate, and he believed that the family would not need to reveal the names of its closely-held investment firms.

Dhirubhai certainly must have hoped his sons would stick together, and that Mukesh would accommodate Anil's interests. That was his logic behind promoting Mukesh as the vice-chairman of RIL and allowing him to set up Reliance Infocomm on his own. He hoped his sons, despite their differences, would carve up areas for themselves without breaking up the group. As events transpired, Dhirubhai's hopes were just that: hopes. Within a few months of his death on 6 July 2002, representatives of the two Ambani scions were sitting across a table in closed-door meetings, discussing the modalities of a possible split. The fissures began deepening.

Anil believed that Mukesh was using cash from the publicly-listed RIL (to the extent of over Rs 12,000 crore) to finance his personal telecom venture, Reliance Infocomm. More importantly, this was being done in a manner that would lead to his friends and loyalists reaping huge profits. It was clear to Anil that this was a case of shareholders' money being used to fund personal acquisitions. While RIL was 'forced' to pay a premium to purchase shares in Reliance Infocomm, Mukesh and his friends got them for virtually free as will be detailed shortly. As the worth of the telecom project rose with services being launched, the value of personal stakes would multiply hundreds of times.

For example, RIL got 900 million shares in Reliance Communications India Limited (RCIL), one of the major shareholders of Reliance Infocomm, at an average price of Rs 26 per share. In one specific transaction, RIL paid Rs 2,250 crore for 90 million shares or an average price of Rs 250 per share. Mukesh was allotted 12 per cent sweat equity in Reliance Infocomm (not RCIL) at Re 1 per share, Manoj Modi got 30 million shares and, in September 2002, three unknown firms, Prerna Auto, Softnet

Traders & Consultants, and Fairever Traders & Consultants, received another 10 million shares—all of them at Re 1 per share. By 2005, the notional value of each of these shares had risen by proportions estimated to be somewhere between 70 times and 120 times the original price at which these had been allotted—it is difficult to determine a precise value for these shares as Reliance Infocomm was a closely-held company and its shares were not listed on stock exchanges.

Anil discovered a connection between the three 'dummy' firms and persons close to the late leader of the BJP, Pramod Mahajan, who was telecom minister in the BJP-led National Democratic Alliance (NDA) government in New Delhi. It was found that Prerna Auto's owner, Lalit Goyal, was close to Sudhanshu Mittal, a close confidante of Mahajan, and a businessman-politician who headed the BJP's election campaign in Jharkhand in 2004. There was a link between another firm, Fairever Traders, and Global E-Serve, one of whose directors was Ashish Deora (no relation of former Union minister Murli Deora), who was also a director of IOL Broadband together with V. Ramanand Rao, Mahajan's son-in-law.

When these nuggets of information found their way into newspapers, including the *Asian Age*, unnamed spokespersons of the Mukesh faction told journalists that Ashish Deora was the 'real' recipient of 10 million shares given to the three firms as he 'had prior expertise and experience in obtaining building permissions... in Greater Mumbai'. A formal statement added that 'RIC agreed to compensate Mr Ashish Deora by way of a nominal compensation per building upfront and the remaining via appreciation on equity shares of RIC to be sold to him or his nominees….' Prerna Auto, Softnet Traders and Fairever Traders were supposed to be firms nominated by Deora to receive the shares.

Reliance Infocomm took back these shares after the controversy broke out. By naming Deora, the company sought to distance itself from Mahajan, as did Ashish Deora himself. He told journalists that it was 'quite unfair' to drag Mahajan's name into the episode as he had 'nothing to do with my company's operations…. When Rao and I set up the company, we had no political connections or ambitions…. I'm caught in the crossfire…'

Mahajan told *India Today* (2 February 2005):

I solemnly affirm that my wife Rekha, my son Rahul, my daughter Poonam and my son-in-law (V. Ramanand) Anand Rao have not got any shares [of Reliance Infocomm] or pecuniary benefits. If someone wants to insinuate that my friends' shares are mine then by this logic any politician can be accused of wrongdoing.

To silence his critics, Mukesh returned the 12 per cent sweat equity too. However, his friends, like AJ, maintained that there was nothing wrong in that transaction as the world over, and in India, promoters regularly allot sweat equity to themselves.[3] A grouse that Anil had against Mukesh was the involvement of the latter's wife, Nita, in business decisions. Nita had by then begun handling the advertising and branding activities of Reliance Infocomm entailing oversight of sizeable budgets. This was unacceptable to Anil. He had kept his own wife Tina away from the family's businesses and wanted Mukesh to do the same. He may have apprehended that Nita could one day be inducted on to the board of directors of RIL. For Anil, these fears, real or imagined, paled into insignificance when the real shock came. He realised that Mukesh was planning to marginalise him.

Mukesh's strategy was to rework the complex shareholding pattern of RIL that was controlled through a maze of investment companies. His cronies were to occupy key directorial positions in these investment companies. He also decided to clip Anil's powers as RIL's vice-chairman and managing director. Mukesh's game-plan became clear on 27 July 2004. At noon that Tuesday, RIL held a regular meeting at Reliance Centre, Walchand Hirachand Marg, Ballard Estate, in downtown Mumbai. The

main agenda of the meeting seemed harmless. The four items on the supplementary agenda appeared trivial: approve an appointment, make a minuscule investment in Reliance Brazil, approve the minutes of a meeting of the finance committee, and approve the constitution of a health, safety, and environment committee. The proverbial devil, however, dwelt in the details. The fourth item had a supplementary agenda item. The Annexure A attached to Item No. 4 read:

As hitherto, the Vice Chairman and Managing Director will perform the duties as Vice Chairman and Managing Director with regard to all the work of the Company and Shri Anil Ambani as Vice Chairman and Managing Director will manage and superintend such business and carry out the orders and directions given by the Board from time to time in all respects and conform to and comply with all such directions and regulations as may from time to time be given and made by the Board and *his functions will be under the overall authority of the Chairman and Managing Director* (emphasis ours).

The message was as direct as it could be. Henceforth, Anil would have no independent decision-making powers. He would henceforth take his orders from his older brother. What hurt Anil was the surreptitious manner in which he was sought to be stripped of his powers. He recalled the time when, after Dhirubhai's death, he had wanted their mother Kokilaben to become RIL's chairperson, a move that was opposed by Mukesh, who said it might not go down well with international institutional investors. Anil remembered that he had been ignored when the formal launch of Reliance Infocomm's services had taken place.

Mukesh perceived his brother as not much of a businessman but more of a socialite who was unwilling to put in long hours of work. What irked Mukesh in particular was Anil's proximity to particular politicians, notably Amar Singh and Mulayam Singh Yadav of the Samajwadi Party. Whereas their father too was close to important politicians, in particular, former prime minister Indira Gandhi, Mukesh was far from comfortable with Anil's association with these two politicians. Therefore, when, on 16 June 2004, Anil filed his nomination papers from Lucknow to contest as an independent candidate for the Rajya Sabha, the upper house of India's Parliament, Mukesh was shocked.

The photographs that were splashed across newspapers the following day hardly pleased him. One depicted Jaya Bachchan (wife of Amitabh Bachchan who filed her nomination papers the same day) flanked by another actor (who became an MP), Jayaprada, and Mulayam Singh; behind them all stood Anil. Another photograph showed Anil filing his papers, surrounded by wife Tina, Jaya, Jayaprada, and the maverick owner of the Uttar Pradesh-based Sahara group, Subroto Roy. A third picture had Anil touching the feet of BJP leader and former Union minister for human resource development Murli Manohar Joshi.

The rift between the siblings continued to widen. One apparent point of tension lay in the answer to the question: Who was richer? One view is that Mukesh was not particularly happy that he was constantly described in the media as the richest man in India. On 12 October 2007, at RIL's annual general meeting of shareholders, Mukesh had said:

There have been several reports in the media about my personal wealth. Frankly I am amused with these reports because I never thought of myself in these terms. Nor have I worked in any way for these epithets. The money you accumulate merely gives you an opportunity to make a difference.

Mukesh was said to be unhappy when Anil had to disclose the value of his assets to the Election Commission as is mandatory for any candidate who wants to become a MP. Anil stated that he owned jewellery worth Rs 27.21 crore, that Tina owned ornaments worth another Rs 65 crore, that together,

the couple had other investments worth Rs 160 crore, and that he personally owned other assets valued at Rs 90 crore. In other words, the couple was personally worth almost Rs 350 crore, according to the affidavit filed by Anil to the Election Commission.[4]

Mukesh perceived Anil's ambition to become an MP as disastrous for the business interests of the Reliance group. The Samajwadi Party was then at loggerheads with the Congress that had returned to power in May 2004 as the leading political party in the ruling United Progressive Alliance coalition with the outside support of the Communists. More importantly for Mukesh, Reliance Infocomm was embroiled in a legal battle with the government. The company had been accused of showing long-distance phone calls originating from the US as local calls. The method was allegedly ingenious. The company simply routed the US calls to its own back-end sites in India and then re-routed them to local destinations through the network of the public sector Bharat Sanchar Nigam Limited (BSNL) or through its own network. BSNL, which charged a higher fee from operators using its network for routing international calls, was informed that it was re-routing local calls. The strategy resulted in huge savings for Reliance Infocomm as it paid BSNL the much lower rate applicable to local calls. (The case was finally settled in 2005 after Reliance Infocomm was asked by the Supreme Court to pay Rs 180 crore to BSNL, including penalties.)

Mukesh was also said to be displeased with Anil's ambitious diversification plans: including the privatisation and modernisation of airports in Delhi and Mumbai, and the establishment of a major power generation project in Uttar Pradesh using gas from the Krishna-Godavari basin. In December 2003, the Uttar Pradesh Power Corporation announced that RIL wished to set up a gas-based power project with an installed capacity between 2,000 and 3,000 megawatts (MW) in the state at Dadri (near the national capital, New Delhi) entailing an investment of Rs 8,000 crore. On 27 January 2004, Anil provided more details about the power project. He said that the gas for the project would come from RIL's gas discoveries in the KG basin and that RIL would play a 'meaningful role in the development of … basic and extremely important infrastructure in the country'.

Mukesh thought Anil had jumped the gun. He had, in fact, forced the Dadri power project on RIL. This was because it was only on 29 January, two days after Anil's announcement, that the RIL board formally announced that it had decided 'to invest Rs 5,000 crore in [power] generation, transmission and distribution projects of Reliance Energy'. Mukesh felt that the project in Uttar Pradesh had been envisaged only because Anil had been cajoled into doing so by Amar Singh and his then political mentor Mulayam Singh Yadav. Just as sources close to Anil had alleged that his older brother had placed personal interests before the interests of the Reliance group, those in the Mukesh camp now argued that this was exactly what Anil wanted to do by setting up the Dadri power project.

Relations between the brothers had reached breaking point. Although the *Times of India* had earlier suggested in a front-page report that relations between two siblings in charge of a major business group had become strained, without naming Reliance or the Ambanis, the animosity finally became publicly known on 18 November 2004. That day, on the sidelines of a business seminar organised by the television channel CNBC-TV 18, Mukesh said that there were 'ownership issues' in the Reliance group but that these were in the private domain. For those in the know, this was a clear indicator that there was an internal power struggle within the family to control the group. In this case, Mukesh could have 'ownership' issues only with his younger brother, Anil. No one seemed quite sure why Mukesh had to make a public admission about his differences with his brother . Why did he say what he did when he did?

One theory is that Mukesh was rattled by an embarrassing 'personal' disclosure made by the Microsoft CEO, Steve Ballmer, at the meeting a few minutes earlier. During his speech of welcome to the Microsoft head, the Ambani brother sang Ballmer's praises:

Steve and I were part of the same class at the Stanford University School of Business. Steve went on to configure one of the greatest innovation-led enterprises of all times, Microsoft. I came back to India to help my father build Reliance, virtually from nothing to a $23-billion corporation with global standing today.

Ballmer responded with a revelation: 'I want to put in one piece of information that Mukesh left out of his very wonderful and kind introduction.' He then rhetorically sought Mukesh's permission: 'I hope he won't mind.' And he proceeded with a startling fact: 'But in our class in Stanford Business School, there were exactly two people who dropped out at the end of the first year, me and Mukesh.'

This was a shocker for those present at the meeting. For decades, the world had believed that Mukesh was an MBA graduate from Stanford. Prominently mentioned in Reliance's official documents was Mukesh's curriculum vitae in the group's various loan application papers and in communications with Indian and global stock market regulators. Now Ballmer had disclosed that Mukesh was a dropout who had never completed his MBA course at Stanford. Eyewitnesses contend that Mukesh seemed upset and that he walked out of the gathering within minutes. When he was stopped by the CNBC television journalist, he blurted out that there were 'ownership issues' within the Reliance group.

A few days later, Mukesh retracted his statement by claiming that there were, in fact, no ownership issues and that Dhirubhai had resolved them during his lifetime. What Mukesh meant was that his late father had 'resolved' these ownership issues in his favour and that Mukesh was indeed the legitimate heir to Dhirubhai's legacy. But by then the rivalry was out in the open. The media went to town. An open war had been declared, and this was fought largely through the media. This was an area in which Anil had an upper hand and the skills of his master media manager, Tony Jesudasan, came in very handy at this point. Fighting with his back to the wall, Mukesh had to ensure that the government did not act against him as Anil's confidantes exposed one murky detail after another about Mukesh's links with politicians, about his attempts at alleged personal aggrandisement out of funds belonging to the publicly-owned RIL, and about issues relating to corporate governance. Several skeletons tumbled out, among them was the attempt to use gas from the KG basin for the proposed power plant at Dadri.

Anil was painted by his media managers as a puny David fighting against a greedy Goliath out to grab the family's assets by depriving his younger brother of his share. It was an age-old *Mahabharata*-like tale of family members willing to stab each other in the back for money and power. The war lasted seven months. Mukesh's image took a beating. Then, forced by mediators like K.V. Kamath, the then chairman of ICICI (formerly Industrial Credit and Investment Corporation of India) and important leaders, including prime minister Manmohan Singh and finance minister P. Chidambaram, Mukesh agreed to a truce. On 18 June 2005, the Ambani matriarch Kokilaben announced a division of assets of the Reliance group between the two brothers. Everyone apparently welcomed this as they thought it would signal the end of a bitter battle. Mukesh was, however, upset and angry. He hated the thought of having to give up control of his baby, Reliance Infocomm, which, together with Reliance Energy and Reliance Capital, went to Anil. He retained control over the group flagship RIL and IPCL.

Mukesh had several scores to settle. He had to wreak vengeance for having been vilified. He had lost the battle in the media for the time being but was preparing to hit back at Anil, using the same media. He wanted to prove to the world that Anil lacked his business acumen. He began to sharpen several arrows he had in his quiver. For Mukesh, only a battle had been lost; he was certain he would win the war. Mukesh decided to put spokes in Anil's wheels.

The initial public offering (IPO) of shares of Reliance Power, Anil's fledgling company, with grand plans in the power sector, was billed as the biggest feather in his entrepreneurial cap. At Rs 12,000 crore, it was the largest IPO in the country. The response to it was breathtaking: commitments of Rs 750,000 crore from 500 institutional investors and five million retail investors. After the allotment of

shares in early 2008, the company had the country's largest shareholder base with four million investors. Dhirubhai, who was known as the father of India's capital markets, would have been proud of Anil. On New Year's Day 2008, Anil stated:

So far as the IPO is concerned, it was an onerous task. But the training I have got while working with my father has made the task easy. I remember, in 1978, when we launched the first IPO (of RIL) of about Rs 8 crore, I had myself gone to bank branches every day to collect forms physically and in the night punched numbers on them.

Anil believed Mukesh did not want Reliance Power to become a successful venture. The reason: if the IPO had been listed at a premium of 20 per cent to 30 per cent in comparison to its issue price, as was expected, Anil would have become a notionally richer individual than Mukesh because of his holding in Reliance Power. Mukesh would just not be able to digest such a denouement, it was claimed. Anil alleged that Mukesh-backed firms sold massive quantities of shares on the day Reliance Power was listed on the exchanges to hammer down the share's price. On 11 February 2008, the scrip, which had been issued to retail investors at Rs 430 per share and to institutions at Rs 440 per share, crashed by as much as 21 per cent during a single day's trading.

The selling pressure continued. In a complaint to the regulator of the country's capital markets, the Securities and Exchange Board of India (SEBI), Anil said that 'seven Mauritius firms went on a selling spree within the first four minutes of listing even when the market was falling. I can understand people selling when the price is going up. There is more to it than meets the eye.' Anil's lieutenant, Amitabh Jhunjhunwala, circulated documents on the sales made by these Mauritius firms. Sources close to Mukesh claimed that these seven firms sold the shares they had been allotted in the IPO and therefore there was nothing illegal about it, even if these firms were controlled by Mukesh. Thanks to the fall in the price of Reliance Power shares, Anil's personal wealth remained well below that of Mukesh. He had to assuage the hurt sentiments of his investors, who had lost huge sums due to the bear hammering. Anil took a leaf out of Dhirubhai's book. In an unprecedented move, Reliance Power announced a bonus issue (in the ratio of three shares for every five shares held) within a fortnight of its listing. After the company's board meeting on 23 February 2008, Anil said:

I have been personally concerned [about] … the notional losses arising to the millions of long-term investors in Reliance Power as a result of a dramatic adverse change in sentiment in global and domestic capital markets, subsequent to the pricing of our IPO. Though equities are risk-bearing instruments, we have taken this one-time measure today in demonstration of our philosophy of endeavouring to protect and enhance value for all our long-term shareholders. The board endorsed my concern and approved the bonus issue.

The IPO fiasco was a huge blow for Anil. Ever since 18 June 2005, the day when the split between the Ambani brothers was formally announced, he had been unhappy and was often enraged. He was firmly of the view that the split in the assets of the undivided Reliance group had been unfair and that Mukesh had walked away with the lion's share of the group's assets (around 70 per cent) because he got full control over RIL. Anil's strategy was to increase the valuation of companies in his group. He had to prove a point: that he could match his older brother.

A few months later, an important merger and acquisition move planned by Anil was successfully stalled, and then scuttled by Mukesh. This was the move by Reliance Communications or RCom, the new avatar of Reliance Infocomm, to join hands with the South African telecom giant, MTN. In June 2008, when Anil announced that RCom would merge with MTN, Mukesh opposed the deal. Citing a

clause in the family memorandum of understanding (MoU), mediated by mother Kokilaben, he said that neither of the brothers could sell their stakes in existing companies without granting the first right of refusal to the other. What this meant was that Anil had to first offer the shares to Mukesh and, only if he refused to buy these, could he sell the shares to MTN. Anil rejected the logic. He said the right of refusal was 'meaningless' as the Companies Act did not provide for any restrictions on the sale or transfer of shares in a public limited company; that such a step was illegal and unenforceable. 'RIL's claim of a right of first refusal is simply an excuse to try and disrupt the creation of one of the world's most valuable telecom combinations, with a unique footprint covering the emerging growth markets of India, Africa and the Middle East,' said a statement put out by the ADAG. Anil's friend Amar Singh added that 'the way Mukesh is opposing the MTN deal is very disgusting as the deal is good for the country.'

Mukesh, however, called for a conciliatory meeting with Anil on the issue on 8 July 2008, as was mandatory under the family MoU, after which the two parties had to go in for arbitration, within 30 days, if the issue remained unresolved. Anil didn't turn up for the meeting, and wanted it to be rescheduled. Mukesh refused and said he was left with no option 'but to adopt appropriate proceedings against RCom'. Anil retorted that 'RIL's *mala fide* stand is now clearly established….'

That very day Anil indicated that he would opt for a reverse merger with MTN; he would buy a 51 per cent stake in the South African telecom company. This was one way of wriggling out of the first right of refusal problem as he was not selling his shares. On 18 July 2008, RIL initiated the arbitration process against RCom. The next day, MTN and Anil called off the merger talks. Most observers agreed that MTN was put off by the fight between the two Ambani brothers.

While these were direct interventions by Mukesh to stop Anil in his tracks, Anil charged Mukesh with pulling political strings to hurt his interests. He alleged that Mukesh had ensured that political pressure was exerted to ensure that bids placed by ADAG companies to privatise and modernise the airports at Delhi and Mumbai were rejected. Others claimed that ADAG representatives had themselves tried to unsuccessfully influence government officials to manipulate the bidding process and were now cribbing. Here is how an article in *Outlook* (13 February 2006) by Saumya Roy and Alam Srinivas reported the controversies:

Initially, they [the critics] say that norms were twisted and turned by the government-appointed consultants at the technical bids stage to accommodate the Reliance group. It was alleged that both the consultants, ABN Amro and Amarchand Mangaldas, were close to Reliance and, therefore, there was a conflict of interest. The Reliance group [Anil's faction, or the Anil Dhirubhai Ambani Group] denied the charges, saying the consultants were appointed before the bidders appeared on the scene. Later, Reliance's technical bid was downgraded and only one of the bidders, GMR, managed to stay above the technical benchmarks. In an effort to induce competition, the government lowered the technical criteria to allow other bidders to remain in the fray.

On 31 January, the financial bids of five players were opened and it was clear that the one who emerges as No. 1 financially in each city would win the contract. It didn't happen that way. At the last minute, the government decided that the No. 2 in Delhi—the GMR group— would be allowed to match the financial bid of the winner, the Reliance group. GMR did it and got the Delhi contract. However, in Mumbai, the winner of the financial bid, the GVK group, was awarded the contract. The logic was that since GMR was the only one that cleared the original technical parameters, it should be given a chance (to match the highest financial bid in Delhi).

Obviously, Reliance didn't agree and, this time, it criticised the entire process as unfair. It was claimed that two Union ministers, who were part of an inter-ministerial group that took key decisions

relating to privatisation of the two biggest airports in the country had close links with the GMR group. It was alleged in hushed tones that the most powerful politicians in the country intervened to ensure that ADAG's bids were not accepted. This book's lead author had written an opinion article in the same publication, *Outlook* (23 January 2006), arguing the way this episode highlighted how powerful corporate groups like Reliance sought to influence a pliant political leadership and bureaucracy that is ever willing to bend rules (see *Appendix 3*: 'A Muddied Tarmac'.)

The sibling rivalry raged on. In June 2006, Anil went after the ministry of petroleum and natural gas, which, he said, sought to harm him when bids were being made for contracts to extract coal-bed methane (CBM). When, on 30 June 2006, the ministry evaluated bids for the 10 CBM blocks, tenders for which were submitted by various private firms, Anil Ambani's Reliance Natural Resources Limited argued that it should have been awarded six blocks, instead of four. In the two blocks that it lost, RNRL claimed the difference in marks (out of 100) between RNRL and the winner (a consortium comprising Arrow Energy, Gail, EXX and Tata Power) was only 0.901 and 1.213, respectively. In both cases, the ministry then used its discretionary powers. While 97 marks were based on objective parameters, the ministry had discretionary powers in the case of the remaining three marks—to award higher marks to RNRL's competitor. 'If the bids of these two blocks are evaluated on the basis of the objectively-defined 97 marks, without exercising discretion over the award of the three marks, which have very subjective criteria, the RNRL-led consortium would be the clear winner for the two blocks in question,' read a letter (dated August 18, 2006) that RNRL wrote to the petroleum ministry (quoted in *Outlook*, 4 September 2006).

'The parameters to award the three marks were objective and transparent and all bidders were aware of it,' contended V.K. Sibal, the then director general, directorate general of hydrocarbons (DGH), who was quoted in the *Outlook* article of 4 September authored by Alam Srinivas and Arindam Mukherjee. Other officials maintained that the bid documents mentioned these details and said that while two marks were reserved for geological concepts, one was for expenditure on additional works. RNRL scored a high1.5 and 1 for the two contentious blocks in the former category, but low (0.1 each) ones in the case of the latter. There is more than a touch of irony in the fact that this was the same V.K. Sibal who was later accused by Anil Ambani of having allowed RIL to 'gold-plate' its capital investments to extract gas from the KG basin and also charged by the CBI of having allegedly received bribes for favours given when he headed the DGH.

Anil saw Mukesh's hand in all his business failures, but the worst face-off between the two brothers proved to be the dispute over utilisation of KG gas which stemmed from the family MoU signed by the two in June 2005. The days to come would be stormier still.

4
(RELIANCE) INDIA NATURAL RESOURCES UNLIMITED

There are at least four versions of the dispute between Mukesh and Anilon natural gas from the Krishna-Godavari basin. If you meet those onMukesh's side, they may convince you that their arguments are valid. You may then meet us and think we are right. Government spokespersons too could convince you that their position is logical and correct. Finally, there is the legal interpretation given by courts. There is no black or white in this tussle, only different shades of grey.

—a senior aide of Anil Ambani, December 2009

The battle over natural gas in the Krishna-Godavari (KG) basin has many dimensions. It is not merely about technological challenges. Nor is it just about interpreting the fine print of contractual documents. It is about the letter of the law and also the spirit of the statute. Above all, the dispute is about human intentions and clashing egos. Each side erred to some degree. Both brothers proved to be selfish, vengeful and greedy. It was a war without values.

Control over natural gas production, exploration and distribution was crucial to the entrepreneurial ambitions of both Anil and Mukesh. It was central to the de-merger of assets informally outlined through the 18 June 2005 family memorandum of understanding (MoU). However, what could have been a win-win situation for both brothers became a zero-sum game given their personal proclivities. The resulting legal battles raised doubts about both the legality of the agreement to supply gas between Reliance Industries Limited (RIL) and Reliance Natural Resources Limited (RNRL) as well as the latter's ability to acquire loans to finance the country's (and Asia's) biggest gas-based power project in Dadri, Uttar Pradesh. As the confrontation between the siblings intensified, a more serious and far larger issue was highlighted: the role of private companies in exercising control over India's scarce (and hence, precious) natural resources. Despite the Bombay High Court's disinterested June 2009 judgement regarding the dispute, it was evident that the government was not acting as a neutral or impartial custodian of the nation's natural resources.

Earlier in June 2005 when, after months of acrimony, Mukesh and Anil decided to split the group's assets, their mother Kokilaben had tried to act as an honest mediator. Anil realised that whatever be the modalities or conditions of the division, he would invariably obtain less than his elder brother, and that Mukesh would never give up RIL (and with it, Indian Petrochemicals Corporation Limited or IPCL), thereby controlling nearly three-fourths of the assets of the undivided Reliance group and an even higher proportion of the group's profits. Under the circumstances, Anil sought a share in the group's future earnings and staked a claim over the gas discovered from the KG basin which at that time was believed to be the largest gas discovery in India. Anil wanted a portion of this natural resource to set up what was billed as his first mega-greenfield project. He wanted to prove that he could set up a large venture from scratch, since the credit for setting up projects like the Jamnagar

refinery was being entirely enjoyed by his brother Mukesh.

When the MoU to divide the assets between the brothers was signed in June 2005 in the presence of their mother Kokilaben, there was a clause that split the future gas assets of the group. The relevant portion of the MoU read: 'Kokilaben realises that a long-term, stable source of gas from RIL, which has the largest find of gas, was absolutely essential for the growth plans of the Anil Ambani Group and in order to enable Anil to carry REL (Reliance Energy Limited) to even greater heights.' There was an elaborate plan to divide the gas assets, including the quantities that would be given to Anil, and the price at which gas would be supplied, namely, $2.34 per million British thermal units (mBtu). The price became the most contentious aspect of the dispute. Before the signing of the MoU, RIL had offered to sell the gas at the same price to the government-owned power utility, NTPC through a globally- competitive bidding process. Later, RIL and NTPC had differences over the quantum and price of gas to be supplied to the latter's Kawas and Gandhar power plants and dragged the dispute to the Bombay High Court. However, under the family MoU, Anil benchmarked his gas supplies at a price of $2.34 per mBtu. RIL agreed. It seemed a win-win situation for both the brothers. The brothers were not, however, really thinking of their respective business interests; each was apparently far more interested in spiting the other. Both wanted to disregard the fine print of the MoU; both wanted their slice of the cake and to eat it too.

Anil's credentials as a large entrepreneur depended on the successful execution of the Dadri power project. This project had first been approved in 2003 by the Samajwadi Party government in Uttar Pradesh. Cheap and assured fuel supply, in this case, natural gas, was critical for its success. However, the project proved to be a non-starter because of a number of reasons. First, the brothers could not agree on the supply and pricing of KG gas. It was argued that the long distance of over 2,000 kilometres that the gas would have to be transported through pipelines from the coast of Andhra Pradesh to Dadri near Delhi would render the project unviable. Then, the farmers who owned the land on which the power project was to be set up conducted a series of agitations which were supported by various political leaders, including former prime minister of India (and one- time *bête noire* of Dhirubhai Ambani) V.P. Singh. Finally, in December 2009, the Allahabad bench of the Uttar Pradesh high court quashed the manner in which the then state government acquired 2,500 acres of land without adequately compensating the owners of the land.

In the case of Mukesh, the bulk of the increase in RIL's future profits had to be generated through the sale of gas from the KG basin. Natural gas was supposed to be an important energy source of the future, not only for India but for many parts of the world. More than its petrochemical plants and oil refineries, and the cyclical nature of these businesses, RIL's ability to improve its bottom-line by impressive margins depended crucially on the profits it could generate from sales of natural gas. An article in *Businessworld* (12 April 2010) quoting analysts about the importance of gas exploration on RIL's top-line and bottom-line, suggested that if the company 'continues with its 52 per cent success rate in exploration … soon its profits from E&P (exploration and production) will surpass profits from all other businesses'. The article argued that in less than a decade, E&P revenues could be higher than revenues from all other businesses, pointing out that oil and gas contributed just Rs 3,530 crore to the company's top line in the third quarter (2009–10) against Rs 48,000 crore that came from refining and Rs 14,756 crore from petrochemicals. However, the segment's earnings before interest and tax (EBIT) of Rs 1,477 crore was higher than refining's EBIT which amounted to Rs 1,379 crore, the article added.

It was, therefore, amply clear that neither brother would give up his claim over KG gas. Whereas Mukesh knew that he could get a much higher price for gas in the future to increase RIL's profits, Anil wanted the gas to be priced low for his proposed power project at Dadri. As expected, the dispute went to court. During the hearings at the Bombay High Court, the real positions of the two brothers, as well

as the attitude of the government, were publicly revealed. One of the most important points argued by Mukesh was that the June 2005 family MoU was irrelevant to the division of business assets or the gas dispute. This was because it was signed by three individuals—Kokilaben, Mukesh and Anil—and corporate entities like RIL could not be bound by such private agreements. 'One of the grounds raised … by Reliance Industries Limited … is that the Memorandum of Understanding recording (the) family agreement is a private document … [and] does not fall in the corporate domain,' stated the Bombay High Court judgement, which eventually ruled in Anil's favour.

Describing the sequence of events that took place on 18 June 2005, RIL pointed out that after the MoU was executed between the two brothers, Anil resigned as joint managing director of RIL and thereafter, the RIL board of directors accepted Anil's resignation and Mukesh informed the board about the family settlement. Anil's version presented in court was:

> Thus, while signing MoU, Shri Mukesh Ambani was Chairman and Managing Director and Shri Anil Ambani was Joint Managing Director of RIL. Therefore, it cannot be said that Shri Anil Ambani was signing in his personal capacity whereas Shri Mukesh Ambani was signing as a representative of RIL. Obviously, any 'agreement' between Shri Mukesh Ambani and Shri Anil Ambani could only be in their personal capacity and acting on their own (or at the best as promoters).

Logically, as RIL was not a party to the MoU, neither its board of directors nor its shareholders had any idea about the contents of the deal inked between the family members. In fact, the MoU (apart from some portions) remains a 'secret' document. Therefore the question arose as to what should guide RIL, its board, and its shareholders. Should it be the corporate scheme of de-merger that split the business assets between the two brothers? As RIL puts it, the MoU was 'tentative', 'subsidiary' to the de-merger, and that no private agreement could act as a 'substitute [for RIL] board approval', which related only to the de-merger. Finally, the de-merger never spoke about the sale of gas assets at a specific price.

The Anil Ambani led RNRL predictably saw the issue very differently. It argued that 'in our present social set-up of joint families and/or extended families running businesses … family arrangements/ family agreements have [the] utmost sanctity and are in fact respected by courts more than [a] commercial agreement between two parties'. Therefore, one cannot devalue the status of a family MoU. In addition, under the doctrine of identification (whereby a corporate entity's liability is fixed), Mukesh, as the chairman and managing director of RIL, had a controlling interest in RIL. Therefore, while signing the MoU, he was 'the controlling mind and will of the company (RIL)…. Such personnel are the very alter ego of the company and their actions are deemed to be the actions of the company itself.'

RNRL argued in court that it could not be contended that Mukesh signed the MoU only in his personal capacity, and that it had nothing to do with RIL. What was important was that Mukesh briefed the RIL board about the broad details of the MoU just after it was signed. Under the doctrine of identification, it should be deemed that the board knew about its contents. There were other indicators that the board had knowledge about the MoU. For instance, soon after the signing of the MoU, the RIL board made a public announcement 'acknowledging, with gratitude to the brothers' mother, Smt Kokilaben, that a settlement of disputes has been reached between members of the family ....' It was the MoU that laid the groundwork for the division of the business assets, and the de-merger, in a sense, flowed from it, RNRL stated. It strained credulity to think that it was only meant for three individuals, that is, the mother and two sons, RNRL told the court, adding that RIL was not interested in implementing the family MoU and that it was deliberately resorting to manipulations and delaying tactics. On the other hand, it was argued by RIL that the principal agreement by RIL to sell the gas to RNRL, which was

specifically formed to buy the gas, was fraudulent. This allegation, RNRL argued, was an afterthought; otherwise, why would RIL have signed the agreement.

At the stroke of midnight on 10 January 2006, the agreement (called the Gas Sale Master Agreement or GSMA) was e-mailed to all the three directors of RNRL. The board meeting was held at 7.30 pm the next day (11 January) and the GSMA was finalised within five minutes, that is, by 7.35 pm. On 12 January, a board resolution to this effect was circulated among the three directors.

Anil had a problem with this interpretation of the facts. He alleged that RNRL was a subsidiary of RIL at the time when the GSMA was signed, that two of the three directors of RNRL were Mukesh's nominees, and that the third director, J.P. Chalasani, who was an Anil loyalist, had opposed the agreement and raised objections to it at the 11 January board meeting. Chalasani's protests were, however, shrugged aside and the board approved the proposal by a majority of 2:1. This is what Chalasani and RNRL argued:

Effectively, RIL under the leadership of Shri Mukesh Ambani was sitting on both sides of the negotiating table and thrusted [sic] the unsuitable, unfair, and one-sided contract upon RNRL. It is clear that a document executed between two parties where they are controlled by the same entity would hardly be a suitable agreement....

The shares in RNRL, which were owned by RIL and/or its nominees, were transferred to Anil only on 27 January 2006, more than two weeks after the board resolution. RNRL's board was reconstituted and filled with Anil's nominees on 7 February 2006, almost a month after the 11 January board meeting. Thus, RNRL contended, the GSMA between RIL and RNRL should have been executed after this date. As RNRL's lawyer said before the Bombay High Court: '… the contract could have been executed only on the transfer of management and control of RNRL to Shri Anil Ambani, which happened on 7.2.2006.' This was critical under the existing laws. At the same time, Anil alleged that the GSMA should have been a 'bankable' agreement, that is, RNRL should have been able to obtain loans from banks and financial institutions for its Dadri project on the basis of it. This was not, however, possible because of certain open-ended clauses in the agreement that related to the quantity of gas to be supplied by RIL for the Dadri project.

To cite one example, the family MoU between the two brothers envisaged that RIL would supply 28 million standard cubic metres a day (mscmd) of gas per year to RNRL, and if RIL's contract with NTPC did not materialise for whatever reason, a quantity of 12 mscmd would in addition go to RNRL. In the MoU, there was another formula to share the gas that might be subsequently discovered by RIL in either the KG or any other basins. Anil felt that the GSMA specified a complex formula for the supply of gas without mentioning specific amounts or the period of supply. In other words, according to the GSMA, the quantities of gas made available to RNRL could fluctuate wildly every year and this, Anil realised much to his chagrin, would mean that no bank or financial institution would disburse loans for the Dadri project because fuel supplies were so uncertain. RIL obviously adopted a different, and apparently contradictory, stand on this issue. It told the court that the following steps would need to be taken. First, the GSMA would be signed. Then RNRL would be de-merged from RIL, following which Anil would be given control of RNRL. Only then would the existing shareholders of RIL be allotted shares in the new company. This would enable the shareholders of RNRL to get a clear picture of the assets obtained by the company. It was argued that if these steps were not followed, the de-merger itself would have been deemed faulty. RIL further contended that only the GSMA could put in place a genuine 'deal' that would make it clear to all concerned that RIL would supply gas to RNRL. This meant, RIL added, that the GSMA would have had to be finalised before the transfer of shares to Anil on 27 January and before the reconstitution of the company's board of directors on 7 February.

Thus, RIL concluded that it had done nothing wrong but merely followed the correct legal process.
On the 'bankability' question, RIL raised several issues. First, it said, there was all-round uncertainty about Anil's Dadri project. As on January 2006, no land had yet been allocated for the project. Most experts felt at that time that it would not be possible to commission the power plant before 2013–14. Although the RNRL board later maintained that the project could be set up within three years, many believed this would be impossible, as neither RNRL nor its associates had either signed a power purchase agreement with the power buyer, nor had it inked the EPC (engineering, procurement and construction) contract to build the plant. It had not even received the final environmental clearance.[1]
Predictably, RIL had a different viewpoint. It argued that if the company had made firm commitments to RNRL in the form of a gas sale purchase agreement, or GSPA (as distinct from the GSMA or gas sale master agreement), it would have led to bizarre consequences, where a 'take or pay' obligation would have arisen for the power plants as soon as the production of gas commenced. A take or pay agreement is one where company *x* agrees to buy products from company *y* at a later point in time, but if *x* is unable or unwilling to buy this product, it will pay *y* the amount anyway. As the supply of gas was only for power plants, RNRL would not have been entitled to draw any gas for trading and RNRL would have had to forego the contract or abide by the 'take or pay' obligation. This, it was argued, would have led to a strange situation where gas would be sold in the market by RIL and RNRL would have to pay for it anyway without receiving it.
Second, there was no way in which RIL could give firm commitments for supply of a specific quantity every year, because supplies would depend upon proven reserves and actual production. As neither the proven reserves nor production schedules were known in January 2006, the formula that was included in the GSMA linked supplies with actual reserves and actual annual production in the future.[2]
Finally, RNRL's allegation that the agreement was not bankable was wrong as no banks had officially declined finances for the Dadri project, RIL claimed. The 'truth', it was contended by RIL, was that the Anil Dhirubhai Ambani Group 'had raised External Commercial Borrowings (ECBs) for (the) Dadri project and invested them in mutual funds after bringing them to India …' When the country's central bank, the Reserve Bank of India (RBI) questioned this move, as ECBs can only be used for the stated end-use for which funds are borrowed overseas, Reliance Energy in the Anil group, which raised the funds, told the RBI that 'the funds were brought to India … because the Dadri project was at a critical stage of implementation and funds were required'. On the basis of this, RIL raised a few questions: Was Dadri at a critical stage of implementation, as was stated to the RBI, or was it being delayed by RIL, as RNRL told the court? Was RNRL unable to raise funds due to a non-bankable agreement with RIL, or did it raise money through ECBs for the same project? Whatever the answers, RIL said that the claim that Dadri had been delayed because of paucity of funds seemed to be wrong.
All these questions were, however, trivial in comparison to the most important issue before the Bombay High Court: whether India's natural resources, oil and gas, were the property of private individuals or belonged to the state and its people? Could the Ambani brothers decide how to distribute them and determine the price or should the government be responsible for allocating natural resources such as metals and gas? In short, was it RNRL that had the freedom to sell the gas from RIL's KG basin, or was this the prerogative of the government of India's ministry of petroleum and natural gas?
The answers to these questions required the interpretation of the production sharing contract (PSC), signed between RIL and the government of India, under the New Exploration Licensing Policy (NELP). To encourage private and global participants, the government had introduced the NELP to invite open bids for developing India's oil and gas reserves. The fields on the auction block were leased out to winners, and the subsequent production, if any, was to be shared between the government and the private bidder. Both RIL and the government of India categorically told the court that the gas

belonged to the country, and that the fields had only been leased out by the government to RIL. Under the PSC, there were clear clauses that the government would decide to whom the gas would be sold, and at what price. This was critical for two reasons: one, it would allow the government to allocate the gas in accordance with 'national priorities'. For instance, the government might state that it was a national priority to supply gas to fertiliser plants in preference to power generation projects. Two, the price was critical to the sharing of the gas resources between the government and RIL.

There were two elements to this sharing of the gas resources between the two parties: 'cost petroleum' and 'profit petroleum'. 'Cost petroleum' allowed the developer, RIL in this case, to recover its costs initially by selling the gas. This was crucial because gas exploration requires huge funds and no private bidder would invest so much unless it was confident that it could recover its investments at the earliest. Once this process was over, both the private bidder and the government would share the remaining reserves, that is, 'profit petroleum', at a certain predetermined ratio. This would ostensibly enable both to earn huge profits for different reasons: for ownership of the gas fields in the case of the government, and for shouldering the risks in the case of RIL. For calculation of cost and profit petroleum, the price was the key. If the price was low, the private investor would have the option of selling higher quantities to recover costs (cost petroleum, in quantitative terms, equalled total investments divided by price per unit; so, the lower the price, the higher the quantity). To prevent this scenario, where the government could lose its legitimate share of 'profit petroleum', which would fall if the 'cost petroleum' went up, the PSC allowed the government to clear the price at which the gas was sold.

RIL therefore maintained that the price of $2.34 per mBtu, which was decided by the two Ambani brothers, had to be cleared by the government or, in this case, the MoPNG. In fact, 'the board of directors of RIL would be acting in dereliction of their duty if they committed to sell gas to RNRL … irrespective of any government approval or irrespective of the value which would be ascribed to the gas for the purpose of the PSC as RNRL contends,' RIL argued in court. The company also claimed that RNRL was aware of the need for approvals. For instance, the family MoU stated that 'in relation to applicable governmental and statutory approvals … RIL and Reliance-ADA Group would jointly work towards obtaining such approvals….' After RIL asked the MoPNG to clear the price of $2.34 per mBtu (based on the company's 2004 response to the bid that was called for by the NTPC), RNRL wrote a letter to the ministry on 9 May 2006 urging it to accord 'approval for the formula/basis of pricing of gas.' The government rejected this price on 26 July 2006. Subsequently, RIL made a fresh price discovery for its gas by inviting bids from potential customers other than RNRL, and zoomed in on a price of $4.34 per mBtu. This was discussed at a meeting of the Empowered Group of Ministers (EGoM) on 28 August 2007, where RIL was asked to make a few changes in the price calculation formula. RIL agreed. On 12 September, the EGoM accepted the new price of $4.20 per mBtu and said that every user in every sector would have to pay the same price.

On 28 May 2008, the EGoM also finalised the manner in which the gas from RIL's KG basin would be allocated across the various sectors in accordance with the government's prioritisation. The meeting set out the guidelines for a possible production of 40 mscmd by March 2009:

- Existing gas-based urea plants, which are now getting gas below their full requirement, would be supplied gas so as to enable full capacity utilisation;
- A maximum quantity of 3 mscmd would be supplied to existing gas-based LPG [liquefied petroleum gas or cooking gas] plants;
- Up to 18 mscmd natural gas, being the partial requirement of gas-based power plants lying idle/underutilised and likely to be commissioned during 2008–9, and liquid fuel plants, which are now running on liquid fuel and could switch over to natural gas, would be supplied to power

plants;

- A maximum quantity of 5 mscmd would be made available to City Gas Distribution projects for supply of Piped Natural Gas to households and Compressed Natural Gas in the transport sector;
- Any additional gas available, beyond the categories listed above, would be supplied to existing gas-based power plants, as their requirement is more than 18 mscmd.

All these decisions, which were taken by the EGoM even as court proceedings were on, came as a shock to RNRL. The decisions indicated to Anil that the petroleum ministry was hand-in-glove with RIL and intended to deny RNRL its 'right' over RIL's gas. With the new regulations and directions, RNRL's price had clearly been rejected, and the government had even decided the recipients of the gas with RNRL excluded from the priority list. All that the EGoM had stated was that RNRL's claim to KG gas would be considered as and when its power projects were nearer their completion dates.

Anil was livid. He thought the government was being blatantly unfair for several important reasons. One, he was convinced that under the PSC, the government had no right to fix the price of gas. It could only clear the formula to be used to arrive at a specific price of gas. Anil also sought to draw a distinction between 'price' and 'value' (as will be subsequently explained). What this implied was that the government was only interested in its share of profit petroleum, which should be decided in accordance with a fair and market-related value of the gas. This was to prevent the contractor (or RIL-Niko) from ascribing a lower value to the gas, thereby increasing in quantitative terms the share of cost petroleum. However, the actual price at which the gas was sold was to be at the sole discretion of the seller (RIL). Anil, therefore, argued that for the purpose of calculating cost and profit petroleum, the government was justified in using the EGoM value of $4.20 per mBtu. It could not, however, prevent RIL from selling the gas at a lower price of $2.34 per mBtu and that actual sales had nothing to do with the government.

In several interviews, Anil explained the difference between 'price' and 'value' using an analogy. If you were selling a flat, you could sell it at whatever price you wanted, either below or above the market rate. However, the government, or the relevant authorities, would ascribe a market value to the property in order to calculate the taxes and stamp duty payable. The same norms, he contended, applied to natural resources.

This was also admitted by the government in response to several questions raised in Parliament. On 30 August 2008, replying to a question, petroleum minister Murli Deora responded that the 'government does not fix price of gas. The role of the government is to approve the valuation of gas for the purpose of determining the government take (or share of the gas).' Similarly, the minutes of the EGoM meeting on 12 September 2007 stated that 'the decision taken in today's EGoM meeting will be without prejudice to the NTPC *vs* RIL and RNRL *vs* RIL court cases, which are at present *sub judice*.' Thus, the government had not expressly rejected the price of $2.34 per mBtu. Earlier, in November 2006, a committee of bureaucrats of the MoPNG had presented a report to 'formulate transparent guidelines for approval of the gas price formula' under production sharing contracts which categorically recorded that the government's 'mandate is not to determine the principles of pricing of natural gas, but merely to suggest transparent guidelines for valuation of natural gas'. It was pointed out that the government had no role to play in fixing prices. At the same time, the PSC contractor, that is, RIL, had the freedom to market its share of cost and profit petroleum. This too was admitted by the government in answers to parliamentary questions and in other official correspondence and documents. The only restriction the PSC imposed on the seller was that all sales had to be at 'arm's length', in other words, the buyer and seller would have to be independent of each other with the market determining prices in order to avoid conflicts of interest. The PSC defined 'arm's length' as 'sales made freely in the open market between unrelated buyers and sellers'. RNRL's legal position in

court was to reject the government's argument that the price decided between RIL and RNRL was not at 'arm's length' as RNRL had been a subsidiary of RIL when the family MoU had been signed by the Ambani brothers. According to Anil, the price of $2.34 per mBtu was benchmarked against the RIL-NTPC price, which 'was the result of international competitive bidding'. RNRL argued that such a price 'cannot be subject to government approval' as that 'would destroy the sanctity of the tender(ing) process itself'. If the government approves a price that is higher or lower than the price discovered through a tendering process, then the process would be totally vitiated, RNRL argued.
The government's counter-argument was that the sanctity of the PSC would be destroyed if the price and the value of gas were two different figures. It maintained that the gas had to be sold at the same price at which it had been valued in accordance with an approved formula. RIL argued that if the price and value were considered as separate figures, with price much lower than value, it would amount to RIL absorbing the difference as a loss in its balance sheet and that there was nothing in the MoU or the de-merger agreement that required RIL to give RNRL a huge subsidy. Mukesh indeed felt that this was precisely what Anil wanted, that is, RIL would supply gas at a low price to RNRL, which would in turn sell it to its own associate or group companies or other companies at the prevailing market prices, thereby enabling the latter to earn huge profits at the expense of the former. Obviously, Mukesh did not want Anil to benefit in this manner, especially because this would hurt RIL's interests.
Finally, on 15 June 2009, the Bombay High Court gave its final judgement, arriving at the following conclusions on the various contentious issues:

- The family MoU does form the very basis according to which the parties were expected to enter into an agreement in consonance with what was agreed between the parties and that the MoU held salience over the de-merger agreement.
- RIL and its board were fully aware of the settlement between the promoters and, therefore, RIL could not claim that the MoU had no place in the corporate domain.
- The MoU and its contents [were] binding on both parties—RIL and RNRL. Mukesh Ambani and his group of companies and Anil Ambani and his group of companies have already initiated necessary action on the basis of the MoU .
- Moreover, there is a fixed quantum of gas which stands allocated to the Anil Ambani group, that is, 28 mscmd to REL [Reliance Energy Ltd] and in the event [the] NTPC contract does not materialise or is cancelled the entitlement of NTPC to the said extent shall go to the Anil Ambani group.
- The allocation to RNRL cannot be subject to allocation by the government under the PSC nor any allocation of the gas by the government amongst its nominees may affect this assured quantity of allocation and it will have to be from the share of RIL from quota of cost and profit gas.
- Finally, the court said there is no specific provision under the PSC to prevent the contractor from selling the gas at a price lower than the price fixed by the government for valuation of gas to the extent of its share.

A little over a month after the Bombay High Court judgement, on 9 July 2009, a revealing blog was posted by a certain 'Sam', which disclosed the way in which lobbying had taken place. The contents of this blog have never been disputed even after these were quoted by various journalists, including Sucheta Dalal, managing editor, *Moneylife*. The blog is reproduced in full below[3]:

A deeply divided Cabinet is upset with the shenanigans of the Murli Deora controlled Petroleum and Natural Gas Ministry, also known as Mukesh Ambani's B Team in the capital. With the stakes extremely high in their battle over gas, no stone is being left unturned by Mukesh Ambani and Murli

Deora. But this has left senior ruling party politicians fuming for the blatant disregard of the rule of law to ensure that Mukesh Ambani gets his right of way. Forget younger brother Anil Ambani who is fighting him for the gas. Public Sector power utility NTPC [National Thermal Power Corporation] also be damned. NTPC has been waging a running battle with RIL, now lodged in the courts to get its share of KG Basin gas for its Kawas and Gandhar plants. But to no avail; a powerless power ministry has been tripped repeatedly by the all powerful Petroleum Ministry. With the government practically impleading itself in the Ambani gas row to protect Mukesh Ambani's interests in the gas row, calling the family MoU as null and void in the matter, despite the honourable Maharashtra High Court ruling in favour of Anil Ambani owned Reliance Natural Resources, caution has now been thrown to the winds.

The government's law officers are perturbed at the appropriation of absolute power by Reliance Industries. The government's response in the honourable Supreme Court vetted by RIL officials and presented in a brazen manner by Mohan Parasaran and T.S. Doabia. What has shocked one and all and a senior Cabinet minister has privately even called it a disgrace and a matter of shame is the manner in which Justice Doabia is being allowed to subvert the system. Doabia, a retired justice is incidentally the same man who wrote to SEBI (the Securities and Exchange Board of India) and the Ministry of Finance seeking a probe in the Anil Ambani owned Reliance Power IPO [initial public offering of shares] a couple of years back using the plea that the interest of the public should be protected and the said IPO should not be allowed to proceed. It was proved that the missive was fired off with *mala fide* intent and both the Ministry of Finance and SEBI threw out the petition and allowed the IPO to go ahead.

Now the same Doabia is once again leading the charge in the framing of the government affidavit against RNRL. With the prime minister travelling abroad and the Cabinet and senior government law officers not even informed or approached, the Petroleum Ministry is functioning in an arbitrary and unilateral manner. Since the Cabinet has not even approved the strategy adopted by the Petroleum Ministry, it is fair to say that there is consternation in the ranks of the UPA coalition. With the Centre urging the apex court to quash the 15 June Bombay High Court order directing Mukesh Ambani to fulfil his 'commitment' and provide gas to Anil Ambani's RNRL as per an MoU between them, suggesting that it was null and void and that the Ambani brothers could not hold the economy hostage, the pinch is being felt by RNRL and not RIL. Very cleverly, the Centre, read Petroleum Ministry and its Minister Murli Deora is using the Ambani brothers tag to target younger sibling Anil Ambani only. The role of Parasaran and Doabia, noted Anil Ambani baiters in this is also not lost on several top ranking politicians who believe that the younger Ambani might be getting the worst end of the stick. What is even more intriguing is that Doabia was the government's counsel in the RIL-RNRL dispute in the Bombay High Court from the beginning. As senior government counsel in the high profile case, he was instrumental in the government involving itself in what was essentially a dispute between two brothers. CNBC TV 18 reported on November 18, 2007 that Doabia was replaced by [the] then additional solicitor general Mohan Parasaran in the case. Doabia came under fire after NTPC fighting a parallel gas row case against RIL found the senior counsel compromising its own position in the Bombay High Court. Yet, both Doabia and Parasaran have been at the vanguard of the petroleum ministry's role in adopting an interventionist stance on behalf of Mukesh Ambani. NTPC had trashed the government counsel Doabia's submission that it had no case against RIL since it did not have a concluded gas supply pact with RIL. NTPC Chairman R.S. Sharma had told the *Economic Times* (22 August 2008) that the 'RIL-NTPC agreement was legally valid and concluded one. The counsel's comments are false and misleading, our lawyers will strongly deny such loose statements in a court of law.'

Fiction however, is stranger than fact in the gas saga as Mukesh Ambani's B Team—the petroleum

ministry—pulls out all the stops to ensure that RIL and Ambani Sr do not give any gas to the younger brother. A small aside on the RIL-NTPC case, which is shrouded in controversy. On June 18, 2005, the family MoU was inked and RIL pulled the plug on its gas supply agreement with NTPC (a day earlier) on June 17, 2005 by dashing off a letter to NTPC saying that the gas supply agreement was not a concluded one. At every step, there has been subterfuge used by RIL and the petroleum ministry to thwart RNRL.

The June 2009 Bombay High Court judgment appeared to be a total victory for Anil. Obviously, Mukesh and the government could not accept the situation lying down. They had to fight back. In that sense, the court ruling marked only the beginning of a long-drawn- out legal battle. The next stop for all three parties was the Supreme Court of India, which witnessed the next phase of the drama. There was, however, always more to the battles between the Ambani siblings than met the eye. A corporate captain, who says he is lucky he has never had to compete with the Ambanis, had this to say on condition of anonymity:

When the Ambanis enter a battlefield, they don't just aim for a complete victory over their opponent. After they have vanquished their rival, they ensure that subsequent events unfold in such a manner as to create awe, respect and fear for them in order to dissuade potential competitors from thinking about taking them on in the future.

There is yet another saying about the Ambanis: 'Once the enemy has been defeated, the victor appears generous—the loser invariably joins hands with his erstwhile adversary, even begging the latter to forgive and forget.' This, in fact, actually happened with many former rivals of the Reliance group, the most famous of them being Kapal Mehra (of Orkay Mills). The Ambanis were certainly not unhappy when the *Indian Express* group, which had taken them on, got trifurcated after the death of Ram Nath Goenka in October 1991. Therefore, when Mukesh—with the government on his side, although some would contend that it was really the other way round—defeated Anil in a legal battle that culminated in the Supreme Court verdict of 7 May 2010 (which has been detailed earlier in Chapter 1), one expected something more to happen. It did, indeed.

It occurred through a series of dramatic events within weeks. The clock turned full circle: five years after Mukesh and Anil split the Reliance group between themselves in June 2005 and embarked on their bitter, messy and aggressive dispute on pricing and access to natural gas from the KG basin, the brothers decided to call a truce.

On 23 May 2010, a Sunday afternoon, RIL and RNRL issued identical press statements a few days after both the Ambani brothers had independently met prime minister Manmohan Singh and other important politicians. The release stated that the old 'non-compete' agreement, which had prevented each brother from getting into the other's territories, had been scrapped. Now both groups could encroach upon each other's business lines: RIL could get into telecommunications, power, financial services and entertainment, while RNRL and the other companies in the Anil group could enter areas such as textiles, petrochemicals, and exploration and refining of oil and gas. The only caveat was that under the new 'non-compete' agreement, Mukesh would not set up gas-fired power generation plants till the end of March 2022, apart from captive units. The new and simpler non-compete agreement 'will eliminate any room for further disputes between the groups … on the scope and interpretation of the non-compete obligations', which would in turn bring about an 'environment of harmony and collaboration between the groups' headed by the two Ambani brothers.

The news drove up the prices of the shares of both companies the following morning. Kokilaben was reportedly inundated with congratulatory messages from Union ministers. Among them were the then

finance minister Pranab Mukherjee, the then road transport and highways minister Kamal Nath, the then corporate affairs minister Salman Khurshid, and the then civil aviation minister Praful Patel. Mukherjee, an old acquaintance of Dhirubhai, was effusive about how the new agreement would not merely lead to 'healthy competition' but also have a 'real positive impact on the corporate world', and that 'other companies will draw confidence from them as this would mean an end of the rivalry' between the brothers.

On 6 June 2010, the board of directors of Anil's Reliance Communications approved a future sale of 26 per cent stake in the company at a premium price. This was along expected lines after the new non-compete deal was announced. The earlier agreement, which had a clause relating to the right of first refusal, had at one time effectively prevented the younger Ambani from effecting a merger with South African telecommunications group MTN (as discussed in Chapter 3). Under the new agreement, Anil was free to scout for a strategic investor in the telecom venture, something that he desperately needed to do, and fast. On 8 June, Anil dropped a defamation suit claiming Rs 10,000 crore as damages that he had filed against his elder brother in the high court at Mumbai. The suit had been filed in September 2008 just after Mukesh's RIL had thwarted his attempt to tie up with MTN. Anil had alleged that Mukesh had defamed him in an interview to the *New York Times* (15 June 2008), which had been reproduced in two leading Indian newspapers. The *NYT* had quoted Mukesh claiming that what most distinguishes Reliance from its rivals is what [the family's] friends and associates describe as his "intelligence agency", a network of lobbyists and spies in New Delhi who they say collect data about the vulnerabilities of the powerful, about the minutiae of bureaucrats' schedules, about the activities of their competitors.

Mukesh said in the interview that such activities had been overseen by his brother before they split, and had since been expunged from his tranche of the company. 'We de-merged all of that,' Mukesh told the *NYT*.

Three days later, on 11 June 2010, Mukesh decided to jump into telecom, which had been his dream project before Anil snatched it away from him after the split. RIL unfolded a mega-plan to enter the broadband services business. The company's release stated that it would invest Rs 4,800 crore to buy a 95 per cent stake in Infotel Broadband Services, a successful bidder in all the 22 telecom 'circles' (or areas) after the government concluded its public auction of broadband spectrum.

A couple of days after this news, there were reports that both the Ambani brothers, along with their wives and children, had spent almost three days together (between 8 June and 10 June), at the Kruger National Park in South Africa, a venue where the entire family had vacationed in 2000 when their father Dhirubhai was still alive. The Kolkata-based newspaper, the *Telegraph* (14 June 2010) wrote: 'Amid the flora and fauna, the two brothers reportedly worked on redefining the contours of their new business relationship, having reached a much-publicized truce just three weeks ago….'

However, the millions of Reliance group shareholders, who had invested in companies controlled by both the brothers, were waiting with expectancy for the big day. This was the day of the annual general meeting (AGM) of the Mukesh-headed RIL on 18 June 2010, exactly five years after the Ambani siblings decided to part ways. 'With the legal dispute [over gas] behind us, we look forward to [a] harmonious and constructive relationship with [the] Anil Dhirubhai Ambani Group,' Mukesh reiterated at the AGM. He added that his company was drawing up 'specific plans for mega-investments' in the power sector, including renewable energy, such as clean oil, solar and nuclear. The message was clear: Mukesh was telling the world and his brother (literally), as well as the government that he would now enter into two areas hitherto reserved for Anil under the old non-compete agreement, namely, telecom and power. Finally, the companies headed by the brothers had to adhere to the specific directions of the Supreme Court: Mukesh's RIL and Anil's RNRL had to ink a new gas sale master agreement in accordance with extant government guidelines within six weeks.

Had the wheel turned full circle? Not really. As is commonly perceived about the Ambanis, the victor had forced the loser to patch up, join hands, and beg for survival. However, as the two opponents in this case were members of the Ambani family, both sides claimed that they had won the war, and had forced the other brother to fall in line and publicly declare peace. First, the Mukesh camp explained that it had ensured a complete, and clear, victory on the gas issue. Apart from the Supreme Court judgement in favour of RIL and the government, on 19 May 2010, the Union cabinet had more than doubled the administered prices of natural gas to $4.20 per mBtu, against an earlier price of $1.82 per mBtu. As is explained, the government's logic was that state-owned companies like the ONGC and OIL, which were forced to sell gas at the lower prices, were incurring huge losses on their sales of gas and therefore the higher price was crucial to ensure their commercial viability. Government officials added that this was a huge step towards 'reforms' in the oil and gas industry in the country as the decision pegged domestic gas prices of all producers, public and private, to the global open market. It was argued that the revision in gas prices would create a level playing field: public sector undertakings (PSUs) like ONGC would be able to compete on an equal footing not just with Mukesh's RIL (which had already been allowed to sell at the higher price of $4.20 per mBtu) but also giant multinational oil corporations such as Cairn and Exxon.

What cannot, however, be denied is the simple fact that the move to hike administered prices of natural gas eminently suited the interests of RIL, even if the decision translated into higher power tariffs and fertiliser prices. The then power minister, Sushilkumar Shinde, acknowledged that the price of gas-based power could now rise by around Rs 1.20 per kilowatt hour. The price of compressed natural gas (CNG) sold to automobiles in Delhi and Mumbai rose by roughly Rs 6 per kilogramme, while piped gas for households rose by around Rs 4 per cubic metre. On 21 May, the politburo of the Communist Party of India (Marxist) opposed the decision to increase gas prices at a time when inflation was running high. The party's statement alleged this had been done to bring the price of gas produced by ONGC 'in line with the price approved by the government for the gas produced by RIL'. In effect, what the CPI(M) claimed was that the government's decision made it that much easier for RIL to find buyers for its gas at $4.20 per mBtu as it would no longer have to compete against PSUs like ONGC, which were supplying gas at lower prices. This point was important because throughout the legal battle between the Ambani brothers, Anil had claimed that there was surplus gas in India, and that Mukesh's RIL would find it difficult to find buyers for its gas from the KG basin at the higher price.

The most important aspect of the hike in administered prices of gas was that a not-so-subtle message had gone out to all in industry (whether private or state-owned): it was made amply clear (if it was not already) that, henceforth, RIL could play a major role in influencing the price of gas.[4]

Days after the 7 May 2010 Supreme Court judgement, P.M.S. Prasad, head of RIL's exploration activities, said that the company had discovered smaller gas reserves in the KG basin, apart from D6. He, however, added that it would be unviable to exploit them unless gas prices were raised to $6–7 per mBtu. By early-2013, RIL was demanding that the new administered price of gas be hiked to as high as $14 per mBtu after its contract expires at end of March 2014. An RIL source told us that the government of India had accepted that in view of increases in various costs, like the cost of leasing rigs, the price of natural gas in India would exceed $6 per mBtu in the near future. This implied that as and when Anil's Dadri power plant is ready to receive gas from RIL, and the government allocates gas supplies for the project (which may or may not happen), he may have to pay an even higher price for the fuel than $4.20 per mBtu. Clearly, Anil's two-pronged strategy was either to buy gas cheap from Mukesh and sell it at a higher price to his own and/or other power plants to make a killing or to become one of the cheapest power producers in the country. However, both parts of the strategy failed. More importantly, after the Supreme Court order, a huge question mark hung over the establishment

of the largest gas-fired power plant (in India and Asia) at Dadri. The court had now empowered the government to fix gas prices and there was just no way Anil could have persuaded his older brother's company to sell gas at $2.34 per mBtu as had been specified in the 2005 family MoU. The only solution available to Anil was to ensure that his brother seriously acts on the Supreme Court's direction to them and ensure that the new GSMA be in the interest of shareholders of both RIL and RNRL, numbering three million. If Anil was to transform the legal setback into an opportunity, he needed to stop sparring with Mukesh, and sit across the table with him. He had to arrive at a new agreement on the utilisation and pricing of natural gas in consultation with the government. This was one of the reasons that forced Anil to make the first moves to mend fences with his elder brother.

In addition, Anil had to act quickly on implementing the other power projects (coal-based and hydroelectric, with a total envisaged installed capacity of 23,000 megawatts) that were in his bag, including three ultra mega-power projects. This was critical for Anil to prove his mettle as a builder of mega-projects as he had a long way to go, having achieved at that time financial closures for only 17 per cent of the proposed power generation capacities that he intended to set up. It was time for Anil to implement these ambitious power projects rather than expend time, money and organisational energy sparring with his elder brother. Now the new non-compete deal with his brother could help him move in this direction.

Ever since the nixed merger with MTN of South Africa, Anil's telecom venture has faced a great deal of 'competitive' heat. With Mukesh entering the broadband wireless space, he needed the readymade infrastructure, in terms of wireless towers or an optic fibre network, to roll out services quickly. The two decided to bury the hatchet and strike a deal to share infrastructural facilities which was formally announced in June 2013. Anil's financial constraints and the strategic compulsions to restructure the operations of Reliance Communications Ltd, was an important reason that forced him to come to the table for peace talks after the Supreme Court judgement on the gas issue, claim sources close to Mukesh. It is indeed true that the brothers patched up because the telecom infrastructure sharing deal made good business sense to both. But to also interpret the move as signifying the end of the bitter internecine fratricidal battle would not be correct. Many differences continued to simmer beneath the surface, the most significant one being Anil's inability to make significant progress in setting up gas-based power projects.

Anil's side obviously had a different spin on the sequence of events. According to this version, touted in several television shows by journalists and experts close to Anil, the removal of the old non-compete clauses was more beneficial to Mukesh. To begin with, Mukesh's RIL had, for decades, thrived on backward integration in the oil and gas, petrochemicals and textiles sectors that enabled it to become self-sufficient in acquiring inputs and raw materials. This, in turn, led to a lowering of production costs, thereby throttling its competitors. RIL's strategy was also anchored by the establishment of mega-sized projects in order to achieve market domination through monopoly power. If all the important policy decisions relating to the hydrocarbons sector were to be taken by politicians in power and their loyal and pliant bureaucrats, as the Supreme Court order stated, a loss of control in backward linkages (in pricing and allocation of gas) could make it that much more difficult for a company like RIL to continually lower input costs along the entire production chain. In other words, RIL would obviously have preferred a situation in which it had control over gas prices with minimal or no government intervention. But Mukesh realised that it was quite unrealistic to expect such an 'ideal' situation. He, thus, had no choice but to continue to lobby with the government and make sure that friendly ministers and bureaucrats were in position to ensure that official policy—on pricing and allocation—never turned hostile against his company's interests.[5]

The question was whether Mukesh had gone too far in putting his brother in place, so far as to make his own position vulnerable. He ensured that Anil did not get gas from the KG basin for his Dadri

project but in the process also brought about greater government control over this sector. This issue was pertinent because Mukesh had envisaged that he would use gas from the KG basin to fuel his various captive units (refineries and gas-cracking petrochemical plants), but now it was difficult for him to pursue this strategy, which would have enabled total backward integration (to be in control of the entire manufacturing chain from gas to polyester and plastics). Now the last link in the chain (natural gas) remained incomplete.

Besides, the rivalry has taken a financial toll on both brothers. It is estimated that each brother spent around Rs 50 lakh a day (including fees for high-profile lawyers like Ram Jethmalani, Harish Salve and Abhishek Manu Singhvi) during the 26 days of hearings that took place between October and December 2009; this does not of course account for from the sheer time and effort expended on the legal battle. Although the May 2010 Supreme Court judgement was in favour of Mukesh, he soon started facing a different set of problems. RIL's diversification into retail was making tardy progress and the special economic zones (SEZs) he had hoped to establish in Haryana and Maharashtra had had to be abandoned. The global financial crisis had ensured that he would have to go slow in implementing his plans to get into new areas such as healthcare and pharmaceuticals. In other words, apart from expansion in his core areas, petrochemicals and gas, the elder Ambani was finding it tough to expand his business footprint.

When RIL held its AGM on 18 June 2010, it had an investible surplus of Rs 20,000 crore and this figure would rapidly increase as the company now had government permission to sell gas at a higher price, thereby hiking its overall profits. Analysts estimated that over the next 10 years, RIL's gas business would earn more profits than all the other businesses put together. A few weeks earlier, on 23 May 2010, it had been formally announced that the siblings had decided to patch up, resulting in rise in prices of shares of most of the companies controlled by both the brothers.

Leading politicians and government officials let it be known to the Ambani brothers that their fight had not only hurt their own image, but that of the government as well. As already mentioned, their skirmish had resulted in at least one top bureaucrat, V. K. Sibal, former head of the directorate general of hydrocarbons, losing his job. Another former bureaucrat, Pradip Baijal, who had acted as head of the Telecom Regulatory Authority of India (TRAI) and reportedly almost become the chairman of the Petroleum and Natural Gas Regulatory Board, had to go on the defensive. The sibling rivalry also rocked the chairs of at least two cabinet ministers in the Manmohan Singh government, petroleum minister Murli Deora and Union minister for communications and information technology Andimuthu Raja on account of the leak of the infamous Nira Radia recordings to the media. Nira Radia was a high-profile lobbyist, whose public relations firms handled corporate communications and government liaison for two of the most powerful corporate groups in India, those headed by Ratan Tata and Mukesh Ambani. The recordings which were leaked were of conversations involving Radia and Minister Raja over the allocation of spectrum and his reappointment in the second UPA government in May 2009.

The tapes appeared to provide prima facie evidence that Radia, acting on behalf of the Tatas, had tried to influence Raja. The Tata group was forced to issue a clarification that although Radia handled lobbying work for the group, there was no illegal exchange of money involved in her activities and that their objective was to ensure a level- playing field for all operators in the telecom sector. It was suggested by some that the leak of the recordings of the Radia conversations was the handiwork of the rivalry between the Ambani brothers.

Besides the telecom sector, the business interests of Mukesh and Anil clashed in the area of energy. Whereas Anil has confined his interests to coal-based energy (since his gas-based power plants did not take off), like Mukesh, he is reportedly serious about getting into nuclear power when the Indian government opens this sector to private entrepreneurs. Sources close to Mukesh claimed that nuclear

power, apart from being a lucrative business, indirectly allows private corporate groups to participate in, and influence, security and diplomatic issues. Even while Dhirubhai was alive, he had actively supported efforts at 'Track II' diplomacy between India and Pakistan: RIL's giant petroleum refinery is located at the port town of Jamnagar, not far from the international border. Some of this was conducted through the Observer Research Foundation, currently headed by a former bureaucrat, Sunjoy Joshi, who, significantly, had worked in the petroleum ministry when the KG gas deal was being worked out.[6]

The unfolding murky saga was clearly far from over.

Culpable Connivance,
Damning Evidence?

5
A STORM OVER THE KG BASIN

As 2010 started drawing to a close, few had any inkling that the waters of the KG-D6 reservoir in the Krishna-Godavari basin in the Bay of Bengal would get murkier and the ocean stormier. Towards the end of November, there were reports that natural gas production had dropped by 15 per cent to 45–46 million standard cubic metres per day (mscmd) from 53–54 mscmd four months earlier. The production from the D1 and D3 gas fields—two of the 18 discoveries in KG-D6 block—had apparently dropped due to 'reservoir complexities'. Reliance Industries Limited (RIL) stated on 30 November: 'For the last 3–4 months, there has been a gradual decline in output. This is due to reservoir complexities. It was not there in the model we had and is something unexpected.'
In less than a month, on the sidelines of a seminar organised by the apex industry association, the Confederation of Indian Industry (CII) in Kolkata, Atul Chandra, president (operations), RIL, asserted that his company wanted a further hike in the prices of deepwater gas from the current $4.20 per million British thermal units (mBtu). He told *Business Standard* (23 December 2010):

Considering the current oil and gas prices and the kind of investment risk involved in exploration of deepwater gas, the price should be higher. I would not like to comment on what should be the price, but it has to be much higher. About five years ago, the drilling of a well would have cost us around $30 million. It has increased to $100-125 million. Current prices certainly hurt, and affects more aggressive expansion plans.

The squabbling over the price of gas was just beginning—all over again. Every few weeks, contradictory reports were put out. On 11 January 2011, the director general of the directorate general of hydrocarbons (DGH) S. K. Srivastava insisted to journalists that RIL would be able to produce 60 mscmd of natural gas from the KG-D6 fields by April. 'They (Reliance) are producing natural gas from 18 wells currently. Two more wells have been drilled (but not put on production) and another two are expected to be finished by March. Once all 22 wells come on stream sometime in April 2011, gas output will again touch 60 mscmd' (*Press Trust of India*, 11 January 2011).
On 22 January 2011, RIL posted its highest quarterly profit in three years. The net profit of the conglomerate met the expectations of stock market analysts and was up by 28.14 per cent at Rs 5,136 crore against Rs 4,008 crore during the corresponding quarter in 2009–10. But the company's results came with a bit of bad news tucked away somewhere in the fine print—natural gas production from KG-D6 fell 12 per cent over the corresponding quarter in the previous year to about 53 mscmd. The bad news turned worse when Niko Resources Limited, the Canadian partner of RIL in the KG project, revealed on its website that the low gas production would continue for at least one more year. Niko made the statement on its website. On 17 February, Niko's chief financial officer Murray Hesje, based in Calgary, Canada, was quoted in media reports saying that the company was not aware of its partner RIL's plans for the KG-D6 block and also the reasons for the budgeting delays. As rumours started doing the rounds, RIL informed the stock exchanges on 19 April:

The projected production figures referred to in the media are purely provisional and indicative and are subject to such variations as may emerge during the actual operations in the future years. These variations can be on account of physical inputs, work programme as well as geological and reservoir complexity.

RIL need not have made promises, since some had already been made in the Indian government's annual *Economic Survey* prepared by the ministry of finance in the last week of February. The government had said that RIL would hit the slated peak gas output of 80 mscmd from the KG-D6 fields in the fiscal year ending on the last day of March 2013. 'The approved field development plan for Dhirubhai-1 and 3 (first two of a dozen gas finds in the KG-D6 block that had started producing) envisages gas production to the tune of 80 mscmd from the third year of commercial production, (that is,) … with effect from 2012-13,' the pre-Budget review of the economy stated. It made another point: gas from KG-D6 had helped India's natural gas production jump 12.80 per cent to 53.59 billion cubic metres (bcm) in 2010–11 against 47.51 bcm in 2009–10.

The government could have been making promises on behalf of RIL, but it came up with a reality check less than a week later. Minister of state for petroleum and natural gas R.P.N. Singh said in a written reply to the Lok Sabha on 2 March 2011 that RIL was producing 50–51 mscmd at the offshore KG-D6 fields, which was about 15 per cent lower than what was being produced in the middle of 2010. The DGH was said to be constantly monitoring the production performance of the block, and had asked Reliance to expeditiously drill more development wells in D1 and D3 fields as approved in the field development plan. The DGH came up with a more precise reply on 9 March: 'As per their (Reliance Industries') plan submitted to us, the gas output from KG- D6 may rise to 67 mscmd a day in April'. A month seemed too long.

In less than three weeks, DG, DGH, Srivastava went on to say that RIL had not kept its commitment on drilling wells in the KG-D6 fields (*NDTV Profit*, 26 April 2011). He added that Reliance had committed to drilling 22 wells on D1 and D3 by April 2011 in order to produce 53.4 mscmd of natural gas. Another 8–9 mscmd was to come from the only oilfield in the otherwise gas-rich KG-D6 block (called the MA oilfield), taking the total output committed in the field development plan (FDP) to 61.88 mscmd by April 2011. Against this, the venture had drilled and completed only 18 production wells on D1 and D3 fields with a combined output of around 42 mscmd. Srivastava refused to say what action the government could take against Reliance. Union Minister for petroleum and natural gas Sudini Jaipal Reddy (who had replaced Murli Deora on 19 January 2011) too seemed to be dilly-dallying on the contentious questions, and was unable to explain the falling gas output. He told journalists on 27 March 2011: 'This fall in the output of KG-D6 has been reported to us. Our DG, DGH is in contact with the operator (Reliance) of KG-D6. We do not know about the reasons for the fall, its technical issues. We are in correspondence with Reliance. We are in contact with them.'[1]

In March 2011, however, the government seemed apparently unconcerned about falling gas output from the KG-D6 basin. Confusion prevailed. The first ripple was felt as news slowly started trickling in that consumers of gas from KG-D6 would face a *pro rata* cut in gas supplies (*Economic Times*, 1 April 2011). There was talk that if the output plummeted further, the government may have to step in to re-allocate gas in favour of high-priority sectors such as fertilisers and power. These priority sectors had been facing an 8–13 per cent fuel shortfall for over three months. 'A *pro rata* cut is a must as production has declined to 50.5 mscmd due to some technical problems in the KG-D6 block,' an unnamed official of the petroleum ministry told the newspaper.

The empowered group of ministers (EGoM) had earlier identified existing gas-based fertiliser plants as top priority customers, followed by existing gas-based liquefied petroleum gas (LPG) plants and

existing power plants. City gas distribution projects, steel, petrochemicals, existing refineries and captive power units figured later in the list. As per the EGoM guidelines, RIL was to allocate 63.309 mscmd to these priority sectors, but was able to supply only 57 mscmd. The first to cry foul was the power ministry, which bluntly said that the short supply could be 'construed as non-compliance of the decision of the EGoM' (*Economic Times*, 7 April 2011). According to the ministry, only 24.5 mscmd of gas was supplied to plants in February 2011 against the allocation of 33 mscmd. The ministry appeared firm and invoked the EGoM's guidelines. The newspaper quoted an unnamed power ministry official writing to his counterpart in the petroleum ministry:

It is requested (*sic*) to kindly furnish the report of supply of KG-D6 gas by Reliance to existing power plants on firm basis and also on fall back basis as decided by EGoM. The reason for short supply may also be given for the same and also take remedial measures to restore the supply as approved by EGoM.

On 8 April 2011, the government intervened, with the petroleum ministry asking Reliance to first supply natural gas to priority sectors like fertilisers and power, if necessary by stopping flow of gas to refineries and steel plants. An unnamed ministry official was quoted in the *Economic Times* (9 April 2011) stating:

Reliance has imposed a *pro rata* cut in supplies to all its customers, including fertiliser and power firms, in view of falling output. We have now instructed them to supply gas to priority sectors in full and if there is any gas left over it should go to other sectors on a *pro rata* basis.

Reliance was asked to impose supply cuts in the following order of priority: city gas distribution (domestic and transport), power, LPG and fertiliser sectors. If there was any gas left, it would go to steel plants, oil refineries and petrochemical plants. The government had reasons to be worried, for it too was paying a price. The fall in gas production meant a rise in the government's outgo on subsidies since the shortfall in fertiliser plants were being replaced by costlier liquid fuels. This also meant lower generation of electricity. With the KG-D6 fields producing 47.5 mscmd in the week ending 26 March 2011, the priority sector allocation of 47.59 mscmd meant that practically nothing would be left for steel plants, refineries and petrochemical units.

Reliance was not expected to let all this go without a murmur—in fact, it didn't. It shot off a recalcitrant letter to the ministry saying that its order could not be implemented without the government indemnifying the company against financial costs. It stuck to the July 2010 policy of *pro rata* allocation, translating into proportionate cuts in supplies to all consumers, including urea-making plants and electricity generation units. The company's contention was that it had signed 'ship-or-pay' contracts with all its customers, wherein it had committed to transport the contracted quantity failing which it would have to pay the pipeline transportation cost. It had customers for 60.76 mscmd while production in the week ending 3 April 2011 was about 49 mscmd.

What Reliance did not expect perhaps was the reaction it received a few days later from the regulator, the DGH, which certainly seemed less pliant than earlier. On 19 April, it rejected two gas discoveries made by RIL in a deep sea block off the Odisha coast (called NEC-25) and the directorate also refused to approve the budget for the KG-D6 field. The grounds for the first were that tests done to confirm reserves were different from the ones recommended by the regulator. The DGH had placed the reserves at 3.5 trillion cubic feet (tcf) compared to about 5 tcf estimated by Reliance. The DGH did not approve the expenditure already incurred on the KG-D6 fields during 2010–11 and also kept the budget for the 2011–12 fiscal year pending. This had always been an extremely sore point with

Reliance, which had frequently highlighted such delays as hampering its work. The DGH asked RIL to include the cost of drilling of two more wells in the D1 and D3 blocks in the budget. RIL countered that expenditure on additional wells would be a drain as they would be tapping the same pool of resources (*The Hindu*, 19 April 2011). The regulator felt the 18 wells already drilled were capable of recovering resources on the D1 and D3 fields and additional wells would not help in raising output (*Times of India*, 20 April 2011).

With Reliance remaining defiant, the petroleum ministry had to write once again to RIL to immediately stop natural gas sales to non- core users like Essar Steel in order to meet the full demand of fertiliser and power plants (*The Hindu*, 25 April 2011). The ministry this time decided to cite the Supreme Court ruling of May 2010 to drive home its point. Reliance Industries, in its dispute with Anil Ambani's Reliance Natural Resources Limited (RNRL) on the pricing and supply of gas, had submitted to the apex court that it was a mere contractor and the government alone had the right to fix price as well as determine the users of the gas. The company had contended that it had no ownership over gas and it was bound by government orders and its gas utilisation policy. The government, however, was not going all out to go after the older Ambani sibling. The ministry's order was based on the rationale that it did not want fertiliser production or power generation during peak summer months to suffer because of a fall in KG-D6 gas output (*The Telegraph*, 26 April 2011).

The Supreme Court card that the government played probably did the trick. On the morning of 9 May 2011, Reliance cut natural gas supplies to non-core users like refineries and steel plants so that full demand of fertiliser and power plants could be met (*The Hindu*, 10 May 2011). The non-core users included Reliance's own refineries and petrochemical plants. It would now be the turn of steelmakers to seethe. Major players in the steel industry like Essar (controlled by the Ruia family) and Ispat Industries argued their case before the government claiming that changing the existing gas allocation policy not only violated the principle of natural justice but also jeopardised huge investments committed in the sector. The petroleum ministry wrote to the steel ministry brandishing the May 2010 Supreme Court judgement. It talked of gas produced from the KG basin being supplied first to the core sectors, with the assurance that the decision was in consonance with the official gas utilisation policy. The ministry repeated the contention of the Supreme Court that the PSC would override any contractual obligation between the contractor and any other party (*Indian Express*, 7 May 2011).

The steel companies then went to court challenging the way in which the petroleum ministry was apportioning gas from the KG basin. The ministry's move was challenged by sponge iron makers Welspun Maxsteel and Ispat in the Bombay High Court and Essar Steel in the Delhi High Court. The latter refused to stay the ministry's decision after the Union government indicated that it would give its opinion on the plea after perusing the Bombay High Court's order on a similar petition. The court had been categorical when stating: 'The ministry of petroleum and natural gas is competent to take a decision on gas supply within the gas utilisation policy laid down by the EGoM.' The court rejected the plea that such a decision can only be taken by the EGoM which had allocated the KG-D6 gas.

Meanwhile, officials from RIL, Niko, the DGH and the petroleum ministry met in Delhi on 2 May 2011 to thrash out the issue of allocating the dwindling gas supplies from KG-D6. It would be a month before the details of this meeting would be revealed by *Mint*(8 June 2011). There were differences of opinion, but both sides were in agreement, willy-nilly, about one issue—that a rise in output would not be possible in the next three years. RIL urged the government to constitute a technical committee of global experts to offer advice on the best way forward. It wanted representatives of its new partner British Petroleum (BP) to be included in the committee. (In July 2011, after months of negotiation between RIL and BP, the government formally approved the purchase by BP of a 30 per cent stake in 21 oil and gas fields including KG-D6.)

The wheel was slowly turning full circle—once again the issue was: 'who owns the gas?' The

government owned it, but Reliance remained adamant about using the gas in its own way. While RIL stuck to its 'technical' reasoning and the DGH harped on the fact that Reliance had failed to drill 22 wells, there appeared to be a missing link somewhere. Joining the dots was a report by investment research firm Sanford C. Bernstein & Company which stated clearly that RIL wanted a hike in the price of natural gas to resume drilling in the KG-D6 fields. 'We believe that RIL doesn't believe it is worth its while to invest additional capital in drilling wells when the price at the beach remains at $4.20 per mBtu,' the report said. It went on to describe the impasse as a 'proxy fight between the government and RIL'. The report emphasised:

Lower production output is primarily a function of the hiatus in development drilling. While it seems likely that the reservoir is more complex than originally anticipated, performance on a per well basis has not been too dissimilar to the original field development plan. Instead, the lower number of development wells drilled (18 versus 22 planned) is primarily the reason for the under-performance. We believe that the natural rate of the decline in production for the KG-D6 wells is around 20 per cent annually, or around 5 per cent per quarter, not substantially different from similar fields around the world.

In case RIL doesn't take any more action on the drilling of wells and connecting those to the reservoir and continues operating with 18 wells, we expect the production to reach a level of around 37–38 mscmd by FY 2013.

The research firm then went into the contentious issue of pricing:

Though (the) Dhirubhai (gas fields) are turning out to be more complex than originally anticipated, there is a broader problem— gas pricing. While there are technical issues with D6, what is being played out is a negotiation by proxy between Reliance and the Indian government on gas pricing. In our view, it is obvious that gas prices will need to be raised to levels with re-numerate investment. India will be a large energy and gas-consuming country in the future. With limited indigenous resources, development of domestic gas is a must.

What prevailed thereafter was utter confusion. While news reports remained inconclusive about the ground situation, with reports of the consistently decreasing gas output, an article on the then just-launched *Firstpost.com* website hazarded a guess on 23 May 2011:

Reliance was hoarding its gas in the expectation that prices would be raised in the not-too-distant future. Given global prices, the company saw the government-administered price of $4.20 per mBtu as too low. At a time when Panna-Mukta gas (where RIL holds a 30 per cent stake) went at $5.73 per mBtu and imported liquefied natural gas (LNG) cost $12–14 per mBtu when it reached Indian shores, RIL clearly did not want to sell gas at $4.20 per mBtu. It would suit RIL's purpose to reduce gas flows from the KG basin and hold on till the prices went up, for a number of reasons.[2]

To return to the issue of declining output of gas from the KG-D6 field, RIL contended that it was unable to step up production due to geological reasons. It added that it needed BP's expertise to boost output. Others were sceptical of RIL's claim in this regard and argued that the 'real' reason why the company was not increasing production was because it was waiting for the government to hike the administered price of gas. The public sector GAIL estimated that India's total gas demand would surge to 500 mscmd by 2021 from 225 mscmd. Petronet LNG, India's biggest supplier of imported liquefied natural gas (LNG), projected this figure at 380–400 mscmd in five years, while Ernst &

Young said gas demand would be at 130–140 mscmd by 2020. Given these projections, Mukesh Ambani's company clearly stood to gain, the more it delayed producing gas. Simply put, it made eminent business sense for Mukesh to refuse to invest further till the DGH sanctioned higher project costs. So, RIL continued to apply pressure on both the DGH and the government to increase investment outlays, or raise gas prices, or both.

As the stalemate continued, it was bound to have its effect on RIL's stock prices and its shareholders. First, Mukesh tried to persuade RIL shareholders to be on his side. On 4 June 2011, he assured investors that the company would take up their concern over gas from its KG- D6 field being sold at less than a third of the price of imported LNG. Shareholders were concerned that many gas customers were paying up to $14 per mBtu for LNG while Reliance was charging $4.20 per unit. Their argument was that the government was discriminating against RIL. Mukesh Ambani played to the gallery: 'Yes, the price of landed gas is $14–16 and (Reliance's price) is $4.20, we have understood your sentiments and your board will transmit this (to the government).'

In this game plan, BP was supposed to play the role of the benevolent white knight. Mukesh was quoted by the *Economic Times*(4 June 2011) saying:

After the government's approval for the BP-Reliance partnership, the KG-D6 reservoirs will be jointly assessed to address the technical issues in ramping up production. Meanwhile, vigorous efforts are under way to accelerate the development process of other discoveries—not only in the KG Basin, but also in Mahanadi, Cambay and other basins.

Share market punters were less than overjoyed with the older Ambani sibling as reports came in that RIL was facing a risk of losing its long-held bellwether position in the stock exchanges since its share performance had been below-average for many months. RIL shares had by this time fallen by nearly 7.5 per cent over the past one year, even as the sensitive index (sensex) of the stock exchange at Mumbai had gained about 1,259 points or 7.5 per cent over the same period. The buzz was that the gain in the sensex would have been higher by at least 300–400 points had the shares of RIL performed in line with broader market trends.

The DGH kept snapping at the heels of RIL. On 12 June 2011, it refused to accredit three natural gas discoveries made by the company in the KG-D6 block. The DGH rejected D30, D31 and D34 finds as commercially exploitable discoveries on account of the low reserves they may be holding. The reason given out was that Reliance and Niko Resources had not provided results of tests done on individual wells to confirm the finds. According to RIL estimates, reserves of 749 billion cubic feet lay in the three finds which would have needed $877.2 million in capital expenditure to produce gas at a peak rate of 5.7 mscmd.

Worse news was to come the very next day, but from unexpected quarters. It came in the form of a draft report by the Comptroller and Auditor General (CAG) of India that was leaked to the media (to the two most widely circulated rival English dailies published from the national capital Delhi, the *Times of India* and the *Hindustan Times*) that minced no words. The CAG rapped the petroleum ministry and the DGH for favouring RIL by allowing it to double the KG-D6 gas field's costs. The 193-page report, titled 'Draft performance audit report on hydrocarbon production sharing contracts', said the petroleum ministry and the DGH had bent rules to grant 'huge benefits' to Reliance when it was allowed to retain entire blocks.[3]

The draft report of the CAG had been sent to the petroleum ministry on 8 June for comments. It should not have been in the public domain, but it was. The report claimed that the gains made by RIL were huge, but the accounting watchdog said it could not quantify these as yet: 'However, at this stage, based on the information provided, we are unable to comment on the reasonableness or

otherwise of the increase in cost, both overall and in respect of individual line items.'
The CAG report said the ministry and DGH allowed Reliance to raise the cost of developing the nation's largest gas fields by 117 per cent. 'The increase in cost from $2.39 billion proposed in the Initial Development Plan (IDP) of May 2004 to $5.196 billion in the addendum to the IDP is likely to have a significant impact on the government of India's financial take.'
The only thing that the report did not say in as many words was that Mukesh Ambani's company had over-billed the government and therefore, caused huge losses to the state exchequer. The insinuations, if any, were clear—it was the government that had lost out on revenues. The ministry and the DGH had allowed Reliance to enter successive exploration phases without the stipulated relinquishment of area and then allowed it to declare the entire contract area as 'discovery area'. This was both 'irregular and incorrect', since drilling of wells and consequential discoveries had not taken place in the major portion of the contract area. The CAG did what it usually does not; it made policy recommendations. The report said:

The role of (the) DGH and (the) government of India representative on the Management Committee may be closely scrutinised to see why the operator was allowed to violate the provisions of the production sharing contract (PSC) and not adhere strictly to the terms of the approved initial development plan. We recommend that government should re-examine delineation of the entire contract area as "discovery area" and take immediate steps for relinquishment of excess area in line with the provisions of the PSC, as also fix accountability for those responsible for this decision.

The petroleum ministry at that time was led by Murli Deora and the Management Committee on KG-D6 included director general, DGH, V.K. Sibal and joint secretary (exploration), Anil Jain. The CAG had conducted the audit of the accounts of Reliance after allegations of 'gold-plating' or artificial inflation of the cost of development of Dhirubhai-1 and 3 gas fields were levelled by the Anil Ambani group. The charges had been made around 2007, long before the Ambani siblings patched up in May 2010. The draft report did not specifically use the term 'gold-plating' but all the pointers were there.
The damage control began almost immediately. Among the first things that the new petroleum minister S. Jaipal Reddy, who had replaced Murli Deora in the January 2011 Cabinet reshuffle, did the following morning was to meet prime minister Manmohan Singh. It was described as a routine meeting, but there was little doubt about what was discussed. Jaipal Reddy's ministry said it would need at least five to six weeks to reply to points raised by the CAG, which had asked for comments in two weeks' time. The ministry was clearly buying time since this delay would inevitably mean that the CAG's final report could not be tabled in Parliament in the monsoon session of Parliament in July. The ruse, as *Mint* (14 June 2011) reported, was that the ministry now had an entirely new set of officials. The idea ostensibly was to stonewall any exposure of the scam.
The petroleum ministry put out a perfunctory statement couched in official jargon:

The draft performance audit report sent by the Office of the Principal Director of Audit, Economic and Service Ministries has been received in this Ministry on 8th June, 2011. The Ministry is examining the draft report. It will prepare a reply to the audit observations after obtaining details from relevant agencies and send it to the Office of the Principal Director of Audit for further necessary action at their end.

Reliance Industries too issued a statement insisting that 'as a responsible operator, it has fully complied with the requirements in the PSC at all times in conducting petroleum operations, and refutes any suggestion to the contrary. The KG-D6 project… has been globally acclaimed for its cost

effective, speedy, flawless execution and smooth commissioning.'
This was the first major statement from RIL since the storm had begun brewing because of falling gas output from the KG-D6 field. Most news items on the subject during those days came with a typical phrase along the lines of 'Reliance officials could not be reached for comments'. It would still be some more days before RIL would come out with something more than a mere statement.
As the word was out about a second-generation (2G) telecommunications spectrum-like scam in the making, the ministry went on the backfoot. It called for restraint from one and all, and contended: 'It would be ... incorrect for the media commentators, political leaders and civil rights activists to jump to conclusions and thus short-circuit the process' of the ministry responding to the CAG's observations.
The government badly needed to salvage the situation. Reliance spokespersons maintained a deafening silence. Mukesh Ambani called on prime minister Manmohan Singh on the afternoon of 24 June. The PMO did not offer any details, and neither did Mukesh's company. What was discussed and transpired at the meeting could be anybody's guess. Interestingly, India's wealthiest man did not meet the petroleum minister to discuss the KG-D6 issue. Meeting the prime minister, after all, was enough.
The situation exacerbated with reports that CBI was hot on the heels of V.K. Sibal, former head of the DGH. This is what a preliminary report of the CBI stated: 'It is alleged that Sibal favoured RIL and approved a phenomenal increase in the capital expenditure from $2.4 billion to $8.8 billion for KG-D6 field between September and December 2006 in lieu of personal favours/services from (the) RIL group of industries.'
The CAG had taken Sibal to task for allowing RIL to retain the entire area of block KG-DWN-98/3 (which holds the KG-D6 discovery) even though the PSC had outlined that the operator should relinquish 25 per cent of the area each time after phase 1 and phase 2 of the exploration. 'Arguments put forward by (Sibal) at various points of time that there was hydrocarbon bearing channels throughout the block area and that consequently the whole block should be declared as contract area are specious, irregular and unacceptable in the absence of drilling of wells, and resulting hydrocarbon discoveries,' the CAG report stated.
Sibal had long fallen by the wayside. But another friend of Mukesh Ambani was to exit the political stage soon: Murli Deora. In the first week of July, with another Union Cabinet reshuffle looming large, corporate affairs minister Murli Deora announced he was resigning citing personal reasons, and affirmed that he would now devote his time to the Congress party. He had earlier been replaced by Jaipal Reddy as petroleum minister on 19 January 2011 at a time when the ministry was facing a lot of flak because the prices of petroleum were being frequently hiked. This was reportedly not going down too well with the Congress party. The ruling party was not just being attacked by its political opponents; there was considerable resentment within the party because of public resentment against inflation being literally 'fuelled' by high diesel prices. Deora denied that his resignation was linked to the CAG report (*Economic Times*, 6 July 2011). The Congress did not want to be in the dock again because of another tainted minister being accused of crony capitalism. Deora had to go; he had outlived his usefulness to the party.
The *Economic Times* (6 July 2011) wrote that the tenure of petroleum minister Deora, once one of the Congress party's biggest fundraisers, was 'dogged by the battle between the Ambani brothers, record oil prices, long delay in clearing the Cairn-Vedanta deal, and, more recently, the CAG probe into the way the oil ministry dealt with Reliance Industries'. The country's leading financial daily recalled how Anil Ambani had openly accused Deora's ministry of favouring RIL and wondered if the reasons for Deora quitting were 'personal'. The paper added that Deora was 'not known for his administrative acumen or patience for policy details' and that his term as petroleum minister 'was clouded with controversies, corporate battles and policy inconsistency'. It pointed out how the former minister and

MP from south Mumbai had refused to grant an extension to the then chairman of ONGC, Subir Raha. The *Economic Times* editorialised how Deora was 'perpetually under the spotlight' and how his resignation offer came 'amid conspiracy theories'.

It was only after Deora had been divested of the petroleum portfolio after a five-year stint, that the DGH was able to act tough with Reliance. Deora's exit, Sibal's indictment and the damning CAG report had all happened too fast. RIL needed to take stock of the situation. And it took its own sweet time to respond—almost a month. Its response on 14 July was more voluminous than the draft CAG report itself—it ran into 250 pages. RIL laid the blame for gold-plating allegations squarely on its corporate rivals: 'Corporate rivalry motivated a few people with vested interests to indulge in a vicious smear campaign.'

The internecine Ambani hostilities were now being fought on a different turf. It had become a proxy war in which no names were named. There was no need to. Everyone knew who the antagonists were and also the protagonists. RIL stated that 'baseless insinuations were made through public advertisements questioning the increase in cost estimates' from $2.4 billion proposed in 2004 to $8.8 billion in 2006 due to a 250 per cent jump in the cost of services between the period of initial assessment and the actual commencement of field development. It took on the CAG's contention that the increase in field cost would mean a lower profit take for the government. 'There is no finding or observation in the CAG's draft audit report that Reliance has falsely inflated its contract cost or that it has dishonestly colluded with any of its suppliers to have them inflate the cost of the goods and services supplied by them,' the company's statement added.

Reliance cocked a snook at the auditor arguing that it neither had any expertise in hydrocarbon exploration nor knowledge of 'good international petroleum industry practices', that it 'confused' the 'authenticity' of expenses with 'desirability' of expenses. It went on to ask the CAG to state in 'clear terms' in its final report that the contract cost had not been dishonestly inflated. It accused the CAG of 'using the benefit of hindsight' to question the technical and operational judgements of the operator that were, in effect, the best possible judgements made at the time, based on the best information available. The RIL statement went on to claim:

> A number of the sections in the CAG's draft audit report demonstrate a comprehensive misreading and misinterpretation on the part of authors of the nature of the project, the norms of good industry practice that apply to development of such fields and issues that should have been kept in focus and which are critical to assessment of whether the revenue interests of the government have been properly protected.

Some respite for Reliance, though, was just round the corner. It was the good news that the company had been anxiously waiting for since 21 February. On 22 July, Jaipal Reddy announced that the government had cleared a $7.2-billion deal for RIL to sell a major stake in 21 of its oil and gas blocks to British Petroleum (BP). Though the ministry itself was competent to clear the deal, Reddy instead played it safe and referred the decision to the Cabinet Committee on Economic Affairs (CCEA) which cleared the deal on 22 July 2011, five months after it had been announced. Of the 23 blocks in which BP wanted to buy a 30 per cent stake, the CCEA approved 21. In the other two, there were technical issues to be sorted out between the government and Reliance. The minister gushed that this would be the single-largest foreign investment in the country's history, and it would also mean induction of vast technical expertise in India's hydrocarbon sector. If Reliance was linking the efforts to raise KG output to clearance of the BP deal, the government had given the company a chance to come clean. Reliance had all along been hoping that BP's deepwater drilling expertise would increase output from the KG-D6 field. The participation of a global leader in deepwater oil and gas fields like BP

strengthened Reliance's defence of its high capital expenditure in the D6 block. The view in industry circles was that BP would have diligently scrutinised the cost of development and production before agreeing on a valuation of the assets. Reliance needed BP's 'certificate' and it got it.

Besides exploration, Reliance and BP had agreed to form a 50:50 joint venture. The venture would be for sourcing and marketing gas in India, which would create the infrastructure for receiving, transporting and marketing natural gas. At this point, however, KG-D6 was producing only 46.8 mscmd. Minister Reddy said the consortium would do its best to ramp up production. 'It (the consortium) needs no instruction. It is its duty,' he was quoted as saying (*Business Standard*, 23 July 2011).

So, was the government trying to bail out Reliance with this mega deal? The deal with BP was described by *Times of India* (23 July 2011) as Mukesh Ambani's 'master stroke'. For one, it was bound to reduce RIL's exploration risk burden and balance the company's funds outflow to US ventures to extract shale gas. Mukesh had made BP happy too—the global major had been eager to enter India's oil and gas exploration sector. With a strong domestic partner such as RIL, BP got the toehold it had been looking for. The oil major also needed to redeem itself and refurbish its tarnished image after the disastrous environmental disaster caused by the Gulf of Mexico spill in April 2010.[4] The RIL-BP deal could benefit both.

But the ghosts of the past would return to haunt Mukesh Ambani.

6
MURKY DEALS, MUDDY WATERS

After the initial euphoria over the discovery of the 'world's largest gas reserve' in 2002 by Reliance Industries Limited (RIL) in the Krishna-Godavari (KG) basin had died down, the topic had all but disappeared from the radar of the Indian media for a few years. Until, that is, the summer of 2007 when the offshore gas fields in the KG basin bounced back into the news. Most of the action took place in New Delhi. Over and above questioning the manner in which the price of gas had been determined, the capital expenditure approved by the government for the development of gas reserves by RIL became a contentious issue. Members of Parliament demanded a Central Bureau of Investigation (CBI) probe into the allegedly dubious way in which capital expenditure had been approved.

RIL's Initial Development Plan (IDP), which envisaged capital expenditure of $2.4 billion, had been submitted to the directorate general of hydrocarbons (DGH) in May 2004 and approved in November that year. The IDP, meant to develop two gas discoveries—Dhirubhai-1 and 3—in the deepwater block then called KG-DWN-98/3, had also projected a gas production of 40 million standard cubic metres per day (mscmd). Reliance Industries literally stepped on the gas once Murli Deora replaced Mani Shankar Aiyar as Union minister for petroleum and natural gas in 2006. It submitted a revised development plan in October that year seeking to double gas production from 40 mscmd to 80 mscmd through an Addendum to the IDP (AIDP). The AIDP proposed by RIL envisaged an increase in capital expenditure by more than three and a half times to $8.8 billion. The DGH acted fast, extraordinarily by the standards of most government organisations in India: it took only 42 days to approve this plan. Since the increased production target was not even proportional to the increase in capital expenditure, the term that started doing the rounds was that RIL was allegedly 'gold-plating' its capital costs to fleece the government.[1]

The United Progressive Alliance (UPA) government headed by prime minister Manmohan Singh was, at that juncture, going through a turbulent phase. The UPA coalition led by the Congress party was dependent on support from MPs belonging to the Left parties for a majority in the Lok Sabha, the lower House of Parliament, and the Communists were repeatedly taking the government to task on various issues. When the gold-plating charges were flung by Left MPs in the Lok Sabha, Singh promptly asked the Prime Minister's Economic Advisory Council (EAC), headed by Chakravarthi Rangarajan, as well as the seniormost civil servant, Cabinet Secretary K.M. Chandrasekhar, to look into the controversy.

The EAC reacted promptly and stated: '…RIL has twice revised the capex (capital expenditure) without a proportionate increase in projected revenues. Higher capex and/or lower rates of extraction of gas would also reduce the pre-tax investment multiple on the basis of which the profit petroleum is shared between government and RIL.' The Council's report even asked the ministry of petroleum and natural gas (MoPNG) to 'take appropriate action to put in place suitable mechanisms for proper scrutiny of capex, developmental expenditure and production profiles to ensure that gains to government are maximized under profit-sharing arrangements.'

It was, in fact, Chandrasekhar's report that first brought the production sharing contract (PSC) signed between the contractor (RIL and Niko) and the government (MoPNG) into the spotlight. This was the same PSC that would be severely criticised by the Comptroller and Auditor General (CAG) of India four years later. Chandrasekhar foresaw the pitfalls of the arrangement quite clearly:

The PSC provides a mechanism to control capex, (the) development plan, approval of budget estimates, monitoring of cost recovery estimates, computing of investment multiples and approval of additional investment proposals. Presently, there is no independent verification of the capital cost by any agency other than the Management Committee wherein the contractor (which, in this case, is RIL) sits on the approval of its own proposal by virtue of being a member of the Management Committee.

The then cabinet secretary added in his report:

Capital expenditure is critical to determine the cost of gas and government share of profit petroleum. The government representatives on the Management Committee, who are nominated by the Ministry of Petroleum & Natural Gas from among officials of the Directorate General of Hydrocarbons, have a key role in cost control. Chief Advisor (Costs), Ministry of Finance, after reviewing the capex plan of KG-DWN-98/3 Block, has opined that the DGH scrutiny is more focused on technical assessment and broad cost estimates in terms of viability of the projects rather than the profit share of the government….

It was obvious that the man in the thick of the controversy was the director general , DGH himself, V.K. Sibal. With all fingers pointing towards him, Sibal compounded matters for the government when he asked Calgary-based consultants, DeGolyer & MacNaughton, to evaluate the escalation in the project's capital expenditure. The company had, in fact, been a consultant to RIL during the drawing up of the IDP. The government nipped this plan in the bud. As the 'gold-plating' issue gathered steam, a small section of the media took up the points of contention. One such publication was *Realpolitik*magazine (September 2007), of which the lead author of this book was once editor. Here is a detailed extract from an article on the matter:

The Union government stands to lose thousands of crores of rupees due to gold-plating of capital expenditure by contractors. Highly placed government sources involved in resolving the issue told *Realpolitik* that RIL's capital expenditure hike from Rs 20,000 crore to Rs 36,000 crore would result in additional profit of about Rs 16,500 crore to RIL. In addition to this, RIL will recover an additional capital cost to the tune of nearly Rs 15,000 crore. The recovery of additional cost and the increase in profit will together generate about Rs 31,000 crore for RIL with the new capital expenditure of Rs 36,000 crore approved by the government.
RIL attributes the increase in capital cost mainly to the increase in rig cost. However, sources say that the examination of RIL's capital expenditure reveals that the cost of rigs as a percentage of total capital cost has in fact come down from 38 per cent to 27 per cent. This means that other costs went up substantially. The project management cost, which is attributable to RIL's internal costs, has increased by 350 per cent, the cost of pipelines has gone up by 750 per cent, and a new cost of Rs 275 crore is added for the purchase of helicopters, etc.
The other allegation relating to pricing of the gas that was yet to be produced had been levelled earlier. Even as the Ambani siblings wrangled over the spoils of their father's empire, a RIL official stoked the fire by rubbing the public sector National Thermal Power Corporation (NTPC) the wrong way. The RIL official, R.P. Sharma, on June 17, 2005 wrote to the Chairman and Managing Director

of NTPC, C.P. Jain: 'As a result of the risk review carried out, and indications from lenders, RIL has concluded that the risk profile in the NTPC gas supply purchase agreement (as currently proposed) does not meet RIL's requirements and would set an unfavourable precedent for RIL in future.' What Sharma meant was that RIL would no longer supply 132 tBtu (trillion British thermal units) of natural gas (or 12 mscmd) for the corporation's Kawas and Gandhar plants.
The next morning, the two Ambanis called for a truce. Among other things, Anil was to receive gas supply for his Dadri plant at the same price of $2.34 per mBtu at which Mukesh's RIL would give it to NTPC. In case RIL's contract with NTPC fell through, Anil's Reliance Natural Resources Ltd (RNRL) would get the same amount of gas, that is, 12 mscmd in addition to his own quota of 28 mscmd. Mukesh had pre-empted the pact and wanted to scuttle the deal with NTPC over low prices so that he could later refuse to supply gas to his younger brother. As both NTPC and Anil went to court, the government washed its hands off the matter. Deora invoked the PSC clause and expressed his inability to mediate since 'the government cannot impose differential pricing if the market can bear higher price'.
So did Petroleum and Natural Gas Secretary M.S. Srinivasan. He wrote to his counterpart in the Power Ministry contending, 'with respect to the issue of this Ministry intervening to impress upon RIL in expediting finalisation of the Gas Supply Purchase Agreement (GSPA), you will appreciate that the provisions of the Production Sharing Contract do not normally provide for the government to determine the outcome of commercial transactions between a buyer and seller. The PSC provides that the contractor has freedom to sell the gas and the basis/formula for gas pricing requires government approval, prior to the commencement of gas production; RIL is yet to apply for approval which will be considered under the provision of the PSC as and when the company seeks such approval.

As the controversy over RIL's capital expenditure and the price of gas heated up, in September 2007, prime minister Manmohan Singh attempted to resolve the stalemate. He formed an empowered group of ministers (EGoM) headed by the then minister for external affairs Pranab Mukherjee, who has never disguised his proximity to the Ambani family. The EGoM fixed the price of gas at $4.2 per million British thermal units (mBtu). On paper it had not agreed to RIL's demand—of $4.3 per mBtu, but it was clear who held sway. Here was a scenario where the DGH was expressly doing RIL's bidding and the ministerial group was making things easier for the gas extractor. One couldn't be sure whether the government was out to appease the contractor, or whether the latter was arm-twisting the former. All links between the government and RIL were circumstantial. But the coincidences were too stark to be ignored. One of these was the set of uncanny similarities between the presentation made by Mukesh Ambani's company and the report submitted by MoPNG to the EGoM during Deora's stint as petroleum minister. Veteran Rajya Sabha MP, Abani Roy of the Revolutionary Socialist Party (RSP) got wind of it and drew the attention of Pranab Mukherjee to this 'coincidence'. Roy's letter was ignored.
On the issue of gas utilisation policy, RIL had said in its presentation on 10 July 2007 that 'marketing freedom implies that there will be no allocation of gas (to specific sectors)'. A petroleum ministry report dated 24 August 2007 said that the 'PSC does not empower the government to earmark gas to certain priority sectors'. There was no difference in the positions adopted by RIL and that of the ministry. Even the fine print was almost identical. On the pricing of gas, RIL stated that the 'PSC should not be interpreted to suggest that the government should frame new (pricing) policies at this stage of the contract'. The ministry, on its part, stated: 'It may not be legally sustainable to impose a new pricing policy midway through the life of a contract.' RIL pointed out that 'Articles 21.6.2 and 21.6.3 of (the) PSC were intended to secure (the) government's share and prevent (the) contractor from indulging in transfer pricing that would siphon off funds'. The ministry agreed that 'the view of

MoPNG has been that… government's role… is only to ensure that the contractor does not indulge in transfer pricing by undervaluing the gas'.

The gas reserve in question was crucial. RIL issued what may be construed as a veiled threat: 'Any attempt to destabilise the KG-D6 project at this stage would be a setback to one of the most promising policy initiatives of (the) GoI (government of India), and would delay projects of national importance which are waiting to come up in the Bay of Bengal'. The ministry concurred: 'Any government intervention… may be construed as interference and manipulation… Migrating to another fiscal regime mid-course in respect of the contracts already signed may be difficult.'

With RIL sticking to its guns and the MoPNG echoing the company's position, it was almost *fait accompli* that the EGoM's decisions would go in favour of Mukesh Ambani's company. This dispute would later find an echo in the report of the CAG of India which dismissed the ministry's responses as mere parroting of the contractor's version. On 7 September 2009, P.M.S. Prasad, the head of RIL's oil and gas business gave a detailed interview to *Business Standard*refuting all the allegations that had been levelled against the company. He said that after gas was discovered in the KG basin in October 2002, nearly a year later, in September 2003, RIL put in a bid to supply gas to the public sector NTPC. Since RIL wanted to 'develop the field as quickly as possible', they put together the IDP at the prevailing prices, which came up to around '$2.5 billion'. At that point of time RIL had estimated gas reserves at 5 trillion cubic feet (tcf), but as the company drilled more wells and conducted 'geotechnical investigations' the estimates were revised upwards to between 10 tcf and 11 tcf. Thus, according to Prasad, RIL 'had to rework the original concepts' which led to the addendum to the IDP (AIDP). He said that when the company reported this higher estimate to the petroleum ministry, the DGH asked them to go ahead and produce more. Prasad added that with most of RIL's commitments 'made in 2006', the company scaled up its production plan from 40 mscmd to 80 mscmd and that is how the capital cost went up to $5.5 billion. The top RIL executive also explained how expenditure had gone up. The rig used to 'discover the field' was hired at a cost of 'about $110,000-115,000 per day' in 2003 and by 2009, it was 'costing the company $800,000 a day'. Prasad said that at the time of the AIDP, the company 'did not project the cost over the life of the field' since they had made a 'bad' cost estimate in 2003 only to have to revise it 'at 2006 prices'. He sought to place the onus on the government for the final estimate of capital investment of $8.8 billion. This was done, he claimed, since 'the government wanted to see what will be the cost through the full life of the field, and we were asked to cost the whole thing'.

Similar views were expressed by B.K. Ganguly, president and chief operating officer (business operations) at RIL when the lead author of this book conducted a series of interviews with him on 1 February 2013 and the following day, which started at RIL's 'onshore terminal' at Gadimoga and continued at the company's guest house in Kakinada and on two offshore rigs more than 20 kilometres off the coast of Andhra Pradesh in the Bay of Bengal. He denied allegations of 'gold- plating' claiming that while capital expenditure had increased four times, gas output too had doubled implying that more investments had to be made to produce the gas.

He said that the IDP submitted in May 2004 envisaged capex of $2.4 billion which was based on 'discovery' and that the document was 'time-bound' since it had to be submitted to the petroleum ministry soon after the discovery had been made. Ganguly interpreted the 'principle inherent' in the New Exploration Licensing Policy (NELP) in the following manner: the government had limited resources for exploration, private companies would be invited for 'time-bound' exploration after which the concerned companies would 'relinquish' the rest of the prospecting areas (where gas was not found) back to the government.

Ganguly said that to prepare an initial development plan, scientific studies have to be conducted. A technical consultant takes between six and nine months to give his advice (and that is why the PSC

signed in 2000 gave the contractor 12 months to submit the IDP). Data accumulation is a dynamic process but at some point of time, the data has to be frozen, he said. The IDP proposal was based on estimates made in 2003 and on market conditions that were then prevailing. At that time, the reserves in the KG-D6 basin had been estimated at 3.8 tcf and the IDP proposed a gas extraction estimate of 40 mscmd.

Meanwhile, Ganguly added, data on gas reserves kept coming in; three-dimensional seismic surveys were also being conducted. Even as the IDP was approved by the DGH in October 2004, RIL made new discoveries in surrounding areas. The reserves were found to be much higher at 11.3 tcf and RIL got an 'independent certificate' from the renowned GCA (Gaffney Cline Associates) saying as such. He stated that RIL drilled two additional wells in 2005 as part of implementing the IDP. The company also conducted extensive 'coring' activity or cutting rocks in cylindrical shapes to analyse the precise contours of the reservoir. Ganguly claims that thereafter, RIL's levels of confidence went up and the company felt that the figure of 11.3 tcf estimated earlier could be an underestimate. He said: 'We thought that the actual capacity of the reservoir may be more,' quickly adding a disclaimer: 'No one in the world can tell you the exact amount of gas or oil in a particular reservoir until it is empty, that is, after all the gas or oil has been extracted and the field abandoned.'

Simply put, the estimates of gas in the KG-D6 basin reservoir kept going up. At the same time, Ganguly clarified that there are three categories of estimates of reserves of oil or gas in a particular reservoir. The first category is 'proved' reserves meaning that there is 90 per cent probability of the estimated amount of oil or gas getting extracted. The second is 'probable' reserves meaning there is 50 per cent probability that the estimated reserves will be extracted; the third category of reserves is 'possible' implying a 10 per cent probability of the estimated reserves getting extracted. Ganguly said that whereas RIL had decided in early-2006 it would submit a revised IDP (the AIDP), this was finally submitted in October 2006. However, the data referred to in the AIDP pertained to the first half of 2006 for purposes of calculating capex and reserves. In 2003, prices of Brent crude oil (whose prices are used as a benchmark) were in the $30–35 per barrel range but this figure had doubled three years later to around $60 per barrel. 'The market was on fire,' he remarked.

Besides international prices of crude oil, there was another area of uncertainty. Ganguly claimed that RIL was unsure about how 'precisely' the government would be levying various taxes and duties, such as sales and service tax. The company also had to meet deadlines. As per the 2004 IDP, gas extraction would have to commence by 2008. This meant that the company would have to start production from KG-D6 in two years. Ganguly put forth yet another explanation for the almost four-fold increase in development costs or capex from $2.4 billion to $8.8 billion. He said the company needed 'connectivity'. RIL had applied for the right of use of the gas pipeline but its application 'got stuck' in the MoPNG for 17 months resulting in a postponement of pipe-laying during 2003–4.

The RIL executive claimed that if his company had implemented the original IDP, the capex would have been $2.4 billion. If the revised IDP or AIDP had been implemented with similar facilities, the capex figure would have been $4.2 billion. However, since the AIDP envisaged a doubling of output to 80 mscmd from 40 mscmd and since costs of production had gone up, the new capex stood at $8.8 billion. 'There is no question of gold-plating,' he claimed.[2]

Ganguly also claimed that the AIDP was 'geologically more complex' than the IDP. He said that 83 robotic vessels had been deployed by RIL to estimate gas reserves and added that this was an indication of how professionally and proficiently the company had gone about its job. Gas production started in April 2009 but by the middle of 2010, pressure was lower than expected. Initially, RIL's engineers believed that this was a 'natural' reservoir phenomenon, wherein the flow of gas goes up and down during the initial stages of extracting gas from a reservoir after which the flow stabilises. But this did not happen. 'We were shocked and horrified when the flow of gas just refused to go up,' a

senior executive of RIL told one of the co-authors of the book on condition of anonymity.
Ganguly was more guarded in his language. He said his technical team was disappointed when the flow of gas from the KG-D6 field did not increase to anticipated levels. He added that thereafter, the company 'acted prudently' and stopped capital expenditure from early-2011 onwards. This, according to Ganguly, 'unfortunately' landed RIL 'in an arbitration with the government' which had not been concluded at the time of completing the book in March 2014.[3] The RIL top executive said that the company's plants in Jamnagar and Hazira were purchasing between 15 mscmd and 20 mscmd of imported LNG at between $14 and $16 per mBtu from January 2011 onwards. Ganguly insisted that RIL had no ulterior motives. He said RIL had drilled two wells in August-September 2010 and 'after the results were negative, we stopped further investment'. Thereafter, at the 'instance of the DGH, we drilled two more wells in July-August 2011 and the results were negative again'. 'It made no sense for us to continue drilling,' said he, adding: 'Drilling one well was costing us between $60 million and $80 million at that time, (that is, between Rs 300 crore and Rs 400 crore); thereafter, in order to develop a single well, our costs would double to between $120 million and $160 million'.
RIL clearly did not want to spend more money at this stage. 'Nobody would have gained if we had invested more and continued to drill wells,' said Ganguly, seeking to add a clincher (that is used over and over again): 'The oil and gas business is a casino business.'

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In the first half of 2011, there was a lull of sorts before the storm broke out. Just when it appeared as if the disputes between RIL and sections of the government over various issues, including the quantity of gas produced from the D6 block in the Krishna-Godavari basin, was blowing over and there was little media attention on the subject, the controversy suddenly hit the headlines once again in the middle of 2011. As already stated, on 12 June that year, the leak of the draft report of the CAG of India caught many napping. Suddenly, KG gas was again in the news—and how?
Articles based on the CAG's draft report, first printed by the *Timesof India* and the *Hindustan Times*, reiterated the allegations that had earlier been made and apparently vindicated the position of those who were arguing that the PSC was heavily weighed against the public interest and loaded in favour of RIL. The draft CAG report also laid bare the alleged nexus between RIL and the MoPNG. It was not the report itself that was embarrassing for the Manmohan Singh government, beleaguered as it was at that time on account of what seemed to be an unending series of scams, but the stand that the CAG had taken on the issue. Reports of the CAG usually come with comments and observations and are often followed by relevant recommendations. This report not only had comments, observations and recommendations, it was stinging in its criticism of the government's policies on extraction of gas from the KG basin in general and the PSC signed between the government (that is, the MoPNG) and the contractor (RIL) in particular. The 197-page draft report had boxes scattered all over the text highlighting specific issues. It did not mince any words nor pull any punches.
RIL was to later claim that the CAG, a constitutional authority set up to oversee public finances, had used the benefit of hindsight to drill huge holes in the deal between the company and the government. RIL had been pushed to the wall. The heat generated by the earlier CAG report on the 2G (second generation) telecommunications spectrum scam had not yet died out, when this one was leaked to the press. Predictably, the company claimed the auditor had exceeded its brief—a similar criticism had been levelled against the CAG after it presented the report on the 2G spectrum scandal. There were other similarities as well between the two reports—both had pointed out how the government lost out on revenues since corporate houses had been allowed to make use of loopholes in the processes used to award contracts, or in the contracts themselves. These scams were not about kickbacks but about

favours granted, about cronyism.
With the 'India Against Corruption' agitation led by Anna Hazare, Arvind Kejriwal and Prashant Bhushan picking momentum across the country, prime minister Manmohan Singh and his Cabinet ministers could ill afford to come out strongly against the CAG. When the CAG came out with its final report titled 'Performance Audit of Hydrocarbon Production Sharing Contracts', which was presented in Parliament on 12 September 2011, at first glance it appeared to have watered down the draft version. But a closer look revealed that while the tone and tenor had been diluted a bit, the essence of the content of the report had not changed ; in fact, it was more damning.
While the CAG report looked at the RJ-ON-90/1 and Panna-Mukta and Mid and South Tapti fields, the bulk of the 203-page document (which now ran into an extra six pages) dwelt on the KG-DWN-98/3 block, better known as KG-D6 block. There were differences in the way in which the two reports were presented. The final report highlighted most of its recommendations in bold type or in boxes to attract attention. Almost all the criticism of the government's policies made its way into the main text of the report. The important findings of the CAG are summarised here (See *Appendix 6* for details).
RIL was allowed to enter the second and third exploration phases without relinquishing 25 per cent of the total contract area at the end of the first and second phase. The government had approved the entire contract area of 7,645 square kilometres as 'discovery area', thus enabling RIL to avoid relinquishment. This was 'land-grab' of a different kind.
In the case of 13 out of the 19 discoveries between October 2002 and July 2008, RIL had without furnishing the initial details of the discoveries, directly given written notifications regarding the potential commercial values of the discoveries.
RIL had submitted an IDP in May 2004 for an estimated capital expenditure of $2.4 billion. This was followed by the AIDP for an estimated capex of $5.2 billion for Phase-I and $3.6 billion for Phase-II of the project. Most procurement activities were undertaken late as per the IDP, while many of those under the AIDP were initiated even before it had been approved.
There were gross irregularities in procurement-related activities. There were instances of huge procurement contracts where there was no reasonableness of costs incurred, primarily due to lack of adequate competition since these were awarded on single financial bids. There were other irregularities like major revisions in scope, quantities and specifications.
Among the new chunks of text that were added in the final report of the CAG was an explanatory note in the Executive Summary—that it had been asked by the government of India to carry out the special audit. It said that in November 2007, the secretary, MoPNG, requested the CAG to conduct a special audit for PSCs for eight blocks for which regular audit had been carried out earlier. 'MoPNG's request was made in the context of large stakes of the government in the form of royalty and profit petroleum, and concerns raised in some quarters about the capital expenditure being incurred by some contractors in the development of projects awarded under NELP.'
The reason for this insertion was not difficult to guess. All along— before, during and after the leak of the draft CAG report—RIL had been saying that the auditing of its accounts was out of the purview of the CAG. This was the auditor's way of putting the record straight. It also referred to the political storm that had raged in 2007.
In his 7 September 2009 interview with *Business Standard*, RIL's top executive P.M.S. Prasad had been asked why his company had for two years stalled providing information to the CAG in 2006–7 if RIL was confident that it had valid explanations for the cost escalations and increases in capital expenditure. Prasad said that he had interacted with CAG officials first in April 2009 when there was 'a meeting in the petroleum ministry to which eight operators were invited' and the government had told all of them that the CAG would 'audit contractors'. He added that he had another meeting with the CAG later that year, in August, that was 'specific for D6' where he welcomed the audit but said

that the government (MoPNG) had already appointed an internal auditor for auditing the company's records for 2006–7 and that as per the official agreement, that is, the PSC, 'only one audit' was provided for. In the meeting attended by Prasad, he said he had suggested that the CAG could start the audit on a 'prospective basis', that is, after 2006–7.
The CAG's report was replete with critical remarks about the way the PSCs had been structured. The executive summary of the report clearly stated that the CAG audit's main objectives were to verify whether:

- The systems and procedures of MoPNG and DGH to monitor and ensure compliance by the operators and contractors of the blocks with the terms of the PSCs were adequate and effective.
- The revenue interests of the government (including royalty and the GoI's share of profit petroleum) were properly protected, and adequate and effective mechanisms were in position for this purpose.

The CAG had apparently learnt its lessons from the reactions to the leaked draft report. It wanted to categorically specify that it was only doing its job. This also sent out a clear signal to RIL—the CAG's mandate was to look into the performance of the PSCs, and the need to go through the books of the company headed by Mukesh Ambani was only a means towards achieving this end. The PSC, which came across as a *leitmotif* in the draft report with its recommendations and observations, now became the central theme of the final report of the CAG. The final report was strident in its indictment of the government and its officials, insinuating how the PSC itself had deliberately been kept pliable and was thus responsible for promoting crony capitalism, though it did not use such language. The government auditor played it safe in case it was accused of picking on RIL. The CAG's final report stated:

Audit also wishes to firmly emphasise that all our enquiries and findings emerge from, and are limited to the PSC. We do not profess to go into any procedure or policy related aspects leading to the conclusion of the PSC. Taking the PSC as given, we have merely examined the contractual obligations of the signatories to the contract, *viz*. the government and the private contractors. Our findings are totally guided by the 'written word' of the contract.

The section on 'scope limitation' in the executive summary of the final CAG report held that its scrutiny was consistent with the provisions of the PSC. There was even an undertone of sarcasm:

Verification of charges and credits relating to the contractor's activities and other documents considered necessary to audit and verify the charges and credits, is not merely limited to arithmetical totalling of charges and credits or tracing of charges/expenses from the accounting statements to the contracts/expense vouchers. Such an exercise would extend to verifying whether the costs being depicted in the PSC accounts by the contractor, which would critically affect the determination of profit petroleum and (the) GoI's share within, are correctly determined, and in particular, costs incurred for procurement of goods and services through a competitive process, so as to minimise costs (and ultimately maximise the GoI share of profit petroleum).

The CAG did not simply want to confine itself to criticising RIL. Its final report was precise. Every flaw or infringement was pegged to the relevant clauses in the PSC that had been signed between RIL and the government. The voluminous report documented both the flagrant violations of the PSC by the contractor as well as alleged acts of negligence and connivance on part of the MoPNG as well as the

regulator, the DGH. Comparing the draft report with the final report of the CAG, one finds that the 'conclusions and general recommendations' in the executive summary have also been altered. Besides merging the bold-type boxes with the main text, the final report made the following observations:

The PSC, as it currently stands, is based on a scaled formula for profit-sharing between the GoI and the private contractors. This is based on a critical parameter—Investment Multiple (IM)— which is essentially an index of the capital-intensive nature of the E&P (exploration and production) project i.e. the amount of 'capex' on exploration and development activities relative to income. The slabs of profit-sharing are so designed that the more capital intensive the project (i.e. lower IM), the lower the GoI share of 'profit petroleum' (which could be as low as 5 to 10 per cent). Contrarily, the higher the IM (i.e. less capital intensive vis-à-vis income), the higher the GoI share of 'profit petroleum' (which could be as high as 85 per cent). In practice, however, the private contractors have inadequate incentives to reduce capital expenditure—and substantial incentive to increase capital expenditure or 'front-end' capital expenditure, so as to retain the IM in the lower slabs or to delay movement to the higher slabs.

Some readers may find this explanation too technical. A simpler explanation is provided here. The point that the CAG and others have repeatedly made as far as the structuring of the PSC is concerned, can be simply (if somewhat simplistically) put as follows: the contract is such that there is a perverse incentive on the part of the contractor to spend more on equipment and other forms of capital expenditure. Why so? The contractor can recover all the extra money thus spent on 'gold-plating'—even bathroom taps—by selling the gas produced. Put differently, the contractor hardly stands to gain by economising on capital expenditure. Who loses? The exchequer, of course.

The CAG subsequently invoked the report of the Ashok Chawla Committee on allocation of natural resources, and said that it had drawn similar conclusions on the IM-based profit-sharing formula. The Chawla panel, headed by the former finance secretary (who went on to head the Competition Commission of India) was a committee of bureaucrats including, incidentally, representatives from the ministry of petroleum and natural gas, the same ministry which was indicted by the government auditor. The Chawla committee had referred to the KG-DWN-98/3 project thus:

The relationship between the pre-tax IM and the share of the contractor 'profit petroleum' changes dramatically once the pre- tax IM crosses 2.5, with the government's share increasing from 28 per cent to 85 per cent. It is useful to remember that this schedule is bid by the operator, and not determined by the Government.

Since the Ashok Chawla Committee had reached similar conclusions, the CAG felt there was enough ground to revisit the formula. It did agree that this knowledge was gained by hindsight, and called for a course correction in future PSCs. The 'hindsight' argument that had been repeatedly voiced by RIL did eventually find resonance in the audit report. Even on the issue of existing PSCs, the CAG conceded that some of its recommendations could be 'misconstrued' as hampering operational flexibility, but the importance of the overall objective of protecting the government of India's revenue interests could not be ignored.

In his September 2009 interview with *Business Standard*, Prasad defended RIL's record on allegations of reducing the payment of the government's share of revenue—profit petroleum—by raising the capex cost even as the gas price was 'fixed' in favour of the company. When asked whether RIL would have earned profits with the price of gas at $2.34 per mBtu (that had been offered to NTPC), Prasad took cover under the cloak of the PSC saying that under its norms, the contracting company first

recovers its investment, following which the government's share of profits increases. He said that assuming an output of 10 tcf of gas, the volume equals 10 mBtu, which when multiplied by $2.34 works out to total revenue of $23.4 billion from the field. RIL would have to recover all costs, which amounted to about $9.5 billion. The government would start earning profits thereafter, its share climbing 'progressively from 10 per cent, up to 80 per cent'. Prasad agreed that if there was lower revenue on account of a lower price, it was 'government profit that would get impacted most' while RIL would recover its costs over a longer period. If the price was $4.20, the total revenue would go up to $42 billion, and the government's profit share would go up while RIL's cost was fixed.
It was pointed out to Prasad that both RIL and the government had a 'stake' in a higher gas price except that for the government, it would result in more subsidies on the end products of the user industries, fertiliser and power. His reaction was an ambivalent 'yes and no' depending on what is used as a basis for comparison. He said that 'typically' natural gas equals the price of crude oil divided by 10 or 15 depending on market conditions. Prasad continued:

When we bid for (supply gas to the Kawas and Gandhar power plants of) NTPC, oil prices were $27 and we looked at the forward curve. After we recover costs, we do make money but it takes me longer to recover costs, and time is money. If NTPC had signed the contract in December 2005, we would have submitted the contract to the government. If approved, we could have been supplying at $2.34.

When asked by T.N. Ninan and Jyoti Mukul of *Business Standard* why, at $4.20 per mBtu, RIL was not able to 'meet production targets' and sell gas 'because prices were lower elsewhere', Prasad gave what apparently seemed to be an innocuous reply:

If the government frees me to sell the gas, or alternatively establish a mechanism to give a list of customers, I can guarantee you the balance of 30-40 mscmd that we are ready to produce, we can contract immediately. I need 15 mscmd for my own captive plants. That's what we have requested the government.

Prasad also tried to discredit the CAG in the process of the interview, albeit subtly. He refuted allegations that RIL's independent 'experts', independent reservoir expert, Dr P. Gopalakrishnan and later the US- based Mustang Engineering—who had said that RIL's capex was low when compared internationally—had in any way benefited from RIL beyond the scope of their contract with the company. Prasad said: 'We didn't know Mustang. We never considered buying them. We are in the business of plants and assets, we do not want to buy engineering companies.' He refuted reports quoting Mustang to the effect that it was 'awarded a multi-million contract' after the audit. The contract was in the Panna-Mukta-Tapti project where British Petroleum (BP) group is the operator. 'We are only a 30 per cent partner and BG (British Gas, part of BP group) is awarding contracts on the basis of competitive bids,' said Prasad.
The head of RIL's oil and gas exploration operation sounded hurt in the *BS* interview. Prasad said it was bad to 'tarnish people's reputation'. He said that he had met Gopalakrishnan 'only once when he came to audit' and that he did not think that the auditor would have met Mukesh Ambani, even at the Pandit Deendayal Petroleum University (in Gandhinagar, capital of Gujarat) where Gopalakrishnan was a visiting faculty member and Ambani the honorary chairman of the private educational institution. Prasad said that Gopalakrishnan 'had a good reputation as reservoir engineer' and had worked for many years with ONGC and then with Kuwait Oil. Finally, he aimed a couple of barbs at the CAG: 'If you put such linkages, and rubbish people's reputation, you won't find anybody. There are four or five people in this space. They might have worked somewhere or the other. Does the CAG

have an industry expert? For that, they will need to get somebody.'
Prasad was asked to comment on the then petroleum minister Murli Deora's closeness to the Ambani family. The interviewers described Deora as a 'friendly minister', to which he said: 'I do not know', adding defensively: 'I am sure he is known to the (Ambani) family and both the brothers equally.'
He put a caveat:

A friendly minister does not mean that he is going to favour us. If that is the perception, I would wish that there was a different minister, because if this perception would not have been there and things would have moved faster. Today, because of this, you have put the minister on the defensive.

Prasad said the government had 'tied itself in knots' by saying different things at different points of time and that is why there was a 'credibility issue'. The way he defended the government's actions seemed almost as if he was conflating the government's moves as RIL's own. He said:

This is a path-breaking exercise, and the government is also interpreting as it goes along. We are the first. We ourselves did not understand what some things meant. We did not know what price approval meant. We thought a gas utilisation policy was something in broad terms. We did not know that it was not only sectoral priorities but constraints on our marketing freedom and also that they can allocate customers in each segment by volume and then say you cannot give more or less.

Prasad said the formation of the EGoM had cleared the way for the government to take decisions and that before this took place, RIL 'did not get any approval' from minister Deora. He summarised the situation:

Price approval, utilisation and allocation came from EGoM. The development plan is approved by a management committee that has representatives of operators and government, and both government representatives have to sign on before we can get the green signal. The assets and resources belong to the government, the risks are of the contractor.

In other words, what RIL was claiming was that it played strictly by the rules. It is, of course, a separate matter altogether that the rules themselves were tweaked to favour the company.
Prasad discreetly touched on the spat between the Ambani brothers. After the Supreme Court judgement, RIL, headed by Mukesh, kept emphasising that 'gas is a sovereign property' and that the company did not 'own' the gas. This argument had helped Mukesh immensely in the Supreme Court. It suited the company to contend that it was not at fault for not being able to provide gas to Anil's Dadri power project. When the *BS* journalists asked Prasad if Mukesh was not aware of the nature of ownership of the gas, a national resource, at the time of signing the family MoU, he observed:

We signed the family MoU, thinking government approval will come later. We did not know the process and the utilisation policy. The PSC did cover issues but what the contours would be, we did not know. The MoU says both the groups will try to get government approval. When you do not know you try to take risks but you hedge it.

Prasad was asked to respond to the charge that the government administered gas price of $4.20 per mBtu was high since gas prices (in September 2009) were at a seven-year low. He defended this figure at which RIL was willing to sell gas to Anil's project as 'competitive'. He put forth an argument that has consistently been used by RIL to justify higher administered prices of gas, that there is 'always a

difference between contract and spot prices’. He spoke of how at a time when ‘contract prices were in $6–7 (per mBtu) range’, spot prices had gone ‘through the roof’. Prasad pointed out that spot prices of imported LNG (liquefied natural gas) were in $22–25 per mBtu range and some spot deals had been struck at $27. He said that certain contracts linked gas prices to the price of oil, but ‘the indexation is not 100 per cent’. He said that when the EGoM approved the price of $4.20 per mBtu, spot prices of gas were much higher at $6–8 per mBtu. Prasad reiterated: ‘I don’t think these comparisons (with spot prices) are fair. I genuinely believe the $4.20 price, compared to other gas prices in India on spot or contract LNG price coming to India, is very competitive.

Interestingly, as events subsequently unfolded, RIL and its supporters would use the argument that domestic gas prices should be benchmarked to international prices of gas to lobby for a higher price of gas in the run-up to the renewal of the company’s contract with the MoPNG which ended on 31 March 2014. Another argument that was put forth by various sections was that high gas prices were needed to provide a greater incentive to private companies to explore and extract more gas.

When RIL’s president and COO (business operations) B.K. Ganguly spoke to this book’s lead author, he sardonically wondered if India could import gas from ‘Arab sheikhs’ at $13 per mBtu without subsidies becoming an issue, why should a hue and cry be raised about increasing domestic gas prices which would result in higher prices of fertilisers and electricity (and government subsidies on the prices paid for these by consumers). He pointed out that the proposed Turkmenistan-Afghanistan-Pakistan-India (TAPI) pipeline would bring gas to India at $13.5 per mBtu. Despite what Ganguly and other RIL spokespersons contend, the pricing of gas is a far more complex topic. The slew of issues relating to the pricing of gas has been, and continues to remain, the subject of considerable controversy and contention. This topic was periodically hitting the headlines of newspapers even as this edition of the book was being completed in March 2014 and will be dealt with in some detail in later chapters.

* * *

The CAG report found that RIL had signed major equipment procurement contracts during 2006–7 and 2007–8 that were on the basis of single financial bids. The government auditor could not, thus, ascertain the ‘reasonableness of costs incurred, primarily due to lack of adequate competition’. In addition, there were significant revisions made in the ‘scope/quantities/specifications’ of the contracts after price bids had been opened. This had ‘adverse implications for cost recovery’ and what the government would earn. In the case of the MA oil field, the auditor ‘found that well before submission, let alone approval, of the Field Development Plan (FDP) and Mining Lease (ML) application, the operator had placed orders for various critical items required for development activities/ production facilities from 2006 itself’. The CAG report added: ‘We also found serious deficiencies in the award, on a single financial bid, of a ten year hiring contract for $1.1 billion for a Floating Production, Storage and Offloading (FPSO) vessel from Aker Floating Production (AFP).’ The auditor came across instances, where multiple vendors were pre-qualified but when technical bids were received, ‘all vendors (except one) were rejected, and the contract was finally awarded on a single financial bid’. Such disqualification of vendors, the CAG felt, restricted competition ‘which is not in accordance with the spirit of the procurement procedure given in the PSC’. The government auditor went on to suggest changes in the procurement procedure for high value contracts (see *Appendix 6*).

Ganguly argued that the CAG should not have been critical of the procurement processes followed by RIL, nor sought an in-depth review of 10 contracts, eight of which were awarded to the Aker group on a single-bid basis. Ganguly claimed his company had no choice as ‘only one party (in this case, Aker)

was technically qualified'. He was at pains to record that 'not a single violation of the PSC was pointed out by CAG'. As already stated, it was a separate matter altogether that the PSC was itself inadequate and flawed, as the CAG explained in great detail.

The CAG had also looked at the role played by the regulatory authority, the DGH, and pointed out instances where there were clear conflicts of interest. The DGH had both an upstream regulatory function as well as a function of rendering technical advice to the government. The CAG recommended that 'the functions currently discharged by the DGH be clearly demarcated', further suggesting: 'The technical advisory and related functions should be discharged by a body completely subordinate in all respects to MoPNG. Functions of a regulatory nature should be discharged by an autonomous body, with an arm's length relationship with GoI.'

The CAG report looked extensively at the issue of non- relinquishment of the areas. It examined the issue chronologically over 20 pages and pointed out violations of the PSC. The CAG did not find the response of the ministry to the draft report to be tenable, and dismissed it as merely repeating the 'opinions of the contractor'. Even though it did not say it in so many words, the report of the government auditor clearly pointed out that officials of the DGH and the MoPNG seemed to be hand-in-glove with RIL.

When RIL's Ganguly spoke to this book's lead author about the CAG's allegations, he pointed out that the DGH had not initially accepted RIL's view that similar geological structures existed in areas in which the company had not drilled wells. According to the PSC, after each phase of exploration, the contractor is supposed to 'relinquish' the areas where there have been no discoveries and give these areas back to the government. Ganguly added that the PSC made two exceptions whereby the contractor (RIL) could retain (1) the discovery area and (2) the development area. On allegations of 'land grab'—that is, the company's alleged refusal to relinquish development areas—Ganguly took recourse to the argument that RIL was taking risks and investing billions of dollars by exploring for hydrocarbons in the area. He further said that RIL had drilled two wells—D6-BA1 and D6-BA2—as part of the R-Cluster development in the KG-D6 field, and there were two other wells which were not included in the original development plan. The dispute arose as to whether the latter two wells should be considered to be part of the 'development area' proposed by RIL. He said: 'There were cost implications for (drilling) these (two wells).'

After this conversation with Ganguly, the situation got even more contentious. The *Press Trust of India*, the country's leading news agency, reported on 19 May 2013 that 'under pressure' from the DGH, RIL had agreed to conduct separate tests to confirm three natural gas finds in the KG-D6 block but that the regulator was 'not impressed' and wanted 'the discoveries to be taken away from the company'. The technical regulator had since February 2010, not recognised the wells drilled in the D29, D30 and D31 areas as 'discoveries' as RIL had reportedly 'not performed its prescribed separate tests to confirm the finds'. On 2 May, RIL agreed to conduct three separate 'drill-stem tests' instead of a single test that it had proposed the year before and sought approval for a spending of $93 million during the fiscal year that would end on 31 March 2014.

On 10 May, responding to RIL, the DG, DGH, R. N. Choubey wrote to the seniormost bureaucrat in the ministry Vivek Rae stating that the 'the time period for submission of DoC (Declaration of Commerciality) for the three gas discoveries i.e. D-29, 30 & 31 has already expired'. Choubey added: 'There is no provision in the production sharing contract to allow (for) additional appraisal time beyond the stipulated appraisal period. Additionally, the exploration period of the block is already over.'

The DG, DGH, reminded petroleum secretary Rae that the DGH had recommended that RIL relinquish 6,601 square kilometres or 86 per cent of the total 7,645 sq km area in the KG-D6 block, as the company had exceeded the time that had been allotted to it for developing the area. The area the DGH

wanted RIL to give up included the three new finds as well as five other discoveries with at least 1.15 tcf of 'known recoverable gas reserves' that were valued at $4.83 billion. 'The proposed cost of carrying out DST (drill-stem tests) in the three wells ($93 million) is also a matter of concern as this expenditure could have been avoided had the testing in the wells been carried out at the time of discovery itself as per (the) PSC requirement,' DG, DGH Choubey categorically stated, advising the petroleum ministry to take a 'suitable decision' on RIL's proposal to undertake DST in three wells 'which will amount to extension of appraisal period for which there is no provision, and which will have a bearing on relinquishment of (the) balance area'.

RIL claims that the D29, D30 and D31 blocks together with another find in the R-Series cluster, D34, together holds 'in-place' reserves of 2.21 tcf of gas and the four could together produce up to 20 mscmd. A 'block oversight committee' headed by DGH had, however, segregated D29, D30 and D31 and approved only D34 with 1.267 tcf of reserves that can produce 14.68 mscmd of gas from 11 wells for eight years on an investment of under $2.4 billion.

* * *

Many observers argued that the report of the CAG that was critical of the contract signed by the government with RIL had a major 'flaw'. Unlike the government auditor's reports on the manner in which 2G telecommunications spectrum had been priced and allotted or the way in which coal acreages were given to various companies (the so-called Coalgate scandal), the CAG's report had not quantified the losses to the exchequer. These observers stated that by refusing on this occasion to quantify the losses to the exchequer, the CAG had inadvertently played into the hands of the government. At a time when scams were surfacing at a disturbing rate, this was one scandal which did not come with a huge number attached to it. (The CAG had claimed in its November 2010 report that the presumptive or notional losses in the 2G scam could be as high as Rs 1,72,000 crore or around $30 billion at the then prevailing exchange rates, while the corresponding figure in the Coalgate scandal had been calculated at Rs 1,86,000 crore or approximately $33 billion in the CAG's report presented in Parliament in August 2012.) It was thus difficult for the government's detractors to attach an appropriate amount as losses to the exchequer in the case of the KG gas controversy. The CAG report was, after all, essentially a long roster of irregularities. The numbers would, of course, be added up, but that was to happen later.

Even in September 2011 when the CAG report was tabled in Parliament, most political parties in the opposition remained silent on the issue. The exception was the CPI(M) whose MP Tapan Sen had been following the issue from the beginning. Besides him, no other lawmaker raised even a murmur at that juncture. The CPI(M) issued a statement that was virtually ignored by large sections of the media. The party demanded the following on the basis of the CAG's findings:

- Taking back 95 per cent of the exploration area illegally retained by the RIL in gross violation of the PSC.
- Imposing penalties on RIL for gold-plating contracts and cornering almost the entire share of the profit petroleum.
- Immediate prosecution of the former DGH and other involved officials.
- Investigation into the role played by the petroleum ministry.
- Bringing major modifications in the hydrocarbon PSCs to prevent such misuse.
- Review of NELP.

Tapan Sen, a Rajya Sabha member and trade union leader, had been following developments relating to the KG gas deal from the beginning. He had followed every twist in the tale. The CAG report only

confirmed the lacunae he had been pointing out. Having been on the Parliament's Standing Committee on Petroleum and Natural Gas, in an interview with *Rediff.com* shortly after the CAG report release, he stated:

Through competitive bidding in the National Exploration Licensing Policy, the major part of the Krishna Godavari Basin had gone to Reliance Industries and its partner Niko Resources Ltd. They discovered gas in the KG Basin. I was keeping a close watch on the time given to them, how the explorers were working, how gas was found and how the government would ensure that, finally, gas reaches consumers at an affordable price.
I kept a close watch on the whole chain of development. The entire scam of KG Basin came to light through a Parliamentary question first asked on December 12, 2006 by me and my colleague, the late Chittabrata Majumdar. It was a joint question.
We had got the information that in the KG Basin case, Reliance had placed a field development plan to produce 40 million standard cubic metres per day (mscmd) of gas. They placed the expenditure of $2.47 billion.
After some time they submitted a renewed field development plan claiming that now they will produce 80 mscmd at an expense of $8.84 billion. So production capacity doubled, but expenditure was inflated almost four times.

Sen had his take on why this had happened. He further stated:

Mukesh Ambani's RIL backed out of the NTPC agreement. Different games were played at different times. Initially, when both (Ambani) brothers were together RIL had quoted a certain price, but when they fell out, the equations changed. Anil Ambani said he should be given gas at the price agreed with NTPC. So RIL backed out from NTPC, too. RIL didn't bother about NTPC, which is generating power for the nation.

The CPI (M) MP did not, however, lay the blame squarely on RIL. Sen added instead:

I don't blame Reliance. If I get the opportunity to steal, am I going to leave it? It is the duty of the government to see that nobody takes people for a ride. There can be some defaults or mistakes in deals. This is not such a case. All the facts were before the government . . . there were whistleblowers within the system, but the government turned a blind eye to them and took the decision to favour Reliance.

Suddenly, it seemed as if the events of the winter of 2010 were revisiting RIL. The output at the KG-D6 fields dipped in the third week of September 2011. RIL produced 44.5 mscmd of natural gas during the week ending on 5 September as against 44.8 mscmd produced a month earlier. The slanging match continued too. Minister of state for petroleum & natural gas R.P.N. Singh had stated in Parliament the previous month, that output from KG-D6 was now short of the 70.39 mscmd envisaged as per the field development plan approved in 2006. 'The contractor (Reliance) was advised by (oil regulator) DGH to expeditiously drill more development wells in D1 and D3 fields as per FDP in order to enhance gas production in KG-DWN-98/3 block,' he stated.
The question then arose as to whether the government would take RIL to task. In mid-November came news reports that the MoPNG was planning to link recovery of costs to capacity utilisation at the D6 block. The move was probably aimed at protecting the exchequer's share of future revenue from the sale of gas from the block. The *Mint* reported on 21 November 2011 that the petroleum minister S.

Jaipal Reddy had accepted the solicitor-general Rohinton F. Nariman's opinion on the issue. Law minister Salman Khurshid was said to be 'on the same page' on the issue. Yet, the government seemed to want to play the game outside the rules that existed. Khurshid told the newspaper in a text message: 'We feel ambiguities are best cleared by arbitration.' At that stage, RIL seemed delightfully oblivious of the whole matter.

A notice was served on RIL in November 2011 by the MoPNG to restrict 'cost recovery' from KG-D6 based on the lower-than-expected gas output. The catch was that if recovery of costs was linked to capacity utilisation, as much as $1.85 billion—out of the $5.69 billion investment already made—would be disallowed and arbitration initiated to recover it from RIL, the *Press Trust of India* reported the same day, quoting people close to the development. The news agency did not mention names, but that this information was trickling out from the tickers of a reputed news agency (which usually does not quote unnamed sources unless the sources are trustworthy) was telling.

According to *Mint*, Nariman had stated the following in his opinion to the law ministry on 17 August: 'The costs/expenditure incurred in constructing production/processing facilities and pipelines that are currently underutilized/have excess capacity cannot be recovered against the value of petroleum' by the company. He further advised the government not to 'allow cost recoveries on this account in future periods'.

The then solicitor general of India, the government's second- most important law officer, added that the MoPNG would need to 'fully ascertain the time periods in which and the manner in which the contractor has already made recoveries....' Nariman added that 'in the event the contractor does not agree to reverse cost recoveries already made, the government will have to take recourse to the dispute resolution provisions set forth in Article 33 of the PSC (production- sharing contract)'. The legal opinion also noted that RIL hadn't met production commitments to which it had agreed. The AIDP submitted by RIL projected a gas production of 61.88 mscmd from 1 July 2010 and 80 mscmd from 1 July 2011, whereas the company was at that time only producing 35 mscmd from the block.

RIL realised it had been tripped up and was quick to react. RIL challenged the government. The company announced on 28 November 2011 that it had begun arbitration proceedings. It issued a statement that it had sought clarification from the petroleum ministry about such a move, but received no response. This is what RIL said in a formal statement: 'To finally resolve this cost recovery issue so as not to hinder future investments in this block, the company has begun arbitration proceedings against GoI (government of India) to have the company's entitlement to recover its costs, and the validity of the stance adopted by MoPNG… finally determined by an independent tribunal.'

In May 2012, RIL was served another notice by the MoPNG claiming the company had not delivered what had been promised in the IDP as well as the AIDP and that 'cost recovery would now be proportional to gas actually extracted'—as will be explained subsequently—'cost recovery' being the recovery of capital investments made by the contractor (in this case, RIL) that can be recovered through sale of gas using a complicated formula which became a contentious issue.

Simply put, the regulatory authority for India's oil and gas industry, the DGH told RIL in so many words: 'You said that so much gas would be produced and so many wells would be drilled. You got your data wrong. You haven't produced the amount of gas you said you would because you did not drill the number of wells you were supposed to and hence, you should be penalised.'

The dispute had to be arbitrated upon, but this was easier said than done. Who would be the arbitrators? The names of two former Chief Justices of India were suggested by the contending parties. RIL suggested the name of Justice S.P. Bharucha while the MoPNG's nominee was Justice V.N. Khare. A third arbitrator would also need to be appointed. This arbitrator would act as the 'presiding' arbitrator whose decision would have to be acceptable to both RIL and the government, but in March 2014, when this book was being completed, arbitration proceedings had not commenced.

All the while that the controversy over extraction of gas from the KG basin remained in the news, what almost escaped coverage was another set of findings published in the same CAG report—that of exploration in the Panna-Mukta and Tapti basins. The CAG had not minced words on that either. This controversy, also involving Reliance, had, in fact, begun long ago (see *Appendix 5*: 'The Great Indian Oil Robbery: Panna- Mukta and Tapti'). The September 2011 CAG report on the PMT JV (Panna-Mukta Tapti Joint Venture) was as damning as the KG basin one. The government auditor virtually pleaded helplessness, saying: 'Despite our repeated efforts, the PMT JV operators did not provide important and relevant records on the ground that scrutiny of these records did not fall within our audit scope.'

The CAG based its report on whatever records were made available. It did point out that the Indian government had incurred a substantial loss on account of royalty by failing to finalise the norms for post- wellhead costs, and consequentially, gas wellhead prices. The MoPNG and its nominee for gas purchase (the public sector GAIL, formerly known as the Gas Authority of India Limited) had not complied with the terms of the PSC during 2005–8. The CAG also found irregular declaration of the entire contract area as discovery area. It also unearthed numerous deficiencies in functioning of the management committees for individual blocks. There were also deficiencies in the timely submission of stipulated periodic reports. The similarities were uncanny. There could be speculation about why the CAG toned down some of its language in the final report on KG gas (in comparison to its draft report), but there could be no doubt on where the problem lay—the PSCs. The CAG was clear. It laid the blame squarely on the faulty PSCs. If anyone was to blame, it was the ministry of petroleum and natural gas, that is, the government.

RIL was not alone in being embroiled in controversies over gas extracted from the KG basin. Another company, this one set up and owned by a state government, the Gujarat State Petroleum Corporation (GSPC) was also involved in a set of questionable transactions relating to KG gas that were (as in the case of the CAG report on Panna Mukta) uncannily similar. Like RIL, GSPC had initially inflated claims about the quantum of gas discovered and then blamed low output on geological complexities. Like RIL, GSPC made identical arguments that a high price of gas would ensure that exploration is conducted in a more efficient and diligent manner. Finally, there was a third common factor between the two companies: their association with Niko Resources of Canada and a geologist named Jean Paul Roy. The controversies surrounding GSPC's involvement in gas exploration in the KG basin were highlighted by critics of Gujarat chief minister Narendra Modi as he gained political prominence in his party, the right-wing, Hindu nationalist Bharatiya Janata Party (see *Appendix 7*: 'Deen Dayal West: No Gas, All Lucre').

7
THE INSIDER

The Ambani brothers, Mukesh and Anil, had fought a pyrrhic war to control India's natural gas resources. That was only one side of the story. There were three individuals who were well-acquainted with the controversies surrounding the tussle on the utilisation and pricing of natural gas produced from the Krishna-Godavari offshore basin. They were Subir Raha, former chairman of the Oil and Natural Gas Corporation (ONGC), Surya P Sethi, an energy expert who used to work with the Planning Commission, and former Union minister for petroleum and natural gas, Mani Shankar Aiyar. They knew exactly what was going on, especially Raha.

The three had differed with one another on important issues. During his tenure as petroleum minister, Aiyar often disagreed with Raha who was then heading ONGC, a public sector enterprise under the administrative control of the ministry. As for Sethi, he too had occasion to disagree with Raha on the manner in which ONGC's overseas arm, ONGC Videsh Limited, went about leasing or purchasing oil- and gas-bearing properties outside India. Despite their differences, the three experts concurred with one another on key issues related to the dispute between the Ambani brothers on the pricing and use of the KG basin gas.

When Raha met the lead author of this book on 17 September 2009, the cancer in his lungs was spreading. His hair had thinned after several rounds of chemotherapy. Still, he was remarkably alert. His words poured out in torrents; he was crystal clear about his convictions and his conclusions. He was the technical expert who patiently explained complex issues to a lay person. He imposed only one condition before he started talking—he wanted to go through and vet the detailed transcript of the interview before a single word attributed to him was published. The transcript was sent to him, but he never got back. On 1 February 2010, Subir Raha passed away. He was 62.

Newspaper obituaries gushed about how he was a 'poster boy for government-run organisations' and that 'Raha was arguably the most influential chairman the state-owned ONGC ever had—for that matter, any chairman any government-run organisation has ever had.' One obituary published in the *Domain-B* website read:

> Undoubtedly, he was responsible for single-handedly transforming ONGC into one of the most valuable companies in India, leaving even fancied brand names in the private sector trailing in his slipstream. He was an embodiment of qualities that government- run organisations, and its employees, are not supposed to display— vision, aggression, efficiency and exceptional dynamism. It was during his tenure that ONGC became the nation's largest oil and gas producer. During his tenure as Chairman and Managing Director of ONGC, (the company's) … market capitalisation increased more than ten times to Rs 200,000 crore, and it became the single most valuable public or private sector company (in the country) in terms of (its) net worth.

The obituary did not stop there:

Too strong a personality to allow himself to be dominated by the worn-out bureaucracy and political leadership of the land, he was denied an extension as ONGC chief and eased into ineffectual retirement. In a strange way, the year he retired also saw the company slip from its starred position as the country's most valuable company. The company has singularly failed to match his dynamism since. He acquired Mangalore Refinery … securing the company's vertical integration and behaved like any other more- hyped MNC (or multi-national corporation) predator, seeking assets overseas. When Raha assumed control of the company, it had just one property in Vietnam. During his tenure, the inventory of its overseas subsidiary, ONGC Videsh Ltd (OVL), expanded to 24 properties (31 Blocks) in 14 countries….It was Raha's deep seated commitment and workaholic ways that transformed ONGC into an integrated energy major on a global scale.

What did this have to with the controversy surrounding the pricing and utilisation of natural gas found in the Krishna-Godavari basin? A lot. As head of ONGC, Raha was a key player in India's oil and gas industry and understood how the country's resources could become hostage to the vagaries of corporate rivalry and the infamous nexus between politics and big business. Raha knew the industry like the back of his hand and realised how small changes in official policy could translate into huge profits for a few. For five years from May 2001 onwards, Raha headed India's largest government-owned company engaged in the exploration and production of crude oil and natural gas. During his tenure as executive head of ONGC, he fought many a skirmish against less-than-scrupulous politicians, bureaucrats and businessmen to conserve the country's precious hydrocarbon resources and have these priced in a manner that would best serve national interests. He had a fatal flaw: he loved his cigarette a bit too much—paradoxical for a person who had spent much of his working life in industries that dealt with highly inflammable substances.

Before he became the head of ONGC, he had spent 31 years working with another public sector major, the Indian Oil Corporation (IOC), the country's largest refining and marketing company for petroleum products, including the period between June 1998 and May 2001, when he served as Director (Human Resources) on the board of directors of IOC. As ONGC chief, he had sharp differences of opinion with petroleum minister Aiyar over issues of governance and what he perceived as political interference. Raha felt he should be given the autonomy to run the corporation he headed in a business-like manner. Aiyar's notion of what was 'autonomy' clearly differed from his. After his death, Aiyar not only praised him as 'a truly outstanding public sector executive' but added that he found in him 'a man worthy of my steel, particularly when we disagreed.'

Raha's term in ONGC was not extended beyond five years. He was just over 57 then. At that time (25 May 2006), *Business Standard*wrote: 'Raha, who has been at the helm of India's most valuable company for five years, is seen as an efficient manager who chose to disregard ministry mandarins and pursue a business plan that has won him admirers.' A trade publication, *Upstream*, had earlier lauded his leadership qualities and written: 'Subir Raha has dragged ONGC, often kicking and screaming, into the 21st century.'[1]

There was more to Raha. He was privy to facts that were germane to the controversy over the pricing and utilisation of the KG basin gas and the dispute between the Ambani siblings, especially the role that was played by the former V. K. Sibal the former director general, hydrocarbons. The *Resource Digest* (February–March 2010), a specialised industry publication, published certain details about Raha that had important implications, direct and indirect, for the tussle between RIL and RNRL as well as the legal dispute between RIL and NTPC. Here is an extract:

Raha's ideal vision of a corporate leader was somebody who may not be uniformly liked, but nobody (was) … able to point an accusing finger at his moral and professional integrity. That is certainly how

he would have liked to be remembered. And this determination to maintain professional integrity saw him taking up (cudgels) … even against the government. Recall the tiff that arose over the Petroleum Ministry's insistence on appointing the Director-General of Hydrocarbons (DGH) to the board of directors of the ONGC. The ONGC chief pointed out that having the DGH on the board would involve a conflict of interest since (the DGH was) … the petroleum industry regulator. He had threatened to file a counter-resolution offering his resignation from his post as chairman in case the Ministry insisted on appointing the DGH on the board (of ONGC). The Ministry accepted Raha's view.
What is more, the then Minister … Aiyar defended his CEO when verbal duel broke out between Raha and Sibal… Raha in a letter to the then Petroleum Secretary M. S. Srinivasan had charged (the) DGH of being biased against the public sector. He protested against (Sibal's) … 'sarcastic' and 'derogatory' remarks 'denigrating the company in public and (in the) media'. As an example, he pointed out how Sibal had taken a dig at ONGC becoming the second company in the world, after Chevron-Texaco, to drill at depths in excess of 3,000 metres under water.
What is the point of drilling the deepest water well if it turns out to be a dry hole,' Sibal had said… Raha, obviously, was not amused. 'Some exploratory wells go dry, and some do not. There is no exploration and production company in the world, including the DGH's favoured Indian private sector company, as would be known to Shri Sibal,' Raha wrote in his letter.' (The not-so-veiled reference in this instance was, obviously, to Reliance Industries.)

The *Resource Digest* article added that 'Raha was not alone'. 'Even the then SEBI (Securities and Exchange Board of India, the regulator of the country's capital markets) chief, M. Damodaran, had complained to the then Petroleum Secretary S. C. Tripathi against Sibal for publicly trashing a series of oil/gas strikes by ONGC, including the one confirmed by the- then … Minister ... Aiyar from Norway,' it stated.
Sibal had to quit his post in ignominy in October 2009 after he was accused of 'gross abuse and misuse of public office' and of having a 'nexus with private parties, obtaining pecuniary advantage in award of contracts and supply of information of sensitive data of resources' and an investigation was instituted against him by the CBI. The agency asked the 'competent authority' in the MoPNG for permission to investigate further the alleged offences by Sibal during his tenure as the country's regulator for the upstream hydrocarbons exploration industry.
In the 17 September 2009 interview with the lead writer of this book, Raha explained the nexus between business and politics. He spoke in measured tones, had all the facts at the back of his head. Like an instructor explaining the basics of a new subject to the uninitiated, he painted a backdrop to India's oil and gas sector before elaborating on specific developments relating to the two disputes between RIL and RNRL, and RIL and NTPC.
Raha began with an overview of the issue of India's energy security and the dispute between the Ambani brothers. He explained that India had about 0.4 per cent share of world's oil and about 0.6 per cent share of its natural gas, that is, India had around 0.5 per cent of the entire planet's oil and gas put together. At the same time, India had roughly 17 per cent of the population of the globe—over 1.2 billion out of 7 billion. The per capita consumption of oil and gas in India was about one-third the global average and approximately one-fifth the average consumption in developed countries. The global average consumption was roughly 500 kg per capita per year (in 2009). India's average consumption was 200 kg of hydrocarbon fuels per capita per year.
Raha also touched upon two other points of note. He said that with 0.5 per cent of the world's oil resources, it was not possible to meet 17 per cent of the global demand, even if that demand materialised and Indians started consuming oil at an international average. The second point, he said, concerned the aspirations of Indians for a better quality of life. If that happened, India's per capita

consumption of energy would at least double from 200 kg to 400 kg, which would still be lower than the global average leave alone the average energy consumption level in developed countries. To increase the per capita consumption by one kg per year, 1.1 billion kg of hydrocarbon fuels was needed. This is where India and China have identical problems. China's numbers are larger since it has a larger population. However, the ratios are similar in terms of available domestic resources to actual consumption. India currently imports over 80 per cent of the country's total requirements of crude oil and petroleum products.

With 0.5 per cent of the world's oil and gas resources, India's capacity to attract global oil and natural gas corporations for exploration is limited. Indian companies in this industry have an annual turnover that is equivalent to $20–30 billion, while international oil companies in 70 countries do annual businesses of around $250 billion. Thus, it does not make great commercial sense for them to mobilise resources for such a small market. When ONGC and other public sector companies like OIL were formed, multinationals refused to give India access to their technology. Technology was finally obtained from the Russians. This happened in the 1960s and 1970s. In order to source technology and also to get foreign direct investment (FDI), the government first tried to offer exploration blocks to global corporations in the 1970s and 1980s. But there was hardly any response. These offerings were called 'exploration block contracts' and the term that was used for the offers were 'bidding rounds'. In view of the poor response, in the 1980s, instead of offering exploration blocks, the government offered discovered properties to global corporations so that the risks of not finding any oil or gas upon undertaking exploration activities were almost entirely mitigated.

The risk that is entailed in conducting oil and gas exploration activities, Raha explained, is never covered by banks. A company that involves itself in exploration has to show expenses on its balance sheet. Funds are sourced from the market and banks to extract oil and gas, only after a discovery. This meant that no company, especially privately-owned ones, gets into the business of oil and gas exploration unless they have very strong reasons to do so. The Indian government, therefore, offered discovered properties to companies. This was when Colonel S.P. Wahi was chairman of ONGC.[2] But not much came out of these endeavours although a number of foreign and Indian companies were interested in taking over the Bombay High oilfields after substantial reserves of oil and gas were discovered. With the discovery of Bombay High, India's dependence on imports of crude oil came down from 70 per cent to 30 per cent. India became self-sufficient in crude oil production for two years between 1982 and 1984. That was when the production in Bombay High went up. The country's demand was at that time far lower than what it is today. With the country's economy growing at the 'Hindu rate of growth' of 3.5 per cent—a term coined by the late Professor Raj Krishna—India was able to become quickly self-sufficient in oil, albeit for a short period of time. However, as demand went up, the gap between domestic production and total demand for petroleum products appeared once again and continued to widen. This was the period when the government offered discovered properties to private companies. The Panna-Mukta, Tapti and Ravva oilfields were among the discovered properties that were offered to both a consortia of foreign companies, as well as to private Indian businesses. This, in Raha's opinion, was 'scandalous'.

He retold the story of how the private sector became involved in the exploration of oil and gas. In the early-1990s, when P.V. Narasimha Rao was the prime minister, Manmohan Singh the finance minister, and Captain Satish Sharma the minister of state for petroleum and natural gas, a decision was taken to involve the private sector (foreign and Indian) in oil exploration. The Panna-Mukta oilfields and the Mid- and South-Tapti oilfields on the west coast went to the Reliance- Enron consortium. The Ravva oilfield in the Krishna-Godavari basin was awarded to Videocon Petroleum and Australian Command Petroleum. The contracts for Ratna and the R-series oilfields in the Bombay offshore region were awarded to Essar Oil and Premier Oil Pacific of the UK, but the deal was

eventually not signed.
These deals were made between 1993 and 1995. ONGC had done all the exploration, geological and hydrological work for these blocks. These properties were not just discovered properties, but properties from which oil and gas were being produced as well. According to Raha, to an extent the top managers and directors of ONGC were also at fault because when the properties were given away to private corporations for peanuts they did not protest loud enough. Raha knew why.
During the 1990s, ONGC was a public sector enterprise that was wholly owned by the government of India. There was uncertainty regarding its future. There was a possibility that the corporation would be privatised or even dissolved. The problem with ONGC was that it was using exploration technology that had been provided to it by the Russians, who had also trained ONGC's technical personnel. The Russians tended to be rather conservative while making assessments about the presence of oil and gas, as well as about the size of reserves. Thus, while assessing properties, ONGC was invariably extremely conservative in assessments. The oil and gas exploration business is tricky. The same set of assessments could be termed 'pessimistic' or 'most unlikely' by one group of technical experts and 'optimistic' or 'likely' by another. Most exploration companies in the West (unlike the Russians) prefer optimistic assessments because they need to show higher levels of discovered properties in order to raise money from the market and from banks.
ONGC fell prey to its own pessimistic estimates. Moreover, it did not start exploration activities in these fields. It was incorrect on the part of ONGC to declare such paltry estimates of oil and gas in its fields because private exploration companies would never be interested in investing in them, Raha argued. In 2001, after he became chairman of ONGC, he asked for the records of the years between 1993 and 1995. To his surprise he found that many files were missing, files which contained important records of transactions made during that period.
The government realised to its displeasure that international companies were showing little interest in investing in exploration blocks that were offered by ONGC. International companies were not interested because the terms and conditions did not seem attractive. This compelled the government to bring out a coherent and more attractive licensing policy for exploration of oil and gas fields. The New Exploration Licensing Policy (NELP) was thus formulated keeping in mind the needs of potential investors. This policy was put together under the stewardship of former bureaucrat Dr Vijay Kelkar and Sanjeev Mishra, who was then joint secretary, exploration, in the MoPNG. Raha believed that the main credit for formulating the NELP which, by any standards, was a world-class contractual document, should go to Kelkar. Licensing policies are terms and conditions offered by most countries and woven together in a manner so as to ensure that these are clearly understood by potential investors. The Union Cabinet approved the NELP in 1997, by which time there was a new regime in New Delhi—the United Front coalition government, with H.D. Deve Gowda as prime minister and T.R. Baalu as minister of state for petroleum, natural gas and non-conventional energy sources. According to Raha, Baalu should not be blamed for not understanding the state of affairs as he was new to the job.
Under NELP-I, the first round of bidding for oil and gas exploration blocks was done in 2000 by which time the documentation procedures of the policy had also been completed. At the time of the interview, NELP-VII was under process (it was completed in the last fortnight of November 2009). As several rounds of NELP bidding were conducted, the ministry made minor changes and modifications in the terms and conditions of the bid documents. The basic structure of the NELP, however, remained more or less intact, and Raha stressed, it was important to understand this aspect of the bidding process. One of the most important features of NELP was that it gave the operator (or the company that is awarded a contract) almost total freedom to price and market the oil and gas extracted from the discovered properties. The government or the MoPNG did not have any role to play in pricing and

marketing the output. This was done at the sole discretion of the operator. The NELP simply states that the operator is entitled to fix the market price of the products and if it does not find buyers within India willing to pay whatever price it has fixed for those products, it may seek permission from the government to export the oil and/or gas. This specific clause made it a truly market-oriented policy which now seemed attractive enough for private companies. The response improved and a number of small foreign companies like Cairn Energy and Premier Energy expressed their interest.

The fact that India has 0.5 per cent of the total oil and gas resources in the world translated into 32 billion tonne of natural resources waiting to be explored. Raha believed 50 per cent of this quantum—16 billion tonne—should be discoverable. Until late-2009, roughly 7 billion tonne of oil and natural gas had been discovered. This potentially-discoverable quantum of oil and natural gas is what attracts small companies to first try their luck by bidding for the blocks on offer and then, investing in exploration work. In the first round of bidding under the new policy, that is, NELP-I, the Reliance group emerged as the winner in most blocks. In an open and transparent bidding process, ONGC lost out to Reliance in winning a number of blocks. Raha said he had heard that secret information about the ONGC bids had been leaked out, though he could not independently confirm who had done this and for whom. ‘My guess is as good as yours,’ he remarked.

Though Reliance won most of the blocks from NELP-II onwards, till then, ONGC had been ahead of Reliance. If all the seven rounds of NELP are taken together, ONGC won the highest number of blocks with Reliance following second. The foreign companies that won bids for the blocks were mostly part of consortia led by either ONGC or Reliance. Very few foreign companies were awarded blocks on their own. Many, including the Russians, wondered how ONGC was awarded as many exploration blocks as it had been. The answer was simple: ONGC is India’s biggest oil and gas exploration organisation, the corporation’s first charter is India and it was but natural that ONGC would bid aggressively to win as many exploration blocks as possible.

Raha thought the same logic could be applied to Reliance. The D6 block in the KG basin had gone to Reliance in 2000. Bidding was done by companies on the basis of certain databases. The same set of data for particular oilfields was packaged and distributed to all interested companies so that they could take an informed decision on the viability of bidding for particular blocks where they could invest in exploration. All investors had access to the same data, thereby offering a level playing field to all. However, additional data could be informally sourced from other companies that were already involved in the business of oil and natural gas exploration. Raha recounted a story he had heard about how data was sourced by Reliance for the KG basin before the company placed its bid. According to this story, Anil Ambani, who was at that time still with his elder brother Mukesh, visited a retired ONGC official in Hyderabad to obtain more knowledge about the KG fields that his company wanted to acquire. The gentlemanly officer unpacked a few old papers from a rusty iron trunk and these documents apparently provided them with crucial clues about the reserves of oil and natural gas that lay beneath the bed of the Bay of Bengal.

That anecdote aside, the actual discovery in this field was made two years after the block was awarded to the Reliance group in 2000. According to Raha, Reliance subsequently misled the market by running a cleverly-managed public relations campaign. This block was said to be the ‘biggest’ gas discovery—what some missed out was the fact that it was the ‘biggest discovery of the year’, meaning the biggest discovery of the year 2002.

The 2002 discovery was certainly the biggest of that year, admitted Raha. The fact is that ONGC had discovered larger gas reserves along the west coast of India but in different years. After 2002, Bassein was the biggest discovery of hydrocarbon resources. The hype, Raha believed, was deliberately created by spin-doctors and it certainly helped the Reliance group raise capital from the stock markets and from banks and financial institutions.

So, did the 'D' in D6 stand for Dhirubhai, Mukesh and Anil's late father who was the patriarch of the Reliance group? Raha said it was a clever construct, for the DGH assigns numbers to all blocks. At the same time, what cannot be denied was that as far as oil and natural gas discoveries in India are concerned, this was indeed a good discovery but not the 'biggest ever'. Raha elaborated that blocks such as D6 in the KG basin were deepwater discoveries. In India, those hydrocarbon resources which are found at water depths of 400 metres or deeper are known as deepwater properties. The deepest well in India is at a water depth of 3 km, which has been drilled by ONGC. Globally, there are only two companies that have ever drilled that deep. One is Enron, and the other ONGC in the KG basin. When one drills up to water depths of 1,800 metres, the term used is super-deep; and beyond 1,800 metres, it is called ultra-deep. Globally, deepwater oil drilling technology is an evolving technology. It is very much like space travel: cutting-edge, very tough and unpredictable.

As one drills deeper into the water, the pressure increases simultaneously while the temperature decreases. However, after a certain depth, the temperature stabilises. But several strong currents also flow in deep water. By way of comparison, when one drills in shallow-water, as in Bombay High where the water depth is just about 60–70 metres, there are drilling platforms that stand on legs that are as high as 300 metres. So the drilling operation is done on these jacked-up platforms. Obviously, for water-depths of one-two kilometres and deeper, it is impossible to explore and drill on jacked- up platforms. The most crucial challenge is to inspect and explore on floating rigs that are not attached to the seabed. At depths of two-three kilometres, rocks are found and discoveries are sometimes made at even greater depths. In the KG basin, rocks are deeper at around 6 km and hydrocarbons found at an even greater depth of 9 km below the surface of the ocean. These deepwater hydrocarbons are extracted using drilling pipes that are 36 inches in diameter, sometimes wider. In the depths of the vast ocean, these pipes hang like strings or pieces of thread. These floating rigs are linked through global positioning systems (GPS) with the use of technology that is similar to the kind used in satellite navigation. And like spacecraft, these rigs have thrusters attached that help position the rig in the open ocean and prevent the string of pipes from breaking.

This process is followed at the stage of drilling. However, once extraction or production of gas begins, manifolds have to be installed on to the seabed. On account of the presence of sand and sediment, the surface of the seabed is not firm like the earth's surface. The crucial challenge here is that once the manifolds are installed on the seabed, they have to remain wherever they have been installed. It is not possible to go back and reposition or repair them after these have been installed on the bed of the ocean. Theoretically, there are remote-operated vehicles that are meant for inspection and repair but after the installation of manifolds, the work is for all practical purposes done once and for all.

Whereas deepwater drilling technology used in water depths beyond two km is still evolving, the technology is more or less proven for drilling up to two km. The discovery made by Reliance in the KG basin was at a water-depth of 1.2-1.3 km. This basin on the eastern seacoast of India is in an area in the Bay of Bengal where the continental shelf is initially narrow followed by a sudden slope. Therefore, at a distance that is hardly 30–40 metres from the shore, one comes across water depths of between one and 1.5 km. Along the west coast, there is a near-uniform water-depth of about 100 metres for a distance of around 100 kilometres into the sea from the shore. The geography of the eastern coast is very unlike the west coast, where Bombay High is located. Therefore, the main point highlighted by Raha is that exploration and drilling work in the KG basin is a relatively tough task.

After the D6 block in KG basin was discovered and production had begun, 80 per cent of global tenders that had been floated for gas exploration blocks had already been reviewed. In 2003, Reliance made the bid to supply gas at $2.34 per mBtu, apart from the cost of delivery that was to be added to this amount. The addition of the delivery cost brought the price of natural gas to $2.97 per mBtu. Much was made of the fact that RasGas of Qatar was supplying gas at a rate of $2.53 per mBtu to

India which was considered too high when compared to the $2.34 per mBtu offered by RIL to the public sector NTPC. What this comparison missed out on was the fact that what RasGas was supplying to India was LNG or liquefied natural gas and the price of LNG includes an amount of $1.00 per mBtu for liquefaction and regassification. The bidder at the second position was Petronas (Petroliam Nasional Berhad), a Malaysian oil and gas company, which quoted a price of $3.08 per mBtu of natural gas. Therefore, the price quoted by RIL was the lowest and it won the bid to supply gas to NTPC.

So, who would buy the gas? Raha said that natural gas is bought mainly by power stations. Natural gas found along the east coast tends to be 'dry' and is therefore, mainly used for power generation. Gas found on India's west coast is rich with components such as ethane (or C2) that makes it more suitable for use in the manufacture of fertilisers and petrochemicals. When a power project is established, the selling price of each unit of electricity generated is determined over a lifecycle of 15-plus-two years, that is, 17 years. It is essential to know the price at which fuel for generation of power is to be purchased by the power station over a period of 17 years. Prior knowledge of fuel prices is required in order to earmark capital for investments in building the power station. The economics of the project depend on the long-term average fuel price. NTPC had done its homework before floating the tender, in response to which Reliance placed the lowest bid in 2004 and was awarded the contract. Raha then delved into how a public sector enterprise like NTPC awards contracts to private companies.

The important point to note is that all correspondence and all documents that are part of the bidding process automatically become a part of the contract. This is explicit. For example, if NTPC floats a tender and the company that bids the lowest price wins the contract, the tender and the bid are *ipso facto* part of the contract. This is specifically written down in the terms and conditions of the contract. Any exchange of letters and notes that subsequently takes place becomes part of the contract. Once the bid evaluation process is completed and a decision to award a contract arrived at, a notice of award is issued. This is followed by an exchange of documentation. Officials are authorised by both parties to formally sign the contract. The company awarding the contract asks the bidder for acceptance of the contract. The important point to remember in this context is that acceptance of the letter of intent (LoI) by the bidder constitutes the final contract. Often, the tender process leads to litigation.

Raha elaborated:

Let us assume that Company A has floated a tender and there happens to be a foreign Company B that has successfully bid for this tender but is about to lose the final contract. Company B files an appeal against company A in a court to try and get a decision in its favour. It harasses Company A till the latter falls in line. This is the primary motive for filing a case in court because when matters are *sub judice*, status quo normally prevails and is enforced by courts. Status quo means all project work remains in limbo thereby causing losses (or opportunity costs) to Company A.

As far as ONGC was concerned, the solicitor-general of India, Goolam E. Vahanvati, had been very helpful. He informed Raha that while the former ONGC Chairman was away on tour, he (meaning the solicitor- general) had been successful in getting a court to vacate a stay order that had been sought by a company in order to prevent ONGC from issuing an LoI. The solicitor-general informed Raha that he had a couple of hours at his disposal before an appeal against the decision of the court was filed by this company that would enforce the status quo. Once the LoI is issued, the *status quo* changes because the issuance of the LoI leads to the award of the contract.

NTPC had issued an LoI in 2004 to purchase natural gas from RIL at a price of $2.34 per mBtu(million British thermal units) that was accepted. However, the same year onwards, petroleum

and gas prices the world over shot up. Crude oil was priced at less than $37 per barrel when Mani Shankar Aiyar took over as the Minister for petroleum and natural gas in the first UPA government formed in May 2004. With prices of petroleum going up further, the costs of undertaking exploration services and leasing equipment required for the maintenance of existing deepwater rigs simultaneously shot up. The hi-tech deepwater rigs being used by ONGC consequently began to cost much more to lease. In 2003, ONGC had leased two deepwater floating rigs, each at a rent of $150,000 per day. Various equipment and special services—helicopters, remote-operated vehicles and so on—are required that cost an additional $150,000 per rig. The total cost of operation of the two rigs was therefore around $600,000 per day. In fact, the deepwater exploration campaign of ONGC was being run at an expenditure of almost a million dollars a day.
In 2005, the deepwater operations of Reliance in the KG basin commenced with expenses of $470,000 per day, which was more than three times higher than the cost that would have been incurred for the same set of operations two years earlier. There are barely 20 such specialised rigs in the world. In order to use those rigs, bookings for them had to be made 3–5 years in advance. The two rigs that ONGC had booked for three years each had been on a fixed-price contract. This meant that ONGC paid $150,000 per rig per day, even when the market price had moved up to $470,000. Given this situation, if Reliance sold natural gas at $2.34 per mBtu, the company would find it extremely difficult to recover the capital expenditure it would incur in the foreseeable future. This was the crux of the issue. Expenses had risen, but not the selling price. Not surprisingly, Reliance wrote a letter to NTPC asking it to make changes in a few terms and conditions of the LoI, which is essentially the contract, to enable Reliance to increase the selling price of gas to help it recover its capital expenditure expeditiously. However, NTPC was unmoved and turned a deaf ear to the pleas made by Reliance. NTPC had valid reasons to refuse. The tender document formed the very basis on which the bidding took place and the contract awarded to RIL. On this particular dispute between NTPC and RIL, Raha argued that NTPC's position was legally strong. At the same time, he was aware that Reliance was unlikely to give up without putting up a strong fight simply because the very viability of its gas extraction operations in the D6 block in the KG basin was at stake.
It was claimed by Reliance that RIL drafted a new contract on its own and submitted it to NTPC, which refused to sign it. NTPC, on the other hand, argued that Reliance should first sign the LoI issued by NTPC that Reliance had once accepted but now did not wish to. Raha knew how the RIL-NTPC dispute was linked to the tussle between the Ambani siblings on the pricing and allocation of KG basin gas. The price of natural gas at $2.34 per mBtu was part of a deal finalised between RIL and NTPC through a process of open and transparent bidding in which several global players had participated and lost against RIL. This was the unit price of the discovered hydrocarbon property at that time. The MoPNG claimed in 2009 that RIL had not taken its approval for fixing the price. Raha pointed out in an article he wrote for the *Economic Times* (7 August 2009) that the RIL-NTPC dispute centred round the issue of whether the global tender won by RIL eventually got concluded and converted into a contract. In view of the stand taken by the ministry, RIL's bid seemed illegal because from all accounts, prior 'approval' for fixing the price of gas had not been taken.
Raha said:

I find this hilarious! I have questioned in the same article whether RIL had taken the approval of the petroleum ministry to bid for supplying gas to NTPC. For, if the ministry now says that RIL has to take its approval for quoting a price for gas, RIL should also have taken the approval before bidding in the NTPC tender. In my view, the position taken by the petroleum ministry will not be found legally acceptable, but this is a decision the Supreme Court will have to take.

The agreement signed between RNRL and RIL for the latter to supply natural gas at a price of $2.34 per mBtu for the former's Dadri power project was challenged in the Bombay High Court. In the meantime, capital costs had moved up substantially not just in India but all over the world. RIL was hardly alone in this regard. Initially, the company had maintained that field development costs for the block in question would hover around $2.2 billion to produce 40 million standard cubic metres a day (mscmd) of gas. Subsequently, RIL stated that it would be capable of producing 80 mscmd but only after incurring a field development cost of over $8 billion. V.K. Sibal, who was the then DGH, approved this proposal in less than two months although many would argue that this was a complex issue that, under normal circumstances, would have taken much longer to assess and evaluate. With the approval of the DGH, the capital costs in RIL's Initial Development Plan (IDP) for the D6 block in the KG basin jumped nearly four-fold from $2.4 billion to $8.8 billion, while the projected production of gas only doubled from 40 mscmd to 80 mscmd.

RIL had its share of freedom. Under NELP, the operator (in this case, RIL) is assured freedom in pricing and distribution of gas. Moreover, the government guarantees that the fiscal regime (or tax structure) would not change during the period of the contract barring changes in the rates of income tax. The sanctity of the policy is such that even though the income tax rate is liable to change, other tax rates laid down in the contract do not. This is a commitment that is given by the Indian government. Similarly, during any process of bidding and the subsequent awarding of a contract, a commitment is made by the contractor to carry out a certain task at a certain cost which is finalised at the time of signing the contract. The ultimate onus of making a profit or incurring a loss while carrying out the task specified lies on the contractor. If the contractor fails, that means he incurs losses and if he succeeds, he earns profits. In this particular case, if RIL was successful and able to produce natural gas from the properties it had discovered, it had the right to first recover capital costs incurred by it on exploration and production. This is known as cost retrieval. After the costs are recovered, the revenue generated goes under the head 'profit'. This profit is to be shared with the government. Profit sharing is a biddable item. In some rounds of NELP, particular operators have even offered up to 95 per cent share of the profits earned to the government.

Bidding for any tender involves informed guesswork. While bidding for an oilfield, a reasonable guess has to be made about the size of the reservoir and the quality of oil and/or gas that would be extracted. In this instance, the $8.8 billion that was to be invested would have to be first recovered by RIL before the government got its share. But was this the basis of Anil Ambani's allegations? Raha responded with an unequivocal 'no'.

Anil's charges were of a different nature. Raha cautioned that much of what the petroleum ministry was claiming about the government's stake in the gas resources from the KG basin (which, after all, is supposed to belong to the people of the nation) was a lot of hot air. He went on to elaborate that it was just not honest to argue that the government's stake in the 'profit' gas or oil would be recovered only after the IDP cost of $8.2 billion had been recovered because this implied that if it took ten years for RIL to recover its investment, during that period, the government would not see the 'face of any money'. 'If ONGC had been in the same position as RIL today, I, as chairman of the corporation, would also have had to take a decision to recover my capital investments first,' said Raha, adding that royalty and other commissions would have to be given to the government but not a share of the company's 'profit' gas or oil.

Having invested $8.8 billion, it would be a tall order for RIL to recover this cost by selling gas at $2.34 per mBtu. The moment RIL realised this, it alleged that the contract with NTPC had not been properly drafted and that the MoU was not valid. It was then that the EGoM, with the then minister for external affairs Pranab Mukherjee as its head, was set up by the UPA government to look into the issue. Any legal expert could argue that the NELP does not provide for government intervention in

pricing. If the operator (RIL) wanted to fix the price at, say, 'x' it would get 'x' as the price. If the operator does not get buyers willing to pay 'x' within the country, it can ask for permission from the government to export the gas. As far as ONGC is concerned, it sells gas at different administered prices which are commercial contracts. These are not NELP prices.

Raha also discussed the issue of gas distribution. Gas extracted has to be distributed through pipelines which are national properties. There should be a greater sovereignty over gas pipelines because whereas crude oil can be transported through many other means apart from pipelines, gas has to be compressed and pushed through pipes. Natural gas cannot be transported via other media. There is no need for liquefying natural gas for inland transport, say from D6 to Kakinada or to Vijayawada. Liquefaction of gas is needed only for transporting it across the seas. In the KG basin or in Bombay High, gas is transported to the shore from the basin and from there it is transported inland through pipelines. Gas gets distributed throughout the country through a grid of pipelines. For instance, ONGC distributes gas all over western and northern India through the Hazira-Bijaipur-Jagdishpur (HBJ) gas pipeline. GAIL had laid this pipeline in 1986 which happens to be India's first major inland cross-country gas pipeline passing through Gujarat, Madhya Pradesh, Rajasthan, Uttar Pradesh, Haryana and Delhi.

But certain vested interests come into play when a gas producer also happens to be the distributor of gas, that is, when the producer of gas also happens to be the owner of the pipeline that transports the gas. A monopoly is created when both production and distribution of natural gas is handled by a single entity. Only those buyers that happen to be located along the pipeline grid are able to buy the gas. The buyer has no choice but to pay the seller whatever price he demands. In his article in the *Economic Times*, Raha argued that such arrangements are like single-tender propositions because the buyer has no choice. All pipelines, especially gas pipelines are natural monopolies, and tenders can be invited only from buyers who happen to be connected to a particular pipeline grid used by the seller. By definition, these are cases of what may be described as a 'limited tender'. The buyers have no choice but to accept whatever pricing formula is imposed by the lone seller who may or may not be the transporter of the gas. Such 'single-tender' transactions are generally abhorred by all governments, including the government of India. This is because the buyer is hapless and left with a Hobson's choice, that is, buying gas at prices fixed by the lone seller or not buying the gas at all. The price of $4.20 per mBtu of natural gas that was finalised by the EGoM was supposed to have been proposed by RIL and accepted by buyers on their pipelines. This decision lacked foresight because the price of a resource was fixed for five years, whereas the resource would be produced for the next 15 years, if not longer. There was no apparent reason for the EGoM to have done this.

'For example,' Raha said,

> if a company takes a decision in 2009 to buy gas for its power project, three years would pass till land gets procured and construction starts. By the time the company commissions the power project, it would be 2015. But by 2012, the price regime of $4.20 per mBtu of natural gas would have expired. Hence, the price regime gets over just around the time land is procured. If this company approaches a bank for loans to construct the infrastructure for the power project, it would have no answer if the banker questions the company about the price of the fuel that would be procured for the power project. On the EGoM-approved price regime, I think that this is the most troublesome issue.

All said and done, gas is a resource that has been discovered within the territorial boundaries of the country. It can only be efficiently utilised if simultaneous investments are made for consuming this resource, mainly power projects. If this gas is to be used in the fertiliser or petrochemicals manufacturing industries, it has to be first converted into methanol that can be used as fuel stock. The

gas from the KG basin is unlike gas from the west coast which is mainly supplied to petrochemical plants. The claim that existing power projects and fertiliser plants would utilise this gas from the KG basin thus stands on slippery ground, Raha pointed out.

Existing power projects draw gas from the ONGC-GAIL system. They may not get 100 per cent of their requirements but whatever gas comes their way from this system is at a price of $2 per mBtu. These power projects and fertiliser plants will take whatever gas is available from the ONGC-GAIL system on first priority. They would turn to RIL only to meet their shortfall. Though that shortfall has not been quantified in absolute terms, it is estimated to be around 10–12 mscmd of gas. Moreover, to use this gas, fertiliser and petrochemical plants have to either change the input system from liquid fuel stock to gaseous fuel stock or would have to convert the gas into methanol and use it as fuel stock. ‘To my knowledge,’ Raha said, ‘not a single fertiliser plant has embarked on this system of conversion. If they cannot set up conversion facilities, they cannot use this gas.’

The actual layout of the network of gas pipelines is not known. It had been claimed that the pipeline is ready from Kakinada (in Andhra Pradesh) to Jamnagar (in Gujarat). But proper details of the layout of the pipeline network are not clear. It is not evident who is connected to the network, although there is no reason for maintaining commercial secrecy in this matter. In fact, the layout of the pipelines should have been made public but this has not been done, he said. If an operator wants to set up a power plant at a particular site, there is no way of ascertaining whether or not the site is along the grid of gas pipelines. In September 2009, RIL was reportedly extracting around 15 mscmd of natural gas that was being primarily used to meet gaps in the demand of power plants. To increase this amount to 80 mscmd, RIL needed new customers. But there were none. There was gas that was certified and available and there was also a production plan in place. But the production could not take place until consumers were ready to buy the gas. This is where the pricing question repeatedly popped up: for customers to be ready to buy the gas, a long-term price of gas was necessary. Raha described this as a Catch-22 situation. ‘No solution seems likely in the near future,’ he pointed out in September 2009 and he was indeed prescient as subsequent events proved.

The bone of contention between RIL and NTPC was the contract. That is where the issue of a ‘discovery’ price was raised. If the contract was held valid, the price of $2.34 per mBtu has to be re-established in a court of law. The fight, however, was not about the quantity of gas but its price. If one looks at the two contracts signed between RIL on the one hand, and NTPC and RNRL on the other, RIL had to sell 40 mscmd of natural gas at $2.34 per mBtu to both. This would imply that RIL would soon become bankrupt. Thus, RIL continued to fight these battles for its very survival and not just to enhance its profits. Despite its agreement with RNRL and the LoI it refused to sign with NTPC, RIL realised that there was no way it can supply deepwater gas at $2.34 per mBtu and remain a financially viable company. Yet, if some of the contractual provisions of the NTPC tender are changed, the conditions on the basis of which bidding took place and the LoI sought to be awarded, would be breached. This means that those who lost out in the bidding for the NTPC tender would be discriminated against and could even move court to redress their grievances.

Raha felt a way out would have to be found. He explained that the Supreme Court would decide whether NTPC had the right to enforce contractual obligations on RIL. NTPC filed a special leave petition (SLP) in the Supreme Court because RIL had made certain statements in court pertaining to its dispute with RNRL that could not only have a direct bearing on RIL’s dispute with NTPC but could even be detrimental to the long-term interests of NTPC. RIL argued at one stage that its contract with RNRL was for the supply of gas at a price that would be the same as that for NTPC. The two disputes were intimately interlinked.

RIL maintained that the decision taken by the EGoM for RIL to sell gas to RNRL at $4.20 per mBtu applied to NTPC as well. NTPC approached the Supreme Court with an appeal that the EGoM

decision was not binding on it. Raha wondered how the judges would be able to resolve the two disputes without hurting the interests of either RIL on the one hand, or NTPC and RNRL on the other. None of the parties was willing to come down from the stated positions. He said: 'It's a really tough call to take and I don't envy the judges.' Then there was the special clause to retrospectively benefit companies engaged in building gas pipelines that was inserted into the Income Tax Act by finance minister Pranab Mukherjee while presenting the Union Budget of 2009–10. This effectively gave RIL a tax benefit of Rs 20,000 crore (see *Appendix 4*: 'Biggest tax break for richest Indian') which was also the amount that was used by RIL as capital expenditure. Could the two events be connected?

All that Raha could say was that the Union Budget's provision had made it attractive to invest in gas pipelines. 'I would welcome the decision,' he said. 'However,' he continued, 'if in the process the main beneficiary is RIL, that's a different issue. We are concerned about gas which is national property.'

He believed that the government should make investments in the exploration and extraction of gas more attractive by giving fiscal and other concessions. To quote him: 'Doling out concessions to investors in an endeavour that is deemed to be a high-risk area is one part of the story. As to who derives the maximum benefit from such concessions—that's an altogether different story.'

Raha confirmed that this is not the first instance that the government has provided concessions for setting up infrastructure related to oil and gas exploration, production and transmission. Such provisions had been made in the 1998–99 budget presented by finance minister Yashwant Sinha. That was the only instance in the history of independent India when concessions were given in the Union Budget for commissioning of refineries. These concessions were given for a period of just six months instead of one year, which is the usual norm. The concessions were available for any refinery commissioned between April and October 1998—and once again, the same RIL was the sole beneficiary of the government's decision.

In the messy dispute relating to KG gas, it was often argued that since gas is a natural resource, it really belongs to all the people of this country and the government is expected to act as an impartial custodian of all national/natural resources. The question that logically arises is whether the government has been acting as a genuine custodian of the resources belonging to the people of India to ensure that the people's interests are maximised or whether it is acting in a partisan manner to help particular private corporate groups?

Raha responded by referring to his August 2009 article in the *Economic Times* where he had raised the question as to why the MoPNG was putting ONGC on the mat for securing a price of $5.50 for 'new' gas. The record indicated, he said, that the petroleum minister's actions revealed an utter indifference to the interests of ONGC— which is largely owned by the government of India—because it was selling almost all the gas it produces at an APM (administered-price mechanism) price of less than $2.00 per mBtu. The other government company in this industry, OIL, also gets only a fraction of this APM price by selling gas that is produced in the northeastern part of the country.

According to Raha, natural gas is not the only mineral that belongs to the nation. All minerals found in the country are sovereign properties.

'Consider what happened in Russia, where the state has a sovereign right over all minerals in the country. During the regime of the first president of the Russian Federation, Boris Yeltsin, that is, between 1991 and 1999, a large number of state-owned companies, including oil and gas fields, were sold to private parties for ridiculously low prices, literally for the price of peanuts. Lukoil, the largest oil company in Russia, was sold for $1.2 billion whereas its actual value was somewhere in the range between $80 billion and $90 billion!'

However, when Vladimir Putin succeeded Yeltsin in 2000, he imposed a freeze on further sales of state-owned companies. It took nearly two to three years for the Putin regime to evolve and enact a new law on the sovereign rights of minerals. It was only after the new law was enforced that Russia resumed the process of privatisation.

As far as India is concerned, Raha pointed out that each minister in the government takes an oath of office when he is sworn in and part of that oath is that he will act in a way that is fair to all the people of India. It is, therefore, the duty of each minister to protect the sovereign rights of the country. A classic example of privatisation of mineral resources in India, he pointed out, was that of Bharat Aluminium Company Limited (BALCO), the public sector undertaking (PSU) engaged in the production of aluminium. Till 2001, BALCO used to be a PSU with 100 per cent of its shares owned with the government of India. That year, BALCO was privatised—the government sold off 51 per cent of the shares of the PSU to Sterlite Industries (India) Limited, which is now part of the Vedanta group headed by Anil Agarwal. In the process, the government privatised the biggest reserves of commercially available bauxite in the country without undertaking a proper independent valuation of the mineral resources that would accrue to the private company. There is no difference between bauxite and gas, or for that matter coal or dolomite, as far as their sovereignty is concerned, he emphasised.

This is where the issue of the PSC crops up all over again. Raha said the responsibility for the controversy over KG gas rests squarely with the MoPNG. The ministry is the custodian of the NELP and the contracts that flow from the policy and if the ministry had truly abided by the NELP and the PSCs signed in letter and in spirit, legal disputes could easily have been avoided, he argued.

What Raha suggested, though not in so many words, was that the problems over pricing and allocation of KG gas was created because the MoPNG and the government of India through the EGoM headed by Pranab Mukherjee, directly or indirectly sought to benefit one private party, in this case, RIL. The question then arises as to whether the government should not also have told RIL that it was up to the company to solve its problems with NTPC and also with RNRL and not involve the government in what are essentially private legal disputes. Who is indeed responsible for upholding the sanctity of contracts, the judiciary through the courts of law or the government?

Raha said it was well-known that all government departments and ministries should act together. He went back to his *Economic Times*article about the negotiations that had taken place between RasGas and Petronet LNG after there was a dispute relating to the price of liquefied natural gas (LNG). At a meeting in New Delhi, the deal was finalised in the presence of the concerned minister who represented the government of Qatar.[3]

The deadlock was resolved on the basis of a proposal that Raha had made as the then executive head of ONGC to fix the price of LNG at $2.53 per unit for the first five years. RasGas complied with the contract and shipped cargoes of LNG on schedule, even though world prices of gas had by then zoomed to double digit levels. The fact was simple: for five years RasGas stuck to the contracted price of $2.53 per unit at a time when world gas prices had risen beyond$15 per unit. So the Qatar company stuck to the terms of the contract although it could have earned more by reneging on it and selling gas in other markets. For Raha that was the essence of a contract—and that was the root cause of the controversies that were generated over the pricing and allocation of natural gas extracted from the Krishna- Godavari basin by RIL. In his mind, he was as clear as clear could be. Still, he wanted to see the exact statements that would be attributed to him in this book. That was not to be.

* * *

To conclude this chapter, here is a brief personal account from the lead author of the book. After the interview with Raha, the large number of tapes we had accumulated had to be transcribed. Transcribing tapes is a tiresome, tedious and time-consuming process. A former colleague Ayaskant Das was on the job. The full transcript of the interview exceeded 11,000 words. The text then had to be edited for grammatical errors and for the sake of greater clarity. On 30 December 2009, I wrote the following e-mail:

Dear Subir-*babu*, (as one Bengali would address his senior)

I hope this email will find you in good spirits. Here's wishing you all the very best for 2010.

I know I have taken much longer than I should have transcribing the recorded interview I did with you at your residence more than three months ago (to be precise, on September 17). The full text runs into nearly 12,000 words. I have tried my level best to be faithful to what you said. The changes that have been made are basically to improve style and avoid redundancies. Nevertheless, you should feel free to add, delete and change what has been written….

I added that I would wait for the final approved text from him. I concluded: 'Despite the inordinately long time I have taken getting back to you, I would appreciate an early response. And do let me know when I could come and visit you again. Best wishes…'
One did not hear from him for a few days. I waited patiently. Something in my head kept telling me that he was fighting a losing battle against his illness but I kept my thoughts to myself, sharing them only with Das. I sent him a few messages on his mobile phone. He then gave me a day and time to meet him and then, cancelled the appointment on the ground that he had to suddenly visit his doctor. He gave me another appointment, this time in his hospital room. But again, a day before the appointment, he sent me a message calling off the meeting because of a 'medical emergency'. My worst apprehensions seemed to be getting confirmed. On 12 January 2010, in the afternoon, I suddenly received an email from him:

'Dear Paranjoy,

As you see, I did begin correction/revision. Achieving technical accuracy for the layman is always tougher….I have no intention to spend the next few weeks only on this labour, that too under the threat of daily reminders—please pardon my bluntness….What I could do is to re-brief you over one or two sessions subject to the uncertainties of my health condition, and then jointly, go through your final version. If this is acceptable, please let me know….

Let's stay friends!

Subir'

His e-mail to me ended with a quote from the well-known American television hostess Oprah Winfrey: 'Every day brings a chance for you to draw in a breath, kick off your shoes and dance'.
I never realised then the irony of that quote. I was upset that he felt I was 'threatening' him and wrote back saying I was hurt by his suggestion. I merely wanted the work to proceed expeditiously, I said, adding that I would wait to hear from him before getting in touch with him again. I suggested that I would be willing to assist him put down his memoirs should he want to. I concluded by writing: 'And

I mean it when I say I wish you speedy recovery.'
He responded promptly using his mobile phone:

'Dear Paranjoy,

Sorry that you felt hurt. But your response was soothing. That's what friends are for, isn't it? I'll revert tomorrow night after medical review. By then, you could see the revision and let me know if that's good enough.

Feel free to call me by my first name even if I'm older than you!

Take care,

Subir'

He attached the last article he wrote with his email. The article was titled 'Tarnished Silver' and in it, he sharply criticised the government's policy of divesting its shares in public sector undertakings at what he felt were low prices. He likened divestment to 'selling the family silver' and acknowledged that while the silver was indeed 'tarnished', it should not be sold at rates at which 'white metal' was sold. He complained that two newspapers had rejected his article while another was sitting on it. On 18 January 2010, the *Hindustan Times* newspaper published an edited version of what he wrote. He never got back to me with his revisions to the transcript of his last interview. I never got around to learning more about his life and the many corporate and political battles he reportedly fought. On 1 February as I was travelling to Jaipur from Delhi, Das called me to inform me that Subir Raha had passed away.

8
A GAS POLICY OF HOT AIR

The best person to tell the inside story of the Krishna-Godavari gas wars would arguably be the Union minister for petroleum and natural gas. The man to hold this portfolio in the Union Cabinet when the scuffle between the Ambani brothers broke out was diplomat-turned- politician Mani Shankar Aiyar. Between May 2004 and January 2006, Aiyar held this position (during which time he was also minister for panchayati raj).

After Murli Deora replaced him, Aiyar was given the ministerial portfolios of youth affairs and sports as well as development of the north-eastern region. At that time, there was considerable speculation about the real reasons why Aiyar was shunted out. Deora was perceived to belong to a pro-US lobby in the ruling Congress party, whereas Aiyar was in the so-called left wing of the party. Moreover, Aiyar was not exactly on the best of terms with the undivided Ambani family, unlike his successor in Shastri Bhavan (headquarters of the petroleum ministry) who was an old friend of the founder of the Reliance group, Dhirubhai Ambani.

The Cabinet reshuffle in which Aiyar was replaced by Deora came amid speculation that the UPA government led by Manmohan Singh was having second thoughts about the ambitious Iran-Pakistan-India gas pipeline project after voting against Iran in the International Atomic Energy Agency (IAEA). Whereas Deora had been invited for breakfast at the White House by the then American President George

W. Bush Jr., the outspoken Aiyar was perceived by many as being over-zealous in trying to put together a gas grid that would not just involve India, Pakistan and Iran, the arch political opponent of the US at that time, but also Russia and the Central Asian republics of the former Soviet Union. At least one senior journalist did not mince words while observing that Aiyar may have been moved because a side-effect of the long-term energy security plan he was attempting to implement for India may result in a shift in the global balance of power away from the United States.

Columnist Prem Shankar Jha wrote in *Outlook* (13 February 2006):

> The long awaited Cabinet reshuffle could have been dismissed as an exercise in coalition housekeeping and rewarding of the faithful, had it not been for one significant change of portfolio. This was the removal of Mani Shankar Aiyar from the Petroleum Ministry and the appointment of fund-raising party loyalist Murli Deora to this immensely sensitive post. Twenty months ago, when Aiyar was asked to take this portfolio besides panchayati raj (with which he has a father-son relationship since he drafted the relevant constitutional amendment bill for the late PM Rajiv Gandhi), his objections were brushed aside on the grounds that he was one minister on whose integrity the party could place complete faith.

Jha went on to extol Aiyar's virtues. According to Jha, Aiyar had an instinctive understanding of the geopolitics of oil, a capacity to plan years ahead in a shrinking and incredibly competitive oil market, a decisiveness in action quite alien to Indian politics and a demonstrable track record for honesty. So,

why was Aiyar moved? One answer could be that this accumulation of virtues broke the iron law of mediocrity that governs Indian politics. His successor, Murli Deora, fit the bill perfectly. 'But there is another possibility whose mere contemplation fills me with shame,' continued Jha.
Aiyar was not only determined to push ahead with the Iran- Pakistan-India gas pipeline, to which the US had voiced strong objections on the ground that it would impede its efforts to isolate Iran, but he was also actively putting in place an Asian gas grid that would link India with Iran, Turkmenistan, Kazakhstan, China and Myanmar. In addition, Aiyar had infused new vigour into India's efforts to acquire shares in oil fields abroad and, most troubling to the US, had signed an agreement with China that would enable the state-owned oil companies of the two countries to bid jointly for companies, concessions and oil fields in other countries in the future. In Jha's opinion, had these plans matured unhindered, it would have cemented a relationship between the two biggest oil consumers of the near future and the most important producers of oil and gas outside West Asia. The entire Asian region, from Russia up to China and Sri Lanka, would have gained a level of economic self-sufficiency that would have been translated by degrees into greater political autonomy. With the American, North Sea and West Asian oil reserves having begun to dwindle, this would have culminated in a loss of control of this vital market that would have knocked out the underpinnings of the US and EU global political dominance. This could hardly have been what Aiyar had in mind, but with characteristic panache, he had managed to rock some very big boats in a very short time.
'I would have been reluctant to give any credence to this theory had I not heard, barely hours before the Cabinet reshuffle was announced, that Aiyar was almost certainly being deprived of the Petroleum Ministry,' wrote Jha.
While no one doubted his brilliance or probity, he had been taking decisions that had 'foreign policy implications' without the clearance of the appropriate authorities. The source of this 'explanation', Jha was told, was the PMO. Since two officials directly concerned with reconciling oil and foreign policy told Jha that the allegation was untrue, he concluded that it was a red herring designed to distract attention from the true reason behind the decision. The driving factor for removing Aiyar, he believed, was 'our' overpowering desire to fall in line with American policies—a desire that intensified after the 18 July 2008 nuclear deal between India and the US and ratcheted into an obsession by the time President George Bush visited India. Jha became even more suspicious when 'one of the first things' Deora announced after being sworn in was that there were many inherent difficulties with the Iran-India gas pipeline project. Jha was cognisant of the fact that suspicions do not amount to certainty. It was possible that the unnamed PMO official was 'flying solo', and that Aiyar asked to be relieved of the oil portfolio in order to concentrate on panchayati raj and sports. But in politics, perception is often reality.

It doesn't matter what Manmohan Singh or Sonia Gandhi had in mind. All that matters is how Iran, China and Pakistan, not to mention Russia, are going to interpret the portfolio change. On that, no one should harbour any doubts. The only conclusion they can come to is the one I have outlined above….

He pointed out that getting closer to the US and the European Union would distance India not only from Iran but more importantly from China, Pakistan and Myanmar, all of whom consider themselves targets and potential victims of US imperialism. Anti-Americanism, therefore, runs very high in all these countries. Unless a delicate balance is struck between these conflicting goals of foreign policy, India could end up losing more than it gained. 'Putting Aiyar out to pasture was definitely not the way to do so.'
A little over five years after Aiyar's portfolio was changed, in March 2011, the Wikileaks website put out a 'secret' cable from the then American Ambassador to India David C. Mulford, to the State

Department in Washington, in which he welcomed Aiyar's departure from the petroleum ministry. The summary of his communication tells much of the story:

The UPA's January 28 cabinet shuffle signifies a determination to ensure that US/India relations continue to move ahead rapidly, and strengthens the cadre of modernizing reformers at the top of the GOI. Removing contentious and outspoken Iran pipeline advocate Mani Shankar Aiyar from the Petroleum portfolio, the UPA replaced him with the pro-US Murli Deora, who was one of several figures inducted with long-standing ties to the Indo/US Parliamentary Forum (IUPF) and the Embassy.

Mulford went on to add a revealing paragraph:

One analyst at Petrowatch, an industry publication in Mumbai, noted that Aiyar's dismissal removes a powerful supporter of the Iran Pipeline project and speculated that it could signal a shift in the GoI's energy-related foreign policy. Our GAIL contact said the private conglomerate Reliance probably lobbied heavily for Deora, particularly in view of Aiyar's clashes with Reliance during the five year rule of the National Democratic Alliance.

* * *

More than two years and eight months after he was suddenly—and ignominiously removed—Aiyar gave an extraordinarily detailed and hard-hitting speech about the controversy relating to the pricing and allotment of natural gas from the Krishna-Godavari basin. He referred to the tussle between the Ambani siblings and left nobody in doubt that the government's role in the entire episode was questionable, if not downright dubious.

On 26 September 2009, Aiyar, known for his 'gift of the gab', was at his wittiest best speaking to a small group behind closed doors. For instance, when he referred to how the price of gas had been increased by the EGoM from $2.34 per mBtu to $4.20 per mBtu, he quipped, tongue in cheek, on the number 420; for the uninitiated, Section 420 of the Indian Penal Code relates to cheating and fraud, and provides for punishment of the convicted.

Aiyar's speech was delivered shortly after noon. It lasted close to half-an-hour and was followed by a few questions. Those present were quite taken aback by his command over complex technical facts and terms. 'Either he had done his homework rather well or had been briefed in considerable detail by someone who knew exactly what was going on—he had his numbers on his fingertips,' said a person who was present during the meeting conducted under the aegis of the 'Saturday Lunch Club' in New Delhi's India International Centre, a popular venue for many discussions, seminars, conferences and debates on contemporary issues.

An interesting aspect of the speeches made at the Saturday Lunch Club is that these are largely governed by the 'Chatham House' rule that ensures confidentiality of the source of information received at a meeting. Neither the identity nor the affiliation of the speaker or speakers, nor that of any other participant, may be revealed under the rule that allows individuals to express views that may not be those of the organisations to which they belong. The rule originated in June 1927 at Chatham House (known formally as the Royal Institute of International Affairs in London, UK) with the aim of encouraging free discussion in which speakers can voice their own opinions without concern for their personal reputation or their official duties and responsibilities.

Aiyar's talk was simply titled 'Gas Pricing' and lasted for about half an hour. Hailing the discovery of gas by RIL in the KG basin as an important breakthrough for the country, Aiyar said that in an era when global gas prices had skyrocketed he was hopeful a lot of foreign exchange could be saved even

as the country could become self-sufficient in gas. He said:

....since Reliance have thus far explored only about 4 per cent of the area allocated to them, and ONGC appear on the verge of announcing almost as significant discoveries in areas they are exploring, India could emerge as a gas-surplus region over the next decade or so. Given that till a decade ago, we were seriously gas-deficient, and that when in 2005 I referred to the Bay of Bengal as the North Sea of South Asia, it was treated as a bit of hyperbole, you can see how the Reliance breakthrough constitutes probably the single most important giant step towards energy security ever...

Aiyar pointed out that when NTPC floated a global tender in 2002 for 12 mscmd of gas it got a single bid of $2.34 per mBtu from RIL. This rate became the basis of the family MoU between the Ambani brothers but not through transparent price discovery. He said the NELP always distinguished between the price at which gas may be **sold** (emphasis his) and the price at which gas will be **valued** for purposes of determining the royalty payable and, more importantly, of determining the government's share of profit petroleum. 'However, there was also always the conditionality in NELP that the **selling** price would not be determined through cosy private or secret deals but transparently through a process of 'price discovery' in the market by buyers putting out global tenders and sellers bidding in competition with each other,' he added, pointing out that '...government approval for pricing had to be secured – but only for government to satisfy itself that the price discovery process was transparent and not rigged.' 'While... the price agreed upon in the family agreement was patently not arrived at through a process of transparent price discovery, the price stated was a replication to the last cent of a price discovered by a *nava-ratna* (nine jewels) public sector entity through a global tender in the open market,' he pointed out.
Between 2003 and 2007 international crude prices – reflected in international gas prices – rose from $25 a barrel to $150 a barrel before it started to recede in 2009 when it reached $60. Even this was two to three times the prevailing price when RIL put in bids for NTPC. With costs of deploying rigs rising, the notional loss being incurred on the output for the life of the field for the next 17 years started running into billions of dollars—which, Aiyar quipped, 'not even the super-rich can afford to lose!' and was the reason why the Ambani siblings fell out with each other. The former petroleum minister then explained how the NELP framework was 'dramatically altered' by the government in a manner that ran 'in stark contrast to what was once expected of the direction of economic reforms'. Aiyar's next few sentences were sharp:

No minimum selling price was earlier stipulated; on 12 September (2009),'the Empowered Group of Ministers determined a minimum selling price of $4.20 (that is emphatically ***not*** a pun on the nature of the decision!): that price applies retroactively to PSCs entered into since 2000. It is almost double the NTPC/RIL price discovery of 2002. It would appear that the $4.20 stipulation relates both to **valuation** and **selling** price (or at least, minimum selling price). This minimum selling price provision is backed up by a list of priorities which places fertiliser ahead of power (and is, therefore, detrimental to Anil's interests, especially as the gas allocations pre-empt all of present gas production for consumers already in operation and privilege the public sector...

The PSCs under NELP I-VII provided in Article 21.3 that the contractor 'shall have the freedom to market gas'; now that freedom is conditioned by the phrase 'and sell its entitlement as per the government policy for utilization of gas among different sectors'. Aiyar pointed out that while earlier too, a reference was made to the government's gas utilisation policy, the fact is that no such policy was enunciated in detail till seven years had lapsed since the first PSC was concluded. While noting

that the law should not be retroactively applied, he wondered whether this should also apply to government policy?
Aiyar said that while earlier PSCs provided that the government reserved to itself the right to refer pricing issues to the proposed Petroleum and Natural Gas Regulatory Board when no such Board existed:

Now that such a Board has been constituted, the new PSC drops all reference to the Board and essentially reserves to the government the right to unilaterally decide all matters pertaining to pricing. Does this constitute a reversal of reforms? More to the point, will this discourage future private sector investors from entering the Indian petroleum exploration and development market? Worse, will it discourage investment decisions by private power producers and others in need of gas by making five-year determinations for the price of gas when investment decisions, involving a six- to seven-year gestation period and another ten years to recoup initial investment, call for stable, long-term contracts for essential inputs? Also, should government interventions be aimed at raising prices for sellers or at keeping prices down for consumers? This appears to be the first case of a government fiat resulting in consumers being asked to pay more for an essential commodity than might have been available from price indications in the marketplace.
Whereas the new PSCs still talk of the "arms length" determination in the market of gas prices, the amended Clause 2.7 says the price set "shall be applicable *uniformly* to all the consuming sectors." That price cannot be lower than the price set by the government but if it is higher "then the higher price would be reckoned for the purposes of government take." This provision too would have the effect of government intervention augmenting rather than lowering the price of an essential input.

Aiyar said 'these large policy issues relate not just to a commercial dispute between two brothers torn by sibling rivalry but fall in the domain of governance and, as in any democracy, are amenable to public discussion over whether the decisions taken constitute good governance or bad governance' (See *Appendix 8*: 'Gas pricing: meaning of "420"'). Aiyar was roundly applauded by those present. A few questions were thereafter posed to him and some points brought up for him to clarify. Those who heard him did so with rapt attention, evidently impressed by the facility with which he explained a complicated issue. More importantly, he was clearly critical of the government led by a political party to which he belonged. When contacted by the lead author of this book, Aiyar refused to either confirm or deny what was attributed to him. He cited the famous Chatham House rules and said he could not speak on the topic.

* * *

The effervescent Aiyar was not the only one who could project the Ambani battle to the prevalent energy scenario. There was another man whose apparently mild demeanour concealed the heart of an aggressive activist. He was known to be blunt in his views, a bit too blunt, perhaps, for a government advisor. Dr Surya P. Sethi was among the country's foremost energy experts who believed that the battle between the Anil Ambani-led RNRL and the Mukesh Ambani-led RIL was incorrectly labelled as a private spat between two brothers. More important, Sethi insisted, was the 'vacuum' in the government's policy and regulatory mechanisms on the use, allocation, valuation and pricing of a scarce resource that belongs to the people of India.
Sethi retired on 1 August 2009 as principal advisor, power and energy, Planning Commission after holding the post for nearly eight years. He is now an independent consultant. An engineer and manager who worked on infrastructure projects in 30 countries, he spent 18 years in the United States working

for the International Finance Corporation (which is part of the World Bank group and lends to private enterprises), before deciding to return to his country of origin to work for the government of India.
During his tenure in the Planning Commission, Sethi took on many of his peers on issues relating to energy. He disagreed with Subir Raha, the then chairman of ONGC on the strategy of the public sector company's overseas arm, ONGC Videsh Limited (OVL), that purchasing oil and gas assets outside India would enhance the country's energy security and argued that such purchases would merely diversify sources of energy supplies. He also argued against ONGC spending only its own funds to purchase overseas assets, saying that it should obtain loans for 'producing properties' and development of (oil and gas) fields so that the lender would share part of the risk and have a stake in the property. He was overruled by Raha, who argued that since ONGC was a cash-rich company, it should not seek loans on which interest would have to be paid and thus increase costs.
Sethi is among those energy experts who have consistently opposed a formula-driven methodology for pricing natural gas, as is typical for pricing LNG. He argues that unlike LNG, natural gas is not a tradeable commodity and different sets of rules apply worldwide while determining its price. He supports his argument with data compiled by GAIL on the pricing of natural gas from 39 countries. In fact 'there is no such precedent anywhere in the world', says Sethi.
In interviews, portions of which were first broadcast on Lok Sabha Television on 27 September 2009 (conducted by the lead author of this book) and also published in *Current* (28 September–4 October 2009), Sethi outlined why he is so disappointed with the failure of the government to formulate a sound policy on natural gas which, in turn, has been largely responsible for the dispute between RIL and RNRL, and between RIL and the public sector NTPC. Sethi argued for the need of an integrated energy policy. Prime minister Manmohan Singh, while dwelling on the topic of India's energy security, had stressed upon the need for an integrated energy policy. The PM said that energy policies followed in different sectors of the government were not always internally consistent. But the facts go deeper. There are 550 million people in the country who have no access to electricity and several million others whose primary source of energy remains sunshine and biomass. This biomass (wood, crop residue, animal residue and cow dung) meets 80 per cent of their total household requirements. This is a unique feature of energy use in the world, as nowhere else is a similar practice followed. About 50 per cent of India's farms are rainfed. To provide them water security, one needs to first provide them with energy security. If the issue of food security is included, that requires a third input apart from water and energy, which is land. Water, energy and land are the three major factors of production. About 40 per cent of farming families do not own land. The average land holding of farmers has halved from what it used to be 30 years earlier. Other parameters that go into the Human Development Index compiled by the United Nations Development Programme(UNDP) bracket India in the same category as countries in sub-Saharan Africa. To improve health services and education, provision of incremental amounts of energy per individual is essential. Inclusive growth is impossible without greater access to energy.
On India's energy pricing policy, Sethi thought that it was imperative for the government to formulate a coherent, credible and defensible policy on allocation and pricing of natural gas. The formula approved by the government for pricing domestic natural gas is patently debatable, being unique in the world in both concept and form. The current formula will effectively keep the wellhead price of gas above $4 per mBtu. This is a high wellhead price in the global context. Sethi's second point was that a natural gas pricing policy cannot be independent of a natural gas allocation policy. Further, this policy must take into consideration the use of gas in a manner that maximises its economic value (inclusive of externalities such as environment) after a careful analysis of value addition in alternate end-use sectors.
He lamented that despite his entreaties, the country still does not have a defensible natural gas

allocation and pricing policy. In the integrated energy policy that he wrote in 2006, it was estimated that commercial energy—which is primary energy that can be traded as opposed, for example, to biomass, which is a non-tradable commodity—needs to grow at around 5–6 per cent a year if India is to support a GDP growth rate of over eight per cent for the next 25 years. This growth is necessary if the country is to eradicate poverty and provide its people with the security of water, energy and food along with other basic amenities of life. Today, Indians consume only
3.7 per cent share of the global energy supply. To meet the energy requirements of the future, this supply needs to rise to double its current level over the next 20 years. We would then be energy-efficient. Otherwise, it needs to rise to three times the current level, and India must corner between 13 per cent and 21 per cent of whatever incremental commercial energy comes to the market. The current procurement is rising only at the rate of 1.75 per cent per annum, at which rate it will take 40 years to double India's share of the global energy consumed.

The government's lackadaisical approach in creating a credible framework for the use, allocation, valuation and pricing of natural gas, which belongs to the people of this country, has led to a situation where private interests profit and will continue to profit at the expense of the nation. There has been the proposal for flipping domestic energy prices to match global prices. According to Sethi, it is a myth that we pay less for energy than the rest of the world. Coal is sold to the power industry at roughly 40 per cent below its economic value. This deliberate under-pricing covers up the inefficiencies of the power sector. The reason power is 'stolen in our country' is because power tariffs are extremely high. Today, industry is paying about 30–40 cents per unit of power on a purchasing power parity basis. To make up for the theft of power and hide the inefficiencies of the power industry, coal is sold at under-priced values. It thereby destroys the coal reserve, which is the largest energy reserve that India has. By opting for more open cast mining in lieu of underground mining, coal reserves are being sterilised. Open cast mining has many implications including those for the environment. This leads to the 'resource curse'. Other inefficiencies in the system are being hidden behind the pricing module of natural resources. In the process, India is jeopardising its only significant domestic energy resource.

Sethi elaborated on the Cabinet-approved integrated energy policy which, by and large, follows the policy introduced in 2006. It is categorical that pricing of energy should be at trade-parity prices. We are however, 'following some archaic form of approach'. The policy says that India needs more competition in every step of the energy value chain, but abounds in monopolies, 'usually largely government monopolies'. There is a strong nexus between energy and water but, whereas one can live without energy, one cannot do without water. Good regulation, enforced properly, is the key to efficient provision of essential utilities and services. Sethi argues that the regulatory regime may be good and still fail for lack of enforcement; or there may simply be a deficient regulatory framework. The oil and gas sector, unfortunately, suffers from both maladies. The government (the principal owner) conducts upstream regulation; the less said about the downstream regulatory regime, the better. The domain expertise of regulators remains a cause for concern. Such lacunae are at the core of accusations of gold-plating, lack of transparency, cornering of concessions and predatory pricing of transportation and distribution services. If India does not realise that 40 per cent of energy is required to pump one or other kind of fluid, meaning water or oil, economic development would be comprehensively obstructed.

Sethi also emphasised the need for conservation of energy. If India adopts the right approach from the 11 scenarios that have been developed for an integrated energy policy, energy requirement would reduce by 30 per cent, decreasing import dependence. If one looks at the total primary energy import, India may end up at about 35–36 per cent from about 28–29 per cent. There is a view that by 2030–32, import dependence could be 58–76 per cent for commercial energy— if one looks only at oil and gas.

But if one takes into account the total quantum of primary energy, which includes coal as well; and if India does things correctly, as has been recommended in the integrated energy policy, that is, if those policies are truly implemented, 'our import-dependence can at best be reduced to at least 39 per cent'.

Sethi asserted that there is indeed a kind of monopolistic control over India's natural gas. The public sector GAIL, which was set up as a transportation company for gas, now also controls the distribution of gas. As of now, there is a kind of duopoly between GAIL and RIL. There is inadequate regulation and, so far, it has been limited to the government. Upstream regulation remains under the petroleum ministry and there are serious concerns about its capacity to handle the complex issues involved and the legitimacy of such regulation. As mentioned, India's downstream regulatory regime is one of the world's weakest, floundering under its own contradictions, lack of capacity and understanding. The Petroleum and Natural Gas Regulatory Board looks at downstream operations, and has no authority over upstream operations in the hydrocarbon sector: it cannot regulate gas prices, and even its power to allocate gas pipelines and determine gas transmission tariffs have been withdrawn at crucial junctures through de-notification of the relevant clauses.

Sethi had been bringing the issue of GAIL's operations to the notice of the government since 2002. Today GAIL is a marketing company; it uses gas and controls gas. Even RIL wants full control over production, transportation and distribution, either directly or with GAIL. Oil India Limited (OIL), a relatively small producer, has a similar monopolistic and integrated structure in the country's northeast. The monopolistic structure of the sector, in turn, suffers from a huge demand-supply imbalance, thereby necessitating a very strong and independent policy and regulatory regime which is conspicuous by its absence. And while unbundling the generation, transmission and distribution in the electricity sector was an important element of power sector reforms, there has been so far no such attempt in the gas sector. Gas and electricity compete for a share of the energy markets in developed countries and, indeed, are beginning to do so in Indian metropolitan areas with city gas networks. The private sector, before the emergence of RIL, produced about 20 per cent of the gas and sold 35 per cent of it to the gas authority. But the ONGC is a major stakeholder. These private fields are but old wells of the ONGC that were handed over to foreign private investors in 1991. ONGC is still a 40 per cent shareholder of these fields.

The MoPNG does not have the capacity to handle the complex issues of regulation. Sethi pointed out that if one looked at any utility service anywhere in the world, nowhere did a system exist where the producer of gas controls the transport and distribution of gas; because, if the producer were involved in transportation and distribution, the producer could indulge in predatory pricing. These are common carrier services and are often called natural monopolies. A case in point was the RIL gas row: a particular price was offered at the wellhead, but transportation and distribution costs added another 35 per cent to the price.

One must not, therefore, have the same entity control production as well as transmission and distribution. Here we have another peculiar situation: the company is also the end-user of the gas. So the regulatory system must make sure that transactions are kept at arm's length. If you do not do that, you can do self-dealing in the system. This is evident from the introduction of city gas distribution systems and the rush to corner those concessions. The integrated structure of India's natural gas sector violates the unbundled feature of well-regulated utilities. This concern has been highlighted repeatedly since 2002.

Sethi was also asked for his thoughts on the Union budget of 2009–10, when the then finance minister Pranab Mukherjee held out a tax incentive for RIL to gain Rs 20,000 crore as a tax break for laying gas pipelines. He said this was not the first time that gas pipelines were being laid. If the intention were to construct more gas pipelines through this tax incentive, it could have been done earlier. 'Why did we not think of this concession at that time?' Sethi asked rhetorically. 'Why has this concession

become critical so suddenly?' He was not sure whether this concession is available for all time to come or just a temporary window. If we need infrastructure to be developed, this is not the only infrastructure that could do with concessions. This surely is a cause for concern.

Then again, there was the controversy over PSCs. Sethi argued that a formula-driven methodology, as adopted for pricing LNG (liquefied natural gas), should be avoided when pricing natural gas. The two are different commodities and have separate markets. The vacuum in government policy of a regulatory framework caused this problem. The same PSCs hold good for gas as well as oil. Yet, there is a world of difference between the two. Oil is internationally traded while natural gas is not. Natural gas is different because to trade in it, huge investments are needed (both to liquefy it and to build long pipelines to transport it). Less than 20 per cent of natural gas actually gets traded—the international average. The rest of the gas is consumed at the place where it is produced.

Sethi felt that despite the availability of a clear legal opinion and court orders, the provisions of the PSC that governs the RIL concession were grossly misconstrued. The PSC gives full freedom of marketing to the operator (in this case, RIL) and limits the role of the government in pricing to simple 'valuation' for the purposes of determining its share. Irrespective of the PSC, the government does not have a clear and unambiguously enunciated gas pricing policy; multiple pricing policies are concurrently in force. The PSC protects the government on two counts. The government has a share of the product after the costs are recovered. As the company recovers more of its capital expenditure, the share of the government keeps increasing (with more profit gas for the government to share). What does this mean? This is not a cost-based formula for capital expenditure as it is in the power sector. It is important for an independent audit body like the CAG to see that the capital expenditure of the company is arrived at properly, Sethi pointed out.[1]

He pointed out that the PSC says, for example, that you first retrieve your investment in the project. The share of the government keeps rising as you recover higher multiples of the capital expenditure. So, capital expenditure becomes crucial in determining the government share in the gas. The PSC gives the government the right because its share depends on the price of the gas, and the government has gone on record insisting that its share in pricing is purely for the purpose of valuation, and not for deciding the market price of gas, because the seller cannot have marketing independence if somebody else decides the price of the gas.

The government has done a flip flop on the issue of whether the formula being used determines the 'selling' price or the 'valuation' price. Business valuation takes into account the prevailing conditions under which assets are priced (these are macro evaluations of the national/regional economy and the state of the industry) and assumptions about the future conditions (future prices, levels of output, comparative profitability, all of which are related to forecast of trends). All these are based on application or extrapolation of hard facts. However, selling price is what is 'perceived' by the buyer, in terms of future revenue (as a running concern) or through sale of assets, etc. This can differ on the terms of the transaction itself: one-time payments reduce the selling price; long-term/instalment payments increase the selling price, etc. To explain by example: a property can be assessed by a government valuer who arrives at a value based on a host of criteria for the purposes of levying taxes, duties and so on; this valuation remains constant whether the owner sells the property at half the price (in a distress sale) or at double the price (during a property boom).

A PSC does not negate the possibility of the selling price being different from the valuation approved by the government. The government has two levels of authority. First, for valuation purposes, it can decide the right price so that no more than the rightful share of gas is taken away by the investor. In the absence of a pricing policy, the government has a framework to prevent sellers from either under-pricing or over-pricing it. So, if the government has a policy whereby it entails that gas for the power sector has to be provided at a certain price, gas should not be sold to this sector at a higher price. If

there is an explicit pricing policy, the price at which the gas is sold must correspond to this policy. The valuation and selling price are two separate things. The Bombay High Court brought this out clearly and explicitly in its June 2009 judgement.

The PSC between RIL and the ministry of petroleum & natural gas binds the government to accept any price for gas determined on the basis of a transparent, arm's length process. Price discovery under an international competitive bid, such as the one in response to NTPC's global tender, cannot be questioned under the terms of the PSC as the contract gives the government the right to review a pricing arrangement only if the arrangement is construed as determined by less than an arm's length process. The PSC of the government has no role in questioning the price established on the NTPC bid. The PSC is clear that if the price is established on a *pro rata* basis, through an international competitive bid as was done, that price is sacrosanct. RIL is contractually bound to supply gas at that price to NTPC. The PSC limits the government's power to place checks on such a price. In any event, such pricing can be reviewed in the context of valuation of gas to determine the government's share, or of a pricing policy that the government may announce from time to time.

Much was made of the fact that RIL had to wait for the government to finalise this price. How the $4.20 price came into place therefore invites explanation. GAIL explained this at length at that time, taking the example of 39 countries. In none of these countries, for which information was obtained, were natural gas prices determined by a formula. Only the prices of LNG are arrived at on the basis of a formula worldwide, but in this instance as well, the nature of the formula approved by the government is very different from the typical formulae used worldwide to price LNG.

Natural gas is priced using a formal limit as per international standards. In India, the formula is different from that used worldwide. This formula ensures that our value-addition for gas would remain above $4. This is an exponential formula. In most countries, there is a base price for gas, and with a rise in the price of crude, the gas price gradually rises. In the Indian formula, the gas price rises exponentially. So if $25 (per barrel) is the base price, at $25 and 1 cent, it comes very close to the peak itself. So in the relevant range, for example, the $40–$60 crude oil value, the price varies by about 20 cents. Through this formula it has been ensured that the value-addition for gas never falls below $4 per mBtu. This is the highest value-added price for natural gas anywhere in the world today. So it is not correct to say that gas has been under-priced if the seller sells it at $2.34, Sethi argued. The documents submitted by RIL to the DGH estimated the cost of production at about $0.90 per mBtu. This meant that RIL stood to make a net profit even at the NTPC-tendered price of $2.34 per mBtu. According to Sethi's view, (which is similar to Anil's) the price of $4.20 is calculated by a peculiar formula not followed by any other country. Given the normal calculations, the $2.34 per mBtu selling price is good enough. However, according to RIL, the cost of crude had risen over the last decade and so had the leasing cost of rigs. There is some truth in the latter argument, since crude prices have increased exponentially. The spot price of crude was less than $25 per barrel in March 2003, but by May 2005 prices jumped to just below $55 per barrel. By December 2007, the price of crude went above $100 per barrel; hitting a record of $147 per barrel in July 2008. However, as a result of the global economic meltdown, oil prices fell to less than $40 per barrel in January 2009. Since then, prices climbed back steadily during the period July 2009 to July 2010, though they fluctuated between $70 and $90 per barrel. Indeed, never before have oil prices fluctuated so much. However, despite products linked to oil prices witnessing major price fluctuations, the present prices are much higher than those prevailing during the agreement between RIL and RNRL.

Article 21 of the PSC gives the government the right to have a gas allocation policy. Such a policy was announced by a Group of Ministers in 2008. However, the allocation policy remains *ad hoc* and is not based on any sound and defensible economic analysis. Article 15 of the PSC allocates the bulk of the gas produced (in physical units) in the initial years of extraction to the operator (in this case, RIL) for

recovery of costs incurred (the cost gas). Freedom to market the gas, foreseen under the PSC, is compatible with allowing such cost recovery. In addition, the operator gets its share of 'profit' gas in kind. Technically, the government could acquire the entire gas (say, from the D6 block in the KG basin) at a price that permits full cost recovery as well as recovery of the value of the operator's share of 'profit' gas. Short of doing this, any claim that RIL has committed to sell gas belonging to the nation to RNRL is not tenable under the PSC. The PSC allows the operator to dispose of the 'cost gas' and its share of the 'profit gas' at any price, provided the government's share of the gas is based on a valuation price transparently determined and/or approved by the government. At present, the government's statements purporting to place the facts on ownership of gas before bemused and uncomprehending taxpayers leave much to be desired. The price obtained by the operator for the cost gas and the profit gas allocated to it must conform to any pricing policy announced by the government but, as pointed out above, there is no such clearly laid down policy, and multiple pricing regimes are in force.

The policy vacuum here creates serious implications for the rule of law, Sethi explains, for transparency and for accountability in the current regulatory regime and governance in the gas sector. There are, besides, several key issues that characterise this unseemly controversy. First, gas is not a tradable commodity in its natural form. As already mentioned, trading in gas involves, among other things, huge investments in infrastructure, such as pipelines or liquefaction facilities, to convert natural gas to LNG. In other words, pricing of natural gas is based on considerations quite different from those that go into the pricing of LNG.

There was an 'embarrassing delay' by NTPC in pursuing its 'legitimate claim', he says. This delay occurred despite NTPC's board of directors as well as the government's top legal officers (the solicitor-general and the attorney-general) all advising NTPC to pursue its appeal against RIL, independent of the latter's dispute with RNRL. A shareholder of NTPC had also filed a public interest litigation in this regard. For Sethi, it was intriguing to learn that the government was reportedly concerned about the need to protect NTPC's interests. If indeed this was done, the government was essentially proposing to have different gas prices for different power producers in different states. Would such a policy be tenable in our polity, except to the extent that actual costs of transportation and distribution are different for different end-use locations? The good news is that NTPC has gone to court. They have a legitimate cause to take to court: there is a legitimate contract that needs to be serviced, he stated.

Sethi had pleaded, for as many years as he had worked with the government, for a projection of targeted production for a period of about 20 years. Unlike a system of 'cost-plus' recovery of expenditure, or a 'regulated' return over the life of a project followed in the case of power plants, the oil and gas PSCs allow full and upfront recovery of the entire capital expenditure. There is no cap or ceiling on capital expenditure in gas production. Thus, a higher capital expenditure leads to a higher proportion of 'cost gas' and consequent reduction of 'profit gas'—all other factors remaining constant. Hence, it is of utmost importance that the capital expenditure on the KG basin projects is scrutinised meticulously to ensure that the operator does not get an excessive amount of cost gas, thereby reducing the quantum of profit gas available as the government's share.

RIL is often rhetorically described as having 'gold-plated' its capital expenditure to earn higher revenues while depriving the government of its share of profit gas. Suspicions about an undue rise in capital expenditure on the RIL discovery are widespread. Questions have been raised about the process which required junior government officials to approve increases in capital expenditure running into billions of dollars. There have been conflicting claims about the government's take from the KG-D6 gas field. Gas reserve numbers have not been certified independently in full. Hence they are, at best, 'speculative'; capital expenditure has not been 'finalised' and the sale of as much as 40 mscmd of gas

is legally disputed. Hence, the final price for a quantity of gas that is roughly half of the reported likely peak production is unknown. Besides, as there is no committed and/or approved production profile and gas prices remain highly volatile, 'the likely investment multiples remain guesstimates at best', Sethi argued. Therefore, 'determining and announcing the government's take from RIL's D6 field is akin to counting one's chickens before they are hatched'.

The long-term supply of available domestic natural gas to stranded assets will always have top priority in such an analysis. Since available known domestic supplies of natural gas may not be enough even to meet the stranded demand over, say, 15–20 years, the yearly availability of domestic natural gas over the next 20 years does indeed need to be assessed with some degree of certainty. Such an assessment, together with the priorities in end use, is essential to any pricing policy.

Sethi said:

> If I am going to make investments, I have stranded assets which need gas, that is, power plants which have already been built but are not getting gas, or I build new power plants and get new gas for them. If I make capital investments of that nature, I need assured supply of gas for at least 15–20 years before I sink that money into the ground. I need to have a commitment that this much gas will be provided over a 20-year period.

He explained that extracting gas is an art in itself. If your deposit is the same, you can extract very high amounts of gas in the initial periods and thereby deplete it very rapidly. Or you can have a steady rate over a longer period of time.

What this means is that after the operator has recovered, say, twice the investment from the sale of cost gas and its share of the profit gas, the government's share would rise to, say, 85 per cent or more depending upon the terms and conditions in the PSC. A high capital expenditure would essentially reduce the government's share, all other things remaining the same. Technically, it is possible that a very high capital expenditure may not even allow full cost recovery if the reserves are small and gas prices depressed. Under such a scenario, the government's share remains insignificant because the relevant investment multiple is never reached. Sethi did not think that the total gas reserves had been certified. The gas reserves certified are much less than could support 80 mscmd of gas production as was being talked about, especially over an 18-year period. He pointed out that the contract that had been entered into was for a period of five years. 'If you do not tell me what the total amount of gas reserves is over a twenty-year period, how can I allocate gas, how can I price gas?' he asked.

Sethi, however, believed that there were many lessons to be learnt from the controversy. The Ambani brothers need to be thanked—for if they had not fought, the issue of real ownership of the gas would not have come out into the open. The siblings did something which Sethi could not do in eight years. The concerns raised as a result of the dispute between the brothers were applicable not just to gas, but equally, for other mineral and energy resources, such as iron ore or coal, which was also being allotted less than transparent terms. Energy, like money, is fungible and in the world's most efficient energy markets, gas and electricity compete on near-level terms. The issue concerns the larger interests of the people and the land where the resources are located. It also has a host of implications for other issues: from prices paid by consumers to the country's energy security.

Sethi saw the so-called resource curse as endemic to those countries where there are no regulatory frameworks and where proper government structures are not in place. This is essentially another manifestation of rent-seeking behaviour by the government. 'Under the licence–permit raj, people used to corner licences. In this age, people are cornering whatever they can of natural resources.' Such issues assume enormous significance in India where the national government owns most energy assets but fails to act as a fair and transparent custodian of resources that belong to the people of the nation.

Collateral Damage

9
THE KG BASIN IS 'SINKING'?

Flying over the Bay of Bengal in a helicopter, one looks down and sees swathes of deep blue and emerald green waters stretching from horizon to horizon. Across the ocean, the blotches of blue, green and brown, mingling and merging in the swirling waters, present a spectacular yet strange panorama in the vastness below. Dotting the vast blue-green expanse below are inanimate structures apparently drifting aimlessly. These appear to be large ships from a distance but a closer look reveals vessels of a different kind. These are giant floating rigs. Looking like benign little toys from the sky, these massive structures have been ruthlessly scouring the bowels of the earth at depths of as much as nine kilometres below the ocean surface to reach the bed. To the uninitiated, it is difficult to imagine that the operation of these rigs that are being used to extract natural gas from the bed of the ocean have an ecological impact on the shoreline up to 20 to 25 km away.

The state of Andhra Pradesh in southern India is often described by the moniker, 'rice bowl of India'. The Krishna-Godavari (KG) basin is precisely where the rice bowl is situated. A large portion of the coastline of the state comprises the deltas of the Krishna and the Godavari, two of the largest rivers of peninsular India. The deltaic region occupies an area of roughly 10,000 square kilometres (sq km). Owing to the extremely gentle nature of the slope in these deltas, the five-metre contour extends almost 30 km inland here. Along Andhra Pradesh's remaining coastal parts, the five-metre elevation runs 5-10 km inland from the shoreline. If the inter-delta lands are included, the total cropped area in the 'rice bowl' of the Krishna-Godavari (KG) basin comes to around 12,700 sq km.

Rich in agricultural produce, paddy is the dominant crop occupying about 4,606 sq km of area (or nearly two-thirds of the total area or, to be precise, 65.38 per cent of it). Fertile alluvial soils and water resources (a dense network of irrigation canals as well as abundant groundwater in some areas) enables the Krishna-Godavari deltaic region to sustain intensive paddy cultivation during both the summer (*kharif*) and winter (*rabi*) seasons. This region alone accounts for almost 92 per cent of the sown paddy area within a five-metre elevation along the coastline. With an irrigated area of about 1,500,000 hectares and two crops a year, the KG basin produces about one crore or 10 million metric tonne of rice per year. This fertile agricultural area is home to more than 10 million people; its population density is double the country's average of 729 persons per square kilometre.

Apart from paddy cultivation, aquaculture is a prominent activity in the KG deltaic region. Of the 1,692 sq km area under aquaculture along the entire Andhra Pradesh coast, as much as 1,427 sq km(or 84.34 per cent) falls within the deltas of the two rivers. Extensive mudflats and tidal creeks make the area conducive for prawn culture. Besides, the entrepreneurial farmers of the region have converted some of their croplands into aqua-ponds for pisciculture using fresh water from irrigation canals as well as groundwater. In this proverbial land of plenty, plantations of coconut, mango, guava and banana are common. Casuarinas stand atop the sand dunes and beach ridges act as wind-breakers and sand stabilisers in this cyclone-prone area. Altogether, plantations occupy an area of about 322 sq km (or 4.57 per cent of the total land area) while salt pans cover about 78 sq km in the lower reaches of the deltas.

Another characteristic feature of the KG deltaic region is the extensive mangrove swamps and associated mud-flats and lagoons. Occupying about 612 sq km, the wetlands of this region are second only to the well-known Sundarbans in West Bengal in eastern India and along coastal Bangladesh. The mangrove swamps are an important wetland ecosystem protecting the coastal expanse from erosion and the impact of storm surges. On many an occasion, these mangrove forests have saved lives and property from the fury of gale winds and sea-water swells accompanying cyclones that frequent this part of the India's eastern coast.

The KG delta's unique topography, a very gradual rise from the sea, also makes it particularly vulnerable to the effects of sea level rise, a consequence of global climate change. Much of the Andhra Pradesh coastline, including the KG deltas will be submerged by the year 2100 if the predictions of the Intergovernmental Panel on Climate Change (IPCC) of a two-feet rise in sea-levels by then, come true. In fact, the Fourth Assessment Report's warnings in 2007 portend that 'more extreme droughts, floods, and storms, would become commonplace … and that these intense weather conditions would follow in close succession to each other, often in the same areas'. Such indeed is the grim climatic prognostication for Andhra Pradesh in general and the KG deltaic region in particular. Consider what happened in 2009. That year, the state experienced a severe drought due to the failure of the monsoons, which resulted in a major setback to agricultural production. The *kharif* crop failed in 971 out of the total of 1,128 revenue *mandal*s (or zones) in the state. There was full-scale crop failure in about 1.4 million hectares while in another 3.4 million hectares the loss of output was around 50 per cent. In October that year, a low-pressure climate system hovered over the Krishna basin for three days bringing about torrential rainfall that wreaked havoc on agricultural production. There were unprecedented floods which affected as many as five million people and destroyed whatever little crop had been left standing in several areas in the river Krishna basin.

By 2009, the problem of land subsidence in the fragile deltaic region had become a major issue. In June 2008 the NGO Krishna Godavari Deltala Parirakshana Samithi, Bhimavaram, West Godavari of Andhra Pradesh filed a writ petition (No. 13341/08) in the Andhra Pradesh High Court calling for government action to check land subsidence that was taking place as a consequence of offshore oil and gas exploration. Apprehensions about the delta land subsiding first started with 'evidence' coming in the form of fresh groundwater in wells turning saline. It was found that water levels in drains connected to the sea were rising dramatically during high tide as compared to how much they had risen in the pre-exploration period. Farmers began noticing this only around 2008–9.

Subsequently, more damning evidence was gathered by scientists such as geological expert Professor Gangula Krishna Rao. His efforts were backed by E.A.S. Sarma, a former bureaucrat who held the post of secretary to the government of India and who has been vehemently opposed to the manner in which oil and gas exploration has taken place in the KG basin, not just on environmental grounds but also on account of the various other irregularities that have taken place. For this reason, he has written a series of letters to the prime minister voicing his concerns on several issues, notably omissions and commissions in the awarding of contracts for oil and gas exploration in the KG basin.

Exploration for oil and natural gas first began in the KG Basin as early as 1977 when the Oil & Natural Gas Commission (as ONGC was then called) commenced drilling operations. Production of natural gas started from the Rajolu onshore field in October 1988 while offshore gas production commenced in 2001. Intensive production from the central delta region began in 1998. With the commencement of the New Exploration Licensing Policy (NELP) in 1997, various private players like Reliance Industries Limited (RIL), Gujarat State Petroleum Corporation (GSPC), Cairn Energy of the UK and others jumped into the exploration business.

It is contended that natural gas extraction in the offshore and onshore KG basin (oil production is rather limited) over the last decade—in some areas, oil and gas production has been going on for over

two decades—has slowly led to a deterioration in the quality of groundwater by making it saline and unfit for drinking or farming. As explained earlier in this book (see Chapter 7), gas blocks such as D6 in the KG basin operated by RIL are deepwater discoveries at water-depths of 1.2–1.3 km. The gas wells are in an area where the continental shelf is initially narrow, followed by a sudden slope. Therefore, at a distance of hardly 30–40 metres from the shore, one suddenly comes across water depths of between one and 1.5 km. The topography of India's east coast is very different from the west coast, where Bombay High is located. Along the west coast, there is a near- uniform water-depth of about 100 metres for a distance of around 100 km into the Arabian Sea. This makes exploration and drilling work in the west coast relatively easier. In the KG basin, by comparison, the task is much tougher. Moreover, 'ultra' deepwater drilling technology at depths beyond two kilometres is still evolving across the world.

When one drills in shallow-water, as in the Bombay High area where water depths are just about 60–70 metres, the drilling platforms stand on legs as high as 300 metres. For water-depths between one and two kilometres and deeper, it is impossible to explore and drill using jacked-up platforms. What is required instead are floating rigs that have thrusters attached to help stabilize them in the turbulent open seas and to prevent the 'string' of drilling pipes from breaking. Inspecting and exploring the ocean bed on floating rigs makes it a most challenging exercise. At depths of two to three kilometres, rocks are found and discoveries are sometimes made at even greater depths.

In the KG basin, rocks stretch upto depths of around six kilometres and hydrocarbons are found at an even greater depth of nine kilometres below the surface of the sea. It is this offshore drilling for oil and gas that causes indiscriminate environmental damage. Experts are of the view that offshore production of natural gas would have its impact over distances of tens of kilometres extending on to the onshore delta land. Offshore drilling also results in many other ecological complications like submarine mass movements which affect the stability of the delta lands.

A research paper by K. Nageswara Rao *et al* presented at a workshop on the impact of climate change on agriculture organised by the International Society for Photogrammetry and Remote Sensing (ISPRS) infers that delta land has sunk by one and two metres in the West and East Godavari districts of Andhra Pradesh.[1] Nageswara Rao is a geographer who has conducted studies on topographic changes and coastal erosion in the deltas. His observations appear to be in complete consonance with the intensity of natural gas (and oil) exploration in these areas.

As a consequence of the subsidence, water at high tide water is now flowing to longer distances and at higher levels than before. Sea water is even entering the Kolleru Lake, located nearly 70 km away from the Bay of Bengal, which straddles the Krishna and West Godavari districts. The lake is home to some two million avian visitors in winter; it was notified as a wildlife sanctuary in November 1999. The lake was also designated a wetland of international importance in November 2002 under the Ramsar Convention.[2]

In the KG deltaic region, even the surface water in drinking water tanks or fish tanks in some southern parts of the region are reportedly contaminated with saline groundwater oozing from below the surface of the ground. 'Oozing of old sea water is a confirmation of subsidence,' said Prof Krishna Rao, adding that in some parts of the East Godavari district, land up to around 10 km from the coast has become unproductive due to soil salinity caused by invasion of sea water through drains and the oozing of saline water from below the ground.

These changes have been observed over the last three years in the East Godavari district and 10 years around Narasapur in the West Godavari district. Production of natural gas commenced around the year 2000 in the onshore areas of East Godavari district and a decade earlier in other areas such as Narasapur. The rate of land subsidence has been found to be varying between 2.5 to 10 cm per year. Such subsidence is most pronounced in the proximity of production wells.

The thickness and the type of reservoir rocks is another factor which determines subsidence. In some cases, unconsolidated rocks can cause entire wells to slump. The rock formations in the KG basin are relatively young 'semi-consolidated sandstone' belonging to the 'tertiary age'. At current rates of subsidence, surface waters through canals, drains and rivers could become stagnant in the coming five to 10 years with sea water encroaching gradually from the southern side, apprehends Prof Krishna Rao, pointing out that this would force people to migrate since they would be deprived of drinking water and food.

Waterlogging has become common in many areas in the deltaic region, even in areas that are located 20 km inland from the coast. With water levels in drains higher than in the adjacent fields, during high tide and during the rainy season, flood waters take much longer to recede resulting in salinity in the soil going up, which, in turn, lowers crop yields. Oozing saline groundwater also damages crops and the aqua fields. In the first half of 2012, sea water encroached and damaged about 1,000 acres of transplanted paddy fields in the North Kothapalli *panchayat* area in the Uppalaguptam *mandal* in East Godavari district. In some places, sea water enters fields even during low tide. Sea water is also reported to be flowing upstream of the Godavari distributaries for long distances. Areas that are as much as 10 to 20 km inland have been damaged by high tide sea water entering agricultural fields. Specific investigations by state government and Union government agencies have found damaged fields that are located up to 40 km inland in the districts of Krishna and Guntur.

Prof Krishna Rao estimates that half the land in the deltaic region has already suffered some damage or the other between 2007 and 2012 as a consequence of land subsidence on account of extraction of gas and oil. The extent of subsidence of land ranges from 0.5 m to 1.5 m in different parts of the region and the rate of sinking has been assessed to be up to 10 cm per year. With the maximum elevation in the delta region less than 10 metres, irrigation canals are also reporting reduced velocity of water flow due to the fall in topographic gradient. The tail-end areas of the canals are suffering the most because of the reduced flow. These and other related issues have been brought to light thanks to the relentless efforts of Dr Krishna Rao, a retired professor of geology from Andhra University, Visakhapatnam, who also happens to be a resident of the area and is the convenor of the technical committee of the NGO that has filed the petition in the high court. 'My house is just twenty kilometres from the sea,' he said.

Taking serious note of the issue of land subsidence on account of gas extraction, the high court in its ruling on 29 June 2009 asked the Union ministry of environment and forests (MoEF) to set up an expert sub-committee to examine, among other environmental aspects, the core issue of land subsidence. The sub-committee was headed by R.K. Garg and comprised Rajat Roy Choudhary, Dr B. Sengupta, Prof G.S. Roonwal and Dr P.L. Anjurai. The last-named represented the MoEF and was designated member-convenor. The sub-committee constituted by the MoEF held its first meeting on 17 September 2009 in New Delhi with presentations from representatives of the ONGC as well as the directorate general of hydrocarbons. On 8 October 2009, members of the sub-committee held discussions in Hyderabad, the capital of Andhra Pradesh, with all the operators in the KG Basin namely, RIL, GSPC, Cairn Energy, and ONGC. Committee members also visited the exploration-cum-production sites both onshore and offshore on 9 and10 October that year as well as particular villages where there had been subsidence of land and which were close to the oil and gas fields.

The MoEF sub-committee submitted its report on 23 October 2009. Its 'observations and findings' make interesting reading. The report states that in the Cambay Basin gas field of Gujarat, where two studies were carried out by the Indian Institute of Technology (IIT) Mumbai and the Central Mining Research Institute (CMRI), Dhanbad, average subsidence over the study area was found to be 49 mm, while subsidence within the reservoir boundary was found to be 81 mm over a period of two years. It also mentions 'two subsidence bowls' adding that a 'big subsidence bowl was observed in the area

where more numbers of gas extracting wells are situated… Hence, land subsidence found … (using the) GPS (global positioning systems) method might be due to extraction of gas.' The report also makes the point that 'observed subsidence cannot be attributed to ground water extraction' and adds that the 'rate of subsidence in the area has not been established.'

Having made these observations, the MoEF report argued (apparently contradicting itself) that 'it appears that (the) KG basin is not prone to land subsidence as a result of oil and gas extraction'.

The sub-committee also found that 'salinity in the ground water in the coastal areas has been observed in many places' attributing it mainly to extensive aquaculture. To buttress its point the sub-committee quoted a paper entitled 'Remote sensing and GIS applications in the identification of aquaculture hot spots at village level' published in the *Journal of the Indian Society of Remote Sensing*, Vol.31, No. 2, 2003, by K. Nageswara Rao, G. Murali Krishna. D. Ramprasad Naik and B. Hema Malini.

Nageswara Rao, in the ISPRS technical paper quoted earlier in this chapter warns of the threat of land subsidence and rise in water levels along the Andhra Pradesh coastline, in particular the KG basin, in view of global warming. The paper states:

If the sea-level rises by ~0.6 m (as predicted by IPCC, 2007), a total of 3,139 sq km along the entire 1,030-km-long AP coast will be affected. The low-lying Krishna-Godavari delta region in the central part of the AP coast would be worst affected with as much as 1706 sq km area including about 894 sq km under various types of agricultural activities lying within 2.1 m elevation.

As early as 1998, Prof Krishna Rao had warned in an article published in the 25 March issue of *Current Science*:

Geologically the region appears to be fragile with a thick pile of argillaceous sediments dipping towards the sea and underlain by faults. It is a delta land on the coast at an elevation of 3 to 10 ft above mean sea level. Subsidence of the region even by a small amount of this would devastate the whole region due to changing of the courses of the two mighty rivers.

The article further stated:

If horizontal slip and slow continuous creeping against claystone and shale at depth happens, as has been reported in some oil fields, it would be catastrophic.

It concluded by asserting:

The country cannot afford to lose such a developed area on purely economic considerations.

Asked to explain the issue in as simple a language as possible, Prof Krishna Rao said:

The KG deltas are on an elevation varying between one metre and ten metres above the mean sea level. Subsidence even by a small amount would devastate the region by changing the course of the two mighty rivers, and sea water incursions along the coast would occur.

Prof Krishna Rao expressed satisfaction over the MoEF sub-committee's report, which, he says, vindicates his stand on subsidence though some may disagree with his interpretation of the report's 'conclusions and recommendations' which read as follows:

i. There is no direct evidence available to the committee to indicate any land subsidence in the gas field or the adjoining areas in the KG basin. From geological considerations also, this region does not appear to be prone to significant land subsidence. It is, however, suggested that an expert organisation like the Indian School of Mines may be entrusted with a detailed study on existing or likely land subsidence in this region.
ii. The problem of underground water getting saline in certain locations has been observed. The exact reason needs to be studied. Some studies have suggested that extensive aquaculture in the region could be a factor. This could also be due to construction of dams in the upstream and erosion of part of the delta. A survey of the whole delta region needs to be carried out.
iii. Since land subsidence has been reported and observed in the areas where extensive extraction of underground water, oil and gas or mining in various parts of the world including India (coal mines) has been carried out, this aspect needs to be taken into consideration while taking up any project on underground extraction.
iv. Measurement of ground level as baseline data has therefore to be included in the EIA (environmental impact assessment) study and periodical monitoring of the level needs to be carried out, during the operational phase.
v. In case, geological factors indicate likelihood of land subsidence and consequential impacts, remedial measures need to be planned by the project proponent. Provision of such measures needs to be taken into consideration while evaluating the projects for environmental clearance.
vi. A study on the likely impact of off-shore extraction of oil/gas, if any, on land close to the coast in respect of land subsidence or movement or groundwater quality, should be taken up.

Like many government fact-finding reports this one too is apparently ambivalent and does not take a clear stand. Key issues have been buried in words and couched in obfuscating language. It is invariably bound to be interpreted as a ‘neither-here-nor-there’ kind of report. Yet, Prof Krishna Rao takes heart from certain words and phrases in the report and feels consoled when he reads ‘between’ the lines.
On the first point, he said: ‘Look at the words ‘significant land subsidence’ which imply that land subsidence is there. In the same point (i) he underscored the word ‘existing’ which he says is again an acknowledgement of land subsidence. On point (ii) he said that the ‘NGRI (National Geophysical Research Institute) in Hyderabad has confirmed the mixing of old sea water, lying deep below, with the shallow fresh ground water, which confirms subsidence.’ Point (iii), he exulted, is a ‘wonderful point’ validating his demand. On point (iv) he displayed his exasperation saying: ‘This has still not been done….If the government was sincere and concerned about the people, it would have by now followed its own recommendations and come to know the rate of “sinking” that has taken place. We have the technology.’
He added with resignation: ‘That opportunity has been missed.’ Prof Krishna Rao is no stranger to what he believes is a tragedy unfolding in front of his eyes. He has a stake in it.

I hail from there...I am one of the several victims. There is already an apparent rise of high tide water in the drains by one metre to 1. 5 m and sea water is entering our fields due to subsidence of the land, since sea level remains constant.’

He laments that paddy yields are decreasing ‘by around four quintals per hectare per year in parts where soil salinity is high’.
It appears that initial environmental clearances were issued through manipulative methods by treating oil and gas exploration as ‘industrial activity’ instead of ‘mining activity’ thereby limiting

environmental parameters to pollution aspects instead of concentrating on ‘land subsidence’ which is a crucial parameter in mining activity. The high court pointed out that even in processing of the applications at the initial stage the applicants were allowed to skip the ‘land subsidence’ column.

So what happened after the MoEF report was submitted in October 2009? Did it gather dust? Did it become one more government report whose recommendations were ignored, not implemented, or implemented in a lackadaisical manner?

On a trip to New Delhi as an expert appointed by the Union Public Service Commission in June 2012, Prof Krishna Rao rued: ‘We presume the MoEF sub-committee’s report was presented to the high court… but no one really knows. The case is lying dormant…there has been no movement of late….’ The geologist acknowledged that he often found himself isolated with little or no support from even his professional colleagues. What about local politicians? ‘It is surprising, no politician is coming forward….not even one from the Left parties. They talk of food security…this issue will seriously impact food security of the country; the area produces one crore tonne of rice annually.’

A lonely Prof Krishna Rao told the lead writer of this book in Visakhapatnam that he is not sure if the ‘silence’ about the land subsidence issue is ominous, by design, whether those who may have protested have been ‘bought’ by up interested people and whether the case pending in the Andhra Pradesh High Court will be followed to its logical conclusion. In a sense, Prof Krishna Rao is not exactly alone. With him is Dr E.A.S. Sarma, a former bureaucrat. Dr Sarma is that rare breed of bureaucrat who has been fighting corruption throughout his professional career and thereafter. He holds two post-graduate degrees, one in nuclear physics from Andhra University and the other in public administration from Harvard University in the US, besides a doctorate from the prestigious IIT, Delhi. An officer of the 1965 batch of the Indian Administrative Service, he was transferred no less than 26 times in three and half decades of his career as a civil servant. He is of the view that an honest bureaucrat cannot be influenced to act in a corrupt manner—the worst that can happen to such an officer is that he will be transferred.

It is said that during 1994–95 when the Telugu Desam Party government was in power in Andhra Pradesh and wanted to set up a number of power projects without any competitive bidding, Dr Sarma strongly opposed the policy, but could not influence the state government. He went on leave and applied for a post in New Delhi which he got. It was claimed at that time that had Dr Sarma gone along with Telegu Desam Party chief N. Chandrababu Naidu, he would have risen to the position of chief secretary in the Andhra Pradesh government.

The last bureaucratic job he held was that of secretary, economic affairs, in the ministry of finance, from which post he retired prematurely. It is said that representatives of certain big business houses were overjoyed to learn about his departure from the Ministry of Finance. After he left the government, Dr Sarma served for a brief while as the head of the Administrative Staff College of India, Hyderabad, before becoming an activist to help those fighting against the establishment of projects affecting the environment, including power projects along the coast and illegal mining in tribal areas. The Supreme Court upheld a PIL filed by Dr Sarma and others declaring unconstitutional the Salwa Judum or a private army to fight Maoists in the central Indian state of Chhattisgarh. He had earlier served as a member of a group constituted by the Planning Commission to study developmental challenges in areas dominated by left-wing extremists.

Soon after Dr Sarma quit the finance ministry during the term of the National Democratic Alliance government headed by Atal Bihari Vajpayee, the lead author of this book interviewed him for a television programme and asked him a number of questions relating to his decision to leave his job and whether this was on account of pressure mounted by representatives of big business groups, including the Ambani group. His answers were factually correct. He did not deny that certain corporate interests may have been displeased by some his actions. But he repeatedly asserted that he

had no evidence to suggest that the Ambanis—or, for that matter, any other corporate conglomerate—wanted him out as secretary, economic affairs.

Following the Andhra Pradesh High Court's directive to the MoEF, Dr Sarma (who is convener of a society called Forum for Better Visakha), which is a coalition of civil society organisations and concerned citizens) wrote a series of letters to various authorities, including the prime minister of India and the chief secretary of Andhra Pradesh. Although none of his letters elicited any response of worth, Dr Sarma persevered. In a letter dated 9 November 2010 to S.V. Prasad, chief secretary, government of Andhra Pradesh, he wrote:

> I have forwarded here some disturbing pictures taken by Prof G. Krishna Rao, a retired professor of geology who has carried out invaluable research on the possibility of land subsidence caused by natural gas development.
>
> I have written several letters to the Chief Minister and state government officials on the likely disaster that the ongoing gas development projects in (the) KG basin will cause to the fertile land stretches of the Godavari districts that constitute the lifeline for the state's economy… During the (Andhra Pradesh High Court) proceedings, it came to light that neither the Ministry of Petroleum nor the Ministry of Environment and Forests (MoEF) had bothered to look into the possibility of land subsidence, while pushing through clearances for the gas development projects. The state government has remained blissfully indifferent to the likelihood of land subsidence, despite being repeatedly cautioned about it by technical experts and the farmers of the KG basin.
>
> The MoEF expert group's report has not ruled out land subsidence in the KG basin. In fact, it has indicated that it could occur.
>
> Irrespective of the matter pending before the Hon'ble High Court, we expected the state government to feel concerned about the disaster that is waiting to happen and take a serious note of it. We are surprised that the state has not shown even an iota of anxiety!
>
> I hope that the state is not too caught up in its undue obsession with Reliance to feel helpless in addressing this impending disaster!

There was no response from the chief secretary to Dr Sarma's letter. On 16 December 2010, he wrote another letter to him:

> I forward here a disturbing scientific finding analysed and highlighted by Prof G. Krishna Rao, a retired professor of geology on evidence of land subsidence in the KG Basin due to pressure loss from gas development. I had earlier sent you his preliminary report with a set of photographs on the subject. I am not sure whether anyone in the state government has cared to understand its significance.
>
> You may be aware that on a writ filed by Prof Krishna Rao and the farmers of KG Basin, the Hon'ble Andhra Pradesh High Court had earlier ordered a fresh environment impact assessment of the gas development project in KG Basin. The findings from it indicate possible land subsidence. The latest report forwarded here corroborates the earlier conclusions.
>
> Land subsidence which is clearly evident will destroy the fertile agricultural lands in the KG Basin, turn the ground water aquifers saline and cripple the economy of the State.
>
> I hope the state government will take this seriously for the sake of the people and act on it quickly!

Again there was no response. On 3 May 2012, Dr Sarma wrote to the secretary, ministry of environment and forests and secretary, ministry of petroleum, government of India, enclosing his earlier letters, stating:

I have corresponded with the state government, (the) MoEF and (the) Ministry of Petroleum on the question of land subsidence in KG Basin as a result of natural gas development by RIL (Reliance Industries Limited) and its adverse impact on agricultural activity in the fertile 'rice bowl' .... My repeated requests to the state government to intervene in the matter have drawn a blank.
Recently, Prof G. Krishna Rao, a retired professor of geology, who is also a petitioner in WP No. 13341/2008, has collected extensive evidence on the land subsidence that has taken place in the KG Basin. I have enclosed here a copy of his note along with relevant pictures of the coastline.
From the foregoing material, it is evident that:
There is increasing ground level evidence of land subsidence taking place in (the) KG basin as a result of gas development by RIL.
Such land subsidence has already started affecting the irrigation drainage channels in the basin and the agricultural activity, quite significantly, as corroborated by the 'crop holiday' announced by the farmers of the Godavari districts during 2011. The farmers have already started feeling the increased cost burden that could be indirectly attributed to land subsidence. Such land subsidence has also affected the quality of the ground water aquifers in the area by increasing their salinity
Instead of addressing the root cause of the deterioration of agricultural activity, the state government is in a hurry to incur infructuous expenditure on 'modernisation' of the irrigation system that will benefit only the contractors.
The environment ministry and petroleum ministry have collectively failed in addressing this problem and its overall impact on the economy of AP (Andhra Pradesh). As a result of the acquiescence on the part of the regulating ministries and the state government, RIL has not cared to identify the magnitude of the problem as it is primarily interested in quickly recovering its investment and earning windfall profits without addressing the larger destruction that is wrought on the environment of the region and the economy of the state.
It is distressing that the state government should become a passive abettor of this unlawful activity ….. I request both the state government and the Central ministries to appreciate the impending crisis in the KG delta area and wake up to the realities as responsible actors under the Constitution.

This letter too met with a similar fate: it received no reply. What happens now that three years have gone by since the MoEF sub- committee submitted its report? Is it going to be 'business as usual'?
Prof Krishna Rao has not lost all hope. 'People are just beginning to experience the effects of subsidence. Soon they will be forced to migrate in search of a livelihood as they are deprived of food and drinking water,' he said, adding that what is a trickle now could turn into a tide of exodus of people from the region. 'It will soon become a people's movement… If government agencies do not intervene soon, people will start taking things into their own hands,' he warns.
Dr Sarma, an avid environmentalist who has written an eBook *Will the sparrow ever return?* was miffed with the MoEF sub-committee's report. He said in this regard:

The MoEF is perhaps reluctant to upset the applecart of the developer! Already, RIL is trying to show a very high investment figure not commensurate with the production profile … and is trying to drag the government into unnecessary arbitration. There was apparently some collusion between the MP&NG (Union ministry of petroleum & natural gas) officials and the company as indicated by the reports on the ongoing CBI (Central Bureau of Investigation) investigation.

Dr Sarma also felt that the Andhra Pradesh High Court's order had exposed the MoEF:

It did not do what it was required to do… The logical action would be for the MoEF to crack the whip

of regulation, undertake a comprehensive study to prove or disprove subsidence ... and impose safeguard measures on the developer. If there is subsidence, the developer will be forced to invest on safety measures .... Ironically the state government too has adopted an indifferent stance though the project threatens its economy.

Dr Sarma emphasised the following aspects of what has happened in the KG basin. The Environment (Protection) Act of 1986 has laid down a procedure for the preparation of a statutory environment impact assessment (EIA) study. These include a mandatory public hearing at the location of the project and an appraisal of the project by an expert committee. Only thereafter, can the MoEF accord environment clearance to a project. Official manuals specify that not only is an assessment required for each individual project; a cumulative EIA is required to assess the environmental impact of a specific project in conjunction with the other projects in the vicinity. In this instance, no such cumulative assessment was done nor any attempt made to look into the possibility of subsidence as is evident from what has happened in other parts of the world and in India as well (there are references in the sub-committee's report to the studies conducted on land subsidence in Rajasthan and Gujarat).
Besides Prof Krishna Rao and Dr Sarma, another individual concerned about the environment expressed surprise at the silence of the scientific community on the issue of subsidence. This person is Dr T. Patanjali Sastry who lives in Rajahmundhry and heads a non- government organisation called Environment Centre. Dr Sastry who has served as a member, Andhra Pradesh Coastal Zone Management Authority (CZMA) describes Prof Krishna Rao as a friend and a whistle- blower. He says about the silence on the part of the state's scientific community, 'nobody bothered to respond' and laments that many scientists 'rarely display any social responsibility'.
Dr Patanjali Sastry pointed out that the 'CZMA on its own did not initiate any action, the reason being oil exploration, laying of pipes, mining for rare minerals etc are permissible activities as per the Coastal Regulation Zone (CRZ) norms'. The authority, he said, was mostly engaged with violations of CRZ regulations and was 'waiting for the report of the expert committee'. Dr Sastry said land subsidence and ingress of sea water are 'different issues in spite of causal linkage'. He wrote to this book's authors:

I was not aware of any subsidence in this area other than (through) Prof Krishna Rao's observations... subsidence of land is a geological probability. I understand it may happen when water is not fed into the abandoned wells on shore. As per off shore extraction I feel we need a lot more evidence to directly connect subsidence to gas extraction. I believe such probable occurrence and consequent ecological damage should have engaged the MoEF (the Union ministry of petroleum & natural gas) and (the) Mines and Geology establishment (of the state government) the day the exploration began. The Andhra Coastal plains are narrow and demographically dense. The area is very fertile rice country too. So serious scientific investigation is long overdue in the interest of exploration itself. In the absence of irrefutable evidence people get scared and may turn against gas exploration.
Eight revenue *mandals* (zones) close to the sea in the central delta suffer (from) ingress of sea water. Ground water withdrawal for irrigation has been banned there years ago. The ingress was owing to excessive exploitation of ground water. I have no science background. So I cannot definitely connect the sea ingress to gas extraction. But I discussed the problem with geologists who have experience in the field. They denied the possibility citing soil formation in the central delta, the very reason Prof Krishna Rao said facilitated land subsidence.
I agree the sub-committee's report failed to take a stand and is certainly self contradictory. But many such reports resort to the same linguistic ambiguity... the MoEF should have formed an expert group to investigate further. It is important to know the truth since what is involved is very precious national

wealth on one hand and a preventable disaster on the other. It is a difficult choice for the political establishment, understandably. But truth must prevail. Though dissimilar I am reminded of Prof Madhav Gadgil's report on the Western Ghats which the government had tried to bury. Now they (meaning the MoEF, have) formed another committee to complete the funeral. As for land subsidence, another judicial intervention might expose the reality.

When asked questions about land subsidence and ingress of sea water, executives of RIL told the lead author of this book that they had nothing to say on the subject and that they were not aware of the findings of the sub-committee of the MoEF.

As already pointed out, the KG deltaic region is an agriculturally fertile tract that forms the lifeline of Andhra Pradesh's economy. Dr Sarma sarcastically suggests that the project developer (RIL) was far too influential for the MoEF to raise such 'mundane concerns'. He said EIA reports are prepared by consultants who are paid for and appointed by the project developers. In a majority of cases, the consultants write what the developers want them to. In this instance, a good consultant could have flagged the issue of land subsidence, collected data and/or suggested a detailed investigation by experts. The concerned consultant raised no such issues.

Under such circumstances, Dr Sarma and Prof Krishna Rao contended that a fresh public hearing needs to be conducted in this case to explain the 'real position' to local people. They repeatedly point out that the MoEF sub-committee has not ruled out subsidence. It merely suggested that a more detailed study should be carried out by the Indian School of Mines. Further, the sub-committee suggested that monitoring of levels of subsidence be undertaken and that comparable measurements be made. Neither the MoEF nor the petroleum ministry has bothered to follow these recommendations. Are they waiting for a court order to direct them to do what they should have done on their own?

Like Prof Krishna Rao, does Dr Sarma feel lonely and frustrated, as if he is fighting a losing battle? When asked this question at his home in Visakhapatnam, he replied:

I feel distressed at the MoEF's response. I have pointed out numerous instances of EIA reports that blatantly suppress information. I have brought to the MoEF's notice specific EIA reports that have plagiarized whole chapters and paragraphs from other reports, a cut-and-paste job (done) in (a) … hurry to please (the consultants') … paymasters. Not a single one of them has been blacklisted though what they did amounted to a crime. Public hearings have become farcical. Many Environment Clearances (ECs) are given on the basis of fraudulent reports. (Members of certain committees that grant)… ECs have …a clear conflict of interest…Still, I am optimistic…

How long will the likes of Prof Krishna Rao and Dr Sarma be able to hang on to their optimism? Will they receive support from more people who reside in the 'rice bowl' of Andhra Pradesh in KG basin? Will concerned human beings be able to save the region from the rising waters of the ocean on account of global warming? Ten million people and 10 million tonne of rice. As gas wars rage between crony capitalists, the answers to these questions are not known. Your guess could be as good as ours.

Nexus Between
Big Business and Politics

10
INDIAN STYLE CRONY CAPITALISM

When you reach for the sky, expect those on the ground to scrutinise you more intensely as you ascend the economic ladder. Symbolic of this statement is Antilla, the 570-feet-high building that scrapes the skies of Mumbai, rising contemptuously over clusters of slums and shanty tenements. Built at an estimated cost of nearly two million US dollars, this is Mukesh Ambani's show of flash, along with the 'Mumbai Indians' team of the Indian Premier League cricket tournament. But flash gets panned. In an essay in *Outlook* (26 March 2012), author and activist Arundhati Roy went after Ambani's towering ambition:

By calling their tower Antilla, do the Ambanis hope to sever their links to the poverty and squalor of their homeland and raise a new civilisation? Is this the final act of the most successful secessionist movement in India? The secession of the middle and upper classes into outer space? As night fell over Mumbai, guards in crisp linen shirts with crackling walkie-talkies appeared outside the forbidding gates of Antilla. The lights blazed on, to scare away the ghosts perhaps. The neighbours complain that Antilla's bright lights have stolen the night.
Perhaps it's time for us to take back the night.

Roy, of course, may keep burnishing her anti-big business credentials. But that's not the case with Tata group chairman emeritus Ratan Tata, who was quoted musing by the Times newspaper of London:

It makes me wonder why someone would do that. That's what revolutions are made of. The person who lives in there should be concerned about what he sees around him and (asking) can he make a difference.... If he is not, then it's sad because this country needs people to allocate some of their enormous wealth to finding ways of mitigating the hardship that people have.... We are doing so little about the disparity. We are allowing it to be there and wishing it away.

Tata's reported remarks apparently expressing surprise at fellow industrialist Mukesh Ambani living in Antilla sparked off a controversy on 22 May 2011, the day after the newspaper published his purported comments. An official spokesperson of Tata Sons issued the following clarification:

There have been words, individuals and statements that have not been mentioned by Mr Tata during the course of the interaction which are being attributed to him. We have already registered our protest with the concerned publication and will continue to pursue measures against the incorrect impressions being sought to be created.

Antilla was not the only Ambani edifice showing metaphorical cracks. Among those drilling deeper into the Ambani empire was Neeraj Monga, executive vice-president and head of research for the

Toronto, Canada-based forensic accounting firm, Veritas Investment Research. Monga's analysis sent ripples through the usual placid waters of the Indian corporate world, into which stones are rarely hurled. In fact, Veritas' debut research of its new India-oriented group was provocatively titled 'Brothers in Arms: Misappropriating a Fortune'. The laser focus was on Reliance Industries Limited and Reliance Communications Limited. It contained language that had possibly never before been used against major Indian companies:

Reliance Communications Limited… is the poster child of everything that is wrong with corporate India, and irrespective of management's assertions about 'values' and 'integrity' in various annual reports, we find no credible evidence of either in its financial statements or those of its former parent, Reliance Industries Limited...

Sitting in his corner office in a building just off Bay Street, Toronto's equivalent of Wall Street, the slight Monga had an inquisitive air that fitted him rather well. He explained the rationale behind the Reliance report to Toronto-based journalist Anirudh Bhattacharyya(who contributed to this section of the book):

I cover cable and telecommunications technology and I've been doing that for ten years. Also when Reliance Communications was spun out from Reliance Industries, I was just curious and I looked at their presentation of the spinout and, in their words, I think they were trying to rationalise the shareholding structure and create value. When I looked at the presentation, immediately I saw a slide and I said, this doesn't seem right. But I said somebody in India is going to write about it because India is a big market and there are people looking at it. I was surprised over a period of four or five years, nobody actually talked about it or wrote about it. Ultimately when I said we can write about India, we could go back and dig deeper into that presentation.
What wasn't right was this: It was the change in the ownership, related to Reliance Communications. When the company was spun out, the promoters', the family shareholding went up from around 38 per cent to 63 per cent. That should not be possible because at the end of the day, if you own 38 per cent of an asset and you spin another asset out of that asset, you should end up owning only 38 per cent of that asset. How can you end up owning 63 per cent?

The Reliance report was released online, on the document-sharing site ScribD, in Hindi and in Gujarati, because Veritas reasoned that doing so would make it accessible to a substantial section of the small shareholders of Reliance group companies. Monga explained:

What we prove in our report is that this entire thing was done through dilution of minority shareholders which is a concept which is perhaps not very well understood in India. And perhaps nobody had the wherewithal and/or the skills and/or the time to dig and figure out what's going on. And at that time, the market was also in a big boom time, stocks were high, people were really positive on global economy, they were really optimistic about the BRICS (Brazil, Russia, India, China and South Africa), all those things happened at the same time.

Though the Veritas report doesn't dwell on the Krishna-Godavari project, 2011 and 2012 were years of setbacks for that ill-starred venture: output drops, cancellations, government penalties, arbitration, shareholder concerns and, consequently, sliding share prices. As the winter of 2011 wound down, the offshore gas-fields promised much more to Reliance. In fact, global dynamics appeared to be favouring Mukesh Ambani. As the United States started squeezing Iran, the rise in the prices of fossil

fuels, including natural gas, gathered momentum. Reliance complained of discrimination as the Indian government procured gas at higher rates from overseas suppliers, at that frozen moment, nearly three times what the government had set as an administered price, with estimates ranging upwards of $13 per mBtu of liquefied natural gas for March 2012 delivery. In a letter to the government, Reliance Industries argued: 'We wish to exercise our contractual right to market natural gas on the basis of arm's length competitive sales to the benefit of all parties, including the government.'

The Prime Minister's Office was considering legal opinion before undertaking a hike. A letter to petroleum secretary G.C. Chaturvedi asked him to 'consider obtaining legal opinion on the matter' and to refer to the scheduled meeting of the empowered group of ministers or EGoM on gas. The 6 January 2012 letter from Reliance offered a 90-day window for reaching an amicable settlement. But much would occur within that quarter to alter the narrative. By the end of March, it had been established that the ministry of petroleum and natural gas (MoPNG) was opposed to 'any' increase in the administered price of natural gas, not just a 'substantial' one. Though the EGoM had stated in its 24 February 2012 meeting that the law ministry, in consultation with the attorney general of India, could rule on the legality of a hike, global conditions were playing up against Reliance's expectations. With the exchange rate of the rupee struggling against the dollar, the Euro-zone in deep crisis, global economic recovery still fragile and India's fiscal deficit escalating, the government was reluctant to add another $9 billion to its already loaded subsidy bill. For instance, the Association of Power Producers had warned that the power subsidy would climb by 50 paise for every dollar hiked for gas sourced from KG-D6.

The hits kept coming, one blow followed another. Reliance and its British partner BP plc had sought permission from the government to undertake concept validation in 16 gas discoveries in the D6 block, but their request was turned down on 20 April 2012. The Block Oversight Committee led by the director general hydrocarbons contended that 'pre-development investments can only be done in fields which have either been proved to be commercially viable or whose field development plan has been accepted by the authorities', according to the official sources who spoke to the Press *Trust of India* on 23 April. The argument in the ministry was that if such investments failed to provide dividends, it could impact the bottom-line of the exchequer. That was perhaps a smart call, given that output in the explored blocks was by then already flagging. For the week ending 1 April 2012, the level of production from the D6 fields dropped by 0.20 million standard cubic metres per day (mscmd), to 33.89 mscmd, a status report submitted to the ministry revealed, and that included output of 6.37 mscmd from the MA field in the KG basin. Water and sand ingress continued to plague output, which had peaked at 61.5 mscmd in March 2010.

While this news was seeping through, Vinod Rai, the then Comptroller and Auditor General (CAG) of India expressed the view that accounts should be settled with Reliance in terms of expenditure towards developing the field, only after accounts submitted for D6 till 2011 were audited. Rai contended before the Public Accounts Committee of Parliament that there need be no haste to validate expenses since they were incurred after 2008, a period sans audit. By the end of April, another Parliamentary panel had stepped into the picture, as the slope got even more slippery for Reliance. The Standing Committee on Petroleum and Natural Gas in its report tabled in Parliament, remarked: 'Any decline in natural gas production… should be supported by proper evaluation.'

With production at less than 50 per cent of estimates for the time of the year, the panel indicated its chagrin, directing the directorate general of hydrocarbons (DGH) to 'monitor these fields closely and take all steps that are required to maintain and increase the production of natural gas from these fields and make them available for the nation's requirement.' In a bromide response, the MoPNG reacted that the 'issue of falling gas production in KG-D6 block has been deliberated in various technical committee meetings held between (the) operator (RIL) and (the) DGH including the field visit by (the)

DGH technical team to ascertain the reasons for less gas production.'
The decline of fortunes of KG D6 for Reliance was a trend that was to continue through the beginning of its summer of reckoning in 2012. On the first Thursday of May, the clash of wills between the government of India's MoPNG and RIL reached a new level. The ministry slapped a whopping penalty on RIL and its partners of an amount nearly equal to Rs 6,600 crore (or around $1.2 billion assuming an exchange rate of Rs 55 to a dollar) for their inability to meet production targets that had been set earlier. That shortfall meant that Reliance was refused recovery of investments costs, amounting to $1.462 billion. In its letter, the ministry bluntly stated:

This is to bring to your notice that you have failed to fulfil your obligations under the terms of the PSC (production sharing contract) and have deliberately and wilfully caused breaches, which have led to immense loss and prejudice to the government and the people of India. You have, over a period of time, failed to adhere to the terms of the PSC and have repeatedly failed to meet your targets under the PSC.

But with the dispute still in court or *sub judice* that wasn't a price Reliance would have to pay any time soon, although the government decision to impose a penalty did impact the company's reputation which had already been tarnished by the news that investors had decided to declare Tata Consultancy Services as India's most valued company in terms of market capitalisation, displacing RIL. More importantly, the insinuations were clear. Contrary to the company's claim that gas output had come down essentially because of a combination of circumstances—geological surprises, technical problems and issues relating to reservoir management—the petroleum ministry under Jaipal Reddy in effect suggested that the company 'wilfully' lowered output to put pressure on the government to jack up administered prices. After many years, the mandarins of Shastri Bhavan (where the MoPNG is headquartered) seemed to have found their spines while dealing with RIL. The lead author of this book learned from a reliable source close to RIL on 4 May 2012, that the MoPNG debated for almost a month
But the fall in natural gas production from the D6 block in the KG basin had not quite ceased. Within days, Minister Jaipal Reddy was publicly estimating that the output from D6 would drop further during the 2014–15 fiscal year to a historic low of 20 mscmd. In a written reply to the Rajya Sabha, he added that gas production would average 28 mscmd during 2012–13, before dropping another 4 mscmd for the following cycle. In essence, he was warning that the field would generate nearly a third less gas within two years. Before the month of May 2012 had ended, RIL's Calgary, Canada-headquartered partner, Niko Resources had issued a formal statement scrapping plans to develop the D4 block in the Mahanadi basin, north of the KG basin, where the principal D6 block is located. In its curtly-worded release, the company stated: 'Niko along with its partners have chosen to relinquish their various interest in the D4 (MN-DWN-2003/1) block. For Niko this decision is the result of the most current geological assessment related to the size and risk of the trapping mechanism and current commercial environment in India.'
In June 2012 there were reports that RIL planned to sink an exploratory well to 'study the reservoir phenomenon' in two of the larger fields, D1 and D3, the first exploration well to be sunk in these gas fields in almost five years. An RIL proposal for the probe had been submitted to the government stating that these investigations by the company may certainly be required. The KG basin in general and the D6 block in particular had been projected as a game-changer as far as India's energy scenario was concerned but that dream was beginning to evaporate. By the end of June 2012, information about the prospects of the gas fields appeared bleaker than what had earlier been predicted. In its 'Reserves and Contingent Resources Update', Niko pointed out that 'proved plus probable reserves at D6 as at 31

March 2012 have reduced to 193 billion cubic feet (bcf)but it is important to recognize that coincident with the reduced reserves there is approximately a $700 million reduction in future capital.'
The CNBC-TV18 television channel reported that this figure was '80 per cent less than originally estimated'.
By June, gas output from D6 kept falling, averaging just over 31 mscmd. This cascade of negative information was certainly having its effect on shareholder morale, just ahead of RIL's 38th annual general meeting in Mumbai. As summer progressed, the tension was palpable. Mukesh Ambani, though, gave the appearance of being unruffled, if not untroubled. As prime minister Manmohan Singh was seeking greater investments in the country's infrastructure, RIL seemed amenable to deliver. During the shareholders meeting, Ambani announced a grand plan for investing over $18 billion over five years, across a range of sectors, including additional petrochemicals forays. The London-based *Financial Times* sensed an 'upbeat tone' in Mukesh Ambani's pronouncement that day in June.
The meet wasn't without confrontation. *Business Standard* quoted one shareholder, identified as S. Mehta, expressing his disenchantment: 'I am deeply perturbed with the falling gas output of RIL's KG-D6 gas field. Why doesn't RIL hire some expert to check the falling output? BP (British Petroleum) has been on board for over a year now, but nothing much has been achieved.'
To Mehta, and those of his ilk, Mukesh countered that they did not quite get what Dhirubhai Ambani, and by inference, his successors, stood for. He lectured:

It is very easy to sit here and criticise. But the very fact that we have found, after 30 years, oil and gas in the Krishna Godavari basin should not be undermined by anybody...I expect you, me, my board and the entire country to appreciate and support our young people.

As his company grappled with a string of regulatory issues, on 2 July 2012, Mukesh met the deputy chairman of the Planning Commission Dr Montek Singh Ahluwalia for nearly an hour. Ahluwalia is acknowledged to be the 'right-hand man' of prime minister Manmohan Singh who was at that time holding the portfolio of finance minister after the position had been vacated by Pranab Mukherjee. The richest Indian did not interact with waiting journalists after the meeting saying that he would not take any questions. He rushed out of Ahluwalia's office, according to Press *Trust of India*. The otherwise media-friendly Ahluwalia too did not respond to journalists' queries about his discussions with Ambani, merely saying that it was a 'courtesy call'. There were, of course, few who believed that the two discussed the weather at a time when RIL was facing the prospects of paying a hefty penalty for the sharp fall in gas output from its KG-D6 fields and when the company had been clamouring for a trebling of the administered prices of gas from the prevailing rate of $4.20 per million British thermal units (mBtu) after 1 April 2014. (Incidentally, Anil Ambani met Ahluwalia two days later.)
A few days earlier, on 29 June 2012, Vikas Dhoot wrote in the *Economic Times* that the country's premier police investigating agency, the Central Bureau of Investigation (CBI) was deeply divided over converting a 'preliminary enquiry' on corruption charges against former director general, hydrocarbons V.K. Sibal into a full-fledged criminal case. He reported that the CBI joint director (anti-corruption) and the agency's legal cell—the directorate of prosecution—had both recommended the registration of a regular criminal case against Sibal, his subordinates at the DGH and Reliance Industries for the grant of undue favours under the production sharing contract (PSC) for the KG-D6 gas block. However, one of CBI's special directors had opposed this move by raising doubts about whether the alleged offence could qualify as a criminal case. He is learnt to have argued that the violations in question related to a civil contract and that relaxations allowed by the DGH to RIL for the KG-D6 block had the approval of the petroleum ministry. Due to the difference of opinion within

the investigating agency, the special director had suggested that the matter be referred to attorney-general of India Goolam Vahanvati for his opinion.
Coincidentally, the writer of the ET article was the same journalist who had personally conducted a meticulous investigation into how Sibal's daughter had been 'favoured' by RIL as has been detailed earlier in the book. At that time, Dhoot had been employed by the *Indian Express* which chose not to publish his findings. Although at this point of time, the Ambani siblings were at loggerheads and Anil's confidantes were keen on tarnishing the reputation of Mukesh, it was still not easy for journalists to publish negative stories about the older Ambani sibling, even when the reports were based on verifiable facts and incontrovertible evidence. The story about how Sibal's daughter had received benefits from Mukesh's associates was eventually picked up by other newspapers and magazines, including the *Pioneer*, the *Mint* and *Tehelka*. After spending weeks collecting facts and obtaining documents, Dhoot, unfortunately, had to be content writing 'follow-up' articles for the *Express* after competing publications had come out with the facts he had diligently gathered and collated.
In the meantime, the fall in gas output from the D6 block of the KG basin prompted a letter from former power secretary and economic affairs secretary to the government of India E.A.S. Sarma (who had already been highlighting issues relating to the alleged environmental damage caused by the offshore extraction of gas in his letters to the prime minister and others) to U.K. Sinha, chairman of the regulator of the country's capital markets, the Securities and Exchange Board of India (SEBI). Sarma wrote that information about the fall in gas output from the KG basin should have been disclosed by the RIL management to its shareholders much before it actually did. Urging SEBI to examine the issue, he referred to three key issues of contention: as a result of the non-disclosure of information relating to the fall in gas output, what had been the loss to the investors who have invested their hard-earned savings on the premise that the quantum of gas deposits/reserves was much higher? Had RIL transacted in its equity on the basis of inflated reporting of gas deposits and their value? What action should SEBI take to safeguard the interests of RIL's shareholders?
These questions which were raised at this time remain unanswered. There were other questions to follow. There were apprehensions that the government of the day was following a line on the pricing of domestically produced natural gas which could only lead to unbridled profits for one corporate firm at the cost of India's consumers. What follows is how the story began to play itself out towards the end of 2012.

* * *

It was late in the afternoon on Saturday 27 October 2012 when the phone rang in the residence of Sudini Jaipal Reddy, then minister for petroleum and natural gas in the government of India. As soon as his personal assistant mentioned the address of the person who was on the other end of the line, the minister's ears perked up. The call was from '10 Janpath', the address of the most powerful person in India, more powerful than even the prime minister: she was, of course, Sonia Gandhi, the Italy-born widow of former prime minister of India Rajiv Gandhi, chairperson of the ruling United Progressive Alliance (UPA) coalition and president of the Indian National Congress, the country's 'grand old party'. Jaipal Reddy was told that the following day, that is, Sunday 28 October, his ministerial portfolio would be changed. 'Madam', as she is often called, asked him whether he would mind being moved as minister for science and technology. She sounded almost apologetic, said one of his close aides to whom the minister had confided.
Jaipal Reddy was expecting this call for some months. He took it stoically, or so claims this person close to him. He muttered something about how the choice of ministerial portfolios was the

prerogative of the prime minister and how he was a 'loyal soldier' of the party. After this phone call got over, Jaipal Reddy told his aide that he was reminded of another telephonic conversation that had taken place nineteen months earlier on 18 January 2011. That call too was from 10 Janpath. But it was not 'Madam' who spoke to him on that occasion but her influential political secretary Ahmed Patel. He had told Jaipal Reddy (who was then holding the urban development ministerial portfolio) that the party leadership was keen that the petroleum ministry be run by an 'independent' person, someone who would go by the rule book and not be accused of favouring any particular business group—he, of course, knew which business group was being referred to. The following day, soon after the Cabinet reshuffle took place in the ornate Durbar Hall of Rashtrapati Bhavan, the Presidential Palace, his new portfolio was announced.

Within days of his assuming his new job as petroleum minister, Jaipal Reddy had two important visitors in his office at Shastri Bhavan: Mukesh Ambani and his right-hand man in the oil and gas exploration business P.M.S. Prasad came to pay the newly-appointed minister a 'courtesy call'. Over the next nine months, Mukesh and Prasad were to visit Jaipal on several occasions. At specific meetings, they were accompanied by Sashi Mukundan who heads the India operations of British Petroleum. Then the visitors stopped coming. Why?

Before this story is told in detail, let us fast-forward to the Cabinet reshuffle that took place on Sunday, 28 October 2012. The evening before, soon after Jaipal Reddy's conversation with Sonia Gandhi, he had confided to a friend about what had transpired between him and the Congress president. This friend couldn't believe his ears although Jaipal Reddy repeatedly told him that he was expecting this to happen for roughly a year. He told his friend that he was going to be moved out of the petroleum ministry because powerful lobbies were not happy that he was playing by the rules and that he lasted in his position as long as he had merely because the Cabinet reshuffle had been delayed. His friend could not contain himself. He called up a journalist he knew, a person he trusted and who he knew would trust him. The journalist knew about this person's proximity to Jaipal Reddy and the minister's friend was sure his trust in him would not be breached and he would remain the proverbial 'source' who spoke off-the-record on condition of anonymity. The journalist literally leapt when he heard his trustworthy source. He knew his story would make headlines. Sunday morning's edition of the *Hindu* ran an exclusive article by Sujay Mehdudia with the following banner headline: 'Manmohan set to end Reliance on Jaipal for oil and gas'. If there were a few who may have had doubts about the pun in the headline, the subtitle made things amply clear: 'Minister has been resisting Mukesh Ambani on gas prices, audit'. Mehdudia's article left nothing to the imagination. The first line read: 'S. Jaipal Reddy — the minister who took on Mukesh Ambani in a regulatory battle on gas prices that saved the exchequer thousands of crores of rupees—is set to be divested of the crucial petroleum and natural gas portfolio, the *Hindu* has learnt.'

Mehdudia's article went on to state how the minister 'resisted' pressures and 'rolled back' the vice-like grip that RIL had begun to exert over the MoPNG during the tenure of Murli Deora. Jaipal Reddy had questioned the 'steep decline' in gas output from the KG-D6 gas block. The ministry officials had 'doubts' since in 2011- 12, it was expected that RIL's output should have 'averaged around 70 mscmd' whereas it stood much lower at 42 mscmd and by 2012-13 it had dropped further to 25 mscmd', resulting in a loss of Rs 45,000 crore (approximately $90 billion) to the exchequer. The article quoted a 'senior official' on the impact the fall in gas output had had on important sectors of the Indian economy. Each unit drop in production of gas meant a loss of 210 megawatt (MW) of power generation. Gas-based power plants in various parts of the country with an aggregate installed capacity of nearly 20,000 MW, financed with bank guarantees worth Rs 30,000 crore, were lying idle without gas. In addition, the fall in gas output from the KG basin meant lower production of fertilisers resulting in higher imports and higher subsidies. The unnamed official quoted in Mehdudia's article

wondered if gas production was being deliberately suppressed in anticipation of a higher administered price.

It was argued in the *Hindu* article that Jaipal Reddy was able to 'block' RIL's demand to hike prices of domestically-produced natural gas well before the date for revision, that is, 1 April 2014. The expenditure incurred by RIL to bring the KG-D6 gas fields into production, as claimed by the company, was scrutinised on the minister's and thereafter, the company was penalised for its failure to maintain gas output, and an expenditure of $1.46 billion (or cost recovery) was 'disallowed'. The article claimed that there had been tremendous pressure on Jaipal Reddy but he was able to withstand it. Mukesh Ambani had been lobbying 'Raisina Hill' and there was concurrent pressure on the petroleum ministry from 'other ministers and also the Prime Minister's Office'. Mehdudia's report quotes the 'senior official' saying there was 'strong pressure within the EGoM' as well as the Prime Minister's Office to revise the price of gas. When the issue was referred to the attorney general of India for his advice, he came back saying that 'it was a matter of policy and not law' and that the April 2014 deadline for gas price revision was still valid. The official quoted argued that minister Jaipal Reddy resisted the move to increase the price of gas as it would lead to a 'loss of $6.3 billion to the exchequer and put a huge burden on the common man, the farmers and the fertilizer industry in the shape of a sharp hike in the price of power and fertilizers'. That was not all. Jaipal Reddy brought RIL 'under the scrutiny of the Comptroller and Auditor General' in the face of the company's insistence that it was a private corporate entity and that its accounts could not be scrutinised by the government auditor. The petroleum ministry led by Jaipal Reddy, however, maintained that it could seek a 'second audit' of the company under 'section 1.9 of the production sharing contract'. The ministry told RIL that if they refused to submit to CAG scrutiny, they could face non-approval of their investment plans for field development of satellite oil and gas fields in the KG basin.

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Jaipal Reddy reportedly steered clear of coterie politics in the Congress when he was spokesperson of the party for five years. He was awarded Best Parliamentarian in 1998, a year before he rejoined the Congress when he was welcomed by Sonia Gandhi and commended for his commitment to secularism. He had earlier been with the Janata Party, having quit the Congress when the Emergency was declared by Indira Gandhi in June 1975. Jaipal Reddy was to be a key player in various formations of the Janata Party till the break-up of the United Front government after the then prime minister Inder Kumar Gujral lost power in 1998. He had first joined the Congress in the 1960s as president of the student's union of Osmania University, Hyderabad. He went on to head the Youth Congress and was elected to the Andhra Pradesh legislative assembly in 1969.

On Monday 29 October 2012, as crowds of journalists and well-wishers had started gathering at Jaipal

Reddy's residence from early in the morning, (among them the lead author of this book), it was a less confident man who met his visitors. The sprawling bungalow in Lutyen's Delhi located just opposite Birla House (where the 'father of the Indian nation' Mohandas Karamchand Gandhi had been assassinated on 30 January 1948—hence the name 'Tees January Marg', meaning Thirtieth January Road), was teeming with people. Jaipal Reddy met everybody, but said little. There was widespread comment in the media that Monday that Jaipal Reddy was 'unhappy' with his new post. He was personally not present at Shastri Bhavan to hand over charge of the ministry to his successor Marpadi Veerappa Moily and the formalities had to be handled by junior minister R.P.N. Singh who had himself been moved as minister of state to the ministry of home affairs. Once he assumed charge as minister of science and technology, Reddy's old team in the petroleum ministry would be disbanded. Moily himself came to Jaipal Reddy's residence to 'seek his blessings'. The new petroleum minister presumably knew what he would have to contend with. In one of his last acts as petroleum minister, Jaipal Reddy had prepared a note for the EGoM citing his concerns about the different demands that had been made by Reliance. The note dated 10 October 2012 ran into 138 pages, including 117 pages of supporting documents. Paragraph 3.12 laid down what the financial implications for the government would be if RIL's request for a hike in the administered price of gas to $14 per mBtu was accepted:

Financial Implication: RIL has proposed linking of gas price to international crude price. RIL has proposed the formula presented in the case of CMB (coal-bed methane) gas, according to which gas price will be ranging between $14.20 to 14.51/mBtu. In brief, $10/mBtu increase in gas price will result in $8.5 billion increase in revenue to the contractor in the next two years in case the production remains constant at 37.5 mscmd. The difference in revenue to the contractor will be an addition of approx(imately) $4.1 billion and to the government $0.5 billion in case the gas production from this block is taken as per the projection made by the contractor. In the second case (if) the production is assumed to be 25 mscmd in 2012-13 and 18.7 mscmd in 2013-14, as most of the gas produced is being used by fertiliser units and power units (to) supply power to state discoms (or electricity distribution companies), the burden on state and central governments will go up by around $10.5 billions [sic] due to increase of $10.0 in domestic gas price...In the scenario of falling production, the increase in subsidy burden is likely to be $6.3 billion.

One view that was expressed in a section of the media is that after he became petroleum minister, Jaipal Reddy took the so-called 'clean-up directive' from the Congress high-command a bit too literally and acted a bit too diligently questioning every decision that could be perceived to have been against the nation's interest. 'Coming after Murli Deora, who was charged with being an agent of Reliance, perhaps Jaipal was very cautious. He was going by the rule book, interpreting things more in favour of the government and not Reliance. The same attitude he carried over to other cases, whether it was BP or Cairn Energy,' S.C. Tripathi, former petroleum secretary told Lola Nayar in *Outlook* (12 November 2012), adding that this extra-cautious approach 'hurt the petroleum sector as even normal decisions were kept pending'

However, Jaipal Reddy's supporters think otherwise. They claim that as petroleum minister, he had sought to encourage investments while safeguarding the interests of the national exchequer even though he was under tremendous pressure from business tycoons such as Anil Agarwal, who heads the Vedanta group. Take the case of the Barmer gas blocks in Rajasthan where Vedanta group company Cairn India and the government-controlled national oil exploration company ONGC had teamed up to develop the gas finds. Jaipal's hand-picked team within the ministry and the DGH ensured that ONGC's burden of royalty and cess payment was restricted to its 30 per cent share—they had to pay

100 per cent previously—which meant a saving between Rs 3,000 crore and Rs 4,000 crore for the government through the public sector ONGC.

However, Jaipal Reddy seems to have thought through his actions and went about them carefully and methodically. As Nayar wrote in *Outlook*, he had to be 'more careful than normal' and thus would leave some key decisions to the EGoM, the inter-ministerial groups or the Cabinet. As the lead author of this book, who was quoted in the *Outlook* article, said, 'Pressure could come, and did come, from familiar quarters.' A senior petroleum ministry official had told him on condition of anonymity that when he apprised the top brass of the finance ministry of the estimated $6.3 billion loss to the exchequer if RIL's demand for a $14 per mBtu gas price was accepted, the reply he received was a curt: 'Is it your concern or mine?'

Soon after becoming petroleum minister, Veerappa Moily promised to speed up decision-making. He had been the country's law minister when the Ambani brothers had been fighting it out in the Supreme Court over control of gas from the KG basin. Before his new appointment Moily was power minister. He surely knew what was going on. He was certainly not unaware of the consequences of aligning domestic energy prices with world prices or the impact of a hike in the price of gas on the power sector. The message was loud and clear. Just as Mani Shankar Aiyar had been moved from the post of petroleum minister in 2006 and replaced by Murli Deora till the 2009 elections were over, Moily would be in charge of the petroleum ministry till the 16th general elections scheduled for April-May 2014.

The loquacious Moily, who is from Karnataka, was leader of the opposition in the state between 1983 and 1985 and chief minister between 1992 and 1994. An advocate by training, Moily was a lawyer during the 1960s in Karakala, a temple town in Karnataka, from where he was elected to the state legislative assembly in 1972. He became a member of parliament from Chikkabalapura constituency in the state in 2009. Moily is also a part-time writer, a poet and playwright. He has written a novel in Kannada and a four-volume publication in English, titled *Unleashing India*, which outlines how the country can become a superpower by leveraging its demographic dividend. He is considered to be a most loyal supporter of party president and UPA chairperson Sonia Gandhi.

Jaipal Reddy's removal from the post of petroleum minister and his replacement by Moily was much commented upon. The Left saw in his removal the hand of powerful corporate interests, meaning Reliance. On 1 November 2012, Sitaram Yechury, MP of the CPI(M) said the Cabinet reshuffle had completed a process of placing pro-corporate ministers in key economic ministries to aid the 'neo-liberal policies that the Prime Minister is bent upon pursuing'. The CPI(M) leader said that Reddy's ouster had exposed the 'tentacles of big business in the appointment of ministers'. The following day, Gurudas Dasgupta, CPI MP, wrote to the prime minister asking that a fresh notice be served on RIL to restrict cost recovery by the company for the shortfall in gas production from the KG-D6 block. Here are excerpts from Dasgupta's letter:

You are aware that Mr Reddy imposed a fine of $1 billion on RIL to restrict cost recovery due to shortfall in production in 2011-12. If we consider the current year's shortfall, the implication is even more startling. Against the cumulative production target of 2.957 trillion cubic feet (tcf) to be achieved by the end of the current year, RIL has said it will produce only 1.847 tcf of gas. By the same logic that was applied to last year's shortfall, the government should give a fresh notice to RIL, restricting cost recovery by $1.72 billion in the current year corresponding to a cumulative shortfall of 38 per cent. For the years 2013-14, based on RIL's own projections and the government-approved principle of proportionate restriction of cost recovery, there should be a notice to restrict cost by $2.1 billion. Will the government have the gumption to impose these huge fines after changing an honest minister like Mr Reddy? Does not the giant monopoly company, which violates (a) contract with

impunity, attract criminal liability and will the government not act against it? Does this anti-national act of RIL have any bearing on the recent reshuffle?
They (meaning RIL) have deliberately reduced production from 80 mscmd to 27 mscmd in the current year and have threatened to reduce it further by 18 mscmd next year. The fallout of this is that we are losing power to an extent of 12,000 MW. Next year the shortfall will be to the order of 13,500 MW. If we could substitute this with costly imported gas, the extra subsidy burden on fertilizer and power in the current year would be Rs 40,000 crore. This figure was Rs 20,000 crore in the year 2010-11. Next year, with an anticipated shortfall of 62 mscmd, this will translate to a loss of Rs 48,000 crore. Thus the loss to the country in the three years due to shortfall in production would be a whopping Rs 1,10,000 crore.

Gurudas Dasgupta was not alone. M. Venkaiah Naidu of the right-wing nationalist Bharatiya Janata Party (BJP) also issued a statement saying the Cabinet reshuffle had been done under pressure from ‘a corporate group’ (without naming Reliance) and that Jaipal Reddy was an ‘example of that’. Within the media, not everyone was supportive of the former petroleum minister, some even suggesting that what happened to him was not surprising. For instance, *Mail Today* carried the following blurb next to Jaipal Reddy’s photograph: ‘In the last two years, his portfolio was changed twice. Is considered rigid on many issues of governance. Not having a pro-reform image has also gone against him.’
But the issue of the change in ministerial portfolio was highlighted by the newly-formed political outfit set up by, among others, activists Arvind Kejriwal and Prashant Bhushan, the Aam Aadmi Party. A media conference was called on 31 October 2012 in which Kejriwal openly alleged that it seemed it was not prime minister Manmohan Singh who was running the country but India’s richest man, Mukesh Ambani.

* * *

Kejriwal and Bhushan began their media conference by playing two excerpts from the infamous Nira Radia tapes. One excerpt dated 22 May 2009 had corporate lobbyist Radia (among whose clients was Reliance) conversing with Ranjan Bhattacharya, former prime minister Atal Bihari Vajpayee’s foster son-in-law, about Mukesh Ambani. Here is how the conversation went:

Ranjan Bhattacharya (RB): So, is Mukesh happy with ...?

Nira Radia (NR): Very happy

RB: [Laughs] You know what he told me

NR: What?

RB: He tells me, he says, you know, he is in his usual style, kya kyon, I told him ‘*Mera chhodo, kya kyon, aapko kya hai* (forget me and all this, what about you)?

NR: Hmm.

RB: He says, Sir, *theek hai* (it’s all right). I said, Mukesh, once in a while show some bloody emotion. *Aapka to sab kaam ho gaya* (all your work has been done).

NR: Hmm.

RB: *Motu nahin aaya*, *yeh nahin hua* (The plump person—which could also mean older brother in Gujarati—didn't make it). He replied, '*Haan yaar*, you know Ranjan, you're right, *ab to Congress apni dukaan hai* (now the Congress is our own shop).'

Having opened the media conference in this manner in New Delhi's Constitution Club before a battery of television cameras linked to outdoor broadcast vans airing the proceedings live, Kejriwal and Bhushan described the government's deal with Reliance on natural gas from the KG basin as a 'classic case of crony capitalism'. They alleged that the company was 'blackmailing' the government to increase gas prices by 'almost stopping' gas production and 'hoarding like petty traders' so that consumers would be forced to 'buy gas from abroad'. They compared this episode to the coal block allotment scandal, before providing their version of a blow-by-blow account of the gas deal.
They alleged that both the Congress and the BJP were in Mukesh Ambani's 'pocket'. It was the NDA government led by the BJP that had in 2000 signed the PSC with RIL. 'This was a sweetheart agreement which the BJP gave to Reliance on strange conditions which says that when the production cost increases, the profit also increases for the company,' Kejriwal claimed. The press note issued on the occasion sought to explain the claim using the argument that had earlier been made by the CAG:

In any business, increase in costs means decrease in profits. However, the NDA government signed a contract dictated by RIL wherein an increase in cost by one rupee meant additional profits of RIL by almost Rs 2.2. Isn't it strange? A parameter called Investment Multiple has been defined in the contract as under: Investment Multiple (IM) = Total Revenue/Total Investment.
According to the contract, till (the) IM is below 1.5, RIL takes away more than 80 per cent of profits and government gets less than 20 per cent of profits. It is only when IM becomes more than 2.5 that government gets 85 per cent. This means, RIL has a huge incentive to keep IM below 1.5 by increasing the expenditure artificially. Thus if Reliance were to increase expenditure from (Rs) 1 billion to (Rs) 2 billion on a revenue of (Rs) 5 billion, their own net income would go up from (Rs) 1.6 billion to (Rs) 3.5 billion. This is what the CAG has stated in para 8.1 of its Performance Audit of Hydrocarbon PSCs.

Kejriwal and Bhushan argued that the jump in investment estimates from the level indicated in the initial development plan in 2004 (for producing 40 mscmd of gas) to the revised addendum (for producing 80 mscmd of gas) two years later—$2.39 billion to $8.8 billion—was simply too high. 'Doesn't that sound strange? To double production, you increase your investment by four times? Having put the initial infrastructure in place, it should have cost lesser to create additional production capacity,' they contended.
They slammed the prime minister for his apparent 'sympathy' for RIL. After requests for a hike in gas prices were turned down several times by the petroleum ministry under Jaipal Reddy—Mukesh Ambani is said to have met minister Reddy at least six times—RIL 'approached the PM' who then asked the petroleum ministry to seek the 'Attorney General's opinion on whether gas prices could be increased midway as demanded by Reliance'. The activists pointed out that the public sector NTPC did not get any support from the government when the Pranab Mukherjee-headed EGoM cleared RIL's request for a hike in the gas price from $2.34 to $4.2 per mBtu. They did not forget to add that Mukesh's own brother's company, RNRL had been at the receiving end when the gas price was hiked. The activists wanted to know why opinion was not sought from the attorney general when, in 2006, the then petroleum minister Mani Shankar Aiyar had 'refused to give in' to RIL's demand to increase gas

price from $2.34 per mBtu to $4.20 per mBtu. They jogged the memory of the journalists present that after Aiyar was removed that year, his successor Murli Deora had acted expeditiously and 'cleared the files within one month'. 'By allowing $8.8 billion expenditure, in effect, Deora allowed a future revenue of over Rs 1 lakh crore ($20 billion dollars) for RIL,' they alleged.

Kejriwal and Bhushan raised two other important points. What was RIL's actual cost of production? They pointed out that at the rate of $2.34 per mBtu, RIL had signed 'contracts with NTPC and RNRL' for '17 years', which would mean that they would have envisaged making 'adequate profits' at that rate. They also offered comparative figures: India was 'getting gas at $0.9 per mBtu from Oman, gas rates were $1.74 per mBtu in Canada'. They also questioned RIL's right to divest a '30 per cent stake in 21 (out) of 29 oil blocks to British Petroleum', which in effect had meant selling off ownership rights of gas 'belonging to the people of India'. So why was Mukesh Ambani so 'restless' that Jaipal Reddy had to be 'transferred out', they asked and went on to provide an answer: RIL would lose a lot of money if Jaipal Reddy's order disallowing RIL's capital expenditure was acted upon. Kejriwal and Bhushan argued, in the first instance, a notice for disallowance of $1 billion expenditure was sent to RIL. This would mean a loss of $2.2 billion (or Rs 11,000 crore) to RIL, if we consider (the) IM ratio. Next year, this disallowance could be $1.5 billion, which would mean a loss of $3.3 billion (Rs 16,500 crore) for RIL.

They added that the 'benefits provided to RIL in this case contributed to price rise in (the) power and fertiliser sectors'. The activists demanded that the contract be scrapped and new systems put in place to procure the cheapest possible gas from the same gas fields. They concluded their interaction with journalists with three questions:

1. Who is running the government? It appears that telecom companies select their own nominee as telecom minister and RIL selects its own person as petroleum minister.
2. So, is this government being run by powerful corporates?
3. Is Dr Manmohan Singh succumbing to corporates under some compulsions or out of ignorance? What are the compulsions, if any?

Predictably, RIL denied the allegations made by Kejriwal and Bhushan. In a terse press release, the company stated:

> The statements made by IAC (meaning India Against Corruption, the organisation with which Kejriwal and Bhushan were affiliated) in the press conference today (31 October 2012) are devoid of any truth or substance whatsoever and are denied. The deepwater exploration project in the KG-D6 basin has deployed the best technical resources... This project has added great economic value to the country.

The drama was hardly over. Kejriwal and Bhushan convened another press conference a few days later on 9 November, once again attacking not just Mukesh Ambani but his younger brother Anil as well. It was claimed by them that in July 2011, the Indian government had received a list of some 700 people who were holding bank accounts in HSBC (or the Hongkong and Shanghai Banking Corporation) in Geneva, Switzerland, among whom were the Ambani siblings, Mukesh and Anil, besides Annu Tandon, Congress MP from Unnao, Uttar Pradesh, whose late husband Sandeep Tandon was among the officials of the Enforcement Directorate who had raided Tina (née Munim) before she married Anil and then went on to join the Reliance group.

The following month, Mukesh Ambani, no stranger to litigation, engaged a firm of lawyers to send out a slew of defamation notices to different television channels that had broadcast live the media conference during which Kejriwal and Bhushan had alleged that Jaipa Reddy had been removed as

petroleum minister at the behest of the Reliance group. In the seven-page legal notice sent in the middle of December 2012 to over a dozen companies running television channels, RIL's lawyers demanded 'a retraction and an unconditional apology in the form approved and acceptable to our clients' within three days from the receipt of the notice. The tone of the letter was threatening, reminding the channels that 'telecasting the aforesaid press conferences and repeating the false and defamatory material relating to our clients in the manner aforesaid, your TV channel is in complete violation of the...uplinking...and...downlinking guidelines (issued by the government's ministry of information and broadcasting) as also in complete and material breach of the programme code prescribed under the Cable Television Network Rules'.
Kejriwal shot off his own letter to Mukesh Ambani on 22 January 2013 and said that he was 'perplexed' by his lawyers' actions. He said:

We (meaning Kejriwal and Bhushan) are the real culprits and, if you had to send a defamation notice, it should have been to us. The TV channels merely broadcast what we said. Despite this, instead of sending us the defamation notice, you have sent it to the TV channels. It is evident that your sole purpose of sending this notice was to steamroll the TV channels into subservience.

Kejriwal went on to state sarcastically that the government of India was intimidated by Mukesh Ambani, since the Congress was in his 'pocket', that the party was his *dukaan* (shop), and had always bowed before Ambani's 'bullying' tactics. He added:

The Congress kept increasing the price of gas under your pressure and the nation kept wailing. Because of you, the prices of electricity, fertilizer and cooking gas kept rising. ... Because of you many things have become increasingly expensive in India and the people are groaning under the load of these high prices. Do these shenanigans suit you? Do such acts not defame you?

The hue and cry over the pricing of domestically produced natural gas and about Reliance and Mukesh Ambani making personal gains from a valuable natural resource that is supposed to be owned by the people of India, was not about to die down in a hurry. As this book was being completed in March 2014, this set of issues again attracted considerable media attention and engaged politicians from opposition parties and groups who questioned the decision of the Cabinet Committee on Economic Affairs to effectively double the government administered price of natural gas from $4.2 per mBtu to $8.4 per mBtu.

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On 24 May 2013, CPI MP Dasgupta convened a media conference during which he circulated excerpts from a note dated 14 May prepared for the Cabinet together with a letter he had written to the prime minister. In it he alleged that the ministries of finance, petroleum and natural gas and the Planning Commission were 'colluding' to push the price of natural gas from the D6 wells in the Krishna-Godavari basin (that were being operated by RIL) way above what had been recommended by the committee headed by Dr Chakravarthi Rangarajan, chairman of the Prime Minister's Economic Advisory Council.
The Rangarajan committee had been constituted in May 2012 when Jaipal Reddy was the petroleum minister. When the panel presented its report in December 2012, Moily had taken charge of the ministry. The committee suggested a near-doubling of gas prices to around $8 per mBtu from the then prevailing level of $4.2 per mBtu as per the terms of the PSC between RIL and the government.

According to the note for the Cabinet leaked by Dasgupta, the MoPNG had recommended that the price of gas be increased to around $6.775 per mBtu, well short of the figure of $14 per mBtu demanded by RIL which was the landed price of imported liquefied natural gas (LNG). RIL and its partner, British Petroleum (which had in 2011 bought a 30 per cent stake in 23 oil and gas blocks operated by RIL) had considered the Rangarajan committee's estimate 'inadequate'. In April 2013, British Petroleum had held its board meeting in India and on 14 April, BP's Bob Dudley and Mukesh Ambani had met prime minister Manmohan Singh and Planning Commission deputy chairman Ahluwalia. According to the *Indian Express* (15 April 2013) the two were in a 'quest to seek a clear road-map for market-driven gas pricing' and 'maintained that the recommendation by the Rangarajan Committee to double the price of natural gas to $8-8.5 per mBtu would be inadequate to bring high-risk deep-sea production'.

According to Dasgupta, Moily was going beyond the Rangarajan committee's recommendations while 'facilitating' RIL's 'loot of the country's natural resources'. He claimed that the minister had suggested that the 'gas price be $8 per mBtu, $10 per mBtu and $12 per mBtu in the last three years of the Twelfth Five Year Plan (2014-15 to 2016-17) and $14 per mBtu in the first two years of the 13th Plan (that is, 2018-19 and 2019-20)'. He added that if Moily's formula for gas pricing was accepted the government's 'subsidy burden would increase in the five-year period by Rs 76,000 crore with RIL's profits going up by Rs 68,400 crore'.

The CPI MP then made a serious allegation. Dasgupta claimed that petroleum minister Moily was acting against the advice of his own bureaucrats. He alleged that the secretary (or the seniormost civil servant) in the ministry—Vivek Rae, the bureaucrat in the post was not specifically named—had expressed reservations about the manner in which the officially administered price of gas was going to be increased, not once but three times, but each time the file was 'returned'. Dasgupta accused Moily of merely 'copying and pasting' the suggestions of RIL. He claimed that if the price of gas was increased from $4.2 per mBtu to $14 per mBtu, over a five-year period, the public exchequer would have to bear an additional subsidy outgo of Rs 180,000 crore (around $30 billion assuming an exchange rate of Rs 60 to one US dollar) while RIL would earn an additional profit of Rs 162,000 crore (over $25 billion).

It was apparent that the petroleum minister had more than a few supporters within the Cabinet. In the copy of the Cabinet note handed out by Dasgupta, the finance ministry was also found to be quite generous in its assessment of what the price of gas should be. The finance ministry headed by Chidambaram had suggested a price of $13.3 per mBtu for 2014-15 and $14 per mBtu for the next two financial years (2015-16 and 2016-17) using the price of liquefied natural gas imported from Qatar through long-term contracts as a benchmark. After deducting costs associated with transporting the LNG to India the 'net back' (or comparable) price of gas would work out to $10 per mBtu in 2014-15 and $11 per mBtu in subsequent years. At this rate, it was calculated that the government would end up subsidising the oil companies an amount of Rs 52,500 crore over a period of five years, and that would be over and above the subsidy that would be incurred if the formula suggested in the report of the Rangarajan committee formula was to come into effect, implying an increase in RIL's profit to the tune of Rs 47,250 crore.

In fact, Dasgupta pointed out, it was the Planning Commission headed by Ahluwalia that had recommended the switch to an 'international pricing formula' for the 13th Plan period as demanded by RIL'. That was not all. There were more 'sops' proposed. Dasgupta added that in the interim, the Planning Commission would be comfortable if RIL marketed 10 per cent of its gas output at a 'market price' in 2014, with this proportion progressively increasing to 15 per cent in 2015-16 and 20 per cent in 2016-17.[1]

So what were these gas pricing formulae all about that had aroused such a great deal of controversy?

The Rangarajan panel used an average of two pricing methods to arrive at what is called the 'wellhead' (or the price at the head of the well from where gas is extracted) price of indigenous natural gas. Energy expert Surya Sethi—who participated in the writing of the government's 'integrated energy policy of India' in 2006 as the then principal advisor (power and energy) and core climate change negotiator in the Planning Commission between 2001 and 2009—provided a detailed critique of the methodology used by the Rangarajan committee to estimate the price of domestic gas by 'averaging some numbers from some foreign gas markets' in an editorial page article published in the Hindu (18 January 2013), a few weeks after the panel had released its findings.

Here is the technical explanation which is explained in simpler language in the portions in parentheses. An 'average producer "net back" for Indian imports' is calculated per month using an assumed value, say $34 per mBtu, representing current cost estimates of liquefaction (or converting natural gas into liquefied natural gas), transportation and 'sweetening' (or removal of impurities) of natural gas for a 'trailing' (or previous) period of 12 months. This figure is then subtracted from the freight-on-board (or FoB) prices paid by India for import of LNG from 'different sources over the same period'. Both spot prices and long-term contracts are to be included, as per the panel's formula. This number, Sethi says 'is not the average wellhead price of conventional natural gas in the countries exporting LNG to India; nor is it relevant for determining fair wellhead prices for Indian producers of conventional natural gas'. Hence, Sethi asks, does the figure arrived at using this estimate actually represent anything at all?

The second method used by the Rangarajan committee is also misleading, Sethi argues. Using this method, an estimate is arrived at by weighing spot prices in various international markets. This, Sethi contends, is not appropriate to formulate the price of domestically produced gas that is meant for domestic consumption. The 'weighted average price to producers in the global markets' as it has been termed, is to be estimated each month using figures of the previous 12 months. To calculate this number, the Rangarajan panel relies on gas prices prevailing in regional trading 'hubs', such as the Henry Hub spot index as the price for all US gas sales, the UK's National Balancing Point (NBP) spot index for all gas sales in every country comprising Europe and countries that were once part of the former Soviet Union and the 'average producer net back' for all Japanese LNG imports (computed on the same basis as recommended above for India) over the same period.[2] Here too, the total volume of all gas contracts in the respective jurisdictions are to be included. Sethi questions the relevance of this methodology for pricing Indian gas.

After the two numbers have been arrived at, the average of these two numbers is then taken as the price. Sethi lists various reasons why this approach is deeply flawed. First, natural gas varies widely in its characteristics across different regions, countries and sources and the three regions covered have distinctly different pricing mechanisms for gas. Second, the ownership structures of the gas-producing industry make it difficult to fathom at what point in the value chain, profits are being booked and to what extent. The third point to note is that gas supply contracts vary widely from spot purchases to long-term sales and consequently, the criteria used to arrive at a price vary widely from contract to contract. Fourth, the structures of different regional gas markets and related infrastructure (including pipelines for distributing gas) are quite different across jurisdictions and impact gas prices significantly. Finally, Sethi points out that non-price elements that are not transparent, geo-political considerations and security of supply concerns, all play an important role in the final pricing of gas.

He analyses the different indices used by the Rangarajan committee and points out that the Henry Hub benchmark index is available for 'next day' delivery and up to 108 months in the future. Similarly, the more recent NBP benchmark index permits trading of gas as a commodity on spot as well as on a long-term basis. However, importantly, he states that the physical trade that actually occurs at the typically quoted Henry Hub or NBP price is minuscule compared to the overall global trade in gas.

E.A.S. Sarma, who in 2000 retired as secretary, department of economic affairs, ministry of finance, and has since then worked as a dedicated activist, writing in the same newspaper (*The Hindu*, 4 June 2013) explains that the 'gas market is opaque and fragmented' because of the high costs of storage, liquefaction, regassification and pipeline transportation. He says that the gas market is very sensitive to 'local trends in the availability of substitutes such as coal, oil, and shale gas in different sectors'. Thus, Sethi adds, in the absence of a 'fungible' market—or a market where natural gas is easily interchangeable with other energy sources and commodities—there is disequilibrium. He illustrates this contention with an example from 2011 when the reported average dry gas price per mBtu at Henry Hub was $4.01 while at NBP it was $9.03 and the Japanese LNG imports averaged $14.73 CIF(cost-insurance-freight included or the landed price)—which, based on the Rangarajan Committee's definition, would yield an 'average producer net back' between $10.50 and $11.50 per mBtu for Japanese imports.
On the issue of sensitivity of gas prices to demand, Sethi has another point to make. He says that though the Rangarajan committee report 'recognises the price sensitivity of gas demand in India', it fails to clarify whether the wellhead domestic gas priced between $4.2 and $5.25 per mBtu 'is the price for dry or wet gas'. Wet natural gas liquids have higher condensates and higher economic value. Indian gas is dry and Sethi finds it incredulous that the domestic natural gas producers were guaranteed a 'high wellhead price for dry natural gas year after year on an arm's-length basis'.
As in many debates relating to this subject, a counterview to that provided by Sethi and Sarma was published in the *Hindu on* 7 February 2013: an article entitled 'A committee to "administer" a "market price" of gas' written by Sunjoy Joshi, director of the Observer Research Foundation, and a former joint secretary at the MoPNG who had served on the boards of directors of public sector undertakings such as the ONGC, OVL, OIL and Mangalore Refineries & Petroleum Limited. Incidentally, the Observer Research Foundation was set up by—and continues to be supported by—the Reliance group. In what may be described as a display of deft semantics, Joshi argued that domestic oil producers would agree with Sethi's contention that 'the formula suggested by the Rangarajan Committee does not reflect the market price in India but rather the price in foreign markets'. After all, says Joshi, market prices are determined at the 'intersection' of buyers (constituting demand) and sellers (constituting supply). What Rangarajan offers is a 'fixed' and hence 'administered' price. Thus, Joshi suggests, producers could benchmark the 'marginal price' (or the cost of producing the last unit) of the most expensive gas currently available and/or used in the Indian market, which is none other than the 'spot LNG bought and sold between willing buyers and sellers at over $15 per mbtu'.
Joshi argued that both Sethi and domestic gas producers advocate an administered pricing mechanism. According to him, Sethi is calling for a return to a government administered pricing system under which state-owned oil companies get a 'fixed rate of return' on their costs of producing oil and gas. This system and approach, Joshi claimed, was rejected because of its inefficiencies. As for gas producers, using the highest price of LNG as a benchmark would be fallacious since these producers should not 'presume that all gas available will be absorbed at the highest marginal price'. Joshi faulted the government for taking recourse to the terms of the PSC in determining gas prices. Does the PSC allow for administered or market prices, he asked, rhetorically. He says that the PSCs under the NELP which apply to both public sector and privately owned hydrocarbon firms 'mandate arm's length market prices' and 'not prices linked to the cost of production'. These contracts were structured on the 'principle of revenue maximisation', and incorporate 'clauses of approval to any pricing formula to ensure that contractors do not "under-price" gas to related parties and siphon away revenues that are part of the contract'.
Thus, Joshi contended, the PSC is not an instrument through which the government can use gas prices to 'contain its subsidy burden' on petroleum products such as kerosene, LPG (liquefied petroleum gas

used mainly for cooking) and diesel. He argued that the government should consider international prices for all crude oil being produced under these contracts but should not control gas prices to contain subsidies. Beyond the four walls of the contract, he claimed, the government has every right to fix its priorities. It is free also to abandon the 'God of markets'. He added that should the government decide that low gas prices are a priority, then all bidding for future oil and gas blocks must be on the basis of lowest prices rather than highest profit share. What it cannot do is to invite bids for revenue maximisation under 'ring-fenced' contracts and then seek to implement, through 'stealth', the exact opposite. The buzzword in contract administration is transparency and not stealth, Joshi claimed, as the latter can only lead to a few subsidy scams being unearthed by the CAG. Joshi blamed the government's Gas Utilisation Policy, which prioritises allocation of gas to sectors like fertilisers and power at an affordable and controlled rate, for having fragmented the market for gas into a hierarchy of the 'more favoured, the less favoured, and the discards'. A 'rationing of gas makes the development of a unified gas market impossible', since different price levels confuse 'buyers and sellers, and investors on both sides'. The results, claimed Joshi was poorly developed gas infrastructure—LNG terminals, transnational and domestic pipelines.

The ORF executive head then asked: Could a government appointed committee decide on a market price? He says that this is a 'paradox' and thus, the 'the good economist, Dr Rangarajan', had no option but to take the weighted average of prices across functioning gas markets in the world, recommending that the result be applied to India. Joshi added that the Rangarajan committee ultimately suggested that the country move towards 'gas-on-gas competition within the next five years', a pure market situation, though the committee 'fails' to suggest a path for that. Ultimately, Joshi concluded that the 'market can never be second-guessed' and should be the final arbiter of the debate. Joshi's comments clearly indicated what the votaries of a higher gas price eventually wanted: complete de-control of the pricing of natural gas and, presumably, other petroleum products as well. With an envisaged flexible pricing regime, natural gas prices are expected to be revised every four months, like those of petrol and diesel. This is clearly mentioned in the 14 May document prepared for the Cabinet: 'Gas prices would be notified in advance on a quarterly basis using the data for four quarters, with a lag of one quarter… these policy guidelines shall be applicable during the 12th Plan period (from 2012-13 till 2016-17).' As in the case of prices of petrol and diesel, consumers can expect frequent increases in household bills, including the cost of gas-based power and prices paid for piped gas coming into kitchens as well as compressed natural gas (CNG) used for transportation. This, in turn, would inevitably lead to higher across-the-board inflation, including higher prices of urea fertilisers. The note for the CCEA added:

Over the Twelfth Five-Year Plan period, a major proportion of growth in demand for gas is likely to come from the power and fertiliser sectors. Power sector consumption, currently at 61 million metric standard cubic metre per day (mscmd) will translate into a demand of 207 mscmd by 2016-17, while the current fertiliser consumption of 37 mscmd will result in a demand of 106 mscmd by 2014-15. Other sectors, which currently consume 68 mscmd of gas, will generate a demand of 153 mscmd by 2016-17. The total demand for natural gas in the country is likely to grow from the current 166 mscmd to 466 mscmd in 2016-17.

In fact, the Cabinet note, in its concluding remarks on 'financial implications' confirmed the pricing pressures on fertilisers and power, since in India natural gas is currently being used primarily to generate electricity and produce urea sectors. It stated:

There will be a substantial outgo from (the) Fertilizer Ministry for subsidization of urea. (The) power

sector will also be impacted. (The) overall impact of (the) increase in gas price by $1 per mBtu will be Rs 3,155 crore per annum from 2013-14 onwards for 23 MMT (million metric tonne) urea production. This will increase to Rs 4,144 crore per annum per $1 per mBtu increase of gas price, for 33 MMT urea production from 2017-18 onwards. The impact of every US dollar increase in gas price would be Rs 10,040 crore annum on the power sector, ... (assuming) 70 per cent plant load factor (PLF) for 28,000 MW capacity.

It was hardly surprising that both the fertiliser and the power ministries were rather apprehensive about the gas pricing formula suggested by the Rangarajan committee and strongly opposed its recommendations.

While briefing journalists on 24 May 2013, CPI MP Dasgupta said the power ministry had protested that a price above $5 per mBtu was simply untenable since at a price of $8 per mBtu, the cost of gas-based generation would be Rs 6.40 a unit (or kilowatt hour) which would be clearly unviable. This would hamper the productivity of the existing gas-based power generation units, and newer gas plants would become commercially unviable. Apparently, the power ministry had suggested that gas should be priced in rupee terms. During inter-ministerial consultations, according to Annexure IV of the CCEA note, the power ministry pointed out that ‘while (the) Rangarajan Committee report was under finalisation, (the) Ministry of Power was not consulted though (the) Power Sector is the major anchor consumer of domestic gas’.

The department of fertilisers (DoF) too had suggested that if a weighted average of Indian LNG (liquefied natural gas) imports and world prices were taken into consideration, the price would fall by almost $2 per mBtu. The department (in the ministry of chemicals and fertilisers) suggested a gas price of ‘around $6 per mBtu’. The DoF also stated in inter-ministerial consultations that in order to get a better picture for price formulation ‘the actual cost of production of natural gas should be arrived at by obtaining data already available in the country, at least with the PSUs like ONGC, OIL etc’. The department warned that at 2013 levels of urea production, the government was looking at an additional annual subsidy of Rs 17,000 crore by the end of the 12th Plan.

Incidentally, the petroleum ministry in its observations on the DoF’s stand agreed that it was not possible to arrive at a ‘competitively determined global gas price’ since there were ‘several regional markets in operation, all of which were constrained by geographic, infrastructural, tariff and policy barriers’. The petroleum ministry was aware of the sensitivities around determining prices based on global LNG costs. Commenting on the Planning Commission’s suggestions, the ministry noted: ‘Domestic gas is seldom sold at import parity price anywhere in the world. It is sold at regulated prices in most countries.’

The day after Dasgupta’s media conference, on 24 May 2013, there was a strong reaction from the petroleum minister to the CPI MP’s allegations. The rebuttal by the petroleum ministry sought to set the ‘record straight’ about the ‘malicious’ and ‘distorted’ allegations made. Petroleum minister Moily claimed that the public sector units which produce ‘two-thirds of the gas’ in the country would benefit by the new pricing which would apply ‘equally to them’. He extended the argument that price revision was essential to spur investment in oil and gas exploration and production so that ‘production in India reaches optimum levels and all explorable reserves are put to production expeditiously’. The *Hindu* (25 May 2013) quoted Moily the following day: ‘Mr Dasgupta talks of fertiliser subsidy rising due to gas price increase but what he does not realise is that if domestic production does not increase, we have to import gas.’

The petroleum ministry statement provided statistics of the import bill for gas, thereby, curiously, actually confirming some of the apprehensions that had been voiced. The statement pointed out that in 2012-13, the average natural gas production was about 111 mscmd against a requirement of approximately 286 mscmd. The gap between the demand and supply was likely to widen further

during the 12th Plan, if ‘effective steps’ were not taken expeditiously to enhance domestic gas production. The annual import bill for import of oil and gas in 2012-13 stood at approximately $160 billion (more than Rs 7 lakh crore). The estimated financial outgo on account of import of natural gas was likely to increase to $17.82 billion in 2016-17 from $8.79 billion in 2012-13. Apart from the impact of such high imports on the country’s balance of payments, the government’s fiscal position would worsen on account of a higher outgo on subsidies for power and fertilisers.

The petroleum ministry’s press note highlighted the fact that natural gas imported by India in the form of LNG had a landed price of between $14 and $15 per mBtu which was more than double the proposed revision in the gas price. The outgo on subsidies would double or treble if the power and fertiliser industries in the country were dependent on imported LNG as feedstock (raw material). In addition, there were huge installed power generating capacities that were lying idle for want of gas, the note stated. There was also a second, short, almost innocuous press release from the petroleum ministry the same evening (24 May) announcing new gas finds by RIL. The release said:

(The) ministry of petroleum and natural gas is happy to note that as a result of the permission granted by the Ministry for exploration in the existing Mining Lease Area, the contractor Reliance Industries Ltd. has notified a new discovery of Hydrocarbon (Dhirubhai-55) in Block KG-DWN-98/3 (KG D6-MJ1). The commercial potential of the said discovery is yet to be established.

Concurrently RIL announced a ‘significant’ discovery of gas and natural-gas condensate in the KG basin, which was expected to add to gas output at a time when the availability of gas from the basin had come down to 15 mscmd, the lowest level since the D1 and D3 blocks had started production in April 2009. The following day *Business Standard* quoted Mike Daly, executive vice-president exploration of British Petroleum, holding 30 per cent stake in RIL’s gas venture, as saying: ‘The discovery follows an 18-month drilling time-out and detailed geosciences work that has re-focused our India exploration programme and delivered this early success.’

To those with not-so-short memories, the situation was uncannily similar to what had happened in 2010 when RIL had announced fresh gas reserves just after the 7 May Supreme Court judgement and the 19 May 2010 hike in the administered prices of gas from $2.34 per mBtu to $4.2 per mBtu, ostensibly to ensure that public sector companies (and not just RIL) remained commercially viable.

Even as the war of words between minister Moily and MP Dasgupta had begun, the regulator of the oil and gas sector, the directorate general of hydrocarbons (DGH) was reporting declining gas output by RIL from the KG basin. On 1 June 2013, the *Hindustan Times* reported that the DGH had stated that natural gas production at the deepwater KG-D6 had ‘dropped to less than 15 mscmd, the lowest since starting output in 2009’. The contractor, RIL, produced a total of 14.83 mscmd from the D1 and D3 gas fields and the MA oil and gas field in the KG-DWN-98/3 or KG-D6 block in Bay of Bengal in the week that ended on 26 May 2013. By then, RIL had shut half of the 18 wells in the D1 and D3 fields due to ‘high water and sand ingress’ and two of the six wells in the MA field due to the same reason. The HT report added that the D1 and D3 fields produced 11.05 mscmd of gas while the rest came from the MA (or D26) oilfield, the only oil find in the KG-D6 prospecting area. Output at the D1 and D3 fields had dropped to 12.35 mscmd in March and 11.85 mscmd in April. The MA field produced an average of 5,709 barrels of oil in the week ending 26 May. RIL had drilled 22 wells in the D1 and D3 fields but only 18 of these wells were producing. Thereafter, seven more wells—or half of the total of 22 wells—were shut down.

As May 2013 rolled into June, the verbal slanging match between Dasgupta and Moily intensified and became increasingly acrimonious. It seemed as if the petroleum minister had gathered new ammunition after having been at the receiving end of a lot of flak. Other ministries and departments

had apparently started getting their act together. On 6 June 2013, the *Hindu* reported that the 'Prime Minister's Office (PMO) and the Cabinet Secretariat have returned to the petroleum As May 2013 rolled into June, the verbal slanging match between Dasgupta and Moily intensified and became increasingly acrimonious. It seemed as if the petroleum minister had gathered new ammunition after having been at the receiving end of a lot of flak. Other ministries and departments had apparently started getting their act together. On 6 June 2013, the Hindu reported that the 'Prime Minister's Office (PMO) and the Cabinet Secretariat have returned to the petroleum

Three days earlier, on 3 June 2013 the *Economic Times* had reported that the Planning Commission was miffed with the petroleum ministry for keeping it in the dark, and referring 'many proposals, directly for consideration of the Cabinet without any consultation at the level of ECoS (empowered committee of secretaries).' These are inter-ministerial consultations which take place before crucial policy decisions. Sindhushree Khullar, secretary, Planning Commission wrote to her counterpart in the petroleum ministry, Vivek Rae, saying that oil and gas contracts 'have technical, contractual and financial implications, which ought to be deliberated with related ministries before the Cabinet proposals are firmed up'. The ministry had ignored a request for ECoS consultations earlier in October 2012, which negotiated contracts with successful bidders of oil and gas blocks in the ninth round of the NELP, it was pointed out.

Earlier, in March 2013, the ministry had moved a draft proposal for the consideration of the EGoM, now headed by defence minister A.K. Antony (who had by then replaced Pranab Mukherjee; the latter had become the President of India), for revising gas prices for both the public sector oil companies and RIL based on the Rangarajan Committee's recommendations. The Cabinet Secretariat had returned the proposal saying that the new formula was not covered under the EGoM's reference. According to the *Indian Express* edition of 15 May 2013, the Cabinet Secretariat had written to the petroleum ministry on 2 April stating:

> As the...EGoM is mandated to consider and decide (the) issue of commercial utilisation of gas...under (the) New Exploration Licensing Policy and other related matters, the present proposal [that is, gas pricing] will not be covered by the mandate of the EGoM.... In this light, this ministry may ... either forward a proposal for expanding the terms of reference of the EGoM or bring a note... for the consideration of the Cabinet Committee on Economic Affairs (CCEA).

It was then that the petroleum ministry sent the same proposal, with some modifications, to the CCEA. The Prime Minister's Office then sent back the note since it felt that the views of the concerned ministries needed to be sought on the changes proposed after the circulation of the note to the EGoM (*Rediff.com*, 13 June 2012). This led to inter-ministerial consultations and the preparation of a note for the Cabinet, portions of which were leaked by Dasgupta. The MP had more information up his sleeve for the newspersons. On 11 June 2013, the *Pioneer* reported that Dasgupta had alleged that minister Moily—the fourth petroleum minister in a decade—had come up with another note on 27 May, three days after his (that is, Dasgupta's) exposé, for the perusal of the CCEA recommending a gas price hike. In the process Moily overruled the petroleum secretary Rae who had refused to sign the document. In fact, Dasgupta alleged that the draft note had been prepared by Reliance, approved by Moily and then signed by a junior officer in the ministry. The MP alleged that the minister was 'spearheading the scam for Mukesh Ambani with the blessings of finance minister P. Chidambaram and Planning Commission deputy chairperson Montek Singh Ahluwalia'.

The CPI leader and trade union activist claimed that officials of the ministry of finance had admitted to the Parliamentary Standing Committee on Petroleum and Natural Gas that had met the previous week, that they had not calculated the production figures of domestically produced natural gas. 'They

told us that they were treating the increase in (the) price of gas as incentivising the investment of private contractors. This is the fraud. Why is the government not calculating the cost of production of natural gas?' Dasgupta asked.

This was precisely the same question that had earlier been raised in the wake of Jaipal Reddy's departure from the petroleum ministry, for which no answers were provided by the government. Dasgupta said that he now possessed a copy of the new Cabinet note and added that petroleum minister Moily had suggested that import parity prices of $14 per mBtu be given for 2018-19 and 2019- 20 (the first two years of the 13th Plan) and the new (to be decided) gas prices would be applicable for the period between 2014-15 and 2017-18 (the last four years of the 12th Plan). Dasgupta said that in 'great anguish', he had written another letter to the prime minister on the same topic for a second time in quick succession.

Within a week, Moily found it necessary to come up with a second rebuttal, this time with 'all guns blazing' as the *Times of India* reported on 13 June 2013. The minister alleged on this occasion that opposition to the gas price hike was coming from a 'powerful lobby' of importers of crude oil and LNG which did not want India to reduce its imports of oil and gas. The minister implied that a conspiracy was afoot to slow down the country's natural gas extraction facilities, since, without the 'incentive' of a higher price, the gas producing companies would simply not explore more. In his statement, Moily claimed:

India is a wealthy country full of natural resources that can help cut our $160 billion oil import bill. We need to exploit the resources for the welfare of our people. For this we need investments. But without the right pricing and policy regime, which investor will come? If we shirk our responsibility, no investment will come and the resources will remain buried.

There were more statements to come from Moily. He was quoted by *Rediff.com* on 14 June as saying:

I am not helpless. Any timid minister will not go forward.... I have come here to strive hard for the sake of the country. If anybody thinks that decision-making process in the oil sector will be prevented they are totally wrong. After having dismantled many of the obstacles, it is in the national interest to go for aggressive exploration. Investors should also come.

The minister refuted claims that his actions were helping one company (RIL) and recalled that during his tenure 'as law minister (he had) ensured that natural resources such as gas are declared as sovereign property'. The same day (14 June), finance minister Chidambaram said: 'All views will be considered and the government will take a decision. My intention is that the government must decide on these matters.' He added that a decision on pricing of natural gas was important to revive investment.

Earlier, in March 2013, after the Cabinet had sent back the petroleum ministry's note for revision of gas prices, the ministry constituted a new committee headed by economist and former bureaucrat Vijay Kelkar to put in place an energy security policy and design a roadmap for enhancing domestic oil and gas production to reduce dependence on imports by 2030. Kelkar, who had earlier authored a report on deregulation of the retail oil and gas sector, was asked to submit the new study within six months. When, on 14 June, *Business Standard* questioned Moily on how he would handle an overlap between the reports of the Kelkar and Rangarajan committees, the minister said that there was no 'conflict' and Kelkar would 'pick up' where Ranagarajan 'has left'. Moily said that Rangarajan's methodology on gas pricing till the end of the 12th Plan (31 March 2017) would be adopted. He added that Kelkar had not just been appointed to examine the issue of pricing after the 12th Plan but also

prepare a ‘roadmap for self-sufficiency in gas and oil production’. The minister added: ‘The idea is (that) by 2020, only half (of the petroleum products the country needs) would be met by imports; by 2025, only 25 per cent would be met by imports and we would reach energy independence by 2030.’

The government’s critics claimed that Moily’s arguments had a serious flaw. Dasgupta and others alleged that RIL was effectively sitting over some of the major natural gas finds in India’s recent history and holding the government to ransom by lowering gas production. The government, in turn, was ‘incentivising’ RIL to spur investment in gas exploration and production by increasing the price of gas. But Moily was unfazed by such criticism. When he was asked in an interview with Rajeev Jayaswal of the *Economic Times* published on 16 June 2013 why he had made ‘sensational revelations’ that import lobbies were exerting pressure on the country to continue importing petroleum products, including LNG, without identifying who these lobbyists were, Moily said that there were people with vested interests ‘who do not want us to reform our energy sector so that we remain dependent on imports’. He added that ‘all reform moves are resisted’ and that bureaucrats were ‘hesitant to take bold decisions’. While the media accused the government of policy paralysis, the petroleum minister claimed that what ‘you people...fail to see (is) that we are paying $160 billion (a year) for imports’ and that sellers of LNG wanted India to remain an importer ‘so that they thrive on our money’. Questioned further as to whether he was referring to OPEC (the Organization of Petroleum Exporting Countries), Moily said he did not want to name anyone but there were groups that did not ‘want gas price to be revised so that investors will have no incentive to find and produce more gas’. Thus, importers would charge high prices of $18 to $20 per unit of gas or more, while domestic gas producers would receive $45 per unit. The minister said he wanted to ‘move forward and frustrate their design’, that ‘Moily can’t be cowed down’ and that he had ‘rolled out’ a ‘new vision’ that aimed at reducing India’s crude oil imports by 50 per cent of total consumption by 2020, 75 per cent by 2025 and eventually achieve self-sufficiency and energy independence by 2030. Asked if he had spoken to the prime minister about the designs of these lobbies, Moily said he knew ‘how to handle such elements’, that he knew his job and his responsibilities. He took credit for protecting the government’s ‘right to natural resources’ as law minister and referred to the Supreme Court judgement in the RIL versus RNRL case.
The *Economic Times* then asked Moily point blank to reply to the allegation that he was promoting the interests of Reliance, to which he responded by saying it was ‘wrong’ to say the government wanted to raise gas prices to help RIL since ‘about 79-80 per cent exploration in India is done by our PSUs (or public sector undertakings)’ and ‘not even five per cent is done by Reliance’. The petroleum minister said the government had to revise the price of gas since it was a ‘contractual obligation’ and that this ‘process was initiated long before I joined this ministry’. He praised the new pricing methodology suggested by the Rangarajan committee, added that his (meaning Rangarajan’s) ‘credibility is unquestioned’ and that the committee had balanced the interests of consumers and producers ‘very well’. He added that it was not him but the CCEA that would take a final call on the price of gas and that the Cabinet’s decision would ‘renew investors’ faith in India’s oil and gas sector’. Moily claimed he had read a report stating that ‘more than $100 billion of our investments went abroad’ and asked: ‘Should we not halt and reverse this process?’ The petroleum minister claimed this ‘flight of money is because of obstructions, obstructions, and obstructions (in taking policy decisions)’.
Moily’s comments on a so-called import lobby drew sharp reactions from his political opponents. Ram Naik, former petroleum minister in the BJP-led NDA government who served in his post between October 1999 and May 2004, was quoted by the *Hindu* (15 June 2013) saying:

It is strange that Mr Moily is talking about non-existent lobbies. Major imports of oil and gas are done

by the PSUs. There are hardly any other oil importers in India. His statement does not make sense but a deeper investigation in the matter would be the right thing to do. I did not encounter any lobby during my time and it all depends on the message you send.

Dasgupta too scoffed at Moily's remarks and alleged that he was a 'liar' making allegations against 'invisible' lobbies when the country was being 'looted'. He pointed out that only two public sector undertakings, GAIL and Petronet LNG, were importing gas into India.

On another count, Moily's claims about import lobbies at work were way off the mark. It can be argued that if prices of domestically produced gas are much lower than imported LNG, a so-called gas import lobby would have pushed for a hike in domestic gas prices as that would introduce an element of parity by making the imported product competitive. Spot LNG prices were at that time ranging between $18 and $19 per mBtu while LNG prices on long-term contracts were around $11 per mBtu, against prices between $4.2 and $5.7 per mBtu for domestically produced gas. Total gas consumption in the country during 2012-13 was around 160 mscmd, of which 50 mscmd were imported (*Business Line*, 25 April 2013).

Those who argued that a higher price of domestic gas would automatically encourage exploration and production were applying a pure and simplistic *laissez faire* economic logic. Writing in the *Economic Times* on 25 June 2013, Himangshu Watts gives the example of the United States where the 'free market in that country allowed natural gas prices to soar to nearly $14 seven years ago, when India had frozen the rates at about $2'. Watts believes that 'either ONGC should find natural gas, produce it very competitively and cost-effectively, and sell it cheap to customers; or the government should give private companies the incentive to produce so much gas that market forces ensure that the precious resource is reasonably priced'. He wrote that profit potential provided the incentive to US exploration companies 'in deploying risk capital in oil and gas exploration as well as developing new sources like extracting natural gas trapped in shale rock formations'. Companies invested in new technologies and 'quickly recovered their investments'. The abundance of shale rocks in the US ensured a huge supply of natural gas and led to prices crashing 'below $2' and thereafter, with demand rising, prices reached 'towards $4' per standard unit.

Watts argued that in India, 'abundant gas reserves' are 'located in deep-sea fields'. Extracting this gas is costly because of technological challenges. He pointed out that 'connecting one well to the subsea network of pipelines' costs 'as much as $100 million' and added that financial returns would have to be 'commensurate with the risk of sinking billions of dollars in unpredictable deep-sea terrain'. He blamed the lethargy of India's public sector exploration companies and claimed that government companies had found nothing 'of commercial consequence'. Thus, the government had invited private companies to this sector with the message that the country 'was desperately in need of new energy resources' and that a company which could discover oil and gas would get the 'freedom to market its produce'.

In the debate on who should determine gas prices, the likes of Sunjoy Joshi and Himangshu Watts would have markets determine gas prices, whereas Surya Sethi clearly favoured an administered system. In a rejoinder to Joshi's rejoinder to his article the *Hindu* (7 February 2013), Sethi wrote that his criticism of the gas pricing formula recommended by the Rangarajan committee was based on the 'absence of a natural gas market in India and the fragmented/ non-fungible global gas market'.[3] He emphasised that a market, and hence a market price, 'can only exist when full fungibility is assured and multiple buyers and sellers compete freely under rules established by enlightened, independent and watchful regulators'. This, Sethi added, was clearly not the case in India. He added that across the

world, only the market for gas in North America, 'exhibits these essential characteristics'. Hence, he said, 'I believe the Rangarajan committee and indeed Sunjoy Joshi (should) accept this truth and support the need for an administered price for Indian natural gas producers'.
Sethi went on to explain his position that his criticism was not on account of the Rangarajan committee choosing numbers from foreign markets 'but that it chose numbers that do not reflect prices obtained by natural gas producers in the three markets covered'. He said the 'absurdity' of the committee's formulation was 'best demonstrated by the inclusion of Japan that has no natural gas producer/supplier'. Sarma, also a proponent of administered prices for gas, highlighted another important issue, namely, that of the need for a regulator. In a letter written to the prime minister on 18 January 2013 on the 'serious irregularities in the pricing of gas', Sarma had commented that the government was rushing through accepting the Rangarajan Committee's recommendations without a proper system of regulation in the sector. He wrote:

In the absence of a reliable market, the only way to determine the price of gas is through an independent, rule-based regulatory authority appointed under the law. Deliberately, your government disempowered the petroleum regulator, only to hand over the responsibility to the EGoM which is no more than a political entity.

Soon after Dasgupta leaked the Cabinet note on gas pricing, Raghuvir Srinivasan wrote in the Hindu (30 June 2013) about the crying need for 'transparent and fair regulation' in the gas sector. He stated that in the absence of technical data, there was no way of ascertaining if RIL was deliberately creating a scarcity to jack up prices and whether the company was unable to monetise gas finds due to what it claimed were 'technical problems'. Srinivasan argued that in order to protect user industries such as fertilisers and power, the government would have to place a 'cap on the price based on reasonable return of investment for the producer'. He also felt the need to buffer the 'currency risk' for user industries since pricing was driven by the dollar. For this a 'mechanism to adjust for rupee depreciation (or appreciation)' would have to put in place which could be 'reviewed at periodic intervals along with the price itself'. Thus, there was a need for a regulator to manage these different mechanisms, he contended.
After the Cabinet note was leaked by Dasgupta, Sarma recorded his opinions in yet another letter to the prime minister. This letter dated 27 May 2013 cautioned the government against the 'highly imprudent move' of 'rushing into re-fixing the price of natural gas from KG basin at a price ranging between $8 and $10 per mBtu':

The core argument offered by the MoP&NG in defence of the proposed price hike appears to be that a higher gas price would spur upstream investment and raise domestic production to meet local demand and reduce dependence on high-cost imports leading to an improved fiscal balance. Does the MoP&NG guarantee that with a gas price of $10 or more per mBtu, the domestic production would pick up to meet the demand-supply gap the press note (of the petroleum ministry) identifies? Is there a time dimension to this dream being realized and what happens in the interim? Has the MoP&NG forgotten that the current gas pricing formula (coined by RIL) was approved holding out the promise that Reliance alone will deliver 120 mscmd of natural gas from the KG Basin by 2008 compared to the 111 mscmd of total domestic production that the press note reports for 2012-13—sixty percent of which, it admits, is produced by the public sector. Does a higher price for gas produced domestically have no fiscal consequences? Domestic gas prices today are three times what they used to be before the current government came to power—why has that not spurred domestic gas availability to meet demand?

The spat between Moily and Dasgupta threw up fresh discussions on important issues relating to gas from the KG-D6 field. When Dasgupta spoke to journalists on 18 June 2013 he alleged that the petroleum minister was going slow on concluding the arbitration proceedings against RIL seeking to recover the penalty of $1 billion (not the cost recovery of $1.46 billion) imposed upon the company (on the advice of the solicitor general of India) when Jaipal Reddy was petroleum minister. Dasgupta claimed that the MoPNG was 'deliberately' not acting on the recommendations of the DGH that RIL 'surrender 86 per cent of the area of the KG basin block' including eight new gas discoveries since the firm had overshot the time allotted to it for developing the area. Dasgupta pointed out that the CAG had also made similar remarks about RIL's alleged 'land grab' on the bed of the ocean in the Bay of Bengal and that petroleum minister Moily was now trying to 'sabotage' the arbitration process.

The director general of the DGH, R.N. Choubey was quoted by the *Press Trust of India* (16 June 2013) as having written to the petroleum secretary on 15 April 2013 informing him that of 19 oil and gas discoveries claimed by RIL, three finds had not been established as commercially viable in the absence of test data and that RIL had not submitted any investment plans for the other five finds. The PTI report also indicated that Moily was bent on having a 'technical man' who would be chosen from a list of applicants by a panel comprising the petroleum secretary after the 31 May order to obtain a 'correct objective opinion' on the subject.

The petroleum ministry's rebuttal of Dasgupta's allegations that was issued on 19 June 2013 included a chronology of events that would supposedly establish 'factual inaccuracies' in the allegations. It is said that no decision had ever been sought from the current minister on the pending arbitration proceedings—the file had not been dealt with by anyone in this ministry after 17 December 2012. The ministry said that Reliance Industries had been served the notice of arbitration on 23 November 2013, much before the notice for denial of cost recovery (and not the notice on imposition of a penalty) which had been issued on 2 May 2012. The ministry clarified: 'In June 2012, Jaipal Reddy decided to join the arbitration proceedings by appointing the government arbitrator in June 2012.' In effect Moily was virtually trying to wash his hands off the issue.

The ministry said that 'on examination of the CAG report, (the) DGH had made certain recommendations for relinquishment of certain area by RIL which was processed by the ministry and placed before the minister for (a) decision'. The file was thereafter apparently 'withdrawn by the secretary for re-examination of certain fresh facts/ recommendations made by the DGH' before the minister could take a decision. The file was yet to be re-submitted to the minister, the ministry's note stated. In other words, Moily was now claiming that he had not defied the CAG's recommendations (on relinquishment of area) and that the claim that he was 'sabotaging' the arbitration process was a figment of Dasgupta's imagination. In his reply to the petroleum ministry's rejoinder, Dasgupta quoted the interview that the petroleum minister had himself given to the *Economic Times* (23 January 2013) wherein he had stated that the government was thinking of junking the arbitration proceedings and starting 'direct negotiations'. The CPI MP stated: 'All of us would welcome massive investment in the oil and gas sector to make India self-reliant but cannot be... (by looting)... national resources.'

As the debate on the price of gas raged, the lead author of this book interviewed Vinod Rai, former Comptroller and Auditor General of India, on a programme broadcast by Lok Sabha Television on 9 June 2013. Rai, who had demitted office on 22 May 2013, was asked to comment on the situation in which the CAG's office was asking for data from RIL but the company was reluctant to provide the data saying it was not supposed to give it. This is what Rai said in reply:

...it was in 2007 before I took charge (as the CAG) that the petroleum ministry made a request to my predecessor that, please come in and audit this particular activity of (the) government. It was not only

the KG basin, but there were two other projects under similar implementation and then, after examining the request of the government, my predecessor, Mr V.N. Kaul, took the decision that we will conduct the audit. But we made it very clear that we were basically conducting the audit on the initiative and the invitation of the ministry.

What could the CAG do if the private operator, in this instance, RIL, refused to part with its data, the question was repeated. Rai responded that this did not concern the CAG at all. ‘It is the government which has made the request that we conduct the audit. So...the onus, the responsibility (is on)...the government to ensure that the records are provided.’

The former CAG said there had been ‘some initial reluctance’ on the part of RIL to make documents available to the government auditor. He explained that when an audit is conducted on a public-private partnership arrangement, it is based on the PSC which is a contract between the ‘operator’ and the government. Said Rai:

It is a very detailed contract, a very well conceptualised contract document, which writes down all the details on how the operations will be done, how the approvals will be given, how the audit will be conducted, etc. Now it was some difference in the understanding of the audit process between the government and the operator that delayed the audit, but I think the government managed to convince the operator to make the documents available.

Towards the end of June 2013, the value of the rupee had fallen to a record low of Rs 60.72 to one US dollar. The price of compressed natural gas had been hiked by the government. The Cabinet was going to take a decision on the administered price of gas, a decision that was bound to generate a huge controversy.

11
PRICE OF GAS: END-GAME OR NEW BEGINNING?

On 27 June 2013, the government of India decided to effectively double the administered price of domestically produced natural gas to $8.4 per million British thermal units (mBtu) with effect from 1 April 2014 by accepting a new pricing formula based on certain recommendations made by an official committee headed by Dr Chakravarthi Rangarajan, chairman of the Prime Minister's Economic Advisory Council and a person known to be close to Dr Manmohan Singh himself. The decision itself was not entirely unexpected. The writing on the wall had become clear a few weeks earlier. But the decision was not unanimous. The Cabinet Committee on Economic Affairs (CCEA) was split right down the middle on the issue of increasing the price of gas and to what extent. It was late in the evening and hence, it was decided that a media briefing would be organised only the next day. A terse statement was all that was put out.

With this decision, the major gas producing companies in India, the private sector Reliance Industries Limited (RIL) and the public sector Oil and Natural Gas Corporation (ONGC) and Oil India Limited (OIL) stood to gain substantially in terms of profits earned. At the same time, gas-based electricity was expected to become more expensive. Those in charge of a number of gas-based power plants with large idle capacities were far from happy and they were not alone in feeling this way. Subsidies to manufacturers of fertilisers are also expected to rise, since natural gas is the main raw material or feedstock used for the production of urea, the most widely used fertiliser in India. The increase in the price of gas went beyond what the petroleum ministry had initially suggested, that is a price of $6.67 per mBtu, which too was opposed by the power and the fertiliser ministries. Since the price of gas has been linked with world prices, the domestic price of gas could theoretically go higher or lower than $8.4 per mBtu if international prices rise or, for that matter, come down. According to one estimate, after 2014, the price of gas could well rise above $10 per mBtu since the price cap on public sector Petronet's deal with Qatar's Ras-Gas gets over in January 2014 and thereafter, gas prices get fully linked with prices of crude oil (*Hindu*, 28 June 2013). Petronet, as has been already stated, is a government-controlled undertaking that imports liquefied natural gas (LNG) to India.

The new gas price, based on the Rangarajan committee's formula, would be applicable for a period of five years, that is, till the end of March 2019. There would be quarterly reviews of the price once every three months, a suggestion of the petroleum ministry accepted by the Cabinet. The Rangarajan committee had suggested monthly , not quarterly reviews. It had earlier been decided that the new price of gas would apply to firms producing gas under the administered pricing mechanism (APM) with immediate effect, but what was made clear by the CCEA is that the new price of gas would come into effect from 1 April 2014, the day after the government's contract with RIL (that fixed a price of $4.2 per mBtu) comes to an end. Currently, public sector companies such as the ONGC and OIL come under the APM and the administered price of gas was last revised for them in June 2010 from $1.79 per mBtu to $4.2 per mBtu. For RIL, however, which began production from the KG-D6 field in April

2009, the price of gas was raised from $2.34 per mBtu to $4.2 per mBtu in September 2007 by the EGoM (then headed by Pranab Mukherjee) till 1 April 2014. During the 2012–13 financial year, APM gas comprised roughly 60 per cent of the country's total domestic gas production of around 110 million standard cubic metres per day (mscmd), of which RIL's contribution was around 14 mscmd or less than 13 per cent of the total. In 2012–13 (year ending 31 March), India produced 47,558 million cubic metres of gas, a drop of 14.5 per cent from the output in the previous financial year. India's gas imports have been steadily rising, up to 30 per cent of total consumption in 2012–13 and which is expected to rise to roughly half during 2013–14.

Before examining the issue of gas pricing further, here is a brief account of what transpired during the 27 June meeting of the CCEA. The meeting was, from all accounts, a rather stormy one. Finance minister Palaniappan Chidambaram, deputy chairman of the Planning Commission Montek Singh Ahluwalia (a special invitee to the meeting and who holds the rank of a Cabinet minister) and, not to mention, petroleum minister Veerappa Moily, were all reportedly in favour of a steep increase in the price of gas from $4.20 per mBtu. A number of media reports quoting unnamed insiders who were present at the meeting stated that Chidambaram, Moily and Ahluwalia wanted the price of gas to be raised to $11 per mBtu, against $8.4 per mBtu which was eventually agreed upon. This group was said to have received the support of law minister Kapil Sibal and commerce and industry minister Anand Sharma.

Ranged against this group of so-called neo-liberal hawks were S. Jaipal Reddy, minister for science and technology (who had been replaced as petroleum minister by Moily in October 2012), power minister Jyotiraditya Scindia, fertilisers minister Srikant Jena and rural development minister Jairam Ramesh. This so-called left-wing or 'socialist' group argued that a higher administered price of gas would not automatically and expeditiously lead to new discoveries of gas and higher output. That had certainly not been the country's experience with RIL between 2008 and 2012, they said.

It was not surprising that Scindia and Jena stoutly opposed the move to increase the price of gas at the Cabinet meeting. The power and fertiliser ministries had recorded their reservations about a gas price hike all along. According to the power ministry's calculation, for every $1 per unit increase in the administered price of gas, the costs incurred by the power sector as a whole would stand to rise by an amount of more than Rs 10,000 crore per year. The fertiliser ministry estimated that the rise in outgo on subsidies would go up by over Rs 3,100 crore for every $1 per mBtu increase in the price of gas. Thus, the two ministries stated that once the price of gas went up to $8.4 per mBtu, the increase in the annual outgo on subsidies to the fertiliser sector would be nearly Rs 17,000 crore while the increased cost of fuel for the power sector would be over Rs 43,000 crore for a year. For a period of four years, between 2013 and 2017, the total impact on the national exchequer would be of the order of Rs 2,40,000 crore or around $40 billion (assuming an exchange rate of Rs 60 to one US dollar). But these calculations were based on the assumption that world gas prices would be where they were in July 2013, an assumption that was clearly unrealistic. Just as the actual outgo on fertiliser subsidies or expenses on generating electricity from gas could fall if world gas prices came down, if, on the other hand, international prices of gas rose to the region of $14–16 per mBtu over the next five years, the impact on the exchequer would be much bigger, perhaps of the order of Rs 4,00,000 crore or between $65 billion and $70 billion depending on the rupee-dollar exchange rate.

At the Cabinet meeting, Jena and Scindia said the price of gas should be maintained at $4.2 per mBtu and pointed to the adverse impact that higher prices of power and higher subsidies on fertilisers would have on the country's economy. Jena pointed out that the fertiliser industry was already dependent on the government for subsidies to the tune of Rs 70,000 crore a year, while power minister Scindia reportedly complained that his ministry had not been adequately consulted by the Rangarajan committee before framing its recommendations. Jaipal Reddy and Jairam Ramesh backed them and

said that the price of gas should be maintained below $6 per mBtu to 'save' these crucial sectors from financial difficulties. Former petroleum minister Jaipal Reddy raised the various controversies relating to extraction of gas from the KG basin by RIL and reminded everybody present at the CCEA meeting that the government had never made any serious attempt to work out the true cost of production of gas. Ramesh said that although the government believed that the higher price of gas would provide an incentive to step up production and exploration, the prospects of this actually happening had not been verified.

Prime minister Manmohan Singh, who heads the CCEA, is said to have maintained a stony silence right through the proceedings. The neo-liberal group won the day.

Writing in *Rediff.com* the day after the Cabinet meeting (28 June 2013), Sheela Bhatt quoted a 'senior source in the government' as saying that RIL had wanted a review of the price of gas after three years, that is, after March 2017, and this demand was supported by finance minister Chidambaram at the Cabinet meeting. However, the CCEA decided not to accept this demand as this would have made a 'mockery' of the decision to increase the price of gas. Bhatt claimed, quoting 'highly reliable sources in the government' that, given a choice, the Rangarajan Committee would have preferred a hike in the gas price to around $6 per mBtu but some members in the committee wanted to have a pricing regime more favourable to gas producers, including RIL. In any case, the decision to increase the price of gas came after almost a year of lobbying by RIL, and lengthy deliberations among various government ministries besides, of course, the airing of allegations and counter-allegations in the media. With the announcement of the gas price hike, stock market indices rose by around 3 per cent. The price of ONGC shares jumped 5.4 per cent in early trade on 28 June, while the RIL scrip rose 3.4 per cent. The Cabinet decision to increase the price of gas generated much controversy and concern with different publications and television channels taking positions in favour of, and against, the move. Political parties and user bodies too reacted.

A statement from the All India Kisan Sabha, a farmers' organisation affiliated to the CPI(M), noted that on the day that the CCEA cleared the hike in the price of gas, the government also announced 'a meagre hike of only Rs 60 per quintal in the MSP (minimum support price) of paddy' with no substantial changes in the MSP of *jowar*, *urad*, *bajra*, *moong* and *arhar* (various kinds of pulses and coarse cereals). 'None of the MSPs announced reflect the increased costs of production or the expectations of the farmers,' the statement added.The Left, which had been campaigning against the proposed hike, cried foul. Gurudas Dasgupta fulminated and reiterated what he had been saying when he crossed swords with the petroleum minister in the run-up to the government's decision to hike gas prices, namely, that this was the 'biggest' scam of its kind and aimed at helping one company, RIL. He said that the hike would lead to an increase in power tariffs by Rs 2 per unit (kilowatt hour) and increase urea prices by Rs 6,000 a tonne. Dasgupta said the Left would 'stubbornly oppose' the decision inside and outside Parliament.

Even the BJP, which otherwise favours 'market friendly' policies like the Congress, agreed with the Left though the party's position on the issue was less strident. A statement released by the BJP's spokesperson Prakash Javadekar said:

> The twin factors of the depreciating rupee and the government's decision to double the natural gas prices will hit the common man the most. The common man, already reeling under ever-rising prices, was expecting some relief from the government. Instead of offering such a relief, the government has once again targeted him with a big dose of price rise.

M. Venkaiah Naidu, BJP MP and former party president said that this was an 'anti-farmer' decision. Chief Minister of Tamil Nadu, J. Jayalalitha also criticised the hike, saying that the 'decision seemed

to favour a particular large firm' which instead of 'facing action for drawing lesser gas than guaranteed from the KG-D-6 basin' would only 'benefit from it'. Although she did not specifically mention Reliance by name, there was no doubt about the identity of the 'particular large firm' she was referring to.

Veteran business journalist T.N. Ninan, in his 'Weekend Ruminations' editorial-page column in *Business Standard* (29 June 2103), bluntly asked: 'Is it masochism that makes the government invite controversy?' He sarcastically added: 'It is not clear who or what persuaded the Cabinet committee to agree to a price that was obligingly recommended by that world authority on energy pricing, C. Rangarajan' and added that the 'Planning Commission, headed by another economist ally of the Prime Minister, apparently wanted an even higher price.'

Ninan's view was echoed by others, including Nilotpal Basu, MP of the CPI(M) on a panel discussion broadcast on 1 July on Rajya Sabha Television. He said: 'This is no way to fix prices, since it is said that these things are done in a techno-economic way. Rangarajan, what understanding does he have about gas prices? How can he equate the gas which is coming out of the wells with that of LNG (liquefied natural gas)?'

On the same discussion anchored by Girish Nikam, former power secretary, Anil Razdan said that the major flaw in the Rangarajan report was that the power and fertiliser ministries had not been adequately consulted. He pointed out: 'There was only marginal consultation with one power company as far as I know. Once the Cabinet note had been moved and there had been comments from the power and fertiliser ministries, one had expected that these would have been taken into account.'

Razdan added that it seemed that the government had acted in needless haste. He said:

> It has been mentioned somewhere that the gas based (power) stations are a small fraction of the overall power generation basket. That will skew the demand more towards coal based power which globally people are trying to reduce for (lowering) greenhouse gas emissions. Maybe we could have waited a little more for getting views and a little bit of public debate. The gas price was due now, but I think the picture over the years has become a little confusing. Who has the right to set up the price through the NELP contracts? Was it the (production sharing) contract, the EGoM, or the Supreme Court which has given... directions at different times?

Razdan also wondered whether the price of gas should be denominated in US dollars or Indian rupees?

Basu went hammer and tongs at Reliance alleging that the company had 'held the country hostage'. He remarked:

> When $2.30 (per mBtu) was fixed (for the price of gas), and Reliance went back on that, the media was reporting the separation of the (Ambani) brothers, not the techno-economic issues. They had asked for a price which could not be arrived at even by a Committee of Secretaries. And the EGoM took a decision without any techno-economic inputs. What was the logic given by RIL at that time? That, they had huge deposits and so needed more investment, and therefore prices had to be high. Then they scaled down the production saying that they had a technical problem and needed a partner. But by that time with the first increase (in rates), they had managed to sell 30 per cent of their stake to British Petroleum at a huge premium. Then they started scaling down (production) and actually gas production has not gone up, (it has) only (come) down. Now they are saying that with the new prices they would be able to attract investors. I believe they will sell off more of their stake. Reliance refuses to be examined by any independent body. Earlier they said that they would not be examined by the CAG, or any concurrent independent authority... They are just blackmailing the government which is only too eager to please them. I understand that every one dollar rise in the price of gas per unit will

fetch 6 crore 70 lakh dollar ($67 million) profit for the company. This is for Reliance, by Reliance, of Reliance. The other actors are incidental.

Besides the lead author of this book, there were two other panelists on the Rajya Sabha Television programme, Himangshu Watts, editor, energy and infrastructure, *Economic Times* and Salil Garg, director at the Fitch group's India Ratings and Research. Responding to my remarks that the logic behind the decision to hike the price of gas was flawed, Watts emphasised Rangarajan's 'credibility' and argued that the Cabinet decision to increase the price of gas was not flawed. In his view, the government considered that at the current prices there were many gas fields which were 'not viable'. At a gas price of $4.2 per mBtu, it made no economic sense to extract four to five trillion cubic feet (tcf) of gas which was available, but in difficult terrain, he said. Nikam intervened to ask if this had not been realised by British Petroleum when the group put in $7 billion in the venture. The anchor asked if BP had known what would be the price of gas and whether it would be viable to explore at that price. While Watts criticised the PSC as being 'ambiguous', he did agree that 'it was perhaps not unviable for the existing fields'.
In the course of the discussion, Salil Garg provided a counterpoint. He said that in case the gas price had been increased on the basis of the argument that it would help in the exploration of certain unviable blocks, then the new price should have been applicable to only those blocks and not across the board as was now the case. He added that even if this decision attracted new investment, how would that 'help' the operators of blocks that were already viable at a gas price of $4.2 per mBtu. Garg said there would be 'windfall gains' for those operating the blocks which were selling gas at $4.2 per mBtu.
Other critics also pointed out that private operators like RIL were in a position to garner profits at the existing price of gas. Prabir Purkayastha of the Delhi Science Forum noted in an article in *Newsclick.com* (4 July 2013) that BP would not have decided to invest $7 billion for a 24 per cent share in the KG-D6 project when the price of gas was $4.2 per mBtu if this price of gas was not considered sufficiently viable. Ninan reminded his readers of the interview in 2009 (quoted earlier) with 'the head of Reliance's gas business'—RIL's P.M.S. Prasad—who had told *Business Standard* that 'Reliance would make a profit in its gas even at $2.34 per mBtu'. Ninan added: 'The rupee was then nearer 47 to a dollar than 60 (so he was talking of a rupee price of about $110, against the $500 that has now been approved for next year). So does it stink?'
The government, of course, claimed that it was acting in the interests of the nation saying that the price hike would 'incentivise' exploration and bring in higher revenues. It also claimed that the move would lure foreign investors, from whom responses had been at best lukewarm. Finance minister Chidambaram, one of the main votaries for the gas price hike, said that a combination of two factors, low domestic production of gas and import of LNG, was proving expensive for the country. At a media briefing on 28 June, the day after the CCEA decision to increase the price of gas, he said the country had to produce more gas. He told journalists at the conference room of the government's Press Information Bureau (in Shastri Bhavan in central Delhi):

Domestic investments have come down to $1.8 billion in 2011–12, from $6.3 billion in 2008–9. Compared to this, in the last ten years, Indian companies have invested $27 billion in the oil and gas sector abroad and another $10 billion is in the pipeline. To stop this trend, we have to increase exploration in the country. No global company would invest without a fair price.

Chidambaram's view was not endorsed by all. An unnamed former petroleum minister was quoted in *Rediff.com* (28 June 2013) saying: 'Internationally, India is not perceived as a country rich in

hydrocarbons as, say, Azerbaijan is. We are fooling people. There will be some investment here and there, but India is not likely to get big-time investment for its gas reserves.'

Petroleum minister Veerappa Moily, who chose to let Chidambaram do most of the talking during the media briefing while sitting next to him, said that there was 'over 3 trillion cubic feet of gas discoveries lying to be exploited'. He said that these had not been cleared for commercial exploitation 'by our own DGH' as they could not 'be monetised at a price of $4.2 per mBtu. The minister added:

For every $1 increase, our outgo would be $1 billion and the inflow would be $500 million in the form of royalty and other taxes. While the Rangarajan committee came up with its formula taking (an) average of long-term and spot Liquefied Natural Gas and global prices, now, we have cleared it (the price of gas), omitting the (inclusion of) spot prices (in the pricing formula).

He said officials in his ministry had calculated the price of gas on the basis of the Rangarajan Committee's formula excluding spot prices and, according to them, the price of gas in late-June 2013 would be around $6.3 per mBtu and this price was expected to go up to $8.4 by April 2014.

The government had been justifying its policies of aligning domestic energy prices with international prices, be it the prices of petrol, diesel or coal, on the plea that high subsidies were placing an unbearable burden on the exchequer even if such policies had fuelled inflationary fires. In the case of gas prices, however, the government opted for a diametrically opposite strategy and turned its own logic on its head. It chose to hike gas prices at a time when world gas prices had plummeted and the exchange rate of the rupee had come down to Rs 60 to a dollar (it came down further subsequently before stabilising at around Rs 62 to one dollar in late 2013 and early 2014), thereby laying itself open to charges of hypocrisy and worse—that it has blatantly sought to favour a few at the expense of many.

Chidambaram stated that there could be a higher subsidy outgo for producers of power and fertilisers in the ensuing months before the price rise would be notified. This was rather curious for an individual who had so far been steadfastly arguing against higher subsidies. The finance minister suggested that the government could subsidise 'user industries' such as power and fertilisers. He admitted that 'only output prices, the price payable to gas producers' was being fixed and that the price at which gas 'should be supplied' to a power plant could be decided in the run up to 1 April 2014. 'It could be by tweaking prices or it could be by bearing an additional subsidy. There are various methods but at the moment we are not addressing those issues,' he said.

Moily added that that his ministry would work out detailed plans in conjunction with the power and fertiliser ministries and present these to the finance ministry so that the higher gas price did not impact consumers in a big way. A few days after the announcement, Chidambaram spoke to the Press *Trust of India* which reported on 4 July that the minister had reiterated that the power sector and the fertiliser sectors had concerns and that they would be addressed before 1 April 2014. Former power secretary Razdan advised caution on the question of subsidies in the course of the discussion on gas prices on Rajya Sabha Television. He said:

The finance minister has said that subsidies may be a way (to compensate consumers). But I would like to see (what would be) our financial situation on 1 April next year and whether we can bear that subsidy. Both ONGC and OIL have been giving subsidies from their side to stabilise the prices but I do not think that any private power producers have been paying that subsidy. It is not clear whether we will ask the private sector companies to share a portion of the subsidy, a moot point.

Who will bear the subsidies? This was a question that R. Jagannathan, editor of *Firstpost.com* took up in a surprisingly candid article—candid, because *Firstpost* is part of the Network18 group which has been financially supported by the Reliance group. Jagannathan commented that 'celebrations (over the higher price of gas) would be short-lived' since the government's decision 'was neither reform nor good politics nor good economics'. In a situation in which the input price to be paid by gas users (power and fertiliser consumers) was unclear, who would carry the burden of a bloated subsidy bill in case input prices were fixed lower than the output prices that would be obtained by the producers of gas, he wondered. Jagannathan reminded his readers that in the case of oil subsidies, both taxpayers and public sector oil companies had taken the hit for the 'government's political decisions'.
In a report in *Business Standard* (29 June 2013), it was stated that although ONGC's earnings would increase, these may not be that high if the public sector bore some of the higher burden of subsidies. 'For ONGC, every dollar increase in gas prices increases earnings per share (EPS) estimates by 8-9 per cent,' the newspaper wrote, adding:

With a cent (100) per cent rise in price to $8.4 a unit, ONGC's EPS will go up 35-40 per cent. With the government insisting that oil and gas producers share the higher subsidy doled out by oil marketing companies to consumers, the gains for ONGC might not be that high. Expect modest growth of 7-8 per cent earnings. CRISIL (formerly Credit Rating and Investment Services of India Limited) says ONGC's profits before depreciation, interest and tax would rise by $13,000 crore.

On RIL, the *Business Standard* report stated, 'Every dollar price rise will give a boost of 2 per cent to the EPS of RIL by 2014-15. The question is whether the 100 per cent rise in gas price is enough for RIL to revive production from the Krishna Godavari fields.' The article quoted Angel Broking, a stocks advisory firm which had put out a positive outlook for the company:

RIL is likely to be a key beneficiary of the increase in gas price as unlike PSU upstream companies it does not bear any subsidy burden. Hence, we raise our gas price estimates for RIL to $8.4/mBtu, which results in our EPS (earnings per share) estimates increasing by 6.8 per cent for FY 2015. We believe that the increase in gas volumes from KG-D6 block will be a key catalyst for RIL. However, given the recent rise in the stock price, we maintain our neutral rating on the stock.

The big question that went unanswered was why the government chose to designate the price of gas in American dollars at a time when the exchange rate of the Indian currency vis-à-vis the dollar was weakening and had breached the Rs 60 mark? Why should electricity be priced in dollars when the revenue earned would be in rupees? Why should the government lay the burden of the exchange rate risk of gas produced in India on the consumer/taxpayer? Jagannathan offered an answer:

It appears that the gas price announcement was intended to achieve two non-reform goals of the UPA: given the drastic fall in the rupee, the government needed the market to perk up in order to reverse capital outflows; it also needs a buoyant stock market to meet its fiscal deficit target. These targets can be met only if public sector shares can be sold to investors. In June, foreign institutional investors sold equity and debt to the tune of over Rs 40,000 crore. The gas price announcement temporarily reversed that trend.

The Confederation of Indian Industry (CII), which had welcomed the gas price hike, came out with a caveat a few days later. S. Gopalakrishnan, president of CII, said a 'dollarised' gas tariff was a difficult proposition for industries, especially in light of the rupee's slide in recent weeks. 'I do not

believe that the price of gas (produced in India) ought to be set in dollar terms', he was quoted by the *Hindu* (5 July 2013) as commenting from Bangalore. The following day, the CII did a complete about-turn and issued a statement denying that the apex industry association was opposed to the designation of the price of gas in US dollars. Presumably, Gopalakrishnan was airing his 'personal' views and not those of the CII.

There was a general perception that the government had taken the decision to increase the price of gas in a huge hurry. With elections coming up, and the possibility of a new political dispensation in power in New Delhi, the idea was apparently to bind the next government to a decision that had already been signed, sealed and delivered. The fallout, if any, would be the headache of the government that would take charge after the 16th general elections scheduled to take place in April–May 2014. It was argued that the government's decision on the price of gas could have been taken closer to 1 April 2014 to get a better sense of the latest world prices of gas. As *Firstpost's* Jagannathan observed:

If the benefits of a gas price hike are to be had upfront (which is what the markets are celebrating) and the costs will be shifted to the next government (which will have to take the painful decision of bearing more subsidies, or reducing the gas price at the output end), this is clearly a scorched-earth policy. The UPA has essentially lobbed a ticking time-bomb to the next government.

He suggested that when gas users incur losses and have to be 'rescued by the taxpayer or (a) bank', it could well damage the long-term interests of the gas sector with future demand for gas-based fertiliser and power plants getting stymied. Ninan too expressed a similar concern:

The real-life question now is, who would set up a gas-fired power station at this price? Power company experts say that every dollar in the price of gas contributes (depending on various factors) between 40 and 50 paise to the cost of a unit of power. Along with fixed capital cost, the effective cost of power at the new price for gas, at the generating station before transmission and downstream costs, would be about Rs 5.50 per unit. That compares with about Rs 4.50 per unit for a power plant using imported coal. Power based on local coal would be much cheaper.

Of the 912 billion units (BU) of power generated in India annually, around 7.5 per cent or 65 BU comes from gas-based plants. The price rise decision will increase the cost of generation for gas-based independent power producers (IPPs) from the current Rs 4.20 a unit (fixed cost of Rs 2 a unit and variable cost of Rs 2.20 a unit) to Rs 6.20 a unit. 'If the higher cost is spread across the entire annual generation of 912 BU, power prices will rise by roughly 15p per unit,' Salil Garg of the Fitch group told *Business Standard* (29 June 2013).

The revised generation cost of Rs 6.20 a unit for these companies is in stark contrast to the average cost of generation for coal-based power plants at Rs 3.50 a unit. 'The immediate gas price hike to $8.4 per mBtu will increase fuel cost for gas-based IPPs by around 90 per cent. (The) off-take risk for gas-based power will increase even in long-term Power Purchase Agreements (PPAs),' Garg added.

During the discussion on Rajya Sabha TV, he had said that the gas price rise would have a cascading effect on the power sector: 'If the effect of the price rise was to be passed on to just the 65 BU gas-based units, the total impact would be close to Rs 12,800 crore per annum. It would have to be borne by state governments or consumers.'

But that would not happen now. Distribution companies (discoms) in the power sector were in the red by Rs 2,00,000 crore in June 2013 and their financial position would further worsen with the hike in gas prices. Gas-based power plants with a total capacity of 28,000 MW have either been commissioned or are to be commissioned. Many of them will become unviable and sick once the price

of gas rises to $8.40 per mBtu. At one stroke, the government has increased its potential subsidy burden by more than Rs 40,000 crore per year, if not more, claimed Prabir Purkayastha in *Newsclick.com* (4 July 2013). In this context, Jagannathan's comment that new investments in exploration of hydrocarbons 'cannot be done in isolation' needs to be noted. The energy sector includes oil, gas, coal, coal-bed methane and shale gas and prices of all these need to be 'reformed'. He argued in favour of market forces and contended that the way forward would be to let 'prices of fuels find their own levels', so that businesses can make a rational decision on which fuel to use for what kind of output. Ninan was more forthright: 'What the Cabinet has done is to make what is emerging as the world's cheapest and cleanest fuel an uneconomic proposition.'

Possibly one of the most serious questions raised time and again is the decision to link domestic gas prices to that of imported LNG, whether it be from Qatar (which accounts for 80 per cent of India's LNG imports), Oman, Australia or the United States. India's stated gas price from 2014 is probably the highest at $8.4 per mBtu. Against this figure, prices in the US in late-June were $3.80 per unit, Oman (from 2015) $2.2 per unit, Qatar $2.5, Canada $3.8, Abu Dhabi $2.3, Malaysia $4 and Bangladesh $3.5. 'Domestic gas prices cannot be in parity with international prices. Our prices have to be suited to our needs. The gas price should have some linkage to other domestic source such as coal,' petroleum secretary S. C. Tripathi told Lola Nayar of *Outlook* (8 July 2013).

Nayar indicated in her article that there was a move to place a cap on prices. She quoted an International Energy Agency (IEA) warning that any attempt to push prices beyond $5 per mBtu would induce the US to return to coal, after years of cutting back in favour of cleaner gas. She cited an example of the cancellation of two long-term contracts of LNG with Chevron of Australia by South Korea in early 2013 to renegotiate better deals. India, on the other hand, arrived at the $8.4 figure through a complex formula which among other factors uses prices in Japan, which (as already mentioned) has one of the world's highest prices of gas. 'Piped natural gas and LNG are different since there are many added costs in the pricing of the latter, including liquefactions (also known as liquefication), transportation and taxes,' said T.N.R. Rao, another former petroleum secretary, who is quoted in the same *Outlook* article.

Discussions about the global energy scenario at the time of concluding this book in March 2014 was dominated by talk about the exponential increase in shale gas production in the US which has raised its share of controversies and doubts since extraction of shale gas has environmental side-effects, and also takes away the focus from renewable energy. A June 2012 publication titled *Oil: The Next Revolution* brought out by the 'Geopolitics of Energy Project' at the Harvard Kennedy School Belfer Center for Science and International Affairs (provided to the lead author of this book by an energy expert who chose anonymity) stated:

> Contrary to what most people believe, oil supply capacity is growing worldwide at such an unprecedented level that it might outpace consumption. This could lead to a glut of overproduction and a steep dip in oil prices.
>
> Only four of the current big oil suppliers (more than 1 mbd [million barrels a day] of production capacity) face a net reduction of their production capacity by 2020: Norway, the United Kingdom, Mexico, and Iran. For the latter two, the loss of production is primarily due to political factors. All other producers are capable of increasing or preserving their production capacity. In fact, by balancing depletion rates and reserve growth on a country by country basis, decline profiles of already producing oilfields appear less pronounced than assessed by most experts, being no higher than 2 to 3 percent on a yearly basis.
>
> This oil revival is spurred by an unparalleled investment cycle that started in 2003 and has reached its climax from 2010 on, with three year investments in oil and gas exploration and production of more

than $1.5 trillion (2012 data are estimates)
Thanks to the technological revolution brought about by the combined use of horizontal drilling and hydraulic fracturing, the US is now exploiting its huge and virtually untouched shale and tight oil fields, whose production although still in its infancy is already skyrocketing in North Dakota and Texas.

These comments and observations highlight the argument that has been made by the commentators that the government of India, which supposedly favoured market-friendly policies, used a bureaucrat-dominated committee's recommendations to go in for an administered price of gas that favoured a few corporations at the expense of consumers. Ninan ended his editorial by asking: 'Is any more proof needed that India's reforms, so-called, are businessfriendly rather than market-friendly?' Jagannathan added that in such a situation 'businesses take both the risks and rewards of global and domestic price movements'.
The Indian media was not uniformly critical of the government's decision to increase the price of gas. The *Economic Times* (28 June 2013) and the *Indian Express* (29 June 2013) carried editorials lauding the 'reforms' undertaken. The ET unabashedly praised the government's decision that was like a 'shot in the arm for Reliance Industries and ONGC', and would encourage 'a surge in investments in exploration' even as 'cost of electricity, fertilisers and CNG' would rise. 'After dithering over the decision for many months, the Cabinet Committee on Economic Affairs (CCEA) finally overruled stiff opposition from gas customers and took the courageous decision, which analysts said will quickly raise India's exploitable reserves of gas as higher prices will make more discoveries commercially viable,' the editorial noted. The *IE* called it a 'soothing price hike'. It opined that it was not economical for the likes of ONGC, OIL, Cairn and RIL to 'invest billions of dollars looking for gas in the deep seas—that is where the bulk of the gas is believed to be' without a hike in prices. Conflating the PSUs and the private sector together, the editorial commented that while RIL-BP met the prime minister 'to argue this, even the state-owned ONGC made the same point to the petroleum secretary'. The *IE* noted that there would be an increase in the funds that flow into the sector from global players like BP, or others who want a slice of the pie. Indeed, with the government clamping down on the freedom of firms to price their product or to sell it — something the private firms thought was guaranteed to them — there has been less and less interest in various auctions of oil blocks in recent years.
The decision was predictably welcomed by the RIL-BP combine. P.M.S. Prasad, RIL's executive director was quoted by *Business Standard* (29 June 2013): 'Any movement toward market price is good for upstream industry. This decision will bring in the much-needed investments in the hydrocarbon sector that are required to reduce the debilitating effect of increasing imports upon the economy.' Sashi Mukundan, head of BP's India operations, spoke of 'incentivised exploration and production in the country and development of competitive gas market.' The Association of Oil and Gas Operators (AOGO), an industry body that counts RIL, ONGC and Cairn India as its members, issued a statement welcoming 'the effort to create a stability of pricing regime and delinking of gas prices from the demand side issues'. It said that the 'new prices were likely to make many discoveries of the last few years commercial and increase domestic production.' At the same time, the industry group pointed out that the government had not accepted all of the recommendations made by the Rangarajan Committee, notably the suggestion of considering the prices of both long-term LNG contracts as well as spot prices in the formula used to arrive at the domestic price of gas—the CCEA, as mentioned, had deleted spot rates from the formula approved. 'Removal of spot prices from the formula reduces the volume and the correct reflection of imported LNG cost thus affecting domestic producer's price,' the AOGO argued in its statement.

The association pointed out that the government was 'silent' on the Rangarajan Committee's recommendation to transit to free market prices within five years, which was being looked at by the Vijay Kelkar committee, with its report expected later. 'AOGO strongly hopes that the transition to free market shall start within next year (2014),' it stated, adding that future investors would 'be willing to take the risk of lower prices, as long as the free market principles and non interference by allocation' was maintained (see *Rediff.com*, 1 July 2013). The government seemed to have taken the lobby's wishes to heart and had already started dismantling the administered pricing mechanism. Another EGoM headed by defence minister A. K. Antony would be considering a petroleum ministry proposal to abolish the priority ranking in natural gas allocation so that fuel currently consumed by urea plants could be 'diverted' to fuel-starved gas-based power plants. The group which subsequently met on 17 July decided to maintain the status quo.

Currently natural gas is first given to urea manufacturing fertiliser plants, then to LPG (liquefied petroleum gas or cooking gas) units, followed by power plants, city gas, steel and refineries. On the basis of this ranking, supplies to 25 power plants, which had signed for 29.74 mscmd of KG-D6 gas were cut on a *pro-rata* basis and thereafter, in 2013, completely stopped as gas production from KG-D6 touched a record low of 15 mscmd which was just about sufficient to meet the requirements of the fertiliser sector and some LPG plants, leaving no gas for power plants. The petroleum ministry had proposed two options: equal priority to all the core sectors—fertilisers, LPG, power and city gas distribution—or give the fertiliser and power sectors equal priority. The gas supplies would be redistributed among the sector users on a pro-rata basis 'on the signed gas supply agreements'. If the available gas was to be redistributed among the four core sectors, it would reduce supplies to fertiliser plants by 9.44 mscmd and lead to an extra urea import of 4.73 million tonne, leading to an additional subsidy burden of about Rs 5,591 crore per annum. The ministry's second option, equal priority to the power and fertiliser sectors would mean that gas supply to urea plants would go down by 9.07 mscmd forcing an import of 4.54 million tonne of urea implying an additional subsidy burden of Rs 5,372 crore per annum. Either way, it was a 'lose-lose' situation. For the Indian farmer in particular, it was a mug's game. There was no way he could hope to gain.

As a rather belated editorial in the *Times of India* (2 July 2013) noted:

> The fertiliser industry, which is heavily subsidised by the government and has little ability to absorb costlier gas, will have no option but to pass off the price increase directly to the farmers and push up food prices or else have taxpayers bear the additional subsidy burden. Despite implementing the New Exploration and Licensing Policy (NELP) for almost a decade and a half almost none of the global oil majors, who have the wherewithal to locate and tap large new finds, have shown any interest.

In a scathing criticism of the UPA government, the editorial indicted it for 'stoking inflation as well as supporting crony capitalism'. It opined that the major reason for the absence of global players in India's gas market was the 'absence of a stable and transparent framework in the energy sector', with policies being 'often tailored to suit favoured players'. The editorial said that there was a tendency 'to micromanage the industry' and recalled that 'efforts to encourage new suppliers by laying domestic and trans-border pipelines' and increasing competition had not been very successful.

The government chose to brazen it out. Stoutly defending the hike in gas prices, petroleum minister Moily said the move would benefit the government in terms of revenue as many gas discoveries have been made by public sector companies rather than those in the private sector. 'I think as much as 90 per cent of gas discoveries have been made by the public sector companies and remaining 10 per cent by private companies. Hence, 80 per cent of the income or profit from these explorations will come back to the government as revenue,' he claimed (PTI, 3 July 2013).

Moily claimed that private companies were producing barely five per cent of the total gas consumed in the country and there was no question of anybody earning windfall profits, apparently referring to Reliance. The minister said the money earned by the country will have to be preserved and reinvested, instead of 'draining it' to other countries. In the last six years, the US and China have been producing 40–50 per cent more gas because foreign investments were flowing into their countries, Moily said, adding: 'Whereas our country is going back (nowhere). It doesn't stand any logic, neither economic nor national.' He added that several gas discoveries by ONGC and RIL had been declared unviable by the directorate general of hydrocarbons as the gas price of $4.2 per mBtu current was 'inadequate to cover the cost'. Moily said the country 'cannot survive' by continuing to import Rs 800,000 crore worth of petroleum products and rued that the country is not in a position to explore oil and gas, because of lack of interest by investors. 'As a minister I cannot preside over a sick ministry. I would like to take it forward so that the country secures independence in energy sector. We need to attain it and it is possible to do that,' he said.

Moily was on overdrive justifying the government's decision to increase the price of gas. The following day, 6 July, the petroleum ministry issued a statement putting out another set of statistics. It categorically said Reliance Industries would not be the recipient of 'windfall gains' as new gas production from the company's fields would not start before 2017–18. He said RIL was accounting for only ten per cent of the total domestic gas production in the country (against five per cent of total gas consumption). 'With the new price, it is expected that their (meaning RIL's) production from KG-D6 will increase with the additional investment,' the ministry's statement read, adding that the higher price 'will help monetise discoveries which are not viable at current rates'. 'However, the gas flow (from the new fields) is not likely to start before 2017–18 and therefore, allegation of any windfall gain is misconceived,' the statement claimed, adding that more than two-thirds of India's domestic gas production is by public sector firms which stand to gain the most from the price hike. (Interestingly, a few days later on 9 July, the finance ministry wrote a letter to the petroleum ministry in which it was claimed that Reliance 'will benefit the most from higher prices'.)

'These guidelines shall apply from April 1, 2014 and shall be applicable for five years after which market discovery price could be adopted as per the road map being prepared by (the) Dr (Vijay) Kelkar committee,' the ministry stated, adding that as per the Rangarajan formula, the price for natural gas in April–June 2013 worked out to $6.83 per mBtu but did not indicate the likely price of gas in April 2014. RIL's minority partner, Niko Resources in a statement said $8.4 per mBtu would be the price in April 2014 and would thereafter be revised every quarter. The petroleum ministry stated that during the course of circulating the Cabinet note on revising gas prices, the Planning Commission had suggested a price of $11.18 per mBtu, the finance ministry had suggested a range between $6.99 and $8.93 per mBtu, the department of fertilisers had suggested $6.68 per mBtu while the ministry of power had opined that the $4.2 per mBtu figure should be stuck to. 'However, the price of $4.2 (per mBtu) is not found to be viable for sustenance of the domestic production of gas and all the operators are demanding increase in price,' the petroleum ministry stated.

Gujarat State Petroleum Corporation (GSPC) owned by the government of Gujarat had been demanding a price of between $13 and $14 per unit for gas produced from its block in the KG basin, it was stated. 'Even the PSUs like ONGC and Oil India Ltd have been repeatedly representing for (an) increase in gas price as the production will not be viable at any price less than $7,' the ministry contended, pointing out that domestic gas production in the country had been falling drastically short of the demand and the present deficit of 142.78 mscmd is expected to increase to around 234.26 mscmd in 2016–17. 'Therefore, there will be huge dependence on the import of gas at much higher price of around $14 per mBtu and above, which will simply become unaffordable for consuming sector,' the ministry stated. It added that investment in exploration and development of gas fields has

consistently fallen from $6 billion in 2007–8 to around $1.8 billion in 2011–12. At the same time, Indian companies had already invested $27 billion on exploration and production of gas and oil outside India and investments of another $10 billion were in the pipeline. ‘It is important to note that every $1 per mBtu increase in the gas price would result in an additional burden of approximately $1 billion. However, half of it, that is, around $500 million will come back to the government in the form of royalty, profit, petroleum taxes and dividend,’ the petroleum ministry stated, claiming the ‘additional income’ could take care of the burden of higher subsidies on fertilisers and LPG.

By this time, India’s gas pricing story had gone global. As a *Reuters* report said on 6 July: ‘India is betting a gas price hike will boost supply and help fix the country’s chronic power shortages, but the plan may falter unless the debt-laden industry can pass on higher energy costs to consumers or win government subsidies’. The report pointed out that the move to increase the price of gas followed similar steps to hike coal prices in an ‘effort to reform India’s troubled power sector’, adding:

> Massive blackouts in Asia’s third-biggest economy have hampered growth, which is at a decade-low. A third of the 1.2 billion population has no access to electricity. India wants to double the proportion of gas in its energy mix by 2020 from 10 per cent now. It uses coal for nearly 56 per cent of its needs. Oil, mostly imported, accounts for 26 per cent.
>
> But the success of the latest plan lies in determining who will pay. Generators and distributors remain mired in debt and passing on politically unpopular electricity prices will prove difficult, particularly in an election year. The price hike is a win for producers, such as privately owned Reliance Industries which operates one of India’s biggest gas fields with international partner BP in the KG basin, where production has declined sharply.

The *Reuters* report quoted OIL chairman S.K. Srivastava describing the gas price hike as a ‘very positive and encouraging decision which will really incentivise oil and gas companies to pursue exploration activities’. It argued that better gas supplies should help power companies, pointing out that gas fuels only around seven per cent of India’s power stations, but many plants lie idle or operate at low capacity because there is not enough fuel available to keep their turbines running. The report highlighted the case of Lanco Infratech, ‘a power producer mired in losses and debt because its plants are running at a fraction of their capacity, has cut operations at one 366 MW unit to just four per cent of capacity for lack of gas’. While conceding that it ‘may take at least two years to boost fuel supplies as investments in output and import facilities bear fruit’, the report stated that the ‘key to the plan may lie with cash-strapped distribution companies’ or state-owned distributors called ‘discoms’ which have no funds to purchase more expensive electricity from gas-based power stations and were reluctant to pass on the higher costs to consumers since it would be politically unpopular. What the discoms often did instead was simply stop power supply.

Power utilities are rationing electricity supplies to consumers in an effort to improve their finances to qualify for a $32-billion government bailout package that aims to address massive losses racked up through years of corruption, populist pricing policies and mismanagement, the *Reuters* report stated. It quoted Vinayak Chatterjee, head of Feedback Infra Consultants, saying that in order to balance their books of account, eight-hour stoppages of power per day could even double as the discoms try to rein in their losses. ‘The discoms don’t have enough money to buy the power, therefore they are resorting to power cuts,’ added T. Adibabu, chief operating officer of Lanco. ‘Unless the discoms’ financial health is improved, the power situation cannot improve suddenly,’ he told *Reuters*.

The *Economist* (6 July 2013) wrote that one of India’s ‘big strategic worries is energy security’. India imports over 80 per cent of its crude oil. The country has lots of coal ‘but struggles to dig it up, mainly because of the state mining monopoly’s ineptitude’. ‘Gas is in demand but too little is

pumped: by 2016 two-fifths of India's supply is likely to come from expensive imports of liquefied natural gas (LNG)', the UK-based weekly stated, adding: 'All this leaves India exposed to supply interruptions in the Middle East and elsewhere, and strains its balance of payments'. It pointed out that over the last 15 years, India had invested $16 billion in oil and gas fields, which was less than half of what Brazil had spent and less than what India's own energy companies had put into buying and developing fields abroad. India was 'thought to have huge potential reserves of oil and gas', perhaps the world's fifteenth largest, according to the Boston Consulting Group. However, the *Economist* said only around one-fifth of likely hydrocarbon-bearing basins are classified as 'well explored'. The conservative publication predictably endorsed the Indian government's decision to increase the price of gas. While acknowledging the 'explosive charge being made in some quarters is that the new regime is the result of cronyism and will allow well-connected production firms to profiteer from their existing assets', the weekly claimed that this 'seems hard to substantiate'. It doubted that Reliance would earn a 'decent return' on its investments and agreed with the petroleum ministry's view that 'any windfall profits (by state-owned firms would be) grabbed back by (the) government'.
Not all were equally sanguine about what was being claimed by the Indian government. *Outlook* weekly (15 July 2013) ran a cover story titled 'The Great Gas Heist' with the subtitle: 'One beneficiary, clear and corporate. How the UPA played for political positioning'. The article said back-of-the-envelope calculations indicated that the loss to the country would be in the region of Rs 54,500 crore a year. It stated right upfront:

...apart from the Left parties and AIADMK, few even in the political establishment are raising obvious questions about this deal, of which Reliance, the country's largest private sector gas producer, is the major beneficiary. The whole pricing exercise has been riddled with conflicts between the ministries of power, fertiliser, finance and petroleum; the formula has invited severe criticism; and there's an attempt by the UPA to airbrush the obvious negative impact of the hike on the common man and taxpayer. Nearly everything will become expensive; or, obviously, the taxpayer will bear these subsidies.

Outlook quoted Prof K. Nageshwar, member of the legislative council of Andhra Pradesh, saying this was a clear case of 'placing profit above people'. He estimated that for every one US dollar increase in the price of gas, the profits of Reliance would rise by $73 million and said this was ironical since natural gas is meant to be a cheap, green fuel. The magazine also emphasised the 'political brazenness' and pre-emptive nature of the timing of the decision to increase the price of gas well before the model code of conduct of the Election Commission kicked in and quoted an unnamed political analyst rhetorically asking: 'With elections around, who'd want to upset a major source of funding?'
The weekly wrote about the 'token response' against the gas price hike decision by the BJP and stated that 'considering the growing (and open) corporate support for Narendra Modi, the UPA has made a political bargain by keeping Reliance happy'. It quoted Hyderabad-based professor of law Madabhushi Sridhar saying: 'The silence is conspiratorial and almost like the main opposition party is rallying around (the ruling) UPA (government).'
The *Outlook* cover story carried a box item which stated that it was ironical that no major political party (barring the YSR Congress) in Andhra Pradesh was protesting against the gas price hike while recalling how the state's former chief minister Y.S. Rajasekhara Reddy (YSR) had unsuccessfully tried to obtain more gas from the Krishna-Godavari basin for users in his state. The late chief minister had, reportedly while gritting his teeth, told *Outlook*'s Madhavi Tata in 2006: 'Gas is a natural resource, a property of the nation, not of a private company's.'

YSR said he had raised this issue in the state assembly as leader of the opposition when N. Chandrababu Naidu was chief minister of Andhra Pradesh, at a time when the KG basin blocks had come up for auction. Whereas the Gujarat government's GSPC had bid for blocks on that occasion, YSR felt his state government should also have done so. By not participating in the auction, YSR alleged that Naidu's government had 'compromised the state's future'. After YSR became chief minister in 2004, he promised free power to farmers in his state. However, *Outlook* wrote that 'such was the tussle between Reliance and YSR that files related to laying of pipelines moved at snail's pace'. In 2008, YSR said he would not call for a reduction in the price of gas as the Union government was bound by a contractual obligation under the NELP with operators (like RIL). After he was re-elected in 2009, the YSR government reopened the issue and a letter was written to the PMO urging that at least 10 per cent of the gas produced from the KG basin should be given to the state on a 'preferential basis'. Nothing did, of course, come out of these entreaties.

Outlook quoted a spokesperson of RIL seeking to deflate the charge that the price hike was effected to benefit the company by saying: 'Our production will go up only in mid 2017-18'. The publication said that three years down the line, with new discoveries, RIL would no longer remain a marginal player but 'could could well emerge as the biggest gas producer in the country'. It also highlighted how the government had selectively 'cherry-picked' the Rangarajan Committee's recommendations to devise a formula that 'is unique to India: no other gas-producing country has devised such a convoluted way to reward exploration companies'. The government had also departed from the committee's suggestions for a monthly review of prices and equated the price of domestic gas with that of imported LNG, which has additional cost burdens of liquefaction, transportation and regassification.

While B.K. Chaturvedi, a member of the Planning Commission, who was on the Rangarajan Committee, defended the government's formula to *Outlook*, he admitted that a higher price of gas would impact the cost of producing electricity and fertilisers. GSPC chairman D.J. Pandian too acknowledged: 'Even though GSPC stands to benefit as an upstream company, we will be put to great hardship as power producers, for it will add Rs 2 per unit to our cost.' What was also questioned was the basic assumption made by the government that a higher price of gas would automatically bring in fresh investments from domestic and foreign companies. 'The assumption is based on a false premise,' said CPI(M) member of the Rajya Sabha Tapan Sen, who, as the original whistle-blower on this subject, felt let down by his fellow parliamentarians for not raising this issue.

The magazine carried a short article by former petroleum secretary T.N.R Rao who started off by asking a pertinent question: 'Why did our market-friendly policymakers revert to the much-maligned administered price only for gas, while batting for market prices for all else?' He described the episode as a 'classic case of policy capture by a corporate' and added that 'an effete government got inveigled into impleading itself into the Ambani family feud' on 'the pretext of gas being a national asset'. Tracing the background to recent developments, the retired bureaucrat pointed out how the government 'bailed out one sibling from both a private commitment and an inconvenient bid at $2.34/mBtu to the NTPC tender' and also 'cheated the country of Malaysian LNG at $3.4/mBtu'. The last reference was to the Indian government not going in for a contract to buy liquefied natural gas from Malaysia. Rao alleged that the government 'rewarded the truant contractor' (meaning RIL) with a gas price of $4.20/mBtu, allowed it 'sell part of the national asset for billions of dollars' (to British Petroleum), 'only to see the reserves evaporate by over 80 per cent'. He added that neither the buyer (BP) nor the owner (the government) demurred while the 'the custodian of our reservoirs, the DGH, has been deafeningly silent'. Dripping vitriol, the former petroleum secretary said that for this 'vanishing act', the contractor has been 'further rewarded by doubled price, on a dubious formula concocted by a body unlettered in oil/gas, making it the highest wellhead price for gas anywhere in the world'.

While accusing the country's main opposition party of acting like a 'silent accomplice', Rao sought to refute the government's 'specious' justification for increasing the price of gas. He pointed out that despite the fact that domestic crude oil producers have been getting international prices since the 1990s, production had stagnated and that the 'gas story won't be any different'. He added that the world over, drilling for oil and gas rise and fall with market prices and that fields that are unviable at prices the market cannot bear remain capped. Rao said that if hypothetically, a price of $200 per barrel could be paid, the shale sands of Assam in northeastern India can produce enough oil to make the country self-sufficient. But that was not how the exploration and production (E&P) game is played since such high prices would hurt the economy. He said the finance minister's statement that higher subsidies may be given to users of gas without touching private profits was akin to a 'pinch the baby, rock the cradle' act. Rao said that while power plants in India were switching to coal from costly LNG and natural gas, adding to higher carbon emissions and imports, the US was attracting investments by powering energy prices.

The former petroleum secretary added that the high gas price, fixed in dollars against a falling rupee, would have a 'disastrous effect' on the country's economy. Instead of doing the market's job of determining prices, the government ought to have exerted itself to formulate policy measures that were non-existent. Such initiatives, according to Rao, included putting together a 'strong, independent and stable regulatory regime'. He pointed out that all gas pipelines are natural monopolies and fragment the market. 'The policy regime should mandate the trunk pipelines to meet, ensure non-discriminatory access, destination flexibility facilitating price arbitrage so that gas-to-gas competition is generated,' he stated, adding that 'disclosure norms' for gas and oil reserves should be made 'statutory'. Rao felt the Competition Commission of India should 'discourage monopoly pricing practices and start processes to decouple gas prices from oil'. He wondered whether gas production would rise in the KG basin? 'If so, why is ONGC being "persuaded" to lease the gold-plated facilities, instead of building its own?' he asked, since all the infrastructure set up in the KG basin is financed by the cost of gas and oil and hence, should rightfully belong to the government. He argued that 'any lease rentals should accrue only to the government' and called on the CAG and CVC to note this point.

The *Outlook* cover story also carried an article based on an interview with Mohan Guruswamy, who was identified as chairman and founder of the Centre for Policy Alternatives. Guruswamy is a former adviser to finance minister Yashwant Sinha in the BJP-led NDA government and has been a trenchant critic of many of the government's policies (for instance, the one on foreign direct investment in multi-brand retail and its strategy of tackling left-wing extremism). What was not mentioned by *Outlook* was that Guruswamy is also listed as a visiting fellow on the website of the Observer Research Foundation (ORF), which is supported by Reliance.[1] However, the title of the article based on an interview with him was adequately revealing: 'Self-Reliance, Not Reliance'. The subtitle quoted him as claiming that the opposition to the hike in the price of gas was akin to a 'new and indigenous form of McCarthyism'—a reference to the US senator and Republican politician Joseph McCarthy who accused thousands of Americans of being Communist sympathisers in the 1950s and after whom, the term McCarthyism is coined to signify the practice of levelling allegations of disloyalty, subversion or treason without adequate evidence. Guruswamy batted for Reliance and the government using sophisticated arguments and selective facts, though he would later claim to the lead author of this book that he had expressed his view as an independent analyst which had nothing to do with his association with ORF. He said RIL had demanded a higher gas price a year before it got it and that by offering a price that will 'only be applicable in mid-2014, the government loses nothing and has everything to gain'. He said the 'major' part of the selling price would go to the state, that the gap between the price announced and prevalent international prices (presumably of imported LNG) was 'still large' and that India should have a 'liberal economic regime, not one that robs Peter to pay

Paul'. Guruswamy then asked why other business families like the Ruias and Mittals should sell steel at international prices while using subsidised gas and claimed that subsidies on production of fertilisers were 'misdirected' and went to 'all the wrong people'. The academic, who is not exactly known for his expertise on energy pricing, claimed that there was a 'direct relationship between oil prices and available reserves,' that prices rose as more reserves became 'viable'.

Echoing the government's (and RIL's) position, he claimed that 'most of the reserves lying just under the surface have been exploited' and that exploration would now have to take place in 'deeper' and in 'far more hostile' environments. 'Drilling 10,000 metres below in the middle of a deep sea is not an easy business and few have the expertise and technology to do so,' he remarked, adding that this was also more expensive. Once prices rose, extracting from such reserves becomes more feasible and the country is thereafter able to reduce its dependence on imports. Guruswamy asked that if ONGC and OVL did not take up exploration of blocks outside India at 'pre-fixed' prices, why should others be expected to agree to invest in India when prices are fixed. He thought the 'best way to attract the big oil drillers here is to offer production-sharing options at market prices'. Guruswamy patronisingly added that his 'good friend' Jaipal Reddy 'could never understand this' and 'I am not sure if even Veerappa Moily understands this'. Obliquely referring to Moily's claim that lobbies wanted India to continue importing, he claimed that the minister had 'understood well...that there are many oil brokers near and within government who collect good brokerages on every import deal'.

Pitching for domestic gas prices to be linked to imported prices of LNG, Guruswamy said the country was importing coal at prices that were one and a half times higher than domestic prices. He then asked a series of rhetorical questions: Was Mukesh Ambani happy that the domestic price of gas was going to be $8.4 per mBtu while the international landed price of LNG was nearly $14 per mBtu? Why should Indian gas producers be penalised? And why was everybody so allergic to corporates making profits? He said corporate profits led to more taxes for the government and more investment, that companies did not let their money lie idle and that unlike politicians who made money to consume, businessmen reinvested what they earned. The academic and activist from Andhra Pradesh wondered: '...how much can one man consume? How many houses will Mukesh Ambani build and how many planes will he buy?'

Whereas Guruswamy claimed that an issue of 'basic principles' had been converted into a debate for or against Reliance and that grievances against the group should be taken up with 'appropriate' institutions, others were far from convinced by these arguments. One such person was energy analyst Sudha Mahalingam, former member of the Petroleum and Natural Gas Regulatory Board (PNGRB). In an editorial page article in the *Hindu* (8 July 2013) entitled 'A wrong turn on energy', she first pointed out that the decision to increase the price of natural gas 'ostensibly to incentivise domestic gas production may render nuclear power less uncompetitive, an outcome that is largely unappreciated, but perhaps not unintended'. She added that the steep hike in the price of domestic gas is 'bound to freeze, if not drive down the share of natural gas in India's already skewed energy basket with its attendant implications for energy security'. Mahalingam added that since the country's energy basket was disproportionately weighed down by coal, which now accounts for more than 85 per cent of actual power generation from all sources, there was 'little room for manoeuvre'. While imported coal would now appear more viable, its absorption would be hamstrung by bottlenecks in India's port and handling infrastructure. 'Certainly no new gas-based generation will come up and even existing Combined Cycle Gas Turbine (CCGT) plants are likely to remain stranded,' she stated categorically, adding that the price of 'nuclear power from imported reactors would still be too steep for India and even a couple of imported reactors may set back our power sector by decades *a la* Enron, (and this) will be a problem for a future government to grapple with'. She argued that the UPA government which had laid a lot of store on the India-US nuclear deal should be happy that 'high gas prices would

tend to persuade us that nuclear power from imported reactors is indeed the only way forward'.
Mahalingam concurred with many of the points made by Surya Sethi in his criticism of the Rangarajan Committee's recommendations and repeated these. She found the guiding premises of the government formula to determine the price of gas to be 'rather flimsy' and described as 'invidious' the distinction that had been made between those recommendations that would be applied prospectively and those that would take effect during the currency of production sharing contracts (PSCs) already under implementation. 'Thus, tinkering with PSC terms to ensure that production costs are not unduly inflated by the contractor has been kept in abeyance to be applied to future PSCs while pricing decisions will apply to existing PSCs,' she wrote.

Mahalingam added that the Rangarajan Committee had admitted that there had been 'gold-plating' of capital costs and conceded the need for putting in place a robust mechanism to check such practices. Yet, this key lacuna remained unaddressed in the case of existing PSCs 'even as higher prices will bestow substantial and unwarranted benefits on the operators'. There was 'little justification' for the steep hike proposed by the Cabinet Committee on Economic Affairs (CCEA) in the price of gas from already discovered fields of RIL which were supposed to supply at least 80 mscmd even at $4.20 per mBtu but produce less than a quarter of that quantity. She pointed out that Reliance had built a hugely expensive pipeline across the country to carry 80 mscmd of its own production which was 'now being subsidised by a few unfortunate users who consume the meagre volumes of gas it transports'.

Like others critical of the government's move to increase the administered price of gas, Mahalingam argued that the premise that a higher price would automatically and inevitably lead to higher exploration and production was 'not only flawed but even misleading'. She criticised petroleum minister Moily for claiming that India was 'virtually floating on hydrocarbons' and that only inadequate exploration was keeping India dependent on imports. Mahalingam said the preface to the terms of reference of the Rangarajan Committee 'almost anticipates' the recommendations by waxing 'eloquent on the attractive prospects of the grossly under-explored sedimentary basins, and almost implies that only a wellhead price hike stands between the cornucopia of black gold and the investments needed to pour it out'. She argued that the committee itself 'rises to the bait and uses convoluted logic to justify doubling of gas price, providing a fig leaf to the government to justify the hike'. At the stage of exploration, nobody knows whether a block will yield any gas or oil. For oil, domestic producers have already been given import parity prices since 2002, that is, the international market price plus notional transportation charges and import duties, which Mahalingam calls 'an unconscionable windfall'. She wrote that ONGC, which was 'eking out a cost-plus price for its production, suddenly became the beneficiary of this windfall although some of it is sponged back by the government in the form of subsidy-sharing'. Yet, ONGC's domestic crude production has remained static over the last decade and instead of looking for crude oil at home which can be sold at very attractive prices to refiners, the public sector company had 'taken the easier and more glamorous way out—of acquiring assets abroad, frequently of dubious quality—which compare poorly with domestic discoveries from the perspective of energy security'.

The former member of the PNGRB reiterated the point that import parity prices for crude produced in the country had not attracted international investors of established technological and financial muscle to put their money into the land and territorial waters of a country that was supposed to be floating on oil and gas, she pointed out that after nine rounds of a NELP in which more than 200 blocks were awarded to investors through a transparent bidding mechanism, 'we do not have a single global oil major participating in our upstream exploration efforts, the generous terms of our PSCs notwithstanding'. BP preferred to buy into an existing discovered block rather than venture into greenfield areas of doubtful prospects. Cairn, the only other major player in India, is not in the same league as BP or the other big majors, she claimed. Mahalingam's words dripped with sarcasm when

she wrote: ‘Now we have come to the conclusion that it is the low wellhead price of gas that is hindering investors and hence have remedied the situation by giving them a wellhead price that would probably be the highest anywhere in the world.’

She was particularly scathing about the Rangarajan Committee’s decision to pick the highest price of gas prevailing in Japan as one of the benchmarks for determining the domestic price of gas, ‘ostensibly to mimic gas markets until gas to gas competition emerges in five years time’. She said there was no single unified global gas market and that everywhere, gas prices tend to follow ‘whim rather than reason’. ‘Why do we have to reckon with Japanese Crude Cocktail, the most expensive crude cocktail in the world adopted by a desperate country with no domestic energy resource of its own, when pricing our own domestic gas?’ she asked.

The government’s decision on gas pricing would result in ‘demand destruction’, Mahalingam felt, ‘stymying the development of the economy itself, already hamstrung by energy insecurity’. She quoted industrialist Kumar Mangalam Birla who stated that the steep hike in gas prices would hurt domestic manufacturing which might well move out to other countries where fuel is more affordable, taking away jobs and livelihoods in the process. She added that the price hike flew squarely in the face of the Supreme Court’s ‘unequivocal and unambiguous ruling that natural resources are a public asset held in trusteeship by the government to be used for the benefit of the people’.

Approaching the issue from a different angle, Soma Banerjee wrote a full-page article entitled ‘How India Blew The Gas Game’ in the *Economic Times* (9 July 2013) which was supportive of the government’s decision to increase the price of gas. Quoting a board member of a large private energy company, she would have us believe that ‘India may, after all, miss the century of gas’ for which the blame was to be laid squarely on the UPA government. At the same time, she is deferential to Vijay Kelkar and Rangarajan, who are described as ‘veteran technocrats’ and ‘go-to men for governments in a bind’. Banerjee wrote approvingly: ‘Kelkar drew up the blueprint to unshackle the oil and gas sector in the mid-nineties and it was Rangarajan who fixed the price of natural gas in 2007. It’s 2013, and the two are still doing the same thing for the government of the day.’

The *ET* writer quoted the former petroleum minister in the BJP-led NDA government Ram Naik stating: ‘We are, today, back and beyond where we had started in 1999’. Naik is described by Banerjee as someone who did not carry strong ideological positions but was an acolyte of former prime minister Atal Bihari Vajpayee, ‘who pulled off several big economic moves, including significant stake sales in public sector undertakings, a road project connecting the four corners of India and oil-sector reforms’. The reforms had a twin approach: handing out oil and gas blocks to companies for exploration through a NELP and a proposal to let the market determine prices of oil and gas. She recalled that through four rounds of auctions, 90 contracts were signed for 124 blocks. One of those blocks was in the KG basin where RIL struck oil and gas in 2002, ‘the biggest discovery in the sector in the world that year and the first significant find in India since ONGC in 1976’. During the NDA period, the first investments in LNG terminals at Dahej and Hazira were also made. ‘These policies were not piecemeal, but a full package with the express intent of positioning India in what was seen clearly as the century of gas,’ she quoted the unnamed board member as saying. She also quoted Sunjoy Joshi, former official in the petroleum ministry who was in charge of exploration during 2004–5 and who currently heads the Ambani-financed ORF, stating: ‘The UPA has rolled back every reform in the oil and gas sector. They did not stop at rewriting new contracts, but went on to change old contracts and commitments.’

Banerjee wrote that in contrast to the ‘commonsense, cohesive approach’ of the NDA, since 1994, the UPA government fielded four petroleum ministers in nine years, ‘each one distinctly different from the other in his vision and notions of how energy policies are to be shaped’. From an opposing ideological perspective, she contended that even after the first gas price increase in five years, the

government has fallen short of moving to a system of 'market pricing' and that companies may still remain cold to stepping up gas exploration and production. She wrote that international collaborative ventures with countries in Central Asia and the Middle East for gas supply through trans-national pipelines, 'once a foreign policy lever, failed to take off' and that the pipeline network in India remained sparse and sketchy. Mani Shankar Aiyar, the first petroleum minister of the UPA government, with his foreign policy background was credited with initiating 'bilateral dialogues on four trans-national pipelines: Iran-Pakistan-India; Myanmar-Bangladesh-India; and TAPI (Turkmenistan-Afghanistan-Pakistan-India)'. Banerjee quoted Aiyar saying how optimistic he was. 'I was sure the KG find would make this the North Sea of (the) Bay of Bengal,' reportedly remarked. At the same time, the *ET* writer portrayed Aiyar as a slightly incompetent minister who had 'voluble' intentions but who could not measure up to his charge. He was, to use his own words, a 'dreamer' who had embarked on what he called his 'great oil hunt' across Central Asia. In 2005, on reaching Baku, Azerbaijan, Aiyar is supposed to have said rather grandly: 'This is the time to break geographical barriers and herald an Asian resurrection. We are ready to tap every possible source (of oil and gas) in the region.'

Banerjee recalled that Aiyar had traversed Central Asia and the Middle East 'pitching with countries to build gas pipelines to India or transport gas in liquid form, or LNG, via large ships'. He went to Iran with a Cabinet decision that India could enter into a trilateral agreement with Iran and Pakistan for gas imports. But nothing happened. The writer suggested that despite the strong backing of his government, Aiyar's plans to ship 20 million tonne of LNG from Iran and the Iran-Pakistan-India pipeline were given a quiet burial. While talks have moved ahead on the TAPI pipeline, the Myanmar-Bangladesh-India pipeline is lost in the region's geo-politics. And, then, wrote Banerjee, the 'overseas piece disappeared' when Murli Deora replaced Aiyar in 2006. She recalls the then US ambassador to India being quoted in a Wikileaks document saying: 'Unlike Aiyar, who cultivated a reputation for anti-Americanism, Murli Deora has been associated with the US-India relationship for years. Lacking Aiyar's ambitions (or entrepreneurial zeal), he will be a more cautious minister.'

She analysed the price difference between domestically produced natural gas (at say, $2 per unit) against the landed cost of LNG ($12–14 per unit) after it is converted into liquid, transported and regassified. Moving gas through pipelines results in costs being somewhere in between, depending on the distance the gas has to travel. Why have pipelines not been developed in Asia unlike North America and Europe, she asks and attributes it to pricing. Howard Rogers, director, natural gas research programme, Oxford Institute of Energy Studies, an independent energy think tank is thereafter quoted: '...progress has been marred by distrust, stalled negotiations, in large part driven by the realities of the price level necessary to underpin such investments.'

Banerjee quoted RIL's P.M.S. Prasad saying 'pricing controls are a dampener' adding that 'under an APM (administered pricing mechanism) regime, there is uncertainty among investors about either sourcing gas on a long-term basis as LNG or through transnational pipelines, or making investments in domestic exploration and production'. The RIL executive director then said that 'investors are willing to take market risks, but not the risk of predicting the level at which the government may fix domestic prices at any time'. She wrote that RIL had laid out a Rs 4,500-crore plan for a domestic pipeline network covering 100 Indian cities and towns at a time when CNG was pitched as the fuel of choice for public transport. Companies including Reliance Power, Adani, GMR and Lanco had set up power plants to be fired by gas. The setting up of a gas regulator cleared the way for building the pipeline infrastructure. Banerjee then blames the government for 'intervening' in the fight between the Ambani brothers. She quoted an unnamed former petroleum secretary saying that the then petroleum minister Murli Deora's proximity to the Ambani family made decision-making difficult and reiterated the main point that this book has sought to emphasise over and over again, namely, that

the fight between Mukesh and Anil was essentially over the terms and conditions of supplying and pricing natural gas from the KG basin. Banerjee quoted Naik observing: 'The government getting into a private fight between two brothers as a party was the worst point in the energy sector. This not only reflected on the petroleum ministry, but also on the political leadership in the country.'

Towards the end of Deora's tenure, exploration had slumped, gas output from the KG basin was way below expectations, relations between RIL and the CAG had turned 'testy' and the petroleum ministry had not get its act together. Banerjee quotes Sunjoy Joshi of ORF remarking: 'This was the time when decision-making at the petroleum ministry got outsourced to special committees and panel of ministers, leading to utter chaos.'

While India's attention on natural gas focused on a court case, gas producers around the world scouted for new reserves. 'We had started off at the same time as China with our LNG plans,' A.K. Jain, a former petroleum ministry official dealing with gas who is now with the Planning Commission, was quoted by *ET* as saying; he added: 'But look at where we are now.'

Banerjee wrote that the petroleum secretary who was appointed in 2011 (G.C. Chaturvedi) 'in what was seen as a damage-control measure' brought the sector 'to a halt', with the 'unexpected candidature' of Jaipal Reddy. With Reddy's increased 'scrutiny of the project' when RIL's gas production fell, from '62 million standard cubic metres a day (mscmd) in April 2010 to below 28 mscmd in 2012', planned investments from new players like BP (in RIL) and Vedanta (the new owner of Cairn India) also 'waited for months for approvals, and policy files stopped moving'. The *ET* writer's antipathy for Jaipal Reddy was evident from what she wrote, although a source close to the former petroleum minister was adamant that what Jaipal Reddy did was 'merely play the game by the rules of the book'—as he had been asked to by Ahmed Patel, the political secretary to the UPA chairperson and Congress president Sonia Gandhi. This, the source added, was not liked by either Reliance or its supporters in different wings of the government. Hence, Jaipal Reddy had to be 'kicked upstairs' and replaced by a more pliant Veerappa Moily.

Banerjee wrote that Moily was brought in when investments in the sector fell to $1.8 billion in 2011–12, from $6 billion in 2007–8 as he was seen to be a 'doer'. The pace of clearances picked up and the gas price revision followed. The *ET* writer then approvingly quoted Sudhir Vasudeva, chairman and managing director of ONGC, the country's largest producer of oil and gas and a big beneficiary of the gas price hike, saying the increase in the price of gas would 'help in attracting investment for exploration and development of gas assets even in challenging frontier areas' and boost the building of pipelines.

Like Mahalingam, E.A.S. Sarma does not believe any of this is likely to take place. Writing in the *Economic and Political Weekly* (13 July 2013), Sarma argued that by doubling the administered price of gas using very questionable methodology, like a similar decision taken in 2009, the government had compromised economic reasoning at the altar of crony capitalism and political expediency. In the absence of a homogeneous gas market which throws up a market price, the only option should have been for an independent, professional and quasi-judicial regulator to compute efficiency-based costs and determine the price on the basis of a reasonable return. Instead, a group of ministers had taken a decision which could transfer up to Rs 26,000 crore a year to producers, especially benefiting one private company, RIL. He wrote that the 27 June 2013 decision of the Cabinet Committee on Economic Affairs had given the company 'an unearned bonanza' and if it produces 80 mscmd of gas as it has promised, the annual largesse could amount to up to Rs 26,000 crore. With the falling rupee, there could be more outflows from the exchequer in the future, he contended.

Sarma wondered if RIL sought to hoodwink the government and the people of the country by claiming in 2006 that the franchised area it controlled had potential reserves of 11.3 trillion cubic feet of gas. He wrote that thousands of small investors invested their savings in the company's equity and several

power companies also invested in downstream gas-based electricity generation facilities. As the company's shares perked up and as the power plants came on stream, gas production dipped, at times, below 20 mscmd or a quarter of the quantum initially promised. With power plants idle, Andhra Pradesh, the state of origin of KG-D6 gas, suffered a serious power crisis. Six years later, in June 2012, RIL's Canadian partner (Niko Resources) declared that the basin had reserves of just 1.93 tcf gas. Effectively, the savings of many small investors got locked up in the company's equity.

The former power secretary and secretary, economic affairs, in the ministry of finance, alleged that the 'government acquiesced in the company's sleight of hand'. Since the exploration and production deal was governed by a PSC (between the government and the private operator), the government should have penalised the company for the cutbacks in reserve estimation and shortfall in production, Sarma believed. Under Articles 4.1 and 4.2 of the PSC, the company was required to relinquish a certain proportion of the exploration area at the end of each phase of exploration. The company evaded the clause, and the government did not press its case. RIL, emboldened by the government's vacillation, 'made it appear as if the government was to be blamed for its own failures'. The company orchestrated a campaign to obfuscate its past failures and build up a frenzy to prompt a willing government into deciding on the next big gas price hike. Sarma pointed out that RIL placed 'several obstacles' in the way of the CAG carrying out a comprehensive audit of the implementation of the PSC. He wrote:

Every time a conscientious Union petroleum minister tried to discharge his legitimate responsibility of overseeing enforcement of the PSC, he would be replaced by another, making it clear that when it came to dealing with influential industrial houses strict compliance with the contract would never be on the agenda of the "reform friendly" government.

It was significant, he added, that exactly a year after declaring the low output of gas from the KG-D6 basin, in June 2013, RIL's Canadian partner Niko Resources announced a 'new discovery' in the D6 block that resulted in the gas reserves jumping by as much as 160 per cent. The share prices of RIL rose once again. This announcement coincided with the decision of the petroleum ministry to overrule the DGH, the regulator, on a proposal that the producer should relinquish 86 per cent of the franchise area as per the PSC. It also coincided with the decision of the government to consider the Rangarajan Committee's report and increase the administered price of gas.

Describing the government's logic that a higher gas price would encourage exploration and production as 'dubious', Sarma changed track in his *EPW* article to highlight how local farmers were complaining about land subsidence due to gas extraction, which was under adjudication in the Andhra Pradesh high court. On the issue of higher subsidies on power and fertilisers, he said it was ironical that the gas price hike came 'at a time when the government had recently allowed private power producers to pass on the cost of imported coal to electricity utilities, throwing to the winds the tender ethics of an elaborate competitive bidding process adopted by the utilities.'

Concurring with Sethi and Mahalingam, Sarma said it was 'inappropriate' to benchmark domestic gas prices against 'international' prices applicable to either piped gas in different parts of the world or LNG imports by various consuming countries. The high costs of storage, liquefaction, regassification, pipeline transportation of gas and so on had rendered the global gas markets opaque and fragmented, he stated, adding that LNG is traded globally, whereas piped gas is traded within each region. Prices of piped gas, and even LNG, depend on regional supply-demand pressures and suppliers' and consumers' options on long-term contracts and spot transactions. He then provided a comparative analysis of trades in gas at different prices in different countries using data compiled by British Petroleum that showed wide variations. Such countries included those in the Commonwealth of Independent States,

Africa, the Asia Pacific region, Europe, South East Asia and South and Central Americas. The short point was that it would be 'futile' to talk of any specific set of 'international' prices of gas to use as benchmarks to determine the domestic price of gas.

Sarma said that although the Rangarajan Committee was 'fully seized' of this aspect of gas prices, it nevertheless chose to rely on prices prevailing at regional trading 'hubs'—the Henry Hub in the US, the National Balancing Point (NBP) hub in the UK and the 'net-back' wellhead prices of LNG imports in India and Japan. Those familiar with gas trade patterns know that spot-transacted prices could be as low as half of the hub prices in a given region, he wrote. When producers vie with one another to sell their gas, a prudent buyer can negotiate a price that lies somewhere between the hub price and the spot price. The 'net-back' prices, derived by subtracting the costs of liquefaction and transportation from the delivered prices, can be equally misleading, he added. The Rangarajan Committee had recommended a two-step approach to determine the domestic gas price. First, it envisaged working out a weighted average of the previous 12-month averages of prices indicated by the Henry Hub and NBP, and LNG imports made by Japan. The second step was to average this (not a weighted average this time) with the previous 12-month average of the price of LNG imports made by India. 'Averaging out prices applicable to fragmented markets with their own dissimilar supply-demand characteristics does not make much economic sense,' argued Sarma.

He further pointed out that since there had been complaints about LNG imports from Qatar being 'overcharged', the Rangarajan Committee's formula would capture whatever distortions that existed. 'It amounts to perpetuating a mistake once committed,' Sarma argued in the *EPW*. Moreover, averaging two numbers, one derived from a complex weighted average of three regional market prices and the second, a number derived from a few lines of Indian LNG imports, made little statistical sense, he commented. In North America, the price of gas touched a low of $2 per mBtu in 2012 and temporarily recovered to $4 per mBtu. Higher availability of shale gas in the US, Canada and China had started exerting a downward pressure on gas prices all over the world. 'In such a scenario, to rely exclusively on the hub prices and calling it, as the CCEA has done, the basis for "competitive, arm's length price, to the benefit of parties to the contract" as envisaged in the PSC, would be grossly erroneous,' he stated categorically.

Sarma, who spent much of his working life as a bureaucrat, found it truly amazing that even as global gas markets were looking downwards, India's 'gas policy analysts seem to be looking upwards!' He point out that the PSC mandated that the gas price formula be approved by the government. But the question arose as to whether the formula reflected the state of competitiveness in the market and was it mutually beneficial for both the contracting parties. In a perfectly competitive market, the producer's price will be no more than an efficiency-based unit cost plus a reasonable rate of return. If no competition exists, an independent regulator should necessarily determine such an efficiency-based price. There can be no intermediate solution, Sarma asserted.

He said that had the government entrusted the responsibility of fixing the contractual 'competitive, arm's length price' to an independent statutory regulator, the process of price determination would have been transparent, making available an opportunity for the aggrieved parties to seek judicial remedies. By arrogating to itself this onerous responsibility, the Indian government had introduced an 'undesirable political dimension' into the process of price fixation. Sarma then asked the key question. What was the actual cost of extracting gas from the KG basin. He claimed 'knowledgeable sources' had told him that this amount was below $1 per mBtu! The closest the government came to a price discovery was, when in 2006, RIL had proposed a price of $2.34 per mBtu for KG-D6 gas which was the price at which RIL had agreed to supply gas to RNRL. Documentation in the Rangarajan Committee's report bore out the fact that this price was rejected by the government on the ground that it was not derived on the basis of competitive arm's length sales in the region for similar sales under

similar conditions. Yet, this was the same price at which RIL had bid to supply gas to the NTPC. Sarma alleged that NTPC was placed 'under duress' and 'was not allowed to accept' the price of $2.34 per mBtu. In 2009, the EGoM headed by Pranab Mukherjee fixed the price at $4.20 per mBtu, ignoring the 'clear price signals' from RIL based on its contract with RNRL and its subsequent bid to supply gas to NTPC. Sarma argued that the price of gas was fixed at that time on the basis of bids obtained by the producer from a few power companies which had no incentive to quote a lower price, 'as they knew that whatever price they had quoted would anyway be allowed to be passed through in the open ended cost-plus regime of electricity regulation'. Thus, he claimed that the government knowingly passed on 'largesse' of $1.86 per mBtu to the producer (RIL) at the expense of electricity and fertiliser consumers.

Sarma reiterated his contention that it was 'improper' that an EGoM, a political entity, fixed the price of gas. Since the natural gas market lacks homogeneity, an 'independent, professional, quasi-judicial regulator' should have been appointed to 'compute efficiency based costs and determine the price on the basis of a reasonable return'. By allowing the contractor to violate certain provisions in the PSC, he felt that 'the government has conveyed an inappropriate message to all prospective investors that they could mock at the sanctity of contracts and the law of the land'. Sarma said the government should not have extended the new gas price to already-developed gas fields in the KG basin and elsewhere. Finally, he re-emphasised the point that natural gas was, after all, a public resource and the government is merely a trustee of resources that belong to the people. His conclusion: the government had not adhered to the doctrine of public trust that obliges it to ensure that gas resources are developed in a scientifically sound manner and social returns from it, maximised. The gas price hikes of 2009 and 2013 smacked of crony capitalism and political expediency, asserted Sarma, now a full-time activist.

12
MOILY BRAZENS IT OUT

On 10 July 2013, most major newspapers prominently carried articles based on a letter written by an official in the ministry of finance to another bureaucrat in the ministry of petroleum and natural gas asking the latter to consider 'placing a cap' on the increase in the domestic price of gas after the pricing formula approved by the Cabinet Committee on Economic Affairs (CCEA) on 27 June comes into effect from 1 April 2014. Interestingly, all the news agencies and publications that put out the story attributed the story to an unidentified senior official in North Block where the finance ministry is headquartered. Together with this letter dated 4 July, ministry officials had attached editorials published on 29 June in various newspapers, including the *Hindu*, that were critical of the government's decision to double the administered price of natural gas. The letter from the finance ministry's department of expenditure read: 'There must be a ceiling price under the formula. It cannot be that gas producers will reap unlimited gains in the case of an upswing in global prices; any upside has to be capped.'

Even more interestingly, this letter from the finance ministry not only described Reliance as the biggest beneficiary of the gas price hike—contrary to what petroleum minister Moily had claimed—but also urged the petroleum ministry to examine whether it would be possible to ensure that RIL delivered its current supply shortfall at the old price of $4.2 per million British thermal units (mBtu) after the 'technical difficulty' (presumably referring to the geological complexities that the company claimed was responsible for the lowering of gas output) was overcome. In other words, the finance ministry argued that RIL should not get the benefit of the new price of gas until it was able to compensate for the loss of gas output—against a promised 80 mscmd of gas, the company was producing 15 mscmd. A portion of the finance ministry's letter read: 'The ongoing issues with Reliance, which will benefit the most from the higher prices now, over cost recovery and penalties for not meeting contracted output levels need to be taken to their logical conclusion.'

Reacting to the news, RIL's stock price fell by nearly 4 per cent on the stock exchange at Mumbai before recovering to close the trading session almost two per cent lower. Many presumed that the finance ministry's letter was issued with the full knowledge and consent of finance minister Chidambaram, as an attempt by the government to backtrack and convey an impression to its critics that it was not going out of the way to help Reliance. For instance, *Business Standard* wondered if the suggestion on RIL 'could have come because about 25 power plants are running short of gas due to a decline in the company's production from its KG-D6 field to 15 mscmd, compared with a target of 80 mscmd' and peak production of 61 mscmd in 2010. The allocation of gas for the power sector from KG-D6, which was supposed to be 29.7 mscmd, had fallen to zero, the newspaper pointed out.

On the day the contents of the finance ministry's letter were disclosed, journalists approached petroleum ministry officials who claimed in off-the-record statements that there was no question of 'going back' on a decision already taken by the Cabinet or that a new 'dual pricing' formula was needed, one for 'old' gas and another for 'new' gas. Sure enough, the following day, that is, on 11 July, petroleum minister Moily called a media conference and cleared all doubts in this regard. He

categorically stated that the decision to double natural gas price would remain unchanged despite the finance ministry 'seeking a dialogue' on the idea of maintaining the old gas price of $4.2 per mBtu for some of the gas that Reliance Industries would produce after 1 April when the new administered price of gas becomes applicable. The minister asserted that there was 'no question' of placing a ceiling on the domestic price of gas in case global gas prices shoot up. Moily said he was very clear that the decision on gas pricing was not up for a review.

'There is no thinking on part of the government for any review or reconsideration of the decision of the CCEA. Let me make it very clear—there is no confusion, there is no vagueness. And I don't think there is scope for any interpretation whatsoever,' Moily said at the news conference, adding;

> The office memorandum dated 4 July from the department of expenditure, ministry of finance... has enclosed two editorials of the newspapers and illustrated some of the issues in these editorials. That cannot be taken as the objective opinion of the ministry of finance. It cannot (also) be considered as a query raised by the ministry of finance.

That day, Moily told reporters that Iraq, India's second-largest crude oil supplier after Saudi Arabia, had offered to give state-owned Indian firms three discovered oil blocks in the Middle Furat oilfields on nomination basis. The minister, who had returned from Baghdad after attending the Indo-Iraq Joint Commission Meeting, said 'the fields are discovered and work can immediately start'. He said this was the first time in recent years that an oil-rich country from the Persian Gulf region had offered fields to Indian government companies on a 'nomination basis'. In the past, Iraq and other countries had asked Indian companies to participate in international competitive bidding to obtain rights to operate oilfields.

On the face of it, having faced a lot of flak, it was as if Moily was trying to impress journalists with his recent achievements as petroleum minister. In actuality, this was the beginning of a series of events, which culminated with the 'realignment of portfolios of bureaucrats' within the petroleum ministry. This in effect meant the divestment of the gas pricing portfolio from joint secretary (exploration) Giridhar Aramane, an Indian Administrative Service (IAS) officer of the Andhra Pradesh cadre. According to the *Hindu* (13 August 2013), the officer was relieved of the 'charge of gas pricing, acquisition of E&P (exploration and production) assets abroad, all establishment and administrative matters related to ...(ONGC Videsh) and unconventional hydrocarbons' through a note signed on 6 August by Veerappa Moily. Aramane was left with the exploration portfolio, his other charges being handed over to the joint secretary, international cooperation and gas pricing, P.K. Singh. The gas pricing on NELP blocks such as RIL's KG D-6 block was with Aramane, who had held this portfolio from the period when Jaipal Reddy was petroleum minister. Thus, Moily had the perfect cover for his argument that this realignment was about lessening the officer's burden (*PTI*, 5 August 2013). The national news agency reported how the petroleum minister 'temporarily' held back the transfer on account of a 'rethink' since the ministry had to 'file an affidavit in Supreme Court on a petition challenging the 27 June decision of the Cabinet to raise gas prices'. With Aramane having piloted the move, it was decided that the function remained with him, 'at least' till the affidavit was filed, which had to be done by 6 September. Petroleum secretary Vivek Rae, on his part, had stood by the officer which reportedly 'infuriated Moily' as he had returned the file to the minister 'saying the new person who would handle gas pricing, shale resources, coal bed methane and foreign petroleum assets, lacked technical expertise' (*Times of India*, 14 August 2013). The *PTI* report mentioned that coal-bed methane and shale gas had already been transferred to the joint secretary, international cooperation and gas pricing.

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An angry Gurudas Dasgupta accused Moily of divesting Choubey of some of his duties since the officer took decisions against RIL. He also wrote to the Prime Minister protesting the move. In defence Moily retorted dramatically: 'I am telling you again and again, our conscience is very clear. We have not taken any decision to respond to anybody's needs. (If there is) even an iota of evidence, let them show, I will not be there the next day in this seat' (*PTI*, 13 August 2013). The two continued to spar.

A report in the *Mint* (14 August 2013) provides a flavour of these acrimonious comments. Without naming the CPI MP, petroleum minister Moily accused Dasgupta of pandering to Chinese interests, adding that a day after India had raised the price of natural gas to $6.83 per mBtu, China had hiked its price to $9 per unit. Dasgupta, of course, squarely blamed the ministry headed by Moily of 'working to give fabulous benefits to a particular corporate house'. The minister was especially prickly on the question of leaks of documents from the ministry. He grumbled that each time 'his ministry considered a change, the relevant papers were leaked'. He added: 'I don't know how propriety demands that Cabinet papers come in the hands of Gurudas Dasgupta. This is a very serious matter where government papers are being leaked.'

While the petroleum ministry kept rolling around key government officials, concerned citizens were raising the gas pricing issue in the public interest. In his communication to the minister asking that Aramane retain the gas pricing portfolio, petroleum secretary Rae also indicated that that the price hike was 'still under examination' alluding to a PIL filed by Dasgupta on 29 July. There was widespread speculation that the PIL was the reason for Moily's rapid moves. Amitav Ranjan, writing in the *Financial Express* (14 August 2013) indicated that Moily 'justified his August 6 notings' on Aramane's removal by 'putting on record that Giridhar (Aramane) was responsible for document leakages from the ministry'.

While Moily defended his decision, activists like former civil servant E.A.S. Sarma, upset that an honest and performing officer was being pilloried, complained to the CVC through a letter dated 13 August. Sarma asked the CVC to investigate alleged favours shown to Reliance by the petroleum

minister, and enclosed five news reports to show instances of 'possible conflict of interest' between Moily in his early avatar as minister of corporate affairs and subsequently as petroleum minister 'in so far as corporate interests' were concerned. His letter pointed out that the Moily family controlled an entity called Kisan Sabha Trust that had received funds from the corporate social responsibility (CSR) budget of cigarette, hotels and consumer goods major ITC (formerly India Tobacco Company) Limited in 2012 for five years. Among other reports, Sarma cited an article by J. Gopikrishnan of the *Pioneer* dated 18 March which quoted a letter written by the minister's son Harsha Moily to a business associate Sudir P. (or Sudhir K. Prabhu) saying that 'dad (meaning Veerappa Moily) had just called and confirmed' that ITC had approved the funding of the trust and that necessary bills would have to be furnished for the corporate body to process payments.

The *Pioneer* article went on to indicate that the companies run by Harsha Moily began to flourish after his father landed a berth in the Union Cabinet in 2009 as law minister, thereafter moving to the corporate affairs ministry with additional charge of power and finally, in the petroleum ministry. Moksha-Yug Access India Private Limited, a supply-chain company for products used in rural areas that is run by Harsha and his sister Hamsa, supplies over 100,000 litres of milk daily. This company has Ananth Ravi, president, Reliance Industries Limited as an advisor. The Moksha-Yug website, Sarma noted in his complaint to the CVC, mentions that Ravi advises the company on 'finance related matters' and goes on to detail his various accomplishments with the Mukesh Ambani-led Reliance group. Incidentally Gopikrishnan's article states that half of the shares of Moksha-Yug is held by corporate entities based in the US and in Mauritius. Moreover, Harsha reportedly owns a 20 per cent stake in 'well known' companies such as Bharat Forge and Jubilant Agro. In his letter to the CVC, Sarma enclosed a report published in the *Hindu* (13 August) which expressed concern at the transfers of senior officials in the petroleum ministry, especially Aramane. Sarma also expressed his reservations about Moily's supposed direction to ONGC to 'share RIL's infrastructure on which the company had recovered the gold-plated capital expenditure already'.

On 27 July, the government-owned ONGC had signed a memorandum of understanding (MoU) with RIL to 'explore the possibility of sharing the latter's infrastructural facility in the East Coast'. Nearly a month later, on 22 August, the *Times of India* quoted a spokesperson of ONGC as stating that the public sector company expected to save about $7 billion in capital expenditure and four years of time in developing three gas fields adjacent to the KG-D6 area by sharing RIL's facilities. The *ToI* article went on to detail instances when ONGC had used the facilities of RIL for evacuation of naphtha in the Panna-Mukta-Tapti joint venture, as well as Cairn's joint venture in Assam to transport gas. In an interview in the *Economic Times* published the same day, ONGC chairman Sudhir Vasudeva was quoted saying:

> Obviously there will be significant saving as we plan to utilise RIL's existing infrastructure so we don't have to invest in new infrastructure of our own. It's difficult to quantify the exact saving right now as a joint study undertaken by ONGC and RIL will be looking into it and only then can we finalise the commercial terms.

In fact, there seems to be grounds for the belief, that not only was there a campaign to absolve RIL of all responsibility for low production from the KG-D6 area, the responsibility to provide gas for affected industries would be borne by the national oil companies. A news item by Shine Jacob in the *Business Standard* on 19 August quoted an unnamed petroleum ministry stating: 'ONGC is set to start production from the KG-DWN-98/2 block by 2016-17. This would be a huge boost to the sector. These fields would have to make up for the shortfall in the KG-D6, as RIL's new discoveries may come up for production by 2018-19 only.' With ONGC having 4.85 tcf of gas reserves across nine discoveries

in the KG basin, the report quoted sources saying that between six and 10 mscmd of gas could be allotted for the power sector from the fields of ONGC and GSPC for the 25 affected power plants.

* * *

The petition filed in the Supreme Court by Gurudas Dasgupta, with E.A.S. Sarma as the second petitioner, alleged that the government failed in carrying out due diligence before hiking the price of gas. The petitioners urged the court to direct the Cabinet secretary to provide all records pertaining to gas exploration by RIL in the KG basin and the decision to increase the administered price of gas with effect from 1 April 2014. The petitioners sought the enforcement of the relinquishment clause in the PSC between the government and RIL. They argued that the government should be asked to 'possess forthwith' those areas as 'recommended by the CAG in its report' and as 'delineated by the DGH'. The petitioners also asked the court to direct the CAG to complete the performance and fiscal audits of the costs of the project quickly and efficiently and argued that the CAG should be allowed to approach the court if obstacles are put in its way. The PIL also called for the setting up of a Special Investigation Team (SIT) by the court that could probe any criminal conduct that may surface from the CAG's audit. While seeking that the court set up a commission to investigate the 'real cost of gas at the wellhead in the KG-basin', the 'capacity of the basin itself' and 'related issues', it also requested for directions that the price of domestically produced gas be fixed in rupees and not in dollars or any other currency. Finally, the petitioners asked the court to issue directions that the stalled arbitration between RIL and the government over the financial issues related to the shortfall of production of gas should be re-started.

Within a fortnight, another writ petition with related concerns was filed in the Supreme Court by 'Common Cause', an NGO founded in 1980 by the noted social activist H. D. Shourie, and three eminent co-petitioners, former Cabinet Secretary T. S. R. Subramanian, former Chief of Naval Staff, Admiral (retired) L. Ramdas, and former water resources secretary to the government of India, Ramaswamy R. Iyer.[1] The petition, drafted by eminent lawyer and Aam Aadmi Party leader Prashant Bhushan and filed on 14 August, urged the Supreme Court to cancel the PSC itself. It stated:

> This petition highlights how only to favour a corporate house, i.e. Reliance Industries Limited (RIL), the government first unilaterally doubled and now has redoubled the gas price causing a huge loss to the public and the country. This petition seeks a quashing of the said decision, cancellation of the allotment in favour of RIL and a thorough investigation by an SIT/CBI into the said scam, which is probably one of the largest scams in independent India.

The petitioners argued that the entire gas field allotted to the RIL consortium should be re-auctioned without allowing RIL to bid as it had time and again failed to successfully explore, discover and produce gas or petroleum. They alleged in their submission that RIL had been escalating costs, resisting audit, squatting on potential gas bearing assets without surrendering it and thereby securing undue price increases by holding the nation to ransom through engineered gas shortages, thus jeopardising huge capital costs incurred by downstream projects. They also asked for adjustment of the $7.2 billon premium collected by RIL from British Petroleum at the time it sold a 30 per cent stake in the venture towards reduction of the costs of exploration and extraction of oil/gas from the oil fields. Besides the prayer for cancellation of the contract and re-auction, the petition also urged the court that an 'appropriate penalty' be levied against RIL and its associates because of their 'persistent failure in adhering to their commitments, deliberate underproduction, gold-plating and *mala fide* conduct'.

The apprehensions outlined in the PILs were soon reflected succinctly in a report prepared by a committee of MPs. On 7 August, the Standing Committee on Finance chaired by former finance minister and BJP leader Yashwant Sinha tabled a report titled 'Economic Impact of Revision of Natural Gas Price' asking the government to review its decision on the price of gas. A draft report of the committee had been circulated earlier on 27 July which was approved by MPs in the Parliamentary panel who were affiliated to the Left and the BJP. A week earlier, on 20 July, the *Hindu* had quoted BJP spokesperson Prakash Javadekar confirming that the party's position was the same as that of Sinha, who headed the committee. This was corroborated by senior BJP leader and leader of the opposition in the Rajya Sabha, Arun Jaitley in the same newspaper a month later. The BJP had earlier been perceived to be sitting on the fence and not taking a position even as the debate on hiking the price of gas was raging. Questioned by Shalini Singh of the *Hindu* (20 August 2013) Jaitley said that he had gone along with the views of the Standing Committee on Finance that had already recommended a reconsideration of the decision to increase the price of gas.
Predictably, there were dissenting notes to the final report of the committee tabled in Parliament from certain members, notably from Sanjay Nirupam of the Congress, Dharmendra Yadav and Naresh Agarwal of the Samajwadi Party (which was tacitly lending support to the ruling UPA coalition at that juncture) and Y. P. Trivedi of the Nationalist Congress Party (which is part of the UPA). According to the *Times of India* (22 July), Nirupam and another Congress MP, Deepender Hooda had argued during a meeting of the committee 'that the panel was not competent to examine gas pricing... (as) a policy measure'. The final report of the committee was based on evidence provided by officials from different departments of the ministry of finance. besides the ministries of petroleum and natural gas, power and steel and the department of fertilisers, between November 2012 and June 2013. The report observed that a hike in gas prices from $1.72 per mBtu to $4.20 per mBtu had only been accompanied by a fall in private investments in this sector. The committee of MPs, thus, expressed doubts about whether raising the administered price of gas substantially would actually bring in additional investments, be it from home or abroad. The committee questioned the rationale for dollar-denominated gas pricing in a rupee-denominated regime with an adverse exchange rate and stated that the higher gas price would place a bigger subsidy burden on the fertiliser and power sectors. The panel felt the government should ensure that RIL delivers the shortfall in gas from the level promised at the old price of $4.2 per mBtu and not at the new price that would be effective from 1 April 2014. The committee of MPs also recommended a cap be placed on the suggested price of gas and argued for tighter regulation of the activities of gas producers, especially on aspects of cost recovery and technical parameters related to production. The panel suggested that a comprehensive technical study on cost estimates of gas production be conducted (See *Appendix 9*: 'Review decision to increase gas price').
On 23 August, the *Pioneer* reported that the cost of production of RIL in KG-D6 block in 2011–12 was $2.48 per mBtu excluding levies and $2.74 per mBtu including levies, quoting a communication dated 2 August from the petroleum ministry to the Standing Committee on Finance. The document clarified that the figures had been computed from financial statements of 2011–12, based on projected levels of production. In effect, RIL stood to earn excellent profits even at the current price of gas at $4.2 per mBtu, the note suggested. The newspaper wondered if Moily, who had become such a strong votary of the gas price hike, knew this bit of information? Dasgupta captured the nub of the debate over the elusive cost of gas production by RIL in a letter to the prime minister dated 22 August: 'We have been persistently raising the question of verifying the cost of production per unit in RIL KG Basin, production of natural gas before deciding upon the process of pricing. No governmental agency has clarified this question to us.'
Dasgupta said that there was a 'lack of due diligence' on the part of the Rangarajan Committee when

it recommended its formula to arrive at the administered price of gas. The MP requested the Prime Minister to 'revisit' the question of pricing natural gas and 'clear the air of suspicion that the government had only acted to benefit the corporate giant undermining the national interest.' In an article published on the editorial page of the *Economic Times*—a newspaper that has been largely supportive of the government's and RIL's views on gas pricing—on 15 August, India's Independence Day, Dasgupta wrote that RIL would make supernormal profits of around Rs 81,000 crore over a five-year period from the increased prices. The MP alleged that the petroleum and finance ministries and the Planning Commission had played a 'dubious role', with various Cabinet papers available in the public domain, indicating that all three government bodies favoured a gas price lower than what was recommended by the Rangarajan Committee. According to the CPI leader, the petroleum ministry tried to obfuscate this issue in a Cabinet note by stating that profits of contractors (including RIL) could not be precisely quantified due to various assumptions that would have to be made.
The finance secretary, while deposing before the Standing Committee on Finance, had bluntly stated that evaluating the cost of production was not his ministry's job and was, therefore, not taken into consideration. The secretary to the Planning Commission too admitted that before giving out its views on the pricing of gas, the Commission had not studied the impact of a higher price of gas on overall price levels. The highest increase in the gas price was pushed for by petroleum minister Moily, 'repeatedly overruling' officers of his ministry 'on file'. Dasgupta wrote:

Two increases were planned over and above the Rangarajan formula, a stepwise increase in the three years of the 12th Plan at $8, $10 and $12 per mBtu in 2014-15, 2015-16 and 2016-17 respectively and then, moving to import-parity pricing in the 13th Plan. The latter would amount to a price of $14 per mBtu in the last two years of the five-year period for which the formula was valid.

Dasgupta also pointed out that power and fertiliser would become costlier because of the increase in the price of gas but the government had been silent on how to meet the resulting additional outgo on subsidies. The increased subsidy burden would be up to Rs 2,20,000 crore over a period of five years and it was 'unlikely' that the government would be able to meet current subsidy targets for these two sectors (Rs 11,000 crore per annum for urea production at current levels, and Rs 33,000 crore per annum for power assuming an enhanced price of Rs 6.40 per unit). If the price of natural gas goes up from $4.20 to $8.40 per mBtu, the increase in the cost of power would be Rs 2 per unit while urea prices would go up by Rs 6,000 per tonne. The MP also expressed concern at the shortfall in production—14 mscmd against the approved 80 mscmd a year. Dasgupta said that the petroleum minister's claims that by 2016–17 production would increase by 40 mscmd with prices going up, was a conjecture that was yet to be tested. There were huge production shortfalls in the three years between 2011–12 and 2013–14 amounting to 28 mscmd, 55 mscmd and 66 mscmd respectively, 'a loss of Rs 1,13,000 crore to India in terms of lost power and fertiliser production'. Dasgupta also reminded the readers of *ET* in his article that Moily had 'personally scrapped the process of arbitration' arising out of the shortfall, that had been initiated by his predecessor Jaipal Reddy, after expressing the view that he (Moily) favoured a negotiated settlement. The CPI MP reiterated in his article that Reliance continued to refuse to relinquish a large part of the unexplored area, which, if this were not the case, could have been 'bid out to other global players for exploration and production'.
Some of the concerns raised by the critics of the government and RIL came up during the August 2013 monsoon session of Parliament. MPs highlighted the 'acute' shortage of power due to the 'non-supply of mandated gas' from the KG-D6 wells. Replying to a question raised by CPI(M) MP Ram Chandra Dome in the Lok Sabha, power minister Jyotiraditya Scindia presented a list of power plants lying idle or working at low capacities because supply of gas from the KG-D6 area had been 'zero since March

2013' and that the 'quantum of gas supplied to power plants during first and second quarters of 2013 (till August 19) from KG-D6 was zero'. Of the 31 power plants that were expected to collectively produce 15,000 MW every year, 12 were lying idle and electricity generation in the rest was affected. As a solution, minister Scindia informed Parliament that the government was making efforts to obtain additional gas for the power sector by increasing domestic production and facilitating the import of R-LNG or re-gassified liquefied natural gas.

Dasgupta soon made another revelation in the form of a note that was circulating in the petroleum ministry that would allegedly enable RIL to get away from making good the shortfall or pay the penalty as recommended by the DGH on 'technical grounds'. The note suggested that RIL would not be awarded the revised increased price till the reason for the shortfall was ascertained. However, if it was proved that the reasons for shortfall were indeed geological complexities as has been claimed by RIL, then the penalty factor would be waived. Dasgupta claimed the note 'exposed the duplicity of the petroleum minister' and reiterated that the move ran counter to the notice served on RIL by the petroleum ministry (on the recommendation of the DGH) seeking to disallow cost recovery of $1 billion for flouting the terms of the PSC. The MP reminded the prime minister that the DGH had written 'as many as seven letters between December 2010 and April 2011' pointing to 'lapses' by RIL and rejecting the company's contention that gas output had fallen on account of 'geological uncertainty'. He said the government should engage the services of independent auditors to assess whether RIL had hoarded gas. The *Economic Times* (23 August) quoted an unnamed senior government official as saying that RIL would have to make up for the shortfall in gas production at the old price if it was found to have hoarded gas. The official added that the ministry could not impose a penalty without any proof since any action by the ministry had to be legally sound. Incidentally, on July 2013, the DGH had compounded the penalty on RIL by slapping an additional fine of $792 million for not drilling its promised quota of wells thereby leading to a fall in production.

* * *

The debate over gas prices was kept on the boil by important functionaries of Reliance as well. On 26 August, the *Economic Times* published an extended interview conducted by Shuchi Srivastava and Himangshu Watts with Prasad, RIL, Mukesh Ambani's confidante and chief pointsperson in the oil and gas sector. This was Prasad's first detailed interview to the media after his 2009 interview to *Business Standard* which has been quoted earlier in this book. Prasad told ET that his company was still waiting for a notification from the government on the pricing of gas, as also approvals on various 'work programmes, budgets and decisions on discoveries notified in the past to the government'. He was clear that the price would determine the viability of investments, and final investment decisions would have to be evaluated and cleared by the boards of each consortium partner. Prasad claimed that RIL had been denied the arm's length market price that 'was promised' under the NELP and the PSC. On whether the Rangarajan committee's formula would raise gas prices, he said that the actual price would be higher than what had been suggested if the market price had been determined in a 'true' arm's length manner:

The formula still arrives at a price which energy for energy is at a 60 per cent discount to oil. It is at (a) 40 per cent discount to the price at which LNG is being imported into the county. For that reason the Rangarajan Committee also said this is not the market price and that the country would need to transition to the true arms-length market price as per the PSC. As producers, is this price good enough for us? It is clearly not good enough because it is not the arm's length market price I was promised...

The Reliance top executive suggested that it was for the buyers to decide whether the price of gas was too high, and they could switch to cheaper alternatives. In a chilling submission of the company's intent, Prasad said if the price of gas was too low, the sellers had 'the option of not producing it (gas) and investing elsewhere in resources that are cheaper to produce'. He added that the 'producers' vantage price will determine how much gas will be produced, because it decides which fields will be viable, and which technologies will be worth investing in'. Prasad went further to claim that gas-based energy was counter-inflationary. He compared, what some would contend, apples with oranges.

Given that gas-based energy comes at a tremendous discount to oil there is every logic that gas be used to substitute oil. We should import more gas. At $108 per barrel of oil, energy equivalent gas prices are $18 per mBtu. Yet even LNG today is available at $13-14 per mBtu. At a 20 per cent discount it makes sense to promote the usage of gas, provided this gas substitutes oil.

Rather combative on the question of the price of gas, Prasad told the *ET*: 'The point is what is right? Okay, you don't want to pay the domestic producer. Fine, the gas will not come out. The money is not going into my pocket. Why should a company produce when it is going to make losses on every mscmd of gas it produces?' He used the example of the government-owned national oil company, ONGC, to prove his point. 'Why is ONGC not developing KG-D5?' asked Prasad, adding that the discovery made in 2001 had not been developed as it was unviable. It was only after 'substantial deep water gas infrastructure on the east coast' was constructed that the viability of the prospect had increased. He commented that RIL was 'happy to provide' it to ONGC, the latter having expressed a wish to use it.
Would sharing infrastructure with ONGC absolve RIL of charges of gold-plating? Prasad chose to reiterate that the there was 'no incentive to gold plating'. He added: 'The more I spend, the less I earn. Costs are not profits. Adding costs does not give me returns. It only increases my interest burden and pushes profits into the distant future.' Taking a generous stance, he said that existing facilities were meant 'to be used by whoever can benefit' and that if the presence of these facilities (built by RIL) made 'discoveries of ONGC viable to produce', the country could benefit. He added that RIL did not need to rely on ONGC since it had the facilities already in place. Prasad said,

My own discoveries, if allowed to be developed will take production back to 50-60 (mscmd) in the next few years. If I hadn't created that infrastructure, I would not have been able to monetize.... Building separate infrastructure for each discovery would have cost 1.5 to 2 times at current market rates making them unviable to be developed.

RIL's president and chief operating officer (exploration and production), Bibhash Kumar Ganguly also came out with an article in the *Economic Times* on 29 August taking on Dasgupta's assertions on the so-called plunder of natural resources by corporate interests. His article, predictably, began with a familiar refrain articulated earlier in the same newspaper by Prasad. Any natural resource, irrespective of who owns it, is fiction until it is discovered and produced. Undiscovered oil and gas has no value until it is discovered and the quantity established. Discovered oil and gas resources buried 5 km under the seabed and overlaid by 2-3 km high seawater are worthless until they are produced, stated Ganguly, describing himself as a '30- year veteran of the oil and gas industry'.
It was the view of an expert versus that of the generalist. Ganguly trotted out the 'numbers'. While there was no sign of the mandated gas, the operations man of RIL's KG-D6 venture offered details of the trouble his company had taken to build their sterling infrastructure. He spoke of the 'thousands of tonne of equipment' that were used to get inside 'the bowels of the earth to create seismic maps

covering thousands of square kilometres'. He spoke of geological modelling by experts 'who try to locate that elusive spot where a 6-inch hole can be guided 5 km underground, to reach that perfect depth where it might hit hydrocarbons'. He said that well after well could be drilled and declared dry. A deepwater drilling ring was expensive, costing about Rs 7 crore a day to lease or hire and an exploration well had a price tag of Rs 600 crore. Apparently awestruck with the infrastructure that he had helped build, Ganguly added:

Every delay in obtaining a clearance, and there are dozens required, raises costs. Success is not guaranteed to create value. The toughest part is still to come. Appraisal and production wells have to be drilled. Then, a veritable Eiffel Tower, in terms of the steel required, has to be designed, laid underwater and connected through hundreds of kilometres of pipelines to these wells.

He went on to describe the expensive imported precision engineering technology that went into tightening each nut and bolt and laying high voltage electric cables. He asserted that the price of gas could not be based on the cost of production. He complained that when costs were recovered after production, the cost of capital invested in successful blocks was not allowed to be recovered. And, the discovery-to-development process could take upto a decade. Ganguly scoffed at Dasgupta's figure of RIL earning profits of Rs 81,000 crore in five years at the new approved price. 'My numbers show that to reach this figure, RIL will need to develop and produce 16 tcf (trillion cubic feet) of gas from KG-D6 block, which the block doesn't have, in these five years. This means 250 million cubic metres a day, about three times India's current production, from this block alone.' He added sardonically that if he believed the figures provided by Dasgupta, the government's takings would be at least Rs 1,40,000 crore in five years, which would push the country into the club of gas exporting nations and offset part of the subsidy burden of the government. Ganguly also tried to dig holes in the contention made by the CPI MP that the gas price hike would cost the power sector Rs 33,000 crore per year. He wrote:

Even assuming that $10 is the new delivered price of gas, it does not result in a power tariff of Rs 6.40 per unit. With a heat rate of 1,750 kcal (kilocalories) needed to produce one unit of power, the variable cost of generating power is Rs 4.20, or Rs 1.80 a unit more than the current variable cost of Rs 2.40. Gas-based power is barely 5 per cent of the total today. So, the actual impact is only 7-8 paise per unit rather than the Rs 2 presumed by Dasgupta.

Other advisors of Mukesh Ambani's came to the fore as the days progressed. On 29 August, *Mint* published an interview with Harish Salve, senior advocate, Supreme Court, who had earlier spoken at length to Vivek Law of Bloomberg Television. Salve, who routinely appears on television on behalf of RIL, among other corporate groups, complained about decisions on energy security taken by a 'bunch of bureaucrats in Delhi' with 'low credibility' as opposed to a 'bunch of experts sitting across the table' arriving at sound judgements. Salve said that he had advised clients such as RIL to 'go slow' since 'tomorrow some kids from the CAG's office will come and say you are gold-plating and tomorrow you are prosecuted'. Salve concurred with interviewer Law's view that not just international investors, but Indian investors as well, were disenchanted with the state of the crisis-ridden Indian economy in the last year of the second UPA government. Taking the example of Reliance, Salve, one of India's best-known lawyers, complained that the group which had invested $12-15 billion in natural gas was being shabbily treated, with allegations of out-of-turn favours towards Mukesh Ambani's flagship venture. 'We are happy to import energy at $12-18. We are not willing to let our own producers a little bit of elbow room. You want a CAG on their head but you don't mind importing at $18 and then you complain about (the high) current account deficit,' he said, thereafter highlighting

the example of another private oil and gas company, Cairn Energy, which is part of the Vedanta group, which was 'beating at the door' to gain clearance to 'double production', and was ready to invest, but was being stalled.

Salve wondered that if 'every corporate today' were to be branded 'criminal or potential criminal', why would they 'bother' to invest? RIL also started putting out statements that contracts between the government and the company were not being honoured by the former, and that RIL was facing delays with various approvals. On 3 September, speaking on the sidelines of a conference, Prasad hit out at the government saying that the country did not have 'the stable policy regime' necessary for any 'investor to come in and invest either in technology or put in big risk investment that are required in (oil and gas) exploration, appraisal and development'. RIL's Ganguly had taken an almost identical line speaking to Kalpana Pathak of *Business Standard* (22 August 2013) when he said that the company 'would have to take a call on whether to invest in future E&P bid rounds in India.' He said that with the 'government going back on its own policies and words in the last couple of years, with talks of price controls and regulatory hurdles', the country was 'going back to the pre-1991 era'.

In his letter to the Standing Committee on Finance, Prasad had written that at least '70 per cent' of the country's gas was 'produced by public sector companies such as ONGC and OIL and that RIL's KG-D6 block had a mere '15 per cent share in the total domestic production in India'. He stated that 'output from ONGC's blocks in the KG basin, which was expected to be 16 mscmd, never crossed 6-7 mscmd and finally dropped below 3 mscmd'. Thus, Prasad implied that RIL had been unfairly singled out for criticism for falling production. India's public sector oil exploration and producing companies were sought to be painted as major beneficiaries of the gas price hike even as ONGC and OIL, unlike RIL, had to contribute to subsidising diesel, cooking gas and kerosene from their profits. Lola Nayar wrote in *Outlook* (26 August) that the scales were weighted rather heavily against the public sector. She quoted A. K. Banerjee, ONGC's director, finance, pointing out that the company had to bear a financial burden as high as Rs 2,14,000 crore in the form of subsidy payments to the government in the nine years from 2003–4 to 2012–13. Banerjee said,

> This ensured that, in the first quarter of 2012-13, instead of getting the market price of some $100 per barrel, ONGC ended up getting $45 per barrel. During the corresponding quarter this fiscal, this has slipped to $40 per barrel. But for the depreciation of the rupee, ONGC would have seen its revenues hit further. In addition, public sector companies like ONGC and OIL also have to pay cess and royalties—which private companies like RIL are exempted from paying—which are subsequently recovered from the government as expenses.

The leadership of another major public sector organisation in India, this time, from the power sector, NTPC, which has at least 4,000 megawatt of gas-based power generating units running at low capacity, was clearly not convinced about the economic viability of power generation using natural gas. Speaking to *Business Standard* (6 September 2013), Arup Roy Chowdhury, chairman and managing director, NTPC, said that 'consumers who may want power, may not buy' from their plants if the price of electricity was excessively high. He said NTPC had no alternative but to lean heavily on coal-based power generation. The NTPC head spoke of his company's plans to import 60 million tonne of coal, since it did not expect more than 145 million tonne from yet another public sector corporation, Coal India Limited.

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Towards the middle of 2013, it was clear that a series of regulatory and legal battles were in the offing

relating to the fall in production from the KG-D6 venture and the gas price hike. The results of these were yet to be seen but it was clearly a process that could make the first serious dent in the crony networks that characterise the nexus between business and politics in India. On 6 September, the *Hindu*reported that the CAG had questioned the petroleum ministry over the gas price hike. A letter dated 14 August from the office of the principal director of audit, economic and service ministries, queried whether the ministry had taken any steps to ensure that the KG-D6 operators, RIL-BP, delivered gas at pre-hike prices of $4.2 per mBtu under the approved production plan. The auditor also questioned the ministry on its failure to exercise its right to fix the price of gas, mandated under Article 21.6.3 of the PSC. The clause provides for the government to approve the formula or basis for the price of gas before it is sold to consumers.

The ministry, on its part, the *Business Standard* reported the same day, was preparing a proposal to bar RIL from levying the higher price for discoveries from the D1 and D2 areas in the KG basin, if it was proved that RIL had deliberately gone slow on production from these fields. In an apparent move to untie the ever-tightening knots in the legal contractual tangles, the ministry had also asked the DGH to look into RIL's revised development plan, filed in August 2012 for the fields in which it was already operating, and for which it had forecast lower production, proposing a lower capital expenditure (from $8.836 billion to $5.928 billion). It was also reported that an approval of the revised plan by the Management Committee would mean the government's acceptance of RIL's argument about geological difficulties in the KG-D6 block, and in the case of a rejection of RIL's contention in this regard, the petroleum ministry had plans to bring in a third party consultant to look into the shortfall in production.

RIL had, in its counter-affidavit to the writ petition filed by Dasgupta and Sarma in the Supreme Court, said that despite the proposed revision in the price of gas, the company had no 'intention' of drilling fresh wells in the D1 and D3 blocks 'giving a complete lie to the suggestion that the drilling of wells was held back to await a price hike'. RIL's Ganguly was quoted (*Times of India*, 6 September 2013) saying: 'RIL's position, based on expert advice, is that drilling more wells will not increase production and in fact compromise the reservoir. The government on the other had has taken a view that more wells should not be drilled.'

The news report also mentioned that the company had filed an arbitration petition before the Chief Justice of India P. Sathasivam requesting that the third, presiding arbitrator be appointed since the nominees of RIL and the Union government had been unable to decide on one.[2] Three days earlier, RIL's Prasad had written to Moily protesting against the widely reported moves to force the company to sell gas from the already discovered fields at $4.2 per mBtu. 'Neither the PSC nor the field development plan (or investment proposal) even suggested that a shortfall in production can be considered a breach for which penalties can be levied,' protested Prasad in his letter.

This letter was followed up by another from Prasad to petroleum secretary Vivek Rae that was aimed at the regulator. In an aggressive tone, RIL accused the DGH of acting in an 'inconsistent, wayward, and arbitrary' manner. Upset with the DGH's move to make the company surrender 86 per cent of the KG-D6 block, including gas discoveries worth $10 billion, on the ground that it had exceeded the time given to develop the fields that had been specified in the contract, RIL alleged that the DGH 's arbitrary actions were responsible for the delay. Jaipal Reddy had appointed R.N. Choubey as the first civil servant to head the technical wing of the ministry after S.K. Srivastava's term as DGH got over. The *Economic Times* reported on 12 September that Reddy's successor Moily had found 'procedural flaws' in Choubey's appointment and was in the process of choosing a new DG, DGH. In his letter to petroleum secretary Rae, Mukesh Ambani's right-hand man challenged the DGH for questioning RIL:

(the) contractor is of the view that the action is clearly an afterthought, based on (an) arbitrary

decision and is tantamount to disputing completely valid discoveries made at the contractor's risk....We earnestly request you to advise the concerned to rectify the errors and remove the hurdles which are needlessly delaying further progress in these discoveries. As a contractor having spent enormous amounts of time and money on bringing these discoveries to fruition, we stand to suffer immensely if pushed to a situation of forced relinquishment of rightful discoveries.... Needlessly projecting RIL as a defaulter and forcing the contractor to relinquish discovered resources will not only hurt the investor but considerably reduce the chances of many of these discoveries ever being produced in the future....

The DGH had questioned RIL about three discoveries (D29, D30 and D31) because the company did not conduct a 'drill stem test' to ascertain the viability of the discoveries. Moreover, the regulator wanted RIL to relinquish other five discoveries (D4, D7, D8, D16 and D23) because the company did not or could not—depending on one's position—submit the development plan on time. Prasad claimed his company had agreed to conduct the particular tests at the insistence of the DGH but had to hold back plans because of uncertainty about these three finds. Prasad said the development plan for the nine discoveries, which included five finds under question, was never withdrawn. He wrote:

Neither (the) DGH nor (the) MoP&NG (ministry of petroleum and natural gas) has ever provided any contrary views to the contractor whether in (the) MC (Management Committee) or otherwise, of the requirement of a separate development plan for these five discoveries.... Evaluating the FDP (field development plan) at a sub-market price and then declaring it unviable was not only against the PSC (production sharing contract), but was tantamount to suppressing much-needed production in a country suffering lack of gas....Under normal course it would be considered bad faith to take (a) biased unilateral view, which view first delayed further progress for development, and then turn around to blame contractor for expiry of (the) time period....

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On 6 September, the Supreme Court adjourned the hearing on Dasgupta and Sarma's PIL for six weeks, giving time to the Union government, petroleum minister Moily, his ministry, RIL's partners Niko Resources and the BP group to file their replies. In the interim, a new application was filed by the petitioners, which is pertinent when seen in the context of the request made in August by RIL to the Supreme Court seeking the appointment of a presiding arbitrator over its dispute with the government. This application alleged that the petroleum minister, in collusion with the RIL-Niko-BP consortium, intended to use the arbitration proceedings to take the 'contentious and public issues away from court scrutiny'. It appealed that the respondents and arbitrators be restrained from moving forward. The following day, 7 September, Dasgupta wrote yet another letter to the prime minister, this time calling for a quick decision on the issue of imposition of a penalty on RIL for failing to produce the anticipated quantum of gas. The CPI MP wrote:

You are aware that the government had imposed a penalty of $1 billion on RIL for deliberate default in production. I had pointed out that this amount works out to $1.8 billion for 2012-13 and $2.4 billion for the current year due to continuing shortfalls. It is learnt that the DGH has agreed with my contention and recommended penalty of $1.8 billion for 2012-13. However, the petroleum ministry has not issued a fresh notice to RIL based on the DGH's suggestion and the petroleum minister is stalling the matter. I would urge you to the direct the ministry to issue a fresh notice to RIL immediately, both for (the) last year and (the) current year.

Dasgupta again urged the prime minister to direct the petroleum ministry to ensure that RIL sells gas at $4.2 per mBtu for the 'shortfall amount' even after April 2014. He disclosed, for the first time, a copy of a technical report that was prepared by a gas reservoir expert P. Gopalakrishnan, who had studied the decline in gas production in the KG-D6 area. The 13-page report entitled: 'Analysis of well and pools performance: D1 and D3 fields, KG Basin (RIL)', which had been commissioned by the DGH and which was submitted to the petroleum ministry in 2011, had observed:

The shortfall in gas production is due to non-drilling of the adequate number of wells as per the ADP (Approved Development Plan), and therefore drilling as per the ADP may be undertaken immediately.... The well completion policy, and tubing sizes may be re-looked to optimize the wells and the reservoir areas each one targets. Delays in commissioning additional producers would trigger water drive in the reservoir and consequent reduction of the ultimate recovery as a result of water encroachment as well as permanent loss of some of the gas reserves....

Gopalakrishan had noted that in the first year, RIL's production performance was as per expectations. Consequently, the report noted, 'wells were not introduced into the system' at the end of the first year as had been laid down in the Field Development Plan and, consequently, the rate of gas extraction declined. Since this led to a partial increase in reservoir pressure, new wells were required to be drilled at the earliest. Without a decrease in reservoir pressure, the reserves could be lost by water encroachment. Thus, Dasgupta concluded in his letter to the prime minister that there was 'no basis' for RIL to claim that the drop in gas production had been on account of geological complexities. Meanwhile, the office of the CAG continued to face non- cooperation from RIL in carrying out what it believed was its mandate. On 10 September, the *Hindu* reported that the CAG has complained to the petroleum ministry that RIL had allowed the CAG only 'restricted access' to financial and material management modules, though a request had been made for access to all modules of the company's SAP or systems applications and products. Access to data on human resources, sales and distribution and project system modules were denied, the CAG claimed, adding that records from RIL's SAP would enable government auditors to cross-check various expenditures incurred by the company. The principal director of audit, economic and service ministries, in the CAG wrote:

The operator had stated on May 20, 2013 that its SAP team is working for providing additional access and in order to provide continued support, persons have been nominated. However, as on date, no additional access has been provided, and the persons nominated are either not readily available or do not have sufficient SAP authorisations so as to resolve audit queries.

The company's alleged non-cooperation with the CAG in providing data for the audit period 2008-9 to 2011–12 has been discussed earlier in the book. The *Hindu* spoke to petroleum minister Moily on this issue and he remarked:

I don't know. That I must find out. We are getting cooperation from everybody. There is no problem at all. The question is we should not destroy them; then you get destroyed yourself, I am telling you. This is what is going to happen. If you destroy somebody, you get destroyed yourself...

The controversies relating to what should be the price of gas just refused to die down. In his fourth article (*Hindu*, 10 September 2013), Surya P. Sethi, former principal advisor, power and energy, Planning Commission chose to be deeply sarcastic of the political class for skewing the gas pricing

formula in favour of RIL and claiming that this would be 'the panacea to India's energy security woes'. He wrote: 'Politicians worldwide are dream merchants. They sell dreams. Indian politicians are, of course, second to none in this business and have indeed perfected this art form.' He squarely blamed politicians or 'dream merchants' and not the company (RIL), which, 'like any private enterprise, responds efficiently and effectively to shape the prevailing environment and maximise profits'.

Sethi commended public sector companies such as ONGC Videsh for resource accretion—he argued that despite various problems with international acquisitions, India had added more value in terms of oil and gas reserves overseas than through domestic private sector investments. He disagreed with Moily's assessment that Indian companies had invested about $100 billion in acquiring oil and gas assets overseas and contended that this figure would probably be a quarter of the amount. He repeated his disagreement with the formula of the Rangarajan Committee to determine the price of gas arguing that no country in the world offers a 'guaranteed wellhead price for conventional natural gas' that was being paid in India and would be paid from 1 April 2014. 'Can the Honourable Minister name a single wellhead in the world that is currently receiving $8.40 per mBtu or anywhere close to it for conventional natural gas?' Sethi asked.

He also trashed the contention that a higher gas price would provide an incentive to RIL to produce more thereby curtailing imports of LNG. He pointed out that minister Moily gave 'several numbers' of potentially higher domestic production of gas that could have been realised by end-2013 and by 2014–15 from the KG-D6 basin and the likely savings in LNG imports. Sethi sarcastically wrote that 'the Honourable Minster blames his own government for failure to give timely approvals to Reliance to achieve these outputs' and asked: 'Is the Honourable Minister trashing the findings of his predecessor and the reports of his own ministry and the DGH?'

He described as 'dubious', Moily's claim that there would be additional production of 40 mscmd of gas annually 'starting' 2016–17 and savings of $65 billion in LNG imports. Sethi asked whether the minister could 'guarantee the promised additional output'. He asked a series of rhetorical questions in his article:

Will this additional output come from the existing fields or new fields with new investments? Will the additional output result from RIL belatedly fulfilling its long unmet commitments under the addendum to the agreed initial development plan as detailed by the CAG? Finally, will this additional production come from acreage that should have been relinquished years ago as pointed out by the CAG?

The answers to these questions will probably not be known in a hurry. The tussle between India's biggest privately controlled corporate entity headed by the country's richest man on the one hand, and sections of the government, notably the auditor of public finances and the regulatory authority of the hydrocarbons sector, on the other, are unlikely to be amicably or expeditiously resolved.

13
CONTINUING CONTROVERSIES ON GAS PRICING

In spite of the deep misgivings of—and downright opposition from— independent experts, including those well-versed in the technical aspects of oil and gas exploration, serving and former government functionaries and at least one former Union petroleum minister, the government as a whole and the ministry of petroleum and natural gas in particular acceded to the demands of the Reliance Industries Limited-led consortium to double the administered prices of natural gas.

With the Union Cabinet formally approving the higher gas prices on 19 December 2013, RIL welcomed the new year with glad tidings on output from the KG-D6 gas fields. On 2 January 2014, RIL officials announced that the MA-8 well in KG-D6 block had started production thereby increasing output from the block by about 15 per cent to about 13.7 million standard cubic metres per day (mscmd). The seventh well in the MA field, this was the first producing well on the eastern basin in nearly four years. The additional output was made up of about 8.7 mscmd from D1 and D3 gas fields and about 5 mscmd from the MA field. In December, production had fallen to 11.7 mscmd. The KG-D6 fields, which began gas production in April 2009, had hit a peak output of 69.43 million standard cubic metres per day (mscmd) in March 2010 before water and sand ingress is supposed to have compelled the shutting down of one well after another, or so the company claimed. RIL shut down 10 of its 18 producing wells at the D1 and D3 fields and two of the six wells at the MA field. It was also announced that a third of the wells shut at the main D1-D3 gas field were being repaired to boost output by March (*PTI*, 9 January 2014). The following day, it was reported that RIL and its partner, British Petroleum, had pumped up gas volumes by 20 per cent (*Timesof India*, 10 January 2014).

RIL's P.M.S. Prasad told reporters on the sidelines of the government's biennial Petrotech conference in Greater Noida (near New Delhi) on 13 January: 'We can't drill any more wells on (main) Dhirubhai 1 and 3 (D1&D3) fields. We are doing work-overs on three shut wells'. As water ingress is cut off by the RIL-BP technical teams, a compressor would be installed at the onshore terminal to pull gas up from wells that are a kilometre below the surface of the sea. 'We are currently doing water shut-off job on three wells on D1&D3 gas fields before we install a compressor in the first half of 2015,' added Sashi Mukundan of BP. 'Work-overs are fraught with risk so we have to see the result of the current work-overs,' said Prasad (*PTI*, 13 January 2014).

At the same conference, petroleum minister Veerappa Moily profiled 46 of the 65 blocks that would be offered for auction. Of the 46, 17 are on land, 15 in shallow water and the rest in deepwater. The blocks offered included most of the 6,198.88 sq km of the KG-D6 block that the ministry had taken away from RIL—the five discoveries D4, D7, D8, D16 and D23—for which the DGH had said that RIL had missed deadlines for submission of investment plans. The area taken away in KG-D6 had five gas discoveries holding an estimated 0.805 trillion cubic feet of gas reserves, or about one-fourth of the restated reserves in the currently producing D1&D3 fields, and were said to be worth $10 billion at current imported prices (*PTI*, 12 January 2014).

During this period, the outcome of elections to the state assemblies of the five states of Delhi, Rajasthan, Madhya Pradesh, Chhattisgarh and Mizoram was declared. The ruling Congress party could retain power only in the northeastern state of Mizoram. The party was virtually decimated by the BJP in Rajasthan and Madhya Pradesh which was also able to hold on to the government of Chhattisgarh. The big surprise was the unexpected performance of the Aam Aadmi Party (AAP) in the national capital, which went on to form the government in Delhi with outside support from the Congress. Arvind Kejriwal, the most prominent leader of AAP who went on to become Delhi chief minister and his party colleague and advocate Prashant Bhushan, had publicly attacked the Congress-led Union government for granting 'undue favours' to Reliance in the manner in which natural gas prices had been hiked. Like many corporate captains in the country who were in favour of the chief minister of Gujarat Narendra Modi becoming the next prime minister of India, Mukesh Ambani was surely not overjoyed at the prospects of AAP emerging as a significant political force in the run-up to the general elections scheduled in April–May 2014.

On 11 January, the petroleum ministry notified the 'Domestic Natural Gas Pricing Guidelines, 2014' which would be valid for all natural gas produced domestically, irrespective of the source, whether conventional, shale or coal-bed methane. The new guidelines would be valid for five years. An unnamed spokesperson of RIL reacted promptly with a statement, part of which read:

We welcome the adoption of (the) Rangarajan Committee formula as a step in the right direction. However, gas sales under NELP have to be at competitive arms-length market prices. Accordingly, we hope the same momentum is maintained and, as per the PSC, gas markets are allowed to develop and transition to market price soon....

The price increase was announced. But an important provision was added that the operator would have to furnish a bank guarantee in case it was conclusively established that RIL had deliberately suppressed gas production. The need to include such a provision had been in the air for well over two months as a way to counter the criticism that the government's June 2013 decision to give RIL a higher price of $8.4 per million British thermal units (mBtu) was meant to make up for the shortfall in production of gas from the D1 and D3 fields and would be encashed if it was proved that the company had hoarded gas. Petroleum minister Moily said that the way in which the bank guarantee would be furnished would be worked out in consonance with the law ministry. He also said that the Cabinet Committee on Economic Affairs (CCEA) had decided that there would be no cap on the new price. Petroleum secretary Vivek Rae explained that the bank guarantee would accrue on a quarterly basis and would probably equal the incremental revenue RIL would get from the gas price increase and would also depend on the quantum of shortfall and the eventual price emerging from the Rangarajan formula. The *Hindu*(18 November 2013) put a figure to the bank guarantee at around $135 million a quarter.

Under the Rangarajan pricing formula, it had been decided that the prices will be revised quarterly. In each quarter, the prices would be decided on the basis of a 12-month trailing average without taking into account the rate of the preceding quarter (that is, the price for the January to March 2014 period will be calculated based on the average prices for the period of 12 months that ended in September 2013). The import price of LNG would be considered with a lag of a quarter. The bank guarantee would be applicable for D1 and D3 wells only, and that too if charges of hoarding were proved. The 10 January notification of higher gas prices, otherwise, would benefit RIL for all existing fields like MA in the KG-DWN-98/3 or KG-D6 block or upcoming ones such as the R-series, the satellite fields in the KG basin block and the North East Coast block, NEC-25. The new rates would also apply to public sector companies, notably ONGC. The *Times ofIndia* reported on 11 January that the price of

compressed natural gas (CNG) (Delhi prices) could shoot up by Rs 8 to Rs 16 per kg because of the twin impact of the application of the new pricing formula as well as the increased use of costlier imported gas to compensate for the fall in the supplies of domestic gas.
At the 19 December 2013 meeting of the CCEA, there had been a lone dissenter—former petroleum minister Jaipal Reddy who reportedly maintained his position that RIL had broken contractual obligations, failed to make up for shortfall in gas production and that this was an unprecedented case of a defaulter being rewarded. He was critical of the bank guarantee mechanism and described it as an 'eyewash'. He had made the point that the huge bank guarantee— the Cabinet note having suggested that it could run into $9 billion if arbitration lingered on—would be almost impossible to execute. Finance minister Chidambaram had suggested that the disputed amount be placed in an escrow account in addition to the bank guarantee.[1]
The Cabinet note that had been placed at the CCEA meeting too had a dissenting view. The *Times of India* of 21 December reported that the note had proposed that the D1 and D3 wells be excluded from the new gas pricing guidelines on the ground that the RIL should first make good the production shortfall as on 31 March 2014. On the other hand, the note had also suggested that the pending arbitration and attendant legal matters be satisfactorily settled in favour of the contractor. The note also suggested that the bank guarantee mechanism could end up diluting the government position on arbitration proceedings—that RIL was at fault for the shortfall on gas output which was not on account of geological surprises as had been claimed by the company. At the time of the CCEA announcement, the government had also been bracing for the next round of auctions of oil and gas blocks, slated for January 2014. The petroleum ministry planned to showcase about 56 new oil and gas blocks during the Petrotech 2014 conference under a new revenue-sharing regime. The ministry planned that the profile of these oil and gas blocks likely to be auctioned under the 10th round of the NELP be placed before national and international delegates at the conference. The notice of bids under the revenue-sharing regime would come later, in a month, after formal Cabinet clearance. The new revenue-sharing regime was announced at the turn of the year, on New Year's day. It was claimed that the NELP, under which nine rounds of auctions had taken place since 1999, would be replaced with 'a non-controversial model' for the launch of the 10th round of auction of blocks with 'extended tax holidays, zero royalty payment and (a) longer contract tenure to attract investors' (*Economic Times*, 1 January 2014).
The cost-recovery model of the old system whereby an explorer would first recover the entire expenditure in development of the fields before sharing profits with the government, was junked in favour of a system where share of revenue would accrue to the government from the first day of production onwards. The government had apparently realised that its dispute with RIL had been perceived as particularly unsavoury with allegations of deliberate inflation of costs and hoarding of gas, all of which had vitiated the investment climate. According to the Cabinet note quoted by the *Economic Times*, of the 254 blocks auctioned under the nine NELP rounds, commercial production had started in only three blocks with major gas discoveries mired in litigation and controversy. The new policy regime exempted deepwater operators from paying royalty since such operations are highly cost- intensive. Companies producing oil and gas from ultra-deepwater and frontier blocks also got exemption from payment of income tax for periods up to 10 years, against the present tax holiday system which is limited to seven years from the date of commencement of commercial production. The new policy further extended the exploration period from seven years to eight years for on-land and shallow water blocks and to 10 years for deep water and ultra-deepwater blocks. Under the new policy regime, the government can levy specific financial penalties for defaults by the contractor which was not possible under the ongoing PSCs. According to the existing PSCs, the petroleum ministry can only terminate a contract if the contractor deliberately causes harm to the government's

financial interest. The ministry had imposed a penalty of more than $1 billion on RIL in May 2012 (disallowing capital expenditure) because of a sharp fall in gas output from the KG-D6 block till 2011–12. The company had initiated arbitration proceedings against the government's move claiming the contract did not provide for such a 'punishment'. In addition, the petroleum ministry imposed an additional penalty of $792 million in November 2013 on the contractor (taking the total amount due from RIL to nearly $1.8 billion) on the recommendation of the ministry's regulatory body, the DGH.
On 7 January 2014, a committee appointed by Moily in March 2013 to provide a 'roadmap' for increasing domestic oil and gas production, submitted the first part of its report to the minister. The *Hindu* on 8 January reported that the committee headed by Vijay Kelkar (a former petroleum secretary who had also played an important role in the design of the earlier PSCs) favoured retaining the production-sharing model for deep sea exploration. The panel held that guarantees for recovery of development costs would be important to attract international oil corporations with proprietary technology. It may be recalled that the CAG had criticised the PSC regime precisely on the ground that the contracts encouraged companies to increase capital expenditure and delay payment of the government's share. The Kelkar committee, however, favoured the revenue-sharing model for shallow and on-land blocks that were less cost-intensive than deep-sea exploration. It also reportedly called for moving to an 'open acreage' regime whereby companies could pick exploration areas through the year rather than wait for periodic auctions for areas to be offered after these were identified by the government. To facilitate the new regime, the panel called for the setting up of a National Data Repository that would preserve and promote data on the country's natural resources. The committee suggested that PSCs be administered without any changes and the DGH strengthened for better administration.

The Kelkar panel's recommendations were clearly contrary to the royalty-sharing system suggested by the Rangarajan Committee which required companies to state upfront the quantum of oil or gas they would share with the government from the first day of production. Royalty sharing without cost-recovery would remove the possibilities for companies to increase capital expenditure and deny the government its share, as had been highlighted by the CAG. The government and RIL would continue to go by the terms and conditions laid down in the ongoing PSC, the *Indian Express* had reported on 23 December. Soon after the Cabinet clearance permitting RIL to sell gas from D1 and D3 at a higher price subject to the company furnishing a bank guarantee, the *Indian Express* quoted a government source saying that the existing contract with the contentious clause of the 'investment multiple' would continue. However, this would not be followed for other companies whose renewal would come up from the financial year 2015–16 onwards under the norms of the next, that is, the 10th round of auctions under the NELP. RIL was again being given a break.

On 7 January, the Supreme Court decided to hear the petitions of Common Cause, a public interest NGO, and CPI MP Gurudas Dasgupta against the government's decision to allow RIL to raise natural gas prices. Earlier, on 30 September, a bench of the Supreme Court headed by Chief Justice P. Sathasivam and Justice Ranjan Gogoi had issued notices to RIL, the DGH, and the CBI on the petitions. The top court's decision could break or make the fortunes of RIL as it could rule on allegations relating to hoarding of gas and deliberate cost inflation. Dasgupta claimed the Chief Justice had commented that every decision of the government could be reviewed subject to the outcome of the legal proceedings. Reliance executives, on their part, claimed that the court had not issued any order reversing the Cabinet's decision on gas prices. An unnamed 'top' executive of RIL was quoted as saying the following by various newspapers including the *Economic Times* (1 October 2013):

We are yet to understand the full implications of the Supreme Court's observations, but under no

circumstance do we see it as a restraining order on the previous decision to allow us to charge the new gas price on the condition that we furnish bank guarantees in case it's proven that we were hoarding gas or gold plating our costs. But I'm yet to get a clearer picture from my legal team. We are yet to discuss this with the petroleum ministry and have not had any formal communication on the issue.

Surya Sethi, former principal advisor on power and energy in the Planning Commission, again recorded his apprehensions about the government's alleged moves to favour RIL, this time in the form of an 'open letter' to the prime minister published in the *Business Standard*(23 December 2013). He slammed the decision to double the wellhead price of the KG basin gas. 'Given the already muddied performance criteria, enforcing the guarantee will be akin to recovering water from a sieve,' Sethi wrote. He further added:

The Comptroller and Auditor General's findings and other independent reports reveal how crony capitalism benefited RIL. The pre-qualification norms were diluted to ensure RIL qualified. The claimed size of gas discoveries, the field development plans and the investment outlays proposed escaped rigorous due diligence. Above all, RIL's commitments under the PSC and the field development plans were not enforced.

Sethi recalled his time with the government when 'RIL's clout was on full display'. He disclosed for the first time that despite objections raised by him and the then cabinet secretary (K.M. Chandrashekhar), the 2007 empowered group of ministers (EGoM) had approved the price of $4.20 per mBtu, based on an 'RIL-crafted formula that was unique in the world for pricing natural gas'. This was first time that gas prices had been doubled. 'The $2.34/mBtu bid by RIL, in a global tender, for the same gas was ignored. A sham price discovery exercise was permitted to justify the higher price that the approved formula delivered,' Sethi wrote, adding that the 'present largesse' was also driven by 'another indefensible formula', reiterating his apprehensions about the Rangarajan Committee's gas pricing formula.
There is no doubt that the Cabinet's decision to increase administered prices of gas using the Rangarajan Committee's formula rode roughshod over many voices of dissent. The finance ministry had reportedly raised a query about whether allowing RIL to sell gas from its old fields at the higher prices against bank guarantees would compromise the arbitration proceedings that were under way. In November 2013, Dasgupta had written to the prime minister pointing out that the finance ministry had endorsed demands for deferment of price fixation. He cited an internal note which had recorded 'continuous default' of contractual obligations by the contractor and which had even suggested that the petroleum ministry consider termination of the contract under Article 30 of the PSC. Dasgupta had also claimed that RIL's offer to give a bank guarantee against the enhanced price would be unprecedented. In November, the petroleum ministry had moved a Cabinet note to allow RIL to raise the price of gas produced from its D1 and D3 fields by furnishing a bank guarantee.
Petroleum minister Moily was, however, clear that there would be 'no going back' on the decision to hike gas prices and this is what he told reporters in Mumbai on 26 November 2013 on the sidelines of an investors' conference. Nevertheless, the dispute over cost-recovery continued to fester between the government and RIL. The *Times ofIndia* (18 December 2013) reported that petroleum secretary Rae had acknowledged that RIL had recovered its costs and was making profits. According to the government's calculations, till March 2012, RIL had recovered $8.9 billion even as gas production stood at 10 mscmd, registering a fall of 87 per cent from projected levels while gas reserves were at 3 tcf, having fallen 72 per cent. While RIL had invested some $5.7 billion, it had earned some $2 billion from gas sales and the company had also recovered $7.2 billion from the sale of a 30 per cent equity

stake to British Petroleum. This worked out to a return on investment of $18 billion or over 300 per cent.

But the Mukesh Ambani-headed company stuck to its stand. It would rather have its profits from the D1 and D3 blocks not be seen 'in isolation' since the company was making overall losses in its gas exploration and production (E&P) business into which inflows of fresh investments had been frozen till there was 'clarity' on the gas price hike. The *Times of India* quoted an unnamed company source who argued that the company had made an investment of $11 billion in E&P thus far. Then, the cost of capital would work out to $7 billion assuming an annual interest rate of 13 per cent for 13 years. In addition, there was another $3.5 billion of 'sunk' costs, all of which put together added up to $21.5 billion—which apparently meant that not even half the amount invested by RIL had been recovered. The company claimed that the money it had obtained from BP should not be considered 'revenue' since 30 per cent of future profits would have to be given to BP. The government had cleared investments worth

$7 billion proposed by RIL for exploration but the recent investment plans of $1,50,000 mentioned by Mukesh Ambani at RIL's annual general meeting did not specifically mention any investments in E&P activities.

It may be recalled that the suggestion made by the Rangarajan Committee had come under severe criticism in July 2013 in a report prepared by the Parliamentary committee attached to the ministry of finance headed by BJP leader and former finance minister Yashwant Sinha. The report called for a review of the Rangarajan Committee's suggestions on gas pricing, alleging that these would only benefit the producers of gas, not the government or users of gas. A few months later, more damaging facts were highlighted in another report of a Parliamentary panel, the Standing Committee on Petroleum and Natural Gas, in its report on 'Allocation and Pricing of Natural Gas' (Report No 19) that was finalised in October but presented in Parliament only on 10 December. The panel, headed by Aruna Kumar Vundavalli from Andhra Pradesh—who, interestingly, is from the ruling Congress party—asked the petroleum ministry to declare Reliance a 'defaulter' on account of the fall in gas output from the KG-D6 block. The committee did not agree with RIL's contention that the fall in output was because of 'failure' in the well but on account of the contractor not adhering to the approved field development plan which it felt should be construed as default. In essence, the committee disbelieved RIL's oft-mentioned claim that geological complexities were among the main reason for the shortfall of gas output. Here are a few excerpts from the report

> The committee has taken serious note of the statement made by the ministry that the contractor (RIL) failed to adhere to the approved field development plan both in terms of gas production as well as drilling and putting on stream the required number of wells, even after repeated reminder. The committee also note that the action taken by the ministry in respect of cost disallowance of $1.005 billion to the contractor was based on arbitration procedure. In view of the above, the committee is of the opinion that non- adherence by the contractor to approved field development plan should be construed as "default" and not just failure and remedial action by the ministry in this regard must be premised on "default" by the contractor and not on 'failure'.

The committee also sought changes in the gas allocation policy that in effect blocked KG-D6 supply to power stations:

> The committee, however, note(s) that due to less supply, allocation to the sectors have been much below the demand. In case of (the) power sector, the allocation has been only 42.53 mscmd against

demand of 135 mscmd in 2012-13 which is projected to go up to 207 mscmd in 2016-17. The committee, therefore, recommend(s) (to) the government to indicate the clear picture regarding the availability of gas for power sector in the next 5 to 10 years so that before making the investments in gas based power plant, the gas availability is factored in by the companies.

The committee also backed the demand of states for a share in the gas output and the royalty earned from offshore fields, an issue that had earlier been raised by the late chief minister of Andhra Pradesh, Y.S. Rajasekhara Reddy, soon after gas was first extracted from the Krishna- Godavari basin in 2009. The panel headed by Vundavalli suggested what it called a 'dynamic' approach to gas allocation. Further, it said at least half the gas produced should be supplied to the home state (making Andhra Pradesh the biggest beneficiary of KG gas), which should also get a share of royalty:

The committee observed that total gas production during 2012-13 was 40,678 million cubic metres, out of which the share of private/ JV (joint ventures) in the KG D6 basin located in coastal area adjoining Andhra Pradesh was 13,700 million cubic metres. This accounts for 30 per cent of the total natural gas production of the country. However, the allocation to Andhra Pradesh is pegged at 29.02 mscmd in 2012-13, out of a total allocation of 216.27 mscmd which works out to less than 15 per cent. The committee note(s) that only regional preference given to Andhra Pradesh is that the power plants (in the state) have been allocated KG-D6 gas based on 75 per cent plant load factor (an indication of capacity utilization) whereas power plants outside Andhra Pradesh have been allocated (gas on the assumption that these will)... operate at 70 per cent PLF (plant load factor). The committee (is) ... of the opinion that this is an insignificant privilege given to Andhra Pradesh considering the quantum of gas produced in the state. Further, though the gas producing and nearby states have enough demand for gas, it is transported from (the) east to (the) west coast and vice-versa thus entailing extra expenditure increasing the cost of gas. The committee feel(s) that utilization of gas in nearby areas or states, could be more pragmatic and economical than transporting it to longer distances until a nationwide gas pipeline network is in place....
In the case of (the) KG-D6 basin which is one of the biggest discoveries of natural gas in recent years, the royalty on the production accrues only to (the) central government and no revenue is earned by the Andhra Pradesh state government. As the royalty payments to states where the natural resources are located and produced is substantial, as seen in the case of Rajasthan where (the) state government is earning to the tune of Rs 5,000 crore per annum by way of royalty from (the) Barmer (gas and oil) fields, depriving other states of (their) rightful share of royalty from offshore fields is unjustified. Even though, the offshore fields lie in coastal areas, the contractors would set up offices and source other infrastructure to carry out the work in adjoining states.... Hence, it is reasonable for the state to expect some benefits from such economic activities being carried out adjacent to their coast (which) will incentivize the states to extend all cooperation to carry out the exploration and production activities.

The committee also opposed the Rangarajan formula that included high LNG rate as one of the parameters while calculating gas prices; and questioned the strategy of trying to attract investments on the basis of high gas prices because the earlier increase in the administered prices of gas rates did not attract investors. The committee also recommended that pricing domestic gas be denominated in US dollars and sought a review of the recommendations of the Rangarajan Committee. In other words, the Parliamentary committee concurred exactly with what all the critics of the government and RIL had been arguing or claiming. The panel stated:

The proposed formula is a simple average of two methodologies. In the first method, it takes the price of imports of LNG into India by different suppliers while in the second method, the weighted average of prices of natural gas prevailing at Henry Hub (HH) in USA, National Balancing Point (NBP) in London and netback import price at the well head of suppliers into Japan in the preceding quarters is considered.
The committee ha(s) noted that during the year 2012, the natural gas prices in these three selected hubs were around $2.5 to 3.5 per mBtu in HH (USA), $8 to 10 at NBP and $14 to 16 at Japan respectively. However, it is to be observed that the benefit of lower gas prices at HH has been largely diluted by the inclusion of Japan’s LNG FoB (freight on board) prices which include (a) 60 per cent royalty component linkage to JCC (Japanese Crude Cocktail) and host of other factors. The note prepared by ministry of finance for the EGoM on the Rangarajan committee formula argues that there is no logic in inclusion therein of the consumption by Japan which is having very high import LNG price and that nowhere in the world, wellhead prices of natural gas has been linked to spot LNG contract basis. The committee find(s) merit in this view of the ministry of finance.
The committee further observe(d) that Russia, being the second largest among the gas producing and consuming countries, exporting 40 to 50 percent of its gas to Europe at a price of about $8.77 per mmBtu, could (provide) a valuable and better indicator of (the) gas price. The committee desire(d) that Russian prices ... be incorporated as one of the reference price(s) in the pricing formula. The committee would also like to point out the glaring omission of factoring of domestic cost of production of natural gas by NOCs (national oil companies) namely ONGC and OIL which was pegged at $3.63 and $3.21 respectively during the year 2012-13. Similarly the cost of production for RIL in 2012-13 stood at $2.48 per mmBtu from (the) KG-D6 field. The committee would further like to highlight that the price of domestic natural gas need not be dollar denominated due to huge volatility in dollar vis-à-vis rupee which often leads to gains to operators for no reasons and adversely impact(s) the (finances of the) government... As the present price of $4.2/mmBtu at an exchange rate of Rs 45 (to one US dollar) works out to be Rs 189/mmBtu and, as... Rs 60/$equals ...Rs 252/mmBtu ... (this would imply that a) 30 per cent windfall gain (would) accrue (to the operator) due to the rupee devaluation from Rs 45 to Rs 60 against the US dollar.

The committee also recommended a thorough review of the government’s entire strategy of price-led investment growth, after observing that the flow of private investment in exploration was tapering every year from 2009–10 onwards despite the substantial hike in gas prices and the drastic decline in domestic gas output.

The Committee note(s) that (the) KG-D6 basin is one of the successful discoveries in the NELP regime which gave hope to the country in its quest for exploration of hydrocarbon resources. The committee note(s) that the planned production as per the approved field development plan (FDP), which was 33.83 mscmd in 2009-10 was to go up to 86.73 mscmd in 2012-13. However, the production from the KG-D6 basin started declining... the actual production was 55.89 mscmd in 2010-11 and 26.18 mscmd in 2012-13.
The... success story of (the KG gas basin and the) NELP regime (attracted)... private companies and MNCs (multinational corporations to explore gas) ... which until then (a domain of national oil companies)... However, the contractor has not adhered to the measures suggested by the upstream regulator DGH to drill wells to increase natural gas production. Also, coincidentally, the demand for increase in the price of natural gas by the contractor over and above the discovered price by arm length mechanism as provided in the PSC has also brought (in a) question mark regarding the interest of contractor to abide in the sanctity and stability of the PSC.

Drawing the attention of the government to the Supreme Court's observation that natural resources are national assets and must be utilised for the larger good of the people, the Vundavalli Committee urged the petroleum ministry to explore all possible options and take corrective measures to increase the natural gas production from KG-D6 as observed in the Goplakrishnan report commissioned by the DGH:

The committee also observe(d) that the DGH had commissioned a study by an expert on the decline in production and the expert has concluded that reserves as estimated earlier, which is around 10 tcf (trillion cubic feet) are still available and remedial measures will help the production to go up. The expert has also observed that the shortfall in gas production is due to non-drilling of adequate number of wells as per ADP (Approved Development Plan) and delays in commissioning additional producers would trigger water drive in the reservoir and consequent reduction of the ultimate recovery as a result of water encroachment as well as permanent loss of some of the gas reserves. Based on the aforesaid report the cost disallowance amounting to US $1.005 billion has been imposed upon the contractor which the contractor has taken for arbitration. The committee would like to point out that Supreme Court has observed that natural resources are national assets and are to be utilized for larger good of the people. Therefore, the Committee would recommend to MoPNG to explore all possible options and take corrective measures to increase the natural gas production from KG-D6 basin, as observed in the study commissioned by DGH.

On 10 December 2013, an 'action taken' report was presented by the government which indicated that no action had been taken against RIL for the reduction in gas output from the KG-D6 block because the company had not adhered to the recommendations of the DGH to drill more wells, install a compressor to increase gas recovery and revise its field development plan. The same day, the DGH rejected two discoveries of gas claimed by RIL—D39 and D41 in the KG- DWN-2003/1 block—that had made declarations of commerciality (DoCs) on the basis of the older gas price, calling those unviable (*Business Standard*, 8 January 2014). Shine Jacob of *BS* wrote that the DGH had stuck to its stand that the D39 and D41 discoveries were unviable and the regulatory authority had not considered the need for a review of its position even after the CCEA's decision to accept the gas pricing formula of the Rangarajan Committee which would effectively result in a doubling of gas prices from 1 April 2014. Based on a DoC filed by RIL in January 2013, DGH had stated that 'D39 and D41 generated negative net present value (NPV) of $520 million, considering the incurred cost of $305 million.' Jacob added that the DGH had decided not to change its stand even as the Planning Commission, in its half-yearly review of the energy sector in September 2013, pushed for the new gas price as the basis for NELP field pricing.

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Cutting through the technical jargon, a few main points were clear. The regulatory body, the DGH, was exercising its independence and autonomy. Importantly, it was headed by a technocrat who was a Jaipal Reddy-appointee. His actions were construed as pin-pricks against RIL. On 2 November 2013, it was formally announced that director general, hydrocarbons, R.N. Choubey would be replaced by B.N. Talukdar, former director, exploration in the public sector Oil India Limited and that his appointment had been cleared by CVC.
In July 2013, the DGH had recommended the levy of an additional penalty of $781 million on RIL, a figure that went up to $792 million by November with interest being added, disallowing the company

cost recovery for falling gas production in 2012–13, which stood at an average of 26.07 million cubic metres a day against the target of 86.73 million cubic metres. The DGH had directly held RIL responsible for not drilling all the 31 wells it had committed to drill. After cost disallowance for 2012–13, RIL would still have to pay the government a total of $114 million in the form of 'profit petroleum', of which a sum of $103 million was pending. This was stated by petroleum secretary Vivek Rae. The RIL-BP consortium had invested $5.678 billion in developing D1 and D3 fields in the KG-D6 area and another $1.74 billion in the MA field in the same area. Operating costs stood at another $1.774 billion. Rae was quoted by *PTI* on 12 September saying the law ministry was being consulted on the levy of the penalties of RIL.

Meanwhile, CPI MP Dasgupta continued his protests He wrote again to prime minister Manmohan Singh pointing out that the principle of disallowing cost recovery had already been established in 2012 after due diligence, accepted by the then solicitor general of India, the Union law minister and finally by the then petroleum minister Jaipal Reddy. Dasgupta added that petroleum secretary Rae and Giridhar Aramane, joint secretary in the ministry, had 'endorsed' the report of the DGH and passed appropriate orders for cost recovery to the tune of $1.8 billion and $114 million in the form of 'profit petroleum' within 30 days. 'The reference to the law ministry is yet another attempt by the petroleum minister (Moily) to delay and obfuscate issues to give undue benefit to RIL,' Dasgupta wrote, accusing the minister of overruling the advice given by his own ministry's bureaucrats.

RIL, on its part, registered its disaffection through a letter of 'complaint'. P.M.S. Prasad wrote a letter to Rae, excerpts of which were quoted by Rajeev Jayaswal in the *Economic Times (*12 September), who said he had perused what had been written. RIL disputed the issues raised by the DGH on the company's testing methods. Prasad wrote that 'the action is clearly an afterthought, based on an arbitrary decision and is tantamount to disputing completely valid discoveries made at the contractor's risk'. The DGH had asked the contractor to undertake a drill stem test (or a test that measures pressure behaviour at the drill stem, provides information on 'formation fluid' and establishes whether a well is a hydrocarbon reservoir that can be commercially exploited). The test was meant to ascertain the viability of the D29, D30, and D31 fields, the three new gas finds by RIL. Prasad requested that the DGH be asked to 'rectify the errors and remove the hurdles' which was 'needlessly delaying further progress in these discoveries'. The DGH had also asked that five other discoveries (D4, D7, D8, D16 and D23) be relinquished since their field development plan (FDP) had not been submitted in time. Prasad claimed that neither the regulator nor the petroleum ministry had ever informed the company through the Management Committee or in any other way, of the need for a 'separate FDP for these five discoveries'. Then came the hint of a warning. Prasad wrote that RIL was unnecessarily being projected as a defaulter and the government's move towards 'forcing the contractor to relinquish discovered resources will not only hurt the investor but considerably reduce the chances of many of these discoveries ever being produced in the future.' He added: 'As (a) contractor having spent enormous amount of time and money on bringing these discoveries to fruition, we stand to suffer immensely if pushed to a situation of forced relinquishment of rightful discoveries.' Prasad's views were echoed by Sashi Mukundan, regional president and country head of the BP group, which had invested $7.2 billion in the venture. In an interview with Sujay Mehdudia of *TheHindu* (16 September 2013), he claimed that RIL was not suppressing gas production. The fields had turned out to be more complex than what had been originally assumed and that recoverable reserves had to be reassessed to 3 trillion cubic feet (tcf) from the 10 tcf initially estimated. He added,

The pre-production assessments made by the operator were certified by an international consultant and reviewed and endorsed by the government to be around 10 tcf. Facilities to produce this quantum of gas were designed and necessary approvals were given by the government. As production

commenced, it became evident that the field was more complex than originally envisioned, and detailed technical assessment shows that around 3 tcf of gas can be ultimately recovered from D1-D3.

Mukundan also sought to emphasise that RIL was prudent, responsible and following international best practices to optimise hydrocarbon recovery. He said in this regard:

D1-D3 fields have so far produced over 2 tcf of reserves and has another 1 tcf plus left to produce. With the downward revision of reserves by 7 tcf, international prudent development practices would not support drilling additional wells as it does not make technical or commercial sense. BP fully agrees with the operating practices of RIL. It would result in inefficient spend and potential accusations of increased cost recovery.

Commenting on the government-appointed technical expert P. Gopalakrishnan's suggestion that gas output had fallen because of RIL's failure to drill the adequate number of wells as per the approved development plan, Mukundan opined that it would 'result in an inefficient spend of over $2 billion with no economic benefit'. 'The plan is to produce the remaining D1, D3 reserves efficiently by performing work-overs, installing compression while continually looking for additional opportunities in the field,' he added, endorsing RIL's views.

BP's Mukundan said the estimated pre-production gas volume was too large, and this was realised as the fields started producing. 'An initial over-estimate of volumes is by no means unheard of in the oil and gas industry,' he said defending the RIL consortium's record.

He said that RIL was 'aggressively progressing to arrest the decline in D1 and D3' following government approvals that had been on hold for three years. Mukundan also said that they expected the field to continue producing till compression was installed in 2015, when they anticipated incremental production in the field. Stating that more than a dozen discoveries in the KG-D6 block amounting to about 2.5 tcf of resources were awaiting various approvals, he added that 'current production could have been 50-75 per cent more than today's levels had timely approvals been received'.

Deftly blaming the government, the BP executive claimed that had approvals come on time, the first well dug would have 'commenced production around 2014 adding to/sustaining the gas supply from KG-D6'. Now, with the delay, production had been pushed to 2017, or even 2018, at a huge cost to the nation, he added. Mukundan also debunked the view that higher gas pricing would benefit RIL and its partners and said that it would benefit the national oil companies such as ONGC and OIL since they accounted for '80-85 per cent of domestic gas produced in India'. On being asked about the rationale for a hike in gas prices, he reiterated the position taken by his company and RIL that higher prices were necessary for long-term investment decisions:

On the east coast, deepwater construction activities can only take place during the December to April weather window. It hence takes 3-4 years after an investment decision to procure, construct and install facilities and for a field to start production. Investment decisions made today will yield additional production only from 2017. The PSC allows for the contractor to discover an arms-length market-determined price for gas produced. The intent is to ensure value is maximised for all partners, including the government. Gas price for our current production was agreed and fixed till April 2014. With a lack of clarity on arms-length prices beyond that period and in the absence of freedom to discover such price, it becomes difficult for RIL or BP to sanction investments to develop the 4-5 tcf of discovered resources.

When asked whether higher domestic gas prices would have an adverse effect on the economy, Mukundan sought to 'dispel this false notion'. He went back to the argument that at market-level prices, a large share of the profits from increased revenues would go to the government, in addition to earnings from royalty and taxes. Citing a study by IHS-CERA, a global energy strategy advisory firm, he said that an average of 30 per cent of all revenue generated would go to the government as profit share, taxes and royalty, another 40 per cent would be invested in infrastructural facilities and 15–20 per cent would comprise operating costs. He also said that only 'experienced players' would undertake the risk of investing. The alternative, he argued, was limited investments and more energy imports for India. 'One should bear in mind that the alternative to higher domestic gas price is not domestic gas at lower price. It is actually, no domestic gas and more imports.'

When asked why BP was not participating in the NELP rounds of auctions, Mukundan highlighted what he called 'regulatory logjams'. He said that production from over 10 tcf of discovered resources, with potential to provide 80–100 mscmd of gas was awaiting approval, and that over 200 decisions were pending at the end of 2012. 'Unfortunately, in the last few years, administrative focus and decision making has moved away from enabling activities. The focus is now on protecting notional government revenue. This focus is stifling activity and as a result very few activities to bring on new production are getting through,' claimed Mukundan, adding that BP was the only international player of significance which had committed investments in India's upstream oil and gas sector and was the single largest foreign direct investor in the country. He said,

Within two years of our presence, together with partners, we have had two major discoveries in the KG and Cauvery basins. We are working with our partner to develop the 4-5 tcf of existing discovered resources. All of this despite of the fact that we have seen the sanctity of contracts challenged multiple times and day- to-day approvals stuck for years, grinding business to a standstill.

He claimed that this was why Indian exploration and production companies were investing abroad. Clearly the stakes had become high for RIL and BP, whose spokespersons were being called to counter the government's critics. On 19 September, Prasad led a team of executives in a meeting with petroleum secretary Rae after which RIL and BP put out a joint statement that read:

The meeting with senior ministry officials of the ministry of petroleum and natural gas today is a positive step to resolve long drawn issues in the KG-D6 block, impacting some of the existing satellite discoveries. We believe that any decision will be taken in the best interest of energy security of the country.

Rae was quoted by journalists as saying that the government would like to resolve all issues as quickly as possible instead of importing gas at $14. 'We want to quickly bring out gas, but within a legal framework,' he said, adding that the 'PSC does not provide for delayed submission of the DoC (declaration of commerciality) or FDP (field development plan).'

With the RIL-BP view tilted against the DGH-initiated Gopalakrishnan report, it was not long before demands for an assessment by an 'independent' consultant acceptable to both the government and the contractor started surfacing. On 25 September 2014, in an article in the *Economic Times* titled 'Mukesh Ambani Co. on the offensive', Supriya Shrinate and Shuchi Srivastava reported that the petroleum ministry had 'initiated a note for the Cabinet to appoint a reputed consultant to verify if gas output at the KG-D6 block fell because of a geological surprise as Reliance Industries says, or the company deliberately suppressed output in anticipation of higher prices'. Terming the controversy around the gas price hike a 'dispute', the report stated that the company still had 'to cope with attacks

from Leftist politicians such as Dasgupta, customers in the power and fertiliser sectors who want cheap gas, as well as some sections of the government.' Minister Moily came out as the healer who had 'pushed for quick resolution of conflicts involving various companies in the sector'. The report also mentioned that RIL had argued that if the petroleum ministry accepted the logic of the DGH that there was more gas to be had from the declining oil fields, it should get the public sector ONGC to 'drill additional wells and take away all the new production'. The report also recalled that minister Moily had told reporters that an earlier proposal prepared for the Cabinet to deny higher gas prices to RIL for D1 and D3 had not been sent to the Cabinet since there were legal and contractual implications.

On 27 September, another report in the same newspaper by Rajeev Jayaswal stated that the government was mulling over a new exploration licencing regime which would 'unify and simplify the policies for oil and gas, coal bed methane and shale', and do away with the practice of cost recovery which had caused all the problems between the petroleum ministry and RIL. Instead, companies awarded exploration blocks would share revenue from the first day of production. Apparently the proposed system, outlined in a draft policy, was designed to eliminate the necessity for CAG audits and would limit the role of bureaucrats in managing the fields, with the long-winding procedure of the DGH having to clear a discovery being negated. The new policy was aimed at providing incentives to the contractor to keep costs down, and enhance profitability. The report quoted an unnamed petroleum ministry official claiming the following about the extant policy:

It lacks the incentive to keep costs down for the operator; requires constant micro-monitoring by the government to protect the government's stake, leading to procedural delays and arbitrations. These constraints increasingly overshadow the basic government objectives of energy security through the expeditious development of hydrocarbon resources available in the country while simultaneously conserving and promoting their efficient use. The government, while remaining committed to guard the natural wealth available within our frontiers, needs to promote judicious development of oilfields.

The name of the possible 'independent' international experts came out in a detailed report by Sujay Mehdudia in the *Hindu* on 1 October, wherein it was revealed that the Management Committee headed by DGH R.N. Choubey had refused to take a view on the appointment of consultants, Ryder Scott Company, DeGolyer and MacNaughton (D&M), Gaffney, Cline & Associates (GCA) or Netherland's Sewell &Associates. The necessity for a fresh look by independent experts was included in the petroleum ministry's Cabinet note which was also seeking to deny the benefit of the price revision on the expiry of the existing $4.2 per mBtu rate in April 2014 to gas produced from the old gas fields in the KG-D6 basin. Petroleum secretary Rae said that the note had been put up for inter-ministerial consultations.

It is going to the Cabinet for a final decision... The shortfall in gas production was around 1.19 tcf (trillion cubic feet) in the past three years. Whether the shortfall is deliberate or not deliberate, this has to be decided by (the) technical expert. Once the expert decides it was not deliberate, the new gas price formula will apply. If they decide it was deliberate, the formula will not apply.

Rae clarified that the appointment of international experts would be decided by the petroleum ministry not the Cabinet. On 5 October 2013, the *Hindu* reported that the ministry continued to 'drag its feet' on the relinquishment of 6,601 sq km or at least 86 per cent of the contract area, that the relevant file was pending with minister Moily at least since 16 June 2013. (On that day, the minister had stated: 'Automatically, technically applying a rule is good for you [but] it is not good for the

country'.) The report recalled that ministry officials had agreed with the DGH that RIL had exceeded the time limit given to it for developing the area and thus, as per the terms of its contract with the government, it should relinquish most of the KG-D6 area it was occupying—a kind of 'land grab' in the ocean bed of the Bay of Bengal.

Meanwhile, MP Dasgupta continued sending letters to the prime minister. He urged him to intervene and direct the petroleum ministry to ensure relinquishment of area. He alleged that if the area was relinquished and the discoveries handed over to the public sector ONGC for production, the government could realise Rs 60,000 crore through sale of gas from these discoveries. Reports of the replacement of the DGH head, R.N. Choubey had already begun surfacing in October 2013. *Business Standard* had reported on 4 October that Choubey's term as DGH would not be extended because when he had been selected for the post in 2012 by the then petroleum minister Jaipal Reddy, his appointment had not been cleared by a selection panel, and the position had not been advertised. In his letter to the prime minister, Dasgupta also raised the issue of what he described as a 'witch-hunt' of honest officers in the petroleum ministry, specifically DGH Choubey. 'We are witnessing a sorry spectacle of the private contractor [RIL] trying to browbeat its own regulator [DGH] who is an honest officer trying to uphold public interest, and the government has remained a silent spectator,' wrote Dasgupta.

Even as these controversies raged, the CAG of India was continuing with its work. An earlier article by Akshat Kaushal and Shine Jacob in the same newspaper on 25 September claimed that the CAG was likely to take both the regulator and RIL to task for allegedly hoarding gas. An unnamed senior CAG official told the newspaper's journalists that a forthcoming audit report would 'clearly mention that the regulator (DGH) had failed in examining whether an intentional hoarding of gas by RIL caused a loss to the exchequer'. In their view, though there were some steps taken by the DGH, these were not enough to ascertain if there was hoarding. The official also said that the CAG report could also assess whether the price of D1 and D3 gas should be raised to $8.4 mBtu till the company could met its earlier supply commitments. The CAG, which has been auditing the spending on the KG-D6 basin from 2008–09 to 2011–12 at the request of the petroleum ministry, was expected to highlight the loss to the exchequer due to production falling to 3 tcf against the 10 tcf expected earlier. The report pointed out that A.M. Bajaj, principal director of audit (economic and service ministries) in the CAG's office had written a letter seeking the intervention of petroleum secretary Vivek Rae as RIL was not furnishing the required financial statements to the government auditor. The audit team had issued 96 audit requisitions, including those for various records from 2008–9 to 2011–12. RIL had been maintaining that the CAG cannot perform a performance audit as the PSC allows it to look only into financial aspects.

According to a report in the *Hindu* (23 September 2013), the CAG had asked the petroleum ministry the reasons for the delay in execution of transnational pipeline projects such as the Iran-Pakistan-India (IPI) pipeline, Turkmenistan-Azerbaijan-Pakistan-India (TAPI) gas pipeline and the almost-defunct Myanmar-Bangladesh-India gas pipeline. These were part of the CAG's draft performance audit report on 'supply and pricing of natural gas'. This report indicted RIL and the central government for the fall in domestic fertiliser production. The *Hindu* (7 October) quoted from the report:

Non-availability of natural gas has been a major constraint in further addition of indigenous production of urea. The government could not provide assured supply of gas on a long- term basis while pipeline connectivity remained poor, crucial to investment and modernisation of plants in fertilizer sector. Hence the objective of enhancement of production capacity, self- sufficiency in urea production and savings on subsidy could not be achieved. Therefore, the agriculture sector remained

dependent on imports to the extent of 475.29 lakh tonne during the last nine years due to shortfall in domestic production which resulted in a subsidy outgo of Rs 79,743 crore. Had the envisaged production enhancement projects materialised, subsidy savings on domestic production of urea by using LNG/RLNG (liquefied natural gas/ re-gassified liquefied natural gas) would have been Rs 8,159 crore during 2011-12 in lieu of import of 78.34 lakh tonne of urea.

* * *

On 10 October, the *Economic Times* reported that the petroleum ministry intended seeking Cabinet approval for a 'general amnesty scheme' for oil and gas operators which would allow companies like RIL to retain control over gas fields containing reserves worth some
$10 billion which they had been asked to relinquish for failing to meet deadlines. There had been complaints that in the light of adverse audit comments by the CAG, petroleum ministry official were unwilling to take decisions that could trigger investigations thereby delaying investments. The ongoing arbitration between the government and RIL had cast its shadow on efforts to resolve disputes, the newspaper stated. The proposed Cabinet note would resolve all operational issues affecting 30–40 discoveries in several blocks including Reliance's KG-D6, *ET* claimed, quoting a government official who requested anonymity. It recalled that after the DGH asked RIL to surrender over 80 per cent of the area in the KG-D6 block, including eight gas discoveries, a Cabinet note had been prepared to disallow the company from benefiting from the higher gas prices that were produced from the old D1 and D3 fields.
Based on this newspaper report, E.A.S. Sarma, bureaucrat-turned- activist, wrote to the prime minister saying that a general amnesty scheme for oil and gas producers would sound a death knell for the sanctity of sovereign contracts and severely erode the credibility of the Indian government. He indicated that the word 'amnesty' in itself implied an offence committed by the beneficiary:

Sovereign contracts are founded on Article 299 of the Constitution and they need to be read in conjunction with the other provisions of the statute. The production sharing contracts (PSCs) executed by (the) MPNG (Union ministry of petroleum and natural gas) with RIL and the others come under this provision. A strict compliance with the PSC on the part of MPNG and the franchisee company is a prerequisite to send a strong message to all prospective candidates seeking entry into the arena of hydrocarbon development that the government would uphold the sanctity of such contracts on its part and expect the franchisees also to respect their own contractual obligations. Article 4 of the PSC deals with the franchisee's obligation to carry out (a) certain minimum work programme in each exploration phase. It provides an option to the franchisee, at the end of each exploration phase, either to move on to the next exploration phase or to terminate the contract at that point of time. The time-frames laid down in the PSC for the three exploration phases are three years and two years each respectively.
At the end of the first exploration phase, the franchisee is obligated to relinquish 25 per cent of the franchise area. Similarly, at the end of the second exploration phase, the franchisee is required to relinquish another 25 per cent of the area. Under article 4.4, the franchisee is permitted to retain only the development and discovery areas subject to relinquishing the minimum areas at the end of each of the earlier two exploration phases. Relinquishment is mandatory under Article 4. It cannot be subject to the whims and fancies of either the franchisee or the functionaries of MPNG! From the audit reports of CAG and as per the reported views of the present DGH, it is evident that the senior functionaries of MPNG and DGH had colluded with RIL in the past and allowed the company to make undue gains by giving a go by to the various provisions of the PSC, including the obligation to

relinquish portions of the franchise area as envisaged in Article 4. Article 4 of the PSC is crucial as it would have placed pressure on the franchisee to invest prudently and ensure carrying out efficient and expeditious exploration activity within the prescribed time frame in each Exploration Phase. It would have given an opportunity to the government to take back the relinquished areas and put them to auction once again to the prospective players, thereby maximising the probability of new discoveries. By not complying with the requirements of Article 4, the concerned functionaries of MPNG had deprived the government of this potential advantage and hurt the public interest. Apparently, those responsible for this have no concern for the oil security of the country and the need to protect the national interest. It is ironic that the those at the helm of affairs of MPNG today are blissfully insensitive to this concern.

In a similar vein, Sarma had earlier written an article in the *Economicand Political Weekly* in July 2013 in which he had argued that by allowing repeated violations of the PSC, the government was conveying a wrong message to future investors, namely, that they could mock at the sanctity of contracts and the law of the land. He had written:

The government has erred by extending the new gas prices to the already developed gas fields in the KG basin and elsewhere. Finally, natural gas is a public resource and the government is merely a trustee for the people. The Doctrine of Public Trust obligates the government to ensure that gas resources are developed on scientific lines and that the social returns maximised. In the case of the KG basin, the government has failed this test.

In a follow-up letter, Sarma wrote to the Cabinet secretary A. K. Seth on 30 October on the issue of circumvention of the provisions of the PSC by RIL thereby causing a loss to the exchequer. Sarma quoted a Right To Information (RTI) reply from the sitting DGH indicating that the directorate was aware of the prevailing situation and had recommended that RIL should be directed to relinquish eight blocks—D4, D7, D8, D16, D23, D29, D30, and D31. Quoting a report in the *Financial Express* (29 October), Sarma protested that petroleum minister Moily had overruled the DGH’s recommendation and decided that RIL be allowed to retain three blocks—D29, D30 and D31. He contended that the minister’s proposal would turn out to be problematic for the government:

The reported proposal of the minister for petroleum will land the government in a serious controversy as the five blocks proposed for relinquishment contain only 0.8 tcf of gas, whereas the three blocks proposed to be left with RIL contain 3.2 tcf, out of which RIL has already inappropriately drawn 2 tcf. RIL had initially declared the gas resources in the eight blocks to be 10.2 tcf, misleading thousands of unwary investors who trusted RIL and invested in the company. RIL’s misleading disclosure also induced several power companies downstream to invest on gas- based power projects. Their projects have become dysfunctional as a result of RIL’s failure to supply them gas as planned. The direct and the indirect costs to the economy on account of these failures on the part of RIL should have been quantified by now and recovered from RIL.
Instead, for reasons best known to it, the government had chosen to appoint the Rangarajan Committee in contravention of the PSC and reward RIL by doubling the price of the gas produced even from the already developed gas blocks. The interpretation of the PSC should not be left to the political executive. In the normal course, one would have expected the government to entrust this responsibility to a statutory regulator but, for some inexplicable reason, despite several letters from me, the government had deliberately chosen to allow politics to determine the enforcement of the PSC, thereby hurting the public interest irreversibly.

I believe that the Union Cabinet is entitled to be apprised of these implications. I request you to direct MPNG (Union ministry of petroleum and natural gas)to obtain the view of the law ministry before acceding to circulate MPNG's proposal for the consideration of the Cabinet. I believe that the Union Cabinet should be prudent enough to enforce the PSC strictly and ensure that RIL relinquishes all the eight blocks to safeguard the public interest.

* * *

Moily had, of course, by then become the government's 'Mr Dependent' as the Economic Times fondly labelled him in a report on 12 January 2014. After Jayanthi Natarajan was suddenly moved out as minister of environment and forests on 21 December 2013 ostensibly for doing party work, Moily was given charge of this crucial portfolio. The newspaper quoted a senior Congress functionary and Moily's colleague in government as saying that the man of the moment was not one to shy away from responsibilities. Moily had an onerous task on hand. This person asked: 'Who would want to clear piles of pending files at the fag end of the government, just a few months before elections, at a time when *babu*s are gripped by policy paralysis fearing that investigative agencies would hound them in the next government?'

Moily is a man of action. He was publicly applauded by prime minister Manmohan Singh at the Petrotech conference held on 13 January. Singh said in his inaugural address:

Development of the hydrocarbon sector required particular attention in the country that produces 2.5 per cent of the world's energy but is the fourth largest consumer and will become the third-biggest by 2020.There is a need to bridge the ever-increasing gap between demand and domestic supply. With this in mind, we are encouraging domestic and global companies to explore potentially hydrocarbon-rich areas in the framework of a stable and enabling policy environment.

Singh called for resolute efforts to bridge the gap between energy imports and domestic production to fuel India's economic growth, while Moily stressed the need for staying the course with bold decisions even in the face of criticism. It was a different matter that although industry leaders at the conference advised caution, Moily was more than optimistic. He said the government would reconcile the reports of the committees headed by Kelkar and Rangarajan to take care of investor concerns. 'The terms and conditions will be decided later when we finally call for the bids. There will be no policy uncertainty,' he said.

With the environment ministry also under his belt and with Moily believing that there were no conflicts of interest in the same person holding both ministerial portfolios, he claimed that a 'fear psychosis' among bureaucrats and his predecessors was to be blamed for delay in approvals from the environment ministry. He suggested that clearances were delayed because rules are complicated and the competent authority had discretionary powers. 'You can't blame anybody. The environment is such that there is a fear psychosis, particularly after 2009, created because of the CAG reports, court verdicts, court proceedings. There are issues like the National Green Tribunal, CBI inquiry. Not only on this (environment) thing, but all matters,' he said.

Perhaps only Moily could be as brazen as he was. By 13 January, in less than three weeks as environment minister, he had reportedly approved the establishment of projects worth Rs 1,00,000 crore. He was apparently clearing between 80 and 100 pending files every day! in one sweep, he cleared the controversial steel plant project in Odisha being set up by South Korea's Posco envisaging an investment of Rs 54,000 crore, the biggest ever single foreign direct investment in India bigger than even BP's investment in RIL. Other large projects approved by Moily included a 2,800 MW

nuclear power project at Gorakhpur, Haryana, with an investment of Rs 23,000 crore and a 800 MW hydro- electricity power project in Arunachal Pradesh with an investment of Rs 6,000 crore, besides projects in the coal and petroleum sectors.

Moily, the PM's blue-eyed boy and smooth-talking troubleshooter, used to be derogatorily described as 'Oily Moily' long before he became petroleum minister. Profiling his rise in *Outlook* magazine (21 October 2013), Lola Nayar wrote that this nickname was coined after Moily, then a young legislator in 1984, was accused by an independent member of the legislative assembly of Karnataka C. Byre Gowda of offering him a bribe of Rs 2,00,000 to defect to the Congress party. A sting operation was conducted by Gowda and recorded tapes were released resulting in a setback to Moily's image as a bright legislator who had been handpicked and groomed by the state's then chief minister Devaraj Urs. He had been made junior minister within three years of being elected to the assembly and first made minister for small industries (1974–77) and then minister for finance and planning (1980–82). Between 1983 and 1985, he was leader of the Opposition in the Karnataka. For five years after the sting operation, Moily was sidelined. He became the Karnataka government's minister for law, youth service, culture, information, parliamentary affairs and education between 1989 and 1992 before becoming the state's chief minister for roughly two years.

A lawyer by profession and a loyalist of the Gandhi-Nehru family, Moily had served on and headed a number of official committees. Former prime minister Indira Gandhi had made him part of a panel that recommended the establishment of the National Bank for Agriculture and Rural Development (NABARD) as part of the Reserve Bank of India. From 2000 for four years, he headed official committees on administrative reforms, including reforms of the country's taxation and revenue collection systems and between 2006 and 2009, he became chairman of the oversight committee for implementation of 27 per cent of the seats in central educational institutions for those belonging to the 'other backward classes' or OBCs. He thereafter served in important positions in the Union government in Delhi holding the power and corporate portfolios, among others. He was law minister between 2009 and 2011 when the Ambani brothers were fighting it out in the courts. As already detailed earlier in this book, the older Ambani sibling Mukesh won the legal battle in the Supreme Court. And, as also already mentioned, in October 2012, Moily replaced Jaipal Reddy as minister for petroleum and natural gas under controversial circumstances.

Moily took questions from *Outlook*'s Nayar on 9 October after he had taken the Delhi Metro to reach his office as part of his drive to promote fuel conservation and help cut India's massive oil import bill. The minister did not answers questions relating to his son Harsha Moily, who was associated with organisations that received funds from particular companies when he was holding the post of minister, corporate affairs. He told his interviewer: 'I will not be timid in taking decisions while ensuring that the rule of law is abided by,' while clarifying his statement in context of the controversy relating to KG gas that 'automatically, technically applying rules is good for you (but) it is not good for the country'. He was at pains however, to explain that he did not mean that 'the rule of law will be broken...in taking a decision, the interest of the nation will prevail'.

In 1993, Moily had also been named in a chargesheet filed by the CBI in what came to be popularly known as the Jharkhand Mukti Morcha (JMM) bribery case. The then prime minister of India P.V. Narasimha Rao had been accused of engineering defections by bribing members of Parliament, including some belonging to the JMM, in order to obtain the support of a majority of MPs before a vote of confidence. It was alleged at that time that Moily had been deputed by the Congress high command to arrange finances—including obtaining funds from a liquor baron in Karnataka—to help 'buy' the support of the defecting MPs. After this controversy, Moily maintained a relatively low profile for a while. Whenever he has not held prominent political positions, he has been a prolific writer of books and plays in both Kannada, his mother language, and in English. Among his many

publications are a five-volume treatise on the *Ramayana* and an English book on India becoming an economic superpower titled *Unleashing India*.

Besides the prime minister and Sonia Gandhi, Moily was close to the late chief minister of Andhra Pradesh Y.S. Rajasekhara Reddy. *Outlook*'s Nayar has written that it was probably with YSR's clout that Moily won the 2009 Lok Sabha elections from Chikballapur near Bangalore after losing three times from Mangalore and Chikmagalur. Ironically, Moily was with YSR when he was fighting against Reliance for Andhra Pradesh to get a larger share of natural gas from the KG basin. According to Ramakrishna Upadhya, a senior editor with *DeccanHerald* in Bangalore, when Moily was chief minister of Karnataka, he took on 'big moneybags to reform admission to professional colleges'.

However, as far as Reliance is concerned, Moily's critics claim he has bent over backwards to accommodate the interests of the corporate group and failed to penalise it. The most recent example of such alleged favours was his wholehearted support to double the administered price of natural gas.

RIL has expectedly welcomed the decision to hike the price of gas to \$8.4 per mmBtu from 1 April 2014 but preferred to call it only an 'interim step'. Company spokespersons have invariably argued that the price of gas should be 'freed' and determined by market forces. 'We welcome the adoption of (the) Rangarajan Committee('s) formula as a step in the right direction. However, gas sales have to be at competitive arms-length market prices,' RIL said in a statement. 'Accordingly, we hope the same momentum is maintained and as per the production sharing contract, gas markets are allowed to develop and transition to market price soon.'

There is no doubt that the higher administered price will benefit RIL as well as ONGC and OIL. On 15 January 2014, the global credit rating agency Standard & Poor's (S&P) put out a report saying that the government's decision to increase domestic gas prices would 'support the companies' (that is, ONGC's and RIL's) high capital expenditure plans... ' S&P stated that the new gas pricing mechanism would improve the cash flows and profitability of both ONGC and RIL to varying degrees. 'We anticipate that the increase in gas prices will significantly improve ONGC's operating profit by about 20 per cent, compared with 5-7 per cent for RIL,' it said, adding that the impact on RIL's profitability is not likely to be as significant given the company's low gas production of about 13 mscmd. While the government's announcement reduces uncertainty over future gas prices, S&P pointed out that 'uncertainty will continue for RIL, given a legal dispute over the government's ability to increase the gas prices for some of the company's gas blocks where production has significantly declined'.

The different disputes relating to RIL and the government were refusing to get easily resolved. The controversies were unwilling to die down.

14
POLITICS OF CRONY CAPITALISM

As the 16th general elections in India approached, the issue of crony capitalism, with specific reference to Reliance Industries Limited headed by Mukesh Ambani and the price of natural gas extracted from the basin of the Krishna and Godavari rivers in southern India, gained considerable political traction. The Aam Aadmi Party and the Left loudly and repeatedly alleged that the Union government was being controlled by India's richest man with the country's two largest political parties, the Indian National Congress and the Bharatiya Janata Party, in his pocket. This was why it was argued that the government wanted to double the officially-administered price of gas which, in turn, would result in the prices of electricity and fertilisers going up thereby adding to inflationary fires that have been raging for long. Inflation in general, and food inflation in particular, was arguably the single biggest issue agitating the electorate in India—never before in the history of the country had the prices of food gone up as rapidly as they had between 2008 and 2013, kicking the bellies of the poor, pinching the pockets of the middle classes and also widening the gap between the affluent and the underprivileged in an already highly- unequal society. Not surprisingly, the issues of crony capitalism, gas prices and the favours allegedly granted to those controlling India's biggest privately-owned corporate conglomerate, could be easily linked and neatly fitted into the political agenda of many of those opposed to the Congress and the BJP.

On 11 March 2014, as the country went into election mode, a bench of the Supreme Court comprising Justices B. S. Chauhan, Jasti Chelameswar and Kurian Joseph started hearing petitions calling for a stay on the gas price increase and cancellation or termination of the government's contract with Reliance. The petitions had been filed by CPI MP Gurudas Dasgupta, former Cabinet Secretary T.S.R. Subramanian, former bureaucrats E.A.S. Sarma and Ramaswamy Iyer, former Navy chief Admiral L. Ramdas and a non-government organisation, Common Cause.[1] Among the arguments forwarded by the petitioners were the serious concerns voiced by the ministries of finance, power and fertilisers on the impact of a higher gas price on the prices of power and fertilisers. The petitioners questioned the government's justification of why RIL should get the benefit of the new price even before it 'compensated' the people and the government for not delivering on its promised output of gas at the existing price. They also argued that a stay on the price increase would enable the newly- elected government to take a fresh view on the different controversies relating to extraction and pricing of gas.

Colin Gonsalves, advocate for Dasgupta, accused RIL of deliberately hoarding gas and said that the drastic shortfall in production needed to be investigated. He said that investments worth Rs 40,000 crore in gas-based power plants in Andhra Pradesh alone had been adversely impacted. These allegations were denied by RIL's lawyers led by Harish Salve. In a written submission to the court by legal firm Parekh and Company, the company questioned the CAG's observations by arguing that government auditors had scrutinised expenditure amounting to less than one per cent of the total contract cost being recovered and had arrived at 'erroneous' conclusions. It was argued that CAG's 'general observations' on the acquisition process had overlooked the fact that the gas field in question

was a deepwater field which was an 'extremely different field as compared to any other deep sea field in other parts of the world'.

Coinciding with the commencement of hearings in the Supreme Court, RIL issued three fact sheets and power-point presentations for the media which were titled 'In the court of the people', 'KG gas - the flame of truth' and 'Why KG gas matters to you' (reproduced in full in *Appendix 10*). The company replied to its critics through a series of terse statements. It said it was for the 'aam aadmi' (ordinary people) not the Aam Aadmi Party, adding that the 'basic drive that established RIL as a large empire was driven from the basic principle of fulfilling the needs of the common man—*roti*, *kapda* and *makaan*(bread, clothing and shelter)'. The company took aim at Subramanian by pointing out that the terms of the PSC that RIL signed with the ministry of petroleum and natural gas had been framed in 1997 when he was Cabinet secretary when neither the Congress nor the BJP were in power.

In the meantime, another new case popped up far away from Delhi, in the state where the Krishna-Godavari basin lies. On 10 March, on the basis of a petition filed by Palem Srikanth Reddy, an information technology entrepreneur and convenor of the newly-formed Jana Palana Party, asking for a 'fair share' of gas and royalties for Andhra Pradesh, the state's high court issued notices to RIL, the CBI, the DGH, the state government and the Union government.

The judiciary's view is crucial. As Dasgupta told *Frontline* (21 March 2014) in an interview, he had approached the court with a lot of optimism and the judiciary of the country had an important role to play in ensuring probity in public life. 'Only an investigation under the directions of the court can be impartial. No independent inquiry is possible when the petroleum ministry itself is in connivance with the company,' he said.

The veteran Communist parliamentarian, who was hanging up his boots after 25 years in the Lok Sabha, was commenting on the efficacy of an investigation into RIL by the Anti-Corruption Branch (ACB) of the Delhi government initiated by AAP's leader Arvind Kejriwal when he was chief minister of the government of the national capital. In one of the last acts of the 49-day AAP government in Delhi, a First Information Report (FIR) dated 11 February 2014 (see *Appendix 11*) was lodged against Mukesh Ambani, Union minister of petroleum and natural gas M. Veerappa Moily, former petroleum minister Murli Deora and the former director general, DGH, V.K. Sibal, for alleged conspiracy and collusion to defraud the exchequer. The five-page FIR with annexures was lodged under sections 420 (cheating), 120-B (criminal conspiracy) of the Indian Penal Code (IPC) and the Prevention of Corruption Act. It was filed on the basis of a complaint from four citizens, Subramanian, Sarma, Admiral R.H. Tahiliani, another former Navy chief who is head of the India chapter of Transparency International and lawyer Kamini Jaiswal. Three days after the FIR was lodged, on 14 February, the Delhi government led by Kejriwal government resigned. If anyone had any doubts about its intentions, AAP founder and lawyer Prashant Bhushan made his party's position clear on 17 February:

> It's clear that the upcoming Lok Sabha election is one of AAP versus Reliance as the latter controls the Congress and the BJP. We are not going to spare Anil Ambani either. We have chosen to focus on Reliance because it's the epitome of crony capitalism and how it influences policymaking in our country.

Kejriwal wrote to prime minister Manmohan Singh urging him to keep the gas price hike in abeyance till an investigation probe was completed, adding that a higher gas price would make the life of the common man 'miserable' since it would have a 'cascading effect on transport, domestic gas and... electricity prices'. He repeated the allegation that RIL had 'deliberately' curtailed production from the offshore KG gas fields to exert pressure on the government to hike the price of gas. Further, he claimed the government had failed to act against RIL even after the CAG pointed out instances of

‘negligence’ on the part of the company.

Kejriwal also claimed that RIL’s partner, Niko Resources of Canada, was selling gas to Bangladesh at $2.34 per unit on the basis of a 25-year contract to supply gas at that rate. He alleged that RIL’s cost of production of an unit of gas was less than a US dollar—$0.89 per unit in 2009–10. He said that the impact of the hike would cost the country a minimum of Rs 54,500 crore every year and allow RIL to make a future windfall profit of up to Rs 1,20,000 crore. RIL denied all these claims. On the cost of production of gas, the company said the figure of $0.89 per unit had been taken from a letter sent by RIL to the DGH (referred to in the FIR) which was not about cost of production but limited to post-production costs between the wellhead and delivery point, which is a small portion of the total cost of gas.

Speaking at a function organised by the Confederation of India Industry (CII) on 17 February after demitting office, Kejriwal asked:

> Why should we get gas at the market price? From our wells, we should get it on the basis of cost, plus some profits. We are against buying of national resources at a low price only to make a huge profit by reselling it in a few days. That is not business, it is loot of the country’s resources. We have to encourage honest business in our country and remove all entry-barriers towards it.

AAP’s Bhushan said that natural resources should be retained with the public sector. He said that the corruption and inefficiency that the public sector is associated with, is a consequence of the government’s own actions. When asked whether the FIR had created a sense of apprehension within the business community, Kejriwal remarked that Mukesh Ambani represented crony capitalism, and that the Ambani brothers ‘do not allow anyone to do business and have taken over everything’. He said: ‘The business community is happy with us. Businessmen, 99 per cent of them, want to do honest business.’

RIL issued a statement describing AAP’s allegations as shocking, completely baseless and devoid of any merit or substance. The company said it was prepared to take legal steps against the Delhi government’s FIR and even file a suit of defamation against the leaders of AAP. Petroleum minister Moily described Kejriwal as ‘ignorant’ and said that he should ‘know how (the) government functions’. He was categorical that the gas price hike was here to stay, and that the government would not backtrack adding that the new pricing regime was based on the recommendations of the Rangarajan Committee that had been set up when his predecessor Jaipal Reddy was heading the ministry. He fumed: ‘I have not changed even a word or a full stop or a comma from the recommendations.’.

Moily said he had taken special interest to reduce the prices of compressed natural gas (CNG) and piped natural gas (PNG) by Rs 15 per kg and Rs 5 per kg respectively on 3 February. Earlier, in December 2013, when the price of CNG in Delhi was hiked by Rs 4.50 per kg and that of PNG by Rs 5.15 per kg, Kejriwal had questioned the timing of the hike, the second in three months. Congress leader Ajay Maken said that while his party was not against an inquiry, he cautioned against any political vendetta. Finance minister Chidambaram termed the FIR naming Mukesh Ambani as ‘laughable’. He said his government had imposed a huge penalty of around $1.8 billion on RIL and asked the company to furnish a bank guarantee for the undelivered gas pending the price rise. Thus, Chidambaram concluded, there was no merit in Kejriwal’s ‘throwaway lines’ that the government was being run by Mukesh Ambani.

It was not just the ruling Congress party that raised doubts about the validity of the FIR. Senior BJP leader Arun Jaitley asked: ‘Can the state government, through its Anti-Corruption Branch, investigate a decision taken by the Central government?’

Whereas a number of doubts were raised on the legal tenability of the complaint lodged by the AAP government in Delhi, the situation became clear when the Union law ministry opined that the FIR—a written document prepared by the police after receiving information about a cognisable offence having been allegedly committed, which allows the police to start investigations and sets in motion the process of criminal justice—was in order. The law ministry stated that the Delhi ACB was empowered to conduct the probe within its territorial jurisdiction of the state following various court judgements which were cited.

Former finance minister Yashwant Sinha of the BJP, who headed the Parliamentary committee that had passed adverse comments against the government on alleged favours granted to RIL in extracting gas from the KG basin, said that it is was for the police and the courts to determine criminality in the case. The Samajwadi Party too derided the FIR as 'drama' enacted by Kejriwal in an attempt to attain 'political martyrdom'. The AAP's 'ignorance' was also sought to be highlighted by the former Shell India head and Brookings India chairperson Vikram S. Mehta in an article titled 'Fuelling Ignorance' (*Indian Express*, 15 February 2014). He warned that investors would be scared away. Mehta projected his 'neutrality' by stating that he left Shell 'just a year ago' while, at the same time, mentioning that his 35-year association with the hydrocarbons industry enabled him to draw on his 'experience to provide an objective answer' to the four questions raised in the FIR.

Mehta took up cudgels for the Rangarajan Committee and said that its decision was based on sound economic logic. Commenting that there was no global benchmark for natural gas unlike that for oil, he said the approach of the committee had not been 'plucked out of thin air'. While world prices of crude oil had reference markers (such as Brent and West Texas Intermediate), gas was sold at the following prices: $4 per mBtu in the US; $6–8 per mBtu in Europe and around $16 per mBtu in the Asia-Pacific region. Thus, the Rangarajan Committee's formula approximates the weighted average price across these three regions, with the average coming to around $8 per mBtu. He argued that a weighted average of various price points—fuel prices that power plants would be ready to pay—would also have come close to $8 per mBtu. His argument went thus:

> A power plant fuelled by naphtha or LPG (liquefied petroleum gas) would be willing to pay at least $16 per mBtu (as some are doing currently), given that the cost of liquid fuels is currently in excess of $20 per mBtu on an equivalent basis. A power plant run on coal, on the other hand, would not pay more than $5-6 per mBtu (and probably less), as coal is relatively cheap and it would not make economic sense to pay a higher price. A fertiliser company would be incentivised to manufacture fertilisers rather than import if it were assured of secure and reliable gas supplies at around $8 per barrel.

Echoing petroleum minister Moily's line, Mehta wrote that it is the public sector entity ONGC that would be the main beneficiary since it produced 85 per cent of domestic gas and therefore, the government would be a major recipient of the incremental profits generated by the price hike. He said a company had no reason to produce less on purpose and lose money, and cited international cases where production had fallen.

Mehta also raised the question of expenses that are incurred in setting up oil and gas infrastructure. One offshore deepwater well costs between $50 billion and $100 billion. He stated that if all facilities at KG-D6 had been built and were producing steadily, the operating cost per well could be around $1 per barrel, though this could not guarantee windfall profits as indicated by Kejriwal. The Brookings India head said that there was no merit in the allegations of gold- plating against the company:

Does a contract structure that allows a company to first recover its costs and thereafter only share the profits encourage gold- plating, that is, deliberate over-investment? There is no knowing what individual companies might do but many experts, including, most recently, the Kelkar Committee, have concluded that when the net present value of investment for both the company and the government falls, the fall is more rapid for the company when capital expenditure increases. This is because the companies contribute 100 per cent of the risk capital. There is little, if any, economic incentive for companies to gold-plate their expenditure.

Others lampooned Kejriwal contending that he was a victim of false propaganda. Swaminathan S. Anklesaria Aiyar (who is, incidentally, brother of former petroleum minister Mani Shankar Aiyar—the two are ideologically poles apart) sought to debunk Kejriwal's accusations saying that he had 'backed a silly conspiracy theory based on falsehoods' in his column in the *Times of India* (16 February 2014). Backing Moily, he wrote that the minister had merely followed expert advice from the 'eminent' Rangarajan Committee, whose members had been slandered by the AAP leader's accusations. Aiyar sought to delink the gas price hike issue from the pending suit against RIL in the Supreme Court:

Illustrious civil servants have launched a public interest suit accusing Reliance of artificially jacking up exploration costs in the Krishna Godavari field to benefit from higher cost recovery. They also accuse RIL of deliberately reducing gas production in the last few years on bogus technical grounds, the real motive being to conserve gas till prices go up in April 2014. Only technical experts can give a verdict on these technical issues. Reliance should be penalized severely if found guilty. But that has nothing to do with the appropriate price for gas, which relates to all gas producers and not just Reliance.

Quite predictably, businessmen such as liquor baron and Rajya Sabha MP Vijay Mallya protested against the 'witch hunt' against industrialists by Kejriwal using 'unconventional methods'. Speaking to reporters outside Parliament, Mallya said representatives of industry should be respected and treated with dignity as they ran companies than contributed to economic growth. (It was a separate matter altogether that Mallya is widely discredited after the mismanagement of his aviation company, Kingfisher Airlines, which has stopped operating leaving behind huge unpaid dues to banks.)
The Left said that its MPs had raised the issues being highlighted by AAP much earlier. CPI(M) MP Sitaram Yechury remarked:

This is nothing new. We have been raising this question about the gas since the last three years in Parliament. An Empowered Group of Ministers was formed. It was headed by the President. We were not happy with the recommendations of the group. A petition was filed in the Supreme Court. Whenever we raise this issue, the government tells us that the matter is *sub-judice*.

In an article titled 'The gas price conundrum' published in the *Hindu*(19 February 2014), former member of the Petroleum and Natural Gas Regulatory Board Sudha Mahalingam, who has been quoted earlier in this book, said the gas price hike will increase food inflation since over a third of the gas produced in the country is consumed by the fertiliser industry. By increasing costs of producing fertilisers, the government's subsidy bill will go up significantly: 'That means, transferring money from the exchequer to the private gas producer's pocket via the fertilizer subsidy or facing a drastic drop in food grains output,' she wrote.
The Central Electricity Authority (CEA) told the government that the hike in the price of gas will

make electricity from gas-fired plants ‘unaffordable’ for state power distribution companies and such projects to languish. The *Times of India* (25 February 2014) wrote that with domestic gas prices designated in US dollars and with power plants paying in Indian rupees, fluctuations in the foreign exchange rate would lead to fluctuations in power tariffs. The CEA also highlighted that revising tariffs every quarter as suggested by the new gas pricing regime was impractical since state electricity regulators declare tariffs for a full year and almost all such regulators have already declared their tariffs for the fiscal year 2014–15 which ends on 31 March 2015. At the current gas price of $4.2 per mBtu, a gas-based power plant which is running at 30 per cent of installed capacity will end up paying between $5.6 and $6.5 per unit after loading value added tax and costs of transportation. The effective price would work out to at least $10 per unit, it was contended.

Even the Prime Minister’s right-hand man and redoubtable poster-boy of Indian neo-liberal economics, Planning Commission Deputy Chairman Montek Singh Ahluwalia acknowledged that power tariffs would have to be raised—by between 50 paise and 85 paise per kilowatt hour to support the production of 28 gigawatt (GW) of gas- based electricity and this could be treated as an ‘opportunity cost’ by consumers. Of the 20 GW of installed power-generating capacity, power plants with total capacity of around 5.5 GW would face shortages in the supply of gas. Plants generating the remaining 8 GW of gas- based electricity were yet to come up and it was not clear when (and if) these projects would be set up. The *Indian Express* (24 February) quoted a letter from Ahluwalia to power minister Jyotiraditya Scindia dated 6 February, a portion of which read:

> Adopting this approach avoids the need to subsidise LNG for power or introduction of differential pricing, both of which present problems. Implementing this solution requires complementary action on peak pricing to be taken by individual regulators. No one will do it if they think the central government can be persuaded to provide gas cheaply or to subsidise it. Once that option disappears, states will themselves act to encourage the process.

However, the next day (25 February) the same newspaper carried a clarification from the Planning Commission which said the earlier article conveyed an impression that it was the Commission itself which was proposing a hike in power tariffs. The Commission clarified that the letter was written to forward a report of an expert committee headed by Commission member Saumitra Chaudhuri which had been set up to examine ways of ‘resolving the problem (facing plants) of 28,000 MW (28 GW) of gas-based capacity which lacks gas’. Further, the committee had simply suggested that gas-based power capacity could be economically used for meeting peak demand, commonly used the world over to meet peak loads (and not base loads):

> There is typically excess demand for power at peak times, which leads to power cuts. Industrial users faced by power cuts are forced to rely on high cost diesel-based power which is much more expensive. The committee had suggested that if gas-based capacity is used to meet peak demand, and day tariffs are put in place which allow a higher tariff to be charged for peak time periods, then higher cost of power based on imported LNG could be accommodated by the higher tariff allowed for all the power (not just gas-based power) during peak time. Implementation of this solution requires cooperation by state electricity regulatory commissions which fix time of day variations in power tariffs.

Later in the month of March, Ahluwalia went on record defending the gas price hike and sought to junk the notion that the price of gas should be linked to the cost of production. In line with the Vijay Kelkar Committee interim report, he spoke of a ‘super-profit tax’ which could compensate the government in the event of price volatility. ‘Windfall gains should be there in the contract in terms of

super profit tax. But, if you are mulling to do that you must have a floor,' he said, adding that with the election dates having been announced, the government should not fail to seek the approval of the Election Commission before notifying the gas price hike.
Was Ahluwalia making a subtle suggestion that the decision on the gas price increase should be best left to the new elected government? Even pro-industry analysts revealed their discomfiture at the state of affairs. The Gateway House, a Mumbai based think-tank associated with the Mahindra Group, recommended that in the 'absence of a single global marker [gas] price, it is time that India and other large importing countries in Asia, devise a price that reflects regional realities'. In an article dated 7 March 2014, posted on its website, Akshay Mathur, head of research and geo-economics and fellow at Gateway House, wrote that market-linked prices determined by the Rangarajan committee's formula, have limitations in the context of Indian business and market realities and the consumer's purchasing abilities:

Since the gas rates partially depend on crude prices, they become directly affected by the volatility of the global crude oil markets. And if the prices are denominated in dollars, a weakening rupee will cause a loss for the Indian consumer.... These limitations with the international market-linked prices, coupled with our own inefficient domestic assessments now under scrutiny for corruption, makes price assessment in India sub-optimal at best.

On 12 February, an article in the *Millennium Post* by Sujit Nath brought back into public memory the well-known nexus between government officials and RIL that facilitated the rise of the Ambanis. He wrote how RIL employed a large number of government officials with connections to the oil and gas industry and alleged that the company had been in possession of crucial documents of the ONGC on gas finds in the KG basin at least six months before RIL placed its bids in 2000. A staff officer to ONGC's director, exploration, Ravi Bastia was the conduit for these documents, Nath claimed, adding that Bastia joined RIL soon after the company won the bid to extract gas from the KG basin. It may be recalled that S.L. Khosla, who was chairman and managing director of ONGC between May 1990 and September 1992, joined RIL the day after he retired. The newspaper highlighted how the RIL-funded Observer Research Foundation had employed a number of former bureaucrats, including the incumbent Lieutenant Governor of Delhi, Najeeb Jung, who was once an officer of the prestigious IAS and who served as joint secretary, exploration, in the petroleum ministry when the Panna-Mukta oilfield contracts were awarded to RIL.

* * *

Kejriwal kept up his campaign against Reliance on the gas price issue. He sent open letters to Narendra Modi, the BJP's prime ministerial candidate and Congress vice president Rahul Gandhi. In his letter to Modi dated 21 February 2014, Kejriwal asked three questions:

- If you form the government, will you pay the rate of $4 per unit of gas or $8 per unit of gas to Shri Mukesh Ambani?
- What relations do you and your party have with Shri Mukesh Ambani?
- How much money is being spent on your election campaigns and what is the source of this money?

He said that if rumours about the Ambani's funding the BJP were true, then Modi's stated intent to recover black money from abroad was a sham. Kejriwal then repeated his allegation that the Ambani brothers had bank accounts in Switzerland. Addressing a public meeting in Rohtak, Haryana, he read

out the numbers of these so-called Swiss bank accounts held by the Ambanis. Once again, this was denied by RIL which stated that neither the company nor Mukesh Ambani had any illegitimate accounts anywhere in the world. 'Reliance Industries Limited has business interests in several countries with turnover of thousands of crores in rupees. As a part of their normal business, these international subsidiaries of Reliance Industries Limited deal with several global banks,' the statement put out by RIL read. But Kejriwal refused to remain quiet. The AAP leader added that there was little to differentiate between the Congress and the BJP and that both Modi and Rahul Gandhi used Ambani's private aircraft.

Kejriwal also pointed out that in 2000, when the BJP-led NDA government was in power, RIL had undertaken to supply gas to the government for 17 years at a rate of $2.34 per mBtu and this rate had been increased to more than $4 per mBtu, when the cost of extracting the gas was less than $1 per mBtu. Kejriwal claimed that Ambani's company would get an undue benefit of Rs 54,000 crore annually whereas the annual budget of the Delhi government was lower at Rs 40,000 crore. In his letter to Rahul Gandhi dated 22 February, Kejriwal asked him whether he supported the decision to hike the price of gas and whether his party received 'legitimate or illegitimate' funds from Reliance. He alleged that the price hike decision was taken just before the elections. 'Has Mukesh Ambani funded the party with unaccounted money for bagging some favours?' he asked, claiming that Ambani was running the country like the East India Company.

At a media conference on 27 February, AAP leader Prashant Bhushan sought an investigation into transactions through which privately-held companies controlled by the RIL chairman received Rs 6,530 crore ($1.62 billion) through a multi-layered deal routed through two companies in Singapore. This deal was apparently done with the help of the company's legal advisor Atul Dayal. Bhushan alleged that in 2007–8, the Singapore-based Biometrix Marketing Pte Ltd had invested in four Indian companies, Reliance Gas Transportation Infrastructure, Relogistics Infrastructure, Reliance Ports and Reliance Utilities. He produced a letter, purportedly written by the High Commission of India in Singapore in August 2011, which stated that this investment 'needs to be examined'. Bhushan said that India's envoy in Singapore had made enquiries about Biometrix following a request by the Department of Industrial Policy and Promotion in the ministry of industry and commerce in the government of India. The records of Singapore's Accounting and Corporate Regulatory Authority showed that Biometrix had a relatively small equity capital of S$110,000 (Rs 55 lakh) and that the company had 'just one room, which was closed most of the time'. Another Singapore-based company called Strasbourg Holdings had a 91 per cent stake in Biometrix though the company was not located at the same address, Bhushan added, quoting the letter from the High Commissioner.

In a strongly-worded press release, RIL replied that these allegations were *sub-judice*, under which representations have already been made. The company denied that its legal advisor Atul Dayal was either the owner or the director of Biometrix:

> The investments by Biometrix were open, transparent and perfectly legitimate transactions, in full compliance with the extant regulations. These investments in the Indian companies were made by Biometrix out of loans raised from ICICI Bank, Singapore branch. ICICI Bank has confirmed this fact to the regulators. Regulatory authorities have fully investigated the matter and found no substance in the allegations of money laundering. The insinuation that this money was from 'gold plating' from KG-D6 is completely irresponsible and false.

While the AAP relentlessly got after Reliance, the country's most widely circulated financial daily, the *Economic Times*, front-paged an article by Rohini Singh on 4 March stating that the company's fabled relationship with the Congress was of no consequence now and that Mukesh Ambani was losing

influence over India's grand old party. The writer quoted senior Congress leader and party treasurer Motilal Vora as claiming that during the state assembly elections that took place towards the end of 2013, his party had not taken any money from RIL or its associates. It was claimed in the *ET* article that the Reliance-Congress relationship started cooling after the 2009 general elections and that Ambani was currently inclined to believe that the BJP led by Narendra Modi would come to power after the results of the elections are known on 16 May 2014.

For some time now, many corporate captains in India have considered themselves infallible. In a perceptive article in the *BusinessStandard* (26 February 2014), Mihir S. Sharma recalled how the Indian government had increasingly become 'for, of and by its biggest businessmen'. He recalled how RIL kept claiming that there was not enough gas in the fields till the government was pushed to come up with a 'formula' that used import prices of gas in Japan to set the wellhead price of gas in the Bay of Bengal. He pointed out how other industrial houses were arm-twisting government regulators by recalling how in the middle of February, the Tata and the Adani groups reneged on their promises of supplying power from 'ultra-mega' power plants in Gujarat to state-owned utilities at a fixed tariff. This happened with the alleged connivance of the electricity regulator which asked buyers of power to pay an extra Rs 830 crore to the Adani group company and Rs 330 crore to Tata Power. It was also decided that in the future, electricity would be sold at a higher price than what the Tata and Adani group companies had agreed to when they won competitive bids to operate these plants. This concession was justified on various grounds, including the fact that imported coal from Indonesia had become more expensive following tax changes in that country. The companies had failed to foresee this development, but did not have to take the hit for their incompetence, Sharma wrote. This was after all, crony capitalism at its best.

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As allegations and counter-allegations flew thick and fast, petroleum minister Moily continued to staunchly defend himself. On 24 February, in a 13-page letter to prime minister Singh, he wrote that the RIL contract for KG-D6 gas fields could not be terminated till the arbitration on the issue of output lagging targets was completed. The minister said that it was economically unviable to produce from several gas fields of both RIL and ONGC at the rate of $4.2 per mBtu. For the first time, Moily mentioned the cost incurred by ONGC to produce a unit of gas, which was $3.6 per unit—more than the current price of
$4.2 (See *ET*, 24 February 2014): He wrote:

> In choosing the basis for fixing the gas price, it is tempting to think that by choosing a lower price we are assuring consumers the same amount of gas supply at a lower price. The fact is that the price formula affects the investment that will be undertaken in exploration and production and therefore the total volume of gas likely to be produced.

Even as the government kept harping on the need to go along the arbitration route to resolve its disputes with RIL, writing in *Outlook*magazine (3 March 2014), Lola Nayar stated that petroleum ministry officials put the responsibility for the delay in appointing the third arbitrator squarely on RIL. These unnamed officials also said that RIL was exerting pressure on the government to finalise the issue of furnishing a bank guarantee to smoothen the way for the issuance of a notification for the price hike. It may be recalled that in the face of criticism, the government had agreed to ask RIL to furnish a bank guarantee equivalent to the incremental revenue that it would earn as a result of the new price of gas, with the understanding that the guarantee would be encashed if it was conclusively

established that RIL hoarded gas or deliberately suppressed production from the D1 and D3 fields in the KG-D6 block from 2010–11 onwards. Nayar wrote that petroleum ministry officials would rather not have RIL dictate terms on the bank guarantee but draft a format for the guarantee that would hold till the final arbitration decision. The *Times of India*(22 February 2014) reported that Moily had presumed that the bank guarantee issue would be cleared by 10 February but this had not happened because officials in his ministry were nervous and were slowing down the process by double-checking each and every word in the fine print to ensure that there were no procedural lapses that could land them in trouble if there was an investigation in the future.

It was not unexpected that bureaucrats in the MoPNG and other ministries should have been extra-cautious in dealing with RIL. On 6 February, career civil servant R.N. Choubey was replaced by a 'technical' person, B. N. Talukdar. In his first public statement on 22 February, the new DGH called for creating a more 'investor friendly' climate. He said in a message on the website of the DGH that incentives would have to be provided for developing and applying advanced technologies necessary to explore, develop and produce energy to meet the growing demand of the progressing nation. He also said that the DGH would have to have a relook at its functioning, strike a balance between the various kinds of roles required of the regulator, in order to promote sound management of oil and gas resources. He said the focus should be on exploring new areas, increasing recovery from existing reservoirs, and at the same time formulating guidelines for proper evaluation of discoveries, reserves and development strategies that would avoid undesired controversies.

Choubey, who had recommended in April 2013 that RIL surrender discoveries for failing to meet deadlines and for refusing to conduct the drill stem test to evaluate the gas reserves in the D29, D30 and D31 fields, contested the grounds on which minister Moily had overruled his recommendations. In October, the minister had ordered RIL to relinquish five discoveries but not the three for which development timelines had expired as per the file notings of the DGH. The minister in his own file notings on 9 October 2013 had stated that it was the DGH which had delayed reviewing the Declaration of Commerciality which had been submitted by RIL on time. The minister said that the DGH had failed to take a categorical stand on the matter that the contractor must conduct the test. However, Choubey in his final notings in mid-January just before demitting office, emphasised that RIL had failed to conduct tests in spite of repeated requests for almost four years. Incidentally, Choubey's recommendations had been supported by the topmost bureaucrat in the MoPNG, the then petroleum secretary Vivek Rae (who on superannuation at the end of February 2014 went on join the Seventh Pay Commission as its full-time member).

Moily had, in the mean time, recommended that the chairman and managing director of ONGC Sudhir Vasudeva be granted a year's extension of his term on grounds of 'merit' since the public sector corporation needed his presence to 'complete ongoing strategic initiatives'. Prime minister Singh, whose role in the various controversies relating to RIL and KG gas had by and large been perceived as one of a passive observer, overruled his minister on this occasion. He said Vasudeva's term as ONGC head would not be extended. Instead, D.K. Sarraf, who used to head ONGC's overseas arm, ONGC Videsh, replaced Vasudeva as the chairman and managing director of India's biggest oil and gas exploration and production company in the public sector. Nirmala Sitharaman, BJP spokesperson and Gurudas Dasgupta noted that there were pending vigilance cases against Vasudeva and his appointment had not been cleared by the Central- Vigilance Commission. AAP leader Bhushan stated on 27 February that there were six cases pending against Vasudeva that had not been taken to their logical conclusion by the petroleum ministry. When Vasudeva was appointed in 2010 to lead ONGC, his vigilance clearance had been initially rejected by the CVC. It was rejected a second time and Bhushan claimed that thereafter two situations were possible: either his appointment was cleared after a third attempt or that he had been appointed without clearance from the CVC. In response, Moily's

office came out with a statement that the names of both Vasudeva and Sarraf had been presented to the government for an appropriate decision and that no attempt had been made to bypass the vigilance process.

This was not the only instance when the focus of the media was not just on RIL but on ONGC as well. There was, in late-2013 and early-2014, a major dispute between RIL and ONGC with the public sector company accusing its private sector counterpart of 'encroaching' on its territories in the KG basin. This dispute had first cropped up in October 2013 and was continuing till the time this book was being completed in March 2014. On 11 February, ONGC wrote to its administrative ministry asking for a 'neutral expert' to be appointed to ascertain whether RIL was 'stealing' from ONGC's wells. RIL's wells, D6-A5, D6-A9 and D6-B8 and ONGC's gas 'pools', G4-2, G4-3 and D-1, are within a 'few hundred metres' of each other. ONGC had not started production from the areas designated for it.

The corporation's director, exploration, N. K. Verma had stated that the data provided by RIL had been analysed and ONGC was confident that two adjoining blocks had the same 'pool' and that based on international practices, should be apportioned between ONGC and RIL. 'It appears that (the) endeavours of ONGC to come to a common ground with RIL are now failing and also considerable time has elapsed since DGH directed RIL on 28 August 2013, to share the data with ONGC,' Verma stated in his 11 February letter addressed to the MoPNG's joint secretary, exploration, Giridhar Aramane (*ET*, 27 February 2014). Verma's letter also asked that the DGH should intervene in this dispute since the regulator was mandated under the PSC to deal with situations wherein adjoining gas blocks shared a common reservoir. A formal statement put out on 5 March by ONGC read: 'Under (the) PSC, (the) DGH has (a) role to play in such situations. However, ONGC was asked to resolve the matter independently with RIL, in the first instance'. RIL wrote to ONGC on 25 February claiming that while ONGC had taken its data, it was not sharing its own data with RIL and called for a meeting on 11 March.

* * *

As Moily and others have pointed out time and again, a hike in the price of gas would benefit not just RIL. ONGC and the government would arguably be bigger beneficiaries. It was calculated that with the administered price of gas doubling to around $8.4 per mBtu, ONGC's turnover would swell by an impressive Rs 16,000 crore, of which nearly two-thirds would accrue to the government by way of higher taxes, royalties and dividends with the public sector corporation keeping a 'net retention' of around Rs 5,200 crore. At the same time, Sarraf has argued that even with a price of $8.4 per mBtu, many gas reserves (including some in the basin of the Mahanadi river off the coast of Odisha, north of the KG basin) would remain commercially unviable. Missing from this discourse was of course, the consumer who will stand to lose once the prices of electricity and fertilisers rise besides the government which has to foot the higher subsidy bill by incurring higher deficits.

Meanwhile, the CAG has reportedly come out with fresh draft audit reports alleging that RIL has crossed the approved spending limit on the KG-D6 block where it is operating. The Management Committee for the D1 and D3 fields and the DGH had failed in their regulatory duties, the CAG observed, according to Shine Jacob writing in the *Business Standard* (3 February 2014). The same draft audit report also indicted RIL for under-utilisation of facilities built at a huge cost and claimed that the company failed to carry out appraisal programmes before moving on to the commercial stage as has been mandated in the PSC:

Till March 2012, RIL has incurred expenditure of $5.76 billion on development of D1 and D3, against

the MC-approved cost of $5.20 billion for Phase-I. MC and DGH are responsible for ensuring that cost calculations are reasonable and realistic, but there is no evidence that they verified it. There also were deficiencies in the existing PSC, as it did not provide for DGH/government to effectively regulate the deficiencies on the operator's part.

The CAG had been conducting an audit of the expenditures incurred on the KG-D6 field between 2008–9 to 2011–12 following a request from the MoPNG. The total shortfall in production from the KG-D6 block during the four years leading up to 2013–14 stood at 154 units. When compared to the target, the shortfall in gas output was five units in 2010–11, 28 units in 2011–12, 55 units in 2012–13 and 66 units in 2013–14. The government auditor stressed that 'deficiencies' in the PSC made it difficult for the government to take punitive action against the operator, RIL:

Though the (ministry) had issued notice for proportionate disallowance of cost of production facilities amounting to $1.005 billion up to 2011-12, MoPNG itself admitted before the Parliamentary Standing Committee on Petroleum and Natural Gas (October 2013) that 'It is not penalty as such .... Default is punishable only by termination of the contract. There is no other remedy....'

On the question of termination of the government's contract with RIL, Prashant Bhushan was very clear that it was indeed possible. He told *Frontline* (21 March 2014): 'I am quite certain that the contract contains adequate provisions to allow the government to cancel the contract. Underproduction itself can be a clause for terminating the contract.'
For the record, RIL put out an optimistic scenario. On 11 March, the company claimed that gas production was 'likely' to rise from 13 mscmd to 15 mscmd and remain at that level for the next two years. Analysts like Morgan Stanley stated that the earnings downgrade cycle for RIL is over and even as a significant increase in gas volumes will take up to financial year 2016–17, benefits would start accruing to the company from the 2014–15 financial year itself.

* * *

The debate raged on. One of the more articulate critics of AAP, Dhiraj Nayyar wrote in *Firstpost.com* (25 February) that crony capitalism, the theme of Kejriwal's 'latest angst' against the 'system' must continue 'if India wants to grow at near double digits in the near future'. He claimed: 'The fact is that anyone who has governed any part of India in the last decade can stand accused of crony capitalism if the latter is defined simply as the use of taxpayers' money or money that belongs to the coffers of (the) government, to finance corporate profit'.
Taking up cudgels on behalf of Reliance, he stated that the group runs India's most efficient, globally competitive, refinery and that 'Kejriwal would rather see the crony before the capitalist'. Nayyar concluded his opinion piece thus: ' Unfortunately, if the UPA sits at one extreme on crony capitalism, Kejriwal and AAP sit at the other. India cannot escape the reality of taxpayers' financing some corporate profit unless it wants to live in Kejriwal's utopia, which delivers a complete separation of the Government and the private sector but delivers no growth and no jobs. For the sake of prosperity, India could do with some cronies.
'On the social media and on YouTube, RIL sought to counter what was described as 'canards', 'propaganda' and a 'fear psychosis' being spread by the AAP about higher natural gas prices leading to higher consumer prices for cooking gas and higher transportation costs adding to food inflation. The company claimed there was no relation between the prices of natural gas and cooking fuel and that carriers of goods (including trucks) run on diesel not gas. That was not all. Kejriwal claimed on

March 7 at a conclave organised by *India Today* magazine that Gujarat chief minister Modi had made a son-in-law of the Ambani family, Saurabh Patel, a minister in his government because of his ‘close relations with Mukesh Ambani’. A fortnight later, Reliance released a video on YouTube ‘setting the record straight’ which stated that Patel—who is minister for energy, petrochemicals, mines, minerals, salt industries, printing, planning, tourism, civil aviation, labour and employment in the Gujarat government -- could not have helped the group even if he wanted to, as natural gas and petroleum are sectors over which state governments have no jurisdiction.

What placed a spoke in the wheel of the government’s intention to double the administered price of gas was an intervention by the Election Commission of India. On 13 March, the newly-appointed petroleum secretary Saurabh Chandra met the chief election commissioner V.S. Sampath seeking the commission’s approval to announce the hike in the price of gas with effect from 1 April 2014 for a period of five years. On 20 April, Kejriwal had complained to the Election Commission that the government’s decision to increase the price of gas was tantamount to a corrupt electoral practice and would violate the model code of conduct that comes into force after elections are announced. The following day, Election Commissioner H.S. Brahma said the ‘urgency’ of the going ahead with the decision would be examined, while his senior CEC Sampath remarked that the decision to hike gas prices had been discussed for long and ‘could be put on hold for another two months’. The writing on the wall was clear.

As we close this incomplete chronicle of how a single corporate conglomerate led by an oligarch fine-tuned the art of crony capitalism in collusion with particular politicians and pliant bureaucrats, it is important to emphasise that within the same government establishment there are functionaries who have refused to be intimidated and who have against all odds valiantly attempted to uphold the interests of not just the exchequer but the people of India.

EPILOGUE

History has repeatedly shown that a culture of uncontained greed along with uncontrolled markets leads to disasters.…Historically, and all acrossthe globe, predatory forms of capitalism seem to organize themselves, firstand foremost, around the extractive industries that seek to exploit the vast, but exhaustible, natural resources. Water, forests, minerals and oil—they are all being privatized; and not being satisfied, the voices that speak for predatory capitalism seek more.

— **Justice B. Sudershan Reddy** of the Supreme Court of India on 7 May 2010 in his judgement on the Reliance Industries Limited versus Reliance Natural Resources Limited case

Internally, the history of oil mirrors the evolution of American capitalism...Oil continues in its growth as one of the gigantic industries of the country.Its effective functioning in what has become—at least for the indefinitefuture—a permanent war economy is a vital element of national security.In the United States this entire galaxy derives its origins from the individualright of private ownership of the oil that lies beneath the earth's surface.Upon this ethic is built one of the most complex collective systems known to modern man.

— **Robert Engler, *The Politics of Oil: A Study of Private Power and Democratic Directions* (New York, Macmillan, 1961)**

The reality is that extracting Ugandan crude is most likely to exacerbatepoverty, distort the ... economy, exacerbate human rights violations, entrenchthe power of military forces, escalate tensions across the border with Congo,create new health problems for local communities, increase both intentionalcorruption and revenue mismanagement, reduce Uganda's wildlife stocksand pollute the land, water and air.

— **Mika Minio, *Cursed Contracts* (Platform, February 2010)**

* * *

Oil, gas and other hydrocarbons are among the most politicised commodities on the planet we live in, whether these be situated in the US, in Uganda or in India. Like the governments of many other countries, that the government of India should prefer to place corporate interests before consumer interests should not surprise, for that is the way the government of the world's largest democracy has been functioning for quite some time now. As has been stated in the first chapter of this book, some of the 'richest' parts of India and the world also paradoxically happen to be the poorest because their scarce (and hence, very valuable) natural resources have attracted the most corrupt and venal entrepreneurs. The phrase 'resource curse' signifies how the presence of natural resources in developing countries, whose economies depend on such minerals or forests, have contributed to corruption, conflict, and the absence of democratic governance. It may be argued that the resource curse has not been present in India in its most acute forms as it has in certain countries in Africa. But

what has been truly amazing about the controversies relating to extraction of natural gas from the Krishna-Godavari basin was the brazen manner in which the interests of the largest privately- owned company in India were sought to be equated with ‘national interests’ by the government.

That’s not all. What has been truly scandalous about this episode in the six and a half decades of politically independent India is that ministers in the Union government have exercised their political prerogative to ride roughshod over the recommendations of their own bureaucrats and technical experts to suit corporate interests. The last has surely not been heard about natural gas that is being extracted from under the ocean bed in the Bay of Bengal, below the spectacularly strange swirling waters off the basin of the two largest rivers of southern India, the Krishna and the Godavari. Only time will tell whether, and if, the new elected government of India will act differently from its predecessors. But what cannot be denied is that more people are now aware of the implications of crony capitalism than ever before.

Appendices

APPENDIX 1

Shourie's selective memory

by Paranjoy Guha Thakurta
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Dhirubhai Ambani was an amazing entrepreneur who aroused extreme responses in people. Either you loved him or you hated him. There was little or nothing in between.
However, there is at least one important individual who had started out disliking the man who had founded the Reliance group of companies, India's single-largest privately owned corporate conglomerate, before becoming his admirer if not a faithful follower.
He is none other than Arun Shourie, former economist with the World Bank and one-time crusading journalist who is now the high-profile Union Minister for Communications, Information Technology and Divestment in the Atal Bihari Vajpayee government.
One should not expect anybody to speak ill of a departed person on the occasion of his death anniversary. However, Shourie's explanation for his '180 degree turn' with regard to his acquaintanceship with the late Dhirubhai Ambani seems selective and incomplete.
Before one attempts to unravel a part of what is undoubtedly a complex and convoluted story, let us first go through what Shourie said on a rainy morning in Mumbai in the presence of a galaxy of luminaries from the world of Indian business and politics. The occasion was a function held on July 6 for the delivery of the First Dhirubhai Ambani Memorial Lecture by the President of India A P J Abdul Kalam. (For references to what Minister Shourie said that morning, one would be depending on the full text of his speech reproduced in the *Indian Express* newspaper on July 8.)
The minister stated that he first learnt about Dhirubhai through the articles of his former colleague S Gurumurthy, Chennai-based chartered accountant and convenor of the Swadeshi Jagran Manch.
(The SJM, an organisation espousing the cause of economic nationalism, is affiliated to the Rashtriya Swyamsevak Sangh, the ideological parent of the ruling Bharatiya Janata Party).
Shourie claimed the point of most of the articles written by Gurumurthy during 1986 and 1987 -- many of which he had co-authored -- "was that Reliance had done something in excess of what it had been permitted to do: that it had set up capacities in excess of what had been licenced, that it was producing in excess of those capacities."
The minister then stated: "Most would say today that those restrictions and conditions should not have been there in the first place, that they are what held the country back. And that the Dhirubhais are to be thanked, not once but twice over: they set up world class companies and facilities in spite of those regulations and thus laid the foundations for the growth all of us claim credit for today. . ."
Shourie then paraphrased what Austrian economist Freidrich von Hayek, the guru of most believers in free enterprise capitalism, had said: "by exceeding the limits in which those restrictions sought to impound them, they helped create the case for scrapping those regulations"
Before moving on to what Shourie reminisced about his meetings with the late Dhirubhai Ambani, let us briefly examine the minister's contention about what "most" of the *Express* articles written by

Gurumurthy and him had stated about the Reliance group and the way it was encouraged by the government headed by Indira Gandhi.
In the humble opinion of this correspondent, Shourie and Gurumurthy's series of articles on the Reliance group contained much, much more about the Ambani family controlled corporate empire and the government of the day than the fact that Reliance group companies had often produced more than their licenced manufacturing capacities.
Besides, even if one does not agree with the thrust and tenor of the laws of the land as they existed at a particular point of time, the fact that a corporate group was accused of violating these laws cannot be denied.
1986 was a crucial year for Dhirubhai. He suffered a stroke in February that year. A few months later, the *Express* began publishing a series of articles by Shourie and Gurumurthy, which meticulously detailed a host of ways in which the Indira Gandhi government had gone out of its way to assist the Ambanis.
One article was on the subject of how the Reliance group imported "spare parts", "components" and "balancing equipment" of textile manufacturing machinery to nearly double its production capacities. The article provocatively claimed the Ambanis had "smuggled" in a plant.
Another story detailed how companies registered in the tax haven, Isle of Man, with ridiculous names like Crocodile Investments, Iota Investments and Fiasco Investments had purchased Reliance shares at one-fifth their market prices.
Curiously, most of these firms were controlled by a clutch of Non-Resident Indians who had the same surname, Shah.
Though the then Finance Minister Pranab Mukherjee had to change a reply he gave in Parliament on the investments made by these firms, an inquiry conducted by the Reserve Bank of India could not find any evidence of wrongdoing.
Yet another article detailed how the group had been the beneficiary of a "loan mela" -- a number of banks had loaned funds to more than 50 firms that had all purchased debentures issued by Reliance Industries.
Vishwanath Pratap Singh was one of the few politicians who took on the Ambanis. In May 1985, as finance minister in Rajiv Gandhi's government, he suddenly shifted imports of PTA from the OGL (Open General Licence) category. At that juncture, Reliance needed to import this product to manufacture polyester filament yarn.
It was found that the group had "persuaded" a number of banks to open letters of credit that would allow it import almost one full year's requirement of purified terephthalic acid (PTA) on the eve of the issuance of the government notification changing the category under which PTA could be imported.
It was hardly a coincidence that soon after V P Singh fell out with Rajiv Gandhi, various tax agencies of the Indian government raided the premises of the *Express* group.
Things got even more difficult for the Ambanis after Singh became Prime Minister in December 1989. In 1990, government-owned financial institutions like the Life Insurance Corporation and the General Insurance Corporation stonewalled attempts by the Reliance group to acquire managerial control over Larsen & Toubro, one of India's largest construction and engineering companies.
Sensing defeat, the Ambanis resigned from the board of the company after incurring large losses. Dhirubhai, who had become L&T chairman in April 1989, had to quit his post to make way for D N Ghosh, former chairman of the State Bank of India.
The mid-eighties were also a period during which the Reliance group got locked in a bitter turf battle with Bombay Dyeing headed by Nusli Wadia.
The two corporate groups were producing competing products -- Reliance was manufacturing PTA and

Bombay Dyeing, di-methyl terephthalate (DMT). Wadia lost the battle and reportedly became the source of information for many of the *Express* articles against the Ambanis written by Shourie and Gurumurthy.
In 1985, the Mumbai police had accused a general manager in a Reliance group company of conspiring to kill Wadia, a charge that was never established in a court of law.
Eight years later, a newspaper owned by the Ambanis would accuse Wadia of illegally holding two passports and played up the fact that he was Mohammed Ali Jinnah's grandson.
By this time, Shourie had built his bridges with the Ambanis and the newspaper concerned, the *Observer of Business and Politics*, would carry a regular column written by Shourie for which he was suitably remunerated.
In May 2002, as Union minister for divestment in the Vajpayee government, Shourie presided over the sale of 26 per cent of the equity capital of the former public sector company, Indian Petrochemicals Corporation Limited (IPCL), to the Reliance group in May this year.
By gaining managerial control over IPCL, the Reliance group has been able to dominate the Indian market for a wide variety of petrochemical products.
Speaking on the occasion of Dhirubhai's first death anniversary on July 6 this year, Shourie pointed out that Reliance's bid for IPCL was twice as high as that of its nearest rival, the public sector Indian Oil Corporation and this resulted in "immediate" as well as "huge" gains for both the government and the country.
The minister added that "there had been unbelievable pressures throughout to disqualify Reliance". "The position that eventually prevailed within the government was that the Cabinet had earlier settled guidelines for qualifying and disqualifying bidders," Shourie said.
He stated that the "pressures brought not just this transaction but almost the whole divestment process to a halt." During this period, Shourie said that he had not been contacted by Dhirubhai "directly or indirectly" even once. "But obviously he (Dhirubhai) was getting to know what was going on -- for which mere journalists like me don't even know there are places," the former journalist quipped in his ministerial avatar.
After it was formally announced on May 18, 2002 that Reliance's bid for IPCL had been successful, Dhirubhai called up Shourie and spoke to him in a voice "choked with emotion."
"I know what you have been put through. Anyone else would have given up. I will never forget. I don't care about business. I care about relationships. No one in my family will ever forget," the late Dhirubhai reportedly said over the phone.
Shourie then said: "Actually, I hadn't realised that the contest had meant that much to him. I had merely been implementing government policy."
The minister, in this case, is perhaps being a bit too naïve. Surely he knew that there would not have been "unbelievable" pressures on him -- from various quarters including from with the Union Cabinet -- if so much had not been at stake for the Reliance group.
The Reliance group had been eyeing IPCL, one of the government's *navratnas* (or nine jewels), for at least four years. Why? The reason is disarmingly simple.
By being at the helm of affairs at IPCL, the Ambanis are now able to control at least two-thirds of the total Indian market for all kinds of petrochemical products.
More significantly, the Reliance group is able to control between 70 per cent and 90 per cent of the market for specific products such as paraxylene, polypropylene, mono-ethyl glycol (MEG), poly-butadene rubber (PBR), poly-vinyl chloride, di-methyl terphthalate (DMT), low and high density polypropylene (LDPE and HDPE) and so on.
It had been reported in newspapers that the Cabinet was split down the middle on the issue of handing over managerial control of IPCL to Reliance.

It was even claimed that Prime Minister Vajpayee had to personally intervene to break the deadlock and support Shourie's position. There were also reports of senior officials in the Prime Minister's Office lobbying in favour of the Ambanis.

The Reliance group bagged the 26 per cent stake in IPCL for Rs 1,491 crore (Rs 14.91 billion) by bidding Rs 231 per share against Rs 128 bid by IOC, Rs 110 by Nirma and an official "reserve" price of Rs 131.

Why did the Ambanis bid as high as they did? This question is relevant since the market price of the IPCL scrip had stood at Rs 92 on April 17, 2002 and had thereafter gone up to Rs 133 on May 15 that year.

Having lost out earlier in its bids to acquire stakes in IBP (formerly Indo-Burma Petroleum) and Videsh Sanchar Nigam Limited (VSNL) to IOC and the Tata group respectively, the Reliance group made no mistakes on this occasion.

The Ambanis made sure their bid for IPCL was unassailable. In order to achieve this goal, the Reliance group was willing to pay a hefty premium on the market price of the share -- so that the group could completely dominate the Indian market for petrochemicals.

The country's market for petrochemicals is currently growing at roughly 15 per cent per year against an international growth rate of 5 per cent. India is expected to soon become the third largest market for petrochemicals in the world after China and the United States.

There are a few important questions relating to this episode that remain unanswered. Why did the IOC bid so low for IPCL's shares?

Did the public sector petroleum behemoth seriously contemplate tying up with the Oil & Natural Gas Corporation (ONGC) to put in a joint bid for IPCL? Why did a contest that was expected to have a photo-finish end up with the Reliance group yards ahead in the race?

As India's largest petroleum refining and marketing company, the government-owned IOC had lodged a strong protest when it was disallowed by the government from bidding for the shares of its smaller sisters, Hindustan Petroleum Corporation Limited (HPCL) and Bharat Petroleum Corporation Limited (BPCL).

The former IOC Chairman M A Pathan had argued that it would be clearly discriminatory on the part of the government if Reliance was allowed to bid for IPCL while denying IOC the opportunity to bid for HPCL and BPCL.

A monopoly is supposed to be bad, irrespective of whether it is in the private sector or the public sector.

As a matter of fact, many economists would argue that if a monopoly has to exist, it is better that it be controlled by the government (or the representatives of the people) than by private entrepreneurs.

Clearly, such logic did not cut much ice with Vajpayee and Shourie. The divestment minister claimed that a monopoly is not necessarily such a bad thing provided market dominance is not abused.

Further, he claimed that free imports would also ensure that domestic manufacturers remained "honest" and did not fleece consumers.

The effective level of protection the government has provided to imports of petrochemical products is currently at the peak tariff level, varying between 30 per cent and 50 per cent.

Given the clout wielded by the Ambanis in the corridors of power in New Delhi, it does not seem likely that customs duties on imported petrochemicals would be brought down in a hurry.

The relatively high import tariffs also help the group encounter consumer resistance to higher product prices at home.

IPCL will prove to be a veritable gold mine for the Reliance group. IPCL's free reserves in the region of Rs 2,700 crore (Rs 27 billion) were more than what the Reliance group had to shell out and the replacement cost of its existing assets would exceed Rs 10,000 crore (Rs 100 billion).

The divestment commission headed by G V Ramakrishna had categorically observed that "care should be taken while pre-qualifying bidders to ensure that the strategic sale does not lead to market dominance."

All such arguments clearly did not cut any ice with Shourie and Vajpayee. The government also ignored the opposition to the divestment from Keshavbhai Thakkar, president of the IPCL Employees' Association, which is affiliated to the Bharatiya Mazdoor Sangh (the trade union body that owes its allegiance to the RSS).

Thakkar had pointed out that it was inexplicable why the government did not appoint a proper chief executive of IPCL for almost two years before it was privatised.

The last full-fledged chairman and managing director of IPCL, K G Ramanathan, had left his job and the Indian Administrative Service to join the Reliance group together with a number of key executives.

The trade union leader had claimed that the employees' association at IPCL was "deliberately" kept out of the bidding process.

Shourie surely believes the decision to allow the Reliance group to acquire control over IPCL was in the interests of the nation. But not everyone agrees with him.

As M K Venu wrote in the *Economic Times*: " many basic raw materials continue to attract peak tariffs. The government has not heeded the unorganized user industry's plea in this regard. (Friedrich von) Hayek may have had something to say on that!"

The doyen of free enterprise, Hayek had pointed out in his book *The Roadto Serfdom* that a clear distinction needs to be drawn between the "rule of law" and "arbitrary government," Venu has pointed out, adding that the Austrian economist believed that the government should create a level playing field for all players.

Shourie says there can only be one cobbler in a village. It is, however, questionable whether this analogy is applicable to the giant petrochemicals manufacturing industry.

Be that as it may, Shourie in his speech on July 6 did acknowledge that Dhirubhai had taught him an important lesson.

Recounting a conversation between the late textiles tycoon and the media moghul Rupert Murdoch, Shourie quoted Dhirubhai telling Murdoch that he should not only have met all the "right" people during his visit to India but that he should also have met the "wrong" people.

Shourie quipped towards the end of his speech: "A *guru mantra*! And I can testify from personal knowledge, that one must follow it (Dhirubhai's advice to Murdoch). I face the cost of not following it every day as I try to implement the government's decisions on divestment."

The minister would indeed have encountered less opposition if he had bothered to listen to some of his political and ideological opponents on the government's privatisation policies.

Such consultations would surely have made the process of privatisation much smoother.

But then, I guess, one lives and learns.

One only regrets the fact that Shourie has been quite selective in telling the world how he turned '180 degrees' in his relationship with the late Dhirubhai Ambani.

For that, would we have to wait for the minister's biography?

APPENDIX 2

Disinvestment in Danger

By Paranjoy Guha Thakurta

This is a slightly edited version of an article that was published in the *Hindu Business Line* on 14 October 2003.

The controversy surrounding Disinvestment Minister Arun Shourie's intransigent position on privatizing public sector petroleum companies, especially Indian Oil Corporation and Hindustan Petroleum Corporation Ltd, threatens to snowball into a major crisis within the National Democratic Alliance government. What seems worse for Shourie and his mentors, including Prime Minister Atal Bihari Vajpayee and Deputy Prime Minister L. K. Advani, is that the imbroglio over the attempts to privatize these two companies could actually jeopardize the entire divestment programme of the Union government.

In other words, Shourie may well end up cutting his nose to spite his face. By his actions, he has not merely antagonized his political opponents but also sharpened the criticism of those within the Bharatiya Janata Party-led NDA Government who had strong reservations about the methodology deployed by him to privatize some of the largest, best-managed, and most-profitable public sector undertakings. One would not be exaggerating if one argued that the one individual who contends that he is among the biggest votaries of privatization has willy-nilly become its single biggest enemy.

After the 16 September (2003) judgement of the Supreme Court restraining the Union government from privatizing HPCL without obtaining Parliament's approval, the Disinvestment Minister disingenuously claimed the entire privatization programme had been derailed. His own ministerial colleague, Petroleum and Natural Gas Minister Ram Naik, however, hailed the judgement as a 'historic' one. Thereafter, on 3 October, following a meeting of the Cabinet Committee on Disinvestment (CCD), Shourie contended that the government would seriously consider a proposal to split the country's largest company, Indian Oil Corporation, into smaller entities before privatizing its marketing arm. Newspapers quoted Naik as saying that something quite different had transpired during the CCD meeting.

It is hardly a secret that the Petroleum Minister had been opposed to the privatization of HPCL but had been overruled by his Cabinet colleagues at the 9 December 2002 meeting of the CCD. Shourie had wanted both HPCL and Bharat Petroleum Corporation Ltd to be privatized. However, at that meeting, it was decided that while the larger HPCL would be privatized, the shares of the smaller BPCL would be divested to the public. If the Cabinet eventually decides to privatize IOC, and there is no guarantee that it will, it would be going back on its own decision not to privatize IOC as well as two other *navratna*s (or 'nine jewels') among the oil PSUs (public sector undertakings), Oil and Natural Gas Corporation and GAIL Limited.

IOC is India's largest petroleum refining and marketing company with a daily turnover in excess of Rs 320 crore. The management had last year lodged a strong protest when it was disallowed by the government from bidding for the shares of its smaller sisters, HPCL and BPCL. The former IOC

Chairman and Managing Director M. A. Pathan had argued that it would be clearly discriminatory on the part of the government if a private corporate group like Reliance was allowed to bid for Indian Petrochemicals Corporation Ltd while denying IOC the opportunity to bid for HPCL and BPCL. The government allowed IOC to bid for IPCL, managerial control over which was acquired by the Reliance group in May 2002, but subsequently barred one PSU from bidding for the shares of another on the ground this did not result in 'genuine' privatization. (IOC had earlier successfully bid for managerial control over IBP Lt, formerly Indo-Burma Petroleum.)

After the government allowed the Reliance group to control IPCL, thereby enabling the combine to hog an over three-fourths share of the country's market for a wide variety of petrochemical products, Shourie's privatization methodology began encountering concerted opposition from within the BJP and the NDA. It was not merely Naik (whose vast empire as Petroleum Minister was sought to be shrunk) who opposed him but the Defence Minister and NDA convenor George Fernandes as well who wrote to the Prime Minister in protest. What is especially curious is that an attempt should now be made to split IOC, the only Indian company in the *Fortune* 500 list, at a time when petroleum companies all over the world over are coming together to become bigger and bigger.

Unlike HPCL and BPCL, both of which were nationalized in the 1970s after taking over the assets of foreign oil companies, there is no legal bar on the government privatizing all but a handful of the 236 Central PSUs in India (including the 130 profit-making ones such as IOC, ONGC, and GAIL). Even so, the reactions of Advani and Shourie make it amply clear that the government did not believe it would be able to muster the support of a majority of the members of both Houses of Parliament to change the law of the land. This not only indicated that there were sharp differences of opinion on the subject within the NDA but also that there was no political consensus cutting across party lines on the modalities of privatizing profit-making PSUs.

Rather than rushing headlong into a confrontation with the judiciary, the government decided that it would merely ask the Supreme Court bench that passed the order on HPCL to clarify its judgement. The apex court made it clear that it was not commenting on the government's policy of privatization but merely asking the executive to go to the legislature to change the statute before privatizing HPCL. The former Disinvestment Commission Chairman G. V. Ramakrishna has commented that Shourie should not have acted in 'unseemly haste' by asking private groups such as Reliance and Shell to proceed with due diligence of HPCL even as the Supreme Court had reserved its judgement after hearing arguments on both sides.

It is not merely this correspondent but many others who have argued that Shourie has wrongly chosen to focus his attention and energies on a few high-profile, well-performing PSUs to the neglect of others that cry out for immediate attention: particularly chronic loss-making companies such as National Textiles Corporation. As T. T. Ram Mohan, professor at the Indian Institute of Management, Ahmedabad, aptly remarked: 'Mr Shourie has erred not merely in his choice of firms but in his insistence on a particular method, strategic sale (that entails handing over managerial control of a public sector company to private promoters) as the norm for disinvestment.'

IOC and HPCL share around three-fourths of the country's market for petroleum products. The IOC management recently offered to pick up the government's stake in HPCL for roughly Rs 10,000 crore, to make up the shortfall in the budgeted receipts from divestment this financial year (2003-4), adding a new twist to the episode.

The Reliance and Shell groups, among others, are keen on acquiring the marketing and distribution network of either HPCL or IOC. While Reliance has set up one of the largest petroleum refineries in India and Asia, it so far does not possess commensurate marketing and distribution facilities. On the other hand, the multinational Shell is hopeful of distributing imported petroleum products. It would be expensive for both these groups to set up a marketing infrastructure on their own. Also, as

Ramakrishna points out, given that many retail outlets of IOC and HPCL are at prime locations, a private group may not be able to purchase such property for love or for money. That is why controlling HPCL or a part of IOC would make all the difference for Reliance or Shell. That is also the real reason why Shourie's policies are as contentious as they are.

APPENDIX 3

A Muddied Tarmac

By Paranjoy Guha Thakurta
Published in *Outlook*, 23 January 2006

It's rare that the Reliance group doesn't succeed in bulldozing its way through the capital's labyrinthine corridors of power. But the manner in which the bidding process for the contracts to modernize and partially privatize the country's two largest airports in Delhi and Mumbai was sought to be manipulated, unsuccessfully, indicates there could be some hope yet for a country where crony capitalism hardly raises too many eyebrows.

Influential corporates can fail to convince a pliant political leadership and bureaucracy that is ever willing to bend over backwards to bend rules. Opacity in governance can raise the hackles of not just losers but the public at large.

To be fair, this is not the same Reliance group we once knew. Last week, the bid for the consortium, led by Reliance Airport Developers (which had tied up with the airport operator of Mexico City), a part of the new Anil Dhirubhai Ambani Enterprises group, was downgraded by a panel headed by E. Sreedharan, the Delhi Metro Rail Corporation chief, which had been asked to inquire into the evaluation of the bidders. If accepted by the government, it may oust the Ambanis from bidding for the Delhi airport. However, the Reliance group is still hoping to manage the crisis. Of the five possible options being talked about, four will enable Reliance Airport to remain in the race.

But there was much more to the murky episode. The first flaw was an attempt to hand over large tracts of prime land to the bidders for the airport modernization programme. This anomaly had to be rectified. Then came the brazen attempt to rig a bidding process that was intrinsically flawed. It took many months for the Empowered Group of Ministers (EGoM), headed by Pranab Mukherjee, to realize that the bid parameters laid down by the ministry of civil aviation had 'poor design', which in turn resulted in subjective criteria for evaluation of the technical bids and lack of accountability on the part of the consultants appointed by the ministry.

India's two largest airports, accounting for half the total air traffic in the country, badly need modernization. Nobody questions that. The important issue is how the airports can be modernized in a cost-effective manner.

Let us for the time being assume that since the government is strapped for funds, the public - private partnership route is the best way to revamp the airports—each involving an expenditure of around Rs 7,000 crore. Let's also be charitable to Reliance and assume there was no truth in the allegation regarding a conflict of interest between the private consultants—Amarchand Mangaldas & Suresh A. Shroff and ABN Amro—and the two shortlisted bidders (Reliance and the Hyderabad-based GMR group). It's true that Amarchand Mangaldas is advising the Ambani brothers on how to divide the Reliance empire. The law firm's managing partner served on the board of directors of Reliance Energy, and both Reliance and GMR are among ABN Amro's biggest clients. But Reliance says these consultants were appointed before the bidders were shortlisted.

The bigger question is why the civil aviation ministry designed the bid parameters in such a shoddy manner that left room for an evaluation scheme that was highly subjective, at best, when not downright arbitrary. The EGoM wrote in a note to the Committee of Secretaries (COS) headed by cabinet secretary B.K. Chaturvedi that while India has been attracting world class investors in various sectors, '... we have managed to land ourselves in a situation where the consultants have chosen the bidders who should get one airport each ... this is compounded by the fact that of all the airport operators in the world, we have chosen Mexico through technical evaluation, and not by competition.
The note added that an analysis of the financial structure of the proposed deal indicated that there was 'an overwhelming incentive' to maximize [the] non-aeronautical revenues of the airport instead of developing its aeronautical assets. Further, the 'cost-plus' tariff structure 'would inevitably lead to "gold- plating" (or excessive expenditure on non-essential or cosmetic items) and high user charges'. In conclusion, it caustically commented, 'We have missed out on top-class players; the incentive structure does not promote aeronautical development that constitutes the core of airport infrastructure; and "cost-plus" tariff setting would imply a high cost airport.'
The fact is that the report prepared by the consultants was considered by no less than five panels comprising senior bureaucrats and politicians and still found wanting. Certain obviously-planted media reports made it out as if one disgruntled official, Gajendra Haldea, advisor, Planning Commission, had criticized the bid evaluation in his 'personal capacity'. It subsequently transpired that as many as five out of seven officials in an inter-ministerial group 'were unable to endorse the consultants' recommendations'.
The familiar line of criticism from affected parties of what transpired was that re-bidding or re-evaluation of existing bids would delay the airports modernization programme. But, as the mandate given by the EGoM to the COS pointed out, a delay of a few months 'should not matter if it helps in awarding a 60-year concession for India's most important airports on a sound footing'.
We all want India to have modern airports. But if the government goofs up in ensuring a transparent system to attract investments, it will inevitably lead to charges of nepotism and corruption. This time round, the situation seems to have been salvaged—just about.

APPENDIX 4

Biggest tax break for richest Indian

Published in *Current* (20 June - 6 July 2009) with a subtitle: 'Rs 20,000 crore off for Mukesh Ambani' and an introduction: 'The Ambanis and Reliance have always benefited from favourable government rules. The latest is a tax break that the government has quietly included in its Union Budget 2009 which could end up making Mukesh Ambani richer by Rs 20,000 crore.'

Even as the Ambani brothers fight a bitter battle on the pricing and supply of natural gas from the Krishna- Godavari basin, the government has handed out a bonanza to a particular company headed by the older of the two siblings, Mukesh Ambani, by providing it a tax break. The income tax benefit that has been provided in the Union Budget could benefit the firm by as much as Rs 20,000 crore, claim sources close to Mukesh's estranged brother, Anil Ambani.

First, a bit of background information is provided to contextualize the dispute between Reliance Industries Limited (RIL) controlled by Mukesh Ambani and Reliance Natural Resources Limited (RNRL) headed by Anil Ambani over natural gas extracted from the Krishna Godavari (KG) basin off the coast of Andhra Pradesh. In 1999, the Ministry of Petroleum & Natural Gas (MoPNG) announced the New Exploration Licensing Policy (NELP) under which a consortium comprising RIL and its partner Niko Resources Limited became the successful bidder (and thereafter, the contractor) for exploration of block D-6 in the KG basin.

In March 2000, the name of the contractor underwent a change from Reliance Platforms Communications.com Private Limited to Global Fuel Management Services Limited, and then to RNRL. In April 2000, a production- sharing contract was signed between the MoPNG and the contractor. In July 2002, Mukesh and Anil's father Dhirubhai Ambani passed away and in October 2002, gas was discovered in the KG-D6 block.

In March 2003, Reliance Gas Transportation Infrastructure Limited (RGTIL) was created as a 100 per cent subsidiary of RIL for transportation of gas extracted from the KG-D6 block. In August 2004, RGTIL was granted approval by the MoPNG to transport 80 mscmd (million standard cubic metres a day) of gas from Kakinada in Andhra Pradesh to Bharuch in Gujarat passing through four states, including Karnataka and Maharashtra.

In June 2004, the then undivided RIL entered into an agreement with the Uttar Pradesh government to set up the 'world's largest gas-based power plant' with a capacity to generate 3,500 megawatt of electricity at Dadri, near Delhi, based on KG gas. Between November 2004 and June 2005, the Ambani brothers fought a bitter battle in public over control of the assets of the family businesses. In June 2005, the feuding brothers arrived at a settlement supervised by their mother Kokilaben Ambani and started dividing up the Reliance business empire: the Mukesh group got the gas exploration and extraction business while the Anil group acquired control over the power generation business. In 2006, RIL and RNRL started squabbling over a gas supply agreement between the two. RIL applied to the MoPNG for approval of a gas price of $2.34 (or around Rs 114) per mBtu (million British thermal units) for sale of 28 mscmd to RNRL for a period of 17 years. The MoPNG refused to approve the

price and a legal battle broke out….
Meanwhile, on April 21, 2006, an unusual development took place: RGTIL was taken out of the ambit of RIL and converted into an independent company controlled entirely by Mukesh Ambani for a relatively small sum of Rs 5 lakh. To understand, how this happened one has to look at the current shareholding structure of RGTIL. There are three tiers in the control structure of this company.
In the first tier are eight companies. Of these, three companies, namely, Vayudoot Finance & Leasing Pvt. Ltd., Vicraze Investment & Trading Co. Pvt. Ltd., and Yashasvi Holding Pvt. Ltd. all have the same registered office address (84A Mittal Court, Nariman Point, Mumbai 400 021) and the same directors (Tushar Mehta and V.R. Sasikumar). Two more companies, Proline Investment Pvt. Ltd. and Jigna Fiscal Services Pvt. Ltd., have the same address but Mukesh Jobalia replaces Tushar Mehta as a director. The sixth company, Lordwest Investment & Trading Co. Pvt. Ltd., has the same address but two different directors, Haresh Mishra and Navin Kalawadia. The seventh company, Shangrila Investment & Trading Co. Pvt. Ltd., has the same set of directors as the first six companies (Tushar Mehta and V.R. Sasikumar) but a different registered office address, that is, 505 Dalamal House, Nariman Point. The eighth company, Anumati Mercantile Pvt. Ltd. is based out of 147 Atlanta, Nariman Point and has Sandeep Tandon and Satish Parikh as its directors.
The above eight companies together own all the shares of a company in the second tier, Reliance Utilities Pvt. Ltd. This company is based out of Motikhavdi Post Office, Digvijay Gram, Jamnagar district, Gujarat 361 140. One of the company's five directors is a director in a company in the first tier: Sandeep Tandon. The four other directors are K.R. Raja, V.K. Gandhi, Sandeep Junnarkar, and Kirit Brahmabhatt.
Reliance Utilities is the 100 per cent owner of RTGIL that has its registered office in 101 Shivam Apartments, 9 Patel Colony, Bedi Bunder Road, Jamnagar, Gujarat 361 008. RTGIL has five directors, two of whom are also directors of Reliance Utilities: they are Sandeep Tandon and K.R. Raja. RGTIL has four other directors, Mahesh Kamdar, Rajinder Kumar Dhadda, Raj Pal Sharma, and Madhusudan Panda. It is claimed by sources close to Anil Ambani that the above-named persons are all associated with his elder brother, Mukesh Ambani, and help the latter control RTGIL.
The Union Budget for 2009 -10, announced by Finance Minister Pranab Mukherjee on 6 July, has inserted a new section 35AD in the Income Tax Act of 1961 which allows 100 per cent of the capital expenditure incurred on setting up and operating a natural gas or a crude oil pipeline as a tax deduction in the very first year of operation. This is the only business of its kind in India in which the entire capital expenditure incurred is treated as revenue expenditure in the first year of operation. What sources close to Anil Ambani claim is that this new provision in the Income tax Act would benefit only one company and this is RTGIL. Further, the sources allege that the total quantum of financial benefit that would accrue to the Mukesh Ambani- controlled company could be as much as Rs 20,000 crore.
This is hardly the first time government policy has helped RIL. There are many such instances but a few are worth recounting simply because these pertain to gas pipelines and the Petroleum & Natural Gas Regulatory Board. On the last day of March 2006, Parliament enacted the Petroleum & Natural Gas Regulatory Board Act and on 3 April that year, the Act was published in the Gazette of India. The next step for the government was to notify the Act, but that did not happen for a while.
On 20 December 2006, the government announced its policy for 'development of natural gas pipelines and city/local natural gas distribution networks'. The Act says the Board is supposed to regulate the distribution of natural gas through city/local networks, authorize entities to lay, build, operate, and expand a common carrier or contract carrier, trunk pipelines as well as city/local networks and regulate transportation tariffs.
On 25 June 2007, the government notified the formation of the Board. Now comes the unusual part of

the story. Whereas the government notified the constitution of the Board, it did not notify the Act itself. Yet Section 3 of the Act clearly states that the Board can be set up only under the provisions of the Act. It was a classic 'Catch 22' situation, straight out of Joseph Heller's novel. The Board was operational but it could not do anything because the Act itself had not been notified. Was the omission an oversight? There is reason to surmise that the omission was deliberate.

Nothing happened for roughly three months. Eventually, on 1 October 2007, the Ministry rescinded the June notification and issued a fresh one notifying the Board as well as the Act. But once again, there was a catch. The entire Act was notified with the exception of one substantive portion -- Section 16 – that empowered the Board to authorize the construction of natural gas trunk pipelines and city/local distribution networks. Why was this done?

Between 25 June and 1 October 2007, the MoPNG went ahead and authorized the construction of five major natural gas pipelines by GAIL (formerly Gas Authority of India Ltd.) and four by Reliance Industries Limited involving an investment of – hold it! – not less than Rs 50,000 crore! In effect, the government left nothing for the Board to do since all the major trunk pipelines required for the country in the near-term had already been authorized. Significantly, all the nine gas pipelines were authorized without a process of competitive bidding. Yet section 4.1 of the natural gas distribution policy provides detailed guidelines for selecting the entity that would build a pipeline through a transparent process of bidding.

Why did the government go through the charade of creating a body called the Petroleum & Natural Gas Regulatory Board when Minister Murli Deora and his officials apparently did not want the body to function effectively?

Over the past week or so, the 'Letters to the Editor' section of *BusinessStandard* newspaper has given considerable space to a public spat between Tony Jesudasan, Group President – Corporate Communications of the Reliance ADAG (Anil Dhirubhai Ambani Group) and Pradip Baijal, former chairman of the Telecom Regulatory Authority of India and former officer of the Indian Administrative Service, who had written an article in the newspaper on the ongoing dispute over pricing and allocation of gas from the KG basin between companies controlled by the two Ambani brothers (RIL and RNRL) that is being heard by the Supreme Court.

Jesudasan alleged that there was a conflict of interest in Baijal being appointed chairman of the Pipeline Advisory Committee of the P&NG Regulatory Board since he is director of a management consultancy firm (Noesis Strategic Consulting Services) in which Niira Radia is also a director and that Radia controls three public relations consultancies (including Vaishnavi Communications and Neucom) that count RIL as a client, among many. Baijal wrote back saying he had resigned from the Pipeline Advisory Committee after attending only its first meeting and that he did not have anything to do with Radia's other businesses. Jesudasan wrote another letter to the newspaper pointing out that Radia's firms (Noesis and Neucom) operated out of the same building in New Delhi's Gopal Das Towers, Connaught Circus, in which RIL's corporate office is located a floor below, hinting that this was perhaps not a coincidence….

APPENDIX 5

The Great Indian Oil Robbery: Panna-Mukta and Tapti

By Paranjoy Guha Thakurta

The Week, a weekly English news magazine, carried a cover story in its issue dated 29 June 1997 on how a clutch of privately owned companies in connivance with officials in the Ministry of Petroleum & Natural Gas and the Oil and Natural Gas Corporation (ONGC), duped the nation of huge sums of money. These firms were awarded lucrative contracts by flouting tender procedures but also by manipulating figures of oil reserves and investments that were made by ONGC. This story, broken by Rajesh Ramachandran, pointed out how facts were deliberately manipulated to enable private corporate entities to win contracts to extract crude oil for profitable fields at the expense of the national exchequer.

The Indian government allowed private companies (both foreign and Indian) to enter the area of oil exploration and production of crude oil and natural gas in July 1991 reportedly under pressure from the World Bank. The ONGC had applied for a loan of $450 million to the World Bank for a project to reduce gas flaring in the Bombay High oilfields off the west coast of India. The World Bank agreed to disburse the loan under a condition that India should open up the oil sector and allow private companies – domestic as well as foreign – to enter into joint ventures with two public sector companies, ONGC and Oil India Limited (OIL). The government of India agreed to this proposal in return for the loan and the Ministry of Petroleum & Natural Gas invited tenders in August 1992 to develop 43 medium and small-sized oil and gas fields that were then controlled by ONGC and OIL. The government also leased out certain fields that had already been developed by ONGC and OIL. These two public sector companies had not just invested large sums on first, exploring and then, developing these fields but had also started extracting crude oil and gas from these fields.

According to the terms laid down by the World Bank, the government invited bids for 12 medium-sized oilfields, six each of which were under 20-year leases with ONGC and OIL. Contracts were signed for five of these oilfields in 1994 when Captain Satish Sharma was the Union Minister in charge of the Ministry of Petroleum & Natural Gas. A consortium formed by Reliance Industries Limited (RIL) with the controversial American multinational Enron won two of these contracts. These contracts mandated Reliance-Enron to share production with ONGC at the Panna-Mukta oilfields and the Mid and South Tapti gas fields. It was claimed that the leasing of the Panna-Mukta oilfields off the coast of Gujarat to the Reliance-Enron consortium resulted in a loss to exchequer of an amount in the region of Rs 5,000 crore (close to $1 billion at the exchange rates that were prevailing in 2009). Another contract to share production with ONGC for the Ravva oilfield in the Krishna-Godavari basin was won by Videocon Petroleum along with its Australian and Singaporean partners. Similarly, the contract for OIL's Kharsang oilfields in Arunachal Pradesh was won by Enpro India, Geo Enpro and their partner from Panama. As per the production sharing contracts entered into by the two public sector oil companies with the private firms, 40 per cent of the oil produced in these fields would go to ONGC and OIL while the remaining 60 per cent would go to the partners in the respective consortia.

The government would also have the option to buy all the oil produced. Though all the contracts were for lease periods lasting 25 years, no medium-sized oilfield normally remains in production after 15 years of exploitation. Therefore, in effect, what was done was to virtually sell (and not just 'lease') the oil and gas fields to the private firms.

Though ONGC had spent large sums of money in the exploration and production of these oilfields, it was never compensated for the same when the fields were leased out. The office of the Comptroller and Auditor General (CAG) of India which examined the deals in detail found to its great astonishment that the Ministry of Petroleum had been rather magnanimous in writing off a sum of Rs 676.52 crore which the Reliance consortium had to pay for the fields.

Moreover, the Ministry had grossly underestimated the quantity of oil in the Panna-Mukta oilfields when it invited bids for the fields. As per data available with the ONGC, on January 1, 1992, Panna had 32.13 million tonne of oil and oil equivalent of gas while Mukta had 22.12 million tonne. However, in the initial information docket supplied to the bidders, the Petroleum Ministry had put Panna's reserves at 16.41 million tonne of oil while the reserves of Mukta were placed at 14.94 million tonne which put together amounted to 31.35 million tonne. Moreover, it was not clear whether the oil equivalent of gas in these two oilfields were taken into account while preparing the information docket. Later, in the final documents supplied to the bidders, 17.35 million tonne out of the 31.35 million tonne of oil in the two fields mysteriously evaporated. The final oil reserve figure given to the bidders was just 14 million tonne – 9.5 million tonne in Panna and 4.5 million tonne in Mukta – which was ridiculously low given the fact that even Reliance-Enron in their bid had estimated the oil reserve in the two fields at 20 million tonne.

The CAG report stated that 'estimates of the oil reserves underlying the whole exercise of awarding these contracts were not properly assessed and kept varying at different stages of the process'. The report added that 'the bid evaluation was based on the lowest of these estimates and not on those given in the tender documents'.

While handing over the Panna-Mukta oil and gas fields to private players, ONGC incurred large losses in more ways than one. Even after the contract with Reliance-Enron was finalised, ONGC had spent around Rs 240 crore on erecting main decks, pipelines, jackets and other infrastructure facilities, an investment that was never recovered. The CAG in its report was critical of the fact that 'this investment was not taken into account while awarding the contract and was an unintended benefit to the successful bidder (Reliance- Enron)'.

According to the terms and conditions of the contract, ONGC had to complete these facilities at its own cost which would not be recovered from the joint venture. At the same time, the private companies were reimbursed all the money that they had spent on developing the fields before they were awarded the contract. The Reliance-Enron consortium was allowed to recover from the project revenues their expenses up to the date of the signing of contract which amounted to $7,50,000 but similar expenses amounting to Rs 7.58 crore incurred by ONGC in the Mukta field after the award of the contract were not made reimbursable under the contract. ONGC had mining leases and petroleum exploration licences for Ravva, Panna and Mukta up to the year 2012, 2006 and 2010, respectively. Its licences for the Mid and South Tapti gas fields were renewable every year. It was mandatory for the new operators to pay a signature bonus to the mining lease holder. This bonus ought to have been negotiated relative to the licensee's profit, which would have gone to ONGC but for the surrender of the licence.

The CAG categorically stated that it found no evidence on record of such a procedure having been followed. This implied that the $24.6 million that Reliance-Enron paid for the Panna-Mukta and Mid and South Tapti oilfields was grossly inadequate. Even the CAG could not quantify the money lost by the government on account of the scam. Rough estimates put the loss in the Panna-Mukta deals alone

at a staggering Rs 4,500 crore. The figure could have gone up if the losses incurred for developing the 24 oilfields were also taken into account for which the private operators had no production sharing contracts with the government. As per the data with the ONGC, oil and gas reserves at Ravva as on January 1, 1992 were 23.34 million tonne. If the difference in the price of oil paid to the private companies is the same as in the case of Panna and Mukta, the loss in this deal could be pegged at around Rs 2,000 crore. A similar amount would have been lost in the case of the Mid and South Tapti gas fields, which had 30 million tonne of oil equivalent of gas.

The Petroleum Ministry was even more magnanimous in disposing off the smaller oilfields. Though some of the oilfields were worth around Rs 18 crore each, the Ministry handed these over to private contractors for a mere Rs. 2.3 crore. Niranjan Pant, the then Director, Commercial Audit, wrote in the annual report (1995-96) of ONGC: 'The difference has been treated as a loss to the company in the accounts. This fact has not been disclosed.'

The Petroleum Ministry claimed that these were 'insignificant' fields and that the amount spent on them was too small to warrant a disclosure. This was stated despite the fact that the ONGC had been spending Rs 18 crore for drilling oil in these small offshore and onshore fields at that time – even as the public sector company's office expenditure in New Delhi alone was in the region of Rs 20 crore. ONGC insiders have claimed that the private companies had nothing new to offer – they would just extract or lift the oil and gas from the wells sent it to ONGC for processing. As of May 1996, the government had been buying oil from ONGC at Rs 1741 per tonne but it started paying approximately Rs 4,545 per tonne (the international price for oil that was then prevailing) to the Reliance-Enron consortium.

By the time the contracts were sealed, a number of retired ONGC officials had already taken up employment with Reliance while a few others joined later. Prominent among them was S. L. Khosla, former chairman and managing director of ONGC. Others included officials from the exploration branch of ONGC: R. B. Mehrotra, director; Dr R. Baslia, deputy general manager and J. S. Misra, group general manager.

In December 1996, the CAG had criticised the arbitrary manner in which the contracts were awarded and the way in which the government had flouted rules at will to favour particular private companies. For every tonne of production in the Panna-Mukta oilfields, the government lost Rs 1,423 to Reliance-Enron. The report was critical of other anomalies as well in the bidding process. There were no records to indicate that all bids had been received by the government on the closing date, that is, on 31 March 1993, and that all bids were opened on the same date.

The CAG also alleged that the bids were not openly read out in the presence of all the bidders as was supposed to be the norm. The names of the officials present during the time of the opening of the bids were not recorded. The comparative statements of the bids were not authenticated and dated. The rationale of the Petroleum Ministry to lease out the oilfields was basically faulty as it was claimed that the Panna-Mukta oilfields were uneconomical. The fact was that ONGC had been producing oil from these oilfields. A report by the Ministry had shown a 13.44 per cent post-tax internal rate of return to the private companies on their investments after they took over the fields.

The CAG report was in fact a damning document on the privatisation of oilfields by the government of India. According to the report, the Reliance- Enron consortium operated the Panna-Mukta oilfield at costs that were higher than their bid projections and the costs that were earlier incurred by the ONGC. The contracts relating to the Panna-Mukta and Mid and South Tapti oilfields did not indicate detailed abandonment procedures.

The contracts did not provide for a level playing field for public sector oil companies as far as pricing of crude oil and gas, royalty and cess and customs duty are concerned. The comparative economics and alternative financial returns of developing oilfields through joint ventures and only through

national oil companies were not submitted to the government before awarding the contracts, the CAG noted, adding that there were inadequacies in even the tender invitation and evaluation procedures. Bid evaluation criteria in the notice inviting bids were not clear. The ministry did not disclose facts regarding post-bid costs of ONGC in the information docket supplied to the bidders. Signature and production bonuses paid to ONGC were not based on well-defined rationale. There were infirmities like unguaranteed production and undefined operating expenditure levels. Information relating to concessions given to the joint ventures in the form of frozen royalty and cess were not specifically provided.

ONGC had incurred an expenditure of Rs 351.05 crore for exploration and development of the Ravva oilfield, but the consortium with Videocon Petroleum as one of the partners which won the contract for the lease of this oilfield, paid only Rs 173.25 crore as past-cost reimbursement. On the other hand, the contract signed between ONGC and Reliance-Enron contained no provision that would entail the consortium paying past-cost reimbursement to ONGC. The total loss to ONGC on account of this, including half the money it did not get from the Videocon consortium, amounted to Rs 954.32 crore.

The CAG report also highlighted the fact that the Planning Commission had cautioned the Petroleum Ministry in March 1994 that it should take note of the substantial expenditures incurred by ONGC on the oilfields and make efforts to recover the investments made. The Petroleum Ministry's reply to the Planning Commission on this issue was unusual to put it mildly. The Ministry said that 'it may not be possible to fully reimburse ONGC for all past cost incurred' because international oil prices were fairly low. In fact, while ONGC had been paying Rs 1,428 per tonne as cess and royalty, the private companies were asked to pay only Rs 1,381 per tonne. Again while these rates were to remain fixed for the private companies throughout the 25-year lease period, the rates for ONGC were liable to go up. In yet another instance of favouritism, the government agreed to pay Enron in US dollars in exchange for the oil it bought from it, while Enron paid its share of royalty and cess in Indian rupees – this was a period when the Indian government was not exactly flush with foreign currency.

Long before the oilfields were offered to the private sector, ONGC had conducted a 3,600 line-km three-dimensional seismic survey of the Ravva field in 1990. Curiously, this valuable data was not interpreted for two years. While its estimates for the Ravva reserves kept varying, the Petroleum Ministry finalised the contract for lease. It was suspected that this data could have reached private companies bidding for the oilfields. As former ONGC chairman and managing director Subir Raha himself pointed out, key files and documents were missing from the archives of the ONGC and were not made available to him when he called for these.

Though India's premier police investigating agency, the Central Bureau of Investigation (CBI) had registered a preliminary inquiry in this case in June 1996, six months after Superintendent of Police Y. P. Singh conducted a probe into allegations of nepotism in the manner in which contracts for the Panna-Mukta and Tapti oilfields were awarded and submitted a detailed report in this regard, his superior in the agency, the then CBI Director, K. Vijaya Rama Rao, refused to place the file on record. Subsequently, all information pertaining to Panna-Mukta was blacked out of the public domain. The gist of Y.P. Singh's case was as follows:

A negotiating committee comprising the Secretary, Petroleum and Natural Gas, the Finance Secretary and other senior government officials evaluated the responses to the tenders floated by ONGC on developing the Panna-Mukta oilfields in April-May 1993. Further negotiations were held between June and September that year. The CAG report says the contracts were awarded between October and December 1994 for five medium-sized fields and 13 small fields. According to CBI documents, between April 1993 and May 1994, when the bids were being processed, representatives of many industrial houses had approached the then Petroleum Minister Captain Satish Sharma.

An incriminating statement was made by Capt. Satish Sharma's additional private secretary Brijnath

Safaya that was recorded by Inspector Harish Sharma of the CBI. Safaya had alleged that representatives of several industrial groups sent cash-stuffed suitcases to the then Petroleum Minister during this period. Safaya had alleged that representatives of five industrial groups had routed approximately Rs 13 crore to Capt. Sharma through him. Among the frequent visitors to the Sharma household at that time were Prithviraj Jindal, head of Jindal Saw Pipes; Venugopal Nandlal Dhoot, head of the Videocon group; Shashi Ruia of the Essar group of companies; Mukesh Ambani of Reliance Industries and Abhey Oswal of Bindal Agro. Five industrial houses, including three groups (Reliance, Videocon and Essar) bagged the contracts to extract crude oil from the Panna-Mukta oilfields.

According to Safaya, the Aurangabad-based Videocon company sent Rs one crore to Capt. Sharma through a person with the surname Wadhwa in July 1993 and again despatched Rs one crore in October later that year. The Essar group dished out Rs three crore in November 1993 using one person surnamed Aggarwal as a conduit and then sent another Rs two crore in February through one Sandeep Bhargava. Similarly, Dhirubhai Ambani and Mukesh Ambani of Reliance Industries gifted Rs one crore through one S. Raman in June 1993, then sent Rs one crore in October 1993 and again, Rs two crore in December 1993. The criminal case against Capt. Sharma did not lead to his prosecution because of an important reason: Safaya retracted his statement.

APPENDIX 6

Extracts from the report of the Comptroller & Auditor General of India tabled in Parliament on 12 September 2011

KG-DWN-98/3 (Operator: RIL)
The KG-DWN-98/3 block, which is operated by RIL, was awarded in the first NELP round in the year 2000. It has India's largest gas discoveries (Dhirubai-1 and Dhirubai-3 gas fields) and also has a large oilfield discovery (MA oilfield). Our main findings and recommendations relating to the KG-DWN-98/3 block are as follows:

Non-relinquishment of area and declaration of entire contract area as discovery area
We found that the contractor was allowed to enter the second and third exploration phases without relinquishing 25 per cent each of the total contract area at the end of Phase-I and Phase-Il as against Articles 4.1 & 4.2 of PSC. Subsequently, in February 2009, GOI also conveyed approval to treat the entire contract area of 7645 sq.km. as 'Discovery Area', thus enabling the operator to completely avoid relinquishment of area.
'Discovery Area' is defined in Article 1.39 of the PSC as **'that part of the contract area about which, based on discoveryand results obtained from a well or wells drilled in such part, the contractor is of the opinion that petroleum exists and is likely to be produced in commercial quantities'.**
(Discovery Area is defined in Article 1.38 as 'the finding, during petroleum operations, of a deposit of petroleum not previously known to have existed, which can be recovered at the surface in a flow measurable by conventional petroleum Industry testing methods'.)
The delineation of 'discovery area' is inextricably linked to results obtained from wells drilled and finding of petroleum deposits recoverable at the surface (which can be discovered only through drilling of successful wells). At the end of the Exploration Phase-I, the operator had drilled all wells – in the north-west part of the block only. The sequence of events between April 2004 and February 2009 clearly demonstrates that:
Originally DGH did not agree (May 2004) to RIL's proposal (while preparing to proceed from Exploratory Phase-I to Phase-Il) for not relinquishing any part of the contract area (at the end of Exploration Phase-I) and reiterated the PSC contractual provisions for relinquishment of 25 per cent at the end of Phase-I (even identifying least priority areas for consideration for relinquishment). DGH, further, stated that none of the existing discoveries extended beyond 'priority area-I', and no well had been drilled in 'priority area', and hence it was not possible to consider the total block area as the discovery area.
However, by April/May 2005, DGH capitulated. While noting that there were 'no two different interpretations possible as far as the definition of discovery provided in the PSC', DGH felt it would be 'prudent to acquire and interpret the 3D seismic data in the remaining part of the block on a fast track basis'. Subsequently, 'the relinquishment area could also be worked out in a proper manner'. In

the meanwhile, RIL had already moved from Phase-I to Phase-Il without any area relinquishment, and was notifying its intent to move from Phase-II to Phase-III, again without any relinquishment. In August 2006, DGH informed MoPNG that the Management Committee (MC) (chaired by DGH representative) had, in July 2006, permitted the contractor to enter the next phase without relinquishing any area, since data showed 'continuity of discovery' in the block area (on the basis of RIL's presentation based on the results of seismic data acquired).
Thereafter, there was extensive correspondence between MoPNG and DGH from August 2006. MoPNG raised pertinent questions as to whether the coverage of wells was over the entire block for DGH to reach the conclusion of discovery extension, but failed to pursue this aspect further.
By April 2007, MoPNG felt that the proposal might be considered on getting a certification from DISH that the whole area had been covered by a reasonable number of wells/ 3D seismic to substantiate continuity of channels and the extent of discovery area. DGH gave a certificate in May 2007 to MoPNG.
Even in May 2007, internal notes of MoPNG indicated their awareness that the whole of the block had been provided as a discovery area on the basis of 3D seismic and not on drilling of wells, which were mainly confined to the NW part of the block. However, MoPNG now proposed that on the basis of the proposed discovery area, the operator should be asked to appraise the area as per appraisal-related PSC provisions. After concerns expressed by the then Minister, PNG as to whether the decision sought to be ratified was consistent with the PSC provisions, the case was referred to a committee under the chairmanship of Additional Secretary, MoPNG. The Committee accepted the contractor's claim (February 2008) and decided (April 2008) that the timeline for appraisal of discoveries would commence from 1.1 July 2006 (viz. MC's acceptance of the contractor's claim). This was finally approved by the Minister in July 2008, but communicated to DISH only in February 2009.
RIL's views at different points of time (that the contractor was 'of the opinion that petroleum was likely to exist', 'the contract area was having hydrocarbon potential', 'ultimately additional exploratory wells needed to be drilled to establish the additional hydrocarbon potential in the deeper water area of the block for which they were making efforts to hire ultra deep water rigs' clearly attempted to confuse potential/ prospectively with actual discovery of hydrocarbons. Their difficulties in hiring ultra-deepwater rigs for the deep water area of the block (essentially the SW part, where no discoveries had been made) had no linkage with the contractual provisions for discovery area and relinquishment.
Thus, RIL's proposal of April 2004 to not relinquish any area and retain the whole contract area as 'discovery area' was submerged in a sea of correspondence between RIL and DGH, without relinquishment action being taken in terms of the PSC provisions, while RIL was allowed to proceed from phase to phase. By April/ May 2005, DGH had 'waived' its earlier objections, and now advised/ directed the operator to complete 3D seismic data. By July 2006, DISH completed its about-turn and agreed (through the MC) to the contractor's proposal. MoPNG was aware of the flaws in the Mc's decision for retention of the entire area, but instead of reversing the same (in line with PSC provisions), it chose to accept DGH's certification for such retention.
MoPNG gave a detailed reply (July 2011) regarding acceptance of operator's opinion by DGH and MoPNG. We, however, do not agree with the reply as allowing the contractor to retain entire block area as discovery area was not in compliance with PSC provisions. The reply of MoPNG and our rebuttal thereof are given in detail in Chapter 4.
We recommend that MoPNG should review the determination of the entire contract area as 'discovery area' strictly in terms of the PSC provisions. Further, it should delineate the stipulated 25 per cent relinquishment area at the time of the conclusion of the 1 and 2, exploratory phases, and then correctly delineate the 'discovery area' strictly based on the PSC definition, linked to well or wells drilled In

that part, without considering any subsequent discoveries (which would be invalid on account of non-compliance with PSC provisions).

(Para 4.2.1)
Discovery related issue
In violation of PSC provisions, in the case of 13 out of 19 discoveries between October 2002 and July 2008, the operator had, without first furnishing the initial particulars of the discoveries in writing to the MC and Government, directly given written notifications regarding potential commerciality of the discoveries.
MoPNG replied (July 2011) that in the beginning, systems and processes were not fully established, however, over a period of time, the procedures had now been strengthened, and were being strictly followed for subsequent discoveries as per PSC requirement.

(Para 4.2.4)
D1-D3 gas discovery
The operator submitted an 'Initial' Development Plan (IDP) in May 2004 (with estimated capital expenditure (capex) of $2.4 billion). The IDP was followed up with an Addendum to the IDP (AIDP) in October 2006 (estimated capex of $5.2 billion for Phase-I and $3.6 billion for Phase-Il). We found that: Most procurement activities were undertaken late in line with the schedules of the IDP of May 2004. By contrast, activities in respect of items in the AIDP were initiated even before the submission/approval of the AIDP. Clearly, the development activities of the operator were guided by AIDP,
rather than IDP.
As indicated by the operator, advance action was taken to tie up vendors for timely development of D1/D3 fields in anticipation of the MC approval of the AIDP. While a view could, perhaps, be taken that such pre-approval action is at the risk and cost of the contractor, in reality, this increases the probability of such approvals becoming a fait accompli.
Since approval of estimates does not constitute acceptance of the cost projections of the operator, validating the cost incurred by him can be done only after audit of the actual cost through proper norms. Part of the expenditure in respect of individual items under AIDP incurred during 2006- 07 and 2007-08 has been audited. Remaining expenditure incurred from 2008-09 onwards will be covered in future audits.

(Para 4.3.1)
Procurement-related activities
We found that payments during 2006-07 and 2007-08 revealed instances of huge procurement contracts where we could not derive assurance as to the reasonableness of costs incurred, primarily due to lack of adequate competition – award on single financial bids; major revisions in scope/ quantities/specifications; post-price bid opening; substantial variation orders – with consequential adverse implications for cost recovery and GOI's financial take.
In particular, regarding the MA oil field, we found that well before submission, let alone approval, of the Field Development Plan (FDP) and Mining Lease (ML) application, the operator had placed orders for various critical items required for development activities/ production facilities from 2006 itself.
We also found serious deficiencies in the award, on a single financial bid, of a 10 year hiring contract for $1.1 billion for a Floating Production, Storage and Offloading (FPSO) vessel from Aker Floating Production (AFP).

(Para 4.4)
During our scrutiny of the operator's records, we have come across instances, where multiple vendors were pre-qualified. However, when technical bids were received, all vendors (except one) were rejected, and the contract was finally awarded on a single financial bid.
In our opinion, such disqualification of vendors on technical grounds, after a pre-qualification process and bidders' meetings for technical clarifications, limits the competitiveness which is not in accordance with the spirit of the procurement procedure given in the PSC. In many cases, it resulted in no competing financial bids, and the contract was awarded on the basis of a single financial bid. In such a situation, the letter and spirit of the MC's role at the prequalification stage is vitiated.
Consequently, in our opinion, in cases of procurement (under procedure 'C' – high value contracts), where pre-qualified bidders are subsequently disqualified/declared non-responsive on various technical and other grounds and there is only one financial bid being considered, the Operator should either go back to the pre-qualification process, and ensure that more vendors/parties are pre-qualified. Alternatively, if the operator wishes consideration of only a single financial bid, the matter has to be necessarily referred back to the MC (including GOI representatives)? GOI for *ex ante* relaxation from PSC stipulated procurement procedures. *Post facto* approval of the MC may be provided for in emergent cases, with adequate justification.
Likewise, extension of contracts (beyond the extension periods already stipulated in the contract) is not in consonance with PSC provisions. If the operator wishes to extend such contracts, the matter has to be necessarily referred back to the MC for necessary relaxation.

(Para 4.6)
We, therefore, recommend that in the case of the KG-DWN-98/3, MoPNG carefully review. In depth the award of 10 specific contracts (of which 8 were awarded to Aker Group companies) on the basic of a single financial bid. In this recommendation we are not even remotely suggesting that the operator should follow government procurement procedures, yet any commercially prudent private acquisition would also attempt to generate competition and thereby obtain the most competitive price. Such concern for a cost effective acquisition is not perceptible in the aforementioned process.

Conclusions and General Recommendations
Our audit indicated that there is considerable scope for improvement in the management of hydrocarbon E&P with private sector participation.

Structure of PSC
The PSC, as it currently stands, is based on a scaled formula for profit sharing between the GOI and the private contractors. This is based on a critical parameter – Investment Multiple (IM) – which is essentially an index of the capital-intensive nature of the L&P project i.e. the amount of 'capex' on exploration and development activities relative to income. The slabs for profit sharing are so designed that more the capital intensive the project (i.e. lower IM), the lower the GOI share of 'profit petroleum' (which could be as low as 5 to 10 per cent). Contrarily, the higher the IM (i.e. less capital intensive vis- a-vis income), the higher the GOI share of 'profit petroleum' (which could be as high as 85 per cent).
In practice, however, the private contractors have inadequate incentives to reduce capital expenditure – and substantial incentive to increase capital expenditure or 'front-end' capital expenditure, so as to retain the IM in the lower slabs or to delay movement to the higher slabs.
The structure of the IM-based profit sharing formula (especially when there is a huge jump in GOI's profit share from 28 per cent to 85 per cent on an IM slab of 2.5 or more) is such that in certain

scenarios, an increase in capital expenditure, upto a point could conceivably result in an increase in the contractor's share of profit petroleum, despite a reduction in the total profit petroleum as well as GOI's share of profit petroleum. Further, 'front-ending' of capital expenditure (i.e. skewed towards the initial phases) decreases the IM, and postpones the movement to higher IM slabs; this results in a reduction in GOI share on a discounted cash flow basis, since the slabs involving higher GOI share come later, rather than earlier.
Operational control of E&P operations is largely with the private operators, and the GOI's oversight role is restricted essentially to its representation (through MoPNG and! or DGH) in the Management Committee for the block, especially in approval of Annual Work Programmes and Budgets and Field Development Plans, as well as a few approval functions delineated in the PSC.

Ashok Chawla Committee Report
We are given to understand that the report of the Ashok Chawla Committee on allocation of natural resources also draws similar conclusions regarding the IM- based profit-sharing formula. This committee had, inter alia, representatives from MoPNG and the Ministry of Finance, so it can safely be presumed that its conclusions were well considered. However, the report is not currently available in the public domain.
According to media reports, the Committee has stated that the system **'gives incentive (to an operator) to increase his investment, or front-end his work plan in order to see that the threshold where Governments profit take rises rapidly is not reached'.** Citing the example of KG-DWN-98/3, the Committee has stated that **'the relationship between the pre-tax IM and the share of contractor profit petroleum changes dramatically once the pre-tax IM crosses 2.5, with the government's share increasing from 28 per cent to 85 per cent It Is useful to remember that this schedule is bid by the operator, and not determined by the Government.'**
Further, according to the Committee, **'a high share of some pre-tax IM will help to win the bid, depending on the financial mode of evaluation used, but it does raise concerns that such a radical change would provide very strong incentives for any operator to adopt all in vestment and strategies possible to ensure that the pre-tax IM stays within the 2.5 limit'.**
The report clearly points out the risks associated with the IM-based formula for sharing of profit petroleum, especially with a steep jump in profit sharing from one slab to another. In our view, even the linearity introduced in the sliding scale for IM slabs from NELP-VII onwards does not fully address these risks.
The oversight/control of GOI representatives on high value procurement decisions is also very limited in scope (largely restricted to prior intimation of the list of pre-qualified bidders). In fact, a comparison of the procurement procedure under PSCs in Bangladesh and India reveals that the clauses are similar, except that the Bangladesh PSCs require approval by the Management Committee for high value procurements (typically greater than $500,000). This clause is, however, strangely missing from the Indian PSCs in almost all its versions.
Our audit review also revealed that, by and large, the MoPNG as also DGH, both through the Management Committee and otherwise, did not pay adequate attention to protecting – at every stage of F&P, be it exploration, development or production – GOI's financial interests. Adequate attention was not paid to specifically how every proposal, decision would potentially affect (GOI's share of profit petroleum. In addition to their failings, the constraints of adequately skilled resources with MoPNG & DGH for monitoring several hundred PSCs simultaneously cannot also be ignored. By contrast, it is inconceivable that the private contractor would fail to protect his financial interests, and assess every investment/ operational proposal to see whether it would result in incremental revenues for him both in terms of cost recovery and contractor's share of profit petroleum.

Given the similar conclusions that two independent agencies have reached as regards the adverse impact of the profit sharing mechanism in protecting GOl's share (linked to the IM), designed in the late 1990s, there does seem to be enough ground to revisit the formula. The PSC as drawn up then, was with the limited expertise available with the GOI at that point of time. In view of the fact, albeit by hindsight, that we have gained the knowledge now, there is need to conclusively address this issue in respect of future PSCs.

(Para 8.1)
Recommendations for Future PSCs
The stated strength of the profit sharing mechanism is the sharing of risks between the contractor and the Government – if the profits are lower non- existent both parties suffer.
For future PSCs, we recommend that the IM-linkage with the profit sharing formula (even with the linear sliding scale introduced from NELP- VII onwards) be removed by the GOI. Instead, the biddable profit-sharing percentage should be a single percentage. This will reduce the Incentive for sake wed volume and timing of capital expenditure resulting in very low GOl share of PP. Further, in order to ensure a modicum of control, very high value procurement decisions above a specified limit should be subject to approval by the MC more specifically the approval of the GOI representatives. Such a mechanism already exists in PSCs operating in Bangladesh.

(Para 8.2)
Bid Evaluation Criteria
The Bid Evaluation Criteria (BEC) currently give weightage to technical/ financial ability and two biddable parameters - committed exploratory work and fiscal package (royalty + GOI share of profit petroleum). As regards fiscal package, the current evaluation model generally involves multiple scenarios of oil reserves and oil prices (typically high, medium and low) as well as a projected profile. The assumptions based on which calculations of fiscal packages of different bidders are made are completely hypothetical in the absence of high quality seismic data, let alone drilling and discovery findings, estimates of oil/ gas reserves and production profiles, as also projected capital and operating expenses and even crude oil and natural gas prices, are completely speculative. Admittedly, the evaluation model is applied consistently across all bidders. However, when the current system allows multiple bidding points (viz, different GOI shares of PP for different IM slabs), these hypothetical assumptions can not only make a significant difference as to who comes out as the winning bidder, but can also convey extremely unrealistic assumptions about what GOI's share of PP will be (e.g. when will GOI's share of PP reach the highest IM slab?).
Consequently, we recommend that the bidders should be allowed to make only a single point bid, which can be compared straightaway without resorting to hypothetical assumptions.
As regards the biddable exploratory work programme, we are generally in agreement with the bid evaluation process, except for the system of awarding points for well depth. As pointed out in Chapter 4 (relating to KG-DWN-98/3), it is unrealistic and impractical, without having accurate and reliable seismic data, to bid upfront how deep the well should be drilled, and then expect that notwithstanding geological objectives, the well will be drilled to the committed depth even if it means a waste of money.
Consequently, in future, while considering the bid evaluation criteria, we recommend that either no weightage be allocated for well depth, or alternatively, well commitments be categorised into two groups – wells above and below a specified depth, e.g., 1,500 or 2,000 metres, and points be awarded accordingly.

(Para 8.3)
MoPNG stated (July 2011) that they are prepared to look at alternative formulas and would consider the suggestion of the CAG and the Ashok Chawla Committee with an open mind and take a final view on merits.

Management of existing PSCs
The vast majority of blocks with high prospects for hydrocarbon discovery have already been awarded through various pre-NELP/ NELP rounds, and GOI has no option but to work within the constraints of the existing PSC structure and clauses to the fullest extent possible.

Development Plans and Annual Work Programmes and Budgets
It is inconceivable that a private operator, contractor will make investments in absolute as well as incremental terms in petroleum operations under the PSC without assessing whether such investments would result in increased revenues for him in terms of cost recovery and contractor's share of profit petroleum. It is necessary for M0PNG and DGH to function in a similar manner, with regard to GOI's financial interests. Consequently we recommend the following:
Review and approval of development plans should be considered not just from a 'technical perspective' viz, how best can oil and gas be extracted from the reservoirs, but also from a financial perspective — not only overall
(i.e. what is the project NPV, Rate of Return etc.), but specifically from GOI's point of view (what are the projections of royalty and 601 share of profit petroleum? What are the risks to these revenues? How will increases/ decreases in capital expenditure, reserves, reservoir productivity, prices etc. affect GOI's financial take?
While reviewing and approving development plans, GOl representatives on the MC as well as DGH and MoPNG should ensure that detailed and appropriately validated estimates of 601 take and contractor take are included as an integral part of these plans at the approval stage. A suitable range for GOI take, say ± 15, 20 or 25 per cent, as considered appropriate by MoPNG could be stipulated. Approval by MoPNG of such development plans should be on the clear stipulation that any changes in capital and operating expenditures expenditure commitments, production quantities and other factors which have the impact of reducing the Investment Multiple and GOI share of profit petroleum beyond the stipulated range must be submitted for prior approval by GOI representatives on the MC, with detailed justification.
Annual Work Programmes and Budgets should be strictly in line with the approved development plans. Any deviations or changes vis-à-vis the development plan which have the impact of reducing the IM and GOI share of profit petroleum beyond the stipulated range must be submitted for prior approval of the MC. Similarly, any significant variations from the approved Work Programme and Budgets with similar impact beyond the stipulated range must also be subject to prior approval.
Incurring of any costs which vary from the Development Plans and Annual Work Programmes & Budgets on an overall basis, as well as in terms of significant line items with significant adverse impact on IM and GOI share of profit petroleum – beyond the stipulated range – without prior approval of GOI representatives on MC should automatically be ineligible for cost recovery.
While some of these recommendations could be misconstrued as hampering operational flexibility In petroleum operations by the contractor, the importance of the overall objective of protecting GOI's revenue Interests cannot be ignored.

(Para, 8.4.1)
Procurement Activities

The provisions relating to procurement procedures in the PSCs do not provide for adequate oversight/control by GOI representatives on procurement processes. However, given the existing provisions, we recommend the following measures for protecting GOI's financial interest:
The objective of effective procurement is to ensure optimum, not necessarily lowest, prices through effective competition. As long as adequate number of 'responsive' financial bids, typically three or more, from reputed vendors, who are pre-qualified after following due process, are received and duly considered (i.e., not withdrawn, disqualified on technical or other grounds, deviations! non-responsiveness or otherwise not considered), generate adequate competitive tension, the probability of effective procurement at optimum costs remains high.
However, when high value contracts are awarded on the basis of single 'responsive' financial bids, in our opinion, these are awarded without competition, effectively on nomination basis. In all such cases, prior approval of the MC should be necessary for such awards. *Post facto* approval, with appropriate justification, for emergent procurement decisions may also be considered. Similar provisions would also apply to all procurement decisions involving post-priced bid opening changes to scope, quantities, work, prices, conditions etc.
Also, the practice of repeated extensions, subsequent substantial variations in scope etc. of existing contracts is also not in line with the existing PSC procurement provisions, which incidentally makes no mention of extensions. Extensions or scope variations for high value contracts, beyond the contractually stipulated extensions, should also be subject to prior MC approval, with provisions for post facto approval in emergent cases.

(Para 8.4.2)
Relinquishment of area, and delineation of discovery and development areas The entire PSC process is designed to ensure that the private contractors fully explore the contract area within designated timelines, relinquish areas where hydrocarbon prospects appear poor in a phased manner, and retain only those areas where hydrocarbon discoveries are made, relinquishing the remaining area for re-allocation – through a competitive bidding process – to other potential bidders, whose hopes/views in terms of hydrocarbon prospectively differ (either on account of technical and other capabilities or in terms of their risk appetite) from the contract holders who have relinquished such area. We, therefore, recommend the following:

(Para 8.4.3)
The stipulated timelines and processes in the PSC for relinquishment of contract area should, under no circumstances, be relaxed, and compliance with these provisions should be invariably ensured. Further, the discovery and development areas should be rigorously delineated, keeping strictly to the discoveries made through exploratory and appraisal well drilling and proper delineation of reservoir boundaries. Attempts by contractors for delineation of excessively wide discovery/ development areas through elastic (and incorrect interpretation) of hydrocarbon discovery should be strongly rebutted.

Compliance with other PSC provisions
The PSC is a contractual document and compliance with every contractual clause is of utmost importance. It would be inappropriate to distinguish between 'major' and 'minor' clauses, and neglect monitoring of compliance with so-called 'minor' PSC clauses.
We recommend that DGH, and where necessary, MoPNG should put into place adequate and effective measures to ensure that compliance with all provisions of the PSC are fully monitored on a timely basis and appropriately documented, and action taken against operators on a timely and consistent basis, for non-compliance with PSC provisions. For such purposes, strengthening of the resource basis

of DGH in terms of adequate quantity of skilled resources may be necessary.
DGH should also consider developing a comprehensive PSC monitoring system, which will not only provide details of compliance with PSC provisions for any block/contract at a glance, but will also enable operators to 'file' returns? Documents/information electronically through the web and/or e-mail. The cost of developing (and maintaining) such an IT system will be miniscule, compared to the total GOI Profit Petroleum revenues as well as the potential (although not exactly quantifiable) gains from more effective and timely monitoring of compliance.

(Para 8.4.4)

Role of DGH

In our view, the roles and functions of DGH encompass two sets of functions with potential conflict of interest – an upstream regulatory function, and a function of rendering technical advice to GOI. While in 1993 (when DGH was set up), there was lack of adequate clarity on the role and position of regulators in various economic sectors, the need for clear autonomy of sectoral regulators (from the Executive) is now well recognised.
Consequently, we recommend that the functions currently discharged by the DGH be clearly demarcated. The technical advisory and related functions should be discharged by a body completely subordinate in all respects to MoPNG (either a cell/ attached office/ subordinate office within the MoPNG or a separate entity under MoPNG). Functions of a regulatory nature (review of hydrocarbon reserves and reservoir management, laying down of norms for declaration of discoveries, laying down safety and related norms and conducting safety inspections, audits etc.) should be discharged by an autonomous body, with an arm's length relationship with GOI.

(Para 7.1)

MoPNG has assured that conclusions and recommendations drawn by CAG would be considered for appropriate action.

APPENDIX 7

Deen Dayal West: No Gas, All Lucre

By Paranjoy Guha Thakurta and Jyotirmoy Chaudhuri

The operations by Reliance Industries Limited to extract gas from the ocean bed in the Bay of Bengal off the Krishna-Godavari basin was not the only activity of its kind that created considerable controversy. A company set up by the state government of Gujarat in western India got embroiled in a messy dispute after its operations were severely criticised by the Comptroller and Auditor General of India, the media and political activists. This company, the Gujarat State Petroleum Corporation (GSPC), had links with RIL. Activists pointed to this company to claim that there was little to choose between the two largest political parties in India who are supposed to be opposed to each other, the Congress and the Bharatiya Janata Party, or, for that matter, between the Congress-led United Progressive Alliance government in New Delhi and the BJP government in Gandhinagar, the capital of Gujarat, when it came to questionable business practices. What prompted the comparison was the fact that one of the companies associated with GSPC was linked to individuals close to the Congress -- this fact was used to argue the contention that cronyism ran deep in India's political circles.

On 8 March 2013, a blog post titled 'Narendra Modi's Rs 9,000 crore gas misadventure' was posted on the *Times of India* portal. The post, written by Kingshuk Nag, the resident editor of the publication in Hyderabad, claimed that a natural gas site in the KG basin being explored by GSPC actually had reserves of just two trillion cubic feet (tcf) which was one-tenth of what had been announced by Gujarat chief minister Narendra Modi in 2005 with much fanfare. Not only that, Nag, who has also written a political biography on Modi, wrote that opinion was divided over whether the gas was recoverable. According to an unnamed expert cited by the author, the cost of recovery from GSPC's gas field was high, and required superior technical expertise which the state government company lacked. Meanwhile, the company had run up 'debts of over Rs 9,000 crore, possibly closer to Rs 10,000 crore'. On 26 June, an editorial in the *Times of India* newspaper by Abheek Barman said that it was only by 2012, that the Directorate General of Hydrocarbons could 'vouch' for the presence of two tcf of gas in the site where GSPC was operating.

It was apparent that the GSPC had spent a great deal of money on gas exploration without having delivered much in terms of production till 2013, nearly eight years after Modi's grandiose announcement. The finances of the company were also doubtful. GSPC had not posted its annual report for 2011-12 at the time the blog post was written by Nag in March 2013, which was almost the end of the financial year 2012-13. The latest annual report on the company's website was for the financial year that ended on 31 March 2011. According to this report, GSPC had loans aggregating Rs 7,126.68 crore, of which a significant portion (Rs 2,980.32 crore) was unsecured, that is, not backed by any collateral. The total loans taken by the company was somewhat lower as on 31 March 2010 at Rs 6,383.83 crore. When the authors of this book looked up the GSPC website a few months later in July 2013, the company's annual report for 2012-13 was still not available. The latest report that was

available was for a subsidiary of GSPC, Gujarat State Petronet Ltd (GSPL), a subsidiary company of GSPC.

In September 2012, GSPC had raised Rs 3,000 crore through bonds to finance its exploration and production activities and also to re-finance higher-cost short-term loans that been taken earlier. The bonds were for three periods, eight, ten and 60 years, and the company received total bids worth Rs 10,100 crore. Earlier, in November 2010, the company had tied up a Rs 3,000-crore term loan through a consortium of 15 banks, led by the Bank of Baroda in order to finance exploration and production activities of field in the KG basin that was named the Deen Dayal West (DDW) field after Pandit Deen Dayal Upadhyaya, an important ideologue of the Bharatiya Jana Sangh, the right-wing, Hindu nationalist political party that later become the Bharatiya Janata Party. The company had in June 2010 drawn up plans to raise Rs 3,000 crore through an initial public offering (IPO) of its shares which got delayed due to adverse market conditions. At that time, the company had submitted to the regulator of the country's capital markets, the Securities and Exchange Board of India (SEBI) that the estimated cost of developing DDW – the facility and the drilling costs of 15 wells – would be Rs 8,464 crore till fiscal year 2015.

In April 2012, a 37-page report on the company by the Comptroller and Auditor General (CAG) of India was tabled in the Gujarat state assembly which indicted for incurring losses of an estimate Rs 5,000 crore, largely due to 'faulty operations' in the KG basin. The auditor noted that GSPC had taken a lot of time to conduct environmental impact assessments in eight blocks. The CAG report alleged that GSPC had submitted its bid for exploring gas in the KG basin without proper financial and technical estimates which had led to escalated drilling costs. The drilling depth had gone up from 45,348 metres to 77,395.07 metres resulting in costs jumping more than forty times from an estimated $102.23 million to $41302.88 million. The CAG levelled a serious allegation: Reliance Industries Ltd (RIL) had unilaterally installed a control and riser platform in an area of the KG basin licensed to GSPC without the latter's consent. This meant that GSPC would have to be responsible for the rig through its lifetime.

Not just RIL, the CAG also indicted the Modi government for extending favours to the Adani group of companies in this connection. While GSPC failed to produce gas, the state government went and bought gas in the open market and 'sold' it to the Adani group at a cheaper price. This led to a loss of about Rs 70.54 crore for the government.

The crux of the case was that GSPC had chased an expensive mirage and at the end of it, had no gas to show. In the company's 2010-11 report, GSPC described the Deen Dayal filed as 'a high temperature, high pressure, tight and deep gas field with a complex structural/stratigraphic trap involving separate fault blocks associated with rift geology…' Extracting the gas would not be an easy task. Apparently to garner revenue and possibly to cover up its failure to extract gas, GSPC branched out by setting up eight subsidiary companies for gas trading, gas transmission and city gas distribution. Such companies included GSPC Gas, Sabarmati Gas (a joint venture with the public sector Bharat Petroleum Corporation Limited), Gujarat State Energy Generation Limited, GSPC Pipapav Power Company Limited, GSPC LNG Limited, Gujarat Energy Research and Management Institute and even an information technology company called Gujarat Info Petro Limited. Before moving ahead, it would be useful to go back to the beginning.

The year: 2005. On 26 June, Narendra Modi, who by then had served as chief minister of Gujarat for four consecutive years, suddenly convened a press conference. He announced that GSPC had made a significant discovery of gas, 1,700 km away off the coast of Andhra Pradesh. He claimed that GSPC had made 'the biggest ever discovery of its kind in the country' of estimated reserves of 20 tcf of natural gas worth $50 billion. This was the same area where RIL was operating. While naming the block after Deen Dayal Upadhyaya, the elated chief minister said the gas discovery would double the

country's production of gas. The *Press Trust of India* reported from Ahmedabad that day that the chief minister had said that the money generated from the project would be used for the education of children living below the poverty line. He told reporters on that occasion that the natural gas find would be worth Rs 2,00,000 crore after an investment of about Rs 250 crore was made on the project. The GSPC website declares that the KG offshore block KG-OSN-2001/3 measures approximately 1,850 sq km, and was awarded under the third New Exploration Licensing Policy (NELP) bid round held by the government of India in 2003. A 78-month petroleum exploration licence (PEL) was granted by the ministry of petroleum and natural gas in March 2003. GSPC was appointed as the operator with an 80 per cent working interest, Jubilant Offshore Drilling Private Limited held another 10 per cent working interest in the block while GeoGlobal Resources (India) Inc held the remaining 10 per cent interest in the block -- more on these two companies a little later. According to GSPC's website, the production sharing contract (PSC) with respect to the block has been effective from 12 March 2003.
Like Modi, his officials were excited. From 2006, GSPC, on its own and through joint ventures, went about acquiring stakes in 11 oil blocks in different countries across the world, in Egypt, Australia, Yemen and Indonesia. Currently, GSPC holds working interest in 64 onshore and offshore exploration and production blocks, 53 of them located in India. Of these, the company is operating in 15 producing fields in the Cambay basin of Gujarat, off the west coast of India. The company's 'primary asset' is said to be the Deen Dayal West field, a part of KG-OSN-2001/3, which was still being developed for commercial production, according to the company's website when accessed in June 2013. According to an article written by Ashish Khetan and published in *Tehelka* magazine (8 December 2012), which will be discussed in detail, sources in the Directorate General of Hydrocarbons (DGH), which analyses and certifies all gas finds, stated that GSPC would start gas production by July 2013 and was scheduled to drill 11 deepwater wells by then. In a completely different context of highlighting Modi's alleged penchant for exaggerating the number of lives saved after the natural calamity in Uttarakhand in June 2013, Abheek Barman wrote in a blog post in the *Times of India* portal on 26 June 2013 that the Gujarat chief minister's claim that GSPC had found 20 tcf of gas in 2005, 40 per cent more gas than what had been claimed by Reliance, was a lot of 'hot air'. He wrote that this could not be said in 2005 in the 'absence of evidence' but seven years later in 2012, the DGH had stated that the field had only 2 tcf of gas, or one-tenth of what had been claimed.
The situation was indeed curious. GSPC had little gas to sell and was asking the government of India's MoP&NG to approve its plans of selling gas at a price between $13 and $14 per mBtu, a price at which gas in its liquefied form – LNG – was being imported into India. It was the second hydrocarbon company in India to have asked for that high price after Reliance Industries. GSPC claimed it had plans to produce 5.24 million standard cubic metres a day (mscmd) of gas from the Deen Dayal West (DDW) gas field. The *PressTrust of India* reported on 23 June that GSPC managing director Tapan Ray, in a letter to petroleum secretary Vivek Rae, dated 10 June 2103 had stated that the company (and its partners) had already spent some $2.8 billion on developing the DDW gas field, and that the 'arms-length' assessment of market prices arrived at through an electronic-tender in February be accepted. Ray added that more capital would be required to develop the gas field 'owing to geological complexities like high temperature and high pressure (HTHP), low porosity, many faults in the block and high sulphur content.' The company had set a minimum floor price of $8.85 per mmBtu (or the oil equivalent of $65 per barrel) for its arms-length price determination exercise. The GSPC managing director claimed his company had received 34 bids from different buyers, all of whom were willing to pay above $8.5 per mBtu.
The 8 December 2012 issue of *Tehelka* magazine published a detailed article by Ashish Khetan on GSPC's operations in the Krishna-Godavari basin titled 'Sweet deals are made of gas'. He traced the

history of the case which began in 2003 when the Gujarat government company sold ten per cent stakes each to two companies, the Barbados registered GeoGlobal Resources (GGR) and Jubilant Enpro Private Limited, who became members of a consortium with GSPC to provide technical expertise for the venture. Each ten per cent stake was worth almost $20 billion by GSPC's own estimates. Not only that, GSPC even agreed to pay GGR's share in a venture fund that had been set up for exploration activities, which would be recovered after the joint venture started earning profits from the sale of gas. GeoGlobal had not paid anything for its stake although consulting fees had been paid to the company's representative, Jean Paul Roy, *Tehelka* claimed, citing unnamed sources. GeoGlobal was in fact controlled by Roy, a geologist who is a citizen of Guatemala who has worked in a number of oil companies. The company had been formed just six days before it signed on to become part of the consortium with GSPC and Jubilant to bid for the block in the KG basin. On 27 March 2002, GeoGlobal was for all intents and purposes a paper company with a capital base of only $64. Soon after the consortium was formed, Roy transferred half of his ten per cent stake to a company he had incorporated (and fully controlled), now in Mauritius – called the Roy Group (Mauritius) Inc. -- whereby 50 per cent of the benefits and obligations of the production sharing contract pertaining to the stated stake of 5 per cent as participating interest, was transferred to that offshore company.

The story did not end there: Roy's company, GGR, took over an American company Suite101.com, whereby all outstanding capital stock of GGR was exchanged for 34 million shares of Suite101.com. Roy was paid $2 million, he also got 14.5 million shares of Suite101.com, and the remaining 19.5 million shares were held in escrow (to be released on the occurrence of certain specific events related to offshore exploration of gas in the KG basin). On 2 February 2004, Suite101.com changed its name to GeoGlobal Resources Inc. Two years later in January 2006, the trading rate of the share price of GGR rose to $14.92, the nominal value of the shares having been one-tenth of a US cent ($0.001) earlier. Incidentally, while making disclosures before US authorities, GGR informed shareholders that the company had no exploration experience before venturing into India and that the GSPC-led joint venture was its first foray into the oil and gas business.

Yet, Jean Paul Roy and his companies continue to dredge in Indian waters. After the GSPC deal Roy got nine more contracts. As of 31 December 2010, the website *Geoglobal.com* lists ten blocks in the KG basin, the Cambay basin, the Deccan Syneclise basin and the Bikaner Nagaur basin where the company is involved. Roy had been the geophysical expert for the Canadian firm Niko Resources Limited which had been hired by GSPC to develop five small discovered oil and gas fields awarded to it in 1993-94. GSPC and Niko were to explore the Hazira gas field. This is the same Niko which would later team up with RIL for developing the KG D6 field. Roy is said to have advised RIL as well, according to Khetan's article in *Tehelka*.

GSPC's activities were evidently complex and wrapped in layers and layers of firms with overlapping stakes. There were many inconsistencies in the story. The Comptroller and Auditor General of India had caught on to these. The CAG noted that GGR had submitted a deficient and erroneous geological model that delayed exploration activities and led to a steep escalation of costs. The model had failed in properly estimating well-depths, location and exploration costs. Another company had to be hired for a reassessment. It pointed out that GGR's work had been deficient and as a consequence, GSPC had to engage an expert whose services cost the state government Rs 2.64 crore. The CAG took the GSPC to task for underestimating the cost of exploration so that it could qualify for the bid. Khetan wrote that by underplaying the cost of bidding, the GSPC could justify its joint venture with GGR. The total net worth of the consortium between GSPC, GeoGlobal and Jubilant was $60.5 million. The consortium had submitted that the estimated cost of drilling during the first phase would be $59.23 million. At the time Khetan's article was published, the state government company had spent

$3.069 billion towards exploration costs, more than 60 times the estimate it had given at the time of bidding!
GeoGlobal should have contributed $306.9 million out of the total cost incurred by GSPC but since the Gujarat government paid for GeoGlobal's 10 per cent stake, the private firm was able to walk away with the entire ten per cent participating interest becoming its profit. Khetan quoted an unnamed retired senior officer of the Indian Administrative Service who had worked with GSPC saying that in 2006-07, the state government realised that the deal was scandalous and could become a source of embarrassment and tried to correct the situation with retrospective effect. GSPC had written to GeoGlobal and asked it to contribute towards the escalating exploration costs. The public sector unit had said that the excess amount spent towards exploration costs was not 'within the terms of the Carried Interest Agreement, as per which GSPC had agreed to spend GeoGlobal's share of 10 per cent towards the project costs and recover the same from the company only after the commencement of commercial operations'. GeoGlobal, however, refused to pay up citing the original contract it had signed with GSPC.
On 4 December 2012, soon after activists Arvind Kejriwal and Prashant Bhushan launched their political outfit, the Aam Aadmi Party, they convened a media conference and accused the Narendra Modi government of it favouring particular industrial houses, among which was Jubilant Enpro that held 10 per cent in the GSPC's gas venture in the KG basin. Jubilant Enpro is controlled and headed by Shyam Sunder Bhartia, husband of the head of the *Hindustan Times* newspaper group (owned by HT Media Limited) Shobhana Bhartia, who is also member of the Rajya Sabha, the Upper House of India's Parliament. Shobhana Bhartia, chairperson and editorial director of the HT group is the daughter of the late K.K. Birla who was also an MP and loyalist of the Congress party. Her husband, Shyam Sunder Bhartia heads the Jubilant group of companies which has interests in chemicals, besides oil and gas. Kejriwal said that it was 'rather strange' that the Modi government had gifted away a valuable stake to someone perceived as close to the Congress party as the Jubilant group headed by Shyam Bharita and that the central government had chosen to keep quiet on an industrial scam in Narendra Modi's state for so many years.
Kejriwal pointed out that GeoGlobal's Jean Paul Roy was not just close to Modi but had received favours from the Congress-led UPA government in New Delhi. He noted that on the basis of the first contract with the Modi government in February 2003, Roy had entered into several production sharing contracts, most of them with Oil India Ltd (OIL), a central public sector undertaking, during the tenure of the UPA government. Kejriwal brought up the fact that the Modi government had recommended to the Union government on 18 August 2010 that it cancel the agreement with GeoGlobal when the CAG started auditing the accounts of the GSPC- GeoGlobal-Jubilant venture in the KG basin. Despite 'tens of letters and reminders' to the government (MoP&NG), there was no step made to 'cancel permission' to the venture.
Kejriwal and Bhushan highlighted the value of the stakes that been 'gifted'. He recalled that RIL's fields in the same area stake were valued at $24 billion when a 30 per cent stake was sold to British Petroleum (for technical assistance) under a 'similar production sharing agreement' for $7.3 billion (Rs 35,000 crore). Each of the 10 per cent gifted to GeoGlobal and Jubilant were valued at Rs 10,000 crore. They alleged that the two largest political parties in India who are supposed to be opponents, acted as one when it came to handing out 'favours' to industrial houses and that these parties were 'puppets' in the hands of these corporate captains. This indeed indicated that India was entrenched in a culture of crony capitalism, they claimed.
The Jubilant group issued a 'denial'. The group stated that it had won the block in the KG basin through a process of international competitive bidding under NELP III, that it was a partner in the block and 'pays fully for its 10 per cent share in expenditure'. The company further stated that the

contract had been awarded by the MoP&NG 'along with 22 other blocks at the same time to various parties, both PSUs and private sector'. Specifically, the block was 'originally an exploration block' with the first discovery being made in 2005 (see the *Hindu Business Line*, 5 December 2012) By implication, the Jubilant group argued that it should not be held responsible for the low output of gas.
As for Roy, he remains an enigmatic figure. However, a particular article written by Mitul Thakkar in the *Times of India* on 6 December 2012 may be interpreted as an attempt to provide the point of view of the Canadian geologist based in Guatemala. The article claims Roy was 'a bee in Narendra Modi's bonnet long before Arvind Kejriwal 'discovered him' and alleged that 'the scientist' had made billions overnight from sweetheart deals. It added that Roy had apparently 'publicly questioned' Modi's announcement that there was 20 tcf of gas in the field and described the claim made by the Gujarat chief minister as 'premature' and had promptly filed a clarification with the stock exchange in the US where the shares of Roy's were listed. Thakkar's article in the *ToI* cited his curriculum vitae: 'Roy began his career with Petro Canada, where he taught himself to interpret data to produce geological models for blocks in Africa, America and Europe. Later, he spent a couple of years with Canadian geophysical software solutions provider GEDCO. This assignment gave him exposure to several blocks in Russia, Canada, Chile, Colombia and Yemen. Later, US company Eurocan appointed him chief geophysicist.'
Apparently, Roy had also questioned the high drilling costs of $2.5 billion incurred by GSPC on a project that was five years behind schedule. The article even quoted a senior GSPC official batting for Roy by stating that his company, like Cairn, was interested in listing its shares in India rather than the in the US. Former ONGC chairman Subir Raha had served on the board of directors of GeoGlobal till he passed away, while former DGH, Avinash Chandra was also a director in the company. Thakkar's article claimed that when Roy questioned Modi's announcement and GSPC's alleged 'maladministration', the latter stooped sharing information about exploration activities and started demanding payments for the investments in the Deen Dayal block. Apparently GeoGlobal was the 'harassed party' and had written 'countless' letters to GPSC for 'settlement and information'. The Gujarat government had 'deviated' from the technical advisory document provided by GSPC, the *ToI* quoted an undisclosed 'former associate' of Jean Paul Roy as stating. Since 'GSPC kept delaying the deadline for commercial production' from the Deen Dayal block, GeoGlobal as well as the Jubilant group had 'suffered financially' and Jubilant at one stage had wanted to exit the venture, it was contended.
All this apparently led to a situation where 'Roy kept losing the faith of investors and financers, and issued new shares to raise funds.' By then, it seems that 'luck seems to have suddenly run out' for the swashbuckling oilman and with his Indian team members 'leaving for greener pastures' in August 2010, he lost control over GeoGlobal Resources and left the board of the company. He diluted his majority stake in GeoGlobal Resources but kept a five per cent in interest. Thakkar's article in the *ToI* portrays Roy as a much-wronged expert whose 'contribution to GSPC's success has been overshadowed by other events' such as differences with financiers, shareholders, and even disgruntled employees. At certain points, the article turned hagiographical and hilarious. Roy is described as a person who was living in exile after he resigned from GeoGlobal, that he had refused to talk to the media to give his point of view, that he drove around in a Mahindra Scorpio 'fondly imported from India' and that he was a man 'whose only hobby is to build and interpret geological models' and that he still wanted 'corrective action' to be taken in the development plan of the Deen Dayal Block, 'where GSPC has pumped in almost $2.5 billion and not produced any gas.'
The article raised more questions than provided answers. What was the nature of Roy's association with Niko Resources and the Reliance group? Was he really a dedicated geologist who had India's interests at heart? Or had control over the country's natural resources been left to a buccaneer?

After the *Tehelka* article and Kejriwal's allegations generated some heat, the news portal *Firstpost* posted an article on 6 December 2013 by an unidentified writer (the byline was 'FP Politics') that sought to defend the Gujarat government company's alleged misadventures in the KG basin. It will be pertinent here to mention that the *Firstpost* website is owned by a company in the Network18 group in which the Mukesh Ambani-headed Reliance group has investments. The article that was posted significantly bore the strapline 'GeoGlobal deal tainted by lack of diligence, not corruption'. Seeking to conflate Kejriwal's allegations and the *Tehelka* story together, the post slammed the 'reheat-and-serve' media conference convened by the Aam Aadmi Party activists and said that all that Kejriwal and Bhushan had done was to provide the 'spin' that the BJP government in Gujarat and the Congress party enjoyed a 'cosy relationship', that they were 'joined at the hip on corrupt deals'. The *Firstpost* article then went into contractual technicalities to contend that GeoGlobal (no mention is made of Jubilant) did not pay anything for its stake, and that the company's share in the cost of exploration was paid by GSPC. Rather than indicating corruption, the relationship between GSPC and GeoGlobal could be called a 'carried interest' partnership, 'widely prevalent in international private equity and hedge fund deals'. Under this proviso, a general partner could well receive a share in future profits as compensation, such methods 'used as an incentive for maximising profits and performance'. Also, in context of the fact that oil exploration does not come with certainty of success, the 'general partner's involvement is not risk-free'. If at all blame was to be apportioned, it was GSPC that was at fault for not having conducted adequate due diligence before inducting other partners in its eagerness to seek technical assistance to prepare the geological models needed for exploration.

In another argument, a rather blasé and crass one, the *Firstpost* article by an unidentified writer sought to explain why the Gujarat government 'may have slipped up on the due diligence process'. The consortium was signed on 27 March 2002, 'a month after the Godhra train burnings, and the (Hindu-Muslim) riots in the state, which were the cause of much political uncertainty'. The chief minister was barely a few months into office and 'something of a political lightweight', at a time when there was speculation that then Prime Minister Atal Bihari Vajpayee 'was under pressure to force Modi to step down'. The article reiterated the point that the supposedly immature chief minister's 'over-the-top' assessment of 20 tcf gas was countered by Jean Paul Roy who had called it 'premature' but that this had led to strains in the geologist's relationship with the state government. The diagnosis: 'While there is a case to be made that the GSPC was perhaps less than diligent in the choice of its consortium partners when it entered into the deal in March 2002, barely a month after the riots – for which it was justifiably wrapped on the knuckles by the CAG – it seems a stretch to allege that the transaction was tainted by corruption, particularly in the absence of prima facie evidence.'

On 8 December 2012, another lengthy article on the subject popped up on *Firstpost*. This time, the 'wordy' counterview for GSPC was written by Kartikeya Tanna and a disclaimer put out that he was partner at a firm of lawyers, Tanna Associates Advocates of Ahmedabad, which was representing GSPC and the Gujarat government before the Justice M.B. Shah Commission of Inquiry, 'which was inquiring into, *inter alia*, allegations against GSPC'. Tanna set the tone of his article with a sweeping statement that attempted to counter the view that crony capitalism has become inherent in the Indian polity. He wrote: 'In the atmosphere that India finds itself in recently, any government dealing which does not quite fit within one's worldview is peddled as a humongous scam.'

Tanna then attempted to emphasize the 'independence' of GSPC and separate it from the state government, although the company was owned and had been established by the Gujarat government. He pointed out that GSPC had a board of directors with 'sufficient autonomy' in business matters. He then harked back to the genesis of the involvement of private companies in India's hydrocarbons sector in the 1990s, when GSPC, originally a petrochemicals company, had participated in the Union government's bids for development of oil and gas fields. Private companies had to depend on experts

and that was how GSPC offered Niko Resources a participating interest of 33-40 per cent, to assist in developing ‘five discovered oil/gasfields’ awarded to it. Tanna pointed out that when Niko went to Jean Paul Roy, the Congress was in power in Delhi. However, when the NELP III round of bids were subsequently made, GSPC found it difficult to find technical partners. He emphasized that these bid rounds were mean for exploration (and not production) and flagged the risk factor. Thus, ‘old associate’ Roy was invited by GSPC.

While arguing his case, lawyer Tanna slipped in bits of information (perhaps inadvertently) that was tantamount to an admission that GSPC selected its two partners (GeoGlobal and Jubilant) without bids, a stick with which the CAG had rapped the state government. This is what he wrote: ‘To ask in hindsight *why GSPC did not select its partners by way of a bid* [emphasis ours] is to ignore the realities of how little interest the exploration business with GSPC generated back then. Auction is not a *sine qua non* to be followed in every situation, even if there is scant interest in what one is offering.’ Then, as an aside, he added that by way of ‘contrast’, GSPC ‘invited bids when its projects... entered the development stage which has many takers’. Tanna argued that technical experts who bring in their intellectual property rights (IPR) to the table command a 2-3 per cent interest, if not a flat fee. Since Jean Paul Roy or his company GeoGlobal did not have the financial muscle to contribute 10 per cent for exploration costs, but since his expertise and IPR were vital, the companies came together through the ‘carried interest agreement’. The advocate does not fail to mention that GeoGlobal ‘would not earn any revenues from monetisation of the natural gas till (a) all priority payments/disbursements were made, including royalty to government; and (b) GSPC was reimbursed all costs it paid on GGR’s behalf’.

The lawyer then provided technical arguments to explain the delays. But here too, he let out that GSPC received faulty technical advice (the blame for which was laid at the door of the experts by the CAG). Tanna stated: ‘What went wrong? Due to the changes in technology, the interpretation of the 3D (third-dimensional) seismic data indicated that GSPC could explore deeper rock formation (of the Cretaceous age) which had earlier never been explored on the eastern coast of India. As drilling activity progressed, the initial estimates drastically shot up. High oil prices were also a contributing factor.’ This was when GSPC asked GeoGlobal to pay its share of ‘costs incurred in excess of the initial estimate’ and the latter refused relying on the terms of the agreement. Tanna claimed the dispute led to delays and denied that the price was eventually paid for by the taxpayer. On behalf of his client, he maintained that GSPC had ‘relied on its own internal reserves and surplus, credit line and borrowings’. The writer does not provide specific figures in this regard. Kartikeya Tanna’s conclusion: The project had lapses, the agreements could have been drafted more tightly (another admission!) leaving no scope for a lingering dispute on interpretation, but GSPC could not be accused of handing over a ‘sweet deal’ if one were to appreciate the ‘circumstances of the times’!

Despite these legal arguments, what cannot be denied is that the entire episode related to the working of the venture between GSPC, GeoGlobal and Jubilant has indeed raised a number of serious questions and doubts about the way in which the country’s natural resources (in this instance, gas) are managed through production sharing contracts that are signed between private corporate entities and different government agencies.

APPENDIX 8

Gas Pricing: Meaning of '420'

Here is the full text of the speech delivered by former Union minister for petroleum and natural gas Mani Shankar Aiyar on 26 September 2009 at a closed-door meeting of the 'Saturday Lunch Club' in New Delhi's India International Centre. The speech was made under the Chatham House rule ostensibly to ensure confidentiality of the speaker.

Mr Chairman, friends,

It would be impossible in the 20-25 minutes given to me to go into all the complexities of the policy issues involved in the question of gas pricing against the background of the commercial dispute between two brothers of eminence that has brought these arcane issues to unprecedented public attention, but I hope we can set out the broad framework and fill out the details….

First, there are a couple of technical terms we might put out of the way so that they do not clutter our thoughts. One, gas output is measured in terms of million metric standard cubic metres per day (mmscmd) and, two, sold in terms of British thermal units (Btu).

Before the Reliance discovery, our national domestic output was 75 mmscmd. The Reliance discovery has already increased that by half, and at peak production will more than double current domestic output, taking total national production to almost 200 mmscmd. That will make us self- sufficient in gas at present levels of demand. And since Reliance have thus far explored only about 4 per cent of the area allocated to them, and ONGC (Oil and Natural Gas Corporation) appear on the verge of announcing almost as significant discoveries in areas they are exploring, India could emerge as a gas-surplus region over the next decade or so. Given that till a decade ago, we were seriously gas-deficient, and that when in 2005 I referred to the Bay of Bengal as the North Sea of South Asia, it was treated as a bit of hyperbole, you can see how the Reliance breakthrough constitutes probably the single most important giant step towards energy security ever. And as this has happened even as global petroleum prices have sky-rocketed, the potential savings in foreign exchange outgo reinforce the discovery's inherent potential for accelerating growth in India to China levels and, possibly, even beyond.

The credit for this wholly unexpected, if highly welcome, breakthrough must go to the New Exploration and Licensing Policy (NELP), launched in 1997, which opened the Indian petroleum sector to investment by the private sector, both Indian and foreign, as well as in collaboration with each other, while still encouraging public sector entities, notably ONGC, to continue being major petroleum players in our economy, albeit in open and transparent competition with the private sector. NELP attracted domestic and international bidding principally because it promised freedom of marketing to the investor, as well as the right to recoup his legitimate capital expenditure (capex) before paying anything to (the) government. 'Cost petroleum' is the term used for the petroleum marketed to recoup capital expenditure; 'profit petroleum' is what has to be shared with government, as the owner of the sovereign national asset being worked on by the NELP contractor. Further – and this is crucial to understanding the present controversy – NELP contracts have always distinguished

between the price at which gas may be **sold** [emphasis his] and the price at which gas will be **valued** for purposes of determining the royalty payable and, more importantly, of determining the government's share of profit petroleum. The **selling** price was never conceived as being co-terminus with the **valuation** price.

However, there was also always the conditionality in NELP that the **selling** price would not be determined through cosy private or secret deals but transparently through a process of 'price discovery' in the market by buyers putting out global tenders and sellers bidding in competition with each other. Of course, government approval for pricing had to be secured – but only for government to satisfy itself that the price discovery process was transparent and not rigged. For the first seven rounds of NELP bidding, extending from 2000 to 2008, it was clear that government would not set the price or disallow any particular **selling** price – lower or higher than the **valuation** price – but base its approval essentially on the satisfaction that the **selling** price, whatever it was and however much at variance with the **valuation** price, had been arrived at openly, transparently and through the market.

This commitment to the market, not the government, determining the sale price of NELP gas was not only reiterated over and over again in Parliament – *inter alia* by me as Petroleum Minister – it was also reiterated in the terms of reference of the Committee set up in August 2006, a few months after I was removed from the Ministry to – quote -- 'formulate transparent guidelines for approving gas price formula/basis'. Please note that the very title of the Committee precludes it from interfering in the market determination of the **selling** price of gas, which is the *sine qua non* of the NELP; its role was limited to preparing transparent guidelines for determining the **valuation** of gas. The terms of reference underlined that – and I quote again - 'the contracts provide freedom to contractors for selling of gas in India' and added that it is 'for the purpose of valuation of natural gas for computing cost petroleum, profit petroleum and royalty' – unquote -- that – I quote again -- 'contracts require the approval of the government on gas price formula/basis'. For no other purpose than valuation, and certainly not for pricing, does the government come in.

The problem is that natural gas can only be transported by pipeline and obviously it is only those who have access to the pipeline who can become either suppliers or buyers. Necessarily, therefore, tendering for gas supplies, and, thus, for transparent price discovery, is limited to such buying and selling entities as are on the gas supply network; that global tenders become in effect, limited tenders – until such time at least as the gas market matures to comprise several sellers, several buyers and a truly national gas grid, a far cry from the present Indian reality. So, situations could arise in which - to once again quote the November 2006 report of the Gas Price Committee -- '(where) it was not feasible for the seller to follow open competitive bidding process or the government has reasons to believe that the bidding process followed by the seller is not transparent' – unquote – that the Committee was required to suggest alternatives routes for determining prices fairly and transparently.

Moreover, it has always been known that the seller would be required to conform to (the) government's Gas Utilisation Policy – although it must be quickly added that since the Gas Linkage Committee was dissolved in 2003 to emphasize the government's commitment to dismantling the 'licence-quota- permit *raj*', it was generally assumed that the government's Gas Utilisation Policy would not stand in the way of the NELP seller not only selling at the market price but also making his own determination as to who to sell to. A Gas Utilisation Policy, quite as stringent as the guidelines followed by the dissolved Gas Linkage Committee, was finally formulated in 2007, a full decade after NELP was announced and after seven rounds of NELP bidding had taken place without a restrictive Gas Utilisation Policy having been announced.

With that background briefing out of the way, let us come to the Anil- Mukesh dispute and the policy changes that have accompanied, coincidentally or otherwise, the unfolding of the dispute, leading, indeed, to (the) government becoming a party to the issues before the court. It is not for me to

pronounce on the merits of the dispute, especially as the matter is *subjudice* and it will not be very long before the Supreme Court pronounces on the validity or otherwise of the Bombay High Court rulings. But facts are facts and should be brought to the attention of this distinguished group.

Just after Reliance struck gas in the Krishna-Godavari basin, the public sector National Thermal Power Corporation or NTPC floated a global tender in 2002 for 12 mmscmd and received a single bid for the supply at US $2.32 per Btu. It was not suggested by (the) government then or subsequently that this was not transparent price discovery by the market as constituted at the time. It is another matter that the Gas Sale & Purchase Agreement is still to be signed. That dispute is also in the courts. For our purpose, we need only note that the price discovery was incorporated in the MoU (memorandum of understanding) signed by the two parties. It formed the exact basis of the family agreement signed in 2005 between the two brothers with the blessings of their mother. While, therefore, the price agreed upon in the family agreement was patently not arrived at through a process of transparent price discovery, the price stated was a replication to the last cent of a price discovered by a *navratna*(nine jewels) public sector entity through a global tender in the open market.

Perhaps there would have been no rumpus if international crude prices (reflected in international gas prices) had not started moving upwards; at first, fairly slowly from about $25 a barrel in mid-2003 to something over $30 a barrel when I took over in mid-2004, and then boomed though 2006 and 2007 to breach $100 and go on to $150 before beginning to recede to the present level of $60 or so (in September 2009) after the economic downturn set in a year ago, still two to three times the prevailing price when Reliance put in its bid to NTPC. Clearly, it is not in the supplier’s interest to proceed with either the bid price or the replicated price, especially as both capital expenditure and the cost of rigs and other inputs have risen *pari passu* with the rise in output prices. Also, of course, the notional loss of selling at half the price, and that too almost all of the output for the life of the field, of what would be realised in present market conditions, and that too over the next seventeen years, as stipulated in the family agreement, would run into billions and billions of dollars – which not even the super-rich can afford to lose!

The government too is entitled to rethink its policies in the light of (a) India moving from being woefully gas-deficient to being on the brink of gas self-sufficiency and, possibly, even becoming gas-surplus in the immediate foreseeable future; and (b) international petroleum prices soaring to undreamt of levels when NELP was announced in 1997 and international crude prices were ruling at $10 a barrel.

And the government has indeed dramatically altered the NELP Policy framework, partly by implementing long-pending measures (but in a manner that runs in stark contrast to what was once expected of the direction of economic reforms) and partly by introducing new elements, or significantly amending old ones, in NELP contracting provisions.

I think it might be useful at this stage to sum up – alas, all too briefly – the major changes made between the earliest NELP Product Sharing Contracts signed in 2000 (including the PSC relating to the NELP-Niko bid for KG D6) and the Model PSC now circulated for NELP VIII and subsequent rounds:

No minimum selling price was earlier stipulated; on 12 September, the Empowered Group of Ministers determined a minimum selling price of $4.20 (that is emphatically ***not*** a pun on the nature of the decision!): that price applies retroactively to PSCs entered into since 2000. It is almost double the NTPC/RIL price discovery of 2002. It would appear that the $4.20 stipulation relates both to **valuation** and **selling** price (or at least, minimum selling price) This minimum selling price provision is backed up by a list of priorities which places fertiliser ahead of power (and is, therefore, detrimental to Anil’s interests, especially as the gas allocations pre-empt all of present gas production for consumers already in operation and privilege the public sector,

including, as per a recent clarification, NTPC)
The PSCs under NELP I-VII provided in Article 21.3 that the contractor 'shall have the freedom to market gas'; now that freedom is conditioned by the phrase 'and sell its entitlement as per the government policy for utilization of gas among different sectors'. While earlier too, reference was made to (the) government's Gas Utilisation Policy, the fact is that no such Policy was enunciated in detail till seven years had lapsed since the first PSC was concluded. The law, of course, should not be retroactively applied. Does that apply too to policy?
The earlier PSCs, such as the one concluded with RIL, provided in Article 21.6.3 that in granting approval for sale – quote – the 'government shall take into account the prevailing policy, **if any** [emphasis added], on pricing of natural gas' – unquote. Without prejudice to the court's judgment on this matter, we need to note that no such policy was in place at the time the Reliance PSC was signed or the NTPC bid floated or when the Ambani family agreement was reached. Can the provision be retroactively applied on the ground that the relevant Article has now been prospectively amended to read that government approval shall be obtained 'prior to invitation of price discovery steps by the contractor'?
The earlier PSCs also provided that the government reserved to itself the right to refer pricing issues to the proposed Petroleum and Natural Gas Regulatory Board. That was when no such Board existed. Now that such a Board has been constituted, the new PSC drops all reference to the Board and essentially reserves to the government the right to unilaterally decide all matters pertaining to pricing. Does this constitute a reversal of reforms? More to the point, will this discourage future private sector investors from entering the Indian petroleum exploration and development market? Worse, will it discourage investment decisions by private power producers and others in need of gas by making five-year determinations for the price of gas when investment decisions, involving a six- to seven-year gestation period and another ten years to recoup initial investment, call for stable, long-term contracts for essential inputs? Also, should government interventions be aimed at raising prices for sellers or at keeping prices down for consumers? This appears to be the first case of a government fiat resulting in consumers being asked to pay more for an essential commodity than might have been available from price indications in the marketplace.
Whereas the new PSCs still talk of the 'arms length' determination in the market of gas prices, the amended clause 2.7 says the price set 'shall be applicable *uniformly* to all the consuming sectors.' – unquote. That price cannot be lower than the price set by the government but if it is higher – 'then the higher price would be reckoned for the purposes of government take.' This provision too would have the effect of government intervention augmenting rather than lowering the price of an essential input.
These large policy issues relate not just to a commercial dispute between two brothers torn by sibling rivalry but fall in the domain of governance and, as in any democracy, are amenable to public discussion over whether the decisions taken constitute good governance or bad governance. The fact that simultaneously two major business houses are going to be affected to the tune of several tens of billions of dollars by the decisions taken does, of course, muddy the waters, but one hopes the Supreme Court will shortly clear the air. Whether the decisions taken and endorsed by the Supreme Court are in the larger national interest will really only be known *ex-post facto*, but one dearly hopes that recent policy changes will not hamper the emergence of an India secure, self-reliant and self-sufficient in energy.
Thank you.'

APPENDIX 9

‘Review Decision to Increase Gas Price’

Here are excerpts from the report of the Standing Committee on Finance (2012-13), Fifteenth Lok Sabha, Ministry of Finance (Department of Revenue) on ‘Economic Impact of Revision of Natural Gas Price’, Seventy Fourth Report, Lok Sabha Secretariat, New Delhi, August 2013, presented to the Lok Sabha and the Rajya Sabha on 7 August 2013.

Observations/Recommendations

1. The Committee believe that natural gas is a national resource and a public asset; and therefore any discourse on its pricing policy should reflect this principle so that it is used for the larger national good and not for profiteering. In the present economic situation with rampant inflation and a slowdown of the economy, any increase in gas prices will have a derailing effect on the economy generally and the downstream core sectors of fertilizer, power and steel, in particular. The Committee note that with gas production from the KG basin fields falling drastically in the last couple of years due to what the contractor claimed were ‘technical problem’, the core sector of the economy dependent on gas as fuel was forced to either use expensive imported gas or operate their plants at sub-optimal capacities. As production from KG-D6 gas basin continued to decline since April 2010, pro-rata cuts were imposed by Government across all sectors between July 2010 and March 2011; in October 2011, supply to City Gas Distribution (CGD) from this basin became zero and by March 2013, the supply to power sector also became zero. However, fertilizer sector was getting its supplies as per priority fixed by Government. The reduction in gas supplies resulted in several gas-based power plants in the Country getting stranded and becoming NPA. The shortfall in production also resulted in zero supply for the steel sector. As regards the impact of gas price increase on priority sectors, the Ministry have admitted that there would be a direct impact on the prices of fertilizers, as increase in the price of gas by $1 per MMBTU results in the increase in cost of production of urea by a huge Rs. 1384 per MT. It is thus evident that gas pricing has serious repercussions for the economy as a whole, which warrants careful deliberations and prudent decisions.

2. The Committee would thus like to bring into focus the following critical issues and areas of concern arising out of the government’s decision to revise sharply the natural gas price.

i. Deploying the single instrument of price to achieve the multiple objectives of incentivizing domestic gas exploration and production on the supply side and meeting the huge unmet demand for gas at reasonable cost. In this regard, doubts have been raised as to whether a large rise in gas price would at all attract additional investment from home or abroad and relax the supply side constraint. Despite raising the domestic well-head price by almost 300% during the period beginning 2005 till date (from as low as $1.79/MMBTU to $4.20/MMBTU), private investments in the sector and the country’s gas output have actually dropped.

ii. To meet serious challenges that have arisen due to the tendency of contractors to manipulate the investment multiple parameter and controlling production, which adversely affected supply.

iii. To frame a long-term vision based on geo-political developments in the energy sector.

iv. To conduct a scientific cost study in the gas basins warranting/ justifying a higher price. It cannot be a mechanism only leading to windfall / super-normal profits to entities, thereby putting the cost of private profit on society.
v. The rationale for dollar-denominated gas pricing when the revenues are all in rupee and the country has a chronic adverse exchange rate.
vi. Any fixing of input price at a lower level than output price will mean a bloating of subsidies; is the government prepared for a disproportionately higher subsidy outgo in successive budgets for the fertilizer and power sectors and whether this has been factored in the 12th Plan. The extent of its inflationary impact needs to be considered.
vii. The need for consultations with the State governments in this process, as they may have to significantly increase power tariffs to cover the higher costs or drastically raise their subsidy expenditure. The impact on state budgets should be key determinant as well.
vii. The need to consider views of concerned Ministries, Planning Commission, Industry and experts before arriving at the decision.
ix. The counter-productive effect of such large increases in price by forcing consumers of gas to divert to less cleaner fuels, thereby stultifying the gas pricing policy itself.
3. The Committee are constrained to note that no due diligence was done before arriving at the decision to revise gas price. Neither was any cost or impact study done in this regard. in this context, the Committee would recommend that the following aspects should be taken into account as an integral part of any gas pricing mechanism, which has huge impact on various sectors of the economy:
i. At this juncture of our economic development, transitioning from a regulated to a fully market-based system should be staggered.
ii. The Government needs to rethink certain elements in the pricing formula suggested by the Rangarajan panel, which only serves to push the Indian gas price higher than it ought to be. A more realistic price formulation better suited to our current priorities may be evolved.
iii. Secondly, there should be a cap on the suggested price under the formula and for this purpose, there should be a ceiling price. It cannot be the case that gas producers will be allowed to reap unlimited gains in the event of upswing in global prices at the expense of core sectors of the economy.
iv. The Government should also subject gas producers to closer regulation, especially on aspects of cost recovery and technical parameters related to production. A comprehensive technical study on cost estimates of gas production should be conducted for this purpose.
v. The Government must ensure that the contractor responsible for delivering the major chunk of gas from KG-D6 gas field supplies, delivers the shortfall he still owes as per the Agreement at the old price of $4.2/MMBTU, rather than getting the benefit of the new price for previous commitments.
vi. The important recommendation of the Rangarajan panel of moving to a revenue-sharing arrangement with gas producers should be considered. A new Production Sharing Contract (PSC) model should be evolved that will do away with incentives to control production and manipulating investments, while assuring reasonable returns to the producers.
vii. The government needs to do a thorough impact study of gas pricing on different sectors of the economy, particularly the core sectors of power, fertilizer, steel and small scale industry specially those effected by pollution control laws/orders. The quantum of subsidy required to compensate these sectors should be precisely arrived at over the medium term. Similarly, the extent of 'revenue loss or foregone' should also be quantified over this period in order to grasp fully the implications of the price revision on the Union Budget.
viii. As gas pricing will have implications for power tariffs as well, State governments also need to be consulted and taken on board. Instead of hurrying with decisions carrying wider import and ramifications for the country as a whole, broader consultative process involving all stakeholders

should be put in place.

ix. Divergence in views within the government cannot be ignored on such a major issue and therefore, the valid concerns expressed by key economic Ministries of the government like power, fertilizer and steel should be duly addressed before finalizing the policy.

In the light of the concerns enunciated above, the Committee would strongly recommend the Government to review forthwith its decision to raise gas prices and come out with fresh pricing which is more balanced and holistic and closely related to the audited cost of production and a reasonable return on the capital invested.

Yashwant Sinha, Chairman, Standing Committee on Finance, New Delhi, 2 August 2013

APPENDIX 10

Statements by Reliance Industries Limited issued in March 2014

IN THE COURT OF PEOPLE

ISSUE / CONTENTION	RIL RESPONSE
Deliberate reduction in gas production and hoarding of natural gas	Not even an iota of substance in the allegation. This allegation betrays complete disregard of the technical realities of the process of production of natural gas from reservoirs. Hoarding is technically impossible. The AIDP (Addendum to the Initial Development Plan) was based on seismic data that suggested connectivity between the small deposits outside the main channel, in which case it would help drain the channel by adding wells in these areas. Experience has shown that these studies – which are based not on actual drilling but by use of other equipment – did not give the correct picture due to the nature of the sands, and that in fact there is no connectivity between these deposits and the main channel. There is a dispute between the Contractor and the Union of India on the issue of whether drilling more wells would produce more, and will be resolved in the arbitration proceedings after factual and expert evidence. It is a known and an accepted fact that early estimates of production from gas fields are often unpredictable and may prove to be incorrect. Estimates given as to production and reserves are necessarily subject to significant variation. Besides, the only means by which the Contractor can recover its contract costs is by producing and selling gas from the KG-D6 Block. In particular, the Contractor does not recover the time value of money associated with its investment of risk capital (eg, cost of capital) and delaying recovery of contract costs by hoarding gas would increase such costs (which are borne by the Contractor).
Complaints about hike in price of natural gas	Requirement that gas be sold at market price reflects the central objectives of the NELP. The NELP PSC mandates that gas be sold at the market price.

ISSUE / CONTENTION	RIL RESPONSE
	The revision of price based on the formula proposed by the Rangarajan Committee, will benefit PSUs such as ONGC and OIL. The Contractor produces only some 15% of the total quantity of domestically produced gas to which the pricing formula or basis applies. The Petitioners ignore the fact that 70% of domestically produced gas comes from PSUs such as ONGC and OIL. The main beneficiaries of an increase in the price of domestically produced gas will be the PSUs and the Government itself (through royalties, taxes and an increased share of profit petroleum).
Failure to effect cost recovery disallowance and credit BP's consideration for assignment of 30% Participating Interest	Allegation is misconceived for the following reasons: • Consideration that was paid by RIL was for a package of 23 blocks (being 30% share of rights and obligations under the relevant production sharing contracts) of which 21 was approved by GOI. • Having assigned 30% participating interest in the 21 blocks, RIL gave up all future interest in any share of profit petroleum and right to recover contract costs in respect of that 30% participating interest. • RIL have not by any stretch of imagination recovered its contract costs by selling 30 % participating interests in the KG D6 Block to BP. • Assignment of interest/ farming out is a common practice in the oil and gas industry.
Failure to take action on CAG report	The issues brought about through the CAG are now pending with the PAC (Public Accounts Committee) and the Contractor has fully complied with all the requirements of the audit process.
Contractor's failure to relinquish acreage	Contractor did not retain any discovery area in contravention of the PSC. The Contractor was entitled to the entire contract area as a discovery area because the available information and technical analysis and

ISSUE / CONTENTION	RIL RESPONSE
	interpretation of that data appeared to demonstrate presence of a multiple-channel Turbiditic reservoir system existing almost throughout the Contract Area. The CAG appears not to have appreciated the relinquishment provisions in the PSC. RIL has in fact relinquished some 70% of the Contract Area and the Government has issued an order to relinquish about 81% of the contract area. RIL has retained only those areas in respect of which it holds a mining lease or is to file a development plan.
Natural Gas should be sold at rupee terms and not at US dollars	The entire PSC accounting is in US Dollars and the price of the gas has necessarily to be fixed in dollar terms. Oil is also priced in US Dollars under the PSC.
Composition of Rangarajan Committee - lack of technical experts	Composition of the Rangarajan Committee was as follows: (a) Dr C. Rangarajan, Chairman of the Economic Advisory Council to the Prime Minister; (b) Justice Shri Jagannadha Rao, former Judge of the Supreme Court; (c) Shri B. K. Chaturvedi, Member (Energy) of the Planning Commission (and former Cabinet Secretary and Petroleum Secretary in Government of India); (d) Prof Ramprasad Sengupta, Distinguished Fellow of the India Development Foundation and former Professor of Economics, JNU; (e) Shri J. M. Mauskar, retired Special Secretary to the Government of India and former Joint Secretary in Ministry of Petroleum & Natural Gas; (f) Shri Joeman Thomas, former Managing Director of ONGC Videsh Limited (a Company engaged in exploration and production activities in several overseas countries with investment running in several billions US $); (g) Dr K. P. Krishnan, Principal Secretary (Coordination) of the Government of Karnataka; as Convenor and (h) Shri Giridhar Aramane, Joint Secretary (Exploration) of the Ministry of Petroleum & Natural Gas as Secretary to the Committee.

ISSUE / CONTENTION	RIL RESPONSE
Gold Plating of costs by RIL - as indicated by CAG, including the award of various contracts to Aker	Allegations are baseless and misconceived. Under the PSC mechanism, the Contractor does not have an incentive to "gold plate" its capital expenditure as alleged or at all. Under the cost-recovery and production-sharing mechanism employed in the PSC the Contractor derives absolutely no benefit from spending more by way of contract costs than is necessary to carry out exploration and development operations. It is the Contractor who bears the risk, petroleum may not be produced in sufficient quantities for it to recover costs associated with exploration and development of the block, but the Government stands to receive a share of profit petroleum from the day that production commences. The presumption that the Aker group is related to RIL and that, through this group, RIL is siphoning off money and gold plating is completely baseless, false unfounded and a figment of the petitioners' imagination. The petitioners identify no basis whatsoever for the alleged "presumption" beyond the fact that the Aker group won a number of contracts following the PSC tendering process. The holding company for the Aker group is Aker ASA, which is a Norwegian company listed on the Oslo Stock Exchange. There is absolutely no corporate relationship (direct or indirect) between RIL and any companies in the Aker group. RIL has no financial interest in or with Aker or its affiliated companies other than the contracts entered into with it for the purposes of the development of the KG-D6 Block. RIL has derived no benefit (directly or indirectly) from awarding the contracts in question to Aker. There is no "behind the scenes" arrangement whereby Aker has conferred any benefit or advantage on RIL for having awarded the contracts in question to Aker as alleged or at all.

KG Gas

The Flame of Truth

Biggest gainer of gas price increase is Govt owned ONGC and not RIL

1. Domestic gas sales in the country is currently about 80 mmscmd.

2. Out of this Government owned exploration and production (E&P) companies i.e. ONGC and OIL sell around 60 mmscmd or around 75% of the total sales. The remaining sale is by other players.

3. ONGC has recently stated on record that the gas price increase would result in Rs. 16,000 crore per year incremental revenue to ONGC.

4. Reliance Industries (RIL) operated KGD6 block currently produces only about 13 mmscmd. RIL owns 60% share in this block. Thus, RIL share of production is only about 8 mmscmd.

5. Thus, if ONGC which sells about 55 mmscmd of domestic gas and has incremental revenue of Rs. 16,000 crore per annum, how can RIL which produces only 8 mmscmd, have an incremental gain of Rs. 54,000 crore per year as alleged?

6. A gas price increase to $ 8 / MMBtu would result in incremental revenue of only about Rs. 2,400 crore per annum to RIL. Out of this RIL would pay royalty and taxes to the Government. The remaining money also would not be profit as RIL has still not recovered its investments in the E&Pbusiness. RIL (with its partners) have spent around $ 12.5 billion in the E&P sector in India.

7. Thus, to say that RIL would gain Rs. 54,000 crore per year due to the gas price increase is baseless and motivated propaganda.

** MMSCMD – Million Standard Cubic Meters per Day

The fact is that the country will stand to lose Rs. 1,20,000 crore per year if the gas prices are not increased as the gas will have to be imported benefiting foreign companies.

1. Today the domestic gas consumption of core sectors in India is as follows:

   - Fertiliser – 31 mmscmd
   - Power – 24 mmscmd
   - **Total – 55 mmscmd**

2. Once the domestic gas price increases to $ 8 / MMBtu (Energy unit), the impact of $ 4 / MMBtu increase in price would result in increase in fuel cost of core sectors as follows:

   - Fertiliser – 31 mmscmd i.e. Rs 9,300 crore per annum
   - Power – 24 mmscmd i.e. Rs 7,200 crore per annum
   - **Total – 55 mmscmd i.e. Rs 16,500 crore per annum**

3. The projected demand of these sectors is much more than 55 mmscmd. It is estimated that the total demand from these sectors would be 169 mmscmd by 2015-16, as follows:

Demand (mmscmd)	2015-16
- Fertiliser	57
- Power	112
- Total	169

4. Based on recent statements of ONGC, its biggest discovery in KG basin may not be viable at even $ 8 / MMBtu and some fields in Mahanadi basin would require $ 11 / MMBtu. Thus, if domestic gas prices are not increased, there will be no incremental production and existing fields will continue to decline.

5. If domestic gas is not available, these core fertilizer and power sectors would have to depend on alternate fuels. The cheapest alternate would be Liquefied Natural Gas (LNG) (or in case LNG is not available then even costlier fuels like naphtha, diesel). To meet the demand of gas the LNG import requirement would be as follows:

	Demand 2015-16 (mmscmd)	Domestic supply mmscmd*	LNG import reqd (mmscmd)
- Fertiliser	57	31	26
- Power	112	24	88
- Total	**169**	**55**	**114**

(*ignoring the production decline due to no investments in E&P sector)

6. The price of LNG import in the country today is $ 14- $ 19 / MMBtu. At $ 14 / MMBtu, the cost of LNG import to meet gas demand of core sector would be Rs 1,20,000 crore per year.

7. Thus, by not creating the right investment environment in the E&P sector through market based pricing the country will lose Rs 1,20,000 cr per year.

It is being alleged that RIL deliberately reduced the production to take benefit of future price rise. This is technically impossible.

1. Any attempt to hold back production in an existing field immediately shows up in pressure anomalies in the affected wells.

2. Each well is like the release valve of a huge pressure cooker where the oil and gas has literally been cooking for millions of years - hold back gas in one well and the pressure difference is immediately apparent in the next well.

3. Simply putting it, if gas is being hoarded, pressure in all producing wells cannot decline uniformly. Pressure decline is a sure sign that the pressure cooker is running out of steam.

4. The decline of production in D1 & D3 fields in KGD6 block is due to reservoir complexity & geological surprises and not due to hoarding.

5. RIL has been insisting to appoint an international expert to check the volume of gas available for production from D1 & D3 fields in KGD6 block.

6. Reservoir surprises are common in the industry. There are various examples both in India & abroad:

   i. Neelam field (where the planned production of 130,000 bbls / day came down to 30,000 bbls / day within a couple of years into production)
   ii. Imperial Oil acquired by ONGC in Russia (where against planned production of 80,000 bbl / day current production is just about 15,000 bbl / day)
   iii. ONGC onshore / shallow water nomination blocks in KG basin (where expected production was 16 mmscmd but actually never crossed 6-7 mmscmd and has now fallen to less than 3 mmscmd)
   iv. Laxmi and Gauri fields in Cambay basin where production fell drastically after 2-3 years

Cost of production of gas in India can never be $ 1 / MMBtu

1. ONGC currently has gas production only from on land and shallow water blocks. It does not have any production from a deepwater blocks like RIL operated KG-D6 blocks.

2. ONGC Chairman has recently stated that its cost of production from these onland and shallow water blocks is about $ 4 / MMBtu and it is hardly making any profit with current gas price of $ 4.2 / MMBtu.

3. Further, ONGC Chairman has stated that it will not be able to produce any gas from its deep water block in KG basin at current price of $ 4.2 / MMBtu. ONGC's Vashishtha gas discovery in KG basin would be viable only at $ 6.7 / MMBtu. Further some of its discoveries in Mahanadi would be viable only at $ 11 / MMBtu.

4. It is a well-known fact that DGH has dis-allowed development of several gas discoveries since they are not viable at current gas price if $ 4.2 / MMBtu.

5. It is clear from the above statements of ONGC that gas production cost from a deep water block cannot be $ 1 / MMBtu

6. It has been stated by certain vested groups that the cost of production from KG-D6 block is less than $ 1 / MMBtu, quoting a letter by RIL to DGH;
   a. The cost of production as alleged is nothing but post-production costs between the well head and delivery point which in 2009-10 was estimated as $ 0.89 per MMBtu for that year.
   b. The figure was required because royalty on gas produced was to be paid at the well head value which value had to be derived by subtracting the post well head cost ($ 0.89 per MMBtu) from the approved price of $ 4.2 per MMBtu.
   c. Post production cost between the well head and delivery point is only a small component of the total cost of production. To calculate production cost, in addition to the post production cost between well head and delivery point (i.e. $ 0.89 per MMBtu), the expenditure incurred in discovery, appraisal, development production, maintenance will need to be considered; eg. cost of drilling of wells, production expenditure including work-overs expenditure, exploration & appraisal costs etc.
   d. In addition, RIL and its partners has spent around $ 4 Billion on nonKG-D6 blocks; $ 1.9 billion on relinquished blocks (failed exploration) and expected to spend another $ 1.8 billion on other NELP blocks till end of FY2014 where there is still no certainty of recovery.

Gas price increase will not result in inflation as alleged.

To sensationalize the issue of gas price, the impact of gas price increase on the economy / overall sector has been overstated by the vested interests. They have cited that gas price increase will lead to hike in the prices of fertilisers, power, food prices, cooking gas etc and that the common man will suffer. The impact of gas price increase in these sectors is marginal and is analysed below:

1. **Fertiliser sector –**

    a. It has been argued that, because of the increase in gas price, the cost of food grains would increase as the cost of fertilisers to the farmers would increase.
    b. Over the years the cost of fertilisers in the country has been rising due to increased import of fertilizer and increase in cost of production of domestic fertilizer.
    c. Despite the above, the Government has not increased the fertiliser prices sold to farmers and absorbed the increase through subsidy.
    d. Currently fertiliser sector consumes around 31 mmscmd of gas. The impact of increase in gas prices, assuming the entire burden is absorbed by the Government in the form of subsidy, would be around Rs 9,300 crore.
    e. ONGC has been on record recently saying that it would have incremental revenue of Rs 16,000 crore per annum when the gas prices will increase in April.
    f. In addition, Goverment would gain from additional royalty and taxes from other producers.
    g. Thus, increase in subsidy of the Government can be easily set-off through incremental revenues of the Government.

2. **Power Sector** –
    a. Gas based power generation is less than 5-8% of total power generation in the country. The remaining is through coal, hydel, nuclear etc. **So it is huge exaggeration to say that gas price increase will result in substantial increase in the power tariff.**

3. **LPG –**
    a. Gas based LPG production accounts for less than 12% of the total LPG consumption in the country. The remaining is produced in the refineries or is imported.
    b. LPG cannot be produced from RIL gas from the KG basin since it does not have C3/C4 fractions required to produce LPG. So accusing RIL on this count is only a misinformation.
    c. Gas based LPG is produced primarily by ONGC. Since ONGC produces LPG out of its own gas, the cost of its LPG production does not increase.

4. **CNG/ food prices –**
   a. It has been argued that increase in gas price would increase inflation as cost of transportation of goods would increase.
   b. Unlike diesel, CNG reach is very minimal and CNG accounts for less than 3 % of the vehicular population in the country.
   c. In fact no trucks carrying food or other essential items run on CNG.
   d. It is to be noted that the Government has recently increased the domestic gas supply to all city gas distribution companies like IGL in Delhi, MGL in Mumbai, Gujarat Gas in Ahmedabad etc. to meet their CNG demand.
   e. Assuming the base price of $ 4 per MMBtu of the gas another $ 3.5 are added on A/C of distribution, transportation and other expenses to total cost in a city like Delhi is $ 7.5 per MMBtu (Rs. 23 per kg) whereas today CNG is being sold at $ 12 per MMBtu (Rs. 35 per kg). So any increase can easily be absorbed without increasing the price for the retail consumer.

Why market price denied to gas producers when all producers of Oil (including private sector) get market price?

1. India is primarily an oil driven economy, as oil's share is 75% of the total hydrocarbons consumed whereas dependence on gas is only 25%.

2. India is low on energy self-sufficiency and hugely dependent on imports specially in the hydrocarbon sector. While self-sufficiency in oil is at about 23%, for gas it is around 60% currently.

3. To improve India's self-sufficiency, the Government had invited private sector participation in the E&P sector, by offering them discovered fields pre-NELP and later through NELP under which exploration blocks were offered.

4. India currently produces more oil than gas - while the current oil production in the country is around 38 mmtoe, the natural gas production in the country is about 30 mmtoe (including internal consumption by the producers).

5. The mix of private sector production versus public sector production (ONGC/OIL) in case of both oil and gas is about the same. In both cases its around 25%. The price of oil and gas both impact subsidy burden of the Government. In fact Government gives subsidy on Diesel, LPG, Kerosene and Petrol which are all produced from oil. In case of Gas, the Government gives subsidy only on fertilisers produced from gas. In fact gas related subsidies would be about one fifth to that of oil.

6. Both are produced by the private sector under similar PSCs with the Government

7. Both oil & gas are national resources

8. Then, why is it the case that all the oil producers in the country like Cairn, BG, ONGC, OIL get international import parity linked oil prices for their production, which is currently more than $ 18+ / MMBtu whereas all kinds of issues are being raised for gas prices even when they have been unilaterally fixed by the Government based on a formula that would give the domestic gas producer less than 50% of the import parity price of LNG.

9. It is clear that the entire propaganda is motivated.

Even after increase in gas prices, domestic natural gas would remain the cheapest fuel in the country

Different Fuel rates in $/MMBtu.

	Fuel	**$/MMBTU**	**Based on**
1	Subsidized LPG	12	Rs.450/cyld
2	Non-Subsidized LPG	33	Rs.1134/cyld
3	CNG (New Delhi)	12	Rs.35/kg
4	CNG (Mumbai)	13	Rs.39/kg
5	Naphtha	24	Rs.66000/ton
6	Diesel (Subsidised) Mumbai	20	Rs.63/ltr
7	Diesel (Subsidised)Delhi	18	Rs.55/ltr
8	Fuel Oil	17	Rs.44000/ton
9	Kerosene (subsidised)	4.5	Rs.15/ltr
10	Spot LNG	19	$19/MMBtu
11	**Domestic Natural Gas**	**8**	

By approving higher investment expenditure the Government allowed windfall revenue of Rs. 1.2 lakh crore ($ 20 billion) to RIL. CAG has remarked that there is a strong evidence that RIL is gold plating its capital expenditure:

1. The investment costs rose because of increase in reserves as well as 200 % to 300 % increase in the prices of commodities, goods and services internationally between 2003 and 2006.

2. The CAG audit for the years 2006 to 2008 never even once mentions the word "gold plating". It also does not quantify any excess expenditure but only comments on the procurement processes. The PAC has asked the CAG to quantify so called excess expenditure upon which the CAG has assured that it will do so during the audit of the following years. The audit for the years 2008 onward in still ongoing.

3. In any case it is impossible to comprehend how costs can become windfalls unless the costs themselves are fraudulent. No such charge has been levied by anyone against RIL to date. A forensic audit has already confirmed that all expenses were in fact incurred and corresponding payments made to unrelated third parties.

Some Ministers have been shunted out as Petroleum Minister because they were not favorable to Reliance. Further, gas prices have been increased now to favour RIL.

1. It is alleged that Mr. Mani Shankar Aiyar was shunted out as Petroleum Minister for not allowing increase in the cost of the investment. It is only a malafide propaganda, Mr. Mani Shankar Aiyar left the Petroleum Ministry in January 2006. The Revised Development Plan was first submitted ten months later in October 2006.

2. It is alleged that Mr. Jaipal Reddy was removed because he opposed higher prices to RIL, then Moily gave higher prices to RIL. Again factually incorrect. The price revision was due in April 2014. It was Mr. Jaipal Reddy (not Mr. Moily) who requested for the appointment of the Dr Rangarajan Committee in May 2012. It was on this Committees' recommendations, the CCEA approved the revised gas price.

3. It is alleged that Congress-led UPA government "favoured" Reliance Industries Ltd by doubling gas prices to $ 8.4 with an eye on 2014 general elections and BJP is maintaining "silence" hoping to gain corporate funding for the polls. However elections have nothing to do with the price revision mechanism of the gas. The prices had to be revised not because of the elections but because the prevailing price formula ceases to be valid w.e.f. 1/4/2014. NELP as per the approved terms of offer had invited International bids on the promise that Contractors would be allowed to sell gas at arms-length market prices. Both the terms of offer as well as the PSC were framed in 1997 when neither the Congress nor the BJP was in power. The fact is that one of the complainants in the FIR was Secretary to the Cabinet which approved the terms that are now being implemented. How is it that he is questioning a decision that he was also a party to as the Cabinet Secretary?

Why KG Gas Matters to You

A READY RECKONER FOR THOSE WHO WISH TO UNDERSTAND THE OIL AND GAS BUSINESS

E&P – an uncertain business

1. Unlike other sectors such as power, steel and construction, the business of oil and gas exploration and production (E&P) is a high risk business where everything is uncertain through the entire life cycle of a project – from exploration and appraisal, to development and production.
2. Not only is the success ratio of exploratory wells as low as one in ten, the quantum of reserve too can only be estimated in term of probability rather than certainty.
3. With the cost of drilling and exploration well in deep waters being over Rs 700 crore (a development well costs even more at Rs. 1200 to 1400 crore) returns are never guaranteed.
4. The deep sea environment involving water depths between 3000 to 10,000metre. multiples risk manifold. Subsea installation & maintenance tasks have to be conducted in an environment that is beyond human endurance. Even simple tasks such as tightening nuts and bolts require advanced precision guided deep water robotic vehicles. The entire installation process has to be remotely guided with heavy equipment being manipulated under a mile high sea waters to lay down high pressure pipes with hundreds of miles of high voltage electrical as well as communication cables. The robotic vessels have to work in an environment that is far more extreme than that faced by remotely controlled buggies used to explore the Moon or the Mars.
5. This is a business in which the risk is a part of its intrinsic DNA: the entire risk is carried by the exploration company and not by the owner of the resource

Evolution of NELP

6. India had tried to bring technology driven companies into its deep water exploration program since the 80s. Companies like Shell and Chevron had been engaged with little success. It was finally Chevron, who after expending considerable amount of exploration finally dubbed India's East coast as the "failed basin".
7. Until 1991, India's oil & gas sector thus remained the exclusive domain of oil PSUs operating under an Administered Pricing Mechanism ("APM") which guaranteed fixed returns on all costs. This cost plus regime passed the entire risk of exploration, appraisal and production on to the taxpayer.
8. By 1990 India found itself in a position where it neither had the technology to venture into its deep water basins nor the resources to invest. Its mounting oil import bill had brought it to a balance of payments crisis.
9. It was then that the sector was opened for private investment by encouraging 100% FDI to bring in new technologies as well as risk capital for increasing exploration in grossly under explored Indian basins. Even though India possessed as much as 3.14 million sq km of these basins, barely 15% had been explored. The prospectivity was known to be poor and Chevron's failures on the East Coast had only strengthened these doubts. India needed a new regime for exploring basins whose prospectivity was a far cry from the basins found not only in Saudi Arabia, Kuwait, Qatar but even Myanmar, Pakistan and Bangladesh.
10. After experimenting with various PSC regimes, which sometimes involved auctioning of even discovered fields to investors, the New Exploration Licensing Policy (NELP) was formulated by the 3rd Front Government in 1997. Interestingly, the one of the main complainants in the FIR as well as the PIL against RIL, was a Secretary to the same Cabinet that approved the terms that are now being implemented. The most important of these terms which differentiated NELP from all earlier PSC regimes was the grant of marketing freedom to the

PSC Contractor and allowance of sale of all gas at market determined prices. Is it not strange that the ex-Cabinet Secretary, who was part of the approval process, had filed an FIR challenging the terms of the PSC and demanded that KG D6 prices should be fixed not as per the market but as per the cost of production?

11. NELP bids were only for unexplored areas having either no data or extremely scanty data. NELP ended the earlier system of auctioning **producing wells or discovered fields in the possession of OIL or ONGC**. It auctioned rank exploration blocks.

12. In the first of these auctions, done through a transparent & international competitive bidding process, RIL & NIKO won the KG-D6 exploration block in 2000 on account of it being the highest bidder.

13. Out of 254 blocks awarded under NELP policy, even though over 110 discoveries have been made, only 6 are under production. If the total number of discoveries across all regimes is counted the figure is over 160. Many of these, including those by ONGC and GSPC, made before or at the same time as RIL's D1-D3 discoveries are yet to be brought into production. So D1-D3 fields will always remain India's first deep water production. It remains an achievement that a country should be celebrating, not denigrating.

RIL's investments in Oil & Gas sector

14. RIL remains the largest investor under NELP. More so in difficult off shore blocks

Contents	RIL (NELP offshore)	NELP offshore^^	RIL %
No. of blocks	37 offshore blocks, currently holds 6 (also holds 1 onshore, total 7)	134	28
2D seismic (lkm)	82,807	3,42,245	24
3D seismic (sq. km)	99,733	2,18,560	46
Total no. of wells	101 (expl+appraisal), 29 development	259	39
Total investments* ($ Bn)	12.6	Do not have the number for total investments in NELP offshore blocks	
No. of discoveries	43	80	54
No. of discoveries in production	3	3	100
Production	2.279 tcf, 24.384 MMbbls	2.279 tcf, 24.384 MMbbls	100

**At JV level in NELP offshore blocks (Gross 100%). Includes only exploration ($4.9 Bn), Development ($7.7 Bn). Does not include OPEX including Royalty paid ($2 Bn)*

^^As per DGH web site

15. RIL currently retains only 7 blocks (of which 6 are offshore) of the 45 blocks awarded under Pre-NELP and NELP rounds. It has invested $1.92 bln (approx. ~Rs 12000 at current exchange rate) on the 37 surrendered blocks and is set to surrender another 2. Many blocks with discoveries had to be relinquished **as they were not viable to develop and produce at current price of $4.2 per MMBtu.**

16. D1-D3 is the first & only deep water production in India and remains amongst the most complex reservoirs in the world. Other discoveries in the same block such as R Series, Satellites & MJ1 are pending development.

17. D1/D3 production will vary but is not expected to increase substantially. Any increase in production will not come from D1-D3 but through development of the new discoveries in KG D6 block. The earliest this could happen is 2017-18.

Gas Pricing under NELP

18. NELP as per the approved terms of offer had invited International bids on the promise that Contractors would be allowed to sell crude oil at international prices and gas at arm's length market price. Because of these pricing provisions p**rices cannot be on the basis of cost of production.**

19. In 2003, in response to NTPC tender RIL submitted a bid for supply of gas when imported LNG was being sold at around $ 3.5/MMBtu. RIL did not renege from this offer. In fact, on 14, Dec 2005, RIL signed and sent a contract to NTPC to supply gas at $ 2.34/MMBtu. NTPC, however, insisted on the inclusion of open ended uncapped liability conditions and refusing to accept the offer and chose to go into litigation. The matter is currently sub-judice in Bombay High Court.

20. Meanwhile a proposal to sell gas to RNRL was sent to the Government for approval which rejected it on the ground that it was not an arms-length sale. The decision was challenged by RNRL but the Supreme Court upheld the Government's decision stating that national resources could not be sold as part of a family arrangement. The Government was entitled to a fair compensation for the same. In the 2G case again the SC again held that natural resources should be disposed of through a fair and transparent auction process

21. In 2007, RIL discovered the gas price through a price discovery process as mandated under the PSC and the recommendations of the Sinha Committee. The price of $ 4.2/MMBtu was approved by an Empowered Group of Ministers (EGOM) which included user ministries (power, fertilizer & steel). The approval was given for a period of 5 years from the start of commercial production hence valid up to March 31, 2014.

22. It is noteworthy that the price of $ 4.2/MMBtu was discovered at a time when crude price was around $ 30/bbl and imported LNG was being sold in India at around $ 4-5/MMBtu

23. Subsequently, the administered gas prices (APM prices) of ONGC & OIL were also raised to $ 4.2/MMBtu & non-APM gas of ONGC was priced even higher at $ 5.25/MMBtu.

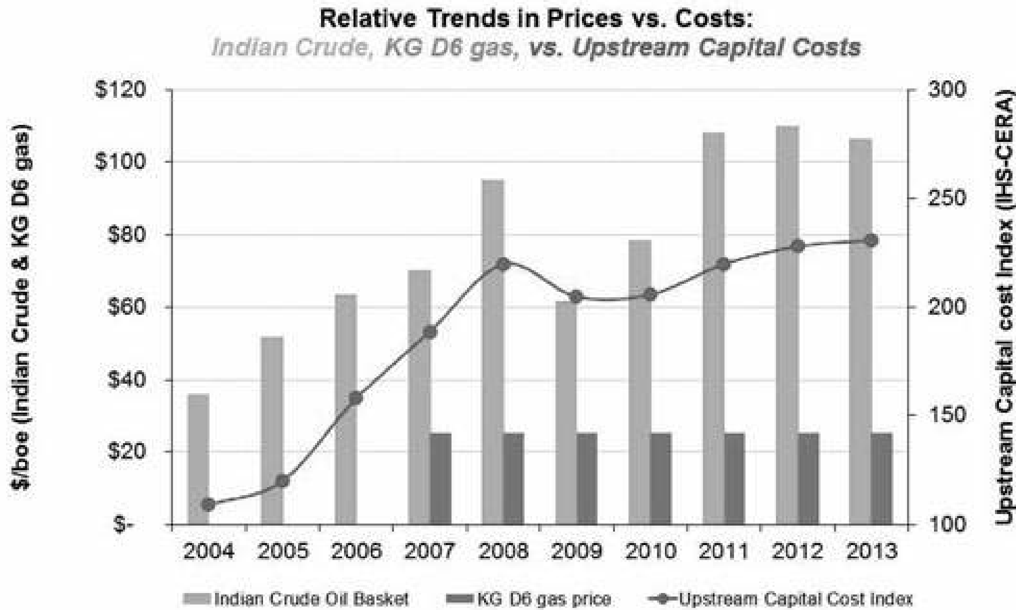
24. The prices had to be revised now because the prevailing price formula ceases to be valid w.e.f. 1/4/2014. A number of discoveries (~10 TCF equivalent to ~$ 150 Billion of LNG imports) were pending review by DGH / MoPNG as they would be uneconomic at $ 4.2 / MMBtu. Consequently, at the request of the then Petroleum Minister Sh. Jaipal Reddy, PM

in May 2012 constituted an expert panel under the chairmanship of Dr C. Rangarajan Chairman, Economic Advisory Council to PM.

25. The expert committee held wide consultations with all stakeholders including consumers and submitted its report in December 2012. Its recommendations were considered by various ministries before the proposal was approved by CCEA on 27 Jun 2013.

26. Subsequently, certain issues were raised by Ministry of Finance and Parliamentary Standing Committee on Finance. These were again considered by CCEA in December 2013 and the gas price formula was approved.

27. The first gas price approved in 2007. The revised prices are effective from 1/4/2014 – a gap of 7 years. In last 10 years, the price for other commodities, offshore services, consumer items, etc. have increased disproportionately compared to the revised gas price. Crude Oil prices have moved from around $ 30/bbl to over $ 100/bbl and imported LNG from around $ 4/MMBtu to over $ 14/MMBtu.



28. The revised prices apply to the entire domestic production. KG-D6 produces a bare 15% share of this while PSUs who are the major beneficiaries produce 75%. After taking into account RIL share in KG-D6, RIL share of production is less than 10% and therefore any allegation that price increase is for benefiting RIL alone is a huge exaggeration.

29. As per IHS CERA, 27 TCF of discovered gas (equivalent to $ 400 Bn of imported LNG) in the country is awaiting further investments for development & production. Another, 64 Tcf of risked recoverable gas resources are Yet to Be Found (YTF) through further exploration.

30. Even after doubling of gas price to $ 8 / MMBTu only 5 TCF of the 27 TCF of discovered gas resources can be developed.

31. As per CERA, the following gas prices are required for projects to be economically viable:

    a. Onshore: $ 6-8 / MMBTu

    b. Shallow water: $ 6-10 / MMBTu

    c. Deepwater: $ 8-12 / MMBTu

    d. Ultra deep water: $ 10-12 / MMBTu

32. The revised domestic gas price estimated at $ 8.4 /MMBTu (10 / MMBTu delivered in Delhi) is still not the market linked price provided for in the PSC and, taken on an energy parity basis, is far cheaper compared to alternate fuels being sold without Government subsidies.

Different Fuel rates in $/MMBtu.

	Fuel	$/MMBTU	Based on
1	Subsidized LPG	12	Rs.450/cyld
2	Non-Subsidized LPG	33	Rs.1134/cyld
3	CNG (New Delhi)	12	Rs.35/kg
4	CNG (Mumbai)	13	Rs.39/kg
5	Naphtha	24	Rs.66000/ton
6	Diesel (Subsidised)Mumbai	20	Rs.63/ltr
7	Diesel (Subsidised)Delhi	18	Rs.55/ltr
8	Fuel Oil	17	Rs.44000/ton
9	Kerosene (subsidised)	4.5	Rs.15/ltr
10	Spot LNG	19	$19/MMBtu
11	**Domestic Natural Gas**	**8**	

33. Certain groups of people have the following to say:

    a. **"Gas is country's own resource so why should we pay an international price"?** The price of international gas imported in the country is double that of the revised price of $ 8. Meanwhile oil (also a national resource) being produced under similar PSCs and even the same wells is given import parity price. Why then should gas be discriminated against oil? More so when it is known that several tcf of gas cannot be produced at the existing price. It obviously is common sense that the country should be producing its own gas at $ 8.4 rather than importing the same gas $ 16.

    b. "**Humne inko Kuen diye hain**": The GOI did not offer any drilled wells or discovered fields to companies through NELP. KG D6 was offered as a deep water exploration block with little data and no drilled wells with discoveries. Those who make this claim forget that the discovered fields in the country were offered under Pre-NELP e.g. Raava (oil), and they are all being given international price for oil.

    c. **RIL will get a benefit of Rs 54,500 crore per year at current dollar rupee rates:** The price increase applies to all domestic gas, of which KG-D6 produces a bare 15%. The price rise will raise the revenues earned on country's the entire gas production by Rs. 26,000 crore. Of this increase Rs 12,000 crore comes back to the Government as royalty, profit petroleum, taxes, and dividend. The share of RIL and its partners is only Rs 3000 (not

54,500) crores, which goes to meeting capital as well as operational costs before it can be counted as profit.

d. **BP (British Petroleum) must have seen high returns from a known discovery at the current price of $ 4.2 / MMBtu and thus, it invested about Rs. 33,000 crore for 30 per cent stake in RIL's KG basin block:** Farming in, i.e. taking a participating share in the risks as well as benefits of a block by other partners is part of the terms of NELP as framed in 1997. It is a common industry practice under which Vedanta acquired Cairn India's interests, ONGC brought in BP, BHP and various other companies and farmed into others in India and abroad (eg. Sakhalin, Imperial, etc). BP invested not in KG-D6 alone but because it found the RIL portfolio of Blocks as well as the PSC terms attractive. Investors naturally assume that any Government would honour the terms of offer as well as the PSC.

34. **NIKO, RIL's partner is selling same gas in Bangladesh at $ 2.34 / MMBtu:**

NIKO is not selling any KG D6 gas into Bangladesh. It sells gas produced from its on-land fields in that country as per a price formula agreed with the Government of Bangladesh as per the terms of offer. The terms of offer under NELP (approved in 1997) provided for market prices. Apples cannot be compared to oranges:

a. KG-D6 is a deep water not an on-land block.
b. Commercial operation of Niko onshore block started in 2000 and was developed in low oil price era i.e. at very low development capex.
c. NELP dispensed with pre-negotiated pricing formulas and instead provided for market prices. The gas price for NIKO Bangladesh field was embedded in the Contract i.e. same as Raava or PMT block in India. There is no provision of market price in Niko Bangladesh contract.

As an aside, as per Wood Mac report, Bangladesh's remaining gas reserves are ~10.51 TCF and current production is only 6.5 mmscmd. Bangladesh is in a situation of high reserves but extremely low production because of its unattractive price regime. Does India want to emulate Bangladesh?

Impact of gas price on other sectors – Power, fertiliser, CGD

35. Increase in gas price of KG-D6 gas will not impact consumer price of CNG as the gas is supplied in accordance with the Gas Utilisation Policy (GUP) under which **no gas from KGD6 is being supplied to any City Gas Distribution network including New Delhi.**

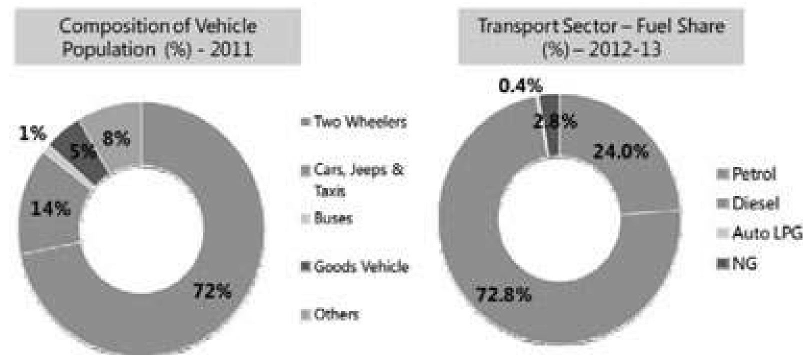
36. For fertilizer the alternate fuel is mainly imported LNG / naphtha which are priced more than $ 25 / MMBtu which is three times the revised gas price.

37. Today 5-8% of the total power capacity is gas based which is contrary to the perception that the whole power sector will collapse because of increase in gas price. Power sector consumption of gas is only 24 MMSCMD and gas supply from KG D6 to power sector is Nil.

38. As per Kotak analysis, in case the current increase in gas prices is allowed to pass through to the end-customers, the increase in power tariff is expected to be only about 10 paise / unit.

39. Deregulation of petrol & diesel prices have been absorbed by the market without creating any havoc in spite of the fact that 97.2% of transportation sector is diesel, petrol or auto LPG compared to 2.8% natural gas based. Even at the revised price natural gas supplied to consumer is far cheaper than subsidized domestic LPG.

Figure 2: Vehicular population growth (2001-2011) and composition (2011)[1]



Source: *Road Transport Yearbook, Ministry of Road Transport & Highways, 2010-11*

[1] *Others include tractors, trailers, three wheelers, LMV and other miscellaneous vehicles that are not categorized separately.*

40. What would $ 8 / MMBtu translate to in a 15 kg cooking gas price

First LPG is mixture of Butane (C4 fraction of Hydrocarbon) and Propane (C3). D6 gas is pure Methane gas (99% Methane i.e. C1 fraction with no higher fractions like C2, C3 or C4, etc.) and **no LPG can be extracted from D6 gas as it neither has propane or butane**. For reference, $ 8 / MMBtu in energy equivalent terms would be Rs. 24 / kg or Rs. 340 for the household cylinder (a standard household cylinder has Rs. 14 kgs). Thus the revised well head price of $ 8.4 per MMBtu implies a cost of Rs. 340 per 14.2 kg LPG cylinder. Even after transport and overheads the delivered price comes to not more that Rs. 400. It may be noted that non-subsidized LPG today is priced at more than Rs. 1100 a cylinder

41. In E&P, on average almost 50 % of price increase flows back to GOI through royalty, profit petroleum, dividends & taxes (including subsidies). As per Barclays report, based on current production levels, for every $ 1 / MMBtu increase in price Government will have a net balance of $ 101 MM after paying fertilizer & north east subsidies. The increased accrual in government kitty will enable further disbursement towards infrastructure and nation building. A clear indication of multiplier effect.

42. On the contrary, if domestic gas is not offered market price, it will result in rapid depreciation of the Indian Rupee

    a. There are currently over 110 discoveries but only six are under production as companies (including ONGC, GSPC etc) do not find it viable to produce them at current prices.

    b. Unable to produce at current domestic price will only increasing import dependency leading to expensive imports & adverse impact on Balance of Payments (As per CERA current gas demand-supply gap of 45% can balloon to more than 80% by 2025)

The price hike will therefore make more gas available as more discoveries can be produced reducing the need to import gas at $ 14 to $ 19 per MMBtu which is not only causing inflation but also resulting in such a rapid depreciation of the Indian Rupee.

43. **Idling of gas based power& fertilizer plants**

    Not a single power or fertilizer plant has come up in the country on assurance of gas supply from KG D6 block. All of these came up on the basis of allocation made from gas to be produced by ONGC or sourced by GAIL. GSPAs exist to show these supply commitments which never materialized because of the inability of ONGC or GAIL to meet the commitments made in these GSPAs. KG D6 gas in fact came as a saviour to these stranded assets until the production went into decline in 2011. For example a number of plants in Andhra built on gas allocations from ONGC and GAIL produced their first power using KG D6. Even Dabhol project was based on LNG and was able to commission 1800 MW using KG D6 gas

44. **Cost of production of gas is $ 0.89/MMBtu**

45. We are not sure where the $1/MMBtu number has come from. Figure of less than a dollar being quoted as cost of production of gas from Block KG D6 is factually incorrect. The letter referred to in the FIR is not about the cost of production but limited to post-production costs between the well head and delivery point which at that time (2009-10) was estimated as $ 0.89 per MMBtu for year 2009-10. The figure was required because royalty was to be paid at the well head value which value had to be derived by subtracting the post well head cost ($ 0.89 per MMBtu) from the approved price of $ 4.2 per MMBtu.

46. Post production cost between the well head and delivery point is only a small component of the total cost of production. To calculate production cost, in addition to the post production cost between well head and delivery point (i.e. $ 0.89 per MMBtu), the expenditure incurred in discovery, appraisal, development production, maintenance will need to be considered; eg cost of drilling of wells, production expenditure including work-overs expenditure, Exploration & Appraisal cost etc.

47. In addition, RIL and its partner has spent around $ 4 Billion on non-KGD6 blocks; $ 1.9 billion on relinquished blocks (failed exploration) and expected to spend another $ 1.8 billion on other NELP blocks till end of FY2014 where there is still no certainty of recovery. In case prices are to be fixed on cost of production, this additional cost of $ 7.4 billion will also need to be reimbursed. (Note: Numbers are based on simple interest and for pre-tax return of 18 %, with compound interest; $ 7.4 billion will increase to $ 10.4 billion)

48. In any case the cost of production cannot be relevant to the determination of prices because NELP as framed in 1997 promises investors market price for gas & imported prices for oil to encourage exploration. It does not allow the Government to fix prices on the cost of production. Doing so is tantamount to violation of the provisions of the PSC and terms of offer under NELP. Crude oil from the same PSCs is being sold at international prices so how can the Government not give market price for gas as per the PSC?

Hoarding of gas

49. Hoarding is technically impossible. Any attempt to hold back production in an existing field immediately shows up in pressure anomalies in the affected wells. Each well is like the release valve of a huge pressure cooker where the oil and gas has literally been cooking for cooking for millions of years - hold back gas in one and the pressure difference is immediately apparent in the next. Simply put if gas is being hoarded pressure in all producing wells cannot decline uniformly because pressure decline is a sure sign that the pressure cooker is running out of steam.

50. Hoarding of gas also does not make any commercial sense. Any delay in production delays the recovery of costs and subsequent revenues for the contractor. Any prudent operator will not risk their present cash flows for uncertain future benefits.

51. The decline of production in D1, D3 fields in KGD6 block is due to reservoir complexity & geological surprises and not due to hoarding. The issue can be easily settled by getting the existing reserves assessed and certifies through any expert international reserve certification agency.

52. Reservoir surprises are common in the industry. There are various case examples both in India & abroad, to name a few - Neelam, Mumbai High redevelopment plans, and Imperial (in Russia) where reserves and production fell far short of expectation.

Underutilization of facilities

53. Stating that design capacity of 80 mmscmd has been underutilized or RIL has built excess capacity is a very simplistic statement

    a. Any oil and gas development project must be planned and implemented on the basis of data and information availableat that time. Uncertainty is the hall mark of this business and it is impossible to predict the nature or behavior of a reservoir until well after production.

    b. For this reason reservoir surprises being common occurrences, a development plan as per the PSC only gives estimates of production and reserves which are meant to be revised from time to time. These figures being pure estimates, they cannot be termed a commitment to produce by any stretch of imagination.

    c. Even though reserves and reservoir behavior will be uncertain, oil and gas facilities must be designed for peak production. That is the financial risk the Contractor takes when he undertakes development. It must be remembered that as per the designed capacity, KG-D6 achieved a production of 63 mmscmd before the nature of the reservoir began to become apparent. .

    d. Today, with decline in production pressure the same system has been efficiently handling lesser quantity of gas and bringing it to markets with a safety record that is matched by only the best projects in the world.

    e. The design was appropriate considering the estimates of gas reserves & production profile at that time. In hindsight, people are accusing of overbuilding of capacity. A few years later similar hindsight will show that the same facilities have been a huge boon in costs, leading to the development of other discoveries (R Series, Satellite etc.). Had these facilities not existed, those other discoveries would never have been viable.

    f. Notwithstanding the above facts, the Government has chosen to give a notice to the Contractor for failing to utilize the facilities. The grounds of the above notice being highly disputable, the matter is now the subject matter of arbitration.

Gold plating

54. The charges of gold plating are far remote from the harsh realities of the business. Unless the costs incurred are fraudulent, a cost can never be a profit. For any investor, costs are incurred upfront whereas future revenues are only notional.

55. In the D1-D3 field, the investment costs rose because of increase in reserves as well as 200% to 300% increase in prices of commodities, goods and services internationally between 2003 and 2006. The CAG audit for the years 2006 to 2008 never even once mentions the word "gold plating". It also does not quantify any excess expenditure but only comments on the procurement processes. The PAC has asked the CAG to quantify so called excess expenditure upon which the CAG has assured that it will do so during the audit of the following years. The audit for the years 2008 onward in still ongoing.

56. As already explained, costs cannot become windfalls unless the costs themselves are fraudulent. No such charge has been levied by anyone against RIL to date. On the contrary, a forensic audit has already confirmed that all expenses were in fact incurred and corresponding payments made to unrelated third parties.

57. It does not make any sense to deliberately increase costs as it would:

    a. impact contractor profit disproportionately– Every $ 1 extra expense reduces $ 0.9 from contractor profits

    b. significantly increase non-recoverable financing costs due to longer gestation period

    c. yield low return on investment and long payback period

58. In order to maximize value, the Contractor has to be prudent operator and cost & time efficient.

59. In any case all costs are reviewed, approved and the audited by the Government as per the PSC and costs not found appropriate can always be denied for cost recovery purposes as per the procedure laid down in the PSC. The audit, which is very much part of the control processes envisaged in the PSC, is still ongoing as per the laid down procedure.

RIL ran the UPA government for 10 years and if the NDA comes to power, RIL will run the government for another 5 years

60. It is totally absurd and baseless. If RIL had this kind of alleged influence, how would the Government:

    a. impose about $ 1.8 billion cost recovery penalty, delay the sanctions of future development and seek bank guarantee for allowing increased gas price for natural gas output from KG-D6 block during the last three years.

    b. Take away the tax holiday promised under PSC, right when KG-D6 gas came into production

    c. Take away marketing / pricing freedom from the Contractor promised under the PSC.

       – Today RIL buys 12 mmscmd of LNG at more than $ 15 / MMBtu while sells its D6 production at $ 4 / MMBtu.

    d. Introduced new taxes on exploration despite fiscal stability promised under PSC.

61. RIL has never blown its trumpet in terms of employment it has offered, value created for its stakeholder, forex saving for the country, creating world class benchmarking in petrochemicals, contribution in GDP growth and export earningsetc.

RIL contributes extensively to create value for the whole nation

62. RIL's contribution to upliftment of society and nation building is so enormous and difficult to quantify.

63. The basic drive which established RIL as a large empire was driven from the basic principle of fulfilling the needs of common man - Roti, kapda and makan.
    - Employment generation for millions of people – both directly and multi-fold indirectly
    - The culture of equity markets was brought in to nooks and corner of the country by RIL. Those who had invested in initial years became millionaires. In fact RIL shares helped them in financing for their children education, marriage etc.
    - Kapda – Polyester revolution – RIL revolutionised the manmade fibre sector and offered decent, economical and easy to maintain clothing for Aam Aadmi (Common man)
    - PET – Provided cheaper but quality packaging material to preserve food and other goods to common man
    - Mobile – Monsoon Hungama....First to give the power of communication and connected the common man to his family & community
    - Silently contributing for welfare and upliftment of underprivileged, and poor through various activities of Reliance Foundation's contribution to the society.
    - RIL created equity cult which provided new avenue to small retail investors –Today RIL has lakhs of shareholders, many of whom have created for its shareholders

Reliance is being witch hunted for no fault of theirs. Rather it has contributed immensely to the development of the nation & all its stakeholders.

You be the Judge...!

1. Should we question the credibility of an expert panel headed by Dr Rangarajan?
2. Should we continue paying exorbitantly high prices for imports and make LNG exporting countries and Indian importers richer?
    a. Does it make sense to promote oil exporting countries to sell more oil & gas in India?
    b. Do you know it is oil & gas not gold which has the heaviest forex outflow?
    c. Do we want to promote the economy of oil & gas exporting countries at the cost of the people of India?
3. Should we not promote India's E&P sector to encash the benefit of $ 400 billion equivalent domestic resources, thereby save money, provide employment & overall growth?
4. Given huge chronic demand- supply gap, should we discourage E&P investments in India & drive away investors to other countries, and invariably import the same fuel at a higher price?
5. Should RIL be blamed for increase in gas price by the Government when its share in production is less than 10%?
6. Is it not pertinent to move towards energy security?
7. Should we not promote usage of cleaner fuel & save our environment?
8. Is it in interest of the country to compromise energy security by keeping unsustainable low price for domestic gas?
9. Should India not adopt market based prices for energy to bring efficiency in use and help demand side management?

APPENDIX 11

First Information Report filed by the Anti-Corruption Branch, Delhi Government on 11 February 2014

प्रथम सूचना रिपोर्ट

FIRST INFORMATION REPORT

(दण्ड प्रक्रिया संहिता धारा 154 के अन्तर्गत)

(Under Section 154 Cr.P.C.)

क्रमांक संख्या Serial No. 25

किताब संख्या Book No. 6418

1. जिला District GNCT of Delhi थाना P.S. A.C. Branch वर्ष Year 2014 प्र.सू.रि.सं. FIR No. 17/2014 दिनांक (Date) 11-2-2014

2. (i) अधिनियम Act 13 (1)(C)(d) POC Act 1988 धाराएँ Sections 420, 120B IPC
   (ii) अधिनियम Act .... धाराएँ Sections ....
   (iii) अधिनियम Act .... धाराएँ Sections ....
   (iv) अन्य अधिनियम एवं धाराएँ (Other Acts & Sections) ....

3. (क) अपराध घटित होने का दिन (a) Occurrence of offence Day — दिनाँक से Date from Not Certain दिनाँक तक Date to Not Certain
   समय अवधि Time Period — समय से Time from .... समय तक Time to ....
   (ख) थाने में सूचना प्राप्त हुई (b) Information received at P.S. दिनाँक Date 11-2-2014 समय Time 6 p.m.
   (ग) सामान्य डायरी संदर्भ : प्रविष्टि सं. (c) General Diary Reference : (Entry No.) 38 समय Time 8.40 P.m.

4. सूचना का प्रकार Type of Information : लिखित/मौखिक Written/Oral Written

5. घटित होने का स्थान : (क) थाने से फासले एवं से दिशा
   Place of Occurrence : (a) Direction and distance from P.S. Yet to ascertain
   Delhi .... गश्त सं. (Beat No.) ....
   (ख) पता (b) Address ....
   (ग) यदि इस थाने की सीमा से बाहर हो, तो (c) In case, outside the limit of this Police Station, then :
   थाने का नाम Name of P.S. .... जिला District ....

Dy. No. ....
Date ....

6. शिकायतकर्ता/सूचनाकार
   Complainant/Informant: (1) TSR Subramanian former Cabinet secretary Govt. of India.
   (क) नाम (a) Name (2) EAS SARMA former Secretary Govt. of India
   (3) Admiral RH Tahiliani former Chief of Naval Staff
   (ख) पिता/पति का नाम (b) Father's/Husband's Name (4) Kamini Jaiswal, Advocate Supreme Court
   (ग) जन्मतिथि/वर्ष (c) Date/Year of Birth .... (घ) राष्ट्रीयता (d) Nationality ....
   (ङ) पारपत्र सं. (e) Passport No. .... जारी करने की तिथि Date of Issue .... जारी करने का स्थान Place of Issue ....
   (च) व्यवसाय (f) Occupation ....
   (छ) पता (g) Address ....
   (ज) टेलीफोन नं. (h) Telephone No. ....

7. ज्ञात/संदेहास्पद/अज्ञात सिद्ध दोषियों का पूरा ब्यौरा दीजिए (यदि आवश्यक हो, तो अलग पृष्ठ नत्थी करें)
   Details of known/suspected/unknown accused with full particulars (Attach separate sheet, if necessary)
   (1) Mr. Veerappa Moily (Current Petroleum minister) (2) Mr. Murli Deora (former
   (2) Petroleum minister) (3) Mr. V.K Sibal (former Director General of Hydrocarbons,) and others (4) Accused Private persons Mr. Mukesh Ambani (Chairperson of RIL) RIL [illegible]
   and others.

क्रमांक संख्या
Serial No. 25

किताब संख्या
Book No. 6418

शिकायतकर्ता/सूचनाकार द्वारा रिपोर्ट विलम्ब से रिपोर्ट करने के कारण
Reasons for delay in reporting by the complainant / informant

चुराई गई/सम्बद्ध सम्पत्ति का ब्यौरा दीजिए (यदि आवश्यक हो, तो अलग पृष्ठ नत्थी करें)
Particulars of properties stolen (Attach separate sheet, if necessary)

चुराई गई/सम्बद्ध सम्पत्ति का मूल्य
Total value of property stolen

मृत्यु की जांच रिपोर्ट / अप्राकृतिक मृत्यु केस संख्या, यदि कोई हो
Inquest/Report/U.D. case No., if any

प्र.सू.रि. (यदि आवश्यक हो, तो अलग पृष्ठ नत्थी करें)
F.I.R. contents (Attach separate sheet, if required) Dated February 10, 2014, to,

Shri Arvind Kejriwal, Chief Minister, Delhi, New Delhi. Dear Shri Kejriwal Sub. Complaint of Corruption for investigation Collusion between ministers of Central Govt. and RIL. The Instant Complaint of large-scale Corruption and fraud Concerns the total Collusion between ministers of the Central Government and a private Company Reliance India Limited (RIL) that has led to the defrauding of the exchequer. The instant Complaint of large scale Corruption and fraud Concerns the total Collusion between ministers. The KG-DWN-98/3 deepwater

P.T.O

Block (also referred to as the K.G.-D6 block), with a Contract area of 7645 Sq. Km. was awarded in the first NELP round in 2000 to a Consortium of Reliance Industries Limited (RIL), the operator, and Niko resources Limtd. (NIKO) with 90:10 participating interests. A Contract dt. 12-4-2000 was entered into between the union of India and reliance Industries Ltd. and Niko resource Ltd. Called a production sharing Contract (PSC) for the exploration for natural gas, and in Case of any Commercial discoveries, the development and the production of natural gas in the Contract area identified as Block KG-D6. Increase in Gas price The single biggest act of Corruption done by the UPA Government is the recent decision to double the gas price from $ 4.2/mmbtu to $ 8.4/mmbtu that would take effect from 1st April 2014. The facts of the case are following. RIL has signed a Contract with NTPC, in 2004 to supply gas for its power plants at $ 2.34 per mmbtu for a period of 17 years. It also signed an agreement with RNRL of ADA Group to supply the gas at the same price for 17 years. However RIL went back on its word and refused to supply gas at the rate which was clearly profitable for RIL. Under RIL's pressure, the Government with Mr. Murli Deora as minister, revised Gas price in 2007 to $

Cont Page 2

case for NO 17/2014 u/s 13 (1) (1) (a) PoC Act r/w 420/120B IPC
PS AC Br. dt 11/2/14

4.2/mmbtu which was clearly mala fide and an act of corruption. RIL then successfully argued in Supreme Court that it could not sell gas at a price lower than what was approved by the Government. Supreme Court in its judgment, reported in (2010) 7 SCC 1, held that since the gas belongs to the people of this country, the Government acts as a trustee of people's resources, and therefore the price fixed by the Government would be binding on all the parties.

The cost of production of gas is much less than $ 2.34 per mmbtu. The fact that RIL had signed long term agreements with NTPC and RNRL for supplying gas at that rate for 17 years means that at the rate of $ 2.34 per mmbtu also, RIL was making significant profits. RIL's partner NIKO has a 25 year contact with the Bangladesh Government to supply gas at the rate of $2.34/mmbtu. A letter written by RIL to the Directorate General of Hydrocarbons dated 22.05.2009 giving its cost calculations shows that the cost of production is less than 1$ per mmbtu. **(Annexure A)** This shows that the demand for an increase in gas price is only an indication of RIL's greed and its mala fide designs. Also, BP must have seen high returns from a known discovery at the the current price of $4.2/mmbtu, and thus it invested about 33000 crores for 30% stake in RIL's KG basin block.

After this price doubling to $8.4/mmbtu, the gas price in India has become one of the highest in the world. The cost of production at the well-head was never calculated by the Government or the Rangarajan committee (which was mala fidely appointed to increase gas prices). No attempt was made to determine cost of production accurately and independently. No attempt was made to study such cost of gas at the well-head internationally. According to experts the maximum price of gas at the well-head would not be more than $ 1.43 and the current price of $ 4.2 is already one of the highest in the world. To add to this fraud there is no explanation as to why when the entire domestic production is consumed internally that the price was fixed in US dollars. This fluctuation in the dollar rate has now effectively doubled the price of gas even further.

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case fir no 17/2014 u/s 13 (1) (c) (d) PC Act r/w 120B IPC PS AC Br dt 11/2/14

Most importantly, even if the government were right that new price would bring in more Investment in exploration, there is absolutely no justification for raising the price of gas from existing fields. The country can always pay a higher price for more difficult horizons provided the duly approved and audited cost of exploration and production warrant the same. Here, the current production was realised with no prospect of getting $8.4/mmbtu. More importantly, PSC does not permit a revision in the price of natural gas once the field has been declared commercial, and this field was declared commercial at $4.2/mmbtu. The government is therefore only giving a windfall to the current contractor RIL at the cost of the common man and the taxpayers. To add to this fraud further, Government has now allowed RIL to charge new price for gas that it had already undertaken to produce! Thus RIL would be benefitting from its non-performance and deliberate drop in production.

It is to be noted that millions of poor in India would be severely affected on account of the huge benefits given to the contractors. Inflation would increase enormously impacting food and energy security giving rise to higher prices for fertilizers, food products, cooking gas and the like. A vast majority of the Indian population lives below the poverty line of $1.25 per day and this section will be deprived even further by the lavish benefits gratuitously given to the contractors. Thus their right to life already very precariously balanced will become even more vulnerable. The subsidy burden of the government would also increase enormously causing huge fiscal deficits.

According to calculations, the impact of this gas price rise would cost the country a minimum of Rs. 54,500 crore every year, at current dollar prices. Households would obviously be impacted, as they are the end users of power, piped gas and compressed natural gas. Farmers and ultimately the consumers would also be impacted, as the cost of the fertilizers would go up significantly, which would increase the food prices. Gas-based power plants would be hit and may become unviable. This would have serious effect on the power situation in the country.

Since the decision has to operate from 01.04.2014, which is around the time the term of present government expires, the Government ought to have left the decision to the new

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government, since it involves serious economic considerations, inflationary consequences and a massive increase in subsidy burden. The fact that this decision was taken in advance by the present government shows that it wanted to favour RIL for corrupt considerations, which would then help with the expenditure for the upcoming national elections. This is also the reason why the main opposition party the BJP, is silent on the issue, as during election time when huge slush of funds is required by the major parties, no one is willing to speak against this decision, even though price rise is normally an important political issue. From these facts, it is absolutely clear that the doubling of gas price has been made just to benefit one corporate house i.e. RIL.

Gold plating of costs by RIL and deliberate drop in gas production

A parameter called Investment Multiple (IM) has been defined in the PSC as: IM = Total Revenue/Total Investment. According to PSC, till IM is below 1.5, RIL takes away more than 80% of profits and government gets less than 20% of profits. It is only when IM becomes more than 2.5 that government gets 85%. This means, RIL has a huge incentive to keep IM below 2.5 by increasing the expenditure artificially.

In 2004, RIL submitted an IDP saying they would produce 40mmscmd for an investment of $2.39 billion. Within 2 years, RIL submitted another plan saying they would produce 80mmscmd for an increased investment of $8.8 billion. It sounds preposterous that to double production, the investment has to be increased four times. Having put the initial infrastructure, it ought to have cost lesser to create additional production capacity. The then Petroleum Minister Shri Mani Shankar Aiyer did not allow this, and was therefore shunted out of the Ministry and Shri Murli Deora was made the Minister of PNG in January 2006. Despite strong protests from MPs like Shri Tapan Sen, the Government approved $8.8 billion expenditure. By allowing this $8.8 billion expenditure, in effect, the Government allowed a future windfall revenue of Rs 1.2 lakh crores ($ 20 billion) for RIL.

The CAG in its detailed report has remarked that there is strong evidence that RIL is gold plating its capital expenditure for the obvious reasons stated above. For instance, RIL is required to place orders for its plant, machinery and other requirements through

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international competitive bids. The CAG found that bids were arbitrarily rejected to favour some parties. Just one company namely Aker group got many contracts. CAG has specifically mentioned 'serious deficiencies' in the award of $1.1 billion order for a floating production, storage and offloading (FPSO) vessel from Aker Floating Production, which had no prior experience of FPSO. CAG also points out that many of the single bid contracts were handed out to the Aker Group companies amounting to more than $2 billion. There is a strong presumption that this group is related to RIL and through this group, RIL is siphoning off money and gold plating its expenditure. Relevant chapter of CAG report on the above is annexed as **Annexure B**.

RIL thus made unjust enrichment twice over: by over invoicing the capital costs and by ensuring that the capital costs take a longer time to recover. Not only did the DGH accept this increase in capital costs, which under the contract it need not have accepted, it did so in unseemly haste. It took only 53 days for the DGH to approve the cost increase of nearly $ 6.3 billion.

RIL sold 30% of its stake in 21 of 29 blocks to a foreign company British Petroleum (BP) in July 2011 at $ 7.2 billion. This raises an important question about Cost Recovery. The PSC envisages that the Contractors will recover their investments through their share of Cost and Profit Petroleum. Here, however, one of the Contractors has recovered a substantial part of his investment by way of stake sale. RIL's entitlement for Cost and Profit Petroleum ought to be reduced by the amount that it has recovered from the stake sale. By doing so, Government takes its entitlement to Profit Petroleum to the higher level. By failing to do so, the Government has enabled the contractor to obtain double recovery of his investment: once by stake sale, and also from Cost and Profit Petroleum.

Resiling from its commitments and belying the commitments and the expectations of stakeholders, RIL took to a deliberate drop in production and started demanding huge revision of rates from the Government even before the expiry of the period up to 31.03.2014. The report on production for the week of 10-16 June 2013 states that only 9 wells, out of 18 are in production, the remaining are closed. The gas sales were reported at

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just 14.63 mmscmd, which is a mere 18% of the target rate of 80 mmscmd. This shows the mala fide conduct of RIL, and the Government instead of taking action and cancelling the allotment of KG block to RIL, colluded with RIL and has now given into its unconscionable demand of doubling the gas price. RIL's actions of not putting in more fields under production have caused a heavy loss to the economy, forced several power plants to stop production, increased the inflation and forced consumers and industry to purchase gas from abroad.

A brief dated 28.11.2011 was submitted by Director General of Hydrocarbons (DGH), the technical arm of the Petroleum Ministry, regarding the possible course of action by the Petroleum Ministry to deal with the falling production in the RIL operated KG-D6 block. The brief outlined that the cumulative shortfall in production till the end of 2011-12 was of the order of 76% of the approved target. It also stated that only 18 wells against the required 50 had been drilled by RIL. It also mentioned that RIL had incurred expenditure of $ 5693 million, out of which $4574 million were towards production facilities. RIL had recovered $5258 million till 31.3.2011. The DGH recommended that cumulative cost recovery already made by RIL may be restricted in proportion to the cumulative gas production vis-à-vis the approved gas production. The detailed calculations were also done by DGH quantifying the amount that should be disallowed. This brief was based on the opinion given by the then Solicitor General (Shri Rohinton Nariman). The SG had opined that "*costs incurred in constructing production /processing facilities and pipelines that are currently under utilized / have excess capacity cannot be recovered against the value of petroleum. The government should not allow cost recovery on this account in future periods.*" **(Annexure C)**

The opinion of the then SG was accepted by the then Petroleum Minister Shri Jaipal Reddy and a strongly worded show-cause notice was issued to RIL on 02.05.2012. The said notice states: "*...you have failed to fulfill your obligations and to adhere to the terms of the PSC and are in deliberate and willful breach of PSC and have thereby caused immense loss and prejudice to the Government. You have also repeatedly failed to meet your targets under the PSC.*" **(Annexure D)** However, soon after this in October 2012, the Government removed Shri Reddy as the Minister of MoPNG, and instead appointed Shri

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just 14.63 mmscmd, which is a mere 18% of the target rate of 80 mmscmd. This shows the mala fide conduct of RIL, and the Government instead of taking action and cancelling the allotment of KG block to RIL, colluded with RIL and has now given into its unconscionable demand of doubling the gas price. RIL's actions of not putting in more fields under production have caused a heavy loss to the economy, forced several power plants to stop production, increased the inflation and forced consumers and industry to purchase gas from abroad.

A brief dated 28.11.2011 was submitted by Director General of Hydrocarbons (DGH), the technical arm of the Petroleum Ministry, regarding the possible course of action by the Petroleum Ministry to deal with the falling production in the RIL operated KG-D6 block. The brief outlined that the cumulative shortfall in production till the end of 2011-12 was of the order of 76% of the approved target. It also stated that only 18 wells against the required 50 had been drilled by RIL. It also mentioned that RIL had incurred expenditure of $ 5693 million, out of which $4574 million were towards production facilities. RIL had recovered $5258 million till 31.3.2011. The DGH recommended that cumulative cost recovery already made by RIL may be restricted in proportion to the cumulative gas production vis-à-vis the approved gas production. The detailed calculations were also done by DGH quantifying the amount that should be disallowed. This brief was based on the opinion given by the then Solicitor General (Shri Rohinton Nariman). The SG had opined that "*costs incurred in constructing production /processing facilities and pipelines that are currently under utilized / have excess capacity cannot be recovered against the value of petroleum. The government should not allow cost recovery on this account in future periods.*" **(Annexure C)**

The opinion of the then SG was accepted by the then Petroleum Minister Shri Jaipal Reddy and a strongly worded show-cause notice was issued to RIL on 02.05.2012. The said notice states: "*...you have failed to fulfill your obligations and to adhere to the terms of the PSC and are in deliberate and willful breach of PSC and have thereby caused immense loss and prejudice to the Government. You have also repeatedly failed to meet your targets under the PSC.*" **(Annexure D)** However, soon after this in October 2012, the Government removed Shri Reddy as the Minister of MoPNG, and instead appointed Shri

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Veerappa Moily, an appointment designed to suit the interest of RIL. Immediately after his appointment, Shri Moily along with the Government started favouring RIL at every step. No action was taken against RIL for the deliberate drop in production and instead steps were initiated to double the gas price without any proper justification.

Non-relinquishment of fileds as per by PSC by RIL

The PSC has a built-in mechanism for progressive surrender of exploration area back to the government as the contractor discovers gas for commercial production in specific pockets and as it delineates certain portions as relatively less promising. The objective is thus twofold: one, to prevent hoarding of natural resources by the private parties without tapping them, like we have seen in the case of coal and spectrum in recent times, and two, to get a better price for the resources, as oil and gas are discovered in the basin, the neighbouring areas are likely to fetch better prices in the next round of auctions or competitive bidding.

Thus in the PSC, the exploration was divided into three phases and at the end of each of the first two phases the contractor was supposed to relinquish 25% of the area and finally after the phase III, it was to hold on to only that area where the operator discovered petroleum resources in commercially viable quantities and was willing to develop further for production. The rest of the area was supposed to go back to the government. According to the CAG, phase I of the preliminary exploration got over in June 2004 and RIL gave notice of beginning phase III in 2005, but without relinquishing any part of the original area of basin. For phase III exploration the original end date was June 2007 and was extended to July 2008 by the Government. However, RIL has held onto entire 7645 sq km of area instead of 390 sq km from which it had begun commercially tapping reserves after phase III. The Government decided to declare the whole of the area as a 'discovery area' and this practically awarding it to RIL for future exploration in gross violation of the PSC.

Instead of enforcing the PSC and directing the RIL to relinquish acreages as mandated at the end of each Phase of Exploration, the then Minister and DGH connived with RIL and allowed RIL to expand production into the areas to be relinquished. RIL even failed in

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establishing the claimed reserve levels and delivering the agreed production levels despite unduly retaining areas that should have been relinquished under the PSC. All these facts have been brought out in the CAG report.

Under Article 4 of PSC, relinquishment of areas at the end of each Phase of Exploration is mandatory and it cannot be subject to the whims and fancies of Ministers and officials. Relinquishment under the PSC is intended to put the contractors under pressure to carry out exploration speedily and efficient so that areas remaining inadequately explored could be taken back by the government and put to re-auction in a competitive environment in order that the public benefits may get maximised. By not complying with this mandatory requirement, the then Ministers and officials of the Government caused a great loss to the public. Even at this late stage, the present incumbent of DGH has reviewed the position and recommended relinquishment as per the PSC. However, Minister Mr. Moily has reportedly over-ruled the DGH and has allowed RIL to retain three blocks of the franchise area, viz, D29, D30 and D31 which together contained 2.2 TCF and to relinquish 5 Blocks viz D4, D7, D8, D16 & D23 which contained only 0.8TCF.

We have annexed only a few relevant documents. The CAG report brings out lot of the above facts in some detail. Some other documents on the above issue can be obtained from us and others can be unearthed during the investigations.

Conclusion

It is thus clear that this is a mega-scam, and that systemically benefits have been bestowed upon RIL by the Central Government, especially by Ministers like Mr. Veerappa Moily and Mr. Murli Deora and officers like Mr. V K Sibal (former DGH), which have caused defrauding of the nation and have caused a great harm to public interest.

The above facts show that the ministers of the UPA government have committed offences under Section 13(1) (d) of the Prevention of Corruption Act. The said section states:

"A public servant is said to commit the offence of criminal misconduct if he,

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PS ACB dt 11/7/14

i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest."

Therefore, we request you to kindly get this matter thoroughly and impartially investigated by the Anti-Corruption Bureau of Delhi after registering an FIR. It is important to note that most of the offences have been committed in the territory of Delhi and also people of Delhi would suffer hugely from the high prices and non-availability of natural gas.

Accused public servants: Mr. Veerappa Moily (current petroleum minister), Mr. Murli Deora (former petroleum minister), Mr. V K Sibal (former Director General of Hydrocarbons) and others.

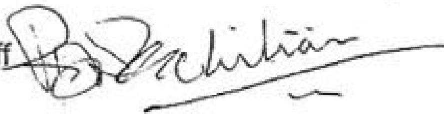
Accused private persons: Mr. Mukesh Ambani (Chairperson of RIL), RIL and others.

Thanking you,
Yours faithfully,

T S R Subramanian
Former Cabinet Secretary
Government of India

E A S Sarma
Former Secretary
Government of India

Admiral R H Tahiliani
Former Chief of Naval Staff



Kamini Jaiswal
Advocate, Supreme Court

To,
The Duty Officer, Anti Corruption Branch, G.N.C.T. of Delhi.
The above noted complaint has been received from Directorate of Vigilance, G.N.C.T. of Delhi with directions to.

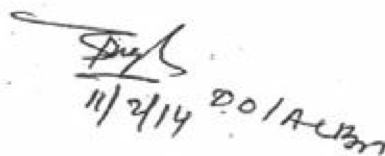
register a case & conduct investigation through competent authorities. Prima-facie from the contents of complaint offences U/s 13 (1) (c) (d) of The Prevention of Corruption Act-1988 & 420/120-B of Indian Penal Code are made out. Case be registered & investigation be handed over to Insp. Manoj Aggarwal. (as directed by Sr. officers).

Date & Time of occurrence :- Not certain.

Place of occurrence: :- Not certain.

Date & Time of handing over complaint for registration of case :- 11.10.2014 at 6 PM.

Case FIR No 17/2014 U/S 13 (1) (c) (d) POC Act r/w 420 120B IPC dt. 11/10/14 PS ACBr DD No. 38 at 8.40 PM



11/10/14 DO/ACBr

Sd/-
SHO/Anti Corruption Branch
GNCT of Delhi.
11/10/2014.

Thanking you, Yours faithfully

किताब संख्या
Book No. 6418

25 T S R Subramanian Former Cabinet Secretary Govt of India, P. G. S. Sarma Former Secretary Govt of India, Admiral Tahiliani Former Chief of Naval Staff (sd English), Kamini Jaiswal advocate, Supreme Court (sd English). Sir, Complaint is [illegible] 9 pages. [illegible] discussion on page 2 [illegible] complaint and photocopies [illegible] sent [illegible] to Duty Officer, Anti Corruption Branch, GNCT of Delhi. The above noted Complaint has been received from directorate of vigilance GNCT of Delhi with direction to register a case & conduct investigation, derived from Contents & [illegible]. Prima facie from the Contents of the complaint offences u/s 13(1)(c)(d) of Prevention of Corruption Act 1988 & 420/120B of Indian Penal Code are made out. Case be registered and investigation be handed over to Insp. Manoj Aggarwal (as directed by senior officers) Date & time of occurrence - not certain. Place of occurrence not certain. Date & time of handing over complaint 11-2-2014 at 6 P.M. to registration of Case (sd English) [illegible] 11-2-2014. [illegible]

की गई कार्रवाई : चूंकि उक्त सूचना द्वारा, मद सं. 2 पर उल्लिखित धाराओं के अन्तर्गत अपराध होना/का पता चलता है :
Action taken : Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2 :

(1) मामला पंजीकृत किया और जाँच आरम्भ की गई या (Registered the case and took up the investigation or)

(2) श्री/श्रीमति/कु. जाँच अधिकारी का नाम/(Directed Sh./Smt./Km.(Name of I.O.) MANOJ AGGARWAL
पद (Rank) Insp. (सं.) No. D-836 को जाँच आरम्भ करने के निर्देश दिये गए या (to take up the Investigation or) 16920051

(3) जिन कारणों से जाँच करने से इन्कार किया गया (Refused investigation due to).. (या) Or

(4) मामला स्थानान्तरित किया गया, थाने का नाम (Transferred to P.S.)........................ जिला (District)........................ on क्षेत्राधिकार की दृष्टि से (point of jurisdiction).

(प्र.सू.रि. शिकायतकर्ता/इत्तिला देने वाले को पढ़कर सुनाई गई, जिसने सही लेखन की पुष्टि की और शिकायतकर्ता/इत्तिला देने वाले को एक प्रति निःशुल्क प्रदान की गई।)

F.I.R. read over to the complainant / informant, admitted to be correctly recorded and a copy given to the complainant /informant, free of cost.

पढ़कर सुनाया और सही पाया गया। (R.O.A.C.)

(sd) 11/2/14
(थाना प्रभारी के हस्ताक्षर)
Signature of Officer in charge, Police Station

नाम (Name) SURAJ PAL SINGH
पद (Rank) HC संख्या (No.) 2248/PCR
PIS No. 28891201

(शिकायतकर्ता/इत्तिला देने वाले के हस्ताक्षर/अंगूठे का निशान)
Signature / Thumb impression of the complainant / informant.

न्यायालय को भेजने की तिथि और समय (Date and time of despatch to the court)........................

CHRONOLOGY

1998:

December:
24 December: New Exploration and Licensing Policy (NELP) announced by the ministry of petroleum and natural gas (MoPNG), government of India (GoI) to boost exploration and production (E&P) of hydrocarbons.

1999:

February:
A Reliance Industries Limited (RIL)-led consortium wins the global auction for an exploration block in the Krishna Godavari (KG) basin, now called D6 or Dhirubhai 6.

2000:

March:
24 March: Reliance Platforms Communications.com Private Limited is incorporated under the Companies Act 1956. (To change to Global Fuel Management Services on *10 August 2005*, then Reliance Natural Resources Limited (RNRL) on *9 January 2006*.)

April:
12 April: Production sharing contract (PSC) executed between MoPNG and the contractor – RIL with Canadian partner Niko Resources holding a ten per cent share. British Petroleum buys 30 per cent stake in the venture on *21 February 2011*.

2002:

May:
17 May: Arun Shourie, then Union minister for disinvestment in the Atal Bihari Vajpayee-led National Democratic Alliance government clears disinvestment of Indian Petrochemicals Corporation Limited. RIL to buy 26 per cent of the equity capital of the former public sector company.

July:
6 July: Dhirubhai Ambani dies intestate. Instead of a will, he leaves a deed of partition dated 31 July 1999 which leads to the division of the Dhirubhai Hirachand Ambani Hindu Undivided Family.

October:
31 October: RIL announces gas finds in the block KG-D6; names them Dhirubhai-1 and Dhirubhai-3.

2003:

September:
State-owned power utility National Thermal Power Corporation (NTPC) floats global tender for sourcing 12 million standard cubic metres per day (mscmd) of natural gas/LNG to fuel expansion projects at Kawas and Gandhar in Gujarat for a period of seventeen years.

2004:

April:
21 April: Directorate General of Hydrocarbons (DGH) informs RIL that as per Article 3.5 of the PSC, the operator had to give a notice to GoI at least thirty days prior to the expiry of relevant phase either to proceed to the next exploration phase or to relinquish the entire contract area (except for any discovery area and any development area) and to conduct development and production operations in relation to any commercial discovery.

29 April: RIL submits to the government that it is not in a position to identify any area in the KG basin for relinquishment as required under Article 4 of the PSC.

May:
RIL's Initial Development Plan (IDP), which envisaged capital expenditure of $2.4 billion, is submitted to the DGH. Expected production rate is 40 mscmd. (It was approved in November 2004.)

June:
11 June: DGH intimates RIL, that as per the PSC, the company was to surrender at least 25 per cent of the block area before entering Phase-II of exploration.

16 June: RIL enters into an agreement with the Uttar Pradesh state government to establish the 'world's largest gas-based power plant' at Dadri, near New Delhi, based on KG gas to be piped across a distance of over 1,800 km from Andhra Pradesh.

July:
RIL wins NTPC tender quoting $2.34 per million British thermal unit (mBtu) price for KG-D6 gas.

November:
18 November: Mukesh Ambani says there are 'ownership issues' in the Reliance group but these were in the private domain; later retracts that statement.

2005:

January:
4 January: Mining lease application submitted, seven months after IDP.

June:
18 June: A private settlement is arrived at between the feuding Ambani brothers, Mukesh and Anil. It

is brokered by their mother Kokilaben, assisted by leading Indian bankers like former ICICI Bank head K.V. Kamath. A family memorandum of understanding (MoU) is also signed. Anil resigns as joint managing director of RIL. Mukesh gets the energy and petrochemical business, Anil gets power, financial services and telecom.

August:
3 August: The RIL board approves scheme of de-merger. Anil declares that a non-compete agreement would be signed between his group and the parent group.

September:
13 September: RIL, now controlled by Mukesh, moves the Bombay High Court seeking its approval on de-merger, so as to effect the settlement.

December:
9 December: Bombay High Court sanctions de-merger. Financial services, telecom and power businesses transferred to Anil Ambani's group, while elder brother Mukesh keeps the other businesses.

2006:

January:
10 January: RIL board approves the draft of Gas Sale Master Agreement (GSMA) to be signed with RNRL.

12 January: RIL board of directors approves pact under which 28 mscmd of gas is to be supplied to the Anil Ambani group.

27 January: Shares in RNRL owned by RIL and/or its nominees are transferred to Anil.

February:
7 February: RNRL board reconstituted and Anil's nominees join it. The board alleges deviations in the original agreement.

July:
26 July: The MoPNG rejects RIL's proposal to sell RNRL 28 mscmd of gas from the KG-D6 field for $2.34 per mBtu. RNRL's request to lay pipelines to transport gas from Kakinada in Andhra Pradesh to Dadri, in western Uttar Pradesh also rejected by the ministry.

October:
20 October: RIL files addendum to IDP or AIDP with the DGH for approval. Asks for an upward revision of the costs to $5.2 billion for the first phase of delivery of 80 mscmd of gas. A revised proposal is submitted in November after technical consultations and correspondence with DGH. Cost for Phase II is also submitted for $3.6 billion, bringing the total revised figure to $8.8 billion.

November:
7 November: RNRL, now under Anil Ambani, moves Bombay High Court asking it to compel RIL to

supply 28 mscmd gas at the agreed price of $2.34 per mBtu for 17 years. The judge asks the companies to settle the matter internally as per the family agreement, and also restrains RIL from selling gas to any third parties till final verdict.

December:
12 December: Management committee approves AIDP.

2007:

May:
3 May: Bombay High Court allows RIL to sell gas in the interim, subject to its final order. Ad-interim relief granted to RNRL. RIL restrained from creating any third party interest for 40 mscmd (28 mscmd claimed by RNRL and 12 mscmd offered in the NTPC tender).

18 May: Reliance Energy Ltd (REL), a Anil Ambani company, questions RIL's move to set up gas-based power plants for their special economic zone.

18 December: REL questions move to set up gas-based power plants in Maharashtra.

June:
9 June: RNRL writes to the MoPNG suggesting that court order prevented it from granting approval to the price as was being sought by RIL.

19 June: RNRL seeks further restraining order against RIL with respect to the balance of 40 mscmd of gas.

August:
RIL invites bids for price and quantity for sale of KG-D6 gas and asks the MoPNG to approve sale at $4.32 per mBtu. RIL asked to make a few changes in the price calculation formula. RIL agrees.

September:
13 September: An Empowered Group of Ministers (EGoM), headed by then external affairs minister Pranab Mukherjee, approves that RIL can sell gas from its domestic contract area in the KG basin at $4.20 per mBtu, or nearly 80 per cent above the price of $2.34 per unit that had been agreed upon by the Ambani brothers.

October:
The EGoM, following the meeting on 13 September, sets the gas distribution priorities, in the following order: fertiliser, cooking gas, power and steel.

November:
The secretary, MoPNG requests the Comptroller and Auditor General (CAG) of India to conduct a special audit for PSCs of eight blocks for which regular audit had been carried out earlier.

2008:

May:
28 May: EGoM approves a gas utilisation policy, the manner in which the gas from RIL's KG basin would be allocated across the various sectors in accordance with the government's prioritisation.

June:
Anil Ambani announces plans for a merger of Reliance Communications or RCom (formerly Reliance Infocomm) with South African telecom giant, MTN. However, Mukesh Ambani cites right of first refusal under the family MoU, and opposes the deal.

July:
8 July: Mukesh Ambani seeks a conciliatory meeting with Anil Ambani, but the latter doesn't show up. Mukesh refuses to reschedule the meeting. and says he is left with no option 'but to adopt appropriate proceedings against RCom.' Anil retorts that 'RIL's mala fide stand is now clearly established…'

14 July: Mukesh Ambani meets separately with prime minister Manmohan Singh, then finance minister Palaniappan Chidambaram and then Petroleum Minister Murli Deora. He argues that the idea of imposing a windfall tax was based on an erroneous assumption that refiners made windfall profits every time the prices of crude oil and petroleum products went up.

22 July: In a series of letters to prime minister, then Samajwadi Party Member of Parliament and general secretary Amar Singh urges the government to impose a 'windfall tax' on private refiners including RIL.

28 July: At a shareholders' meeting of RNRL in Mumbai, Anil Ambani alleges the MoPNG was abetting the 'plain and simple greed' of RIL.

2009:

January:
30 January: Bombay High Court hearings conclude; interim order allows RIL to execute sale to various customers for five years in accordance with government policy.

March:

March 2009: MoPNG finalises gas allocation from KG-D6 for fertiliser and power companies.

April:
2 April: RIL announces that gas production has begun from D1 and D2 gas fields of KG-D6. Anil's Dadri plant does not receive any allocation.

June:
15 June: A division bench of the Bombay High Court gives its final judgment, upholding the Ambani family gas agreement as in the MoU and directs RIL and RNRL to enter into a gas supply pact within a month. The court says the agreement to supply gas at $2.34 per mBtu as per the original terms of the contract should be honoured.

19 June: RNRL files a caveat in Supreme Court on the gas price issue after the Bombay High Court order favours its position on the price of gas in its dispute with RIL.

29 June: Taking serious note of the issue of land subsidence on account of gas extraction, the Andhra Pradesh High Court gives a ruling asking the Union Ministry of Environment and Forests (MoEF) to set up an expert sub-committee to examine, among other environmental aspects, the core issue of land subsidence (which was submitted in October 2009).

July:
1 July: RIL says it will appeal to the Supreme Court against the Bombay High Court order; says supplies not possible at $2.34 per unit, as it is bound by the government price of $4.20 per unit

3 July: RNRL appeals to Supreme Court to restrain RIL from supplying up to 40 mscmd of gas (apportioned by the EGoM as per its utilisation policy) to anybody other than itself.

4 July: RIL files a petition in the Supreme Court against the Bombay High Court judgment.

5 July: RIL makes the government a party in its petition.

7 July: Supreme Court issues notices to RIL, RNRL and the government.

15 July: Anil writes to the prime minister requesting that the petroleum ministry and other relevant government ministries and departments be directed to cease from 'overtly and covertly attempting to intervene in [the] commercial dispute with RIL'.

18 July: Government of India files a special leave petition in the Supreme Court asking that it be made a respondent in the case. The SLP contends that natural gas is national property, arguing that the court ought to declare the July 2005 Ambani family pact null and void.

20 July: Supreme Court calls for counter-replies and fixes 1 September as date of hearing.

28 July: Anil ups the ante at the shareholders' meeting of RNRL held at the Birla Matoshree Auditorium in south Mumbai. He alleges that the petroleum ministry was abetting the 'plain and simple greed' of RIL.

29 July: Samajwadi Party MPs raise the gas issue in the Lok Sabha. Mulayam Singh Yadav says that the government was denying gas to power projects in his home state of Uttar Pradesh. The project Mulayam primarily had in mind was the proposed gas-based power plant at Dadri.

August:
3 August: Murli Deora reiterates in Parliament that the government has nothing to do with the private dispute between the Ambani brothers and was doing everything to protect the interests of the government and the public.

4 August: Regulator DGH rejects Anil Ambani group's charges of acts of omission and commission in allowing capital expenditure of KG-D6 gas to be hiked from $2.4 billion to $8.8 billion.

6 August: Deora clarifies that the gas price the government had fixed is not high. He says the price of $4.20 per mBtu is not just cheaper than the price of gas supplied by other private firms in India, but also lower than the prices of alternative fuels such as naphtha, furnace oil, and liquefied natural gas.

26 August: Pranab Mukherjee acknowledges his friendship with Dhirubhai Ambani but distances himself from the dispute between the brothers.

August 28: RIL says NTPC was told gas price of $2.34 was subject to government approval.

September:

1 September: Government amends its petition in the Supreme Court clarifying that it no longer wanted the family agreement to be declared null and void.

14 September: RNRL accuses RIL of charging illegal marketing margins.

16 September: The Anil Ambani group's RNRL asks the court to implead the public sector NTPC as a party in the dispute because it believed its own interests coincided with those of NTPC.

17 September: Interview with P.M.S. Prasad, RIL executive director published in the Business Standard.

24 September: NTPC signs agreement with RIL to buy a part of natural gas, other than the quantity under dispute, at $4.20 per unit.

26 September: Mani Shankar Aiyar, former petroleum minister, speaks to a select audience on the natural gas issue at the Saturday Lunch Club at the India International Centre in New Delhi.

October:

5 October: RIL says chairman Mukesh Ambani signed pact on natural gas with Anil Ambani Group in his personal capacity without approval from other board members.

6 October: Challenging the Bombay High Court judgment in the Supreme Court, RIL seeks to undermine RNRL's claims to the gas on the ground that the latter had not been able to set up a power plant ready to receive gas.

11 October: After a visit to Badrinath, Anil Ambani makes an offer to amicably resolve differences. In response, an RIL statement, while welcoming the move, points out that the dispute is under litigation and was not just a family matter. RIL says it hopes that 'overtures for rapprochement are in no way related to the ongoing hearing of the case.'

20 October: As the Supreme Court commences hearings in the dispute, RIL's lawyer Harish Salve, argues that the family agreement was not binding as it had not been shown to the board of directors of RIL. He adds that RIL could not supply gas at $2.34 per mBtu as that would be tantamount to violating government policy. Even as the Supreme Court suggests arbitration proceedings as an option to resolve the dispute, RIL argues that the higher price of gas would help the government earn higher revenue.

November:
4 November: Justice R. V. Raveendran recuses himself from hearing the case.

25 November: Anil Ambani makes a sudden appearance in the Supreme Court even as his team of lawyers led by Ram Jethmalani, argues that the dispute can be resolved within the parameters of the family settlement and de-merger scheme.

December:
18 December: Chief Justice of India K. G. Balakrishnan at the head of a three-judge bench reserves judgement on the case. On the last day of the hearings in the Supreme Court, sparks fly as lawyers representing both RIL and RNRL make impassioned pleas before the bench of three judges. It is, however, solicitor general Gopal Subramaniam who seems to be the most agitated because, as he said, 'the government had been "perforce compelled" to be present in the dispute and that we do not again want to be subject to such lateral attacks'. Reacting to RNRL's lawyer Jethmalani describing Subramaniam's submissions as a 'mock fight', the solicitor general retorts that a 'mockery' had been sought to be made of the government's position. He adds: 'I want to borrow an expression used by Mr [Harish] Salve [RIL's lawyer] to say that this was [a] trial by ambush for the government. If [there is] any person who actually has reason to complain, it is the government of India.'

2010:

February:
1 February: Subir Raha, former ONGC chairman passes away

March:
KG-D6 hits peak output of 61.5 mscmd.

May:
7 May: Supreme Court judgment goes beyond the contractual dispute between two companies headed by the Ambani brothers. While the verdict is widely interpreted as a victory for Mukesh Ambani, the Court's decision gives complete authority to the government to price, utilise and distribute natural resources.

19 May: Cabinet more than doubles administered prices of natural gas to the level of $4.20 per mBtu from $2.34 per mBtu, ostensibly on the ground that government-owned public sector oil and gas companies are incurring losses on their sales of gas.

May: RIL and RNRL issue identical press statements; stating that the old 'non-compete' agreement, which prevented each brother from getting into the other's territories, had been scrapped.

June:
8 June: Anil Ambani drops defamation suit claiming Rs 10,000 crore as damages that he had filed against his elder brother in the High Court at Mumbai.

11 June: RIL unfolds a mega-plan to enter the broadband services business.

December:
22 December: On the sidelines of a seminar organised by the Confederation of Indian Industry (CII) in Kolkata, Atul Chandra, president (operations), RIL, asserts that his company wants a further hike in the prices of deepwater gas from $4.20 per mBtu.

2011:

January:
21 January: RIL posts highest quarterly profit in three years. But, tucked away in the fine print is the news that natural gas production from KG-D6 fell 12 per cent to about 53 mscmd.

18 January: Murli Deora replaced by S. Jaipal Reddy as petroleum minister.

February:
Government's annual *Economic Survey* prepared by the ministry of finance says RIL would hit peak gas output of 80 nmscmd from the KG-D6 fields in 2012-13 fiscal.

21 February: RIL announces that BP will buy a 30 per cent stake in 23 oil and gas blocks for a consideration of $7.2 billion. The government later gives clearance to BP to buy stake in 21 blocks.

April:
19 April: The DGH rejects two gas discoveries made by RIL in a deep- sea block off the Odisha coast (called NEC-25) and the directorate also refuses to approve the budget for the KG-D6 field. The grounds for the first were that tests done to confirm reserves were different from the ones recommended by the regulator. The DGH had placed the reserves at 3.5 trillion cubic feet (tcf) compared to about 5 tcf estimated by Reliance.

May:
9 May: RIL cuts natural gas supplies to non-core users like refineries and steel plants so that the full demand of fertiliser and power plants can be met.

June:
4 June: Mukesh assures investors that his company would take up their concern over gas from its KG-D6 field being sold at less than a third of the price of imported LNG.

12 June: DGH refuses to accredit three natural gas discoveries made by the company at the KG-D6 block.

12 June: Draft audit report on RIL by the Comptroller and Auditor General of India (CAG) leaked to the media.

July:
22 July: Petroleum minister Jaipal Reddy announces that the government has cleared a $7.2 billion deal for RIL to sell a major stake in 21 of its oil and gas blocks to BP.

August:
30 August: RIL announces completion of BP's acquisition of a 30 per cent stake in 21 oil and gas PSCs that Reliance operates in India, including the producing KG-D6 block.

September:
9 September: CAG report tabled in Parliament. Its assessment on the PMT JV (Panna-Mukta-Tapti Joint Venture) is as damning as the one on KG Basin. It says: 'Despite our repeated efforts, the PMT JV operators did not provide important and relevant records on the ground that scrutiny of these records did not fall within our audit scope.'

November:
28 November: RIL announces arbitration proceedings against government to 'finally resolve this cost recovery issue so as not to hinder future investments in this block. It adds that 'validity of the stance adopted by MoPNG should be finally determined by an independent tribunal.' This surfaces when the DGH advises the petroleum ministry to disallow $1.2 billion of the $5.7 billion expenditure already made by RIL.

2012:

January:
6 January: A letter sent by the PMO to petroleum secretary G.C. Chaturvedi asks him to consider obtaining legal opinion on gas price hike request of RIL and refers it to the Empowered Group of Ministers (EGoM) on gas. Puts a 90-day window for reaching an amicable settlement.

24 February: The EGoM states that the law ministry, in consultation with the attorney general of India, could rule on the legality of a hike.

April:
20 April: BP seeks permission from the government to undertake concept validation in 16 gas discoveries in the KG-D6 block, but its request is turned down.

27 April: RIL reports natural gas production in KG-D6 down to less than 34 mscmd, according to a status report filed by the company with the petroleum ministry.

May:
4 May: MoPNG serves a cost recovery penalty notice on RIL and BP for falling natural gas output from KG-D6 fields, hiking the penalty by 18 per cent to $1.46 billion.

8 May: Petroleum minister Jaipal Reddy tells Parliament that KG-D6 gas field's output could fall to 20 mscmd in 2014-15.

23 May: Canadian partner Niko Resources and BP say D4 block exploration cancelled.

31 May: Committee headed by C. Rangarajan, chairman of the Prime Minister's Economic Advisory Council, appointed by the government to review production sharing mechanism in the oil and gas sector.

June:
7 June: At RIL shareholders meet, Mukesh Ambani announces plan to double natural gas production in three to four years.

21 June: Former secretary to the government of India E.A.S. Sarma in a letter to SEBI Chairman U.K. Sinha, asks SEBI to look into non- disclosure of information by RIL that KG-D6 blocks have 80 per cent less gas than originally estimated.

22 June: Niko Resources cuts estimates of the natural gas field's reserves by 80 per cent.

July:
2 July: As his company grapples with a string of regulatory issues, Mukesh Ambani meets the deputy chairman of the Planning Commission Montek Singh Ahluwalia.

October:
27 October: Petroleum minister Jaipal Reddy moved to the ministry of science and technology and replaced by M. Veerappa Moily who was earlier power minister.

November:
2 November: Arvind Kejriwal of the newly formed Aam Aadmi Party (AAP) says that it is not prime minister Manmohan Singh who is running the country but India's richest man Mukesh Ambani.

9 November: Arvind Kejriwal says that in July 2011, the government had received a list of some 700 people who were holding bank accounts in HSBC (or the Hongkong and Shanghai Banking Corporation) in Geneva, Switzerland, among whom were the Ambani siblings, Mukesh and Anil.

December:
25 December: Rangarajan Committee submits its report. New formula for fixing the price of domestically produced natural gas could double prices.

2013:

January:
18 January: The AAP posts on its website a seven-page legal notice sent by RIL in the middle of December 2012 to over a dozen companies running television channels. RIL's lawyers demanded 'a retraction and an unconditional apology in the form approved and acceptable to our clients' within three days from the receipt of the notice.'

22 January: Arvind Kejriwal writes to Mukesh Ambani asking why RIL's lawyers had sent defamation notices to the television channels when it was Kejriwal and Bhushan who had made the allegations. Was Ambani trying to 'steamroll the TV channels into subservience'?

March:
Petroleum ministry moves a draft proposal for the consideration of the EGoM, now headed by defence minister A.K. Antony for revising gas prices for both the public sector oil companies and RIL based

on the Rangarajan Committee's recommendations. The Cabinet secretariat had returned the proposal saying that the new formula was not covered under the EGoM's reference.

April:
14 April: BP's chairman Bob Dudley and Mukesh Ambani meets prime minister Manmohan Singh and the Planning Commission's deputy chairman Montek Singh Ahluwalia. Concurrently, BP holds its board meeting in India.
28 April: DGH headed by RN Choubey asks RIL to relinquish 86 per cent of the discovery area in the KG basin since under the PSC the firm had overshot the time allowed to it to develop the area.

May:
24 May: Communist Party of India MP Gurudas Dasgupta convenes a media conference during which he circulates excerpts from a note dated 14 May prepared for the Cabinet together with a letter he had written to the prime minister in which he alleged that the ministries of finance, petroleum and natural gas and the Planning Commission were 'colluding' to push up the price of natural gas from KG-D6 wells being operated by RIL, way above what had been recommended by the Rangarajan committee.

24 May: The petroleum ministry refutes Dasgupta's allegations says gas prices can incentivise investment so that production in the country reaches optimum levels. Petroleum minister Veerappa Moily says price hike will apply to all firms.

25 May: RIL-BP-Niko announces a 'significant' gas and condensate discovery, names it D55.

June:
1 June: The DGH states that natural gas production at the deepwater KG-D6 had 'dropped to less than 15 mscmd, the lowest since starting output in 2009'.

6 June: PMO and the Cabinet secretariat returns the Cabinet note on gas pricing to the petroleum ministry asking it to seek inter-ministerial consultations in view of the divergent opinions on the issue.

11 June: Gurudas Dasgupta alleges that Veerappa Moily has come up with another note for the Cabinet on 27 May, three days after his (that is, Dasgupta's) expose.

13 June: Moily alleges that opposition to the gas price hike was coming from a 'powerful lobby' of importers of crude oil and LNG which did not want India to reduce its imports of oil and gas.

18 June: Dasgupta says the government is going slow on concluding the arbitration proceedings against RIL seeking to recover the penalty of $1 billion (not the cost recovery of $1.46 billion) imposed upon the company (on the advice of the solicitor general of India) when Jaipal Reddy was petroleum minister.

27 June: The government proposes that the administered prices of domestically produced natural gas be doubled to $8.4 per mBtu, the hike to kick in from 1 April 2014.

July:
3 July: Veerappa Moily says that at 80 per cent of income or profit from explorations would come to

the government as revenue since 90 per cent of the gas discoveries had been made by the public sector oil companies.

4 July: Chidambaram says that the concerns of the power sector and fertilizer sectors would be addressed before 1 April 2014.

6 July: Petroleum ministry states that RIL will not be the recipient of 'windfall gains' as new gas production from the company's fields would not start before 2017-18. The weak domestic gas production is a result of lower sale price. The Rangarajan Committee guidelines will be vaild for five years from 1 April 2014 after which market discovery price would be adopted on the basis of the roadmap prepared by the Vijay Kelkar headed 'Committee on Roadmap for Reduction in Import Dependency in Hydrocarbon Sector by 2030' (appointed by Veerappa Moily).

10 July: Reports of a letter written by the finance ministry asking the petroleum minister to consider placing a cap in the hike of domestic gas.

11 July: Veerappa Moily says that there will be no turning back on the gas price hike.

17 July: EGoM headed by defence minister A. K. Antony meets to consider petroleum ministry proposal to abolish priority ranking in natural gas allocation so that fuel consumed by urea plants can be diverted to fuel-starved gas-based power plants. The EGoM decides to maintain status quo.

27 July: ONGC signs an MoU with RIL to explore the possibility of sharing the latter's infrastructural facility in the east coast

27 July: Draft report of Standing Committee on Finance chaired by Bharatiya Janata Party leader Yashwant Sinha titled 'Economic Impact of Revision of Natural Gas Price' asking the government to review its decision on the price of gas circulated among MPs.

29 July: Gurudas Dasgupta, CPI MP and former power secretary E.A.S. Sarma files a PIL appealing the decision to raise gas prices should be reviewed as the petroleum minister had overruled the opinion of senior officers of his ministry and his predecessor.

August:
13 August: Reports emanate that Giridhar Aramane, joint secretary (exploration) is being relieved of the 'charge of gas pricing, acquisition of exploration and production assets abroad, all establishment and administrative matters related to ONGC Videsh and unconventional hydrocarbons. The Press Trust of India reports on 16 August that gas pricing to stay with Aramane, the coal-bed methane and shale gas responsibilities to be shifted to the joint secretary, international cooperation and gas pricing.

14 August: Common Cause, a non-governmental organisation dedicated to public causes, and three eminent co-petitioners, former Cabinet Secretary, T.S.R. Subramanian, former Chief of Naval Staff, Admiral (Retd) L Ramdas and former water resources secretary Ramaswamy R. Iyer files a PIL in the Supreme Court asking that mala fide favours to the company and its associates be undone and the collusion between the establishment and RIL be investigated.

26 August: Executive Director RIL, P.M.S. Prasad gives detailed interview to the Economic Times, his

first interview at length to any newspaper after his 2009 interview with the Business Standard.

September:
3 September: Prasad of RIL writes to Veerappa Moily saying that neither the PSC nor the field development plan (or investment proposal) even suggest that a shortfall in production can be considered a breach for which penalties can be levied.

6 September: Supreme Court adjourns hearing of Gurudas Dasgupta's PIL for six weeks, giving time to the Union government, petroleum minister Veerappa Moily, his ministry and RIL's partners Niko Resources and the BP group to file their replies.

30 September: Notice issued to RIL, DGH and the CBI by the Supreme Court in the cases filed by Dasgupta and Common Cause.

October:
10 October: Reports surface that MoPNG intends seeking Cabinet approval for a 'general amnesty scheme' for oil and gas operators which will allow companies like RIL to retain control over gas fields containing reserves worth up to $10 billion which they had been asked to relinquish for failing to meet deadlines.

November:
2 November: Director general, hydrocarbons, R.N. Choubey of the Indian Administrative Service to be replaced by B.N. Talukdar, former director, exploration in the public sector Oil India Limited.

26 November: At an investor's meet in Mumbai, Veerappa Moily says that there can be no going back on the decision to raise gas prices.

December:
8 December: Delhi state elections declared. The Aam Aadmi Party wins 28 seats in the 70 seat assembly and go on to form a 39-day government.

10 December: Report titled 'Allocation and Pricing of Natural Gas' of the Standing Committee on Petroleum and Natural Gas presented in Parliament. The report had been finalised in October.

19 December: Union Cabinet approves of higher gas prices to kick-in 1 April 2014 onwards.

21 December: Veerappa Moily to take additional charge of the ministry of environment and forests after Jayanthi Natarajan is removed.

2014:

January:
1 January: Newspapers report that a new 'non-controversial' model for the auction of gas blocks, the tenth, has been circulated through a cabinet note to replace the New Exploration Licensing Policy under which the earlier nine auction rounds have taken place.

7 January: The Vijay Kelkar committee appointed by Veerappa Moily in March 2013 submits the first part of its report to the minister.

11 January: The petroleum ministry notifies the 'Domestic Natural Gas Pricing Guidelines, 2014' which will be valid for all natural gas produced domestically, conventional, shale and coal-bed methane.

13 January: Prasad, speaking at the petroleum ministry's annual Petrotech conference, says that RIL cannot drill any more wells in D1 and D3 wells and that workovers were being done in three shut wells.

13 January: At the Petrotech conference, petroleum minister Veerappa Moily profiles 46 blocks of 65 offered for auction under a new policy.

February:

6 February: B.N. Talukdar takes over as DGH.

11 February: Arvind Kejriwal, chief minister of Delhi orders the lodging of a first information report through the state's Anti-Corruption Branch against Veerappa Moily, Murli Deora, Mukesh Ambani, RIL, former DGH V.K. Sibal on irregularities in pricing of natural gas on the basis of a complaint filed by former Cabinet Secretary T.S.R. Subramanian, Admiral Tahiliani, former Navy Chief and eminent lawyer Kamini Jaiswal.

CAST OF CHARACTERS

Aiyar, Swaminathan Anklesaria: Eminent journalist Akbar, M.J.: Senior journalist and author

Ambani, Anil: Younger Ambani brother; heads, Anil Dhirubhai Ambani Group

Ambani, Dhirubhai: Founder of the Reliance group; died in July 2002 Ambani, Kokilaben: Widow of Dhirubhai Ambani

Ambani, Mukesh: Head of Reliance Industries Limited and India's richest man

Ambani, Nita: Wife of Mukesh Ambani

Ames, Mark: Moscow-based expatriate American journalist

Antony, A.K.: Union minister for defence; Indian National Congress

Aramane, Giridhar: Joint secretary, ministry of petroleum and natural gas

Auty, Richard M.: Coined the phrase 'resource curse'

Baalu, T.R.: Former Union minister of state for petroleum and natural gas; Dravida Munnetra Kazhagam

Bachchan, Jaya: Member of Parliament, Samajwadi Party; wife of Amitabh Bachchan

Baijal, Pradip: Former chairman of an advisory committee to the Petroleum and Natural Gas Regulatory Board, former secretary, disinvestment

Balakrishnan, K.G.: Former chief justice of India

Ballmer, Steve: Former chief executive officer, Microsoft; batchmate of Mukesh Ambani at Stanford

Banerjee, Soma: National economics editor, *Economic Times*

Bhattacharyya, Anirudh: Indian journalist based in Toronto

Bhattacharya, Ranjan: Former prime minister Atal Bihari Vajpayee's foster son-in-law

Bhushan, Prashant: Lawyer and founding member, Aam Aadmi Party

Chalasani, J.P.: Former director, Reliance Natural Resources Limited

Chandra, Atul: President (operations), Reliance Industries Limited

Chandrasekhar, K.M.: Former cabinet secretary

Chatterjee, Vinayak: Head, Feedback group

Chaturvedi, Atul: Former secretary, ministry of fertilisers

hidambaram, Palaniappan: Union minister of finance; Indian National Congress

Choubey, R.N.: Former director general, Directorate General of Hydrocarbons

Crook, Clive: Senior journalist, formerly with the *Economist*, UK

Dalal, Sucheta: Senior journalist, managing editor, *MoneyLife*

Daly, Mike: Executive vice-president, exploration, British Petroleum

Damodaran, M.: Former chairman, Securities and Exchange Board of India

Dasgupta, Gurudas: Member of Parliament, Communist Party of India

Dayal, Atul: Legal adviser, Reliance Industries Limited

Deora, Ashish: Director, IOL Broadband and associate of relatives of the Bharatiya Janata Party leader and former Union minister, the late Pramod Mahajan

Deora, Murli: Former Union minister for petroleum and natural gas; Indian National Congress

Ganguly, Bibhas Kumar: President and chief operating officer (business operations), Reliance Industries Limited

Garg, Salil: Director, India Ratings and Research of the Fitch group

Goenka, Bharat: Promoter, Tally Solutions; loyalist of Mukesh Ambani

Goenka, Ramnath: Head of the *Indian Express* chain of newspapers; died in October 1991

Gonsalves, Colin: Senior advocate, Supreme Court of India

Gopalakrishnan, P.: Independent gas reservoir expert

Gurumurthy, Swaminathan.: Chartered accountant, journalist and co-convenor of the Swadeshi Jagran Manch affiliated to the Rashtriya Swayamsevak Sangh

Guruswamy, Mohan: Chairman and founder, Centre for Policy Alternatives and visiting fellow, Observer Research Foundation

Hazare, Anna: Social activist and leader of the 'India Against Corruption' agitation

Hesje, Murray: Former chief financial officer and vice president, Niko group of Canada

Iyer, Ramaswamy R.: Former secretary, ministry of water resources

Jagannathan, R.: Senior journalist and editor, firstpost.com

Jain, Anand: Schoolmate and close associate of Mukesh Ambani

Jain, C.P.: Former chairman and managing director, National Thermal Power Corporation

Jaitley, Arun: Member of Parliament, Bharatiya Janata Party; leader of the opposition in the Rajya Sabha

Jayaprada: former actress; Former Member of Parliament, Samajwadi Party

Jesudasan, Antony (Tony): Senior executive with the Anil Dhirubhai Ambani Group

Jethmalani, Ram: Senior advocate, Supreme Court of India and former Union minister; Bharatiya Janata Party

Jha, Prem Shankar: Senior journalist and author

Jhunjhunwala, Amitabh: Vice-chairman and director, Anil Dhirubhai Ambani Group

Joshi, Murli Manohar: Former Union minister for human resources development; Bharatiya Janata Party

Joshi, Sunjoy: Director, Observer Research Foundation and former joint secretary, ministry of petroleum and natural gas

Kamal Nath: Union minister for parliamentary affairs; Indian National Congress

Kamath, K.V.: Former head, ICICI Bank

Katju, Markandey: Former judge, Supreme Court of India; chairman, Press Council of India

Kejriwal, Arvind: former chief minister, Delhi and convenor, Aam Aadmi Party

Kelkar, Vijay: Former secretary, ministry of petroleum and natural gas

Khurshid, Salman: Union minister for external affairs; Indian National Congress

Mahajan, Pramod: Former Union minister, Bharatiya Janata Party leader; died in May 2006

Mehra, Kapal: Head, Orkay group

Merchant, L.V.: Former chief financial controller, Reliance Industries Limited

Mishra, Sanjeev: Former joint secretary, exploration, ministry of petroleum and natural gas

Mittal, Sudhanshu: Businessman and politician with the Bharatiya Janata Party; close associate of former Union minister, the late Pramod Mahajan

Modi, Manoj: College friend and close associate of of Mukesh Ambani

Modi, Narendra: Chief minister of Gujarat and prime ministerial candidate of the Bharatiya Janata Party

Moily, Harsha: Son of Union minister for petroleum and natural gas M. Veerappa Moily

Moily, M. Veerappa: Union minister of petroleum and natural gas; Indian National Congress

Monga, Neeraj: Executive vice president, Veritas Investment Research, Canada

Mukherjee, Pranab: President of India; former Union minister, Indian National Congress

Mukundan, Sashi: Head, India operations, British Petroleum

Mulford, David C.: Former US ambassador to India

Munim, Tina: Wife of Anil Ambani; former actress

Naidu, M. Venkaiah: Member of Parliament , Bharatiya Janata Party

Nariman, Rohinton F.: Former solicitor general of India

Nayar, Lola: Journalist; assistant editor, *Outlook*

Pandey, R.S.: Former secretary, ministry of petroleum and natural gas

Parasaran, Mohan: Solicitor general of India

Patel, Ahmed: Political secretary to Sonia Gandhi; member of Parliament, Indian National Congress

Patel, Praful: Union minister for heavy industries, Nationalist Congress Party

Prasad, P.M.S.: Head of the oil and gas division of Reliance Industries Limited

Purkayastha, Prabir: Founding member, Delhi Science Forum

Rao, Gangula Krishna: Geologist and professor

Radia, Nira: Former lobbyist for Mukesh Ambani and head of public relations firm, Vaishnavi Communications

Rae, Vivek: Former secretary, ministry of petroleum and natural gas

Rai, Vinod: Former Comptroller and Auditor General of India

Raja, A.: Former Union minister for communications and information technology; Dravida Munnettra Kazhagam

Ramakrishna, G.V.: Former petroleum secretary; former chairman, Disinvestment Commission

Ramesh, Jairam: Union minister for rural development, Indian National Congress

Ramdas, L. (Admiral [retired]): Former chief of Naval staff

Rangarajan, Chakravarthy: Chairman, Prime Minister’s Economic Advisory Council

Rao, T.N.R.: Former secretary, ministry of petroleum and natural gas

Rao, V. Ramanand: Director, IOL Broadband; the late Pramod Mahajan’s son-in-law

Razdan, Anil: Former secretary, ministry of power

Reddy, B. Sudhershan: Former judge of the Supreme Court of India

Reddy,Sudini Jaipal: Union minister for science and technology; former minister of petroleum and natural gas, Indian National Congress

Reddy, Y.S. Rajasekhara: Former chief minister of Andhra Pradesh, Indian National Congress; died in September 2009

Rohatgi, Mukul: Senior advocate and counsel to Reliance Natural Resources Limited

Roy, Arundhati: Author and activist

Salve, Harish: Senior advocate, former solicitor general of India; counsel to Reliance Industries Limited

Sarma, E.A.S.: Former secretary, economic affairs in the ministry of finance and secretary, ministry of power

Sastri, T. Patanjali: Head of Environment Centre, Rajahmundhry, Andhra Pradesh

Sen, Tapan: Member of Parliament, Communist Party of India (Marxist)

Sethi, Surya P.: Former principal adviser, energy, Planning Commission

Sharma, Mihir S.: Editor, opinion pages, *Business Standard*

Sharma, R.S.: Former chairman, National Thermal Power Corporation

Shinde, Sushilkumar: Union minister of home affairs and former minister, power; Indian National Congress

Shourie, Arun: Journalist and former Union minister for disinvestment; Bharatiya Janata Party

Sibal, V.K.: Former director general, Directorate General of Hydrocarbons

Amar Singh: Former general secretary, Samajwadi Party

Singh, P.K.: Joint secretary, international cooperation and gas pricing, ministry of petroleum and natural gas

Singh, R.P.N.: Former minister of state for petroleum and natural gas; Indian National Congress

Singhvi, Abhishek Manu: Spokesperson of the Indian National Congress, member of Parliament; counsel for Reliance Industries Limited

Sinha, U.K.: Chairman, Securities and Exchange Board of India

Sridhar, Madabhushi: Professor of law; Central Information Commissioner

Srinivasan, M.S.: Former secretary, ministry of petroleum and natural gas

Srivastava, S.K.: Chairman, Oil India Limited; former director general, Directorate General of Hydrocarbons

Subramaniam, Gopal: Former solicitor general of India

Subramanian, T.S.R.: Former cabinet secretary

Sundareshan, S.: Former secretary, ministry of petroleum and natural gas

Talukdar, B.N.: Director general, Directorate General of Hydrocarbons

Tandon, Sandeep: Former officer of the Enforcement Directorate who later became an employee of Reliance Industries Limited; died in March 2010

Tandon, Annu: Widow of Sandeep Tandon; Member of Parliament, Indian National Congress

Tripathi, S.C.: Former secretary, ministry of petroleum and natural gas

Vahanvati, Goolam E.: Attorney general of India

Vasudeva, Sudhir: Former chairman and managing director, Oil and Natural Gas Corporation

Verma, N.K.: Director, exploration, Oil and Natural Gas Corporation

Wadia, Nusli: Industrialist; head of the Bombay Dyeing group

Wahi, S.P. (Colonel): Former chairman, Oil and Natural Gas Commission (as ONGC was called)

Yadav, Mulayam Singh: Head, Samajwadi Party

Yadav, Shivpal: Politician of the Samajwadi Party; brother of Mulayam Singh Yadav

Yechury, Sitaram: Member of Parliament, Communist Party of India (Marxist)

ABBREVIATIONS & GLOSSARY

3D Seismic:
A petroleum exploration method that shows the seismic reflectors in three dimensions usually displayed on a computer monitor. The record can be rotated and slices (time or horizontal slices) taken out at various levels.

ADAG:
Anil Dhirubhai Ambani Group

AFP:
Aker Floating Production

AGM:
annual general meeting

AIDP:
Addendum to Initial Development Plan

AJ:
Anand Jain

BALCO:
Bharat Aluminium Company Limited

BEC:
Bid Evaluation Criteria

BJP:
Bharatiya Janata Party

BP:
British Petroleum

BPCL:
Bharat Petroleum Corporation Limited

BSNL:
Bharat Sanchar Nigam Limited

BSP:

Bahujan Samaj Party

CAG:
Comptroller and Auditor General

CapEx:
capital expenditure

Carried Interest:
An agreement where one party (usually the private partner) pays for a portion of the pre-production costs of the other party (usually the National Oil Company).

CBI:
Central Bureau of Investigation

CCD:
Cabinet Committee on Disinvestment

CCEA:
Cabinet Committee on Economic Affairs

CEO:
Chief Executive Officer

CII:
Confederation of Indian Industry

CM:
chief minister

CMD:
Chairman and Managing Director

CMRI:
Central Mining Research Institute

CNG:
compressed natural gas

Condensate:
A hydrocarbon mixture composed primarily of molecules with 5, 6 and 7 carbon atoms. It is liquid under surface conditions but is a gas mixed with natural gas under subsurface reservoir conditions. Condensate is very light in density and is transparent to yellowish in colour. It is almost pure gasoline in composition.

COO:
chief operating officer

Cost Petroleum:
The amount of costs recoverable from annual revenues.

Cost Recovery:
The contractor bids the Cost Recovery Factor, which is the percentage of revenues which he is entitled to take in a year to recover his exploration, development and production costs. This percentage can be up to 100 per cent. The higher the cost recovery factor that the contractor bids, the earlier the costs can be recovered; however, in such a situation, his fiscal package will be relatively unattractive as part of the bid evaluation.

CPI (M):
Communist Party of India (Marxist)

CPI:
Communist Party of India

CVC:
Central Vigilance Commission

Deepwater:
Beyond 400 metres underwater

Development Well:
A well drilled in the known extent of a field.

DG:
Director General

DGH:
Directorate General of Hydrocarbons

Discovery Area:
That part of the contract area about which, based on discovery and results obtained from a well or wells drilled in such part, the contractor is of the opinion that petroleum exists and is likely to be produced in commercial quantities. The delineation of 'discovery area' is inextricably linked to results obtained from wells drilled and finding of petroleum deposits recoverable at the surface, which can be discovered only through drilling of successful wells.

Discovery Well:
An exploratory well that encounters a new and previously untapped hydrocarbon deposit; a successful wildcat well.

Discovery:
The finding, during petroleum exploration operations, of a deposit of petroleum not previously known to have existed, which can be recovered at the surface in a flow measurable by conventional petroleum industry testing methods.

DMK:
Dravida Munnetra Kazhagam

DMT:
di-methyl terepthalate

DST:
drill stem test

EAC:
(Prime Minister's) Economic Advisory Council

EBIT:
earnings before interest and tax

ECB:
External Commercial Borrowing

ECoS:
An Empowered Committee of Secretaries, consisting of Secretary, ministry of petroleum and natural gas, Finance Secretary and Law Secretary was meant to consider bid evaluation criteria, conduct negotiations with bidders, wherever necessary, and make recommendations to the Cabinet Committee on Economic Affairs on award of exploration blocks.

ED:
Enforcement Directorate

EGoM:
Empowered Group of Ministers

EIA:
Environmental Impact Assessment

FBV:
Forum for Better Visakha

FDP:
Field Development Plan

FPSO:
Floating Production Storage and Offloading. A ship that is stationed above or near an offshore oil field. Produced fluids from subsea completion wells are brought by flowlines to the vessel where they are separated and treated.

GAIL:
Gas Authority of India Limited

GCA:
Gaffney Cline Associates

GDP:
gross domestic product

GoI:
Government of India

GPS:
global positioning system

GSMA:
Gas Sale Master Agreement

GSPA:
Gas Sale Purchase Agreement

HBJ:
Hazira-Bijaipur-Jagdishpur

HDPE:
high-density polypropylene

HPCL:
Hindustan Petroleum Corporation Limited

HUF:
Hindu Undivided Family

Hydrate:
A snow-like substance that can form from water in a flowline as the temperature of natural gas falls. It is composed of ice with methane in the ice crystals.

Hydrocarbons:
Organic chemical compounds of hydrogen and carbon atoms. There are a vast number of these compounds and they form the basis of all petroleum products. They may exist as gases, liquids or solids. An example of each is methane, hexane and asphalt.

IBP:
(formerly) Indo-Burma Petroleum

IDP:
Initial Development Plan

IIT:

IM:
Investment Multiple. This is essentially an index of the accumulated net cash flow to the contractor relative to the accumulated expenditure on exploration and development activities. The objective underlying the production sharing contract (PSC) is that ideally the operator would attempt to maximize simultaneously both the government revenues and his own profit by minimizing contract costs for any level of production. As part of their bid, the contractors are required to specify the Government of India’s (GoI’s) share at different IM slabs for example, less than 1.5, 1.5 to less than 2.0 etc. Generally, the contractors bid for a lower Gol share for the lower IM slabs, and the highest Gol share for IM of 3.5 and above (i.e. where net cash income is highest compared to the capital expenditure). Also, since capital expenditure in the initial years will generally be high and will decrease over time, the IM is expected to increase over time from year to year.

IMF:
International Monetary Fund

IOC:
Indian Oil Corporation

IPCC:
Intergovernmental Panel on Climate Change

IPCL:
Indian Petrochemicals Corporation Limited

IPO:
initial public offering

KG:
Krishna Godavari

L&T:
Larsen and Toubro

LDPE:
low-density polypropylene

LNG:
liquefied natural gas

LPG:
liquefied petroleum gas

Management Committee:
In order to ensure that the expenditure proposed to be incurred as well as actually incurred by the operator does not adversely affect the Government’s revenue interests, the PSC contemplates the

formation of a Management Committee (MC), chaired by a GoI representative, as responsible for approving field development plans as well as annual work programmes and budgets for development and production operations. However, operational control of exploration and production (E&P) activities would vest with the Operating Committee, consisting of representatives of the contractors.

MBA:
Master in Business Administration

MC:
Management Committee

MEG:
mono-ethyl glycol

Mining Lease:
For extraction of petroleum, the contractor has to obtain a mining lease under Petroleum and Natural Gas Rules, 1959 of the central and state governments.

ML:
Mining Lease

MM:
Manoj Modi

mBtu:
million British thermal units

mscmd:
million standard cubic metres a day

MNC:
multi-national company

MoEF:
Ministry of Environment and Forests

MoPNG:
ministry of petroleum and natural gas

MoU:
Memorandum of Understanding

MP:
Member of Parliament

MW:
megawatt

NDA:
National Democratic Alliance

NELP:
New Exploration and Licensing Policy. It was announced by the ministry of petroleum and natural gas, government of India with a view to boost the exploration and production of hydrocarbons, giving both private players and the existing public sector units a level playing field. The Directorate General of Hydrocarbons was made the nodal agency for this purpose.

NGRI:
National Geophysical Research Institute

NOC:
National Oil Company

NTPC:
National Thermal Power Corporation

OGL:
open general licence

OIL:
Oil India Limited

ONGC:
Oil and Natural Gas Corporation

OPEC:
Organisation of Petroleum Exporting Countries

OVL:
ONGC Videsh Limited

PVC:
poly-vinyl chloride

PLF:
Plant Load Factor

PM:
Prime Minister

PMO:
Prime Minister's Office

PMT:

Panna-Mukta-Tapti

PNGRB:
Petroleum and Natural Gas Regulatory Board

Profit Petroleum:
The private contractors incur capital expenditure towards discoveries, irrespective of whether oil or gas is discovered or not. It is only when hydrocarbons are discovered and assessed to be commercially viable, that the contractor has the first rights on the revenue streams accruing from sales of oil and gas till his costs are recovered which is the ‘cost petroleum’. The balance revenue is termed as ‘profit petroleum’. It is shared between the government and the contractors, with the contractors generally getting a higher share in the initial stages since he has to recover contract costs. The government’s share of revenues becomes significant only when the production reaches substantial levels and the contractor has recovered his accumulated capital cost. Further, under NELP, government companies and private players are treated at par. The sharing of profit petroleum is linked to the pre-tax Investment Multiple of the previous year. It is biddable and evaluated as part of a fiscal package.

Prospect:
A location where both geological and economic conditions favor drilling a well.

PSC:
Production Sharing Contract. This is a contract between the government of India and a national or international oil and natural gas exploration and production (E&P) company. The E&P company bears the entire cost of exploration, drilling and production. The company is reimbursed for the expenditure from the oil or gas that is produced. After reimbursement, the oil and gas proceeds are split between the contractor and the government as per an agreed formula. In order to ensure balanced and effective partnerships with global E&P companies, the PSCs between the government and the private players were revised. These contracts were structured in such a fashion that the exploration risk that is the cost incurred in searching for oil and natural gas, without certainty of discovery, was to be borne by the private contractors.

PSU:
public sector unit

PTA:
purified terepthalic acid

PTI:
Press Trust of India

RBI:
Reserve Bank of India

RCIL:
Reliance Communications India Limited

Recovery Factor:

The percentage of oil and/or gas in place that will be produced from a reservoir.

REL:
Reliance Energy Limited

RGTIL:
Reliance Gas Transportation Infrastructure Limited

RIC:
Reliance Infocomm Limited

RIL:
Reliance Industries Limited

RNRL:
Reliance Natural Resources Limited

RO:
refining organisation

ROU:
right of use

Royalty:
Usually a fixed percentage of a specified crude or gas value per unit produced, to be paid to the host government. It is a fixed charge independent of profit or loss.

RSP:
Revolutionary Socialist Party

RSS:
Rastriya Swayamsevak Sangh

SEBI:
Securities and Exchange Board of India

Seismic Reflector:
A subsurface profile that is generated by seismic data and indicates a distinctive type of sediment geometry produced by sea-level changes; used to correlate stratigraphic sequences.

SEZ:
Special Economic Zone

Shale:
A very common sedimentary rock composed of clay-sized particles. Black shales are source rocks for petroleum.

SJM:
Swadeshi Jagaran Manch

SLP:
special leave petition

SP:
Samajwadi Party

SPA:
sale and purchase agreement

tcf:
trillion cubic feet

TCS:
Tata Consultancy Services

TRAI:
Telecom Regulatory Authority of India

UP:
Uttar Pradesh

UPA:
United Progressive Alliance

VSNL:
Videsh Sanchar Nigam Limited

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This book was in the making for more than four and half years during which period I received the unstinted support and cooperation of a large number of people, some of whom chose to remain unnamed (including a few friends in 'high places' who trusted me enough to hold forth at length on condition of anonymity) and some whose names I may have inadvertently omitted (for which I hope they will excuse me). This book would, of course, never have been written without my co-authors Subir Ghosh and Jyotirmoy Chaudhuri. Ranjana Sengupta suggested the title of the book. Alam Srinivas generously provided me a huge amount of extremely valuable information—at one stage, he could have been a co-author of this work. The nimble fingers of Arpita Das flew over the keyboard as she copy-edited the book in record time, making invaluable suggestions as she went along. Manish Purohit was a stranger until he showed me the way to become a publisher and taught me online marketing skills.

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I have deliberately not mentioned here the names of the many individuals who have been quoted in different chapters of the book and whose deep knowledge, uncompromising integrity and unparalleled tenacity in being able to persevere against powerful odds, inspired and influenced me. But there is one exception I will make and that is because he is no longer with us. I had really wished that cancer would not consume Subir Raha, former chairman and managing director of the Oil and Natural Gas Corporation as expeditiously as it did, around the time I was hoping he would remain a teacher of mine for long. But that was not to be.

I am especially thankful to my family, my wife Jayashree and our children Triveni and Purnajyoti, who I hope will one day agree that the time I denied them was not wasted and that the result of that effort will remain relevant till they are old enough to understand what has been written. I am indebted

to my mother Krishna, my father-in-law Narendra Kumar Bhatnagar (who read a version of the manuscript of this book), my siblings Tapati and Puragra, their spouses Hari Shankar and Sharmila and their daughters Mrinalini and Tara—all of whom told me to speak my mind freely without fear or favour but with balance and prudence.

* * *

ABOUT THE AUTHORS

Paranjoy Guha Thakurta is an independent journalist and an educator. His work experience, spanning 37 years, cuts across different media: print, radio, television and documentary cinema. He is a writer, speaker, anchor, interviewer, teacher and commentator in three languages: English, Bengali and Hindi. His main areas of interest are the working of the political economy and the media in India and the world, on which he has authored/co-authored books and directed/produced documentary films. He teaches and speaks on these subjects to students, general audiences and also trains aspiring – and working -- media professionals. He participates frequently in, and organizes, seminars/conferences, He is a regular contributor to newspapers, magazines and websites. He is featured regularly on television channels and radio programmes as an anchor as well as an analyst and commentator.

Born on October 5, 1955 and educated at St. Stephen's College, University of Delhi (1972-75) and at the Delhi School of Economics (1975-77) in the same university from where he obtained his Master's degree in economics, he started his career as a journalist in June 1977 and has been employed with various media organizations including companies bringing out publications such as *BusinessIndia, BusinessWorld*, *The Telegraph*, *India Today* and *The Pioneer*. He worked with Television Eighteen (now Network 18) for almost six years between 1995 and 2001 when he anchored a daily discussion programme called "India Talks" on the CNBC-India television channel. Between 2007 and 2013, he has anchored two one-hour-long weekly programmes for Lok Sabha Television (the channel owned and operated by the lower house of the Parliament of India). He has anchored programmes for other television channels.

He is (or has been) a visiting faculty member at reputed educational institutions including the Indian Institutes of Management at Ahmedabad, Kolkata, Bangalore and Shillong, University of Delhi, Jawaharlal Nehru University, Jamia Millia Islamia, Lal Bahadur Shastri National Academy of Administration and Visva Bharati University.

He served as a member of the Press Council of India nominated by the University Grants Commission between January 2008 and January 2011. In April 2010, as a member of a two-member sub-committee of the Council, he co-authored a 36,000-word report entitled "Paid News: How corruption in the Indian media undermines democracy". He is a media trainer and a consultant/adviser on India's political economy. He was the founder director of the School of Convergence (SoC). He has been a consultant at the Institute of South Asian Studies, National University of Singapore, making presentations and writing papers on Indian politics. He has been associated with a number of projects of United Nations organisations, including the International Labour Organization (ILO).

He served for two years (2011-13) as president of the Foundation for Media Professionals, an independent, not-for-profit organization based in Delhi. He is a member of the managing committee of the Media Foundation of India that runs the website, the hoot.org, and has written a series of articles for the website on media ownership in India. He is a member of the governing council of Common Cause, a civil society organization engaged in public interest litigation, among other activities related to redressing public grievances. He has advised various organizations, including corporate bodies (Indian, foreign and multinational), government agencies (including India's Ministry of Information & Broadcasting) and civil society organizations.

He is a director/co-director/producer of documentary films. The films, “Idiot Box or Window of Hope” (2003), “Grabbing Eyeballs: What’s Unethical About Television News in India” (2007), “Advertorial: Selling News or Products?” (2009), “Freedom Song” (2012) were all produced by the Public Service Broadcasting Trust. Other films include “Hot As Hell: A Profile of Dhanbad” (2006-07) , “Blood & Iron: A Story of the Convergence of Crime, Business and Politics in Southern India” (2010-11), “The Great Indian Telecom Robbery” (2011), “A Thin Dividing Line” (2013) on the India-Mauritius double- taxation avoidance treaty, “Coal Curse: A documentary on the Political Economy of Coal Energy in India” (2013) and “In the Heart of Our Darkness: The Life and Death of Mahendra Karma” (2013).
He was one of the first journalists to write about the telecommunications spectrum scandal in November 2007 and was one of the petitioners in public-interest litigation on the subject in the Supreme Court of India. He has co-authored a book with Shankar Raghuraman entitled: “ Divided We Stand: India in a Time of Coalitions” (2007) and written “Media Ethics: Truth, Fairness and Objectivity, Making and Breaking News” (Oxford University Press, second enlarged edition, 2011). He has contributed articles and chapters to books (including “Realizing Brand India” edited by Sharif D. Rangnekar [Rupa, 2005], “India: The Political Economy of Reforms” edited by Bibek Debroy & Rahul Mukherji [Bookwell, 2004]) and “Journalism: Ethics and Responsibilities”: edited by Seema Mustafa [Har Anand, 2013].

* * *

Subir Ghosh is a journalist and writer who started out his career in sales before switching over to journalism in 1991. His first job as a journalist was with the eastern metropolitan desk of the Press Trust of India (PTI) in Kolkata. He joined *The Telegraph* daily in 1994 and was part of the first ‘region desk’ that was set up in the newspaper to bring out dedicated pages and supplements for the states of Bihar, Odisha and north-east India. It was here that he developed a keen interest in north-east affairs and started specialising in the region. He wrote and reported prolifically on the north-eastern region during his tenure in the daily.
He shifted to New Delhi in mid-1998 and joined the publications units of the leading non-government organisation on environmental issues, the Centre for Science and Environment (CSE). During his short stay here, he worked on the fifth edition of CSE’s flagship publication, *The State of India’s Environment*. He thereafter moved to the apex body of the hospitality industry, the Federation of Hotels and Restaurant Associations of India (FHRAI), and served as assistant secretary-general in charge of publications. He turned around the staid black-and-white newsletter into a four-colour glossy which broke even within a year. Here, he also brought out a number of research studies on the state of the hospitality industry in India. His next assignment was with leading wildlife organisation, the Wildlife Trust of India (WTI), where he was in charge of communications: handling publications, the website of the WTI and media relations. He was to have a second stint here again in 2009-2010.
In the interregnum, Subir experimented with the online media and published two ‘e-zines’: *The Reviewer* (one that reviewed books) and *Northeast Vigil* (one that aggregated news and information pertaining to north-east India). In 2005, he started a website called *Newswatch*which collated news about the media industry, press freedom issues and media ethics. The mainstay of the site were micro research studies about how various incidents and issues would be covered in the Indian media. All these studies were appreciated worldwide for their detailed analyses: each story that was selected for a study was assessed, at times, based on more than 100 parameters. He still specialises in Northeast affairs, and has served in the past as an advisory council member with the Centre for Northeast Studies (C-NES).

Subir is the author of *Frontier Travails: Northeast - The Politics of a Mess* published by Macmillan India in 2001 and has won two national awards for children's fiction (including one titled *The Dream Machine*, co-authored with Richa Bansal, which won a prize for children's science fiction). He is passionate about all the subjects that he writes about: conflict, ethnicities, wildlife, human rights, women, poverty, media, and cinema. He currently works with the Bengaluru edition of DNA newspaper, blogs at www.write2kill.in and tweets at @write2kill.

* * *

Jyotirmoy Chaudhuri is an independent researcher and editor. He has primarily worked in the print medium. His main interests have revolved around environmental studies, aviation and strategic affairs and now, on politicians and oligarchs who seem to have a covert grip on national life.
Born in February 1975, he was schooled in Durgapur in West Bengal, studied in Jamia Millia Islamia and the University of Delhi from where he obtained a Masters' degree in English Literature in 2000. He began his career as a researcher and copy editor in 1997 with the publication department at the New Delhi-based non-government organisation Centre for Science and Environment (CSE) when the institution was preparing its *5th Citizen's report on the State of India'sEnvironment*. He was subsequently to work on the desk at *Down To Earth*, CSE's premier environment and science fortnightly. Later, in 2012, after a walk through different woods, he re-engaged with CSE as member of a team at its Media Resource Centre (MRC) that brought to completion the mammoth two-volume *7th State of India'sEnvironment report*: *Excreta Matters*, on India's water and waste scenario. In this period he was also associated with other publications at CSE while assisting with media outreach. Earlier, he was associated with the Centre for Armed Forces and Historical Research at the United Service Institution of India, New Delhi, a defence think tank where besides spending copious hours in the library, he was to copy-edit a short history on the Indian Army. Between 2007 and 2010 he was associate editor at an aviation and defence trade publication, the *VayuAerospace and Defence Review*. He also had a brief stint with the *Tehelka*group as a special correspondent. This book is his first extended project with Paranjoy.

STOP PRESS

On the evening of 24 March 2014, a terse four-line letter was sent to the secretary, ministry of petroleum and natural gas Saurabh Chandra by the principal secretary to the Election Commission of India K. Ajaya Kumar stating that the Commission had decided that the government should defer the hike in the price of natural gas from 1 April for a period of five years till after the results of the 16th general elections were known on 16 May. This decision, in effect, implied that the newly-elected government should take a call on the controversial decision to nearly-double the officially administered price of natural gas. The letter stated: "After taking into account all relevant facts, including the fact that the matter is *sub judice* in the Hon'ble Supreme Court, the Commission has decided that the proposal (to increase the price of gas) may be deferred."

The Commission had responded to a complaint lodged by the Aam Aadmi Party (AAP) leader Arvind Kejriwal who had claimed that if the gas price hike was allowed, this would be in violation of the model code of conduct which comes into effect the day elections are announced. Kejriwal claimed that the government's move could be described as a corrupt electoral practice.

A day earlier, on 23 March, Reliance Industries Limited (RIL) had released a video on YouTube in a the format of a television news broadcast in which journalist-turned-company spokesperson Umesh Upadhyay sought to counter the AAP's allegations against RIL. He said the model code of conduct was meant to ensure that "the government in power cannot take any new decision" which could result in "undue benefit to the ruling political party". Upadhyay said the Election Commission should be kept away from what he described as the "politics of disinformation" by a political party that had a history of "ill-informed diatribe". It was pointed out by RIL that the price of gas was sought to be increased on the basis of a decision taken by Cabinet on 27 June 2013 to accept the pricing formula recommended by the Rangarajan Committee, that this decision was thereafter notified on 10 January 2014, while the model code of conduct came into effect from 5 March 2014.

There were other voices against the decision of the Election Commission. The *Economic Times* on 24 March had editorialised that the Commission should stick to the smooth conduct of elections and not "stall" the roll-out of an existing policy. Kirit Parikh, former member of the Planning Commission and author of reports on India's energy policy, saw no "logic" or "reason" in the Election Commission's decision to "interfere now", while former head of ONGC R.S. Sharma was "disappointed" that the "uncertainty" over the issue of the price of gas would get prolonged. The Commission's decision, it was argued, would send wrong signals to investors. Predictably, the prices of the shares of RIL and ONGC came down the following day.

R. Jagannathan, editor, *Firstpost.com* bluntly wrote that the Election Commission was "wrong" and opined that if the Commission was seen as willing to intervene in economic decisions, it would open a veritable Pandora's box with politicians "referring (to it) all kinds of sensitive decisions they want killed or delayed..." He also made the point that "...the purpose of having a code of conduct is to ensure that the government of the day does not obtain any electoral benefit from last-minute populism," adding, "The gas price hike is, in fact, unpopular in many quarters and hardly likely to win the UPA any additional votes." (His commentary carried the usual disclaimer at the end that *Firstpost.com* is published by Network18, whose promoters have received funding from the Reliance

group which benefits from the new gas pricing regime.)

RIL had, in the mean time, sought to revise gas sale purchase agreements with fertiliser companies and there were a number of reports in the media that these urea manufacturing companies were concerned that the actual prices they would have to pay for gas from the Krishna-Godavari basin could be 10 per cent higher than what would be determined by the formula of the Rangarajan Committee. This was because RIL had reportedly proposed that it would bill the government on the basis of the gross calorific value (GCV) of the gas instead of net calorific value (NCV).

The Election Commission was not moved.

ENDNOTE

Sibling Strife

[1]'Gold-plating' here signifies a superfluous increase in capital expenditure or expenditure on plant and equipment. As will become evident later, the alleged 'gold-plating' by RIL became an important issue because it influenced the economics and the viability of extracting natural gas from the KG-D6 block.

Gas and Fire

[1]Amar Singh, who spent months in Singapore to receive a kidney transplant, was asked to leave the Samajwadi Party in 2010, and was jailed for a while the following year for his role in the survival of the first United Progressive Alliance government in 2008 in what became popularly known as the cash-for-votes case.
[2]The controversial circumstances that led to Deora replacing Aiyar as petroleum minister and the latter's views on how government policies were shaped to favour RIL are detailed later in the book.
[3]For instance, the government might wish to allocate the gas first to fertiliser plants, then power plants, and finally, for residential use.
[4]http://exiledonline.com/one-degree-of-larry-summers-meet- larry%E2%80%99s-ex-boss-a-billionaire-with-a-blood-feud/
[5]The gas extracted is divided between the contractor and the government using a complex formula, about which more will be explained later.

A 21st-Century Mahabharata

[1]1One of the officers in the Enforcement Directorate team that had raided Tina was Sandeep Tandon, who later became a cause of friction between an already estranged Mukesh and Anil. After Tandon left government service, he joined the Reliance group with Mukesh's approval and this move predictably peeved Anil. Tandon assisted the group in several disputes it had with government authorities. He died of cancer in 2010. His wife Annu Tandon was assisted by Mukesh to set up firms and in 2009, she was elected as a Congress member of Parliament from Unnao in Uttar Pradesh. Her name figured with those of the Ambanis in a list of Indians who held accounts in Swiss banks that was released by Arvind Kejriwal of the Aam Aadmi Party in November 2012.
[2]HUF is a peculiarly Indian legal entity usually set up for the purposes of tax planning.
[3]Sweat equity is a term used to describe an interest in a property or company that is earned by labouring for it; unlike financial equity, sweat equity is contribution for work done and is on occasions used to describe the efforts by the founders of a start-up company in exchange for ownership of financial equity shares.
[4]It is another matter that many consider Mukesh's position on disclosing personal wealth hypocritical and his lifestyle relatively more ostentatious: he is, after all, the owner of a 27-storey house in south Mumbai apart from having presented his wife with a birthday gift of a corporate jet costing Rs 231 crore.

(Reliance) India Natural Resources Unlimited

[1]More than seven years later, on 21 February 2013, Samajwadi Party leader and brother of party head Mulayam Singh Yadav, Shivpal Yadav blamed New Delhi for the Dadri project being a non-starter and told the Uttar Pradesh assembly: ‘Nothing has been done in Dadri, nothing is going on at present and nothing will be done in the future as well’.

[2]In fact, the establishment of another project promoted by a company in the Anil Ambani group, Reliance Infrastructure, to set up ‘India’s biggest’ gas-based power plant at Samalkot, Andhra Pradesh, with installed capacity to generate 2,400 MW of power, at a cost of Rs 10,000 crore, was delayed because of shortage of gas from the KG basin.

[3]Accessed at http://ambanibrothersfight.blogspot.in/2009/07/doabia.html

[4]As will be detailed later, the price of gas became a subject of another legal battle and a highly-politicised public slanging match with the Ambanis and the government including the petroleum ministry headed by M. Veerappa Moily on the one side, civil society groups like Common Cause, former bureaucrats E.A.S. Sarma and T.S.R. Subramanian, CPI MP Gurudas Dasgupta, besides, of course the Aam Aadmi Party led by Arvind Kejriwal, on the other.

[5]As will be subsequently explained, the replacement of S. Jaipal Reddy as petroleum minister by M. Veerappa Moily in October 2012 will need to be viewed in this context.

[6]As this book was being completed in March 2014, the price of gas and the alleged favours given to the Ambanis being highlighted as an election issue by Aam Aadmi Party (AAP). The Left went along with AAP and said its MPs were among the first to highlight what their MPs believe is the biggest instance of crony capitalism in the country. Gurudas Dasgupta, CPI MP reiterated his contention that the hike in the administered price of gas was not only against the interests of consumers of power and fertilisers but a ‘massive scam’ to help RIL and India’s richest man. To point out that the scales are heavily tilted in favour of Mukesh Ambani is to state the obvious. That is the way it has been for quite some time(See Appendix 4: ‘Biggest Tax Break for Richest Indian’).

A Storm over the KG Basin

[1]A year and a half later, when Jaipal Reddy was removed from the post of minister of petroleum and natural gas and made science and technology minister, many believed that his portfolio had been changed by the prime minister because of ‘pressure’ from Mukesh Ambani.

[2]What was ironical was that Firstpost.com is part of the Network 18 group in which RIL made significant financial investments in January 2012.

[3]The final version of the report tabled in Parliament three months later on 8 September 2011 was four pages longer.

[4]The so-called ‘Deepwater Horizon’ explosion in the Gulf of Mexico in April 2010 killed 11 people and resulted in nearly five million barrels of oil being spilled thereby seriously threatening marine life and ecology along a few hundreds of kilometres of coastline.

Murky Deals, Muddy Waters

[1]Gold-plating, as has been explained before, signifies excessive and often unnecessary expenditure on features and refinements to equipment or projects to inflate costs.

[2]That the CAG of India refused to buy these arguments is another story that will follow.

[3]More on the arbitration issue will follow.

The Insider

[1]A Fortune 500 company, the ONGC used to produce around three-fourths of India’s crude oil and a

little under half of the country's natural gas. Set up in August 1956 by the Indian government originally as the Oil and Natural Gas Commission, the 'commission' became a 'corporation' in June 1993. In late-2009, RIL, headed by Mukesh Ambani, overtook ONGC in gas production. Nevertheless, the public sector enterprise remains among India's largest corporate entities in terms of assets, turnover, sales and profits. On 18 June 2013, in terms of market capitalisation or the total value of all shares of a company multiplied by its price at a particular point in time, RIL overtook ONGC as the second-most 'valuable' company in India after information technology and computer software bigwig, Tata Consultancy Services.

[2]Col. S.P. Wahi, who headed ONGC between 1981 and 1989, told this book's lead author in an interview at his residence in Gurgaon, a suburb of Delhi, that if he had had his way the exploration of hydrocarbons would never have been 'handed over' by the government to the private sector.

[3]Petronet LNG had been formed as a joint venture with an authorized capital of Rs 1,200 crore or $240 million by the government of India to import LNG and set up LNG terminals in the country with public sector promoters, GAIL (India) Limited, ONGC, Indian Oil Corporation Limited and Bharat Petroleum Corporation Limited and with France's national gas company Gaz de France or GDF as a strategic partner. Ras Laffan Liquefied Natural Gas Company Limited or RasGas of Qatar has signed an LNG sale and purchase agreement (SPA) with Petronet LNG for the supply of LNG to India.

A Gas Policy of Hot Air

[1]He was prescient for he could not possibly have anticipated that two and a half years later, the CAG's findings would expose the way in which the PSC was weighted in favour of RIL.

The KG Basin is 'Sinking'?

[1]http://www.isprs.org/proceedings/XXXVIII/8-W3/b2/19-KNageswaraRao.pdf

Indian Style Crony Capitalism

[1]It was calculated that if the Planning Commission's formula was used to price gas, over a five year period, the government's subsidy outgo would rise to Rs 53,280 crore—over and above the subsidy incurred if the Rangarajan formula was to come into effect—with an enhanced profit of Rs 48,000 crore for Reliance.

[2]LNG prices in Japan are among the highest in the world.

[3]Fungibility is the property of a good or a commodity whose individual units are capable of mutual substitution.

Price of Gas: End-game or New Beginning?

[1]http://www.observerindia.com/cms/sites/orfonline/html/aboutus/ profiles/mohan.html

Moily Brazens it Out

[1]The lead author of this book is a member of the governing council of 'Common Cause', and the late H.D. Shourie's son is Arun Shourie, who is not associated with the civil society organisation.

[2]As already stated, the arbitration proceedings against RIL relate to the recovery of a penalty of $1 billion for the fall in gas output allegedly because the company had deliberately not dug enough wells that had been imposed upon the company on the advice of the solicitor general of India when Jaipal Reddy was petroleum minister. RIL and the government had respectively nominated former chief justices of India S.P. Bharucha and V.N. Khare.

Politics of Crony Capitalism

[1]The lead author of this book is associated with Common Cause as a member of its governing council.

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