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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12

13 UNITED STATES OF AMERICA, )

14 Plaintiff, )

15 v. )

16 CROWN OIL CORPORATION; )  
17 GRANEX CORPORATION, U.S.A.; and )  
18 PAN PACIFIC COMMODITIES, )

19 Defendants. )  
20

Civil No. 81-0787-TJH

Filed: November 25, 1981

21 COMPETITIVE IMPACT STATEMENT  
22

23 Pursuant to Section 2(b) of the Antitrust Procedures and  
24 Penalties Act, 15 U.S.C. § 16(b), the United States of America  
25 hereby files this Competitive Impact Statement relating to the  
26 proposed Final Judgment submitted for entry in this civil antitrust  
27 proceeding.  
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NATURE AND PURPOSE OF THIS PROCEEDING

On February 17, 1981, the United States filed a civil antitrust action under Section 4 of the Sherman Act, 15 U.S.C § 4, alleging that the defendants and unnamed co-conspirators conspired to purchase and store crude coconut oil to create a shortage of crude coconut oil in the United States and to fix the price of crude coconut oil in the United States. The complaint alleges that, as a result of this conspiracy, the price for crude coconut oil in the United States has been fixed at artificial and noncompetitive levels; competition in the sale of crude coconut oil in the United States has been restrained; and refiners, dealers and end-users in the United States have been denied the benefits of free and open competition in the purchase of crude coconut oil. The United States sought a judgment declaring the alleged conduct to be a conspiracy in restraint of trade in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, and injunctive relief prohibiting the conduct alleged to have given rise to the violation.

Entry by the Court of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify, or enforce the Final Judgment or to punish violations of any of the provisions of the Final Judgment.

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II

DESCRIPTION OF PRACTICES GIVING  
RISE TO THE ALLEGED VIOLATION

A. The Defendants

Each of the defendants listed below is incorporated and exists under the laws of the state listed opposite its name, with its principal place of business in the city listed. During all or part of the period of time covered by the complaint, each of said defendants engaged in the importation, sale and/or refining of crude coconut oil in the United States.

<u>Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Crown Oil Corporation	Nevada	San Francisco, CA
Granex Corporation, U.S.A.	Delaware	San Francisco, CA
Pan Pacific Commodities	California	Los Angeles, CA (until February 1980)  San Francisco, CA (after February 1980)

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1       B.   Co-Conspirators

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3       The complaint alleges that various entities and individuals not  
4 made defendants in the complaint have participated as  
5 co-conspirators in the violation alleged and have performed acts and  
6 made statements in furtherance thereof.

7  
8       C.   Trade And Commerce Involved

9  
10       The industry that the complaint alleges as the subject of  
11 defendants' conspiracy is the importation, sale and/or refining of  
12 crude coconut oil. Defendants sold this crude oil in the United  
13 States to refiners, dealers and end-users located in various  
14 states. Most of the crude coconut oil refined or sold by defendants  
15 was imported from the Republic of the Philippines to the United  
16 States.

17  
18       D.   Alleged Violations

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20       During the period of time covered by the complaint, each of the  
21 defendant corporations sold crude coconut oil in the United States  
22 to refiners, dealers and end-users located in various states of the  
23 United States. During this same period of time, Granex Corporation,  
24 U.S.A. also processed and sold refined coconut oil to refiners,  
25 dealers and end-users located in various states of the United  
26 States. Most of the crude coconut oil refined or sold by defendant  
27 corporations was imported from the Republic of the Philippines to

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1 the United States. Interstate commerce was substantially affected  
2 by the combination and conspiracy alleged in the complaint.

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4 The complaint alleges that beginning in or about October 1979  
5 and continuing thereafter at least until March 1980, Crown Oil  
6 Corporation; Granex Corporation, U.S.A.; Pan Pacific Commodities;  
7 and their co-conspirators engaged in a combination and conspiracy in  
8 unreasonable restraint of interstate trade and commerce in crude  
9 coconut oil in violation of Section 1 of the Sherman Act, 15 U.S.C.  
10 § 1. The alleged combination and conspiracy consisted of a  
11 continuing agreement, understanding and concert of action among  
12 defendants and co-conspirators to raise, fix and stabilize the price  
13 of crude coconut oil in the United States; to purchase crude coconut  
14 oil to create an artificial shortage in the United States; to refuse  
15 to sell crude coconut oil to purchasers in the United States, other  
16 than defendants or their co-conspirators, for less than certain set  
17 prices; and to store crude coconut oil in various storage facilities  
18 in the United States until such time as the market price increased  
19 to the desired level.

20  
21 The complaint alleges that in furtherance of their combination  
22 and conspiracy, the defendants and their co-conspirators have  
23 discussed with each other the coordination of pricing policies and  
24 marketing strategies with regard to sales of crude coconut oil in  
25 the United States; have exchanged information regarding shipments of  
26 crude coconut oil and storage facilities; have purchased large  
27 quantities of crude coconut oil and have relayed and implemented  
28 agreements reached among officers, directors and members of United



1 Coconut Oil Mills, Inc. (UNICOM), a private Philippine corporation,  
2 with regard to the purchase, sale and marketing of crude coconut  
3 oil. The complaint also alleges that defendants and their  
4 co-conspirators combined and conspired to store large quantities of  
5 crude coconut oil, jointly and individually, in various parts of the  
6 United States; to communicate the prices to be offered in the United  
7 States for crude coconut oil; to coordinate the sale and marketing  
8 of crude coconut oil; and to refuse to sell crude coconut oil in the  
9 United States for certain periods of time.

10  
11 According to the complaint, the conspiracy had the following  
12 effects: (a) competition in the sale of crude coconut oil in the  
13 United States was suppressed; (b) the price of crude coconut oil was  
14 fixed, maintained and stabilized; and (c) refiners, dealers and  
15 end-users in the United States were deprived of the benefits of free  
16 and open competition in the purchase of crude coconut oil.

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18 III

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20 EXPLANATION OF THE PROPOSED FINAL JUDGMENT

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22 The United States and the defendants have agreed in a  
23 stipulation that a Final Judgment in the form negotiated by the  
24 parties may be entered by the Court any time after compliance with  
25 the Antitrust Procedures and Penalties Act, provided that the United  
26 States has not withdrawn its consent. The Final Judgment provides  
27 that there have been no admissions by any party with respect to any  
28 issue of fact or law. Under the provisions of Section 2(e) of the

1 Antitrust Procedures and Penalties Act, entry of the Final Judgment  
2 is conditioned upon the Court's determination that it is in the  
3 public interest.

4  
5 A. Prohibited Conduct  
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7 The proposed Final Judgment grants the fundamental relief the  
8 United States sought in the complaint. In Section IV of the Final  
9 Judgment, the defendants are enjoined from entering into, adhering  
10 to, maintaining or furthering any contract, agreement,  
11 understanding, plan, program, combination or conspiracy to fix,  
12 maintain or stabilize prices; to refuse to sell to any persons  
13 within the United States; to discriminate in price or any other term  
14 or condition of sale between or among refiners, or end-users or  
15 dealers; or to store crude or refined coconut oil.

16  
17 The defendants are further prohibited by Section IV from  
18 communicating with any other person who imports, sells, or markets  
19 crude or refined coconut oil in the United States any information  
20 about past, present, future or proposed prices, discounts or any  
21 other terms or conditions for the sale of crude or refined coconut  
22 oil.

23  
24 Section IV also prohibits defendant corporations from  
25 discriminating as to price or other terms or conditions of sale for  
26 the benefit of any other defendant or any other person purchasing on  
27 behalf of, for the account of, or for resale to any such defendant.

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1       The scope of the Final Judgment is limited in three ways.  
2       First, nothing contained in the Final Judgment shall apply to any  
3       negotiation or necessary communication by a defendant in connection  
4       with a contemplated or actual bona fide purchase or sale of crude or  
5       refined coconut oil. Second, the Final Judgment does not apply to  
6       transactions or communications between a defendant and a parent or  
7       between the officers, directors, agents or employees thereof.  
8       Third, the Final Judgment does not prohibit a defendant from  
9       contracting for or agreeing to any bona fide storage agreement or  
10      contract.

11  
12       B.   Scope Of The Proposed Final Judgment  
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14       The Final Judgment shall apply to each defendant and to each of  
15      its officers, directors, agents, employees, subsidiaries,  
16      successors, and assigns, and to all other persons in active concert  
17      or participation with any of them who shall have received actual  
18      notice of the Final Judgment by personal service or otherwise.  
19      There is no geographical limitation in the Final Judgment. However,  
20      the Final Judgment shall not apply to transactions or activities  
21      required by the laws or the regulations having the force of law of  
22      the jurisdiction in which such transaction or activity takes place.  
23

24       The Final Judgment specifically requires that if a defendant  
25      sells its stock, assets or goodwill, the acquiring party must agree  
26      to be bound by the provisions of the Final Judgment.

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1        Within 60 days after entry of the Final Judgment, each defendant  
2 will be required to furnish a copy of the Final Judgment to certain  
3 of its officers, directors, employees and agents, as well as  
4 officers and directors of its parent corporations and the officers  
5 and directors of the United Coconut Planters Bank (UCPB) and  
6 UNICOM. Each defendant must also take additional steps to advise  
7 these persons of their obligations under the Final Judgment and of  
8 the criminal penalties for violation thereof. Within 90 days of  
9 entry of the Final Judgment, an affidavit as to the fact and manner  
10 of each defendant's compliance must be filed with the Court. These  
11 provisions should help prevent future violations of the Final  
12 Judgment by making each responsible employee individually aware of  
13 the Final Judgment and its prohibitions.

14  
15        In order to assure compliance, the Final Judgment authorizes the  
16 Department of Justice to inspect and copy records and documents in  
17 the possession or under the control of any defendant relating to any  
18 matters contained in the Final Judgment. In addition, the  
19 Department of Justice may require any defendant to submit reports  
20 from time to time.

21  
22        The Final Judgment is for a term of ten years from the date it  
23 is entered and the Court retains jurisdiction for that period.

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25        C.    Effect Of The Proposed Final Judgment On Competition

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27        The terms of the Final Judgment are designed to prevent any  
28 recurrence of the activities alleged in the complaint. The Final

1 Judgment is designed to ensure that in the future defendants' prices  
2 will be independently determined and will be free from the  
3 restraining and artificial influences which result from  
4 communications and agreements among competitors.

5  
6 The Department of Justice believes that the proposed Final  
7 Judgment provides fully adequate provisions to prevent continuance  
8 or recurrence of the violations of the antitrust laws charged in the  
9 complaint. In the Department's view, disposition of the lawsuit  
10 without further litigation is appropriate in that the proposed Final  
11 Judgment provides all the relief which the Government sought in its  
12 complaint and the additional expense of litigation would not result  
13 in additional public benefit.

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15 IV

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17 ALTERNATIVE REMEDIES CONSIDERED BY THE GOVERNMENT

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19 The Government did not consider seeking any remedies other than  
20 those that appear in the proposed Final Judgment.

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V

REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), this Final Judgment has no prima facie effect in subsequent lawsuits which may be brought against these defendants.

VI

PROCEDURES AVAILABLE FOR MODIFICATION  
OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Leon W. Weidman, Antitrust Division, U.S. Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012, within the 60-day period provided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its



1 consent to the proposed Final Judgment at any time prior to its  
2 entry if it should determine that some modification is necessary.  
3 The proposed Final Judgment provides that the Court retains  
4 jurisdiction over this action and the parties may apply to the Court  
5 for such order as may be necessary or appropriate for its  
6 modification, interpretation or enforcement.

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8 VII

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10 ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT  
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12 The alternative to the proposed Final Judgment considered by the  
13 Antitrust Division was a full trial of the issues on the merits and  
14 on relief. The Division considers the substantive language of the  
15 Final Judgment to be of sufficient scope and effectiveness to make  
16 litigation on the issues unnecessary, as the Final Judgment provides  
17 all or substantially all of the relief which could reasonably be  
18 expected to be obtained after a full trial.

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VIII

OTHER MATERIALS

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, were considered in formulating this proposed Final Judgment. Consequently, none are submitted pursuant to such Section 2(b).

Dated:

Respectfully submitted,

/s/ Leon W. Weidman  
Leon W. Weidman

/s/ Trischa J. O'Hanlon  
Trischa J. O'Hanlon

Attorneys,  
U.S. Department of Justice