

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Standard Oil Co. (New Jersey), (Texaco, Inc.), U.S. District Court, S.D. New York, 1963 Trade Cases ¶70,819, (Jul. 29, 1963)

Federal Antitrust Cases

86-27

Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶70,819

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United States v. Standard Oil Co. (New Jersey), (Texaco, Inc.).

1963 Trade Cases ¶70,819. U.S. District Court, S.D. New York. No. 86-27, Entered July 29, 1963. Case No. 1163 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Combination and Conspiracy—Oil Production and Imports—Restrictive Agreements—Consent

Judgment.—An oil company would be enjoined under the terms of a consent judgment from entering into any agreement or combination with competitors to fix prices, divide markets, or allocate production in the production, refining, distribution or sale of crude oil or petroleum products. Also, the oil company would be prohibited from entering into such agreements to limit importation of crude oil or petroleum products into, or the exportation from, the United States, restrict the sale or distribution of petroleum products in foreign countries, or exclude third persons from competing in the production, refining, distribution or sale of crude oil.

For the plaintiff: Lee Loevinger, Ass't Attorney General, David I. Haberman, Attorney, Department of Justice, William D. Kilgore, Jr. and Baddia J. Rashid.

For the defendant Texaco, Inc.: Amzy B. Steed and George W. Jansen.

Proposed Final Judgment

Text of proposed final judgment [*In full text*]: Plaintiff, United States of America, having filed its complaint in the United States District Court for the District of Columbia on April 21, 1953; the case having been transferred to this Court on June 8, 1953; defendant Texaco Inc. having appeared and filed its answer and its amended answer to the complaint denying the substantive allegations thereof; and the plaintiff and the said defendant, by their attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication by any issue of fact or law herein and without admission by either of them in respect to any such issue;

Now, therefore, before any testimony has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties thereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[Sherman Act]

This Court has jurisdiction of the subject matter herein and of the parties signatory hereto. The complaint states claims upon which relief may be granted against the defendant Texaco Inc. under Sections 1 and 2 of the Act of Congress of July 2, 1890, as amended, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, and under Section 73 of the Act of Congress

of August 27, 1894, as amended, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," commonly known as the Wilson Tariff Act.

II

[*Definitions*]

For purposes of this Final Judgment only:

(A) "Texaco" means Texaco Inc., and its subsidiaries or any of them (including Texaco Inc.);

(B) "Socal" means Standard Oil Company of California and its subsidiaries or any of them (including Standard Oil Company of California);

(C) "Caltex" means any company, or other venture which now or hereafter operates (or owns, manages or services operations) primarily in the Eastern Hemisphere and in which company or venture Texaco or Socal own any stock or other proprietary interest, directly or indirectly; provided, however, that no company or other venture shall be "Caltex" if, subsequent to the entry of this Final Judgment;

(1) it owns oil concessions, producing wells, refineries, pipelines, bulk storage plants or service stations located outside of the Eastern Hemisphere;

(2) stock entitled to vote for the election of directors of such company or a proprietary interest in such company or venture is, with the express agreement of Texaco (unless such express agreement had been made prior to the entry of this Final Judgment, or unless such express agreement is made pursuant to (1) a requirement or request of the United States or (2) requirement of the foreign nation or nations in which the company operates or (3) pursuant to any agreement with such nation or nations, in effect at the time of the entry of this Final Judgment) acquired by any one or more of the following companies:

(i) Standard Oil Company (New Jersey), Socony Mobil Oil Company, Inc., Gulf Oil Corporation, The British Petroleum Company Limited, Royal Dutch Petroleum Company, Shell Transport and Trading Company, or any company which by virtue of the acquisition of the stock or assets of any such company, continues the respective business of any such company;

(ii) any subsidiary of any company referred to in (i) of this paragraph;

(iii) any other company of which more than 50% of its stock entitled to vote for election of directors is owned directly or indirectly, or more than 50% of such stock is controlled, by any two or more of the companies referred to in (i) and (ii) of this paragraph.

(3) Provided, however, that for the purposes only of subsections (A), (B), (C) of Section VII hereof, the following companies shall not be Caltex:

Arabian American Oil Company (subject to the provisions of subsection (E) of Section VII hereof);

Trans-Arabian Pipe Line Company (subject to the provisions of subsection (E) of Section VII hereof);

Mediterranean Refining Company;

Sorong Petroleum Maatschappij;

Svensk Petroleumlagring Aktiebolag;

Petroleum Products Storage and Transport Company, SA;

A/S Hydrantanlaegget Koebenhavns Lufthavn, Kastrup;

Irish Refining Company Limited;

Societa Per Azioni Raffineria Padana; Olii Minerali Sarpom;

Korea Oil Storage Company;

Societe De Gestion Du Depot D'Hydrocarbures;

De Tamatave, S. A. R. L.;
N. V. Rotterdam.—Rijn Pijpleiding Maatschappij;
The New Zealand Refining Company Limited;
Pakistan Refinery Limited;
Drivmedelscentralen A. B.;
The Associated Octel Company Limited;
Iranian Oil Participants Limited;
Iranian Oil Services Limited;
United Kingdom Oil Pipelines Limited.

(D) "Eastern Hemisphere" means the area of Earth from 30° West Longitude eastward to 170° West Longitude, except Greenland and the Aleutian Islands.

(E) "Subsidiary" means, in respect of any company, a corporation of which more than 50% of its stock entitled to vote for the election of directors is owned, directly or indirectly, or more than 50% of such stock is controlled, by that company.

(F) "Primary joint company" means:

(1) A subsidiary of Texaco Inc., engaged in the production, refining, transportation, distribution or sale of crude oil or petroleum products, in which

(a) one or more of the following companies own, directly or indirectly, or control stock entitled to vote for the election of directors:

(i) Standard Oil Company (New Jersey), Socony Mobil Oil Company, Inc., Standard Oil Company of California, Gulf Oil Corporation, The British Petroleum Company Limited, Royal Dutch Petroleum Company, Shell Transport and Trading Company or any company which by virtue of the acquisition of the stock or assets of any such company, continues the respective business of such company;

(ii) any subsidiary of any company, other than Texaco Inc., referred to in (1) (a) of this subsection;

(iii) any other company of which more than 50% of its stock entitled to vote for the election of directors is owned, directly or indirectly, or more than 50% of such stock is controlled, by two or more of the companies referred to in (1) (a)(i) and (ii) of this subsection or by Texaco Inc. and one or more of such companies; and

(b) any, some or all of the companies referred to in (1) (a) of this subsection, other than Texaco Inc., have acquired any of the voting stock of such subsidiary by express agreement with Texaco (unless such express agreement was or is made pursuant to a requirement of the United States or of a foreign nation or nations in which such subsidiary operates); or

(2) A corporation, not a subsidiary of Texaco Inc., engaged in the production, refining, transportation, distribution or sale of crude oil or petroleum products, if:

(a) more than 50% of its stock entitled to vote for the election of directors is owned directly or indirectly, or more than 50% of such stock is controlled, by Texaco Inc. and one or more of the companies, other than Texaco Inc., referred to in (1)(a) of this subsection;

(b) any, some or all of the companies referred to in (2) (a) of this subsection, other than Texaco, (i) already owned any of the aforesaid voting stock of such corporation at any time when any of its aforesaid voting stock was or is acquired by Texaco (unless such acquisition was or is pursuant to a requirement of the United States or of a foreign nation or nations in which such corporation operates); or (ii) have acquired any of the aforesaid voting stock of such corporation by express agreement with Texaco (unless such express agreement was or is made pursuant to a requirement of the United States or of a foreign nation or nations in which such corporation operates); and

(c) a Final Judgment containing provisions substantially similar to those contained in this subsection (A) of Section VII hereof is entered in this action against such of the companies referred to in (1) (a) (i) of this subsection which own directly or indirectly, or control, together with Texaco Inc. more than 50% of the aforesaid voting stock of such corporation.

(G) "Secondary joint company" means a corporation engaged in the production, refining, transportation, distribution or sale of crude oil or petroleum products, if:

(1) more than 50% of its stock entitled to vote for the election of directors is owned directly or indirectly, or more than 50% of such stock is controlled, by Texaco Inc. and one or more of the companies, other than Texaco, referred to in subsection (F)(1)(a) of this Section; and

(2) not more than 50% of its aforesaid voting stock is owned directly or indirectly, or more than 50% of such stock is controlled, by Texaco Inc., or by Texaco Inc. and any, some or all of the following companies: (a) Standard Oil Company (New Jersey), Socony Mobil Oil Company, Inc., Standard Oil Company of California, Gulf Oil Corporation, or any company which by virtue of the acquisition of the stock or assets of any such company, continues the respective business of any of such companies, (b) any subsidiary of any company, other than Texaco Inc., referred to in (2)(a) of this subsection, (c) any other company of which more than 50% of its stock entitled to vote for the election of directors is owned directly or indirectly, or more than 50% of such stock is controlled, by two or more, or by Texaco Inc. and one or more, of the companies referred to in (2)(a) and (2)(b) of this subsection; and

(3) any, some or all of the companies referred to in subsection (F)(1)(a), other than Texaco, (a) already owned any of the aforesaid voting stock of such corporation at any time when any of its aforesaid voting stock was or is acquired by Texaco (unless such acquisition was or is pursuant to a requirement of the United States or of a foreign nation or nations in which such corporation operates), or (b) have acquired any of the aforesaid voting stock of such corporation by express agreement with Texaco (unless such express agreement was or is made pursuant to a requirement of the United States or of a foreign nation or nations in which such corporation operates); and

(4) A Final Judgment containing provisions substantially similar to those contained in this subsection and subsections (B), (C) and (D) of Section VII hereof is entered in this action against Socony Mobil Oil Company, Inc. and Standard Oil Company of California.

(H) "Person" means an individual, partnership, firm, corporation, or any other legal entity, except as otherwise qualified in this Final Judgment.

(I) "Natural hydrocarbons" means crude oil, natural gas, natural gasoline, and natural asphalt.

(J) "Petroleum products" means the following products refined from crude oil: aviation gasoline, motor gasoline, jet fuel, kerosene, distillate fuel oil, residual fuel oil, and lubricating oils.

(K) "Joint production operation" means an undertaking in which Texaco and any other person or persons are participants, whether directly or indirectly or as principals, agents or owners of stock or other proprietary interests, for the carrying on, by the undertaking or by the participants, jointly or severally, of any one or more of the following activities: (1) the acquisition and holding of acreage solely within a foreign nation or nations, (2) the exploration, solely within a foreign nation or nations for natural hydrocarbons, (3) the production, solely within a foreign nation or nations, of natural hydrocarbons, (4) the purchase of the natural hydrocarbons so produced, (5) the treatment, solely within a foreign nation or nations, of natural hydrocarbons, or (6) the delivery, or sale and delivery, solely within a foreign nation or nations, of natural hydrocarbons or products therefrom (other than petroleum products) to such participants; and includes all agreements and programs—relating only to the undertaking and solely among the undertaking, the participants in such undertaking, other persons directly involved in the above-described activities of such undertaking, and the sovereign, the governmental entity or other person or persons owning or controlling the territory in which such activities take place, or any of them—to effect such acquisition, holding, exploration, production, purchase, treatment, delivery, or sale and delivery, and/or to provide for organizational, operational, financial and similar matters for the conduct of the

undertaking or of any of the aforesaid activities, such as agreements or programs concerning the quantities of natural hydrocarbons to be produced, the quantities of such hydrocarbons or of the aforesaid products therefrom which are to be taken, purchased, delivered, or sold and delivered by or from the undertaking or by or among the participants, and/or the prices to be paid by them for any such hydrocarbons or the aforesaid products so bought or sold.

(L) "Joint refining operation" means an undertaking in which Texaco and any other person or persons are participants, whether directly or indirectly or as principals, agent or owners of stock or other proprietary interests, for the refining or processing by the undertaking, solely within a foreign nation of natural hydrocarbons and the delivery, or sale and delivery, of products therefrom solely within such foreign nation to such participants, and includes all agreements and programs—relating only to the undertaking and solely among the undertaking, the participants in such undertaking, other persons directly involved in the above-described activities of such undertaking, and the sovereign, the governmental entity or other person or persons owning or controlling the territory in which such activities take place, or any of them—to effect such refining, processing, delivery, or sale and delivery, and/or to provide for organizational, operational, financial and similar matters for the conduct of the undertaking or of any of the aforesaid activities, such as agreements or programs concerning raw material supplied to (including the purchasing of natural hydrocarbons and other raw materials by the undertaking or by the participants, jointly or severally), throughput of, and yields of products from the undertaking, the quantities of products refined, processed, taken, purchased, delivered, or sold and delivered by or from the undertaking or by or among the participants, and/or the prices to be paid by them for the aforesaid raw materials or products so bought or sold.

(M) "Joint pipeline operation" means all undertaking in which Texaco and any other person or persons are participants, whether directly or indirectly or as principals, agents or owners of stock or other proprietary interests, for the construction or operation solely within a foreign nation or nations of a pipeline for the transportation of natural hydrocarbons or products therefrom and/or for the delivery of natural hydrocarbons or products therefrom; and includes all agreements and programs—relating only to the undertaking and solely among the undertaking, the participants in such undertaking, other persons directly involved in the above-described activities of such undertaking, and the sovereign, the governmental entity or other person or persons owning or controlling the territory in which such activities take place, or any of them—to effect such construction, operation or delivery, and/or to provide for organizational, operational, financial and similar matters for the conduct of the undertaking or of any of the aforesaid activities, such as agreements or programs concerning the volume of natural hydrocarbons or products therefrom to be transported through the pipeline, the rights of such participants and others to use the pipeline, the charges and other terms applicable to any such use, the quantities of natural hydrocarbons and products to be delivered, the purchase or sale of natural hydrocarbons or products therefrom directly incident to the operation of the pipeline (including line fill), and/or the prices to be paid for such natural hydrocarbons or products therefrom so bought or sold.

(N) "Joint storage operation" means an undertaking, not engaged in the sale or distribution of natural hydrocarbons or products therefrom, in which Texaco and any other person or persons are participants, whether directly or indirectly or as principals, agents or owners of stock or other proprietary interests, for the construction and/or operation by the undertaking, or by the participants, jointly or severally, solely within a foreign nation or nations of bulk facilities for unloading, receiving, handling, storing, or loading natural hydrocarbons or the products therefrom; and includes all agreements and programs—relating only to the undertaking and solely among the undertaking, the participants in such undertaking, other persons directly involved in the above-described activities of such undertaking, and the sovereign, the governmental entity or other person or persons owning or controlling the territory in which such activities take place, or any of them—to effect such construction and/or operation and/or to provide for organizational, operational, financial and similar matters for the conduct of the undertaking or of any of the aforesaid activities, such as agreements or programs concerning the volume of the facilities and their operation, the rights of such participants and others to use the facilities and/or the charges and other terms applicable to any such use.

(O) "Participants" includes, in respect of any company or operation, in addition to any person which owns stock or other proprietary interests in such company or operation (hereinafter called "owning person"), (1) the company or operation itself and wholly-owned subsidiaries of such company or operation, (2) if required to sell to a nation, such nation, (3) subsidiaries of any owning person, (4) any company of which any owning person is a subsidiary, (5) subsidiaries of such latter company, (6) any company which provides management, administrative or substantial operational services to such company or operation, (7) if Caltex is a participant, Texaco and Socal, and (8) if Texaco is a participant, Caltex.

(P) "Exchange" means any arrangement whereby Texaco trades crude oil or petroleum products to a company or companies for crude oil or petroleum products from such company or companies, or an arrangement equivalent to such trade whereby Texaco purchases crude oil or petroleum products in return for the sale of crude oil or petroleum products.

(Q) "Nation" means any sovereign state, the territorial and insular possessions thereof or the political subdivisions thereof (to the extent that the acts of such political subdivisions are in conformity with the applicable law of the sovereign state of which they are a part).

(R) "Foreign nation" means a nation other than the United States.

(S) "United States" means the United States, its territorial and insular possessions and the District of Columbia.

(T) "Supra-national authority" means any organization created by two or more nations or any duly constituted entity, agency or instrumentality of such organization, or any person acting for or on behalf of such organization, entity, agency or instrumentality in his official capacity.

(U) "Achnacarry Agreement" means a memorandum entitled "Pool Association" and dated September 17, 1928, together with two other documents both dated September 17, 1928, and entitled respectively "Article 15" and "Example."

(V) "Memorandum for European Markets" means the three memoranda dated January 20, 1930, and entitled respectively "Memorandum for European Markets," "Memorandum No. II for European Markets," and "Addendum to Memorandum for European Markets."

(W) "Heads of Agreement for Distribution" means a draft memorandum dated December 15, 1932, together with the Appendix and Addendum thereto.

(X) "Draft Memorandum of Principles" means the memorandum entitled "Draft Memorandum of Principles," sometimes called DMOP, and addenda thereto, formulated in the early part of 1934.

(Y) "Draft Principles of Emergency Arrangements," dated 27 September 1939.

III

[*Applicability*]

This Final Judgment shall be binding upon defendant Texaco, Inc., and its officers, agents, servants and employees, and upon those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Practices Prohibited*]

Texaco is enjoined and restrained from joining or adhering to any of the following, if not heretofore terminated or canceled by the parties thereto, and from reviving or renewing any of the following:

- (1) Achnacarry Agreement
- (2) Memorandum for European Markets
- (3) Heads of Agreement for Distribution

- (4) Draft Memorandum of Principles
- (5) Draft Principles of Emergency Arrangements

V

[Fixing Prices, Allocating Territories]

(A) Texaco is enjoined and restrained, with respect to crude oil or petroleum products, from entering into or performing any contract, agreement or understanding with any person engaged in the production, refining, distribution or sale of crude oil or petroleum products who is, or but for any such contract, agreement or understanding would be, in competition with Texaco, to:

- (1) Fix, stabilize or maintain prices, discounts or any similar terms or conditions of sale, to third persons, in any foreign nation or nations or for import into the United States or any foreign nation or nations; or
- (2) Allocate or divide territories, markets or customers, through quotas or otherwise, in any foreign nation or nations for sale or distribution; or
- (3) Limit or restrict imports into or exports from the United States; or
- (4) Restrict or limit sale in, or for import into, or distribution within, any foreign nation or nations through quotas or otherwise; or
- (5) Exclude any distributor from any territory or market in any foreign nation or nations, or interfere with or restrict any such distributor from competing in any such territory or market; or
- (6) Allocate or limit production of crude oil in any foreign nation or nations, provided, however, that nothing in this paragraph shall be construed to prohibit the adoption and use of measures designed to obtain, in accordance with engineering principles, maximum oil recovery from a petroleum reservoir, including without limitation, methods of well completion, pool MER agreements, pressure maintenance and secondary recovery and control of oil-gas ratios, rates of flow and the number, spacing and location of wells; or
- (7) Exclude a third person from competing in a foreign nation or nations in the production, refining, distribution or sale of crude oil.

(B) Texaco is enjoined and restrained, through its membership on the Caltex board of directors, from voting its stock to cause or from directing or authorizing, or with knowledge of Texaco with respect to such act, from formally ratifying any act by Caltex which, if done by Texaco would be enjoined by subsection (A) of this Section.

(C) Nothing contained in subsection (A) of this Section shall prohibit any contract, agreement or understanding between Texaco and any of its sales agents, jobbers, distributors or dealers in any foreign nation or nations, other than the companies (not including Texaco) referred to in subsection (F) (1) (a) of Section II hereof, with respect to the sale or distribution of crude oil or petroleum products within such foreign nation or nations.

(D) Nothing contained in subsection (A) of this Section shall be construed to prohibit Texaco from participating, directly or indirectly, whether as a shareholder or otherwise, in the organization, ownership, management or direction of Caltex and/or its operations, or to prohibit any contract, agreement or understanding between Texaco and Socal relating to Caltex or between Caltex on the one hand and Texaco and/or Socal on the other relating to such organization, ownership, management or direction of Caltex and/or its operations. Provided, however, that nothing in this Final Judgment shall be construed to prevent Texaco at any time, in the exercise of its business judgment, from in any manner withdrawing in whole or in part as a participant in Caltex or from continuing or commencing operations, including the production, refining, transporting and marketing of natural hydrocarbons and products therefrom and other commodities, on its own initiative, independently of and in competition with Socal and/or Caltex in the Eastern Hemisphere and elsewhere; and provided, further, that in the event of entry of a Final Judgment in this proceeding ordering Socal to cause the joint interests of Socal and Texaco in Caltex to be distributed between them, Texaco will cooperate in carrying out such order to the extent consistent with protecting interests of its own stockholders.

(E) The term "person," as used in subsection (A) of this Section, shall not include Texaco or Caltex, or any officer, director, agent, servant or employee of any of them when acting in such capacity.

VI

[*Exchange Prohibited*]

Texaco is enjoined and restrained from making with any person any exchange in any foreign nation or nations, or for import into the United States or any foreign nation or nations, with the objective of furthering or effectuating any contract, agreement or understanding which is enjoined by Section V hereof. The term "person" as used in this Section shall be qualified as provided in subsection (E) of Section V hereof.

VII

[*Acquisition of Stock*]

(A) Texaco is enjoined and restrained from voting its stock in, using the assets of, or otherwise employing, any primary joint company, for the purpose of having it engage in the business of selling crude oil or petroleum products in, or for import into, a foreign nation or nations, or for import into the United States, to any person other than to any, some or all of the participants in such company; provided, however, that the term "primary joint company" as used in this subsection shall not include Caltex.

(B) Texaco is enjoined and restrained from the acquisition of stock entitled to vote for the election of directors in any company in which Texaco does not own stock at the date of entry of this Final Judgment, and which would become a secondary joint company upon such acquisition, if such company at the time of such acquisition:

- (1) is engaged in the business of selling crude oil or petroleum products in or for import into a foreign nation or nations, or for import into the United States, to any person other than to any, some or all of the participants in such company; or
- (2) is intended by Texaco to engage in such business; or
- (3) is intended, with knowledge thereof on the part of Texaco, to engage in such business, by such of the companies referred to in subsection (F)(1)(a) of Section II hereof which, together with Texaco, own more than 50% of the aforesaid voting stock of such company, directly or indirectly, or control more than 50% of such stock;

provided, however, that the term "secondary joint company" as used in this subsection shall not include Caltex.

(C) Texaco is enjoined and restrained, except as provided in this Section, from voting its stock in any secondary joint company:

- (1) in favor of any proposal that the stockholders of such company authorize or ratify its entry into, or its extension or expansion of, the business described in subsection (B) of this Section; and
- (2) in opposition to any bona fide proposal that the stockholders of such company authorize or ratify its withdrawal from all or any part of such business, except where failure to vote in opposition to any such proposal would prejudice Texaco's right to obtain an appraisal of its stock;

provided, however, that the term "secondary joint company" as used in this subsection shall not include Caltex.

(D)(1) Without limiting the provisions of subsection VIII(B) of this Final Judgment, the provisions of subsections (B) and (C) of this Section shall not apply to acquisition or voting of stock by Texaco in any company, if;

(a) such company conducts, or is organized to conduct, or is one of two or more associated companies which collectively conduct:

(i) a joint production operation; or

(ii) a joint production operation and, in conjunction therewith, any one or more of the following: a joint pipeline operation to transport from the well or wells of such joint production operation natural hydrocarbons produced by such joint production operation; a joint refining operation to process natural hydrocarbons produced by such joint production operation, provided either that the joint refining operation is in the vicinity of the joint production operation or that such natural hydrocarbons are transported to it primarily by a joint pipeline operation of the kind referred to in the immediately preceding clause; a joint pipeline operation to transport products processed by such joint refining operation from natural hydrocarbons produced and transported as aforesaid; and

(b) such company engages, or is organized to engage, in the business described in subsection (B) of this Section to the extent, as a maximum, of selling

(i) primarily crude oil or petroleum products produced, refined or transported by such joint operations, as aforesaid, solely for consumption within the foreign nation or nations within which such joint operations are carried out; and,

(ii) as an incident to (i), such other petroleum products, solely for consumption within such foreign nation or nations, as may be necessary for the conduct of its business as a marketer of petroleum products therein; and

(iii) crude oil or petroleum products in any other foreign nation or nations if such selling is occasional only and involves amounts which are inconsequential.

(2) For the purposes of this subsection (D), "associated companies" means those in each of which a majority of the stock entitled to vote for the election of directors is owned or controlled directly or indirectly by the same persons.

(E) The provisions of subsections (A), (B) and (C) of this Section shall not apply to the selling of crude oil or petroleum products by Arabian American Oil Company in Saudi Arabia, Trans-Arabian Pipe Line Company in Saudi Arabia, Syria, Jordan and Lebanon solely for consumption within any such nation and by Colombian Petroleum Company in Colombia, or to such selling when carried on by any subsidiary of any of such companies or by any company having the same ownership as or continuing the respective business of any of such companies.

(F) The provisions of subsections (A), (B) and (C) of this Section shall not apply to the selling of crude oil or petroleum products in Canada by Texaco Canada Limited or by any of its subsidiaries or by any company continuing the business of any of such companies, provided, however, that such subsections (A), (B) and (C) shall apply to the selling of crude oil or petroleum products by any such company if, subsequent to the entry of this Final Judgment and by reason of acts or events occurring solely thereafter, it becomes a primary or secondary joint company.

VIII

[*Permissive Provisions*]

(A) Nothing in this Final Judgment shall be deemed to prohibit Texaco's availing itself of the benefits of any present or future international agreement to which the United States is a party, or any present or future Act of Congress, including, without limitation, the Webb-Pomerene Act and the Defense Production Act, nor shall anything in this Final Judgment require Texaco to violate the law of any foreign nation provided Texaco has

diligently and unsuccessfully sought whatever waivers, releases or exemptions are available under the laws of such nation.

(B) Nothing in subsection V(A), Section VI or Section VII of this Final Judgment shall be deemed to prohibit Texaco from participating in (1) a joint production operation, a joint refining operation, a joint pipeline operation or a joint storage operation, whether or not any of such operations is pursuant to an exclusive grant of any foreign nation or nations or supra-national authority in which the operation or operations take place, or (2) any business which is permitted by the provisions of Section VII hereof.

(C) The injunctions of subsection (A) of Section V shall apply only to a contract, agreement or understanding of the kind referred to in said subsection which affects the trade or commerce of the United States with foreign nations; provided that any one or a series of such contracts, agreements or understandings other than those exempted from Section V shall, if participated in by Texaco and any one or more of the companies referred to in subsection (F)(1)(a) of Section II herein, within three or more foreign nations at or about the same time, be presumed, subject to rebuttal by Texaco, to affect the trade or commerce of the United States with foreign nations.

(D) Nothing in subsection (A) of Section V or in Section VI of this Final Judgment shall be deemed to apply to any of the following contracts, agreements, understandings or exchanges:

(1) Where such contract, agreement, understanding or exchange of the kind referred to in subsection V (A) and Section VI is participated in by Texaco pursuant to requirement of law of the foreign nation or nations within which the transactions which are the subject of such contract, agreement, understanding or exchange take place, or of any supra-national authority having jurisdiction over such transactions within such foreign nation or nations;

(2) Where such contract, agreement, understanding or exchange of the kind referred to in subsection V(A) and Section VI is participated in by Texaco pursuant to request or official pronouncement of policy of the foreign nation or nations within which the transactions which are the subject of such contract, agreement, understanding or exchange take place, or of any supra-national authority having jurisdiction over such transactions within such nation or nations, and where failure to comply with such request or policy would expose Texaco to the risk of the present or future loss of the particular business in such foreign nation or nations which is the subject of such request or policy.

(E) The provisions of subsections (A), (B) and (C) of Section VII shall not apply to any company engaged in business as referred to in those subsections, respectively, (1) pursuant to requirement of the foreign nation or nations in which the company operates or (2) pursuant to any agreement with such nation or nations, in effect at the time of entry of this Final Judgment, which provides that such company must engage in such business within such nation or nations or (3) pursuant to requirement, or at the request, of the United States.

IX

[**Modification**]

If any Final Judgment (or order modifying any Final Judgment) entered or hereafter entered in this case with respect to any defendant should be materially more favorable to such defendant with respect to provisions of the kind contained in Sections IV, V, or VI hereof than the provisions of such section or sections are to Texaco, Texaco Inc. may make application to this Court, with thirty days' notice thereof to the plaintiff, for modification of such section or sections to substitute therein such more favorable provision or provisions, and plaintiff hereby waives any objection to such application and consents to such modifications and will cooperate upon the request of Texaco Inc. in obtaining a suitable order pursuant to such application.

X

[Estoppel]

This Final Judgment shall not constitute a bar or an estoppel to plaintiff, except as provided in subsection (B) of this Section, from instituting and prosecuting against Texaco any proceeding charging that Caltex's sale of petroleum products to persons other than participants in Caltex and/or that the organization, ownership, management or direction of such Caltex sales jointly by Socal and Texaco, in and of themselves, constitute a violation of the antitrust laws; provided, however, that this in no way adjudicates the legality or illegality of any such sales or conduct.

(B) This Final Judgment shall constitute a bar and an estoppel to plaintiff, except as provided in subsection (A) of this Section, from instituting and prosecuting against Texaco and/or against Caltex any proceeding asserting any claim or charge heretofore made by plaintiff in the complaint or otherwise in this action, including any claim or charge that the operations of Caltex and/or the organization, ownership, management or direction of Caltex jointly by Socal and Texaco are or were in any way a part of, pursuant to, in furtherance of, in formulation of, or in effectuation of, any contract, agreement, understanding, arrangement, combination, conspiracy, concert of action or monopolization claimed or charged in the complaint or otherwise in this action.

(C) The bars, estoppels, exemptions and exclusions as to Texaco and/or Caltex anywhere included in this Final Judgment shall also inure to the benefit of their directors, officers, agents, servants and employees when acting in such capacity.

(D) Provided, however, that this Final Judgment shall in no way estop or prejudice the prosecution against Socal of any issue in this case relating to Socal, Caltex or Socal's participation in Caltex; nor shall this judgment bar or estop any judgment against Socal ordering that the joint interests of Texaco and Socal in Caltex be distributed between Texaco and Socal.

XI

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Texaco Inc. made to its principal office, be permitted, subject to any privilege, right, or disability held by this Court to justify refusal, (1) access in such office, and during the office hours of Texaco Inc., to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Texaco Inc., including the records and documents of its subsidiaries to the extent that such records and documents are held to be under the control of Texaco Inc., relating to any matters contained in this Final Judgment, and (2) to interview regarding any such matters, at such office, officers or employees of Texaco, who may be advised and represented by counsel, subject to the reasonable convenience of such officers and employees and that of Texaco but without restraint or interference from it and subject, in the case of a national of a foreign nation, not resident in the United States, to there being no objection, demonstrable by Texaco, on the part of the Government of such nation, and Texaco Inc. shall, upon such request of the Department of Justice, submit such reports in writing to it with respect to matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States is a party for the purposes of securing compliance with this Final Judgment, or as otherwise required by law.

Provided, however, that no report, document, record, interview or other information obtained under the provisions of this Section shall be used in any way in or in preparation for the prosecution of this proceeding.

XII

[*Effective Date*]

Except for the provisions of Section X which shall not terminate, this Final Judgment shall be in full force and effect for the period from the date it is entered until November 14, 1985, and, upon the expiration of such period, it shall thereafter be of no force and effect.

XIII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification or termination of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.