

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Standard Oil Co. (New Jersey), Socony-Vacuum Oil Co., Inc., Standard Oil Co. of California, The Texas Co. and Gulf Oil Corp., U.S. District Court, S.D. New York, 1969 Trade Cases ¶72,743, (Jul. 9, 1968)

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United States v. Standard Oil Co. (New Jersey), Socony-Vacuum Oil Co., Inc., Standard Oil Co. of California, The Texas Co. and Gulf Oil Corp.

1969 Trade Cases ¶72,743. U.S. District Court, S.D. New York. Civil Action No. 86-27. Filed July 9, 1968. Case No. 1163 in the Antitrust Division of the Department of Justice.

Sherman Act

Conspiracy—Monopoly—Interstate and Foreign Commerce—Petroleum—Superseding Consent Decree.—A superseding consent decree entered against a firm in a government suit charging five oil companies with conspiracy and monopolization of U. S. foreign trade in petroleum differed from the earlier decrees in that (1) the firm would be permitted to engage in joint storage operations, pool MER agreements were excluded from a ban against allocating production, the purchase of natural hydrocarbons was added to the list of activities undertaken through joint production operations, primary joint companies would not include express agreements made pursuant to U. S. government requirements, “primary joint company” and “participants” were defined, the privilege of modifying a decree to equalize it with others was liberalized, and the judgments, when they expired, would preclude the government from bringing further proceedings on any claim made in the action.

Superseding consent decree in [1960 Trade Cases ¶ 69,851 \(Gulf Oil\)](#).

For the plaintiff: W. D. Kilgore, Jr., Wilbur L. Fugate, and David I. Haberman, Attys., Dept. of Justice.

For the defendant: Howrey, Simon, Baker & Murchison, by Edward F. Howrey; Royce H. Savage, Pittsburgh, Pa., General Counsel for Gulf Oil Corp.

Superseding Final Judgment

RYAN, D. J.: 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 Gulf Oil Corporation having appeared and filed its 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 a Final Judgment on November 14, 1960, and to the entry of this Superseding Final Judgment in substitution for the aforesaid Final Judgment, without trial or adjudication of 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 hereto, it is hereby

Ordered, Adjudged and Decreed as Follows:

I

[Jurisdiction]

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 Gulf Oil Corporation 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 the purposes of this Superseding Final Judgment only:

- (A) "Gulf" means Gulf Oil Corporation and its subsidiaries, or any of them (including Gulf Oil Corporation).
- (B) "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.
- (C) "Primary joint company" means:
- (1) A subsidiary of Gulf Oil Corporation, 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, Texaco, Inc., 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 Gulf Oil Corporation, 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 Gulf Oil Corporation 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 Gulf Oil Corporation, have acquired any of the voting stock of such subsidiary by express agreement with Gulf (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 Gulf Oil Corporation, 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 Gulf Oil Corporation and one or more of the companies, other than Gulf Oil Corporation, referred to in (1)(a) of this subsection; and
 - (b) any, some or all of the companies referred to in (2) (a) of this subsection, other than Gulf, (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 Gulf (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 Gulf (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 and 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 Gulf Oil Corporation, more than 50% of the aforesaid voting stock of such corporation.
- (D) "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 Gulf Oil Corporation and one or more of the companies, other than Gulf, referred to in subsection (C)(1)(a) of this Section; and

(2) not more than 50% of its aforesaid voting stock is owned, directly or *indirectly*, or not more than 50% of such stock is controlled, by Gulf Oil Corporation, or by Gulf Oil Corporation 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, Texaco, Inc., 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 companies, (b) any subsidiary of any company, other than Gulf Oil Corporation, 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 Gulf Oil Corporation 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 (C)(1)(a), other than Gulf, (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 Gulf (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 Gulf (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.

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

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

(G) "Joint production operation" means an undertaking in which Gulf 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.

(H) "Joint refining operation" means an undertaking in which Gulf 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 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 in the case of Kuwait, the delivery and sale solely within Kuwait of petroleum products to others than the participants when such sales are made for consumption within Kuwait and are incidental to the joint refining operation in Kuwait; 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), through-put 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.

(I) “Joint pipeline operation” means an undertaking in which Gulf 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 hydrocarbon *or products therefrom so bought or sold*.

(J) “Joint storage operation” means an undertaking, not engaged in the sale or distribution of natural hydrocarbons or products therefrom, in which Gulf 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.

(K) “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.

(L) “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.

(M) "Exchange" means any arrangement whereby Gulf 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* Gulf purchases crude oil or petroleum products, in return for the sale of crude oil or petroleum products.

(N) "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).

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

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

(Q) "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.

(R) "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".

(S) "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".

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

(U) "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.

(V) "Draft Principles of Emergency Arrangements" means the memorandum entitled "Draft Principles of Emergency Arrangements", dated 27 September 1939.

III

[*Applicability*]

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

IV

[*Activities and Practices Enjoined*]

(A) Gulf is enjoined and restrained from adhering to, enforcing or continuing any of the following, if not heretofore terminated or cancelled, 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"

(B) Gulf is enjoined and restrained from adhering to, enforcing, continuing, reviving or renewing Clause 6(12) (a) of the agreement dated 28th May, 1947 formerly between Gulf Exploration Company and The Shell Petroleum Company Limited and now between Gulf Kuwait Company and The Shell Company of Kuwait Limited, the

original agreement having been amended by five Supplemental Agreements dated respectively, (1) February 14, 1950, (2) February 14, 1950, (3) March 27, 1953, (4) July 27, 1955 and (5) March 12, 1957, (but nothing in this Final Judgment shall enjoin or affect any other provisions of said agreement, as amended), and Gulf is ordered and directed to use reasonable efforts, in accord with its business judgment, to compete in the sale of crude oil or petroleum products with Royal Dutch Petroleum Company and Shell Transport and Trading Company in those of the "Listed Territories and Listed Countries" as set out in the Thirteenth Schedule to said Agreement in which at the date of this Final Judgment, Gulf is engaged in the business of selling crude oil or petroleum products.

(C) Subject to the entry of a like injunction in this action against defendant Standard Oil Company (New Jersey), Gulf is enjoined and restrained from adhering to, enforcing, continuing, reviving or renewing paragraph 4 of the Agreement dated December 31, 1929, among Atlantic Company, Gulf Oil Corporation of Pennsylvania and Standard Oil Company (New Jersey) (sometimes called the "Holding Company Agreement") and paragraph 4 of the Agreement dated December 31, 1929, among The Atlantic Refining Company, Gulf Refining Company and Standard Oil Company of New Jersey (sometimes called the "Supply Agreement").

V

[*Restraints*]

(A) Gulf is enjoined and restrained, with respect to crude oil or petroleum products, from making, performing, adopting, adhering to, maintaining, or claiming any rights under, any combination with any one or more of the companies, other than Gulf, referred to in subsection (C)(1)(a) of Section II hereof, or with any person engaged in the production, refining, distribution or sale of crude oil or petroleum products who is, or but for any such combination would be, in competition with Gulf, 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;
- (2) Allocate or divide territories, markets or customers, through quotas or otherwise, in any foreign nation or nations for sale or distribution;
- (3) Limit, restrict or prevent importation into, or exportation from the United States;
- (4) Restrict or limit sale in, or for import into, or distribution within, any foreign nation or nations through quotas or otherwise;
- (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;
- (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) The injunctions provided for in subsection (A) of this Section shall apply only to a combination 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 combinations, other than those excepted by this Section, shall, if participated in by Gulf and any one or more of the companies referred to in subsection (C)(1) (a) of Section II hereof within three or more foreign nations at or about the same time, be presumed, subject to rebuttal by Gulf, to affect the trade or commerce of the United States with foreign nations.

[*Exceptions by Reason of Foreign Law*]

(C) The injunctions provided for in subsection (A) of this Section, as qualified in subsection (B) of this Section, shall not apply in the following cases:

(1) Where the combination of the kind referred to in subsection (A) of this Section is participated in by Gulf pursuant to requirement of law of the foreign nation or nations within which the transactions which are the subject of such combination take place, or of any supranational authority having jurisdiction over such transactions within such foreign nation or nations;

(2) Where the combination of the kind referred to in said subsection is participated in by Gulf pursuant to request or official pronouncement of policy of the foreign nation or nations within which the transactions which are the subject of such combination take place, or of any supra-national authority having jurisdiction over such transactions within such nation or nations, and where failure to comply with which request or policy would expose Gulf 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.

(D) Nothing contained in subsection (A) of this Section shall prohibit any agreement, between Gulf and any of its sales agents, jobbers, distributors or dealers in any foreign nation or nations, other than the companies (not including Gulf) referred to in subsection. (C)(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.

(E) Nothing in subsection (A) of this Section shall be construed to prohibit Gulf from participating in 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 any business which is permitted by the provisions of Section VII hereof.

(F) The term "person", as used in subsection (A) of this Section, shall not include Gulf Oil Corporation, any of its subsidiaries, or any officer, director, or employee of any of them, and the term "combination" as used in this Section shall include conspiracy, contract, agreement and understanding.

VI

[*Provision For Independents*]

(A) Gulf 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 combination enjoined by Section V hereof. The term "person" as used in this Section shall be qualified as provided in subsection (F) of Section V hereof, and the term "combination" as used in this Section shall include conspiracy, contract, agreement and understanding.

(B) Gulf shall, from time to time, post prices at which financially responsible buyers may purchase Kuwait crude oil f.o.b. Kuwait and shall make known to any buyer upon request other applicable terms and conditions of sale. In addition, until November 14, 1970, Gulf agrees to make available in each year from its share of Kuwait crude oil for sale f.o.b. Kuwait, such quantities up to an aggregate of 100,000 barrels per day per year as persons herein referred to as "independents" (being financially responsible persons other than those mentioned in subsection (C)(1)(a) of Section II hereof), may offer to purchase under firm written contracts of at least one year's duration, entered into at least three months prior to the date delivery is to commence, at a price not in excess of the posted price in effect from time to time during the period of sale and on such other reasonable terms and conditions of sale as Gulf may prescribe, provided that Gulf's own requirements shall have first been met and further provided that Gulf shall not be required to make a sale to any person which would violate any requirement of law of the Governments of Kuwait or any other foreign nation or the United States or which would be contrary to any request or official pronouncement of policy of any agency of those Governments. Gulf shall not be responsible for any failure to fulfill any obligations under this subsection if the fulfillment has been delayed, hindered or prevented by any circumstances of whatever nature which is not within the control of Gulf.

VII

[*Joint Companies*]

(A) Gulf is enjoined and restrained, except as provided in this Section, 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.

(B) Gulf is enjoined and restrained, except as provided in this Section, from the acquisition of stock entitled to vote for the election of directors in any company in which Gulf does not own stock at the date of entry of this Superseding 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 Gulf to engage in such business; or

(3) is intended, with knowledge thereof on Gulf's part, to engage in such business, by such of the companies referred to in subsection (C)(1)(a) of Section II hereof which, together with Gulf, own more than 50% of the aforesaid voting stock of such company, directly or indirectly, or control more than 50% of such stock.

(C) Gulf 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 Gulf's rights to obtain an appraisal of its stock.

(D) (1) The provisions of subsections (B) and (C) of this Section shall not apply to acquisition or voting of stock by Gulf 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 afore-said, 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 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.

(F) The provisions of subsections (A), (B) and (C) of this Section shall not apply to the selling by Esso Standard Societe Anonyme Francaise of crude oil or petroleum products in the European Common Market, or to such selling when carried on by any subsidiary of, or any company continuing the business of, Esso Standard Societe Anonyme Francaise.

(G) Nothing in this Section shall be construed to prohibit Gulf from participating in a joint production operation, a joint refining operation, a joint pipeline operation, or a joint storage operation.

VIII

[Permissive Provision]

Nothing in this Superseding Final Judgment shall be deemed to prohibit Gulf'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 Superseding Final Judgment require Gulf to violate the law of any foreign nation provided Gulf has diligently and unsuccessfully sought whatever waivers, releases or exemptions are available under the laws of such nation.

IX

[Privilege of Modification for Equality]

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 Gulf Oil Corporation, Gulf 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 Gulf Oil Corporation in obtaining a suitable order pursuant to such application.

X

[Enforcement and Compliance]

For the purpose of securing compliance with this Superseding Final Judgment and the Final Judgment dated November 14, 1960 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 Gulf Oil Corporation 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 Gulf Oil Corporation, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Gulf Oil Corporation, including the records and documents of its subsidiaries to the extent that such records and documents are held to be under the control of Gulf Oil Corporation relating to any matters contained in this Superseding Final Judgment and the Final Judgment dated November 14, 1960, and (2) to interview regarding any such matters, at such office, officers or employees of Gulf, who may be advised and represented by counsel, subject to the reasonable convenience of such officers and employees and that of Gulf Oil Corporation 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 Gulf, on the part of the Government of such nation, and Gulf Oil Corporation shall, upon such request of the Department of Justice, submit such reports in writing to it with respect to matters contained in this Superseding Final Judgment and the Final Judgment dated November 14, 1960 as may from time to time be necessary to the enforcement of this Superseding Final Judgment and the Final Judgment dated November 14, 1960.

No information obtained by the means provided in this Section X 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 purpose of securing compliance with this Superseding Final Judgment and the Final Judgment dated November 14, 1960 or as otherwise required by law.

XI

[*Effective Period*]

The Final Judgment entered herein on November 14, 1960 has been in full force and effect from the date of its entry until the date of entry of this Superseding Final Judgment. This Superseding 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 except that it shall constitute a bar and an estoppel to plaintiff from instituting and prosecuting against Gulf, or against its directors, officers, agents, servants or employees when acting in such capacity, any proceeding asserting any claim or charge heretofore made by plaintiff in the complaint or otherwise in this action.

XII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties to this Superseding 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 Superseding Final Judgment and the Final Judgment dated November 14, 1960, 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.