Competition Tribunal Tribunal de la Concurrence

CT-1989-003 – Doc # 397c

IN THE MATTER OF an application by the Director of Investigation and Research under sections 92 and 105 of the *Competition Act*, R.S.C., *1985*, c. C-34, as amended;

AND IN THE MATTER OF the acquisition by Imperial Oil Limited of the shares of Texaco Canada Inc.

B E T W E E N

Director of Investigation and Research
Applicant

and

Imperial Oil Limited
Respondent

and

Attorney General of Quebec
Beacon Hill Service (2000) Ltd.
Atlantic Refining and Marketing Employees Association
And Atlantic Oilworkers Union Local 1
Consumers' Association of Canada
Pioneer Petroleums
Claude Harnois Inc.
Barron Hunter Hargrave Strategic Resources Inc.
Attorney General for Newfoundland and Labrador
Petroles Ronoco Inc.
The City of Victoria
Lyn-Den Distributors
Banff Bulk Fuels Ltd.
Texaco Retail Council, Halifax-Dartmouth Metropolitan Area
Cook's Oil Company Limited
Intervenors

CONSENT ORDER

Dates of Hearing:

October 16 - November 10, and December **7,** 1989

Presiding Judicial Member:

The Honourable Madame Justice Barbara J. Reed

Lay Members:

Dr. Frank Roseman
Madame Marie-H6lSne Sarrazin

Counsel for the Applicant:

The Director of Investigation and Research

George N. Addy
Janet Johnston

Counsel for the Respondent:

Imperial Oil Limited

John F. Howard, **Q.C.**
John J. Quinn
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Counsel for the Intervenors:

(a) Attorney General of Quebec

Yves Bériault
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(b) Atlantic Refining and Marketing Employees Association and Atlantic Oilworkers Union Local I

Ronald **A.** Pink

(c) Consumers' Association of Canada

M. James O'Grady, Q.C.
Katherine Young

(d) Pioneer Petroleums

Sandra J. Simpson

(e) Claude Harnois Inc.

Jean-Robert Laporte

(f) Barron Hunter Hargrave Strategic Resources Ltd.

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(g) Attorney General for Newfoundland and Labrador

B. Gale Welsh

(h) Pétroles Ronoco Inc.

Jean Lemoine

(i) Lyn-Den Distributors

David G. Newrnan
Thomas W. Turner

(j) Banff Bulk Fuels Ltd.

Philip G. Lister

(k) Texaco Retail Council, Halifax-Dartmouth Metropolitan Area

Ronald A. Pink

(l) Cook's Oil Company Limited

Ronald **A.** Pink

Representatives for the Intervenors:

(a) Beacon Hill Service (2000) Ltd.

E.F. Anthony Merchant

(b) The City of Victoria

John Brewin, M.P.

COMPETITION TRIBUNAL
CONSENT ORDER

The Director of Investigation and Research

v.

Imperial Oil Limited

UPON the application of the Director of Investigation and Research (the "Applicant") pursuant to sections 92 and 105 of the Competition Act, R.S.C., 1985, c. C-34, as amended (the "Act") and pursuant to a Notice of Application, dated June 29, 1989, for a Consent Order directing the divestiture of assets including certain assets acquired by Imperial Oil Limited ("Imperial") by virtue of its acquisition of all of the outstanding shares of Texaco Canada Inc. ("Texaco") and other remedies specified in the draft Consent Order;

AND UPON CONSIDERING the Notice of Application, the Affidavits filed herein, the Consent Order Impact Statement and Consent of the Parties filed herein;

AND IT BEING UNDERSTOOD by the parties hereto that nothing in this Order shall be taken as an admission by the respondent of any facts or law which would support the allegation that the acquisition prevents or lessens, or is likely to prevent or lessen, competition substantially;

THIS TRIBUNAL HEREBY ORDERS THAT:

Purpose

1. The purpose of this Order is to maintain the continued competitive presence of viable petroleum refining, wholesaling and retailing assets such that the acquisition, direct or indirect, by Imperial, by purchase of shares, of control over the business of Texaco will not prevent or lessen, or be likely to prevent or lessen, competition substantially in the downstream sector of the Canadian petroleum industry.

Definitions

2. For purposes of this Order the following terms will have the indicated meaning:

- "Atlantic Region" means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland and Labrador.

- "Company owned service station" means a retail service station outlet owned or leased by Imperial or Texaco which may be leased to a dealer who operates the business with whom either Imperial or Texaco has contractual relations with respect to the supply of gasoline and the use of proprietary trademarks.

- "Eastern Passage Refinery" means the Texaco refinery in Dartmouth and the Dartmouth marine terminal.

- "Dealer owned service station" means a retail service station owned by a party other than Imperial or Texaco with whom either Imperial or Texaco or a Texaco wholesale marketer has contractual relations with respect to the supply of gasoline or the use of proprietary trademarks.

- "Director" means the officer appointed under section **7** of the Competition Act, R.S.C., 1985, c. C-34, as amended.

- "Gasoline" means a volatile refined petroleum liquid hydrocarbon which, by its composition, is suitable for use as a fuel in internal combustion engines to power motor vehicles which is generally available in three grades of motor gasoline generally recognized as regular leaded, regular unleaded, and premium unleaded.

- "Imperial" means Imperial Oil Limited and all subsidiaries and affiliates operating in Canada, including its downstream division Esso Petroleum Canada.

- "Service station" means a site where branded or unbranded gasoline is offered for sale to the general public which offering is frequently combined with other offerings to the public.

- "Terminal" means an intermediate storage and product distribution facility serving large customers and secondary bulk plants which normally has large storage capacity for marine, rail or pipeline receipts of refined petroleum products.

- "Tribunal" means the Competition Tribunal.

- "Texaco" means Texaco Canada Inc. and any of its subsidiaries.

- "Reciprocal Supply Agreement" means an arrangement whereby refiners exchange petroleum products in different geographic locations on a volume for volume basis.

General Conditions

3. Where pursuant to the terms of this Order, Imperial is required to divest assets, it shall, in the case of:

(i) a company owned service station, sell the site or make lease arrangements in accordance with paragraph 33 hereof;

(ii) a dealer owned service station outside of the Atlantic Region, provide for the early termination, at the dealer's option on three months notice, of all contractual arrangements pertaining to the service station between the service station dealer and Imperial or Texaco or failing early termination, Imperial or Texaco shall not renew such contractual arrangements at the end of the initial term thereof;

(iii) a terminal owned by Imperial or Texaco, sell such terminal;

(iv) the Eastern Passage refinery, sell it save and except that Imperial, in accordance with paragraph 13 hereof, may continue any reciprocal supply agreement based at the Eastern Passage refinery.

4. All assets to be divested pursuant to the terms of this Order will be offered for sale on a going-concern basis.

5. All divestitures provided for herein are subject to the prior approval of the Director who shall advise Imperial whether he approves of the divestiture not more than twenty-one (21) days following his being advised in writing by Imperial of all material information concerning the proposed divestiture including the identity of the proposed purchaser. For greater certainty, the Director's approval includes the method of divestiture.

6. The Director's approval may include, but is not limited to, a determination of the eligibility of prospective purchasers relative to the competitive impact of their acquiring any of the assets identified for divestiture in this Order.

7. Imperial may, subject to the Director's approval, stipulate as conditions of sale of the assets to be divested pursuant to this Order, conditions including the financial viability of prospective purchasers, environmental undertakings or post-divestiture employment undertakings.

8. Where the Director, having considered **a** proposed divestiture transaction and the stated purpose of this Order, does not approve a divestiture transaction, Imperial may apply to the Tribunal for final determination which determination may include a variation to the lists of assets identified for divestiture in the Schedules annexed hereto.

9. Imperial shall, for a period of ten (10) years from the date of this Order, provide notice to the Director prior to acquiring, directly or indirectly, other than in the ordinary course of business, any assets in Canada which are being used in the refining, wholesaling or retailing of petroleum products.

10. (a) Except where provided otherwise in this Order, all divestitures which involve a sale or lease shall be completed within twelve (12) months from the date of the Order; however, on consent of the Director, such period may be extended for such period as the Director considers appropriate in the circumstances. It is the general intention of the parties that divestitures are to be completed within the twelve (12) month period and that extensions will be sought only on a limited basis, including but not limited to, instances where more time is required to remedy environmental requirements prior to the completion of the divestiture transaction.

(b) If any of the divestitures required by this Order are not completed within the periods required under this Order, except for the divestiture of terminals as provided for in paragraph 18, Imperial shall forthwith transfer the authority to dispose of the assets to a trustee to be appointed with the approval of the Director ("Trustee") for the sale of the assets on the following terms ("Trustee Sale"):

(i) the assets shall be divested by the Trustee within six (6) months of the Trustee's appointment at the most favorable price and on the most favorable terms and conditions available;

(ii) the Trustee Sale shall be accomplished on terms acceptable to the Director;

(iii) the Trustee Sale shall be considered to have been completed when the purchaser has signed a binding agreement that has been approved by the Director pursuant to subparagraph (vii);

(iv) the Trustee shall have the full power and authority to effect the Trustee Sale and shall use all reasonable efforts to accomplish it;

(v) Imperial shall use its best efforts to assist the Trustee in accomplishing the Trustee Sale. The Trustee shall have full and complete access to the personnel, books, records, and facilities of the assets to be divested, and Imperial shall provide to the Trustee such financial or other information relevant to the assets as the Trustee may request. Imperial shall take no action to interfere with or impede the Trustee's accomplishment of the Trustee Sale;

(vi) after appointment, the Trustee shall file monthly reports with the Director and Imperial setting forth the Trustee's efforts to accomplish the Trustee Sale;

(vii) no Trustee Sale shall be made without the Director's approval, who shall advise the Trustee and Imperial whether he approves of any proposed Trustee Sale not later than twenty-one (21) days following his being advised in writing by the Trustee of full information concerning the proposed Trustee Sale including the identity of the proposed purchaser; and

(viii) the Trustee Sale shall be conducted at Imperial's expense and the proceeds paid to Imperial.

(c) Where any assets remain unsold after the periods provided for in this Order, the Director or Imperial, subject to any other provisions of this Order, may apply to the Tribunal for a variation of the Schedules annexed hereto.

11. Except as provided in paragraphs 28 to 31, nothing in this Order shall limit the rights available to the Director or any person under section 106 of the Act.

Atlantic

12. In the Atlantic Region, Imperial shall divest all of the following assets (which are more fully described in Schedules 1, 2, 3, and 4):

(a) the Eastern Passage refinery together with the Ultramar/Texaco reciprocal supply agreement identified in Schedule 1;

(b) terminals located at Saint John (New Brunswick), Chatham/Newcastle (New Brunswick), Charlottetown (Prince Edward Island), and Long Ponds (Newfoundland) identified in Schedule 2;

(c) all the Texaco company owned service stations; being the 86 which are identified in Confidential Schedule 3;

(d) all of the Texaco dealer-owned service station agreements, being the 138 which are identified in Confidential Schedule 4; and

(e) all of the shares of Great Eastern Oil Limited now owned by Texaco; and

(f) all bulk plants, vehicles, equipment and all contracts, customer lists, and credit card lists, which may be associated with any of the assets detailed in (a), (b), (c), or (d) above.

13. In the event that the purchaser of the Eastern Passage refinery approved by the Director does not wish to assume the obligations of the Ultramar/Texaco reciprocal supply agreement, Imperial may assume and fulfill Texaco's obligations as provided therein using its facilities at the existing Imperial refinery in Dartmouth, Nova Scotia.

14. The divestiture of the assets in the Atlantic Region shall, to the extent reasonable and possible, be to a single purchaser who, in the Director's opinion, has the intention and the ability to become a vigorous and effective competitor in the Atlantic Region. In

exercising his rights of approval under this Order and in accordance with the provisions of the Act, the Director, in addition to the considerations with respect to acquisitions provided for in the Act, will have regard for:

(i) the financial soundness of the proposed purchaser of the assets and their continued operation;

(ii) the business plans of the proposed purchaser for continued maintenance and operation of the assets; and

(iii) the availability to the proposed purchaser of technical and marketing expertise to continue operation of the assets on an integrated basis.

Terminals

15. In addition to the terminals identified in paragraph 12(b), Imperial shall divest all terminals identified in Schedule 5.

16. Imperial may, as a condition of sale of the terminals located in Charlottetown (Prince Edward Island), Sault Ste. Marie (Ontario) and Victoria (British Columbia) arrange with the purchasers to lease storage space (terminalling rights) at the divested terminals. The requirement by Imperial for storage as a condition of sale shall not exceed *25%* of the throughput capacity of the terminal being divested and shall not be for a period exceeding three (3) years from the date of sale. It is understood that the purpose of this provision is to provide Imperial sufficient time to expand or construct new terminal storage facilities at these locations. In Sudbury (Ontario), Imperial may elect to divest either of the Imperial or Texaco terminal facilities and such election and divestiture shall be made no later than eighteen (18) months from the date of this Order or such longer period as the Director considers appropriate.

17. All divestitures of terminals identified in Schedules 2 and 5 shall, to the extent reasonable and possible, and subject to the Director's approval, be made to a purchaser

who is likely to ensure the continued operation of the facility including the import of refined petroleum products into Canada.

18. (a) If after the expiry of a reasonable period of time, no purchaser has expressed an interest to purchase any of the terminals identified in Schedules *2* and *5,* Imperial, on consent of the Director, may close or dismantle any such terminal.

(b) For purposes of subparagraph (a), a "reasonable period of time" means a maximum of eighteen (18) months for the terminal to be divested in Sudbury and, for the remaining terminals to be divested, a maximum of twelve (12) months from the date of this Order.

(c) Where in the Director's opinion Imperial has not exercised due diligence in relation to the divestiture of any terminals identified in Schedules 2 or 5, the Director may direct Imperial to place any unsold terminals in the hands of a trustee who will offer them for sale and if any such terminal remains unsold it may be closed or dismantled.

Supply – Ontario/Quebec

19. For purposes of paragraphs 20 to 31 of this Order:

(a) "independent marketers" shall mean wholesalers, wholesaler-retailers and retailers who are in the business of reselling gasoline in Ontario and Quebec, who neither own nor are affiliated (as defined in the Act) with any person who owns a refinery; and

(b) "supply year" shall mean each successive twelve (12) month period commencing with the first calendar month after the date of this Order.

20. Imperial shall, for a period of seven (7) years from the first day of the calendar month following the date of this Order, sell to independent marketers, directly or indirectly, from its Sarnia and Nanticoke refineries at Imperial wholesale supply points in

Ontario and Quebec the volume of wholesale supply of gasoline as determined in accordance with paragraphs 21 to 31 of this Order. For greater certainty, the obligation provided for herein may be satisfied, in whole or in part, by reciprocal supply agreements with refiners in Quebec or by gasoline obtained by Imperial from other sources.

21. The volume of gasoline to be sold under the terms of paragraph 20 (hereinafter "volume required to be sold to independent marketers") shall be determined as follows:

(1) The volume required to be sold to independent marketers in the first supply year is 1552 million litres plus the percentage increase in the previous year in industry demand in Ontario and Quebec for gasoline as determined from publicly available data acceptable to Imperial and the Director. 1552 million litres is the 1988 volume of supply of gasoline to independent marketers in Ontario and Quebec from Imperial's Nanticoke and Sarnia refineries increased by the estimated percentage increase in industry gasoline demand in Ontario and Quebec in 1989.

(2) The volume required to be sold to independent marketers in each subsequent year shall be increased or decreased by the percentage increase or decrease in the previous year in industry demand in Ontario and Quebec for gasoline as determined from publicly available data acceptable to Imperial and the Director.

(3) The maximum volume required to be sold to independent marketers in a supply year shall not exceed the volume represented by 26.4% of the existing total gasoline refining capacity which will result from the combined operations of the Imperial Sarnia and Nanticoke refineries excluding increased capacity resulting from investment by Imperial after the date of this Order.

(4) Imperial shall not be in breach of this Order if in any supply year its sales to independents fall short of the volume of gasoline required to be sold under this Order, providing Imperial can demonstrate to the Director that such shortfall was the result of underliftings by independents, which underliftings could not reasonably have been

anticipated and which shortfall shall not in any event exceed 10% of the volume required to be sold to independent marketers pursuant to the other provisions of this Order.

22. (1) Subject to subparagraph 22(2), all sales by Imperial, whether as part of existing or new agreements in respect of all sales and processing or other supply arrangements with the independent marketers, in any year following the issuance of the Order, shall be added to determine if the volume required to be sold to independent marketers for that year has been fully purchased.

(2) For the purpose of calculating the volume of gasoline sold by Imperial to independent marketers in any supply year, no account shall be taken of any sales of gasoline to formerly branded Esso or Texaco service stations who choose to buy from Imperial on an unbranded basis pursuant to paragraphs 33 and 34.

23. The volume required to be sold to independent marketers of gasoline shall be comprised of the grades and quality sold by Imperial to independent marketers in the grade mix that is in the approximate proportions to the grade mix being sold by Imperial at the retail level in Ontario and Quebec and supplied directly or indirectly from its Sarnia and Nanticoke refineries.

24. Nothing in paragraphs 20 to 27 shall require Imperial to supply gasoline to independent marketers on terms which are commercially unreasonable. For the purpose of this paragraph, Imperial shall be required to satisfy the Director that the terms sought by an independent marketer are commercially unreasonable.

25. The term of supply agreements entered into pursuant to the provisions of this Order may vary from one (1) to five (5) years, or any combination thereof, at the purchaser's option. Imperial is not obligated pursuant to the terms of paragraphs 20 to 27 to enter into supply arrangements after the expiry of seven (7) years from the first day of the calendar month following the date of this Order. Imperial is not obligated to supply,

pursuant to the terms of paragraphs 20 to 27, after ten (10) years from the date of this Order.

26. Nothing in paragraphs 20 to 27 shall be deemed to restrict or limit, in any manner, the ability of Imperial and an independent marketer to enter into processing or other supply arrangements not provided for therein, save and except that Imperial shall remain bound by the prohibitions provided for in paragraph 35 for the periods specified therein.

27. Nothing in paragraphs 20 to 31 shall be deemed to require Imperial to supply an independent marketer who is in default as a result of non-payment under any existing processing or other supply arrangement with Imperial or Texaco.

28. For a period of up to three (3) years from the date of this Order, the Director may apply to the Tribunal for a variation of the terms of paragraphs 20 to 27 where there has been a material change in circumstances such that, in his opinion, the supply assurance of gasoline to independent marketers has been rendered ineffective, or, where the Director determines that such a variation would not restore the effectiveness of the supply assurance provided for in paragraphs 20 to 27, he may apply to the Tribunal for any other remedy under the Act including those provided for in section 92.

29. The Director, after the third year from the date of this Order, may, where there has been a material change in circumstances such that, in his opinion, the supply assurance of gasoline to independent marketers provided for in paragraphs 20 to 27 has been rendered ineffective, apply to the Tribunal for a variation of the terms of the said paragraphs. The Director's rights to seek variation under the terms of this paragraph shall be limited to seeking a variation of the terms of paragraphs 20 to 27 other than the seven (7) and ten (10) year terms provided for therein.

30. No application may be brought pursuant to paragraphs 28 or 29 unless the adverse impact on the effectiveness of the provisions of paragraphs 20 to 27, given the material

change in circumstances, is attributable, in whole or in part, to the effects of the acquisition of Texaco by Imperial.

31. For purposes of paragraphs 28, 29 and 30, "material change in circumstances" shall include, but is not limited to, the restriction, by law or otherwise, of imports of gasoline into Ontario and Quebec, or a significant reduction of gasoline refining capacity in Ontario and Quebec.

32. (a) Imperial shall divest the retail outlets identified in Confidential Schedules 6, 7 and 8.

(b) Imperial shall divest a further 68 retail outlets to those already referred to in this Order in the Province of Quebec, which outlets shall be identified by Imperial and notice thereof shall be provided to the Director within twelve (12) months from the issuance of this Order. The additional retail outlets identified shall be divested in accordance with the provisions of this Order after approval by the Director. The divestiture of the additional 68 outlets identified shall be subject to the terms of this Order.

33. Imperial shall provide, by sale or lease, for the continued operation of at least half (112) of the retail outlets listed in Schedule 8. Any lease entered into by Imperial pursuant to the terms of this paragraph shall be for a period of at least ten (10) years at lease rates prevailing in the market at the time. Where any retail outlets are leased pursuant to this provision Imperial shall, at the option of the tenant, offer unbranded gasoline supply for the duration of the lease.

34. The lessees of company owned service stations identified for divestiture in Schedule 6 and the dealers at dealer owned service stations identified for divestiture in Schedule 7 may, at their option, elect to continue or terminate on three (3) months notice their existing contractual arrangements with Imperial or Texaco for branded supply. Imperial shall offer unbranded gasoline supply to the dealers referred to in Schedule 7 for a maximum period of five (5) years from the date of divestiture or the date of this Order,

whichever period is later. For greater certainty for the purposes herein the date of divestiture means the expiration of existing contractual arrangements or early termination of such arrangements at the option of the dealers.

35. Imperial is prohibited from offering or entering into a branded supply agreement for gasoline with, and from re-acquiring any retail outlet identified in Schedules 6, 7 and 8 for a period of five (5) years from the date of divestiture as defined in paragraph 34 above or the date of this Order whichever is later.

Notice

36. When notice is required to be given pursuant to any of the terms of this Order, it shall be considered given if dispatched by registered letter

TO: Director of Investigation and Research
Bureau of Competition Policy
21st floor, Place du Portage, Phase I
50 Victoria Street
Hull, Quebec
KIA OC9

AND TO: Imperial Oil Limited
111 St. Clair Ave. West
Toronto, Ontario
M5W 2J8
Attention: Corporate Secretary

Jurisdiction

37. The Tribunal shall retain jurisdiction in this matter for purposes of addressing any matters in this Order where specific reference is made to the Tribunal, for purposes of variation and for any other purposes provided for in the Act.

DATED at Ottawa, this 6th day of February, 1990.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) B. Reed
B. Reed

Schedule 1 - Description of Eastern Passage Refinery

Schedule 2 - Description of Atlantic terminals to be divested

Schedule 3 - Description of Atlantic company owned service stations to be divested (CONFIDENTIAL)

Schedule 4 - Description of Atlantic dealer owned service stations to be divested (CONFIDENTIAL)

Schedule 5 - Description of Ontario/Quebec/Western Canada terminals to be divested

Schedule 6 - Description of Ontario/Quebec/Western Canada company owned service station outlets to be divested (CONFIDENTIAL)

Schedule **7** - Description of Ontario/Quebec/Western Canada dealer owned service stations outlets to be divested (CONFIDENTIAL)

Schedule 8 - Description of company owned service station outlets subject to 10 year lease provision (CONFIDENTIAL)

SCHEDULE 1

EASTERN PASSAGE REFINERY

The refinery is located 4.5 miles south of Halifax, Nova Scotia, on Halifax Harbour. It is situated on 454 acres of owned land plus a 29 acre water lot.

The refinery, which can process 20,000 barrels per calendar day of crude oil, comes complete with a 2 berth dock for the marine receipt of crude oil and petroleum products as well as a sales terminal for the shipping of petroleum products by tank truck and tank car.

Tankage at the refinery enables it to store up to 1.1 million barrels of crude oil, 0.3 million barrels of heavy fuel oil, and 1.4 million barrels of gasoline, heating oil and diesel fuel. The refinery is equipped with its own waste water treatment plant, compressed air facilities, steam generators, electrical distribution system, firewater and cooling water circuits, and laboratory. In addition there are numerous other auxiliary pieces of equipment for the treating, handling, movement, and storage of various intermediate streams, additives and products.

There is one major, long term purchase/sale agreement of equivalent volumes entered into with Ultramar Canada which expires on December 31, 1998. The agreement is assignable under certain conditions. It provides for the sale and delivery of 370,000 cubic meters per year of petroleum products by Texaco to Ultramar at Eastern Passage refinery in exchange for the sale and delivery of equivalent volumes by Ultramar to Texaco at Ultramar's Montreal, Quebec facilities. In addition, there are numerous other small, short term purchase/sale, throughput, and exchange agreements in place with various parties to facilitate the movement of refinery products.

SCHEDULE 2

ATLANTIC CANADA TERMINALS

There are 4 terminals in the Atlantic provinces in addition to the terminal operation at Eastern Passage refinery. They are:

Saint John. New Brunswick - 2294 Bay Side Drive

The terminal is situated on approximately 5 acres of land leased from Canada Ports Corporation. It is located on the east side of Courtenay Bay, Saint John Harbour.

A pipeline connection to the Irving Oil Company dock allows the marine receipt of petroleum products. Products are loaded for shipment by tank truck at 2 top loading racks equipped with 5 arms for gasoline and 5 arms for distillates. There are 6 storage tanks, one of which is out of service. Tankage permits storage of up to 140,000 barrels of product. The site also contains an office/warehouse building (120' x 50'), plus the necessary pipelines, pumps, instrumentation, and other auxiliary equipment.

Chatham. New Brunswick - 152 Upper Water

The terminal is situated on approximately 14 acres of owned land. It is located on the south shore of the Miramichi River.

A pipeline connection to a dock jointly owned with Ultramar Canada permits marine receipt of petroleum products. Products are loaded for shipment by tank truck at 1 top loading rack equipped with 3 arms for gasoline and 2 arms for distillates. There are 5 storage tanks which permit storage of up to 220,000 barrels of product. The site also contains an office/warehouse building (50' x 60'), plus the necessary pipelines, pumps, instrumentation, and other auxiliary equipment.

Charlottetown. Prince Edward Island - 1176 Lower Great George

The terminal is situated on approximately 7.8 acres of owned land. It is located on Charlottetown Harbour with road access to Great George Street and Prince Street.
A pipeline connection to the 1 berth Texaco dock permits marine receipt of petroleum products. Products are loaded for shipment by tank truck at 1 top loading rack equipped with 3 arms for gasoline and 3 arms for distillates. There are **7** storage tanks which permit storage of up to 160,000 barrels of product. The site also contains an office/warehouse building (30' x 75'), plus the necessary pipelines, pumps, instrumentation, and other auxiliary equipment.

Lone Pond. Newfoundland - 103 South Side Road

The terminal is situated on approximately 4.8 acres of owned land. It is located on the east side of Conception Bay, about 13 miles from the city of St. John's.

A pipeline connection to a 2 berth dock owned by Canada Ports Corporation permits the marine receipt of petroleum products. Products are loaded for shipment by tank truck at 2 top loading racks equipped with 3 arms for motor gasoline, 3 arms for distillates, 1 arm for aviation gasoline, and 1 arm for jet fuel. There are 8 storage tanks which permit the storage of up to 60,000 barrels of motor gasoline, 60,000 barrels of distillates, 6,500 barrels of aviation gasoline and 14,000 barrels of jet fuel. The site also contains an office/warehouse building (50' x 607, plus the necessary pipelines, pumps, instrumentation and other auxiliary equipment.

The terminal is currently operated under contract by Great Eastern Oil.

SCHEDULE 3

DESCRIPTION OF

ATLANTIC COMPANY OWNED SERVICE STATIONS

TO BE DIVESTED

(CONFIDENTIAL)

SCHEDULE 4

DESCRTPTION OF

ATLANTIC DEALER OWNED SERVICE STATIONS

TO BE DIVESTED

(CONFIDENTIAL)

SCHEDULE 5

DESCRIPTION OF

ONTARIO/QUEBEC/WESTERN CANADA

TERMINALS TO BE DIVESTED

There are 9 product storage facilities west of the Atlantic provinces that will be divested. The Baie Comeau facility that will be divested is the Imperial Oil Limited facility. At Sudbury, either the Texaco terminal or the Imperial Oil agency plant will be divested. The facilities are:

Baie Comeau, Quebec (E) - 9 R. Maritime

The terminal is situated on approximately 2 acres of land leased from the Quebec and Ontario Paper Company. It is located on the west side of English Bay.

A pipeline connection to the dock owned by Transport Canada permits marine receipts of petroleum products. The pipeline section is leased from the owner, Ultramar Canada. Products are loaded for shipment by tank truck at 1 top loading rack equipped with 2 arms for gasoline and 2 arms for distillates. There are **7** storage tanks which permit the storage of up to 80,000 barrels of product. The site also contains an office/warehouse building (60' x 100') plus the necessary piping, pumps, instrumentation, and other auxiliary equipment.

Rimouski. Quebec - 15 Rue Goulet

The terminal is situated on approximately 6.3 acres of owned land. It is located close to the St. Lawrence River and has road access onto Goulet Street.

A pipeline connection to a 2 berth dock owned by Transport Canada permits marine receipt of petroleum products. Products are loaded for shipment by tank truck at 1 top loading rack equipped with 4 arms for gasoline and 6 arms for distillates. There are 8 storage tanks which permit storage of up to 150,000 barrels of product. The site also contains an office/warehouse building (30' x 80'), a rail spur for tank cars, plus the necessary pipelines, pumps, and instrumentation.

Ottawa. Ontario - Merivale Road, Nepean

The terminal is situated on approximately 18.7 acres of owned land. It is located on the Hunt Club Road extension which joins the Merivale Highway.

Products are received by pipeline via a lateral which is connected to Trans-Northern Pipeline. Products are loaded for shipment by tank truck at 2 top loading and 1 bottom loading racks equipped with 8 arms for gasoline and 9 arms for distillates. There are 9 storage tanks which permit the storage of up to 230,000 barrels of products. The site also contains an office/warehouse (88' x 131'), a rail spur for tank cars, plus the necessary piping, pumps and instrumentation.

Sault Ste. Marie. Ontario - 1010 McNabb Street

The terminal is situated on approximately 13.3 acres of owned land. It is located on the north shore of St. Mary's River with road access onto McNabb Street.

A pipeline connection top a dock owned by Ports Canada Corporation permits seasonal marine receipts of petroleum products. The section of pipeline from the dock to Imperial Oil Limited terminal is owned by Imperial. The section from the Imperial terminal to the Texaco terminal is owned by Texaco on a right of way. Products are loaded for shipment by tank truck at 1 top loading rack equipped with 3 arms for gasoline and 6 arms for distillates. There are 6 storage tanks which permit the storage of up to 290,000 barrels of products. The site also contains an office/warehouse building (102' x 50'), a rail spur for tank cars, plus the necessary piping, pumps, and instrumentation.

Thunder Bay, Ontario - McKellar Island No. 2

The terminal is situated on approximately 14 acres of owned land. It is located on the Lakehead Harbour with road access onto Arthur Street.

A pipeline connection to the Texaco dock permits the marine receipt of petroleum products. Products can also be received and unloaded via tank car. Products are loaded for shipment by tank truck at 1 top loading rack with 3 arms for gasoline and 3 arms for distillates, as well as by tank car at 1 top loading rack equipped with 8 arms for gasoline and 8 arms for distillates. There are 7 storage tanks which permit the storage of up to 190,000 barrels of products. The site also contains an office/warehouse (60' x 102') plus the necessary piping, pumps, instrumentation, and other auxiliary equipment.

Sudbury, Ontario (Texaco) - 1160 Kelly Lake Road

The terminal is situated on approximately 2.6 acres of owned land.

Products are received by tank car and unloaded at a tank car unloading rack. Products are loaded for shipment by tank truck at 2 top loading racks equipped with 3 arms for motor gasoline, 6 arms for distillates, and 2 arms for aviation gasoline. There are 8 storage tanks which permit the storage of up to 24,000 barrels of products. The site also contains an office/warehouse building (9600 sq. ft.) plus the necessary pipelines, pumps, instrumentation, and other auxiliary equipment.

The facility is operated by an Esso sales agent under contract.

Calgary, Alberta - 10326 Barlow Trail S.E.

This terminal is situated on approximately 27 acres of owned land.

Products are received by pipeline from the Alberta Products Pine Line. Products are loaded for shipment by tank truck at 2 top loading racks and 4 bottom loading racks equipped with 19 arms for gasoline and 10 arms for distillates. Products are also loaded for shipment by tank car at 2 top loading tank car racks equipped with 4 arms for gasoline and 4 arms for distillates. There are 11 storage tanks which permit the storage of up to 500,000 barrels of products. The site also contains an office building plus the necessary pipelines, pumps, instrumentation, and other auxiliary equipment.

<u>Victoria. British Columbia</u> - 120 Kingston Street

This terminal is situated on approximately 1 acre of owned land. It is located on Victoria Harbour and has road access to Kingston Street and St. Laurence Street.

A pipeline connection to the Texaco dock permits marine receipt of petroleum products. Products are loaded for shipment by tank truck at 1 top loading rack equipped with 6 arms for gasoline and 2 arms for distillates. There are 7 storage tanks which permit storage of up to 35,000 barrels of product. The site also contains an office building (43' x 307), a warehouse (54' x 51') plus the necessary pipelines, pumps, instrumentation, and other auxiliary equipment.

<u>Prince George. British Columbia</u> - BCR Yards

This facility is leased to a Wholesale Marketer. It is situated on approximately 1 acre of land leased from B.C. Rail. There are 9 tanks which permit storage of up to 3,500 barrels. There is a tank truck rack with 6 arms as well as an office building (20' x 20') and a warehouse (40' x 20').

SCHEDULE 6

DESCRIPTION OF

ONTARIOIOUEBECIWESTERN CANADA

COMPANY OWNED SERVICE STATION OUTLETS TO BE DIVESTED

(CONFIDENTLAL)

SCHEDULE 7

DESCRIPTION OF ONTARIOIOUEBECI WESTERN CANADA

DEALER OWNED SERVICE STATION OUTLETS

TO BE DIVESTED

(CONFIDENTIAL)

SCHEDULE 8

DESCRIPTION OF

COMPANY OWNED SERVICE STATION OUTLETS

SUBJECT TO 10-YEAR LEASE PROVISION

(CONFIDENTIAL)