

UNITED STATES INTERNATIONAL TRADE COMMISSION

**PORTABLE ELECTRIC TYPEWRITERS
FROM JAPAN**

**Determination of No Injury or Likelihood Thereof
in Investigation No. AA1921-145 Under the
Antidumping Act, 1921, as Amended**



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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United States International Trade Commission
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[AA1921-145]

PORTABLE ELECTRIC TYPEWRITERS FROM JAPAN

Determination of No Injury or Likelihood Thereof
or Prevention of Establishment of an Industry

On March 19, 1975, the United States International Trade Commission received advice from the Department of the Treasury that portable electric typewriters from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 27, 1975, the Commission instituted investigation No. AA1921-145 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such portable electric typewriters into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register of April 3, 1975 (40 F.R. 15013). The hearing was held on May 13 and 14, 1975.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties which were accepted by the Commission, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined, by a vote of 3 to 2, 1/ that an industry in the United States is not being injured or is not likely to be injured, or is not prevented from being established, by reason of the importation of portable electric typewriters from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

1/ Chairman Leonard and Commissioners Bedell and Parker determined in the negative. Commissioner Moore determined that an industry is being injured or is prevented from being established. Commissioner Ablondi determined that an industry is being injured. Vice Chairman Minchew abstained from voting.

Statement of Reasons for Negative Determination of Chairman
Leonard and Commissioners Bedell and Parker

The Antidumping Act, 1921, as amended, requires that the U.S. International Trade Commission find two conditions satisfied before an affirmative determination can be made. First, there must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be prevented from being established. 1/ Second, such injury or likelihood of injury must be "by reason of" the importation into the United States of the class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

On the basis of the investigation, we have determined that an industry in the United States is not being or is not likely to be injured by reason of the importation of portable electric typewriters from Japan sold or likely to be sold at LTFV. Since we find that the first criterion for an affirmative determination is not satisfied, we do not need to consider the second criterion.

Industry

In this case the imported articles found to be sold at LTFV by the Treasury and the imported articles covered by the Commission's notice of investigation are portable electric typewriters. However, with regard to what is the industry most likely to be affected by the subject imported articles, we have considered whether that industry is, in the alternative, the facilities devoted to the production of all portable typewriters (both electric and manual) or the facilities devoted to the production of only portable electric typewriters. In

1/ We find that prevention of the establishment of an industry is not an issue in the instant case and will not be discussed further.

either instance the industry is the U.S. facilities of SCM Corporation, the sole U.S. producer of portable electric and portable manual typewriters.

Our determination in this case would be the same irrespective of whether we considered the U.S. industry to consist of the facilities used in the production of all portable typewriters or only portable electric typewriters.

No injury

It is acknowledged that imports of portable electric typewriters from Japan, sold at LTFV, obtained a significant share of the U.S. market for portable typewriters during the period of the Treasury investigation-- October 1973-March 1974. However, import penetration alone is not an adequate basis for determining injury. 1/ None of the other tests of injury applied in this case showed that an industry in the United States is being injured or is likely to be injured; to the contrary, they indicated that the domestic industry has prospered and is likely to continue to grow and expand notwithstanding the fact that it does not produce certain types of low end portable electric typewriters.

SCM Corporation, the sole U.S. producer of portable typewriters, 2/ reported that during the years 1972-74, its production, its domestic shipments, and its exports of all portable typewriters and of portable electric typewriters increased annually. This firm also reported increased employment and an increased number of man-hours worked in the production both of all portable typewriters and of portable electric typewriters in each of the years examined. In addition, the firm's net sales and net operating profit with respect to

1/ Chairman Leonard considers that import penetration indicates injury only when it is established that the penetration is at the expense of the domestic industry and causes lost sales.

2/ Royal Typewriter Co. discontinued the production of portable typewriters in the United States in May 1972.

both of the typewriter categories increased significantly in comparison with the previous year's results in fiscal years 1972, 1973, and 1974.

A comparison of the domestic industry's performance during the 6-month period in which the Treasury Department made its investigation (October 1973-March 1974) with its performance in the previous corresponding period (October 1972-March 1973) shows, with respect to each of the indexes of injury discussed in the previous paragraph, that the performance was better during the period of LTFV sales than in the earlier period.

We were unable to find any substantial evidence that the LTFV imports of portable electric typewriters resulted in the depression or suppression of the prices of the U.S. producer. Information on prices developed by the Commission showed that the U.S. producer's prices for portable typewriters increased throughout the period for which data were collected (January 1972-March 1975). Furthermore, wholesale price indexes published by the U.S. Bureau of Labor Statistics disclosed that changes in the price index for portable typewriters closely paralleled changes in the index for all office and store machines and equipment. This indicates that the factors influencing prices for office and store machines in general applied to portable typewriters and that the presence of LTFV imports of portable electric typewriters had no measurable impact on the U.S. producer's price for those articles or on the prices of all portable typewriters.

No likelihood of injury

Japanese imports of portable electric typewriters by quantity and as a share of the total U.S. market declined significantly in 1974 compared with

those in 1973 and again declined in the first quarter of 1975 compared with those in the first quarter of 1974. Furthermore, the margins by which Japanese imports have undersold domestically produced typewriters have been reduced as the average unit value of the Japanese imports increased from \$44.83 in 1972 to \$80.50 in 1974, or by 80 percent. As the Japanese producers have lost market share in the United States as a result of rapidly rising production costs in Japan and two devaluations of the dollar, they have met increasingly intense competition from the U.S. producer, SCM Corporation. That firm began large-scale marketing of typewriters featuring a patented cartridge-ribbon system in 1974. This is a highly desirable feature which will particularly benefit SCM in the sale of its higher priced typewriters.

Conclusion

We conclude, therefore, that an industry in the United States is not being or is not likely to be injured by reason of the importation of portable electric typewriters from Japan that are being, or are likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Statement of Reasons for the Affirmative Determination of
Commissioners Moore^{1/} and Ablondi

This is an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) to determine whether an industry in the United States is being or is likely to be injured or is prevented from being established by reason of the importation from Japan of portable electric typewriters which the Secretary of the Treasury has determined are being, or are likely to be, sold at less than fair value within the meaning of the act.

The Antidumping Act, 1921, as amended, requires that the Commission find two conditions satisfied before an affirmative determination can be made. First, there must be injury or likelihood of injury to an industry in the United States, or an industry in the United States must be prevented from being established. Second, such injury or likelihood of injury or prevention of establishment of an industry must be "by reason of" the importation into the United States of the class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV).

In its report No. 93-1298, the Committee on Finance of the Senate commented on these criteria, at page 179, as follows:

". . . the Act is primarily concerned with the situation in which the margin of dumping contributes to underselling the U.S. product in the domestic market, resulting in injury or likelihood of injury to a domestic industry. Such injury may be manifested by such indicators as suppression or depression of prices, loss of customers, and penetration of the U.S. market."

^{1/} Commissioner Moore concurs in the affirmative determination that an industry in the United States is being injured. Also, Commissioner Moore believes, based upon the evidence before the Commission, that a completely integrated industry is prevented from being established in the United States by reason of the importation of "a class or kind of foreign merchandise" (low-end portable electric typewriters from Japan) which the Treasury Department found to be sold in the United States at less than fair value.

The record in this case reveals that the domestic industry consists of one producer, the complainant. This firm, in 1957, became the first company to develop a portable electric typewriter for sale in the United States. Thereafter, the complainant consistently developed and improved its portable electric typewriter and concentrated its marketing policies on that product long before any other firm was able to develop a comparable product.

One of the largest United States producers of typewriters sought to develop a portable electric typewriter for sale in the United States, but for technical reasons was unsuccessful. The respondent importers readily admit that the complainant dominated this market for nearly a decade despite the continuing attempt by several other companies to develop and market a competing product. Finally, the competing domestic company abandoned its attempts to domestically produce a portable electric typewriter and began the importation of machines from Japan under its own brand name. This company, other United States firms, and foreign suppliers are now major importers of portable electric typewriters from Japan.

Admittedly unable to compete with the complainant on a performance basis, the importers turned to the avenue of price differential. As part of their attempt to compete with the complainant on the basis of price these importers engaged in LTFV sales. The record reveals that during the period of the Treasury investigation the LTFV sales accounted for virtually all (97 percent) of the sales of portable electric typewriters from Japan. In some cases, substantial percentages (even as high as 100 percent) of the amount of the price differential between the comparable domestic product and the imported item were accounted for by the margin of LTFV sales. Without this inducement of a lower price point,

the importers admit, they could not have been competitive. The record indicates that when the price differential between the domestic product and the imported product narrowed, the consumers, quite naturally, chose the superior machine, which, all parties apparently admit, was the domestically produced machine.

Primarily on the basis of underselling the domestic product and using LTFV margins to accomplish much of that underselling, the foreign suppliers were able to erode the domestic industry's previous market position. After five years, from 1969 through 1973, the imports achieved a market penetration of 37 percent. It was not until the filing of the dumping complaint in this case in early 1974 that their market penetration declined.

It is true that the instant case is somewhat unique in that the domestic producer continues to operate on a profitable basis despite the fact that it has clearly lost a considerable share of the market and consequently lost considerable sales.^{2/} Nevertheless, it is our opinion that the criteria for an affirmative determination, as outlined above, have been satisfied.

On the basis of this investigation, therefore, we determine that an industry in the United States is being injured by reason of the importation of portable electric typewriters from Japan, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

^{2/} Innovation helped the domestic producer maintain its market position. Without the addition of at least one innovative feature (the cartridge ribbon system) to its product, it is likely that the sales of the domestic producer would have shown a sharp decline.

Statement of Reasons for Abstention
of Vice Chairman Mitchew

The basic reason for my abstention is that upon close examination of the procedures used I realized that unintentionally different treatment was accorded the domestic industry and an importer with respect to the treatment of efforts to submit confidential data from Trendex, Inc. The domestic industry's counsel withdrew his Trendex data after questioning during the hearing of whether it could be accepted as a "confidential" exhibit. This occurred on May 13, 1975. The importer wrote a letter to the Commission on May 19, 1975, after the public hearing, marked "confidential" and enclosed Trendex data.

The Trendex material of the importer was retained and, in my opinion, used on a confidential-type basis by the Commission until June 18, 1975, when it was belatedly rejected as a "confidential" submission and returned to the importer.

There is no way of determining whether the Trendex data of the domestic industry and the importer were one and the same data, and the apparent, or possible, different treatment extended to the domestic industry and the importer attempts to supply Trendex data, in combination, offends my sense of fairness, especially since the material of the importer was available for a considerable period to the Commission.

On the basis of the foregoing, over which I have struggled greatly, I think that the proper course for me is to abstain from the vote. As the Commissioner who originally questioned the propriety of accepting Trendex data on a "confidential" basis, I accept and acknowledge a special responsibility to have been more diligent, and I shall strive to assure that the error herein described is not repeated.