UNITED STATES INTERNATIONAL TRADE COMMISSION

ELECTRIC GOLF CARS FROM POLAND

Determination of Injury
in Investigation No. AA1921-147 Under the
Antidumping Act, 1921, as Amended

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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[AA1921-147]

ELECTRIC GOLF CARS FROM POLAND

Determination of Injury

On June 16, 1975, the United States International Trade Commission received advice from the Department of the Treasury that electric golf cars from Poland 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 June 20, 1975, the Commission instituted investigation No. AA1921-147 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 electric golf cars 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 June 26, 1975 (40 F.R. 27079). The hearing was held on July 29 and 30, 1975.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, 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 5 to 1 (Commissioner Moore dissenting) that an industry in the United States is being injured by reason of the importation of electric golf cars from Poland that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Statement of Reasons for Affirmative Determination of Commissioners Leonard, Minchew, Bedell, and Parker 1/

In our opinion, an industry in the United States is being injured by reason of the importation into the United States of electric golf cars from Poland which are being, or are likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. The reasons in support of this determination are set forth below.

Injured industry

The imported articles found to be sold at LTFV by the Department of the Treasury and the imported articles covered by the Commission's notice of investigation in this proceeding are electric golf cars (units powered by electric storage batteries). However, in making the determination in this case, the industry we have concluded is being injured consists of the producing facilities in the United States devoted to the manufacture of gasoline golf cars (units powered by internal combustion engines) as well as electric golf cars. 2/ There are 13 producers of golf cars in the United States. Some of these producers make both gasoline and electric golf cars; the remaining producers make only electric golf cars. The domestic facilities used and many of the production processes involved are the same for both electric and gasoline golf cars. To say

1/ Commissioner Ablondi concurs in the result.

2/ See the discussion of industry in Lock-in Amplifiers and Parts Thereof from the United Kingdom, USITC Publication 736, p.4, July 1975.

there is an electric golf car industry separate and apart from the gasoline golf car industry would be to artificially and arbitrarily segment directly competitive articles made in integrated facilities in an integrated industry.

The LTFV imports

Treasury's LTFV determination is based upon an examination of all entries of electric golf cars imported from Poland during the 10-month period December 1973 through September 1974. Treasury found that 100 percent of the sales were made at LTFV and that the margins of dumping 1/ were substantial, exceeding 20 percent. Moreover, the Commission's investigation disclosed that these margins of dumping were in most instances large enough to account for the entire amount by which the LTFV imports undersold domestically produced golf cars.

Market penetration and lost sales

The first indication of injury to the golf car industry in the United States is that industry's lost sales reflected in the penetration of the U.S. market by the LTFV imports. Polish golf cars, which first entered the U.S. market in 1971, rapidly increased as a share of the U.S. market for all golf cars from zero percent in 1970 to 12 percent in 1974 and to 18 percent in January-June 1975. The number of units imported increased annually from 959 cars in 1971 to 6,897 cars in 1974; imports increased again during January-June 1975 when they were about 60 percent greater than during January-June 1974. The rapid increase in imports was accompanied by a leveling off of U.S. production of golf cars in 1974 and a precipitous decline in U.S. output during January-June 1975.

1/ The margins in this case were figured by determining the difference between the purchase price of the Polish golf cars and a constructed value based upon golf cars produced in Canada by the Marathon Golf Car Co.

The import penetration cited above occurred in the presence of a ready demand for golf cars. Golf courses, the purchasers of very nearly all golf cars, have a need and a desire for golf cars and are going to buy cars, regardless of their origin. The fact that they bought the substantial number of imported golf cars sold at LTFV indicated above meant that they did not buy domestic golf cars. There were virtually no other imports available to the U.S. market. Clearly, the market penetration by the LTFV imported merchandise meant lost sales to the domestic industry and, therefore, injury to the domestic industry.

Loss of profits

While lost sales of the magnitude indicated by the import penetration discussed above is sufficient to result in a determination of injury under the Antidumping Act, injury to the domestic golf car industry is also present in the form of reduced profits following not only as a result of the lost sales but more directly as a result of an inability to raise prices enough to cover sharply rising costs.

Golf cars imported from Poland have consistently undersold domestically produced cars by varying and usually significant margins. As indicated previously, the margins of dumping found in this case by Treasury were in most instances large enough to account for the entire amount by which LTFV imports undersold domestically produced golf cars. Such sales, in the face of a constant demand, necessarily had an adverse competitive impact on U.S. producers and affected their ability to relate

their selling prices more closely to the rapidly increasing costs of manufacturing during a period of great inflation in such costs. Domestic producers could not increase their prices in 1974 (after price controls had been lifted) and January-June 1975 to fully offset their increased costs without risking an additional loss of market share to LTFV imports.

Data obtained by the Commission from five large U.S. producers of golf cars, which firms account for the great bulk of total U.S. production, show that the aggregated net operating profits of these producers declined from about $4.8 million per year during 1971-73 to a net operating loss of $0.1 million in 1974 and a loss of $0.9 million for January-June 1975. Further, 1974 and January-June 1975 were marked by announcements that two large U.S. producers of golf cars would discontinue production of these articles. This drastic change in the profitability of the domestic producers is attributable in part to a loss of market share to LTFV imports and to an inability of the domestic producers to raise their prices sufficiently to cover higher costs and return a reasonable profit in the face of lower priced LTFV imports in the U.S. market.

Causation

Notwithstanding the effective distribution and service organization employed by the domestic industry, as well as the comparable quality of the imported and domestic golf cars, the imported Polish golf cars have made substantial inroads into the U.S. market. While a segment of the U.S. industry, i.e., gasoline golf car production, may well have been affected by the energy shortage in 1973 and 1974, and while there is other evidence that labor and management difficulties may have existed for some producers, nevertheless, the successful marketing of the imported golf cars is largely attributable to their significantly lower prices made possible by substantial dumping margins. Thus, the injury suffered by the domestic golf car industry in the form of a reduced share of the market and a declining profit position is "by reason of," as such phrase is used in the Antidumping Act, the importation of the golf cars from Poland sold at LTFV.

Conclusion

On the basis of the foregoing, an affirmative determination is required; an industry in the United States is being injured by reason of the importation into the United States of electric golf cars from Poland which are being, or are likely to be, sold at LTFV.

MINORITY VIEWS OF COMMISSIONER GEORGE M. MOORE

This case arises by reason of advice received by the U.S. International Trade Commission on June 16, 1975, from the Department of the Treasury that electric golf cars from Poland 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. Accordingly, on June 20, 1975, the Commission instituted an investigation as required by the Antidumping Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, 1/ by reason of the importation of such electric golf cars into the United States.

In order to make an affirmative determination under this Act the Commission has decided in a number of earlier cases that not only must it find that a U.S. industry is being or is likely to be injured, but that such injury must be by reason of the importation of certain less than fair value (LTFV) articles, which in this case are electric golf cars from Poland.

I agree with the majority that an industry in the United States (defined as the domestic facilities devoted to the production of electric and gasoline powered golf cars) is being injured. However, I do not agree that such injury is by reason of the importation of LTFV electric golf cars from Poland.

The evidence shows that the penetration of golf cars imported from Poland into the U.S. market has increased from 2 percent in 1971 to 12 percent (or from 1 to 6 percent when measured by value of imports) in

1/ Prevention of the establishment of an industry is not an issue in this case.

1974, the year in which the Treasury Department found LTFV sales. Nevertheless, in a number of antidumping cases, the Commission has decided that market penetration alone is insufficient to establish injury. 1/ Therefore, we must look further for a causal connection between the LTFV imports and injury to the U.S. industry.

Apparently, evidence of this causal link rests on the fact that the U.S. industry suffered a net loss of $103,000 in 1974 after experiencing net profits averaging over $4.8 million annually for the previous 3 years, while during the period 1971-74 imports increased from 959 cars to 6,897 cars. However, this evidence is misleading and only the opposite conclusion can be reached by an objective evaluation of the facts.

Golf car imports from Poland totaled 959 in 1971 when the U.S. industry experienced a net profit of $4.7 million. In 1972, these imports rose to 2,799 while the U.S. industry increased its net profit to $5.1 million. In 1973 imports of golf cars from Poland increased to 6,087, yet the U.S. industry maintained a profit of $4.6 million. In 1974 when the profits of the U.S. industry dived to a loss of $103,000, market penetration increased only 1 percent. Clearly, the increase of a mere 810 in imports of golf cars between 1973 and 1974 could not possibly have caused the U.S. industry to suffer a loss in net profits of $4,672,000. We must, therefore, look elsewhere for the causal link between LTFV imports and any injury suffered by the U.S. industry.

The complaining U.S. industry apparently asks for the best of both worlds. If, as the testimony of industry witnesses alleged, there were

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1/ e.g. Hand-Operated Plastic Pistol-Grip Liquid Sprayers from Japan,... Investigation N. AA1921-138..., TC publication 662, 1974.

LTFV sales of golf cars in the years prior to 1974, then the healthy net profits of the U.S. industry in those years (1971, 1972, and 1973) refute the contention that any injury was caused by increased market penetration of LTFV imports. However, if the absence of industry profits which first occurred in 1974 is proof of injury, then it is impossible to blame LTFV imports for such loss when the market penetration from 1973 to 1974 increased by only 1 percent or 810 golf cars.

Volume of sales by the domestic industry may provide some indication of injury. However, the annual sales figures do not support such a conclusion. In 1971 the total sales of electric and gasoline powered golf cars totaled 42,314. In 1972 these sales increased to 48,816. In 1973 such golf car sales increased to 51,968 and by 1974 the sales of golf cars by the U.S. industry had increased to 52,206 and if the sales figures for the first 6 months of 1975 are a basis for predicting this year's industry sales, they will exceed the 1974 sales volume. There was a reduction in the industry's (three producers) sales of gasoline powered golf cars during 1974 when there was a severe nationwide gasoline shortage which discouraged customers (golf courses) from purchasing or leasing such equipment. However, sales of gasoline powered golf cars recovered in the first 6 months of 1975 when they almost equaled total sales for the entire year of 1974. Thus, we must look further to find evidence that any injury to the U.S. industry was by reason of LTFV sales.

The U.S. industry increased the prices of its golf cars during the period of time examined by the Commission. These price increases varied between $50 and $250 per car and most occurred in 1974 and 1975 when most firms stated that these were the years they experienced greatest injury

from imports. However, the prices of the LTFV imported golf cars increased by $120 per car during the same period, which amount almost equaled the average LTFV margin found by the Department of the Treasury.

It is impossible to find any clear indication of price suppression or price depression by reason of LTFV imports based on the evidence secured by the Commission.

Thus we have a strange anomaly. We find an industry complaining of injury by reason of LTFV sales of imports; yet its sales have increased, it has increased its prices, and its employment has remained generally stable.

Other facts developed during the Commission's investigation which mitigate against a finding of injury to the U.S. industry by reason of less than fair value sales of imported golf cars from Poland are as follows:

1. The Commission was unable to substantiate allegations regarding sales lost by U.S. producers to LTFV imports.

2. Dealers of domestically produced golf cars who testified before the Commission stated that they would have to lower their prices between $100 and $250 in order to be price competitive with the LTFV imports. Thus the elimination of the less than fair value margin will not benefit the U.S. producers nor remove the problems of the U.S. industry.

3. Declines in industry profits in 1974 and 1975 were not caused by a decline in sales, but rather they were related to increases in direct and indirect costs.

4. The largest U.S. golf car producers increased prices which[11] resulted in increased sales in 1974 and 1975 by the U.S. industry.

5. Virtually all of the golf cars manufactured in the United States during the period 1971-75 were produced by the seven largest firms in the U.S. industry. Five of these producers continued to maintain their individual shares of the U.S. market while competing with imported golf cars.

6. Although the penetration into the domestic market by volume of imported golf cars was 12 percent in 1974, market penetration reached only a level of 6 percent in 1974 when measured by value of imports.

7. Harley-Davidson's recent difficulties with respect to its electric golf car operations were attributable to its inability to develop, and manufacture, a new electric golf car. The firm's failure to meet the schedule for the introduction of its new car, after its other electric model was discontinued, can in no way be attributed to LTFV imports.

8. The 14-week strike from June to September, 1974, at its golf car production facility in Milwaukee, was an important factor contributing to injury suffered by Harley-Davidson in that year. Otis Elevator Company's decision to terminate its golf car production in the latter part of 1974 was for reasons other than imports of golf cars.

9. Outboard Marine Corporation has announced that its golf car production will be terminated in December, 1975. The firm's decision to terminate its golf car production was unrelated to LTFV imports.

In view of the foregoing, I have concluded that an industry in the United States is not being, nor is likely to be injured by reason of the importation of golf cars from Poland sold in the United States at less than fair value. Therefore, I have made a negative determination in this case.

As a postscript, on behalf of the millions of patrons of "the ancient and honorable game" of golf, I am saddened by the decision of the majority. Not only do I believe it is in error, but I am chagrined by the thought that its probable result will be an increase in golf car fees at hundreds of golf courses throughout the land.