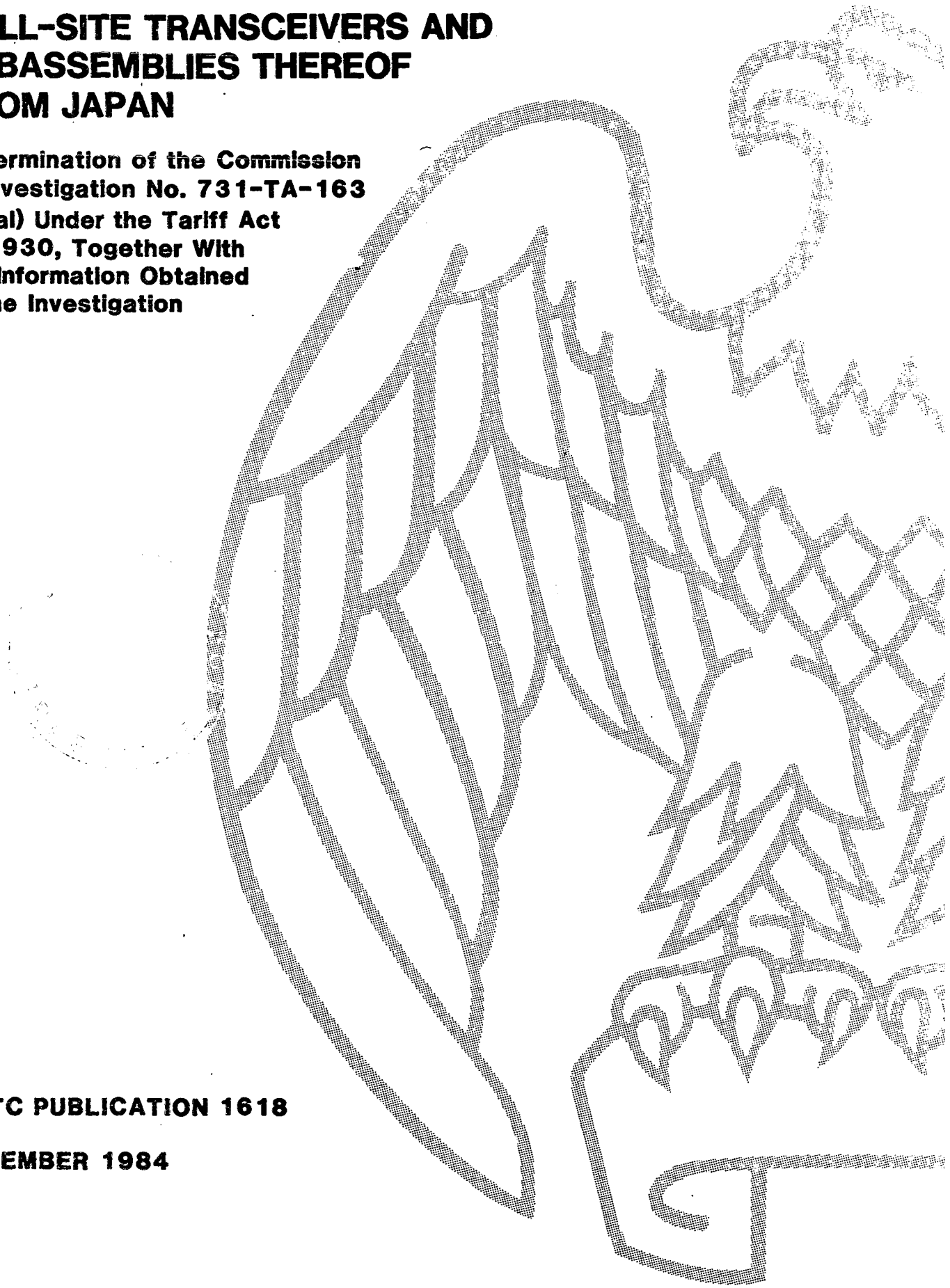
CELL-SITE TRANSCEIVERS AND SUBASSEMBLIES THEREOF FROM JAPAN

Determination of the Commission in Investigation No. 731-TA-163 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual firms may not be published and, therefore, has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 731-TA-163 (Final)

CELL-SITE TRANSCEIVERS AND SUBASSEMBLIES THEREOF FROM JAPAN

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, 2/ pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), that an industry in the United States is materially injured by reason of imports from Japan of cell-site transceivers and subassemblies thereof, provided for in item 685.29 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

The Commission further determines, pursuant to section 735(b)(4)(A) of the Act (19 U.S.C. § 1673d(b)(4)(A)), that the material injury is not by reason of massive imports to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the antidumping duty on imports of cell-site transceivers and subassemblies thereof from Japan retroactively. 3/

Background

The Commission instituted this investigation effective June 12, 1984, following a preliminary determination by the Department of Commerce that imports of the subject merchandise from Japan were being sold in the United States at LTFV within the meaning of section 731 of the Act (19 U.S.C. §

1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

2/ Vice Chairman Liebeler dissenting.

3/ Had the Commission made an affirmative determination under this provision of the Act, antidumping duties would have been effective on imports entered on or after March 15, 1984. The negative determination means that antidumping duties will be effective on imports entered on or after June 12, 1984.

1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing it in the Federal Register on July 5, 1984 (49 F.R. 27641). Subsequently, the Department of Commerce extended the investigation by 60 days (49 F.R. 32096, Aug. 10, 1984) and the Commission revised its schedule accordingly (49 F.R. 33347, Aug. 22, 1984). The hearing was held in Washington, DC, on November 8, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF CHAIRWOMAN STERN, COMMISSIONER ECKES,

COMMISSIONER LODWICK, AND COMMISSIONER ROHR

We determine that an industry in the United States is materially injured by reason of imports of cell-site transceivers and subassemblies thereof from Japan which are sold at less-than-fair value. 1/ The industry under investigation has unique characteristics, among them the made-to-order nature of sales. Given these factors, we have based our decision on sales lost to LTFV imports that constituted a significant portion of the domestic market. 2/ With respect to the question relating to critical circumstances, we have determined that it is not necessary to impose the antidumping duties retroactively. 3/ 4/

The domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 5/ "Like product" is defined as "a product which is like, or in the absence of like, most similar in

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1/ Having found that a domestic transceiver industry exists, we do not reach the issue of material retardation. Having found material injury, we do not reach the issue of threat.

2/ Since much of the pertinent information on which our determination is based involves business confidential information, our discussion of the issues raised in this investigation is severely limited.

3/ See Additional Views of Commissioner Eckes concerning his negative determination with respect to the question relating to critical circumstances.

4/ See Additional Views of Commissioner Lodwick concerning his negative determination with respect to the question relating to critical circumstances.

5/ 19 U.S.C. § 1677(4)(A).

characteristics and uses with, the article subject to an investigation. . . ." 6/

The imported articles which are the subject of this investigation are cell-site transceivers and subassemblies thereof. A "cell-site transceiver" is a single device with an integral transmitter and receiver which share some common circuitry, and which exists as one unit. Cell-site transceivers which are the subject of this investigation are designed for use as part of the radio frequency (RF) equipment used in the base station (cell-site) of a cellular radio communications system. 7/ They function as locating receivers and provide simultaneous two-way voice and data communications between the base station and the subscriber's mobile telephone. 8/ Cell-site transceivers transmit and receive voice and data signals to and from the mobile unit using paired frequency channels to achieve simultaneous communication, and locate or sense signals from adjacent cells.

There are two noninterchangeable types of equipment which perform the function of simultaneous two-way radio communications and locating reception at the cell site. 9/ One is the cell-site transceiver as described in the preceding paragraph. The second type of equipment consists of unmatched, nonintegrated transmitters and receivers in separate housings. The choice of whether to utilize the transceiver or the separate transmitter/receiver design is made when the cellular radio system is initially designed.

Although the transmitter/receiver configuration performs substantially the same function as a transceiver, there are distinct differences between

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6/ 19 U.S.C. § 1677(10).
7/ Report at A-2 to A-3.
8/ Id.
9/ Id.

them in terms of characteristics and uses. For example, in the former, the transmitter and receiver are distinct and separate and are not necessarily exclusively matched in terms of frequency pairs. Further, once the design decision is made, the transceiver or transmitter/receiver configuration becomes an integral part of the particular system, i.e., the system producer cannot use a transceiver and the transmitter/receiver configuration interchangeably. Therefore, there is no head-to-head competition between transceivers and the separate transmitter/receiver design configurations of other cell site systems.

In the preliminary investigation, the Commission found that the products "like" the imported product under investigation are cell-site transceivers, as opposed to separate transmitter/receiver pairs, which can be and are used to perform substantially the same function as transceivers, but which were found to have distinct characteristics and uses. 10/ The Commission has not uncovered any additional information which would make it appropriate to change this conclusion. 11/ Petitioner E. F. Johnson (Johnson) agrees with this conclusion. Respondent Kokusai Electric Co., Ltd. (Kokusai) argues that transmitter/receiver pairs should be included as "like products" because they have the same characteristics and uses as transceivers. 12/ However, while the uses of transceivers and transmitter/receiver pairs are substantially the same, their physical characteristics differ significantly, as pointed out above and in the Report. 13/

10/ Certain Cell-Site Radio Apparatus and Subassemblies Thereof from Japan, Inv. No. 731-TA-163 (Preliminary), USITC Pub. No. 1488 (February 1984), pp. 3-7.

11/ See, Report, A-2 to A-3.

12/ Tr. 80-82. Non-party Mitsubishi makes a similar argument in its submission.

13/ Report A-2 to A-3.

Having defined the like product as cell-site transceivers, the next step is to determine the composition of the cell-site transceiver industry. It should be noted that production of transceivers generally occurs only as a result of a sale or anticipated sale of a cell-site system using transceivers, which system also determines the design of the transceiver. There are presently (fourth quarter of 1984) four domestic producers of transceivers: (1) Johnson, (2) General Electric Co. (GE), (3) Harris Corp. (Harris), and (4) AT&T Technologies (AT&T). 14/

Johnson was the sole domestic producer of cell-site transceivers from 1981 to 1982. In 1983, GE and Harris entered the market, but Johnson remained the leading producer with the vast majority of domestic production. In the first six months of 1984, GE dramatically increased its production and became the leading producer. In the last quarter of 1984, AT&T entered the market. Thus, from 1981 through at least part of 1983, the domestic industry's sole producer was Johnson. Further, during the remainder of 1983, Johnson comprised a "major proportion" of the industry, measured in terms of production.

Material injury by reason of LTFV imports

Material injury is "harm which is not inconsequential, immaterial or unimportant." 15/ When assessing material injury the Commission is guided by several statutory criteria, such as:

> (i) the volume of imports of the merchandise which is the subject of the investigation,
>
> (ii) the effect of imports of that merchandise on prices in the United States for like products, and

14/ Report, A-8 to A-10.
15/ 19 U.S.C. § 1677(7)(A).

(iii) the impact of imports of such merchandise on domestic producers of like products. 16/

It is evident that the statute contemplates that most imports, like most articles of commerce, will be off-the-shelf items sold through ordinary sales processes rather than made-to-order items sold through bidding processes, as in the present case. Therefore, to limit the material injury analysis to the specific evaluations enumerated in the statute may be inappropriate. 17/ This is no doubt why the statute permits and, indeed, requires the Commission to extend its analysis to factors beyond those enumerated and also why it provides that the presence or absence of the enumerated factors will not necessarily be decisive. That this is the intent of Congress is evident from the legislative history as well. 18/

The question of material injury in this case centers largely on two procurements of transceivers by AT&T from Kokusai Electric Co., Ltd. (Kokusai). On February 23, 1983, AT&T (then Western Electric) ordered a large number of transceivers from Kokusai; deliveries began in late 1983. 19/ Prior to this order, AT&T had issued a Request for Quotations (RFQ) to several suppliers in two parts. The first part requested quotes by July 1, 1982, for

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16/ 19 U.S.C. § 1677(7)(B).

17/ In the present case, an examination of the conventional factors alone may indicate that the industry has not suffered from material injury as a result of LTFV imports. Other factors both unique and important to this case indicate otherwise.

18/ The significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC to decide.
S. Rep. No. 249, 96th Cong., 1st Sess. (1979) p. 88.

19/ The facts regarding the Western Electric contract are detailed in the Report, A-12 to A-16.

a number of transceivers. The second part requested quotes by September 1, 1982, for a much larger number of transceivers. Johnson and Kokusai, as well as others, submitted bids for both parts of the RFQ. Kokusai underbid Johnson. There does not appear to have been a procurement based on the first part of the RFQ. Johnson's bid on the second part of the RFQ was to lapse on December 1, 1982. By that time, it had no contract but did have a letter of intent from AT&T to cover Johnson's purchase of materials and components for a certain number of transceivers. The letter of intent was to expire by the end of December, 1982. In late December, Johnson withdrew its bid and raised its bid price. Johnson refused to accept an order for those transceivers at the original bid price, but ultimately accepted an order from AT&T for a smaller number of units at a somewhat higher unit price.

Much has been made in the briefs and at the hearing as to whether the order to Kokusai was part of a multiple sourcing by AT&T. Whether there was multiple sourcing or not, the inescapable fact is that Kokusai underbid Johnson and Kokusai got the lion's share of orders. We regard this as a lost sale.

Thus, in early 1983, a point in time when the industry was composed solely or largely of Johnson, Johnson lost a significant order because of underselling by imports from Kokusai which the Department of Commerce has determined were sold at less than fair value. This clearly affected Johnson's production and performance with respect to transceivers for 1983 and 1984. If Johnson had even received half of the order, its 1984 production would have been a significant share of total domestic production. And, of course, total

domestic production for 1984, even though the composition of the industry had changed by that time, would have been higher as well. Furthermore, prior to the lost sale, imports did not have a significant share of the market. After the lost sale, Kokusai's imports accounted for more than half of domestic consumption in 1984. 20/

In February, 1984, AT&T issued a new RFQ to both Johnson and Kokusai for transceivers for delivery in the second half of 1984. The RFQ was for the KS ("Mod 1") receiver. Although Johnson was capable of making the KS receiver for AT&T, Johnson responded with a quote for a transceiver apparently electrically equivalent to the KS but differently dimensioned. The order went to Kokusai. We question whether this is a lost sale since Johnson's bid was nonresponsive. We therefore have not given it weight in our analysis.

Critical circumstances 21/ 22/

The Department of Commerce has made a final affirmative determination that critical circumstances exist with respect to imports of transceivers from Japan. Therefore, since we have found material injury, we must also make a determination as to whether—

> the material injury is by reason of massive imports . . . to an extent that, in order to prevent such material injury from recurring, it is necessary to impose [antidumping duties] retroactively. 23/

20/ Report, A-26.

21/ See Additional Views of Commissioner Eckes concerning his negative determination with respect to the question relating to critical circumstances.

22/ See Additional Views of Commissioner Lodwick concerning his negative determination with respect to the question relating to critical circumstances.

23/ 19 U.S.C. § 1673d(b)(4)(A).

In order to make a determination as to whether an affirmative critical circumstances determination is justified it is appropriate to consider the nature of the injury necessary to warrant such a determination and whether such injury has been caused by the imports the Department of Commerce has determined to be "massive," i.e., to investigate and determine whether these massive imports will prolong in some manner the material injury already felt by the domestic industry. This determination can be based on a consideration of importers' inventories, price trends in the industry, and the trend of domestic consumption.

To the extent that the massive imports have increased the supply of the product, there must be some indication that the injury from these massive imports will continue despite imposition of antidumping duties. One indicator that such injury may occur is increases in inventories, either those of the importers or of customers who have purchased the product at unusually low prices. If massive imports have resulted in higher inventories, until those inventories are worked off, the effect of an antidumping duty order on prices and on future demand will be blunted.

This reading of the statutory provision interprets recurring injury to be injury from massive imports that would continue after the antidumping duty order is in place. A retroactive application of antidumping duties without such injury would merely have a punitive effect on the country and importers concerned. We do not believe the statute has such a punitive intent. However, if massive imports that are imported into the United States prior to the imposition of an antidumping duty order enter the marketplace at some time subsequent to the imposition of the duty, the domestic industry may continue

to suffer injury; this injury would not be remedied by a prospective application of an antidumping duty. The retroactive application of an antidumping duty order would remedy this kind of continuing injury.

Although imports from Japan did increase from December, 1983 to June, 1984, this increase coincides with the beginning of deliveries under the Kokusai/AT&T contract and is related entirely to that contract, i.e., AT&T's preexisting domestic demand. Thus, there appears to be no intent to circumvent the statute. Further, there are no inventories that will be released into the market place as such. Thus, this is not an appropriate case to impose the antidumping duties retroactively.

Additional Views of Commissioner Eckes

Like my colleagues, I have reached a negative determination regarding the question of critical circumstances in this investigation. However, as I discuss below, the rationale for my determination differs significantly. The Commission's responsibility in determining critical circumstances is set forth in sec. 735(b)(4)(A) of the Act, 1/ which provides:

> If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether the material injury is by reason of massive imports described in subsection (a)(3) [massive imports of the merchandise which is the subject of the investigation over a relatively short period] to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty imposed by section 731 retroactively on those imports.

According to the legislative history, in situations involving massive imports, there are two separate reasons for retroactive duties. The first is "to provide prompt relief to domestic industries suffering from large volumes of, or a surge over a short period of, imports." The second reason is "to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by the Authority." 2/ 3/

1/ 19 U.S.C. 1673(b)(4)(A).

2/ H. Rep. No. 96-317, 96th Cong., 1st Sess. 63 (1979).

3/ The Commission's inquiry may resemble in some respects the Commerce Department's findings regarding "massive imports," but it is not a review or reconsideration of the Commerce findings.

The merchandise in this investigation differs from imports which have been the subject of previous critical circumstances determinations. Virtually all of the previous determinations have involved essentially fungible goods, such as steel products or chemicals. The fungible, price-sensitive nature of such products which are sold in open-markets was an important condition of trade in those investigations. In contrast, imports of transceivers during the relevant period of February, 1984, through May, 1984, 4/ entered under a contract which was negotiated in 1982-1983, before this petition was filed. The subject transceivers are made pursuant to contract specifications, purchased on a bid basis, and are not imported for open-market consumption. Under these circumstances, it is inappropriate to impose additional duties based on "large volumes of, or a surge over a short period of, imports."

Nor do these circumstances warrant the imposition of additional duties for the purpose of deterring exporters from "circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by the Authority." Here, imports during the relevant four-month period do not

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4/ The Commerce Department initiated its preliminary LTFV investigation on January 17, 1984, and issued its preliminary LTFV determination on June 5, 1984. Had the Commission made an affirmative determination on the question of critical circumstances, the Commerce Department would have applied antidumping duties retroactively from June 12, 1984, the effective date of its suspension of liquidation, to the date 90 days prior to the suspension of liquidation, (March 15, 1984).

represent a disproportionate share of total imports under this contract during 1983. Import volume trends do not suggest an attempt to circumvent the imposition of duties on a significant quantity of merchandise by anticipating the preliminary determination by Commerce. 5/

5/ I believe that concerns regarding the "punitive effects" of critical circumstances determinations are misplaced. A preoccupation with such sensitivities ignores the clearly expressed intention of Congress, reflected in the House Report (p. 63). The report states: "The provision is designed . . . to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by the Authority."

ADDITIONAL VIEWS OF COMMISSIONER LODWICK ON CRITICAL CIRCUMSTANCES

Given that the Department of Commerce has made a final affirmative determination that critical circumstances exist with respect to imports of transceivers from Japan, the Commission must make a further determination as to whether

> the material injury is by reason of massive imports . . . to an extent that, in order to prevent such material injury from recurring, it is necessary to impose [antidumping duties] retroactively. 1/

I base my negative determination on an examination of the effects of the volumes of imports entering the U.S. market during the time period between the institution of the investigation effective December 28, 1983 and Commerce's preliminary determination on June 12, 1984. Though the volumes of imports from Japan increased significantly, when viewed in context, these volumes and patterns do not justify the retroactive assessment of duties. The increase is entirely due to the beginning of deliveries under a pre-existing contract between Kokusai and AT&T. None of the imports have gone into inventories that will be released onto the commercial market as such.

1/ 19 U.S.C. Section 1673d(b)(4)(A).

VIEWS OF VICE CHAIRMAN LIEBELER

On the basis of the record in Cell-Site Transceivers and Subassemblies Thereof from Japan, Investigation No. 731-TA-163(Final), I determine that a domestic industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry is not being materially retarded,[1] by reason of imports of cell-site transceivers and subassemblies thereof from Japan which are being sold in the U.S. at less than fair value. As a consequence of my negative determination on the issue of material injury, I also determine that critical circumstances do not exist.

I. Definition of Industry

The domestic industry as determined in the preliminary investigation consisted of all producers of cell site transceivers.[2] The petitioner does not take issue with this definition. I accept this definition for purposes of this opinion because it provides the petitioner with the best chance

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1. I concur with the majority's determination that the industry under investigation is already established and therefore will not further discuss the issue of material retardation.

2. Certain Cell-Site Radio Apparatus and Subassemblies Thereof from Japan, USITC Pub. 1488, at 7 (1984).

of establishing material injury.[3]

II. Material Injury

Having defined the domestic industry, it is now necessary to determine whether that industry has suffered material injury by reason of imports. I conclude that while the petitioner, E.F. Johnson Company, lost a sale in a head-to-head bid with Kokusai, the loss of this sale is not enough to constitute "harm which is not inconsequential, immaterial, or unimportant"[4] to the domestic industry as whole.

Of the four domestic producers, only one supported the petition, the petitioner, E.F. Johnson. During the time period covered by this investigation, the petitioner's share of domestic production has dropped precipitously from its 100 percent share in 1981 and 1982.[5] Output during this period has grown

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3. Including only producers of transceivers within the definition of the domestic industry may be unjustifiable. The product at issue is made according to purchaser specifications. Because AT&T provides only performance and size specifications for its transceivers, none of the bids submitted are likely to involve identical products. If the purchaser of a transceiver prefers a different configuration, i.e., transmitter/receiver, bidding for the contracts would not be markedly different. The products are essentially the same, possessing similar characteristics and uses, as required by the statute. The domestic industry should not be defined overly narrow when the market is both complex and dynamic, as evidenced here by tremendous recent growth and technological development.

4. 19 U.S.C. 1677(7)(A) (1980).

5. The exact market share of petitioner in 1983 and 1984 is confidential. Staff Report, at A-17, Table 2.

dramatically. This growth is expected to continue.[6] The fact that one domestic producer is not participating in this growth to the extent it had hoped or anticipated is unfortunate for the firm, but cannot alone be sufficient to support a claim for import relief. There is no indication that "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product"[7] are materially injured.

Most of the information concerning the condition of the domestic industry was supplied by petitioner. As noted above, the petitioner has ceased to be the major factor in the market. The absence of financial information from the major producers allows the Commission to draw a "permissible adverse inference that these firms are not being injured by the subject imports."[8] Moreover, the information that was collected from other producers depicts a healthy, growing domestic industry.[9]

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6. Id.

7. 19 U.S.C. 1677(4) (1980).

8. Weighing Machinery and Scales from Japan, Inv. No. 701-TA-7 (Final), USITC Pub. 1063 (1980)(Views of Vice Chairman Alberger and Commissioner Calhoun). See also Certain Tomato Products from Greece, Inv. No. 104-TAA-23 (Final), USITC Pub. 1594 (1984)(Additional Views of Vice Chairman Liebeler).

9. See, e.g., Staff Report, at A-40-A-41. This information is confidential.

III. Threat of Material Injury

A finding of a threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation or conjecture.[1] AT&T is the only cell-site system supplier that has ever contracted out for the supply of transceivers. Since AT&T has started producing transceivers, all domestic cell-site system suppliers are either fully integrated or consortia members with the ability to produce their own transceivers. There exists no large inventory of imports in the United States. In view of the above, I conclude that any threat of material injury to the domestic industry is speculative at most.

IV. Conclusion

I therefore determine that the domestic industry comprised of cell-site transceiver producers is not materially injured or threatened with material injury by reason of LTFV imports from Japan.

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1. S. Rep. No. 249, 96th Cong., 1st Sess. 88-89 (1979).

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On December 28, 1983, a petition was filed with the International Trade Commission and the Department of Commerce by counsel on behalf of the E.F. Johnson Co., Waseca, MN, alleging that imports of cell-site transceivers and subassemblies thereof from Japan are being sold in the United States at less than fair value (LTFV) and that the establishment of an industry in the United States is being materially retarded by reason of imports of such merchandise. In the alternative, the petitioner alleged that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of such merchandise. Accordingly, the Commission instituted preliminary antidumping investigation No. 731-TA-163 (Preliminary) 1/ and, based on information developed in that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with materially injury by reason of imports of the subject products from Japan (49 F.R. 7465, Feb. 29, 1984).

On June 12, 1984, Commerce made a preliminary determination that cell-site transceivers are being, or are likely to be, sold in the United States at LTFV, as provided for in section 733 of the Tariff Act of 1930 (19 U.S.C.§ 1673) (49 F.R. 24155). Accordingly, effective June 12, 1984, the Commission instituted investigation No. 731-TA-163 (Final), pursuant to section 735(b) of the act (19 U.S.C. § 1673d(b)), to determine whether an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States. On August 10, 1984, Commerce postponed its final determination as to whether there are LTFV sales of cell-site transceivers and subassemblies thereof from Japan until October 19, 1984. Accordingly, the Commission published in the Federal Register (49 F.R. 33347, Aug. 22, 1984) a notice revising its schedule for the conduct of the investigation.

On October 26, 1984, the Department of Commerce made its final determination that cell-site transceivers are being, or are likely to be, sold in the United States at LTFV. 2/ Therefore, as directed by the statute, the Commission must render its final determination concerning injury in this case within 45 days after the date of Commerce's final determination, or by December 10, 1984.

1/ The Commission instituted investigation 731-TA-163 (Preliminary) on cell-site radio apparatus and subassemblies thereof in order to include both cell-site transceivers and receiver/transmitter pairs, which function like a transceiver, within its scope. During the course of the investigation, however, it became apparent that receiver/transmitter pairs were significantly different from, and not interchangeable with, transceivers, and the Department of Commerce instituted its investigation only with respect to cell-site transceivers and subassemblies thereof. Thus, the scope of the Commission's investigation is now limited to transceivers (and subassemblies).

2/ 49 F.R. 43080.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register on July 5, 1984 (49 F.R. 27641). 1/ The Commission held a public hearing in connection with this investigation on November 8, 1984. 2/

The Product

Description and uses

The imported products from Japan which are the subject of this investigation are cell-site transceivers and subassemblies thereof. These devices are part of the radio frequency (RF) equipment used in the base station (cell-site) of a cellular radio communications system. They function as locating receivers and provide simultaneous two-way voice and data communications between the base station and the subscriber's mobile telephone by using different frequencies to transmit and receive (the locating and communication functions cannot be performed at the same time, however). Substantially identical products are produced in the United States.

There are two basically different and nonfungible types of equipment which perform the functions listed above (i.e., simultaneous two-way radio communications and locating reception). One is a cell-site transceiver (the subject of this investigation), which is a single device with an integral transmitter and receiver (sharing some common circuitry) in one unit. This device, alone, transmits and receives voice and data signals to and from the mobile unit using paired frequency channels to achieve simultaneous communication, and locates or senses signals from adjacent cells.

The second type of equipment consists of unmatched, nonintegrated transmitters and receivers in separate housings. Although these transmitters and receivers, when used together, perform the same functions as a cell-site transceiver, they are distinct and separate from each other and are not necessarily exclusively matched in terms of frequency pairs. Such receiver/transmitter pairs are not within the scope of this investigation.

The decision to choose one type of cell-site radio apparatus over the other comes when the cellular radio system is initially designed. It is customary for operators of cellular radio systems to ask for bids on entire systems, being interested only in the functions of the system as a whole, and not usually in the component parts (such as the RF equipment). The specific design and application of the system is left to the manufacturers. The company that wins the contract is either a total system manufacturer or a consortium of two or more component manufacturers. In the case of a consortium, the different components of the system supplied by the various

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1/ Copies of the notices instituting investigations by the Commission and the Department of Commerce are presented in app. A.

2/ A list of witnesses appearing at the Commission's hearing is presented in app. B.

companies must work together. Since these components are highly specialized, this requires that the manufacturers of the components work closely together to jointly develop compatible equipment. This leads to unique cellular radio system designs with component parts designed exclusively for that particular system configuration. Very major adaptations would be necessary to enable one type of system to use (interface with) equipment not designed for it.

There are, however, two basic design configurations for the cell-site radio apparatus--the transceiver type and the transmitter/receiver type. Although transceivers made by two manufacturers for two different systems are likely not to be interchangeable, they are similar in concept and application. On the other hand, transmitter/receiver combinations are totally distinct in concept and application from transceivers. This difference between the types of equipment is not only important in the initial planning stages of the cellular radio system, but also as the system expands and it becomes necessary to add more cell-site radio equipment since the operator of the system must choose to buy the type of equipment that is already being used in the system. That either means buying the necessary equipment from the original manufacturer or asking another company to design a compatible product.

Different models of cell-site transceivers may be produced in a variety of configurations. Since each transceiver is designed and built for a specific system, the sizes of the transceivers, as well as the locations of the connecting jacks, are typically different, thus making it normally impossible to directly substitute a transceiver made for one system for a transceiver made for another system. However, if other specifications are the same, the modifications necessary to physically reconfigure the transceivers to make them interchangeable would be minor.

As mentioned, the major differences between transceivers result from the design of the system within which they are intended to function. For example, a cell-site transceiver unit may or may not be designed to incorporate control functions. 1/ While these differences may be significant in terms of design and cost, the units' basic transceiving capabilities remain essentially the same.

U.S. tariff treatment

Cell-site radio apparatus and their subassemblies are classified for tariff purposes under items 685.24 and 685.29 of the Tariff Schedules of the United States (TSUS). Receivers used as part of a transmitter/receiver pair are classified in TSUS item 685.24, but both the transmitters used as part

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1/ All systems must have equipment that monitors and controls the power of the incoming signal, the selection of the stronger signal being received, and other related functions. These control functions can be incorporated into the cell-site transceiver unit or they can be located in a separate unit. The petitioner, E.F. Johnson, makes two models of transceivers, one with control functions built in and the other without. Most other transceivers currently being produced apparently have some form of control functions incorporated.

of a transmitter/receiver pair and the cell-site transceivers are classified in TSUS item 685.29. 1/

The column 1 (most-favored-nation) rates of duty for items 685.24 and 685.29 are 7.7 and 6 percent ad valorem, respectively. The column 2 rates for both items 685.24 and 685.29 are 35 percent ad valorem. 2/ There are no known imports of the subject article from column 2 countries. As a result of concessions made during the Tokyo round of multilateral trade negotiations (MTN), the column 1 rate of duty is to be reduced to 6 percent ad valorem for item 685.24 effective January 1, 1987. No concessions were made as to TSUS item 685.29. The rate for imports from least developed developing countries (LDDC's) is 6 percent under both items 685.24 and 685.29. 3/ Imports of cell-site radio equipment from designated beneficiary developing countries 4/ are eligible for duty-free treatment under the Generalized System of Preferences (GSP). 5/ The staged duty reductions as a result of the MTN are shown in table 1.

Nature and Extent of Sales at LTFV

On October 26, 1984, the Department of Commerce issued its final determination of sales at LTFV of cell site transceivers from Japan. 6/ Commerce used a "constructed value" basis to determine the foreign market value of transceivers sold by Kokusai Electric Co., Ltd., the only known Japanese exporter of these products to the United States. Commerce's final determination was based on verified cost information for Kokusai's production of cell-site transceivers through July 1984. Commerce found that the foreign market value (on a constructed value basis) of the Kokusai cell-site transceivers exceeded the United States price on all sales. The overall weighted-average margin on all sales compared was 59.94 percent.

1/ The statistical annotation under which cell-site transceivers are classified is item 685.2976 of the Tariff Schedules of the United States Annotated (TSUSA), which is not generally used for transceivers. This results from the fact that, while the industry considers the subject articles to be transceivers, headnote 4 of schedule 6, part 5, of the TSUSA specifies that for tariff purposes "transceivers" cannot transmit and receive simultaneously.

2/ Applicable to countries enumerated in general headnote 3(f) of the TSUS.

3/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of LDDC's enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for an item, the rate of duty in col. 1 applies.

4/ Korea, Taiwan, and Singapore are not eligible under item 685.24; Hong Kong, Korea, and Taiwan are not eligible under item 685.29.

5/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until July 4, 1993.

6/ 49 F.R. 43080.

Table 1.--Certain cell-site radio apparatus and subassemblies thereof: Pre-MTN rates of duty and staged rate-of-duty modications, 1980-87

(Percent ad valorem)

TSUS item No.	Pre-MTN col. 1 rate of	Staged col. 1 rate of duty effective with respect to articles entered on ar after Jan. 1--							
		1980 1/	1981	1982	1983	1984	1985	1986	1987
685.24	10.4%	9.9%	9.3%	8.8%	8.2%	7.7%	7.1%	6.6%	6.0%
685.29	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%

1/ Rate effective prior to Jan. 1, 1980.
2/ The first staged rate reduction became effective Jan. 1, 1980.
3/ No concessions were made for item 685.29.

Based on its analysis, Commerce also determined that "critical circumstances" exist in this investigation, finding that the importer knew or should have known that the transceivers were being sold in the United States at LTFV and that imports of the products subject to the investigation appear massive over a relatively short period. If the Commission also determines that critical circumstances exist in the case, dumping duties would be effective on imports entered on or after March 15, 1984. If the Commission makes an affirmative injury determination but a negative critical circumstances determination the duties would be effective June 12, 1984.

Cellular and Conventional Mobile telephony

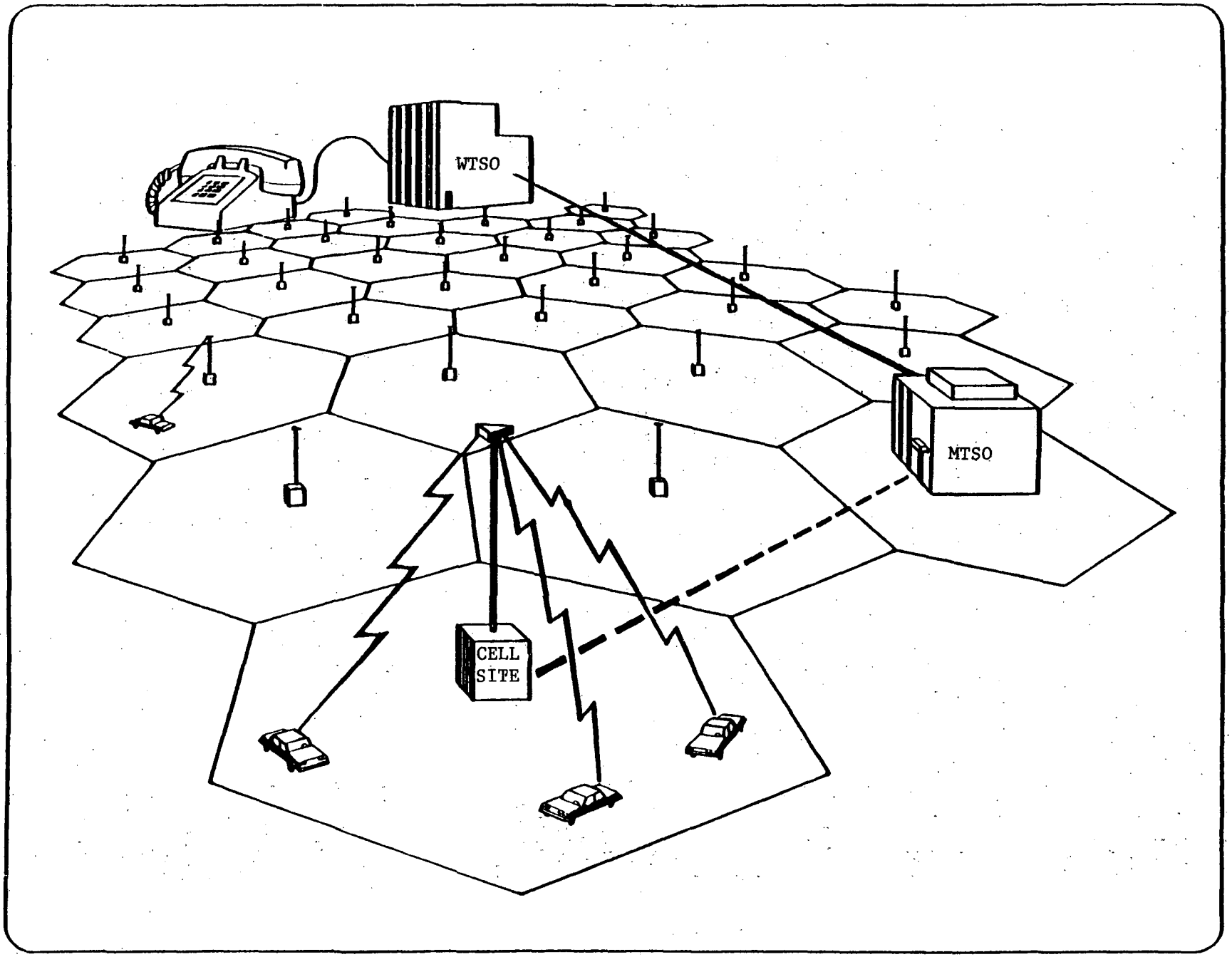
Conventional mobile telephone service is characterized by one powerful, central, fixed base station which sends and receives signals to and from mobile telephones using different frequencies to achieve simultaneous two-way communication. This base station usually transmits and receives signals to and from the wireline telephone switching office (WTSO) by telephone lines. The routing of calls between the wireline telephone and the mobile telephone is either done through an operator or, in some instances, automatically.

Conventional mobile telephony is considered to be very inefficient in terms of frequency use. The bandwidth required for a conversation with a conventional mobile telephone is four times the amount required for an ordinary AM broadcast radio station. (This comparison is only used to show the difference in frequency use.) With this inefficiency in mind, the Federal Communications Commission (FCC) has been very reluctant to assign more of the radio spectrum to mobile telephony. This has resulted in very long waiting lists for mobile telephone service, long waits for making a mobile telephone call (finding a pair of free radio channels), and very high subscription costs for mobile telephone users.

In December 1971, Bell Telephone Laboratories (Bell Labs) proposed a service now known as cellular radio service. A cellular radio system is one wherein a given geographical area is divided into zones or cells, with each cell having its own base station. The base station (or cell site) is served by a low-power transmitting tower having a very limited range of from 1 to 5 miles. The cell site communicates with a mobile telephone by either a transceiver or a transmitter/receiver pair. The interface between the WTSO and the mobile telephone system is through a mobile telephone switching office (MTSO) (see figure 1). The signals between the cell site and the MTSO or between the MTSO and the WTSO can be sent by wire, fiber optics, or microwave.

The major advantages of cellular radio systems over conventional mobile telephony are those of "handing off" and "frequency reuse." Handing off refers to the capability inherent in the system of allowing a subscriber to move from one cell to another while using his mobile telephone. The first cell site hands off the conversation to the cell site in the adjacent cell when the signal being transmitted from the first cell site becomes weak enough and the signal being received from the second cell site becomes strong enough. Every cell site has radio apparatus (either a radio receiver or a

Figure 1.--Cellular radio system network



Source: AT&T Technologies

transceiver with the transmitter portion dormant) which listens to frequencies in adjacent cells and senses when the signals are strong enough to indicate that a subscriber is entering its cell. The handing off is accomplished by switching the frequencies on which the conversation is being transmitted when leaving one cell and entering another. The switching of cells and frequency channels is handled by the MTSO. The subscriber generally does not even notice that he/she has changed frequencies or cells. In addition, no operator is necessary to complete either land-to-mobile or mobile-to-mobile communication.

The process of handing off allows for the second major advantage of cellular radio systems, frequency reuse. This refers to the ability of the system to use the same set of frequencies in two or more cells. The only restriction is that the cells using the same set of frequencies may not be adjacent to each other.

These two advantages greatly facilitate the expansion of cellular systems. With conventional mobile telephone service, the only way to expand the system is to add more available frequency channels. With a cellular radio system, however, the system can be expanded by either adding more frequency channels or by subdividing existing cells into smaller cells, thus providing for virtually limitless capacity.

On February 25, 1982, the FCC gave its final approval to the concept of cellular radio. The FCC report, among other things, allocated specific frequencies for use in cellular systems and designated that in each market area, two operating licenses for cellular systems would be granted. One license would go to an existing telephone company servicing the area and the other license would go to a radio common carrier. The two systems are to be identical in function but will not necessarily be identical in structure or equipment. In 1984-85 the FCC will grant construction permits for the vast majority of the top 90 markets. Thus there will be 180 possible contracts awarded to systems producers. A listing of commercial cellular systems now in service and a status report on the top 60 markets are set forth in app. C.

U.S. Producers

There are currently four known U.S. producers that are manufacturing cell-site transceivers, General Electric Co. (GE), Fairfield, CT; AT&T Technologies (AT&T), Winston-Salem, NC; Harris Corp., RF Communications Division, Rochester, NY; and E.F. Johnson.

GE is a multinational corporation which was incorporated in 1892 as a consolidation of the Edison General Electric Co. and the Thompson-Houston Electric and International Co. GE is currently the largest U.S. producer of cell-site transceivers. The product is produced in GE's Lynchburg, VA, plant. The GE transceivers are being produced for a system that is sold in conjunction with an MTSO produced by Northern Telecom, a Canadian corporation; and GE * * * cellular system. 1/ The GE-Northern Telecom consortium has completed five commercial cellular systems in Seattle, WA; Denver, CO;

1/ * * *

Phoenix, AZ; and Minneapolis, MN (two systems) as of September 28, 1984. 1/ The GE-Northern Telecom consortium currently has received contracts to build cellular systems in Cleveland, Columbus, and Dayton, OH; Tacoma, WA; and Tucson, AZ. * * *. However, on November 14, 1984, GE announced it was laying off ***percent of its workforce at its mobile communication plant in Lynchburg. * * *. GE will supply Northern Telecom with cell-site transceivers * * *. * * *. 2/

On January 27, 1984, AT&T announced that it would commence production of its own (new generation) transceiver in 1984. The transceiver that AT&T is manufacturing differs substantially from the transceiver it purchases from Kokusai (and which is produced by E.F. Johnson). The Kokusai and Johnson transceivers are for the Mod-1 cellular system, which is currently being used by AT&T. The AT&T transceiver is for use in the Mod-2 cellular system that AT&T has developed as a second-generation system. AT&T informed the Commission that * * *. * * *. The Mod-1 and Mod-2 transceivers are not readily interchangeable, * * *. AT&T has not yet shipped any Mod-2 cellular systems.

The Mod-2 transceiver is being produced at AT&T's * * *, NC, production plant. 3/ The * * * square foot * * * plant is primarily used for the production of * * *. * * *. 4/ Production of the Mod-2 transceiver began in * * * 1984 and the first * * * shipments occurred in * * * 1984.

Harris Corp. has entered the cellular system market with its Cellstar system and has been awarded contracts for Allentown, PA, and Rochester, NY. The transceiver utilized by Harris in its Cellstar system is * * *, (i.e., the transceiver specified by Western Electric in its RFQ). * * *. The Allentown and Rochester cellular systems will become operational in * * *. Thus, Harris will begin production of its transceivers in * * *. Future production of the transceivers will depend on Harris's ability to win additional contracts for its Cellstar cellular system.

E.F. Johnson, a wholly owned subsidiary of Western Union Corp., Upper Saddle River, NJ, is a manufacturer of land mobile radio communication systems, mobile telephone systems, and electronic components. E.F. Johnson produces it's cell-site transceivers at it's headquarters in Waseca, MN. The company has two other production plants, in Garner, IA. and Twin Falls, ID.

The E.F. Johnson Co. was started in 1923 by Edgar Johnson in Waseca, MN., as a manufacturer of radio parts which were sold by mail order. During World

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1/ GE-Northern Telecom was awarded the construction contract for both the wireline and non-wireline systems in Minneapolis.

2/ Phone conversation with GE, Nov. 14, 1984; Washington Post, Nov. 14, 1984.

3/ Transcript, p. 125.

4/ A cell site consists primarily of RF equipment and control equipment.

* * * * * *

War II, the company expanded rapidly, manufacturing radio products for the armed forces. In November 1976, E.F. Johnson became a publicly held corporation and was listed on the New York Stock Exchange. In 1981, the last year the company issued a public annual report, E.F. Johnson had net sales of $59.5 million. The acquisition of E.F. Johnson by Western Union was accomplished by a share-for-share exchange, which increased the value of E.F. Johnson stock from $23 per share to $45 per share. Western Union stated in its 1982 annual report that it acquired E.F. Johnson to strengthen its role in the telecommunications market. 1/ Western Union had applied, as a non wireline carrier, for 42 of the first 60 available cellular licenses.

E.F. Johnson and ITT Telecom (ITT) entered into a joint venture to produce a cellular telephone system named Celltrex. ITT was to supply the MTSO (computer) for the system, and E.F. Johnson was to supply the RF equipment, including the cell-site transceivers. However, the ITT-Johnson cellular system has thus far been unable to win any cellular system contracts and * * *. According to industry sources, ITT has decided to drop out of the cellular system business. 2/ Both Johnson and ITT denied this rumor and stated that the ITT-Johnson joint venture is still actively bidding on cellular system contracts.

Johnson is currently producing * * * tranceivers for export to NovAtel, Inc., a Canadian firm. Sources in Johnson believe * * *. Johnson officials also informed the staff that they anticipate * * *.

* * *. According to sources at Johnson their * * * transceiver is comparable with * * * transceiver. Johnson sources further stated that * * *. However, no agreements have been reached and * * * declined to identify any of these potential customers outside of * * *.

Foreign Producers

There are two known foreign producers of cell-site transceivers, Kokusai Electric Co., Ltd., Tokyo, Japan; and Mitsubishi International, also a Japanese company. Kokusai is a publicly held corporation, which is traded on the Tokyo Stock Exchange. The company had net sales of approximately $220 million in 1983. * * *. The NTT cellular system does not use transceivers, rather it uses receiver/transmitter pairs in its cell-site base stations. Kokusai informed the Commission that it was able to develop its transceiver for Western Electric * * *.

It should be noted that Kokusai's largest stockholder is Hitachi, Ltd., of Japan, which owns 21 percent of the company. A copy of Kokusai's annual business report for fiscal year April 1982-March 1983 has been placed on the investigation's public record.

Counsel for Kokusai informed the Commission that the respondent produces its transceivers in the a state-of-the-art, * * *, * * *. Kokusai further alleged that the transceiver is not a "high-tech" product, but rather a

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1/ Western Union acquired E.F. Johnson on Nov. 30, 1982.
2/ * * *

product consistent with state-of-the-art mobile-radio design. * * * Kokusai's view that the transceiver was not a "high-tech" product. 1/

Kokusai estimated that it takes * * * man-hours to produce its transceiver, while E.F. Johnson estimates * * * man-hours to produce its transceiver. The reason for the difference between the companies is the production process. * * * E.F. Johnson's labor costs were estimated at * * * per man-hour; Kokusai estimated direct and indirect labor at * * * per man-hour.

Mitsubishi International is a subsidiary of Mitsubishi Corp. of Japan. 2/ Mitsubishi Corp. is one of "The Mitsubishi Enterprises," an amalgamation of more than 40 companies in diverse fields ranging from banking to manufacturing. Mitsubishi Corp. had total revenues in 1982 of $63.3 billion.

Domestic and Foreign Cellular System Suppliers

As mentioned, cellular radio system suppliers can be generally grouped into two categories: total system manufacturers and consortiums of two or more manufacturers collectively supplying entire turnkey systems.

AT&T is currently the largest domestic manufacturer of total cellular systems, with 12 systems already operational and contracts for at least * * * more systems. AT&T is now offering two cellular systems (Mod-1 and Mod-2). Both systems use transceivers but the transceivers are not readily interchangeable * * *. All of AT&T cellular systems which are operational have been sold to the wireline operators, and mostly to its divested phone companies.

Motorola, Inc., is the second largest domestic manufacturer of total cellular radio systems. It's systems are designed and manufactured in * * *. Motorola currently has systems operational in 10 U.S. cities, and has received orders for at least * * * additional systems. 3/ Motorola has also won contracts to provide cellular systems in Great Britain, South Korea, Hong Kong, and Israel. * * *.

The GE/Northern Telecom consortium is the third largest supplier of cellular systems in the United States, with five operational systems. Harris Corp. (RF Communication Division), Rochester, NY, is currently the only other domestic cellular system supplier. It has been awarded two system contracts (Allentown, PA, and Rochester, NY.), which will become operational in * * *. Harris Corp. has plans to capture * * * cellular system markets.

Other domestic manufacturers of cellular systems and manufacturers which have announced that they plan to produce cellular systems include CTI Manufacturing Co. of Corinth, MS; General Telephone and Electronics (GTE) of

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1/ Telephone conversation with AT&T Technologies, Jan. 27, 1983.

2/ Mitsubishi has formed a joint venture with Stromburg-Carlson to produce cellular systems. * * *.

3/ Motorola informed the Commission staff, through a telephone conversation on Jan. 30, 1983, that they anticipate selling * * * of cellular systems in 1984. The statement was made by * * *.

Northlake, IL; Quintron Corp. of Quincy, IL; and by E.F. Johnson and ITT. No known contracts have yet been awarded to any of these companies for cellular radio systems.

The largest foreign manufacturers of complete systems include L.M. Ericsson, a Swedish company that provides equipment for the Nordic cellular radio system, as well as the Spanish cellular system and the Saudi Arabian system. Ericsson has two operational systems in the United States in Buffalo, NY, and Detroit, MI, and has been awarded the nonwireline contracts for Chicago, IL., and Miami, FL. Nippon Electric Co., Ltd. (NEC), is a Japanese company which supplies complete systems to Japan, Australia, Hong Kong, Mexico, and Singapore. To date, NEC has won three contracts, in Sacramento, CA; Tulsa, OK, and Knoxsville, TN. Matsushita Industrial Corp., Ltd., also a Japanese company, is providing cellular systems primarily to Middle East countries such as Bahrain, Qatar, and the United Arab Emirates. Panasonic Industrial Corp. (the U.S. subsidiary of Matsushita Industrial Corp.) has bid on a number of contracts, but to date has not won any. The final known foreign supplier of an entire cellular system is NovAtel Communications, Inc., a Canadian firm, which has provided some equipment to the Canadian cellular system and is presently building a cellular system in Calgary, Canada. NovAtel is also reportedly offering systems in the United States. As previously mentioned, NovAtel has contracted with E.F. Johnson for transceivers * * *.

Other consortiums offering cellular systems in the United States include Stromberg-Carlson and Mitsubishi International. Stromberg-Carlson, a U.S. company owned by a British company, is supplying the MTSO, and Mitsubishi International, a Japanese company, is supplying the cell-site equipment.

The Western Electric Contract

E.F. Johnson's petition for this investigation is based on the award of a contract for cell-site transceivers by Western Electric Co. 1/ to Japanese producer Kokusai. Because of its significance in the investigation, this section of the report discusses in some detail the original contract as well as subsequent solicitations and awards.

In May 1982, the Western Electric Co. solicited bids ("request for quotation," hereafter referred to as RFQ) for the production and delivery of cell-site transceivers. The transceivers were to be manufactured in accordance with the specification set forth by Bell Labs, in KS-22043, Issue 3. 2/ Actually, this RFQ was a request for two separate bids:

1) A bid to supply Western Electric's short-term needs for cell-site transceivers covering the first and second quarter of 1983--approximately * * * units. The response date for this part of the RFQ was July 1, 1982; * * *.

1/ Western Electric became AT&T Technologies in 1983.

2/ A copy of the Bell Lab. specifications has been placed in the confidential record.

2) A bid to supply Western Electric's longer-term needs for cell-site transceivers covering the * * * of 1983 and * * * 1984--approximately * * * units. The response date for this part of the RFQ was September 1, 1982; * * *.

* * *. The RFQ specifically stated that "due to the magnitude of the program, it is anticipated there will be multiple supplier participation."

Western Electric sent the RFQ to * * * domestic companies, * * * Japanese companies, * * *, all of which were identified as companies that had the capability to respond to the RFQ. 1/ The specification from Bell Labs was an "End-Point Spec," which meant that the internal design of the transceiver was up to the supplier. Only the size and performance characteristics had to meet the Bell Lab specifications.

The interpretation of the RFQ and the subsequent events that led to awarding Kokusai with the majority of the procurement contract have been disputed by E.F. Johnson and Western Electric (with Kokusai agreeing with Western Electric). The Commission staff met with both E.F. Johnson and Western Electric to obtain their respective understandings.

The E.F. Johnson petition only included the July 1, 1982, response to the RFQ, because the company alleges that the two bid requests were later merged. Western Electric disputes this and informed the Commission that the RFQ spelled out two separate bids--one for short-term requirements, * * *, and a second for longer term procurement, * * *. Furthermore, Western Electric alleged that it considered Johnson's two bids of June 29, 1982, and August 26, 1982, as separate, distinct bids covering two separate procurements.

1/ The companies that were sent the RFQ are as follows:

Domestic Producers	Foreign Suppliers
***	***

Western Electric received * * * responses for the July 1, 1982, bid deadline of the RFQ, as follows:

Company	*** units	*** units	*** units
E.F. Johnson Waseca, MN	***	***	***
Kokusai Electric Co. 3/ of America El Segundo, CA	***	***	***
***	***	***	***

1/ * * *.
2/ * * *.
3/ * * *.

* * * * * * * 1/

The actions of both Johnson and Western Electric during the period between the first and second bid (July 1, 1982, to Sept. 1, 1982) have been disputed by both companies. Western Electric alleges that it always intended to have a dual-supply policy for transceivers, as stated in the RFQ. Furthermore, it always stressed to Johnson that Western Electric wanted Johnson to make a reasonable profit. However, Western Electric felt that Johnson's July 1, 1982, quotes were high, and therefore conducted a cost analysis study on the Johnson transceiver. The Western Electric cost analysis personnel believed that * * *. 2/

Johnson disputes Western Electric's interpretation of these events. After the July 1, 1982, bid, Western Electric allegedly used various methods to force Johnson to reduce its bid. Besides the cost analysis study, Johnson stated * * *. 3/ During August 1982, upper management at Johnson decided to meet the competition and reduce its bid prices for the September 1, 1982, deadline. Johnson states that it knew it would incur a loss on these sales. 4/

1/ Confirmed by Western Electric and Kokusai personnel.
2/ * * *. (ATT submission dated July 30, 1984).
3/ * * *.
4/ * * *.

* * *. 1/ A summary of all bids received for supplying 2,000 and 3,500 units shown below:

Company	Unit price for 2,000 units	Unit price for 3,500 units
U.S. companies:		
***	***	***
Japanese companies:		
***	***	***

1/ * * *.
2/ * * *.

* * * * * * *

* * * * * * *

* * * * * * *

1/ Copies of Johnson's and Kokusai's bids are presented in Apps. D and E, respectively. A summary of their bids is as follows (in dollars per unit):

Number of units	Johnson	Kokusai
300	***	***
500	***	***
1,000	***	***
1,500	***	***
2,000	***	***
2,500	***	***
3,000	***	***
3,500	***	***
4,000	***	***

* * * * * * *

* * * * * * * 1/ 2/ 3/

In January 1984, AT&T Technologies issued a new RFQ to both Johnson and Kokusai for up to * * * transceivers. These transceivers would be delivered * * *. Johnson's bid on the RFQ was * * * per unit for a * * * unit order (see App. G). Kokusai told AT&T that * * *. The RFQ * * * in February 1984 for quantities up to * * * units for delivery in * * * 1984. The RFQ was only for the Mod-1 transceiver. However, Johnson responded that it was only willing to supply it's *** cell site transceiver, which is electrically equivalent to the Mod-1 transceiver, but only * * * *. The Johnson bid ranged from * * * per unit for * * * units to * * * per unit for orders * * *. * * *. 4/

The U.S. Market

Apparent U.S. consumption of cell-site transceivers increased from * * * units in 1981 to * * * units in 1982 and * * * units in 1983. Until 1983, E.F. Johnson was the only company producing cell-site transceivers in commercial quantities. In late 1983 both Kokusai and GE began production of cell-site transceivers. Thus, in the first 6 months of 1984, U.S. consumption of transceivers increased to * * * units. Projected U.S. consumption of transceivers for all of 1984 is approximately * * * units. The reason for the large increase for 1984 is * * * AT&T contracts awarded to Kokusai and GE's increased production of transceivers for use in the GE-Northern Telecom cellular system. The aforementioned projection does not include any shipments by AT&T of its Mod-2 transceiver or any future domestic sales by E.F. Johnson.

Consideration of Injury or Threat Thereof

U.S. production, capacity, and capacity utilization

Unlike some other industries, cell-site transceivers are basically made to order. Without sufficient orders companies like E.F. Johnson or GE would close

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1/ A copy of * * * is presented in app. F.

2/ Also see transcript, preliminary conference, pp. 43-48.

3/ At a meeting on Dec. 20, 1983, with E.F. Johnson in Waseca, MN, the staff was told that * * *. Also see transcript of the conference, p. 47.

4/ Commission staff meeting with E.F. Johnson, Oct. 30, 1984.

down the transceiver production line and lay off or reassign personnel to other jobs. The machines can be put to other uses, * * *. Thus, production capacity levels for transceiver are * * *. Johnson stated that it increased capacity to * * * units for 1983 and 1984. However, the company closed down its transceiver production line in * * *. * * *. 1/ Johnson * * * production of transceivers in conjunction with its contract * * * for NovAtel.

E.F. Johnson's production of cell-site transceivers * * * units in 1981 to * * * units in 1982 and then * * * units in 1983. Comparing production in January-June 1983 with that in January-June 1984, production * * * units to * * * units (table 2). The 1984 figure represents the * * * contract received from Western Electric in 1983. * * *. In * * * 1984 and in 1985, Johnson will produce transceivers for export to NovAtel of Canada.

GE informed the Commission that it produced only * * * transceivers in 1983. In January-June of 1984, however, GE produced * * * cell-site transceivers. GE informed the Commission * * *. Thus, GE expects domestic production of transceivers to total approximately * * * units in 1984. * * *. GE was unable to provide production capacity data because its cell-site transceivers are * * *. * * * was related to the awarding of cellular contracts to the GE-Northern Telecom consortium. * * *.

AT&T is currently commencing production of the Mod-2 cell-site transceiver in its * * *, NC, plant. Based on a field visit to the * * * plant and discussions with AT&T personnel, commercial production of Mod-2 transceivers * * * 1984. AT&T has shipped * * * units as of November 1984 and expects to produce * * * unit by the end of 1984. 2/ * * *.

Table 2.--Cell site transceivers: U.S. production, by companies, 1981-84 1/ and January-June 1984.

(In units)

Company	1981	1982	1983	Jan-June 1984	Projected 1984
AT&T	***	***	***	***	***
Johnson	***	***	***	***	***
GE	***	***	***	***	***
Harris	***	***	***	***	***
Total	***	***	***	***	***

1/ Data for 1984 are projected.

Source: Compiled from data submitted in response to questionnaire of the U.S. International Trade Commission.

1/ Johnson estimated that it would take * * * days to set-up the production cycle for transceivers at the cost of * * *. Nov. 15, 1984, Johnson submission.

2/ Also see transcript, p. 123.

Domestic shipments, exports, and inventories

E.F. Johnson's domestic shipments are * * *: * * * units in 1981, * * * units in 1982, * * * units in 1983, and * * * in the first half of 1984. The company expects to export * * * transceivers to NovAtel Communications, a Canadian corporation, in * * * 1984, and * * * additional units in 1985. * * *. GE reported domestic shipments of * * * transceivers in 1983, * * *. In January-June 1984, GE reported that domestic shipments * * *. * * *. Thus, total GE shipments for January-June 1984 were * * * units. As previously mentioned, GE expects to produce * * * units in July-December 1984. GE informed the Commission that * * *. Based on current market estimates for 1985 and beyond, GE estimates that * * *. 1/ * * *.

Employment

Both E.F. Johnson and GE reported employment statistics. The number of production workers for cell-site transceivers increased from * * * employees in 1981 to * * * employees in January-June 1984. The January-June 1984 figure can be broken down to * * * employees for E.F. Johnson and * * * employees for GE. GE informed the Commission that, * * *, it was laying-off 750 workers at its Lynchburg plant. Approximately * * * of its transceiver work force * * *. 2/

AT&T estimated that its * * *, NC, plant employs * * * employees. Currently, * * * assembly line workers * * * for the transceiver and * * * the transceivers. There are * * * dedicated to the transceivers, * * *. Harris Communications currently has * * * employees dedicated to the production of cell site transceivers.

Average hourly wages paid to production workers increased steadily from * * * per hour in 1981 to * * * per hour in 1983, and increased further to * * * per hour in January-June 1984. Total average compensation also increased from * * * per hour in 1981 to * * * per hour in 1983, and by January-June 1984 had further increased to * * * per hour (table 3).

1/ * * *.

2/ Washington Post, Nov. 14, 1984 and telephone and conversation with GE on Nov. 14, 1984. * * *..

Table 3.--Average number of production and related workers engaged in the production of cell-site transceivers and all products, hours worked by, and wages and total compensation paid to them, and output per hour worked, 1981-83, January-June 1983, and January-June 1984.

Item	1981	1982	1983	January-June--	
				1983	1984
Average number of workers producing--					
All products	***	***	***	***	***
Cell-site transceivers	***	***	***	***	***
Hours worked by production and related workers producing--					
All products--1000 hours--	***	***	***	***	***
Cell-site transceivers--do--	***	***	***	***	***
Wages paid to production and related workers producing--					
All products--1,000 dollars--	***	***	***	***	***
Cell-site transceivers--do--	***	***	***	***	***
Total compensation paid to production and related workers producing--					
All products--1,000 dollars--	***	***	***	***	***
Cell-site transceivers--do--	***	***	***	***	***
Average hourly wages paid to production and related workers producing--					
All products	***	***	***	***	***
Cell-site transceivers	***	***	***	***	***
Average hourly compensation paid to production and related workers producing--					
All products	***	***	***	***	***
Cell-site transceivers	***	***	***	***	***
Average output by production and related workers producing cell-site transceivers--units per 1,000 hours--	***	***	***	***	***

Source: Compiled from questionnaires received from E.F. Johnson and GE.

Financial experience of E.F. Johnson

Financial data were received from only one U.S. producer, E.F. Johnson, the petitioner. Its cell-site transceiver sales accounted for * * * percent of establishment sales during the period under investigation. GE was unable to break out separate profit-and-loss data for transceivers.

Cell-site transceiver operations.--The data for E.F. Johnson's cell-site transceiver operations are presented in total in table 4 and on a unit basis

Table 4.--Selected financial data on E.F. Johnson's operations in producing cell-site transceivers, 1981-83, January-June 1983, and January-June 1984

Item	Dec. 31			January-June--	
	1981	1982	1983	1983	1984
Sales----------1,000 dollars--	***	***	***	***	***
Cost of goods sold----------do----	***	***	***	***	***
Gross profit----------do----	***	***	***	***	***
Allocated corporate general selling and administrative expenses---------1,000 dollars--	***	***	***	***	***
Operating profit or (loss) 1,000 dollars--	***	***	***	***	***
Interest expense---1,000 dollars--	***	***	***	***	***
Other income or (expense) 1,000 dollars--	***	***	***	***	***
Profit or (loss) before income taxes----------1,000 dollars--	***	***	***	***	***
Depreciation and amortization expense included above 1,000 dollars--	***	***	***	***	***
Pretax cash flow from operations 1,000 dollars--	***	***	***	***	***
As a share of net sales:					
Cost of goods sold-----percent--	***	***	***	***	***
Gross profit----------do----	***	***	***	***	***
General, selling and administrative expenses--------percent--	***	***	***	***	***
Operating profit or (loss) percent--	***	***	***	***	***
Profit or (loss) before income taxes----------percent--	***	***	***	***	***
Capital expenditures 1,000 dollars--	***	***	***	***	***
Fixed assets at cost--------do----	***	***	***	***	***
Research and development----do----	***	***	***	***	***

1/ Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

in table 5. Since 1975 E.F. Johnson has developed * * * of cell-site transceivers. During the period under review, the company has sold varying quantities of cell-site transceivers (* * *) each year, * * *.

The number of units sold has * * *. In 1981, E.F. Johnson sold * * * units, and in 1982 and 1983 the company sold * * * and * * * units, respectively. During January-June 1984, the company sold * * * units compared with * * * units sold in the corresponding period of 1983. The aforementioned units represent E.F. Johnson's * * * production of cell-site transceivers during those periods, which indicates that * * *. 1/ * * *.

Table 5.--Profit-and-loss experience of E.F. Johnson on its cell-site transceiver operations, 1981-83, January-June 1983, and January-June 1984

Item	1981	1982	1983	January-June--	
				1983	1984
Total units sold	***	***	***	***	***
Average selling price per unit	***	***	***	***	***
Average raw materials cost per unit	***	***	***	***	***
Average direct labor cost per unit	***	***	***	***	***
Average factory costs per unit	***	***	***	***	***
Average total manufacturing cost per unit	***	***	***	***	***
Average gross profit per unit	***	***	***	***	***
Average general, selling, and administrative expenses per unit	***	***	***	***	***
Average operating profit or (loss) per unit	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

1/ Machinery used to produce for the Western Electric contract was * * *.

* * * * * * *

Johnson began acquiring machinery and equipment which is dedicated solely to the production of cell-site transceivers in * * *. Over the past * * * years, these capital expenditures * * * of expenditures on machinery and equipment. However, the production of cell-site transceivers makes * * * of existing equipment. 1/

Overall operations.--As mentioned previously, cell-site transceiver sales accounted for * * * of establishments sales during the period under investigation. In its Waseca, MN, plant, which produces a variety of electronic products in addition to cell-site transceivers, net sales for 1983 were * * * (table 6). Sales in 1982 were * * *. During January-June 1984, sales * * * compared with sales of * * * million in the corresponding period of 1983.

* * * * * * *

Research and development.--GE is * * * on R&D for cell-site transceivers, although E.F. Johnson * * *, as shown in the following tablulation (in thousands of dollars):

				January-June	
	1981	1982	1983	1983	1984
E.F. Johnson---------	***	***	***	***	***
GE-------------------	***	***	***	***	***
Harris Corp----------	***	***	***	***	***

1/ GE reported that it spent * * * in 1983 and * * * during January-June 1984 for machinery and equipment used for the production of cell-site transceivers.

Table 6.--Selected financial data on E.F. Johnson's establishment in which cell-site transceivers are produced, 1981-83, January-June 1983, and January-June 1984

Item	Dec. 31			January-June--	
	1981	1982	1983	1983	1984
Sales----------1,000 dollars--	***	***	***	***	***
Cost of goods sold----------do----	***	***	***	***	***
Gross profit----------do----	***	***	***	***	***
General, selling, and administrative expenses----1,000 dollars--	***	***	***	***	***
Operating profit or (loss) 1,000 dollars--	***	***	***	***	***
Interest expense---1,000 dollars--	***	***	***	***	***
Other income or (expense) 1,000 dollars--	***	***	***	***	***
Profit or (loss) before income taxes----------1,000 dollars--	***	***	***	***	***
Depreciation and amortization expense included above 1,000 dollars--	***	***	***	***	***
Pretax cash flow from operations 1,000 dollars--	***	***	***	***	***
As a share of net sales:					
Cost of goods sold-----percent--	***	***	***	***	***
Gross profit----------do----	***	***	***	***	***
Operating profit or (loss) percent--	***	***	***	***	***
Profit or (loss) before income taxes----------percent--	***	***	***	***	***
Capital expenditures 1,000 dollars--	***	***	***	***	***
Fixed assets at cost--------do----	***	***	***	***	***
Ratio of sales of cell-site transceivers to establishment's sales----------percent--	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Johnson also reported that it spent * * * on R&D for transceivers during 1975-80. However, AT&T Technologies informed the Commission that the original design specifications for the prototype transceivers were prepared by Bell Labs and only implemented by Johnson. * * *. 1/

Impact of imports on U.S. producers' growth, investment, and ability to raise capital

The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of cell-site transceivers from Japan on their firm's growth, investment, and ability to raise capital. Their responses are presented below:

E.F. Johnson.--

* * * * * * *

Harris Corp.--

* * * * * * *

Threat of injury

Kokusai's production plant where cell-site transceivers are produced (* * *) has a current capacity of * * * units per month and the plant is operating at * * * capacity utilization. * * *. Kokusai informed the Commission that it is not seeking any other U.S. purchasers for transceivers. While AT&T maintains that it will produce the Mod-2 transceiver in the United States, * * *. AT&T has emphasized to the Commission staff that it * * *.

Consideration of the Causal Relationship Between LTFV Imports and the Alleged Injury

U.S. imports

As previously mentioned, Kokusai is the only known Japanese producer exporting cell site transceivers to the United States. Kokusai was the

1/ Phone conversation with AT&T, Jan. 27, 1984, and submission July 30, 1984.

importer of record for its own transceivers from * * *. As of * * *, AT&T became the importer of record of the Kokusai transceivers. In 1983 Kokusai imported * * * units. * * *. During July-December 1984, Kokusai will export * * * units to the United States, which represents * * *. In the first AT&T contract, the transceivers were sold at a unit price of * * *, while the second contract was at a unit price * * *. * * *. The reason for the * * * is the introduction of the * * * the Mod-2 transceiver, which will be produced in North Carolina. AT&T has also developed * * * for using the Mod-2 cell-site (including the transceiver) * * *.

As previously mentioned, the Department of Commerce determined that "critical circumstances" exist in this investigation. The following tabulations sets forth Kokusai's and AT&T's imports of cell-site transceivers for 1983, 1984 * * * 1985 (in units):

Kokusai and AT&T's Imports

1983:	* * *--	***
1984:	January	***
	February	***
	March 1/	***
	April	***
	May	***
	June 2/	***
	July	***
	August	***
	September	***
	October	***
	November (projected)	***
	December (projected)	***
	Total	***
1985 (* * *)		***

1/ If the Commission determines that critical circumstances exist, dumping duties will be effective Mar. 15, 1984.

2/ If the Commission makes an affirmative injury determination but determines that critical circumstances do not exist, dumping duties will be effective June 12, 1984.

Market penetration of LTFV imports

U.S. imports of cell-site transceivers * * * percent share of the U.S. market in 1983. However, in January-June 1984 the market penetration of Japanese transceivers * * *, as Kokusai * * * of cell-site transceivers under the Western Electric contract (table 7). The projected market penetration of Japanese transceivers for 1984 is approximately * * * percent. However, as AT&T shifts to the Mod-2 transceiver in 1985 and Harris begins its own production of transceivers, market penetration of Japanese transceivers will probably decline.

Table 7.--Cell-site transceivers: Domestic shipments, imports for consumption, and apparent U.S. consumption, 1981-83, January-June 1984, and projected 1984

Period	Domestic shipments	Imports from Japan	Apparent consumption	Ratio of imports to consumption
	units			percent
1981	***	***	***	***
1982	***	***	***	***
1983	***	***	***	***
1984 (January-June)	***	***	***	***
Projected total 1984	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and estimates of GE's shipments and inventories for July-December 1984.

Lost sales

The Commission * * * E.F. Johnson's allegation that it lost the sale of cell-site transceivers under the Western Electric contract to Kokusai. The amount of the lost sale was * * * units. However, the price differential on the lost sale has been open to debate. The Kokusai price was * * * per unit and the Johnson price offered in the September 1, 1982, RFQ bid (for over 4,000 units) was * * * (see the Western Electric contract section). E.F. Johnson also alleged that it lost a second AT&T contract to Kokusai for * * * transceivers. Johnson quoted AT&T a price of * * * per unit for orders in excess of * * * units. AT&T informed the Commission that Johnson refused to bid on the transceiver requested in the RFQ (Mod-1 type transceiver). Rather, Johnson informed AT&T that it would supply a different model transceiver that Johnson alleged to be electrically equivalent with the requested Mod-1 transceiver. Johnson informed the Commission that * * *. Furthermore, the transceiver that Johnson wanted to supply is equivalent electronically to the Mod-1 model and was, according to Johnson, fungible with it. AT&T informed the Commission that the RFQ was for only the KS- *** (Mod-1) transceiver * * *. * * *. The AT&T RFQ and Johnson's answer are set forth in appendix G.

Prices

A single U.S. producer, E.F. Johnson, supplied 100 percent of reported sales in the U.S. market for cell-site transceivers in 1982, and much of the market in 1983. In October-December 1983, two other supplying firms, GE and Kokusai, also reported sales transceivers. Because U.S. demand for cell-site transceivers is expected to grow rapidly in the next few years, new suppliers are preparing to enter the market. To obtain price information in this dynamically growing market, the Commission requested selling and bid prices in its questionnaires to producers and importers.

Selling prices.--The Commission asked U.S. producers and importers for their net f.o.b. and net delivered selling prices on shipments of cell-site transceivers to their largest customers, by quarters, from January 1982 through June 1984. The Commission received pricing information from two domestic producers, E.F. Johnson and GE, and from one Japanese supplier, Kokusai. Johnson reported price information for most of the quarters requested, Kokusai reported price information for only October-December 1983 through April-June 1984, and GE reported prices for only October-December 1983. The price data reported by the three responding firms were for their total shipments of transceivers during the quarters requested. * * *. Because the responding firms generally did not report delivered prices, only the reported f.o.b. prices are discussed. Transportation costs for these items are a small portion of the total price and would not signicantly effect the data. 1/

The weighted-average net f.o.b. selling prices are presented by reporting firms in table 8. Johnson's weighted-average selling prices of its transceivers * * * per unit in January-March 1982 to * * * per unit in January-March 1984, or by approximately * * * for the period. 2/ GE had a net selling price of * * * per unit for shipments in October-December 1983, and Kokusai reported a net selling price of * * * per unit for shipments in the same period. Average margins of * * * October-December 1983 were approximately * * * percent based on Johnson's price and * * * percent based on GE's price. Comparisons of the reported prices for the fourth quarter of 1983 are based on significantly different contracted sales levels--* * * units for Johnson, * * * units for GE, and * * * units for Kokusai. Also, while prices reported by Johnson and Kokusai involve sales of interchangeable transceivers * * *, prices reported by GE are for sales to * * * of transceivers meeting different specifications. As discussed in the section of the report dealing with the Western Electric contract, Johnson and Kokusai each submitted a series of price quotes to Western Electric for different levels of sales. Based on both firms' bids at the 1,000-unit level (* * * for Johnson and * * * for Kokusai), Kokusai * * * Johnson by about * * * percent. At the 4,000-unit level, Kokusai's bid of * * * was about * * * Johnson's bid of * * *. * * *. Both Johnson and GE stated in their questionnaire responses that their reported fourth-quarter 1983 prices were * * *.

* * *. 3/ The bidding process leading up to these two contract awards is discussed earlier in this report.

Prices bid for future contracts.--Three U.S. producers of transceivers, Johnson, Harris, and GE, responded to this section of the questionnaire, but no U.S. importers of Japanese transceivers responded. Johnson reported bidding an average price of * * * per unit for * * * transceivers on a contract that it was awarded in December 1983. The * * * price included costs of * * *. Johnson also reported an average bid price of * * * per unit for

---

1/ * * *.

2/ * * *.

3/ Commission staff field trip of Jan. 13, 1984.

Table 8.--Cell-site transceivers produced in the United States and imported from Japan: Weighted-average net selling prices and quantities, by principal suppliers and by quarters, January 1982-June 1984 1/

Period	Domestic				Japanese	
	E.F. Johnson 2/		GE		Kokusai	
	Price	Quantity	Price	Quantity	Price	Quantity
	Per unit	Units	Per unit	Units	Per unit	Units
1982:						
Jan.-Mar	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***
July-Sept	***	***	***	***	***	***
Oct.-Dec	***	***	***	***	***	***
1983:						
Jan.-Mar	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***
July-Sept	***	***	***	***	***	***
Oct.-Dec	***	***	***	***	***	***
1984:						
Jan.-Mar	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***

1/ ***.
2/ ***.
3/ ***.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

* * * transceivers involving * * * that have not yet been awarded. 1/ Of the * * * outstanding quotes, Johnson reported * * * its bid prices * * * per unit to * * * per unit in December 1983. 2/ GE reported bidding an average price of * * * per unit for * * * transceivers on RFQ's that have been awarded by Northern Telecom. Delivery is scheduled for * * *. Furthermore, GE reported bidding an average price of * * * per unit for * * * transceivers on * * * from Northern Telecom that have not yet been awarded. Harris reported an average price of * * * per unit for over * * * transceivers on * * * RFQ's that have yet to be awarded.

1/ NovAtel, Ltd., a wireline company located in Alberta, Canada, awarded the * * *-unit contract to Johnson. However, in an article published in Communications Week (Jan. 31, 1984), the Novatel contract is described as a "multiyear contract valued at more than $10 million a year to purchase cellular base radio systems from Waseca, Minn.-based E. F. Johnson. The Johnson model *** intelligent base station equipment is to be incorporated in cell-sites Novatel plans to construct as part of the recently introduced Aurora 800 cellular system."

2/ Johnson participates in a joint venture with ITT for these * * * bids. Johnson is supplying the RF equipment, including transceivers, and ITT is supplying the MTSO. * * *.

APPENDIX A

INVESTIGATION NOTICES

[A-588-021]

Final Determination of Sales at Less Than Fair Value; Cell Site Transceivers From Japan

AGENCY: International Trade Administration, Import Administration.

ACTION: Notice.

SUMMARY: We determine that cell site transceivers from Japan are being sold, or are likely to be sold, in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise. We have directed the U.S. Customs Service to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margins, as described in the "Suspension of Liquidation" section of this notice. We also determined that critical circumstances exist with respect to imports of cell site transceivers from Japan.

EFFECTIVE DATE: October 26, 1984.

FOR FURTHER INFORMATION CONTACT: Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-5414.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation and in accordance with section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act), we determine that cell site transceivers from Japan are being sold in the United States at less than fair value, within the meaning of section 731 of the Act.

We found that the foreign market value of cell site transceivers from Japan exceeded the United States price on all sales. The overall weighted-average margin on all sales compared is 59.94 percent.

Case History

On December 28, 1983, we received a petition from E.F. Johnson and Company on behalf of the cell site transceivers industry in the United States. In accordance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petition alleged that imports of cell site transceivers from Japan are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that these imports are injuring, or threatening to injure, a United States industry. The petition alleged that sales of cell site transceivers were being made at less than the cost of production. The petition also alleged, pursuant to section 733(e) of the Act, that "critical circumstances" exist in this case.

After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on January 17, 1984 (49 FR 3100). On February 13, 1984, the ITC determined that there is a reasonable indication that imports of cell site transceivers are materially injuring a United States industry.

On March 7, 1984, we presented an antidumping questionnaire to Kokusai Electric Company, Ltd. (Kokusai), the sole Japanese manufacturer selling the subject merchandise for export to the United States. We reviewed a response from Kokusai on April 16, 1984, and verified the response during the period May 9 through May 12, 1984. On June 5, 1984, we preliminarily determined that there is a reasonable basis to believe or suspect that cell site transceivers from Japan are being, or are likely to be sold at less than fair value and that "critical circumstances" do exist with respect to cell site transceivers from Japan (49 FR 24155). On August 10, 1984, we published a notice postponing our final determination from August 20, 1984, until October 19, 1984, at the request of counsel for the respondent in accordance with section 735(a)(2)(A) of the Act (49 FR 32096). We received supplementary responses on August 13 and August 20, 1984, and verified these responses in Japan during the period September 10 through September 19, 1984.

On October 1, 1984, in accordance with requests from counsel for petitioners and counsel for respondents, a public hearing was held.

Scope of Investigation

The merchandise covered by this investigation is cell site transceivers and related subassemblies, as provided for in item 685.2976 of the Tariff Schedules of the United States Annotated. Cell site transceivers and related subassemblies are part of the radio frequency (RF) equipment in the base station (cell site) of a cellular radio communications systems. This single package RF equipment functions as a locating receiver and provides simultaneous two-way voice and data communications between the base station and the subscriber's mobile telephone by using different frequencies to transmit and receive. Subassemblies are an assemblage of component parts dedicated for use in cell site transceivers as defined above.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to an unrelated U.S. purchaser prior to its importation into the United States. We calculated the purchase price based on the f.o.b. price, El Segundo, California. We deducted port charges, inland freight, ocean freight and insurance costs incurred in delivering the product.

Foreign Market Value

In accordance with section 773(a)(2) of the Act, we used "Constructed Value" to determine the foreign market value, because Kokusai Electric Company, Ltd. has not sold a product "such or similar" to that sold in the U.S. in either its home market or in a third country. To determine constructed value we examined production costs, including materials, labor, research and development, other manufacturing costs, selling, other general expenses and profit.

On February 23, 1983, Kokusai entered into a contract to sell cell site transceiver units to a U.S. buyer. The company had not previously manufactured this product. Production began in late 1983. Consequently, cost information available at the time of our preliminary determination covered the period from the beginning of production through March 1984 and included certain costs which were related to start-up production. In order for the constructed value to reflect the appropriate production cost, it was based on "normalized costs of production". "Normalized costs" were the weighted-average costs for the units to be produced under the contract based on: (1) Actual costs (including start-up costs) incurred through March 1984; and (2) those anticipated costs which were supported by contracts or other credible documentation for the remaining number of units needed to fulfill the contract commitment. Under this method, start-up costs were amortized, on a pro-rata basis, over the total number of units to be manufactured under the contract.

In determining the constructed value in our preliminary determination, we made certain revisions to the cost elements submitted by the respondent. The Department used: (1) Actual costs incurred in the production of component parts manufactured by other divisions of Kokusai, instead of transfer prices, (2) revised cost projections which reflected estimates supported by verified information, (3) overhead costs in addition to the direct costs of research and development, and (4) in certain instances where the respondent had been unable to provide sufficient data, the best information available. We used the statutory 10 percent for general expenses because actual expenses did not meet the minimum of 10 percent of the sum of material and fabrication costs required by section 773(e)(1)(B)(i) of the Act. We calculated profit based on the 8 percent minimum, as prescribed in section 773(e)(1)(B)(ii) of the Act, since the actual profit was less than 8 percent. We made currency conversions from the Japanese yen to the U.S. dollar in accordance with § 353.56(a)(1) of our regulations.

Our final determination was based on verified cost information relating to production through the end of July 1984. We used weighted-average costs for the units produced under the contract based on the actual costs (including start-up costs) incurred for their production. We revised the costs as presented by the respondent in its submissions of August 20 related to direct labor, indirect overhead expense and factory administrative costs.

We used the actual general, administrative and selling expenses which exceeded the statutory 10 percent of the material and fabrication costs. We used 15.64 percent for profit, which was the "best information" representing the profit of a product in the "same general class or kind" as the transceiver. This profit was based on an analysis of the profit margin for several Japanese firms engaged in the production and sale of communications equipment in Japan.

Determination of Critical Circumstances

Petitioner alleged that imports of cell site transceivers from Japan present "critical circumstances." Under section 735(a)(3) of the Act (19 U.S.C. 1673d(a)(3)), critical circumstances exist when the Department finds that: (1) (a) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than fair value; and (2) there have been massive imports of the merchandise under investigation over a relatively short period.

Based upon our analysis of the information, we determine there is no history of dumping. We then considered whether the person by whom, or for whose account, these products were imported knew or should have known that the exporter was selling these products at less than fair value. It is the Department's position that a reasonable basis the importer knew or should have known that a product was being sold at less than its fair value exists where margins calculated on the basis of responses to the Department's questionnaire are sufficiently large. In this case the weighted-average margin is 59.94 percent. Where, as here, there is a corporate relationship between the exporter and the importer of record, margins of this size indicate that the importer of record, Kokusai Electric Company of America, knew or should have known that prices on sales for export to the United States (as adjusted according to the antidumping law) were below the foreign market value. Consequently, we find that the importer knew or should have known that the merchandise was being sold in the United States at less than fair value.

We also find that imports of the product subject to this investigation appear massive over a relatively short period. In reaching this determination, we considered the specific circumstances surrounding Kokusai's contract with its U.S. buyers. First, at the time the contract was entered into, it represented a substantial portion of the U.S. market. Second, even with increased demand, the market remains relatively small in terms of the number

of units needed to fill current demand. Third, Kokusai began deliveries shortly before the petition was filed. In the interim between the filing of the petition and the preliminary determination Kokusai's deliveries increased rapidly and significantly. Consequently, on the basis of our analysis of the information, we determine that imports of the product subject to this investigation appear massive over a relatively short period.

For reasons described above, we determine that "critical circumstances" do exist with respect to cell site transceivers from Japan.

Petitioner's Comments

Comment 1

The petitioner claims that other products manufactured by Kokusai are less sophisticated technologically and sold in higher volume, yet are sold at substantially higher prices than the transceiver.

This price disparity constitutes evidence that cell site transceivers are being sold at less than fair value and the disparity should be considered by the Department in its final determination by adopting the profit in the home market of merchandise which is in the same "general class or kind."

DOC Response

The products referred to by the petitioner—"mobile subscriber unit," "Japan personal radio" and "Redicom radio"—were not considered to be "such or similar merchandise" to the transceiver for purposes of our investigation. Kokusai's home market sales of these items could, therefore, not serve as the basis for foreign market value. Consequently, the Department did not obtain sales or cost information pertaining to these products for the period of investigation.

For purposes of calculating profit, however, as defined under the constructed value provision of the Act, the Department requested the profit margin for these products to be used as a reference point in establishing profit for merchandise of the same general class or kind as the transceivers. However, such data could not be satisfactorily verified by the Department, and, therefore, was not used in this determination.

Comment 2

The petitioner claims that Kokusia's justification for its low costs—(1) off the shelf technology, and (2) efficient production methodology—would not account for low costs because other expenses like prototype design and equipment costs would be incurred.

DOC Response

The Department verified the capital costs (depreciation) related to the production of transceivers. Pre-and-post production prototype expenses were included in research and development.

Comment 3

The petitioner suggests that the reasons for the differences in the prices paid by Kokusai and the U.S. market prices for the same type of components, such as quantity purchased and distance from vendor should be ascertained.

DOC Response

The Department verified the prices paid by Kokusai to unrelated suppliers for 60 percent of these components and used these actual prices for calculating the constructed value. It is not the Department's practice to compare prices paid by the manufacturer under investigation with U.S. market prices for components, since the Department bases its determination on the costs actually incurred by the manufacturer. It should be noted that the Department's product expert has indicated that all but a few parts could be considered "off the shelf" items, and that it is usual practice for the prices of components to be negotiated.

Comment 4

The petitioner claims that a decrease in the number of labor hours because of a decrease in the amount of testing is unlikely because: (1) The contract specifies the amount of testing required, and (2) economic principles would dictate that Kokusai test throughout the process.

DOC Response

The Department verified the actual hours required to produce the transceiver. These hours included testing. Kokusai does test throughout the process for early detection of defects and malfunctioning of the transceiver.

Comment 5

The petitioner claims that labor expenses should include fringe benefits, year-end bonuses and Japanese payroll-taxes.

DOC Response

It is the usual practice of the Department to include all fringe benefits as part of labor expenses. All fringe benefits, including year-end bonuses and any taxes paid by Kokusai, have been included in labor expenses.

Comment 6

The petitioner claims that the Department must examine Kokusai's basis of allocating manufacturing overhead costs to product groups and must be satisfied that overhead costs are allocated only to those products an product group which properly bear thes costs.

DOC Response

The Department, as is its usual practice, reviewed Kokusai's basis for identifying and allocating overhead expenses of the Radio Communications Division, the Division in which the transceiver is produced. The Radio Communications Division is divided int a number of cost centers, one of which includes the costs pertaining to the transceivers and all other products manufactured on the "automatic" equipment. Certain of the overhead costs in question could be identified directly with the Division and others could be identified directly to the cost centers within the Division.

Kokusai allocated these overhead costs accordingly. However, Kokusai allocated certain other factory overhea costs to the Radio Communications Division based on full-time employees, production value or building space. It also allocated certain costs to the cost centers based on full-time employees or production value.

The Department did not accept the allocation based on full-time employees and reallocated the expenses to the cos centers within the Division on the basis of total labor hours. Allocation of overhead costs on the basis of full-time employees to the cost center where the employee is permanently assigned was not accepted because this method: (1) Would not attribute overhead costs, such as supervision and heating, to the many hours worked by the part-time employees, and (2) would disproportionately allocate these overhead costs to the areas where the full-time employees have been assigned.

The Department notes that: (1) The employees considered by the company to be "part-time" are not incidental or temporary but have been employed for many years, work a regular work week and are a significant part of the company's permanent work force, and (2) employees may work in areas other than those to which they are permanently assigned.

Comment 7

Petitioner claims that where it is possible to identify research and development costs (R&D) as being specific to a product rather than as

generally beneficial to overall operations, such costs must be directly allocated to that product and included in its manufacturing costs, regardless of the manufacturer's accounting practices concerning such costs.

DOC Response

To determine if R&D expense should be considered manufacturing expense of the product or general expense of the corporation, the Department considers the purpose of the expenditure. R&D expenses which can be identified directly with the product under investigation or to the area in which the product is manufactured are considered manufacturing expenditures and are part of "fabrication" costs in the constructed value calculation. R&D expenditure incurred for general corporate purposes are classified as a "general" expenses.

The Department reviewed the purposes for which Kokusai incurred its R&D expenses. For expenses which could be identified with the transceiver, the Department attributed these costs to the product and amortized such expenses over the production of transceivers ordered. Kokusai also identified such costs with the transceiver in its records as manufacturing expenses.

With respect to expenses which were identified with the Radio Communications Division, but not with a specific product, the Department allocated the R&D expenses to the products based on the relationship of R&D to direct costs of each group, i.e., R&D expenses as a percentage of material, labor and certain transportation costs. The Department did not accept Kokusai's basis (full-time employees) for allocating such costs to the groups and used instead for its allocation the total direct labor hours for each group, as discussed above.

Both the R&D costs directly identified with specific products and the R&D costs allocated among the products in the Radio Communications Division were considered manufacturing overhead by Kokusai and were part of the costs of manufacturing the product.

The company also incurred research and development expenses which were considered to be general expenses of the company and these were recorded as part of "general, selling and administrative" expenses on its financial statements.

Comment 8

The petitioner states that because Kokusai did not maintain inventory records of all components purchased for the transceivers, 5 percent of the invoiced costs for materials should be added as an inventory cost for waste. Alternatively, the yield rate for production of one of the components manufactured by Kokusai could be used.

DOC Response

Although inventory records for these components were not maintained by Kokusai, the company tracked the receipt of components by purchase slips. These slips reflected the quantity of components needed for each batch as well as additional components ordered in the event of spoilage.

The Department's product expert indicated that he found no evidence during his observations of the receipt and distribution of these parts to dispute the company's claims that it did not maintain inventories of the components. Therefore, the Department relied on the purchase slips for each batch and used the waste costs provided by the respondent.

Comment 9

The petitioner claims that tooling costs associated with the production of one of the components which were incurred prior to the current financial period should be included in the cost of that component.

DOC Response

The Department agrees and has made the appropriate adjustment.

Respondent's Comment

Comment 1

The respondent claims that the Department should: (1) Use the actual average labor costs incurred over the entire contract, or labor costs incurred in the most recent lots of completed production, and (2) use that labor rate, including part-time labor, which the company could actually attribute to the transceiver.

DOC Response

The Department used the average labor hours which were presented in the respondent's submission for its construced value calculation. The average was based on the total actual number of labor hours used to produce all the units required under the contract.

For the labor cost rate, the Department used the average labor cost rate for the Radio Communications Divisions of Kokusai, the division in which cell site transceivers are produced. This rate included full-time and part-time employees within the division. These employees were identified with the Radio Communications Division by the company's employee records during verification.

In this case where (1) the company has a permanent work force which consists of full-time and part-time employees, (2) workers generally could be, and in many cases are, interchangeable, (3) there is a material difference in the full labor cost rate between these types of employees, and (4) the difference in the full labor cost rate is a result of the employees being classified as full- or part-time employees, the Department applies the average labor rate of the Division.

Comment 2

The respondent claims that the Department erroneously included in its preliminary determination certain costs for internally produced parts, specifically (1) factory overhead which duplicated costs already included in overhead, and (2) labor costs, by failing to account for the "coefficient of efficiency" (an integral part of Kokusai's standard time calculation methodology).

DOC Response

Regarding the duplication of factory overhead costs, we note that Kokusai in both its original and its revised responses excluded general research and development costs incurred by a support division which produced certain components for the cell site transceiver. In both our preliminary and final determinations, we included a share of these general R & D expenses in our calculation of constructed value. We note that the company's books and records reflected the general R & D expenses as part of the factory overhead of the support division.

The Department did not accept the company's calculation for the "coefficient of efficiency" in the preliminary determination because the company did not provide source documentation to support the amount. The company provided in its revised response the actual hours worked in the mechanical division to produce certain parts. The Department used these actual labor hours for its final determination.

Comment 3

The respondent claims that for the preliminary determination the Department erred in: (1) Allocating the research and development expenses identified with the transceivers over only the transceivers produced for the initial contract, and (2) adjusting the company's submission for overhead expenses, by adding an "overhead" factor to Kokusai's R & D costs for the cell site transceiver.

DOC Response

Since the preliminary determination, the company has received additional orders for transceivers. The Department has accepted the respondent's basis of allocation and, accordingly, allocated research and development expenses identified with the transceivers over all orders.

During the second verification overhead expenses for research and development directly identified with the transceiver were reviewed. For the final determination the Department accepted the costs as presented by Kokusai and did not, as in the preliminary determination, adjust these costs for additional overhead.

Comment 4

On February 23, 1983, Kikusai entered into a contract with AT&T Technologies (then Western Electric) for the production, sale, and delivery of a specified number of cell site transceivers at a specified price. Subsequent to the Department's initiation of this investigation, the contracting parties agreed to an increase in the contract price to cover a modification in Kokusai's performance terms under the contract at the request of AT&T Technologies. Because the price increase applied retroactively, Kokusai claims that this price increase should serve as the basis for a circumstance of sale adjustment in the amount of the price increase for units shipped prior to the formal contract amendment. Additionally, purchase price should be based on the amended contract price for shipments after the contract amendment.

DOC Response

In conducting antidumping investigations, we normally select as our period of investigation a historic period which predates the filing of the petition. In the present investigation the original sale of the subject merchandise occurred prior to our initiation of the investigation. We have selected this sale price as the proper subject of our investigation. It was only after initiation of our investigation that the contracting parties agreed on a price increase based on a modification of Kokusai's performance terms under the contract.

The Department is necessarily very cautious in adopting price increases which occur after receipt of a petition alleging sales at less than fair value. We have concluded for this investigation, that the proper basis of purchase price remains the original contract price, which predated filing of the petition.

Comment 5

The respondent claims that only the actual costs identified with developing the prototype required to meet AT&T specifications should be used, although the company relied upon prior knowledge for production technique and other expertise.

DOC Response

The Department used those actual costs which could be identified directly with the development of the transceiver.

Comment 6

The respondent claims that R&D costs should be treated as general expenses and no part of the costs should be considered processing costs.

DOC Response

The Department applied Kokusai's method, used in its ordinary course of business for: (1) Identifying specific types of R&D costs with the product, and (2) accounting for such R&D costs as part of the direct cost of manufacturing of the product. These were considered by Kokusai as part of the manufacturing costs of the product. Kokusai also recognized other R&D costs as being general to the corporation and including these costs in "selling, general and administrative costs." See response to petitioner's comment 6.

Comment 7

Respondent states that petitioner, E.F. Johnson, seeks to insert the present antidumping investigation into the context of overall telecommunications trade policy between the United States and Japan. Whatever the merits of the issues being raised in other fora about United States telecommunications policy, those issues are not part of the present antidumping proceeding and should not be allowed to color the Department's analysis in the present investigation.

Response

We agree with the respondent.

Comment 8

The respondent claims that since Kokusai's sale of the transceiver would be considered a "purchase price" transaction and there were no products sold in the home or third country markets which were considered to be "such or similar" merchandise, the constructed value should include the selling expenses incurred for the U.S. sale as a substitute for selling expenses incurred on home market sales.

DOD Response

The Department agrees with the respondent in this case and has used the selling expenses incurred in the U.S. market as a substitute for home market selling expenses of the product, because there were no home market or third country sales of the product. Additionally selling expenses for products considered to be of the same general class or kind could not be verified. Because the corporation sold many different products, average home market selling expense for the corporation, as a whole, were not considered to be representative of products of the same general class or kind since. The Radio Communication, Division's sales were clearly less than a majority of sales and the transceiver sales would be an insignificant part of this Division's sales.

Comment 9

Kokusai claims that its shipments were not massive when considered within the context of the rapidly expanding U.S. market.

DOD Response

At the time it was entered into, the Kokusai contract with AT&T represented a substantial portion of the U.S. market. In the interim between the filing of the petition and the preliminary determination, deliveries under the contract accelerated rapidly and significantly, such that the bulk of the contract was delivered prior to our preliminary determination. Because of the magnitude of the contract and accelerated delivery schedule, we have determined that massive imports were made over a relatively short period of time.

Comment 10

Kokusai claims that in its preliminary critical circumstance determination the Department focused on the wrong party in imputing knowledge of less than fair value sales.

DOC Response

In imputing knowledge of sales at less than fair value, the Department considered whether the importer of record, Kokusai Electric Company of America (Kokusai America), knew or should have knwon that sales were at less than fair value. Section 735(a)(3)(A)(ii) of the Act requires that the person by whom, or for whose account, the merchandise is imported knew, or should have known that the sale was at less than fair value. Kokusai America, as importer of record, clearly qualifies as the person by whom the

merchandise was imported, notwithstanding the fact that Kokusai America was not the purchaser or consumer of the goods. We note that Kokusai America was the importer of record for all deliveries under investigation.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making this determination. We were granted access to the books and records of Kokusai and to its related importer in the U.S. We used standard verification procedures including examination of accounting records, financial records, and selected documents containing relevant information. In addition, we secured the services of a product expert who advised us on technical matters relating to production of the subject merchandise.

Continuation of Suspension of Liquidation

In accordance with section 733(d) and 733(e) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of cell site transceivers from Japan which are subject to this investigation. This suspension of liquidation applies to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after March 7, 1984, which date is 90 days before the date of publication of our preliminary determination in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount of the weighted-average margin by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/Producers/Exporters Weighted-Average Margins (%)

Kokusai, 59.94%
All other manufacturers/producers/exporters, 59.94%

ITC Notification

In accordance with section 735(d) of the Act, we are notifying the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for import Administration. If the ITC determines that material injury does not exist, this proceeding will be terminated and all deposits or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on cell site transceivers from Japan entered, or withdrawn from warehouse, for consumption after March 7, 1984, equal to the amount by which the foreign market value of the subject merchandise exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: October 19, 1984.

Alan F. Holmer,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-28060 Filed 10-25-84; 8:45 am]
BILLING CODE 3510-DS-M

[Investigation No. 731-TA-163 (Final)]

Cell-Site Transceivers and Subassemblies Thereof From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: June 12, 1984.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Japan of cell-site

transceivers and subassemblies thereof, provided for in item 685.29 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-163 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in this case on or before August 20, 1984, and the Commission will make its final injury determination by October 9, 1984 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Bill Schechter (202-523-0300), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 1984, the Commission notified the Department of Commerce that, on the basis of the information developed during the course of its preliminary investigation, there was a reasonable indication that an industry in the United States was materially injured by reason of alleged LTFV imports of certain cell-site radio apparatus and subassemblies thereof from Japan. The preliminary investigation was instituted in response to a petition filed on December 29, 1983, by counsel for E. F. Johnson Co., Waseca, Minnesota.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on August 17, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on August 30, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 20, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on August 27, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is August 27, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on September 7, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 7, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: June 27, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-17803 Filed 7-3-84; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX B

WITNESSES AT THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Cell-Site Transceivers and Subassemblies Thereof from Japan

Inv. No. : 731-TA-163 (Final)

Date and time: November 8, 1984 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

In support of the imposition of antidumping duties:

Bishop, Liberman, Cook, Purcell & Reynolds--Counsel
Washington, D.C.
Stacker and Ravich--Counsel
Minneapolis, Minnesota
on behalf of

E. F. Johnson Company

Richard Horner, President

Bishop, Liberman, Cook, Purcell & Reynolds

Charles R. Johnston, Jr.)
Ms. Ronelle W. Adams)--OF COUNSEL

Stacker and Ravich

Jann L. Olsten--OF COUNSEL

In opposition to the imposition of antidumping duties:

Arent, Fox, Kintner, Plotkin & Kahn--Counsel
Washington, D.C.
on behalf of

Kokusai Electric Co., Ltd. ("Kokusai")

Robert H. Huey)
Stephen L. Gibson)--OF COUNSEL

Interested party:

Pillsbury, Madison & Sutro--Counsel
Washington, D.C.
on behalf of

AT&T Technologies, Inc.

Ms. Jacqueline Forman, Esq.

Donald E. deKieffer)
George W. Thompson)--OF COUNSEL

APPENDIX C

COMMERCIAL CELLULAR SYSTEMS IN SERVICE AS OF SEPTEMBER 1984

COMMERCIAL CELLULAR SYSTEMS IN-SERVICE

No.	MARKET	OPERATOR	DATE	VENDOR
*	*	*	*	*

Source: Motorola.

"TOP 60 STATUS REPORT"
as published by Cellular Business, October 1984

SMSA # / Name		System Operators	CPG Date	Status	(Projected) Start up	# Cells	(Projected) # 1st Year Subscribers	Switching Equipment
1 New York, NY/NJ	wire	Nynex Mobile Comm.	2/18/83	On line	6/15/84	20	13,000	AT&T
	nonwire	Cellular Telephone Co.		Initial decision	4Q '84	49	9,500	Motorola (I)
2 L.A./Anaheim, CA	wire	PacTel Mobile Access	4/28/83	On line	6/13/84	24	12,000	AT&T
	nonwire	ICS/MCI/CMS	2/10/84	CPG	late '84	23	10,800	Northern Telecom
3 Chicago, IL	wire	Ameritech Mobile Communications	11/1/82	On line	10/13/83	26	12,000	AT&T
	nonwire	Rogers Radiocall, Inc.	8/19/83	In construction	4Q '84	18	6,000	Ericsson
4 Philadelphia, PA	wire	Bell Atlantic Mobile Systems	1/21/83	On line	7/12/84	13		AT&T
	nonwire	AWACS		Initial decision	Fall '84	18	8,400	Ericsson (I)
5 Detroit/Ann Arbor, MI	wire	Ameritech Mobile Communications	8/24/83	In construction	Fall '84	11	37,000*	AT&T
	nonwire	Detroit Cellular Telephone Co.	10/24/83	In construction	4Q '84	13	—	Ericsson
6 Boston, MA	wire	Nynex Mobile Comm.	11/19/82	In construction	4Q '84	12	1,600	AT&T
	nonwire	Yankee CellTel	5/16/83	In construction	Fall '84	—	—	Motorola
7 San Francisco/Oakland, CA	wire	GTE	7/8/83	CPG	Jan. '85	18	2,500	Motorola
	nonwire							
8 Washington, DC/MD/VA+	wire	Bell Atlantic Mobile Systems	5/13/83	On line	4/2/84	21		AT&T
	nonwire	Cellular One	11/18/83	On line	12/16/83	24		Motorola
9 Dallas/Ft. Worth, TX	wire	Southwestern Bell Mobile Systems	8/24/83	On line	7/31/84	14	9,800	AT&T
	nonwire	Lin/DFW Signal		Initial decision				
10 Houston, TX	wire	GTE	7/1/83	CPG	Fall '84	8	2,400	Motorola
	nonwire	Houston Cellular Telephone		Initial decision				
11 St. Louis, MO/IL	wire	Southwestern Bell Mobile Systems	8/8/83	On line	7/16/84	12	4,000	AT&T
	nonwire	CyberTel Cellular Telephone	12/22/83	On line	7/16/84	13	3,000	Motorola
12 Miami/Ft. Lauderdale, FL	wire	BellSouth Mobility	7/1/83	On line	5/25/84	8	5,000	AT&T
	nonwire	Florida Cellular Telephone Co.	5/23/84	CPG	—	18	14,196	Ericsson
13 Pittsburgh, PA	wire	Bell Atlantic Mobile Systems	12/6/83	In construction	3Q '84	20	—	AT&T
	nonwire	MCI	3/6/84	In construction	3Q '84	14	2,000	no contract
14 Baltimore, MD	wire	Bell Atlantic Mobile Systems	8/26/83	On line	6/5/84	21		AT&T
	nonwire	Cellular One	11/18/83	On line	12/16/83	24		Motorola
15 Minneapolis/St. Paul, MN/WI	wire	NewVector Communications	6/6/83	On line	6/6/84	12		Northern Telecom
	nonwire	MCI/Celcom	10/14/83	On line	7/23/84	8	2,000	Northern Telecom

I—Indicated in filing but no contract. * —5-year projection. + —Includes Washington, D.C., and Baltimore. Information available as of Sept. 6, 1984.

SMSA # / Name		System Operators	CPG Date	Status	(Projected) Start up	# Cells	(Projected) # 1st Year Subscribers	Switching Equipment
16 Cleveland, OH	wire	GTE	7/12/83	In construction	Fall '84	9	1,300	Motorola
	nonwire	Northern Ohio Cellular Telephone	1/16/84	In construction	late '84	7	----	Northern Telecom
17 Atlanta, GA	wire	BellSouth Mobility	6/6/83	On line	9/5/84	12	----	AT&T
	nonwire	Gencom Cellular of Atlanta		Initial decision	2Q '85	10	900	Motorola (I)
18 San Diego, CA	wire	PacTel Mobile Access	10/24/83	CPG	late '84	8	18,000	AT&T
	nonwire							
19 Denver/Boulder, CO	wire	NewVector Communications	6/17/83	On line	7/10/84	10	----	Northern Telecom
	nonwire	McCaw/MCI		Initial decision	1Q '85		4,440	NEC (I)
20 Seattle/Everett, WA	wire	NewVector Communications	6/6/83	On line	7/12/84	13	----	Northern Telecom
	nonwire	Interstate Mobilephone Co.	9/20/83	CPG	4Q '84			
21 Milwaukee, WI	wire	Ameritech Mobile Communications	6/6/83	On line	8/1/84	9	14,000*	AT&T
	nonwire	Milwaukee Telephone Co.	3/3/83	On line	6/1/84			Motorola
22 Tampa/St. Petersburg, FL	wire	GTE	8/10/83	In construction	Fall '84	10	1,300	Motorola
	nonwire							
23 Cincinnati, OH/KY/IN	wire	Ameritech Mobile Communications	6/6/83	In construction	Fall '84	11	14,000*	AT&T
	nonwire	Southern Ohio Telephone		Initial decision				
24 Kansas City, MO/KS	wire	Southwestern Bell Mobile Systems	7/8/83	On line	8/14/84	13	2,700	Motorola
	nonwire	McCaw/MCI		Initial decision		14	4,000	NEC (I)
25 Buffalo, NY	wire	Nynex Mobile Communications	12/14/82	On line	4/16/84	9	500	Motorola
	nonwire	Buffalo Telephone Co.	3/10/83	On line	6/1/84		2,000	Ericsson
26 Phoenix, AZ	wire	NewVector Communications	1/31/83	On line	8/15/84	9		Northern Telecom
	nonwire	Metro Mobile CTS		Initial decision				
27 San Jose, CA	wire	GTE	5/6/83	CPG	Jan. '85	5	1,000	Motorola
	nonwire	Bay Area Cellular Telephone						
28 Indianapolis, IN	wire	GTE	6/6/83	On line	5/3/84	5	1,400	Motorola
	nonwire	Indianapolis Telephone Co.	3/3/83	On line	2/3/84	9	2,000	Motorola
29 New Orleans, LA	wire	BellSouth Mobility	7/11/83	On line	9/1/84	3	----	Motorola
	nonwire	Radiofone						
30 Portland, OR/WA	wire	GTE	5/6/83	In construction	Fall '84	5	800	Motorola
	nonwire	Interstate Mobilephone Co.	7/27/84	CPG				

I – indicated in filing but no contract. * – 5-year projection.

Information available as of Sept. 6, 1984

SMSA # / Name		System Operators	CPG Date	Status	(Projected) Start up	# Cells	(Projected) # 1st Year Subscribers	Switching Equipment
31 Columbus, OH	wire	Ameritech Mobile Communications						
	nonwire							
32 Hartford, CT	wire	Southern New England Telephone	12/8/83	In construction	Dec. '84	6		AT&T
	nonwire							
33 San Antonio, TX	wire	Southwestern Bell Mobile Systems						
	nonwire							
34 Rochester, NY	wire	Rochester Telephone						
	nonwire							
35 Sacramento, CA	wire	PacTel Mobile Access						NEC
	nonwire							
36 Memphis, TN	wire	BellSouth Mobility			Spring '85	5		Motorola (I)
	nonwire							
37 Louisville, KY	wire	BellSouth Mobility						
	nonwire	Louisville Telephone						
38 Providence, RI	wire	Nynex Mobile Comm.						
	nonwire	Providence Cellular Telephone						
39 Salt Lake City, UT	wire	NewVector Communications	5/1/84	In construction	1Q '85	6		AT&T
	nonwire							
40 Dayton, OH	wire	Ameritech Mobile Communications						
	nonwire							
41 Birmingham, AL	wire	BellSouth Mobility	8/24/84	CPG				
	nonwire							
42 Stamford, CT	wire	Southern New England Telephone	6/21/84	CPG				
	nonwire							
43 Norfolk, VA	wire	Continental Telecom						
	nonwire							
44 Albany, NY	wire	Nynex Mobile Comm.						
	nonwire	Cellular System One of Albany						
45 Oklahoma City, OK	wire	Southwestern Bell Mobile Systems						
	nonwire							

I—Indicated in filing but no contract. *—5-year projection.

Information available as of Sept. 6, 1984.

SMSA & Name		System Operators	CPG Date	Status	(Projected) Start up	# Cells	(Projected) # 1st Year Subscribers	Switching Equipment
46 Nashville, TN	wire	BellSouth Mobility						
	nonwire							
47 Greensboro, NC	wire	Centel						
	nonwire							
48 Toledo, OH	wire	United TeleSpectrum						Motorola
	nonwire	Toledo Cellular Telephone	12/8/83	CPG				
49 New Haven, CT	wire	Southern New England Telephone	12/8/83	CPG				
	nonwire							
50 Honolulu, HI	wire	GTE		Initial decision				
	nonwire							
51 Jacksonville, FL	wire	BellSouth Mobility						
	nonwire							
52 Akron, OH	wire	GTE						
	nonwire							
53 Syracuse, NY	wire	Nynex Mobile Comm.						
	nonwire	Cellular System One of Syracuse						
54 Gary, IN/East Chicago, IL	wire	Ameritech Mobile Communications						
	nonwire							
55 Worchester/Fitchburg, MA	wire	Nynex Mobile Comm.						
	nonwire							
56 Northeast Pennsylvania	wire	Commonwealth Telephone						
	nonwire							
57 Tulsa, OK	wire	Telephone & Data Systems						
	nonwire							
58 Allentown/Bethelem, PA	wire	Mid-Atlantic Telephone						
	nonwire							
59 Richmond, VA	wire	Continental Telecom						
	nonwire							
60 Orlando, FL	wire	BellSouth Mobility						
	nonwire							

I—indicated in filing but no contract. *—5-year projection.

Information available as of Sept. 6, 198

APPENDIX D

E.F. JOHNSON'S BID, 1982

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APPENDIX E

KOKUSAI'S BID, 1982

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APPENDIX F

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APPENDIX G

E.F. JOHNSON'S BID, 1984

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UNITED STATES
INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

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