

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

R. P. OLDHAM COMPANY, \* \*  
MITSUBISHI INTERNATIONAL CORPORATION,  
et al.,

Defendants.

CIVIL NO. 36385

FILED: June 30, 1960

FINAL JUDGMENT

The Plaintiff, United States of America, having filed its complaint herein on April 25, 1957, and the defendant Mitsubishi International Corporation having appeared through its respective attorneys herein and having filed its answer denying the substantive allegations of the complaint; the parties signatory hereto through their respective attorneys having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without any admission by said defendant with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon the consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties signatory hereto. The complaint states claims for relief against the defendant Mitsubishi International Corporation under Section 1 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended, and under Section 73 of the Act of Congress of August 27, 1894, c. 349, 28 Stat. 509, as amended, entitled "An Act to reduce taxation, to provide revenue for the Government and for other purposes," commonly known as the Wilson Tariff Act.

II

As used herein:

- (A) "Japanese wire nails" means bright common nails, bright smooth box nails, bright casing nails, and bright finishing nails manufactured in Japan by Japanese nail-makers;
- (B) "Person" means an individual, partnership, firm, association, corporation, or any other legal entity;
- (C) "Importers" means persons engaged in the business of purchasing or acquiring nails from Japanese nail-makers or exporters for resale to wholesalers located on the West Coast of the United States; a Japanese exporter who is engaged in the activity of selling nails in the United States directly to such wholesalers is an importer with respect to such sales;
- (D) "Japanese exporters" means persons and their agents, subsidiaries or affiliates in the United States, who arrange for the export of Japanese wire nails to importers;
- (E) "Japanese rod-makers" means steel mills located in Japan which manufacture wire rod from which Japanese wire nails are made;

- (F) "Japanese nail-makers" means nail manufacturers located in Japan who manufacture wire nails from wire rod purchased from Japanese rod-makers;
- (G) "Defendant importers" means defendants R. P. Oldham Company, Winter Wolff & Co., Inc., Thos. D. Stevenson & Sons, Inc., Balfour Guthrie & Co., Limited, and John P. Herber & Company, Inc.

### III

The provisions of this Final Judgment shall apply to defendant Mitsubishi International Corporation and to its successors, assigns, affiliates, subsidiaries, officers, directors, servants, employees, and agents, and to all persons in active concert or participation with said defendant who receive actual notice of this Final Judgment by personal service or otherwise.

### IV

Defendant Mitsubishi International Corporation is enjoined and restrained from directly or indirectly entering into, adhering to or claiming any rights under any agreement or understanding, or in concert with any other person maintaining any plan or program:

- (A) To allocate sales territories in the United States among importers with respect to Japanese wire nails;
- (B) To fix, establish or stabilize prices at which importers sell Japanese wire nails in the United States;
- (C) To select or designate what person or persons should be permitted to act as an importer or as importers.

For the purpose of this Section IV only, defendant Mitsubishi International Corporation and Mitsubishi Shoji Kaisha, Ltd., shall be deemed to be a single person as long as defendant Mitsubishi International Corporation is affiliated with or regularly acts as agent or representative for said Mitsubishi Shoji Kaisha, Ltd., in the sale and distribution of Japanese wire nails in the United States, provided that

nothing contained in this paragraph shall make said defendant liable for any separate act of Mitsubishi Shoji Kaisha, Ltd.

V

Defendant Mitsubishi International Corporation is enjoined and restrained from:

- (A) Entering into, participating in or enforcing any contract, agreement or understanding with any importer:
  - (1) To select or determine what importers should be permitted or not permitted to buy Japanese wire nails;
  - (2) to select or determine what Japanese exporters should be permitted or not permitted to sell Japanese wire nails to importers;
  - (3) to hinder, restrict, limit or prevent any importer from buying or selling Japanese wire nails;
  - (4) to determine or fix the amount of Japanese wire nails to be sold in the United States;
  - (5) to fix, establish or stabilize prices at which any other importer buys Japanese wire nails;
- (B) Discriminating in the sale of Japanese wire nails in favor of defendant importers against other importers by making available to the former quantities, prices or terms and conditions of sale not available to the latter.
- (C) For the purpose of furthering, directly or indirectly, any agreement or understanding prohibited by Section IV or by subsection V(A) of this Final Judgment:
  - (1) Refusing to sell Japanese wire nails, to the extent they are available, to any importer financially able to purchase such nails; and

- (2) Discriminating in the sale or in the terms and conditions of sale of Japanese wire nails among importers.

## VI

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Mitsubishi International Corporation made to its principal office, be permitted, subject to any legally recognized privilege:

- (A) Access, during office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Final Judgment;
- (B) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters.

Upon such written request, said defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means permitted in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

## VII

Judgment is entered against defendant Mitsubishi International Corporation for costs in this proceeding in the amount of \$640.61.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties of this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated: June 30, 1960.

/s/ LLOYD H. BURKE  
United States District Judge

We hereby consent to the entry of the foregoing Final Judgment:

For the Plaintiff:

/s/ ROBERT A. BICKS  
Robert A. Bicks  
Acting Assistant Attorney General

/s/ LYLE L. JONES  
Lyle L. Jones

/s/ W. D. KILGORE, JR.  
William D. Kilgore, Jr.

/s/ MARQUIS L. SMITH  
Marquis L. Smith

/s/ LEWIS BERNSTEIN  
Lewis Bernstein

/s/ GERALD F. McLAUGHLIN  
Gerald F. McLaughlin

Attorneys, Department of Justice

For defendant MITSUBISHI INTERNATIONAL CORPORATION:

/s/ GEORGE YAMAOKA  
George Yamaoka

/s/ JAY T. COOPER

Attorneys for said defendant.