

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Electrical Apparatus Export Association, General Electric Company, International General Electric Company Incorporated, Westinghouse Electric Corporation, and Westinghouse Electric International Company., U.S. District Court, S.D. New York, 1946-1947 Trade Cases ¶57,546, (Mar. 12, 1947)**

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United States v. Electrical Apparatus Export Association, General Electric Company, International General Electric Company Incorporated, Westinghouse Electric Corporation, and Westinghouse Electric International Company.

1946-1947 Trade Cases ¶57,546. U.S. District Court, S.D. New York. Civil Action No. 33-275. March 12, 1947.

**A consent decree entered in a prosecution under the Sherman Act, against manufacturers of electrical equipment for the generation, transmission, and use of electricity, orders the dissolution of an association which had been formed for the purpose of carrying out cartel agreements to allocate orders for, fix prices of, and eliminate competition in the sale of electrical equipment. The defendants are enjoined from performing or renewing existing cartel agreements, and from entering into any cartel agreements by means of any association organized or purporting to be organized under the Webb Act.**

For plaintiff: Wendell Berge and Lawrence S. Apey, New York, N. Y.

For defendants: Clark, Carr and Ellis, New York, N. Y., for Electrical Apparatus Export Association; Cahill, Gordon, Zachry and Reindel, New York, N. Y., for General Electric Company and International General Electric Company, Incorporated; Cravath, Swaine and Moore, New York, N. Y., for Westinghouse Electric Corporation and Westinghouse Electric International Company.

**[Final Judgment]**

KNOX, D. J.: The complainant, United States of America, having filed its amended complaint herein on 11 March, 1947; the defendants having appeared and filed their answers to such amended complaint denying the substantive allegations thereof; all parties hereto by their attorneys herein, having severally consented to the entry of this final decree herein without trial or adjudication of any issue of fact or law herein and without an admission by any party in respect of any such issue;

Now, therefore, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein, and upon consent of all parties hereto, it is hereby

ORDERED ADJUDGED AND DECREED as follows that:

I

This Court has jurisdiction of the subject matter herein and of all of the parties hereto; and the amended complaint states a cause of action against each of the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," commonly known as the Sherman Antitrust Act.

II

*[ Definitions]*

When used in this decree:

1. The term "electrical equipment" means electrical apparatus and equipment other than lamps and radios.

2. The term “Webb Act” means the Act of Congress of April 10, 1918, c. 50, 40 Stat. 516, commonly known as the Webb-Pomerene Export Trade Act.

3. The term “EAEA” means defendant Electrical Apparatus Export Association.

### III

#### [ *Activities Enjoined* ]

Defendants, their directors, officers, agents, employees, successors and assigns, be and they hereby are individually enjoined and restrained from:

1. Performing, reviving or otherwise carrying out, after the date of entry of this decree, any of the terms or provisions of the so-called Notification Agreements and Compensation Agreements with foreign companies referred to in paragraphs 15 to 19 and 28 and 29 of the amended complaint herein: provided, however, that defendants may give appropriate notice to all other parties of their withdrawal from said agreements.

2. Entering through or by means of any association organized or purporting to be organized under the Webb Act into any contract, agreement or understanding with any foreign company or companies in competition with defendants in the manufacture and sale of electrical equipment or with any group, association, subsidiary or representative of such foreign companies to:

(a) give notification of inquiries for bids,

(b) fix prices,

(c) allocate individual orders,

(d) divide sales territories,

(e) pay sums as compensation to bidders, or,

(f) in any manner unlawfully restrain trade,

on export or import sales of electrical equipment to or from the United States; provided, however, that the defendants, or any of them, shall be entitled to apply to the court to reopen this decree and, upon such application, to obtain modification or vacation of any injunction herein against transactions or conduct of a nature which the Supreme Court of the United States or the Congress of the United States shall hereafter determine to be lawful.

### IV

#### [ *Association Dissolved* ]

Within three months from the date of entry of this decree EAEA shall be dissolved, shall cancel its articles of association filed with the Federal Trade Commission, and shall notify in writing each member of EAEA and each member of each section of EAEA that said association has been dissolved; provided, however, that:

(1) Nothing in this decree shall be construed as preventing any company or companies organized and existing under the laws of any state of the United States, including the corporate defendants herein, from exercising any right granted by the laws of the United States to organize and participate as a member in an association for the purpose of engaging in export trade.

(2) Nothing in this decree shall be construed as determining, adjudicating or affecting the legality or illegality of an association organized under the Webb Act the members of which carry on export trade in their individual names subject to prices, allocations, terms and/or, conditions of sale determined by the association as to subject matter within the legal scope of the association.

### V

#### [ *Measures to Secure Compliance* ]

For the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General and on reasonable notice to any of the defendants made to the principal office of such defendant, be permitted subject to any legally recognized privilege, (1) access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any matters contained in this decree, and (2) subject to the reasonable convenience of such defendant and without restraint or interference from them, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters; provided, however, that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this decree in which the United States is a party or as otherwise required by law.

#### VI

[ *Jurisdiction Retained* ]

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

#### VII

[ *Decree Without Prejudice to Suits Pending* ]

None of the prohibitions contained in this decree shall in any way apply to or have any effect with respect to the issues raised in or the subject matter of the cases presently pending in the United States District Court for the District of New Jersey, entitled *United States of America v. General Electric Company, et al.*, Civil Action No. 45-75-, and *United States of America v. Westinghouse Electric & Manufacturing Company, et ano.*, Civil Action No. C-5152, and this decree shall be without prejudice to such cases.

This 12th day of March, 1947.